

# Permanent Rulemaking Hearing

2 CCR 607-1

**“Rules Governing Clean Transit Enterprise  
Processes and Fees”**



**Exhibits**

**Rulemaking Hearings on 2 CCR 607-1  
Index of Exhibits**

<b>Exhibit</b>	<b>Description</b>
1	Meeting minutes dated February 22, 2022, from the Clean Transit Enterprise opening the rule-making process.
2	A. SOS Notice of Rulemaking Confirmation dated February 25, 2022. B. Proposed rules filed with the SOS to open rule making. C. Notice of Hearing posted February 25, 2022. D. Updated Rulemaking Hearing Notice filed on March 7, 2022. E. Confirmation that the Updated Rulemaking Hearing Notice was filed with SOS on March 7, 2022. F. Notice of Rulemaking Hearing published in Colorado Register on March 10, 2022.
3	A. DORA Notice of Rulemaking Confirmation on February 25, 2022. B. DORA Notice to Stakeholders dated February 25, 2022. C. DORA Notice to Stakeholders re: Updated Hearing Date and Time Changes on March 5, 2022. D. DORA Notice that a Cost-Benefit Analysis is not required dated March 19, 2022.
4	A. Statement of Basis and Purpose, posted and filed February 25, 2022.
5	A. Screenshot of CDOT’s website indicating that CDOT posted rulemaking hearing date, time, and location on CDOT website on February 25, 2022. B. Screenshot of CDOT’s website indicating that CDOT posted the updated rulemaking hearing date, time, and location on CDOT website on March 4, 2022. C. Screenshot of CDOT’s website indicating that CDOT posted updated rule language on March 30, 2022.
6	SB 21-260, providing the statutory basis for the proposed rules.
7	Stakeholder List and outreach, including A. Stakeholder List B. Email Notice of Proposed Rulemaking for 2 CCR 607-1 dated February 25, 2022. C. Email Notice regarding hearing detail changes dated March 4, 2022.
8	Email notifications and updates to Interested Parties regarding the rulemaking. A. Email Notice of Proposed Rulemaking for 2 CCR 607-1 dated February 25, 2022. B. Email Notice regarding hearing detail changes dated March 4, 2022.
9	Email notifications to individuals registered to attend originally scheduled hearing, dated March 4, 2022.
10	All written comments received by 5 p.m. on April 7, 2022, to dot_rules@state.co.us.
11	Memo to maintain permanent rule making record.
12	Proposed Rules for Adoption April 12, 2022.

**Exhibit 1**

**These meetings were held in a virtual format only, in an abundance of caution due to the COVID-19 pandemic.**

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The documents are considered to be in draft form and for information only until final action is taken by the Clean Transit Enterprise Board. These Minutes were approved at the March 29, 2022 Board meeting.

## **Clean Transit Enterprise Board Meeting Monday, February 22nd, 2022, 2:00pm – 4:30**

### **Call to Order, Roll Call:**

Board Members: Matt Frommer – SWEEP, Bonnie Trowbridge – Drive Clean Colorado, Mark Garcia – TC District 8, David Averill – Executive Director for San Miguel Authority Regional Transportation, Kelly Blynn - CEO, Richard Coffin – CDPHE Air Pollution Control Division

Kay Kelly – CDOT, Herman Stockinger – CDOT, Jennifer Uebelher – CDOT, Amber Blake – CDOT, Michael King – CDOT, Sari Weichbrodt – CDOT

### **Board Elections (Kay Kelly)**

**Purpose:** Elect the CTE Chairperson and Vice-Chairperson.

**Action:** Motion by Mark Garcia to approve Matt Frommer as Chairperson and David Averill as Vice-Chairperson, seconded by Bonnie Trowbridge. Passed unanimously.

### **Discussion:**

- The governor's office appointed Dawn Block from the La Junta Office of Transportation as a CTE board member replacing Deya Zevala.
- Election of Officers:
  1. Chairperson: Matt Frommer has volunteered for the role of Chairperson.
  2. Vice-Chairperson: David Averill volunteered for the role of Vice-Chairperson.

### **Action Agenda**

**Purpose:** To approve action items (minutes, Articles of Organization, Bylaws, Transportation Commission Loan) included in the board packet.

### **Action:**

- A. Approval of Minutes January 31, 2022 CTE Board Meeting: Motion by Bonnie Trowbridge to approve January 31, 2022 CTE Board Meeting minutes, seconded by David Averill. Passed unanimously.
- B. Clean Transit Enterprise Board Articles of Organization: Motion by Mark Garcia to approve the Clean Transit Enterprise Board Articles of Organization, seconded by Kelly Blynn. Passed unanimously.
- C. Clean Transit Enterprise Board Bylaws. Motion by Matt Frommer to approve the Clean Transit Enterprise Board Bylaws, seconded by Bonnie Trowbridge. Passed unanimously.
- D. Approval of Transportation Commission Loan for Clean Transit Enterprise Start-up Costs: Motion by David Averill to approve the Start-Up Loan Agreement between the CDOT Transportation Commission and the CTE Board in the amount of \$73,500, seconded by Matt Frommer. Passed unanimously. Mark Garcia abstained from this vote because of his position on the Transportation Commission.

### **Discussion:**

- Mark Garcia: Has the CDOT attorney looked at the articles of organization?
- Kay Kelly: Yes, Kathy Young has reviewed the Articles of Organization. The Attorney General's Office has also reviewed the Bylaws.

### **Federal & State Transit Funding Landscape (Amber Blake)**

**Purpose:** Review of transit funding sources for 2022-2023, including: pass-through Federal Transit Administration (FTA) funding, other federal funding sources with transit eligibility, state transit, and state enterprise funding sources.

**Action:** No approval action was requested.

**Discussion:**

- Two types of funding: Discretionary funding are made through a competitive process and are subject to annual appropriations. Formula program funding consists of set amounts that are distributed annually and are guaranteed.
- Federal Funding
  1. FTA 5304 Statewide and Non-Metropolitan Planning: \$0.5 M for FY23 administered by Division of Transit and Rail (DTR) and awarded as pass through grants via an annual call for projects. Eligible projects include development of transportation plans/program, plan, design, evaluate, or conduct technical studies related to public transportation. Planning projects may not exceed 80% federal funding.
  2. 5310 Enhanced Mobility for Seniors and Individuals with Disabilities: \$2.8 M in federal funding forecasted for FY23, administered by DTR and awarded as pass through grants via an annual call for projects. Eligible projects include capital, operating and mobility management. Capital costs and mobility management may not exceed 80% federal funding; operating costs may not exceed 50% federal funding.
  3. 5311 Rural Area Formula Program to support public transportation in rural areas with less than 50,000 people. \$17.6 M forecasted in federal funding and administered by DTR and awarded as pass through grants via an annual call for projects. 5311 programs include operating & admin and capital (fleet, facilities, equipment). 5311(b)(3) is the Rural Transit Assistance Program (RTAP). 5311(f) is the intercity bus (Bustang, Outrider) program. The federal share is 80% for capital projects, 50% for operating assistance, and 80% for American with Disabilities (ADA) non-fixed route paratransit service.
  4. FTA 5339 to maintain a state of good repair. \$6.5 M in federal funding forecasted for FY23 and administered by DTR and awarded as pass through grants via an annual call for projects. This program is to replace, rehabilitate, and purchase buses and related equipment, construct bus-related facilities including technological changes and modify low or no emission vehicles and facilities.
  5. Surface Transportation Block Grants (STBG) and Risk/Resiliency Formula Program are “Strategic” sources of funding for the CDOT Pipeline of Projects 10-year plan.
  6. Transportation Alternatives (TA) for non-motorized projects and environmental mitigation such as first and last mile connections. \$18.5 M in federal funding forecasted for FY23. 59% of this program is allocated to CDOT regions based on population. The remaining funding is allocated based on 45% VMT, 40% lane miles, and 15% truck VMT.
  7. Congestion Mitigation and Air Quality (CMAQ) to support activities with air quality benefits. \$46M in federal funding forecasted for FY23. Most of these funds are distributed to ozone nonattainment areas (DRCOG, NFRMPO, UFR TRP) on the basis of 75% population and 25% VMT.
  8. PROTECT Formula & Discretion Program provides formula and grant funding for resilience improvements. \$19 M in federal finding forecasted for FY23. Formula funding for highway and transit projects. Competitive grant funding covers highway, transit, intercity rail, resilience planning & improvement plans, evacuation planning and preparation.
  9. Carbon Reduction Program to support the reduction of transportation emissions. \$16.8 M in federal funding forecasted for FY23. New funding program from the IJA requiring 65% of the funding to be obligated based on population. Transit system improvements are included – it is unclear if this is for operations.
- State Funding
  1. SB 267 strategic funding from the state legislature for capital projects. \$500M/ year on average over four years FY19-22. 25% of funding must be spent in rural areas. 10% minimum to transit projects.

2. SB 260, the Multimodal Transportation & Mitigation Options Fund (MMOF) to promote complete and integrated multimodal systems. Total \$17.4 M forecasted for FY23; \$2.6 M (15%) allocated to CDOT, \$14.9M (85%) to local entities administered by CDOT. Transit projects, including operating, are eligible.
  3. FASTER to improve roadway safety, repair deteriorating bridges, support and expand transit. \$85M forecasted for FY23 for state transportation, \$23M allocated to cities, \$28M allocated to counties.
  4. Volkswagen Settlement program to mitigate NOx by replacing older diesel transit vehicles with zero emission options. \$5M forecasted for FY23 administered by DTR and allocated through an annual call for projects. Funding is available to replace diesel-fueled vehicles with zero emission vehicles and for charging/fueling infrastructure to support zero-emission vehicles.
- CDOT Enterprise Funding
    1. SB 260 Non-Attainment Enterprise was created to mitigate transportation-related emission in ozone nonattainment areas. Total fee revenue for FY23 is \$7.1M from air pollution mitigation fee on retail deliveries and rides, revenue will ramp up over time. This funding is eligible for projects that reduce traffic, including demand management projects.
    2. SB 260 Clean Transit Enterprise to support public transit electrification planning efforts, facility upgrades, fleet motor vehicle replacement, construction and development of electric charging and fueling infrastructure. \$8.3M is forecasted for FY23.
  - Mark Garcia: How do these funds play into the CTE annual budget?
  - Amber Blake: The Transportation Commission's resolution for FASTER funding goes through FY23. The FY24 budget will be reviewed in FY23 depending on where we are with regional services. The FTA funds do not come to the Transportation Commission, unless there is a distribution methodology in a format that is not a call for projects. The strategic funds for the 10-year pipeline all go to the Transportation Commission for project approval, these are included in the CTEs budgeting process. At the CTE next board meeting we can make a relationship table with Jeff Sudmeier's team on how these funds relate to the CTEs budget.
  - Kay Kelly: This presentation is intended to be a landscape overview of funding sources for different transit projects.
  - Mark Garcia: When do we start to work on the CTE budget?
  - Kay Kelly: The CTE has \$134M over 10 years, the funds ramp up over time; we project about \$8.3M the first fiscal year. The Colorado Department of Revenue will start collecting the fee on July 1, 2022. It should be available in September to the CTE to start issuing funds.
  - Mike King: We have about \$30M allocated from the state's Volkswagen Settlement for transit projects. To date we have awarded about \$21M, leaving about \$9M unawarded. This was a one-time allocation.
  - Kay Kelly: There are two other electrification focused enterprises in SB 260, the Community Access Enterprise and the Clean Fleet Enterprise.
  - Mark Garcia: How are we communicating with the other enterprises to prevent redundant programs and overlap?
  - Kay Kelly: The fees for each enterprise are set for the first year by the legislature. We will have to communicate with the other enterprises going forward. The Clean Fleet Enterprise will not be funding transit vehicles, they might fund school buses or airport shuttles, but all FTA entities are in CTE. We should communicate with Community Access Enterprise regarding charging infrastructure. We anticipate the majority of charging infrastructure for transit agencies will be in depots or at facilities where it is dedicated for transit use.

### **Transit ZEV Roadmap and 10-Year Plan (Mike King)**

**Purpose:** Overview of pre-existing planning activities completed by the state in 2021 to provide context for CTE 10-Year Plan development.

**Action:** Continue to flesh out the 10-Year Plan outline and outreach avenues including standing transit meetings and public outreach.

**Discussion:** No approval action was requested.

- HB 19-1261 set statewide GHG reduction targets: 26% by 2025, 50% by 2030, and 90% by 2050 (from a 2005 baseline). Transportation is the largest sector, contributing 21% of GHG. The Colorado GHG Pollution Reduction Roadmap developed strategies and pathways to reach these targets. We are currently on a trajectory to achieving approximately half the level of emission reductions to meet the 2025 and 2030 goals.
- Colorado's Electric Vehicle Plan 2020 [https://energyoffice.colorado.gov/sites/energyoffice/files/2020-07/colorado\\_ev\\_plan\\_2020\\_-\\_final.pdf](https://energyoffice.colorado.gov/sites/energyoffice/files/2020-07/colorado_ev_plan_2020_-_final.pdf) established a state target of 940,000 registered ZEVS by 2030 is largely focused on the passenger vehicle market.
- The Clean Truck Strategy targets emission reductions from medium- and heavy-duty vehicles.
- The goal of the Transit Zero Emission Vehicle Roadmap <https://www.codot.gov/about/committees/trac/Agendas-and-Minutes/2021/march-12-2021-meeting/05-transit-zev-roadmap-presentation-for-trac.pdf> is to develop a reasonable pathway for achieving Colorado's target of 1,000 transit ZEVs by 2030 and a 100% ZEV fleet by 2050.
  1. Colorado ZEV Environment (as of 2021): there are 3,301 total transit vehicles in Colorado; 100 are ZEV transit buses (deployed or on-order), 170 light rail train cars, 66 commuter rail cars, and 27 Renewable Natural Gas (RNG) transit buses. 9 transit agencies are currently operating ZEVS and 10 transit agencies that have or will complete a ZEV transition plan in the near future.
  2. The Transit ZEV Roadmap financial model is intended to provide an estimate of what it would take to meet the ZEV transition targets, not to determine the overall cost benefit of the transition (social cost of carbon, public health benefits, etc.). Transitioning the Colorado fleet to ZEVs is projected to cost \$230M to \$285M (30-45%) more than maintaining the existing fleet. The majority of the incremental cost is for electric vehicle charging infrastructure, rather than the vehicles themselves. Assuming the cost difference between zero emission buses and regular buses continues to decrease year over year - eventually the cost difference will be zero. No natural growth in the number of state transit vehicles was included in this model.
  3. The ZEV Transit Roadmap includes recommendations on policy, planning & technical support, information sharing & research, funding, and education & training that will support the transition to ZEVs across Colorado.
- Kay Kelly: We will send the link to the Transit ZEV Roadmap out with the next board packet and will post a link on the CTE website.
- Matt Frommer: Regarding the functionality of ZE buses, are they a 1:1 replacement for diesel buses?
- Michael King: In general, 1:1 replacement has worked for some of our mountain communities that have been early adopters. In urban areas where the buses run long blocks of service for 12 hours a day, not every route is achievable with a ZEV.
- Dave Averill: I concur, the ZEV bus replacement study for SMART concluded that ZEV buses were feasible for some routes but not for the entire system (due to terrain, weather, and conservative modeling). We are optimistic as the technology and battery capacity increases.
- Michael King: The financial model can be adjusted for each individual vehicle type. In order to make a model that could work for the entire state it was necessary to simplify certain decision points.
- Matt Frommer: Are you assuming the same number of vehicles in 2030 or anticipating an increase? The GHG rules cost benefit analysis compliance scenario assumes we will need a 70% increase in transit vehicles, about 400 new buses or other transit vehicles.
- Michael King: We assumed that the overall number of transit vehicles in the state would remain unchanged, but vehicles can be added to the model. You can adjust the dollar cost for each bus to account for a different replacement ratio.
- Kelly Blynn: For the agencies, does the model provide information about projected maintenance and fuel costs?
- Michael King: No, this model does not address the operation costs, savings, or social benefits. NREL also has a modeling tool that agencies can use to address operational costs. This model should be used to see if the 2030 target achievable is and what level of funding is needed to achieve it.

- SB 260 details the CTEs 10-Year Plan. The 10-Year Plan should include how this enterprise will execute its business purpose and estimates what funding is needed. This proposed draft of the CTEs 10-Year Plan includes portions that are already well developed in the Transit ZEV Roadmap. The proposed draft also includes information from the CDOT Division of Accounting & Finance, the Department of Revenue, and SB 260 itself. The board may choose to focus its time and energy on big picture policy decisions (including but not limited to funding mechanisms & category prioritizations, project prioritization, match levels, scrapping requirements, and/or replacement ratios) that determine how and who interacts with the CTE grant programs in the future.
- Mark Garcia: What is the timeline for a draft outline?
- Kay Kelly: The draft outline is before you, the 10-Year Plan must be published by June 1<sup>st</sup>. By presenting this high-level outline to the board we would like to know which sections the board would like to spend more time on over the next three months.
- Matt Frommer: What is the process for soliciting feedback from RTD?
- Michael King: We have existing stakeholder engagement with all of the transit agencies in the state including RTD. While developing the 10-Year Plan we will engage with all those agencies regularly. In addition to the standing meetings, we will invite transit agencies to participate in CTE meetings and comment on our discussions.
- Kay Kelly: The 81 state transit agencies meet monthly. CASTA also has regular meetings. The Transit and Rail Advisory Committee meets bi-monthly. We have been working to get placeholders on all those meetings for CTE for the next several months to engage stakeholders. We will also hold a public meeting to get public input as a matter of course.
- David Frommer: I would like a better understanding of the fleet mix and technology available to better inform how we prioritize projects.
- Kay Kelly: Some of that information is included in the Transit ZEV Roadmap.
- Amber Blake: We can pull our current transit asset management plan for the state, but it will not include what RTD has or the larger 5307 agencies. We have that information for anyone that is a subrecipient.
- Michael King: The fleet mix by vehicle type and fuel type is included in the roadmap. Of the 3,100 vehicles, 851 are cutaways, 1,296 are full size buses, 125 are articulated buses, etc.
- Kelly Blynn: I would like more discussion of strategy on the potential funding match sources.
- Michael King: Since these funds are state funds, they can be used to match some of the federal grant programs. This board can develop a strategy on how to maximize or incentivize that impact.

### **Rulemaking (Herman Stockinger)**

**Purpose:** Open the CTE rules, required for the CTE to set the fee and establish the grant process.

**Action:** Mark Garcia moves to authorize CDOT staff to open the Clean Transit Enterprise Rules and appoint a CDOT staff member to serve as the hearing officer to preside over the Rulemaking Hearing and process, seconded by David Averill. Passed unanimously on February 22, 2022.

### **Discussion:**

- Rules must be authorized in statute: 43-4-1203(6)(g) to set the clean transit retail delivery fee and establish the award and grant process. 43-4-1203(7)(b) the clean transit retail delivery fee is a maximum of \$0.03.
- Rule parts:
  - 1.0 Statement of Basis and Purpose and Statutory Authority
  - 2.0 Definitions
  - 3.0 Fees: fee is effective July 1, 2022, in conjunction with the Department of Revenue the fee will be adjusted with inflation, the CTE must notify the Department of Revenue by March 15 with fee changes.
  - 4.0 Process of awarding and overseeing grants, loans, and rebates: grants selection will be competitive. The CTE process will be part of the annual CDOT DTR call for projects. Grant criteria will be established by the CTE and published no fewer than 60 days before the grant deadline.



Grants will be scored based on the business purpose of this enterprise. Grants will be approved by the CTE and overseen by CDOT DTR staff.

#### 5.0 Declaratory Orders

- Timeline: February 22<sup>nd</sup> enterprise opens rules. CDOT staff will file the rule with the secretary of state. April 4<sup>th</sup> CDOT staff will conduct a public hearing per the Administrative Procedure. Board will adopt the Rule on April 12. Effective date: as early as May 31.
- CTE board members are invited to the Rulemaking Hearing but are not required to attend.
- Mark Garcia: Are the grant criteria in section 4.15 in any priority?
- Herman Stockinger: They are not in priority order. When we ask the CTE agreement on the process to put the call out, we can have a conversation with Kay on what that looks like.
- Rick Coffin: How involved will the CTE board be in the grant review process? In Section 4.14, will CDOT staff make up the review panel?
- Herman Stockinger: The rule does not specify that.
- Kay Kelly: Typically, a panel made up of subject matter experts on the topic being reviewed will evaluate applications. The panel will put forth a list of applicants recommended for awards to the CTE board. CTE board will make the final selection.
- Mark Garcia: We had a lot of input on the GHG rule at transportation commission level, are you anticipating that level of participation with CTE rulemaking?
- Herman Stockinger: We are not anticipating any controversy, there is not a lot of flexibility to divert from the statutes.
- Mark Garcia: Has there been any feedback from retailers?
- Herman Stockinger: We have not had any feedback from retailers yet. We will include them in stakeholder outreach when the rules have been published.
- Sari Weichbrodt: We are monitoring the comments from the two non-CDOT enterprises with retail delivery fees. We will be doing our own stakeholder outreach to retailers.
- Mark Garcia: Do you know of any other states that are using retail fees for GHG reduction programs?
- Herman Stockinger: there might be other states that are taking this approach, we are not sure.

#### **Wrap Up and Next Steps**

**Purpose:** Summary of important dates, board meeting packets, and meeting minutes will be posted on the CTE website <https://www.codot.gov/programs/innovativemobility/cte>.

**Action:** Please submit any agenda items for CTEs next board meeting to Kay Kelly

#### **Discussion:**

- March 15<sup>th</sup> – CTE Board Confirmation Hearings
- March 29<sup>th</sup> – CTE Board Meeting
- April 4<sup>th</sup> – CTE Rulemaking Hearing
- April 12<sup>th</sup> – CTE Board Meeting
- May 25<sup>th</sup> – CTE Board Meeting
- June 1<sup>st</sup> – Deadline to post CTSs 10-year plan

#### **Questions and Board Discussion**

- No further discussion.

#### **Meeting Adjourned at: 3:53**

**Exhibit 2**

# Notice of Rulemaking Confirmation

Official Publication of the State Administrative Rules (24-4-103(11) C.R.S.)

2A

Date Filed: February 25, 2022 11:32:42

**Please print this page for your records**

REMEMBER: You must submit your proposed rules to DORA's Office of Policy, Research and Regulatory Reform at the time of filing this notice with the Secretary of State, as required by section 24-4-103(2.5) C.R.S.

Link: <https://www.dora.state.co.us/pls/real/SB121.Logon>

**Your notice of rulemaking has been submitted to the Secretary of State.  
Your tracking number is 2022-00106.**

<b>Department</b>	600 - Department of Transportation
<b>Type of Filing</b>	Permanent
<b>Agency</b>	607 - Clean Transit Enterprise Board
<b>CCR Number</b>	2 CCR 607-1
<b>CCR Title</b>	Rules Governing Clean Transit Enterprise Processes and Fees
<b>Hearing Date</b>	04/04/2022
<b>Hearing Time</b>	01:00 PM
<b>Hearing Location</b>	*virtual only* <a href="https://attendee.gotowebinar.com/register/719422973943954192">https://attendee.gotowebinar.com/register/719422973943954192</a>
<b>Description</b>	SB21-260 Sustainability of the Transportation System created new sources of dedicated funding and new state enterprises intended to preserve, improve, and expand existing transportation infrastructure, develop the modernized infrastructure needed to support the widespread adoption of Electric Motor Vehicles, and mitigate environmental and health impacts of transportation system use. To accomplish these goals, the legislation established a Clean Transit Enterprise (CTE), an enterprise and government-owned business within the Colorado Department of Transportation (CDOT) for the purpose of collecting fee revenue to reduce or mitigate the adverse impacts of air pollution and greenhouse gas emissions produced by gas and diesel-powered motor vehicles used for Retail Deliveries. CTE will support the adoption of Electric Motor Vehicles for Transit. The Enterprise is a Type 1 transfer agency specifically vested with the authority to promulgate rules to set the amount of the required Clean Transit Retail Delivery Fee and to govern the process by which the Enterprise accepts applications for, awards, and oversees grants, loans, and rebates. Per statute, the Enterprise can set a maximum fee of \$0.03 per Retail Delivery. CTE proposes to set the Clean Transit Retail Delivery Fee at \$0.03.
<b>Statutory Authority</b>	The Clean Transit Enterprise is authorized by C.R.S. §43-4-1203(6)(g) to promulgate rules setting the amounts of the Clean Transit Retail Delivery Fee at or below maximum levels contained in C.R.S. §43-4-1203(7) and to govern the process by which the Enterprise accepts applications for, awards, and oversees grants, loans, and rebates pursuant to C.R.S. §43-4-1203(8).
<b>Proposed Rule</b>	<a href="#">ProposedRuleAttach2022-00106.pdf</a>
<b>Additional Information</b>	<a href="#">AddInfoAttach2022-00106.pdf</a>

## DEPARTMENT OF TRANSPORTATION

### Clean Transit Enterprise

## RULES GOVERNING CLEAN TRANSIT ENTERPRISE PROCESSES AND FEES

### 2 CCR 607-1

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#### 1.00 Statement of Basis and Purpose and Authority

The Clean Transit Enterprise is authorized by C.R.S. § 43-4-1203(6)(g) to promulgate rules setting the amounts of the Clean Transit Retail Delivery Fee at or below maximum levels contained in C.R.S. § 43-4-1203(7) and to govern the process by which the Enterprise accepts applications for, awards, and oversees grants, loans, and rebates pursuant to C.R.S. § 43-4-1203(8).

SB21-260 Sustainability of the Transportation System created new sources of dedicated funding and new state enterprises intended to preserve, improve, and expand existing transportation infrastructure, develop the modernized infrastructure needed to support the widespread adoption of Electric Motor Vehicles, and mitigate environmental and health impacts of transportation system use. To accomplish these goals, the legislation established a Clean Transit Enterprise (CTE), an enterprise and government owned business within the Colorado Department of Transportation (CDOT) for the purpose of collecting fee revenue to reduce or mitigate the adverse impacts of air pollution and greenhouse gas emissions produced by gas and diesel-powered motor vehicles used for Retail Deliveries. CTE will support the adoption of Electric Motor Vehicles for Transit. The Enterprise is a Type 1 transfer agency and as such the Legislature specifically vested the Enterprise with the authority to promulgate rules to set the amount of the required Clean Transit Retail Delivery Fee and to govern the process by which the Enterprise accepts applications for, awards, and oversees grants, loans, and rebates. Per statute, the Enterprise can set a maximum fee of \$0.03 per Retail Delivery. The fees delineated in the rule mirror the fee amounts set in C.R.S. § 43-4-1203.

The Enterprise shall notify the Department of Revenue (DOR) of the amount of the Clean Transit Retail Delivery Fee to be collected for Retail Deliveries of Tangible Personal Property purchased during each state fiscal year no later than March 15 of the calendar year in which the state fiscal year begins. CDOT will work with DOR to determine the maximum fee amounts that may be imposed, which shall be the maximum amounts for the prior state fiscal year adjusted for inflation.

#### 2.00 Definitions

- 2.1 “Colorado Department of Transportation Division of Transit and Rail” or “CDOT Division of Transit and Rail” means the division within the Colorado Department of Transportation responsible for planning, developing, operating, and integrating Transit and rail into the statewide transportation system.
- 2.2 “Compressed Natural Gas Motor Vehicle” means a vehicle that is powered by an engine fueled by methane that has been compressed and stored onboard at a pressure up to 3,000 pounds per square inch, also known as compressed natural gas.
- 2.3 “Disproportionately Impacted Community” means a community that is in a census block group, as determined in accordance with the most recent United States decennial census, where the proportion of households that are low income is greater than forty percent, or the proportion of households that are housing cost-burdened is greater than forty percent, as defined in C.R.S. § 43-4-1202(5).

- 2.4 “Electric Motor Vehicle” means a vehicle that uses a battery to store energy that powers the motor, including:
- 2.4.1 A Battery Electric Motor Vehicle powered exclusively by a rechargeable battery pack that can be recharged by being plugged into an external source of electricity and that has no secondary source of propulsion.
  - 2.4.2 A Hydrogen Fuel Cell Motor Vehicle powered by electricity produced from a fuel cell that uses hydrogen gas as fuel.
  - 2.4.3 A Plug-in Hybrid Electric Motor Vehicle powered by both a rechargeable battery pack that can be charged by being plugged into an external source of electricity and a secondary source of propulsion such as an internal combustion engine.
- 2.5 “Recovered Methane” means any of the following if the Air Pollution Control Division determines them to provide a net reduction in greenhouse gas emissions:
- 2.5.1 Biomethane;
  - 2.5.2 Methane derived from municipal solid waste, biomass pyrolysis or enzymatic biomass, or wastewater treatment; and
  - 2.5.3 Coal mine methane, as defined in C.R.S. § 40-2-124(1)(a)(II).
- 2.6 “Retail Delivery” means a retail sale of Tangible Personal Property by a retailer for delivery by a motor vehicle owned or operated by the retailer or any other person to the purchaser at a location in the state, which sale includes at least one item of Tangible Personal Property that is subject to taxation under Article 26 of Title 39. Each such retail sale is a single Retail Delivery regardless of the number of shipments necessary to deliver the items of Tangible Personal Property purchased.
- 2.7 “Tangible Personal Property” means all goods, wares, merchandise, products and commodities, and all tangible or corporeal things and substances which are dealt in, capable of being possessed and exchanged, except newspapers excluded by law. Tangible property does not include:
- 2.7.1 Real property, such as land or buildings, nor Tangible Personal Property that loses its identity when it becomes an integral and inseparable part of the realty, and is removable only with substantial damage to the premises. Property severed from real estate becomes Tangible Personal Property.
  - 2.7.2 Intangible personal property constituting mere rights of action and having no intrinsic value, such as contracts, deeds, mortgages, stocks, bonds, certificates of deposit or memberships, or uncanceled United States postage or revenue stamps sold for postage or revenue purposes.
  - 2.7.3 Water in pipes, conduits, ditches or reservoirs, but does include water in bottles, wagons, tanks or other containers.
  - 2.7.4 Computer software that does not meet the criteria enumerated in C.R.S. § 39-26-102(15)(c).
  - 2.7.5 An advertising supplement included in a newspaper.

2.7.6 The method of delivery does not impact the definition of Tangible Personal Property as defined in C.R.S. § 39-26-102(15).

2.8 “Transit” means a coordinated system of Transit modes providing transportation use by the general public, as defined in C.R.S. § 43-1-102(4).

2.9 “Transit Agency” means an organization that provides Transit services to the general public or a segment of the public defined by age, disability, or low income.

### **3.00 Fees**

3.1 Effective July 1, 2022, the Enterprise shall impose a Clean Transit Retail Delivery Fee of three cents per Retail Delivery of Tangible Personal Property.

3.2 Starting in 2023, CDOT will work with the Department of Revenue (DOR) to determine the maximum fee amount that may be imposed, which shall be the maximum amount for the prior state fiscal year adjusted for inflation.

3.3 Starting in 2023, the enterprise shall notify DOR of the amount of the Clean Transit Retail Delivery Fee to be collected for Retail Deliveries of Tangible Personal Property purchased during each state fiscal year no later than March 15 of the calendar year in which the state fiscal year begins.

### **4.00 Process for Awarding and Overseeing Enterprise Grants, Loans, and Rebates**

4.1 The selection of grant, loan, and rebate recipients will be on a competitive basis as a part of the annual call for Transit grant applications and will be based on criteria established by the Enterprise and posted on its website no fewer than 60 days in advance of any deadlines for the submission of applications for grants, loans, and rebates.

4.1.1 CDOT Division of Transit and Rail (DTR) staff will consult with the Clean Transit Enterprise Board to determine the overall available funding amount, project selection criteria, required match levels, and other programmatic details in advance of any notice of funding availability.

4.1.2 A notice of funding availability for grants, loans, and rebates will be posted no fewer than 60 days prior to the application deadline.

4.1.3 Eligible applicants will be any organization considered to be a Transit Agency as defined in these Rules.

4.1.4 Applications will be assessed for eligibility and scored based on their support for the business purpose of the Clean Transit Enterprise by a review panel. Additional consideration will be given in the evaluation process to those Transit Agencies located within or providing service to Disproportionately Impacted Communities.

4.1.5 The applicant must include evidence that the proposed project(s) will support the business purpose of the Clean Transit Enterprise and will be used for one or more of the following purposes by:

4.1.5.1 Supporting the replacement of existing gasoline and diesel transit vehicles with Electric Motor Vehicles, including motor vehicles that originally were powered exclusively by internal combustion engines but have been converted into Electric Motor Vehicles. If Electric Motor Vehicles are not practically available, they may be replaced by Compressed Natural Gas Motor Vehicles, if at least ninety

percent of the fuel for the Compressed Natural Gas Motor Vehicles will be Recovered Methane;

4.1.5.2 Providing the associated charging infrastructure for Electric Motor Vehicles in the Transit fleet;

4.1.5.3 Supporting facility modifications that allow for the safe operation and maintenance of Electric Motor Vehicles; or

4.1.5.4 Funding planning studies that enable Transit Agencies to plan for Transit vehicle electrification.

4.2 CDOT staff will present a list of applications recommended for funding to the Clean Transit Enterprise Board for final approval.

4.3 Applicants will be notified of the results of their project proposal(s) within 90 days of the application deadline.

4.4 The CDOT Division of Transit & Rail Transit Programming Unit will be the responsible entity for overseeing any grants, loans, and rebates provided by the Enterprise.

#### **5.00 Declaratory Orders**

The Enterprise board may, at its discretion, entertain petitions for declaratory orders pursuant to C.R.S. § 24-4-105(11).



# COLORADO

## Department of Transportation

2829 W. Howard Place  
Denver, CO 80204-2305

### Notice of Proposed Rulemaking

#### Clean Transit Enterprise Rules Governing Clean Transit Enterprise Processes and Fees 2 CCR 607-1

**Date & Time of Public Hearing: Monday, April 4, 2022, at 1:00 p.m.**

#### I. Notice

As required by the State Administrative Procedure Act found at section 24-4-103, C.R.S., the Clean Transit Enterprise gives notice of proposed rulemaking.

This proposed permanent rulemaking hearing is scheduled for **April 4, 2022, at 1:00 p.m.** and will only be conducted in a virtual setting. All interested and affected parties must register to attend the public hearing through the registration link provided in the table below.

Date	Location	Time	Registration Links
04/04/2022	Webinar Only	1:00 p.m.	<a href="#">Registration Link</a>

#### How to Register for Hearing

You must click on the registration link from the above table to register for the hearing. When you register, you must provide your full name, email address, telephone number, and mailing address. You may also provide the name of the organization that you are representing. Finally, please indicate whether you plan to testify during the hearing and/or submit written comments. When you submit your registration, you should receive a confirmation email including details about how to join the webinar.

The registration link for the hearing is also available on the Colorado Department of Transportation's website at <https://www.codot.gov/business/rules/proposed-rules>.

#### II. Subject

Senate Bill 21-260 took effect in Colorado on June 17, 2021. The legislation created new sources of dedicated funding and new state enterprises intended to preserve, improve, and expand existing transportation infrastructure, develop the modernized infrastructure needed to support the widespread adoption of electric motor vehicles, and mitigate environmental and health impacts of transportation system use. The legislation requires the Clean Transit Enterprise to promulgate rules to impose a retail delivery fee and to govern its processes for grants, loans, and rebates.

A detailed Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

#### III. Statutory Authority

The specific authority under which the Clean Transit Enterprise shall establish these rules is set forth in § 43-4-1203(6)-(8), C.R.S.





#### IV. Copies of the Notice, Proposed Rules, and the Statement of Basis, Purpose & Authority

The notice of hearing, the proposed rules, and the proposed statement of basis, purpose and authority are available for review at CDOT's website at <https://www.codot.gov/business/rules/proposed-rules>.

If there are changes made to the proposed rules prior to the hearing, the updated proposed rules will be available to the public and posted on CDOT's website by March 28, 2022.

Please note that the proposed rules being considered are subject to further changes and modifications after the public hearing and the deadline for the submission of written comments.

#### V. Opportunity to testify and submit written comments

CDOT strives to make the rulemaking process inclusive to all. Everyone will have the opportunity to testify and provide written comments concerning the proposed rule revisions. Interested and affected parties are welcome to testify and submit written comments.

The format of the hearing will proceed as follows:

- The Hearing Officer opens the hearing and provides a brief introduction of the hearing procedures.
- CDOT staff will review exhibits to establish that the CDOT met all the procedural requirements of the Administrative Procedure Act.
- CDOT staff will present a summary of the proposed rules.
- Participants will have the opportunity to give testimony regarding the proposed rules.
- The Hearing Officer will make certain findings and conclude the hearing.

#### Testimony

The testimony phase of each hearing will proceed as follows:

- The Hearing Officer will identify the participants who indicated that they plan to testify during the hearing based on the registration records.
- When Hearing Officer exhausts the list, we will ask whether any additional participants wish to testify.

To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

#### Written Comments

All interested and affected parties are strongly encouraged to submit their written comments to [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us). All written comments must be received on or before Thursday, April 7, 2022, at 5 p.m. for consideration by the CTE Board.

Additionally, we will post all written comments to CDOT's website at <https://www.codot.gov/business/rules/proposed-rules>.

All written comments will be added to the official rulemaking record and may be subject to disclosure.



## **VI. Recording of the Hearings**

The hearing will be recorded. After the hearing concludes, the recording will be available on CDOT's website at <https://www.codot.gov/business/rules/proposed-rules>.

## **VII. Special Accommodations**

If you need special accommodations, please contact CDOT's Rules Advisor at [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us) or 303.757.9441 at least one (1) week prior to the scheduled hearing date.

## **VIII. Contact Information**

Please contact CDOT's Rules Advisor, at [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us) or 303.757.9441 if you have any questions.





**COLORADO**  
Department of Transportation

2829 W. Howard Place  
Denver, CO 80204-2305

**Updated Notice of Proposed Rulemaking**

**Clean Transit Enterprise  
Rules Governing Clean Transit Enterprise Processes and Fees  
2 CCR 607-1**

**Date & Time of Public Hearing: Tuesday, April 12, 2022, at 1:30 p.m.**

**I. Notice**

As required by the State Administrative Procedure Act found at section 24-4-103, C.R.S., the Clean Transit Enterprise gives notice of proposed rulemaking.

This proposed permanent rulemaking hearing has been rescheduled to **April 12, 2022, at 1:30 p.m.** and will only be conducted in a virtual setting. All interested and affected parties must register to attend the public hearing through the registration link provided in the table below. The hearing will take place at the beginning of the Enterprise Board meeting and participants are welcome to remain on the Zoom webinar to learn more about the important work of this new Enterprise.

Date	Location	Time	Registration Links
04/12/2022	Webinar Only	1:30 p.m.	<a href="#">Registration Link</a>

How to Register for Hearing

You must click on the registration link from the above table to register for the hearing. When you register, you must provide your full name, email address, telephone number, and mailing address. You may also provide the name of the organization that you are representing. When you submit your registration, you should receive a confirmation email including details about how to join the webinar.

The registration link for the hearing is also available on the Colorado Department of Transportation's website at <https://www.codot.gov/business/rules/proposed-rules>.

**II. Subject**

Senate Bill 21-260 took effect in Colorado on June 17, 2021. The legislation created new sources of dedicated funding and new state enterprises intended to preserve, improve, and expand existing transportation infrastructure, develop the modernized infrastructure needed to support the widespread adoption of electric motor vehicles, and mitigate environmental and health impacts of transportation system use. The legislation requires the Clean Transit Enterprise to promulgate rules to impose a retail delivery fee and to govern its processes for grants, loans, and rebates.

A detailed Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

**III. Statutory Authority**

The specific authority under which the Clean Transit Enterprise shall establish these rules is set forth in § 43-4-1203(6)-(8), C.R.S.



#### IV. Copies of the Notice, Proposed Rules, and the Statement of Basis, Purpose & Authority

The notice of hearing, the proposed rules, and the proposed statement of basis, purpose and authority are available for review at CDOT's website at <https://www.codot.gov/business/rules/proposed-rules>.

If there are changes made to the proposed rules prior to the hearing, the updated proposed rules will be available to the public and posted on CDOT's website by March 28, 2022.

Please note that the proposed rules being considered are subject to further changes and modifications after the public hearing and the deadline for the submission of written comments.

#### V. Opportunity to testify and submit written comments

CDOT strives to make the rulemaking process inclusive to all. Everyone will have the opportunity to testify and provide written comments concerning the proposed rule revisions. Interested and affected parties are welcome to testify and submit written comments.

The format of the hearing will proceed as follows:

- The Enterprise Board Chair opens the hearing and provides a brief introduction of the hearing procedures.
- CDOT staff will establish that CDOT met all the procedural requirements of the Administrative Procedure Act on behalf of the Enterprise.
- CDOT staff will present a summary of the proposed rules.
- Participants will have the opportunity to give testimony regarding the proposed rules.
- The Board Chair will close the public comment portion of the rulemaking and move to Board discussion and a vote. If you intend to provide verbal comment, please join the meeting at the beginning to ensure that the Board can receive your comment. If you are unable to join, please submit written comments to [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us) as described below.

#### Testimony

The testimony phase of each hearing will proceed as follows:

- The Board Chair will first identify any participants who notified CDOT at [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us) that they wished to testify by April 11, 2022.
- After calling on those who provided advance notice of their intention to testify, the Chair will ask whether any additional participants wish to testify and recognize members of the public using the Zoom "raised hand" feature.

To ensure that the hearing is prompt and efficient, oral testimony may be time-limited.

#### Written Comments

All interested and affected parties are strongly encouraged to submit their written comments by March 28, 2022 to [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us). All written comments must be received on or before Thursday, April 7, 2022, at 5 p.m. for consideration by the CTE Board.

Additionally, we will post all written comments to CDOT's website at <https://www.codot.gov/business/rules/proposed-rules>.



All written comments will be added to the official rulemaking record and may be subject to disclosure.

**VI. Recording of the Hearings**

The hearing will be recorded. After the hearing concludes, the recording will be available on CDOT's website at <https://www.codot.gov/business/rules/proposed-rules>.

**VII. Special Accommodations**

If you need special accommodations, please contact CDOT's Rules Advisor at [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us) or 303.757.9441 at least one (1) week prior to the scheduled hearing date.

**VIII. Contact Information**

Please contact CDOT's Rules Advisor, at [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us) or 303.757.9441 if you have any questions.





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Agency Rulemaking Home

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# Notice of Rulemaking Confirmation

Official Publication of the State Administrative Rules (24-4-103(11) C.R.S.)

Date Filed: March 07, 2022 12:36:35

Please print this page for your records

REMEMBER: You must submit your proposed rules to DORA's Office of Policy, Research and Regulatory Reform at the time of filing this notice with the Secretary of State, as required by section 24-4-103(2.5) C.R.S.

Link: [https://www.dora.state.co.us/pls/real/SB121\\_Login](https://www.dora.state.co.us/pls/real/SB121_Login)

Your notice of rulemaking with tracking number 2022-00106 has been updated successfully.

<b>Department</b>	600 - Department of Transportation
<b>Type of Filing</b>	Permanent
<b>Agency</b>	607 - Clean Transit Enterprise Board
<b>CCR Number</b>	2 CCR 607-1
<b>CCR Title</b>	Rules Governing Clean Transit Enterprise Processes and Fees
<b>Hearing Date</b>	04/12/2022
<b>Hearing Time</b>	01:30 PM
<b>Hearing Location</b>	*virtual only* <a href="https://cdot.zoom.us/join/joinMeeting?jctd-iuqD4sGtTnKXX612ISu1NIOZw4bkj0">https://cdot.zoom.us/join/joinMeeting?jctd-iuqD4sGtTnKXX612ISu1NIOZw4bkj0</a>
<b>Description</b>	SB21-260 Sustainability of the Transportation System created new sources of dedicated funding and new state enterprises intended to preserve, improve, and expand existing transportation infrastructure, develop the modernized infrastructure needed to support the widespread adoption of Electric Motor Vehicles, and mitigate environmental and health impacts of transportation system use. To accomplish these goals, the legislation established a Clean Transit Enterprise (CTE), an enterprise and government-owned business within the Colorado Department of Transportation (CDOT) for the purpose of collecting fee revenue to reduce or mitigate the adverse impacts of air pollution and greenhouse gas emissions produced by gas and diesel-powered motor vehicles used for Retail Deliveries. CTE will support the adoption of Electric Motor Vehicles for Transit. The Enterprise is a Type 1 transfer agency specifically vested with the authority to promulgate rules to set the amount of the required Clean Transit Retail Delivery Fee and to govern the process by which the Enterprise accepts applications for, awards, and oversees grants, loans, and rebates. Per statute, the Enterprise can set a maximum fee of \$0.03 per Retail Delivery. CTE proposes to set the Clean Transit Retail Delivery Fee at \$0.03.
<b>Statutory Authority</b>	The Clean Transit Enterprise is authorized by C.R.S. §43-4-1203(6)(g) to promulgate rules setting the amounts of the Clean Transit Retail Delivery Fee at or below maximum levels contained in C.R.S. §43-4-1203(7) and to govern the process by which the Enterprise accepts applications for, awards, and oversees grants, loans, and rebates pursuant to C.R.S. §43-4-1203(8).
<b>Proposed Rule</b>	<a href="#">ProposedRuleAttach2022-00106.pdf</a>
<b>Additional Information</b>	<a href="#">AddInfoAttach2022-00106.pdf</a>
<b>Comments</b>	This updated notice changes the date, time, and virtual platform for the rulemaking hearing. There have been no changes to the proposed rule language. The new hearing link is: <a href="https://cdot.zoom.us/join/joinMeeting?jctd-iuqD4sGtTnKXX612ISu1NIOZw4bkj0">https://cdot.zoom.us/join/joinMeeting?jctd-iuqD4sGtTnKXX612ISu1NIOZw4bkj0</a>
<b>Contacts for Public</b>	
<b>Name</b>	Sari Weichbrodt
<b>Title</b>	Rules, Policies, and Procedures Advisor
<b>Phone</b>	303-757-9441
<b>Email</b>	<a href="mailto:dot_rules@state.co.us">dot_rules@state.co.us</a>



# Colorado Register

Official Publication of the State Administrative Rules (24-4-103(11) C.R.S.)

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**Notices of proposed rulemaking**

Department	Agency	Proposed rules	Hearing
Department of Revenue	Colorado Racing Commission	<a href="#">RACING</a>	<a href="#">04/12/2022 09:30 AM</a>
Department of Human Services	Behavioral Health	<a href="#">BEHAVIORAL HEALTH</a>	<a href="#">04/08/2022 08:30 AM</a>
Department of Transportation	Clean Transit Enterprise Board	<a href="#">Rules Governing Clean Transit Enterprise Processes and Fees</a>	<a href="#">04/12/2022 01:30 PM</a>
Department of Transportation	Nonattainment Area Air Pollution Mitigation Enterprise Board	<a href="#">Rules Governing Nonattainment Area Air Pollution Mitigation Enterprise Fees</a>	<a href="#">04/14/2022 03:00 PM</a>
Department of Regulatory Agencies	Division of Insurance	<a href="#">LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)</a>	<a href="#">03/31/2022 01:00 PM</a>
Department of Regulatory Agencies	Division of Insurance	<a href="#">LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)</a>	<a href="#">03/31/2022 01:00 PM</a>
Department of Regulatory Agencies	Division of Insurance	<a href="#">LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)</a>	<a href="#">03/31/2022 01:00 PM</a>
Department of Regulatory Agencies	Division of Insurance	<a href="#">LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)</a>	<a href="#">03/31/2022 01:00 PM</a>
Department of Regulatory Agencies	Division of Insurance	<a href="#">LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)</a>	<a href="#">03/31/2022 01:00 PM</a>
Department of Public Health and Environment	Air Quality Control Commission	<a href="#">REGULATION NUMBER 6 STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES</a>	<a href="#">05/19/2022 09:00 AM</a>
Department of Public Health and Environment	Air Quality Control Commission	<a href="#">REGULATION NUMBER 8 CONTROL OF HAZARDOUS AIR POLLUTANTS</a>	<a href="#">05/19/2022 09:00 AM</a>
Department of Public Health and Environment	Water Quality Control Commission (1002 Series)	<a href="#">REGULATION NO. 38 - CLASSIFICATIONS AND NUMERIC STANDARDS SOUTH PLATTE RIVER BASIN LARAMIE RIVER BASIN REPUBLICAN RIVER BASIN SMOKY HILL RIVER BASIN</a>	<a href="#">09/12/2022 09:00 AM</a>
Department of Public Health and Environment	Health Facilities and Emergency Medical Services	<a href="#">EMERGENCY MEDICAL SERVICES</a>	<a href="#">04/20/2022 10:00 AM</a>

	Division (1011, 1015 Series)		
Department of Agriculture	Animal Health Division	<a href="#">CONCERNING THE PREVENTION OF DISEASE IN ALTERNATIVE LIVESTOCK</a>	<a href="#">03/31/2022 10:00 AM</a>
Department of Agriculture	Inspection and Consumer Services Division	<a href="#">RULES AND REGULATIONS PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE PET ANIMAL CARE AND FACILITIES ACT</a>	<a href="#">04/01/2022 10:00 AM</a>
Department of Health Care Policy and Financing	Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY	<a href="#">04/08/2022 09:00 AM</a>
Department of Human Services	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	<a href="#">OVERVIEW OF CHILD WELFARE SERVICES</a>	<a href="#">04/08/2022 08:30 AM</a>
Department of Human Services	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	<a href="#">REFERRAL AND ASSESSMENT</a>	<a href="#">04/08/2022 08:30 AM</a>
Department of Human Services	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	<a href="#">EARLY CHILDHOOD</a>	<a href="#">04/08/2022 08:30 AM</a>
Department of Human Services	Commission for the Deaf, Hard of Hearing, and DeafBlind (Volume 27)	<a href="#">RULE MANUAL 27, COMMISSION FOR THE DEAF, HARD OF HEARING, AND DEAFBLIND</a>	<a href="#">04/08/2022 08:30 AM</a>

**Permanent Rules Adopted**

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Department	Agency	Rules adopted	AG opinion	Effective date
Department of Revenue	Taxation Division	<a href="#">1 CCR 201-2 INCOME TAX (DOC)</a>	<a href="#">02/16/2022</a>	03/30/2022
Department of Revenue	Taxation Division	<a href="#">1 CCR 201-13 ENTERPRISE ZONE REGULATIONS (DOC)</a>	<a href="#">02/18/2022</a>	03/30/2022
Department of Revenue	Liquor and Tobacco Enforcement Division	<a href="#">1 CCR 203-2 COLORADO LIQUOR RULES (DOC)</a>	<a href="#">02/23/2022</a>	03/30/2022
Department of Revenue	Division of Motor Vehicles	<a href="#">1 CCR 204-30 DRIVER'S LICENSE-DRIVER CONTROL (DOCX)</a>	<a href="#">02/22/2022</a>	03/30/2022
Department of Regulatory Agencies	Division of Insurance	<a href="#">3 CCR 702-9 PRESCRIPTION DRUG AFFORDABILITY BOARD (DOC)</a>	<a href="#">02/18/2022</a>	03/30/2022
Department of Regulatory Agencies	Division of Professions and Occupations - Board of Addiction Counselor Examiners	<a href="#">4 CCR 744-1 BOARD OF ADDICTION COUNSELOR EXAMINERS RULES (DOC)</a>	<a href="#">02/23/2022</a>	03/30/2022
Department of Labor and Employment	Division of Labor Standards and Statistics (Includes 1103 Series)	<a href="#">7 CCR 1103-15 Agricultural Labor Conditions Rules (DOCX)</a>	<a href="#">02/18/2022</a>	05/01/2022
Department of Public Safety	Colorado State Patrol	<a href="#">8 CCR 1507-1 RULES AND REGULATIONS CONCERNING MINIMUM STANDARDS FOR THE OPERATION OF COMMERCIAL VEHICLES (DOCX)</a>	<a href="#">02/18/2022</a>	04/01/2022
Department of Public Safety	Colorado State Patrol	<a href="#">8 CCR 1507-22 CLAIMS FOR REIMBURSEMENT FOR THE COSTS OF RESPONSE AND MITIGATION OF HAZARDOUS SUBSTANCE INCIDENTS (DOCX)</a>	<a href="#">02/18/2022</a>	04/01/2022
Department of Public Safety	Colorado State Patrol	<a href="#">8 CCR 1507-25 THE PERMITTING, ROUTING AND TRANSPORTATION OF HAZARDOUS AND NUCLEAR MATERIALS AND THE INTRASTATE</a>	<a href="#">02/18/2022</a>	04/01/2022



		<a href="#">TRANSPORTATION OF AGRICULTURAL PRODUCTS IN THE STATE OF COLORADO (DOCX)</a>		
Department of Public Safety	Colorado State Patrol	<a href="#">8 CCR 1507-28 PORT OF ENTRY RULES FOR COMMERCIAL MOTOR CARRIER SIZE, WEIGHT AND CLEARANCE (DOC)</a>	<a href="#">02/18/2022</a>	04/01/2022
Department of Human Services	Income Maintenance (Volume 3)	<a href="#">9 CCR 2503-5 ADULT FINANCIAL PROGRAMS (DOCX)</a>	<a href="#">02/18/2022</a>	04/01/2022
Department of Health Care Policy and Financing	Executive Director of Health Care Policy and Financing	<a href="#">10 CCR 2505-5 EXECUTIVE DIRECTOR OF HEALTH CARE POLICY AND FINANCING RULES (DOC)</a>	<a href="#">02/23/2022</a>	03/30/2022
Department of Health Care Policy and Financing	Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	<a href="#">10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY 1 (DOC)</a> <a href="#">10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY 2 (DOC)</a> <a href="#">10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY 3 (DOC)</a> <a href="#">10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY 4 (DOC)</a> <a href="#">10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY 5 (DOC)</a> <a href="#">10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY 6 (DOC)</a>	<a href="#">02/23/2022</a>	04/14/2022
Department of Human Services	Food Assistance Program (Volume 4B)	<a href="#">10 CCR 2506-1 RULE MANUAL VOLUME 4B, FOOD ASSISTANCE (DOCX)</a>	<a href="#">02/18/2022</a>	03/30/2022
Department of Human Services	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	<a href="#">12 CCR 2509-2 REFERRAL AND ASSESSMENT (DOCX)</a>	<a href="#">02/18/2022</a>	03/30/2022

## Emergency Rules Adopted

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Department	Agency	Rules adopted	Justification	AG opinion	Effective date	Expiration date
Department of Regulatory Agencies	Division of Professions and Occupations - Board of Addiction Counselor Examiners	<a href="#">4 CCR 744-1 BOARD OF ADDICTION COUNSELOR EXAMINERS RULES (DOC)</a>	<a href="#">EmergencyJustificationPathAttach2022-00069.pdf</a>	<a href="#">02/23/2022</a>	03/01/2022	06/08/2022
Department of Health Care Policy and Financing	Executive Director of Health Care Policy and Financing	<a href="#">10 CCR 2505-5 EXECUTIVE DIRECTOR OF HEALTH CARE POLICY AND FINANCING RULES (DOC)</a>	<a href="#">EmergencyJustificationPathAttach2022-00068.doc</a>	<a href="#">02/23/2022</a>	03/01/2022	06/04/2022
Department of Health Care Policy	Medical Services Board (Volume 8; :	<a href="#">10 CCR 2505-10 MEDICAL ASSISTANCE :</a>	<a href="#">EmergencyJustificationPathAttach2022-00080.pdf</a>	<a href="#">02/23/2022</a>	02/11/2022	06/11/2022

and Financing	Medical Assistance, Children's Health Plan)	<a href="#">STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY 1 (DOC) 10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY 2 (DOC)</a>				
Department of Human Services	Commission for the Deaf, Hard of Hearing, and DeafBlind (Volume 27)	<a href="#">12 CCR 2516-1 RULE MANUAL 27, COMMISSION FOR THE DEAF, HARD OF HEARING, AND DEAFBLIND (DOCX)</a>	<a href="#">EmergencyJustificationPathAttach2022-00072.doc</a>	<a href="#">02/18/2022</a>	02/04/2022	06/04/2022

**Terminated rulemaking**[Top](#)

Department	Agency	CCR #	Tracking #	Termination date	Reason for termination
Department of Public Health and Environment	Health Facilities and Emergency Medical Services Division (1011, 1015 Series)	6 CCR 1011-1 Chapter 02	<a href="#">2021-00824</a>	02/18/2022	The Department received additional last minute stakeholder feedback that it was not able to resolve prior to rulemaking.
Department of Human Services	Food Assistance Program (Volume 4B)	10 CCR 2506-1	<a href="#">2021-00638</a>	02/23/2022	Re-noticed and adopted in February 2022 through 2021-00783

**Non-Rulemaking Public Notices and Other Miscellaneous Rulemaking Notices**[Top](#)

Department / Agency	Filed date	Notice
Department of Revenue	03/08/2022	<a href="#">Date change for Gaming Annual Tax Setting hearing</a>
Department of Revenue	03/09/2022	<a href="#">DMV DC Rule 2nd Workshop 1 CCR 204-30, Rule 14. VENDOR CONTRACTS FOR THE BULK ELECTRONIC TRANSFER OF DEPARTMENT RECORDS</a>

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Agency	Rule	Hearing
Colorado Racing Commission	RACING	<a href="#">04/12/2022 09:30 AM</a>
Behavioral Health	BEHAVIORAL HEALTH	<a href="#">04/08/2022 08:30 AM</a>
Clean Transit Enterprise Board	Rules Governing Clean Transit Enterprise Processes and Fees	<a href="#">04/12/2022 01:30 PM</a>
Nonattainment Area Air Pollution Mitigation Enterprise Board	Rules Governing Nonattainment Area Air Pollution Mitigation Enterprise Fees	<a href="#">04/14/2022 03:00 PM</a>
Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	<a href="#">03/31/2022 01:00 PM</a>
Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	<a href="#">03/31/2022 01:00 PM</a>
Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	<a href="#">03/31/2022 01:00 PM</a>
Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	<a href="#">03/31/2022 01:00 PM</a>
Division of Insurance	LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)	<a href="#">03/31/2022 01:00 PM</a>

Air Quality Control Commission	REGULATION NUMBER 6 STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES	<a href="#">05/19/2022 09:00 AM</a>
Air Quality Control Commission	REGULATION NUMBER 8 CONTROL OF HAZARDOUS AIR POLLUTANTS	<a href="#">05/19/2022 09:00 AM</a>
Water Quality Control Commission (1002 Series)	REGULATION NO. 38 - CLASSIFICATIONS AND NUMERIC STANDARDS SOUTH PLATTE RIVER BASIN LARAMIE RIVER BASIN REPUBLICAN RIVER BASIN SMOKY HILL RIVER BASIN	<a href="#">09/12/2022 09:00 AM</a>
Health Facilities and Emergency Medical Services Division (1011, 1015 Series)	EMERGENCY MEDICAL SERVICES	<a href="#">04/20/2022 10:00 AM</a>
Animal Health Division	CONCERNING THE PREVENTION OF DISEASE IN ALTERNATIVE LIVESTOCK	<a href="#">03/31/2022 10:00 AM</a>
Inspection and Consumer Services Division	RULES AND REGULATIONS PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE PET ANIMAL CARE AND FACILITIES ACT	<a href="#">04/01/2022 10:00 AM</a>
Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY	<a href="#">04/08/2022 09:00 AM</a>
Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	OVERVIEW OF CHILD WELFARE SERVICES	<a href="#">04/08/2022 08:30 AM</a>
Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	REFERRAL AND ASSESSMENT	<a href="#">04/08/2022 08:30 AM</a>
Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	EARLY CHILDHOOD	<a href="#">04/08/2022 08:30 AM</a>
Commission for the Deaf, Hard of Hearing, and DeafBlind (Volume 27)	RULE MANUAL 27, COMMISSION FOR THE DEAF, HARD OF HEARING, AND DEAFBLIND	<a href="#">04/08/2022 08:30 AM</a>

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# **Exhibit 3**

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### Submission Accepted

#### Rule Submitted

Your proposed rules or amendments to rules have been successfully submitted to the Department of Regulatory Agencies.

After your submission has been checked for completeness, it will be made available to the general public on DORA's website and email notifications will be sent to interested stakeholders. You will be copied on all stakeholder requests for a cost-benefit analysis and DORA staff will contact you to discuss any public requests.

You may log back in to this system at any time to check on the current status of this rule. An email notification containing further instructions will be sent if a cost-benefit analysis is required as a result of your submission.

STATE OF  
COLORADO

Weichbrodt - CDOT, Sari &lt;sari.weichbrodt@state.co.us&gt;

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**Proposed Rule Submitted - Clean Transit Enterprise Rulemaking -**

1 message

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**DORA\_OPR\_Website@state.co.us** <DORA\_OPR\_Website@state.co.us>

Fri, Feb 25, 2022 at 11:59 AM

To: sari.weichbrodt@state.co.us

The following Proposed Rule has been submitted to the Colorado Office of Policy, Research and Regulatory Reform:

**Department:** Department of Transportation  
**Rulemaking Agency:** Clean Transit Enterprise Board  
**Rule ID:** 9248  
**Title or Subject:** Rules Governing Clean Transit Enterprise Processes and Fees  
**Submitted by:** Sari Weichbrodt  
**Date Submitted:** 02/25/2022

After your submission has been checked for completeness, it will be made available to the general public on DORA's website and email notifications will be sent to interested stakeholders.

In accordance with SB13-158, the public will have until Tuesday, March 15th, 2022 at midnight to request that the Department of Regulatory Agencies require your agency to prepare a cost-benefit analysis of these rules or amendments. You will be copied on all stakeholder requests for a cost-benefit analysis and DORA staff will contact you to discuss the requests. A second email notification will be sent if you are required to submit a cost-benefit analysis as a result of a public request.

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Please contact us at [DORA\\_OPR\\_Website@state.co.us](mailto:DORA_OPR_Website@state.co.us) if you have further questions regarding this e-mail message.

STATE OF  
COLORADO

Weichbrodt - CDOT, Sari &lt;sari.weichbrodt@state.co.us&gt;

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## DORA Regulatory Notice: Clean Transit Enterprise Board - Clean Transit Enterprise Rulemaking -

1 message

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**DORA\_OPR\_Website@state.co.us** <DORA\_OPR\_Website@state.co.us>

Fri, Feb 25, 2022 at 5:30 PM

To: sari.weichbrodt@state.co.us

Dear Stakeholder:

The Department of Transportation - Clean Transit Enterprise Board will be holding a rulemaking hearing on Monday, April 4th, 2022, 1:00 pm on rules regarding [Clean Transit Enterprise Rulemaking](#). The hearing will be held at: VIRTUAL HEARING ONLY [2829 W. Howard Place, Denver CO 80204](#).

The purpose of this rulemaking is:

The purpose of this rule is to set the amount of the Clean Transit Retail Delivery Fee at the level described in statute and to govern the process for soliciting, awarding, and overseeing grants, loans, and rebates to eligible transit agencies.

If you believe there will be a significant negative impact on small business, job creation or economic competitiveness, you may [request that the Department of Regulatory Agencies require the rulemaking agency to prepare a cost-benefit analysis](#) of a proposed rule or amendment. This request must be made to the Department of Regulatory Agencies by Tuesday, March 15th, 2022.

You may also [submit comments directly to the rulemaking agency](#) for the agency's consideration during the upcoming rulemaking hearing.

We hope this information is helpful to you. Thank you for taking the time to participate in the rulemaking process.

Brian Tobias  
Director  
Colorado Office of Policy, Research and Regulatory Reform

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You have received this e-mail bulletin because you previously signed up for this service provided by the Department of Regulatory Agencies. If you do not want to receive further e-mails regarding the review of proposed rules, please visit [https://www.dora.state.co.us/pls/real/SB121\\_Web.SignIn\\_Form](https://www.dora.state.co.us/pls/real/SB121_Web.SignIn_Form) and update your personal profile.

STATE OF  
COLORADO

Weichbrodt - CDOT, Sari &lt;sari.weichbrodt@state.co.us&gt;

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## DORA Regulatory Notice: Clean Transit Enterprise Board - REVISED: Clean Transit Enterprise Rulemaking -

1 message

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**DORA\_OPR\_Website@state.co.us** <DORA\_OPR\_Website@state.co.us>  
To: sari.weichbrodt@state.co.us

Sat, Mar 5, 2022 at 5:30 PM

Dear Stakeholder:

The Department of Transportation - Clean Transit Enterprise Board will be holding a rulemaking hearing on Tuesday, April 12th, 2022, 1:30 pm on rules regarding [REVISED: Clean Transit Enterprise Rulemaking](#). The hearing will be held at: VIRTUAL HEARING ONLY [2829 W. Howard Place, Denver CO 80204](#).

The purpose of this rulemaking is:

The purpose of this rule is to set the amount of the Clean Transit Retail Delivery Fee at the level described in statute and to govern the process for soliciting, awarding, and overseeing grants, loans, and rebates to eligible transit agencies.

If you believe there will be a significant negative impact on small business, job creation or economic competitiveness, you may [request that the Department of Regulatory Agencies require the rulemaking agency to prepare a cost-benefit analysis](#) of a proposed rule or amendment. This request must be made to the Department of Regulatory Agencies by Tuesday, March 15th, 2022.

You may also [submit comments directly to the rulemaking agency](#) for the agency's consideration during the upcoming rulemaking hearing.

We hope this information is helpful to you. Thank you for taking the time to participate in the rulemaking process.

Brian Tobias  
Director  
Colorado Office of Policy, Research and Regulatory Reform

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STATE OF  
COLORADO

Weichbrodt - CDOT, Sari &lt;sari.weichbrodt@state.co.us&gt;

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## No Public Cost-Benefit Analysis Request for Rule - REVISED: Clean Transit Enterprise Rulemaking -

1 message

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**DORA\_OPR\_Website@state.co.us** <DORA\_OPR\_Website@state.co.us>  
To: sari.weichbrodt@state.co.us

Sat, Mar 19, 2022 at 7:45 PM

The deadline for public Cost-Benefit Analysis requests has passed for the following Proposed Rule:

**Department:** Department of Transportation  
**Rulemaking Agency:** Clean Transit Enterprise Board  
**Rule ID:** 9248  
**Title or Subject:** Rules Governing Clean Transit Enterprise Processes and Fees  
**Submitted by:** Sari Weichbrodt  
**Date Submitted:** 02/25/2022  
**Deadline for Public Cost-Benefit Analysis Request:** March 15, 2022 11:59 pm

No public requests were received by the deadline. A Cost-Benefit Analysis is not required for this submission.

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Please contact us at [DORA\\_OPR\\_Website@state.co.us](mailto:DORA_OPR_Website@state.co.us) if you have further questions regarding this e-mail message.

**Exhibit 4**



# COLORADO

## Department of Transportation

2829 W. Howard Place  
Denver, CO 80204-2305

### Statement of Basis, Authority, and Purpose

The specific authority for the Clean Transit Enterprise (CTE) to establish these Rules is set forth in C.R.S. § 43-4-1203(6)(g).

The general purpose of these Rules is to set the amount of the Clean Transit Retail Delivery Fee at or below the maximum level specified in C.R.S. § 43-4-1203(7) and to govern the process by which the Enterprise accepts applications for, awards, and oversees grants, loans, and rebates pursuant to C.R.S. § 43-4-1203(8).

Senate Bill 21-260 Sustainability of the Transportation System created new sources of dedicated funding and new state enterprises. The legislation intended to preserve, improve, and expand existing transportation infrastructure, develop the modernized infrastructure needed to support the widespread adoption of Electric Motor Vehicles, and mitigate environmental and health impacts of transportation system use. To accomplish these goals, the legislation established the Clean Transit Enterprise, an enterprise and government-owned business within the Colorado Department of Transportation (CDOT) for the purpose of collecting fee revenue to reduce or mitigate the adverse impacts of air pollution and greenhouse gas emissions produced by gas and diesel-powered motor vehicles used for Retail Deliveries. CTE will support the adoption of Electric Motor Vehicles for Transit. The Legislature specifically vested CTE, a Type 1 transfer agency, with the authority to promulgate rules to set the amount of the required Clean Transit Retail Delivery Fee and to govern the process by which the Enterprise accepts applications for, awards, and oversees grants, loans, and rebates. Per statute, the Enterprise can set a maximum fee of \$0.03 per Retail Delivery and CTE proposes to do so in this rulemaking.

After fiscal year 2022, CTE shall notify the Department of Revenue (DOR) of the amount of the Clean Transit Retail Delivery Fee to be collected for Retail Deliveries of Tangible Personal Property purchased during each state fiscal year no later than March 15 of the calendar year in which the state fiscal year begins. CDOT and CTE will work with DOR to determine the maximum fee amounts that may be imposed, which shall be the maximum amounts for the prior state fiscal year adjusted for inflation.

In addition, CTE proposes to use CDOT's existing transit grant process to solicit, award, and oversee grants, loans, and rebates to transit agencies. This would include posting the program criteria on the CTE website no later than 60 days prior to the application deadline. Applicants would be notified of the CTE Board's decisions on proposals within 90 days of the application deadline.



**Exhibit 5**

CDOT maintains a list of individuals and entities who are interested in being notified of CDOT rulemaking activities. If you would like to be added to this list, please email [DOT\\_Rules@state.co.us](mailto:DOT_Rules@state.co.us).

## Rules Governing Clean Transit Enterprise Processes and Fees

Number	2 CCR 607-1
Contact	<a href="#">Kay Kelly</a>
Hearing Notice	<a href="#">Notice</a>
Statement of Basis and Purpose	<a href="#">Statement</a>
Proposed Rule	<a href="#">Rule</a>
Virtual Hearing Date & Time	April 4, 2022 at 1:00 p.m. MT
Virtual Hearing Registration	<a href="#">Register</a>
Hearing Exhibits	
Recording of Rulemaking Hearing	
Please submit written questions or comments to:	<a href="mailto:dot_rules@state.co.us">dot_rules@state.co.us</a>
Written Comments Due March 28, 2022	

## Rules Governing Nonattainment Area Air Pollution Mitigation Enterprise Fees

Email the Rule Contact person listed. **5A**

[State Agency Listing of Rules](#)

The Department of Regulatory Agencies (DORA) provides notice of statewide rule makings by topic.

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CDOT maintains a list of individuals and entities who are interested in being notified of CDOT rulemaking activities. If you would like to be added to this list, please email [DOT\\_Rules@state.co.us](mailto:DOT_Rules@state.co.us).

### Rules Governing Clean Transit Enterprise Processes and Fees

Number	2 CCR 607-1
Contact	<a href="#">Kay Kelly</a>
Hearing Notice	<a href="#">Updated Notice</a>
Statement of Basis and Purpose	<a href="#">Statement</a>
Proposed Rule	<a href="#">Rule</a>
Virtual Hearing Date & Time	April 12, 2022 at 1:30 p.m. MT
Virtual Hearing Registration	<a href="#">Register</a>
Hearing Exhibits	
Recording of Rulemaking Hearing	
Please submit written questions or comments to:	<a href="mailto:dot_rules@state.co.us">dot_rules@state.co.us</a>
Written Comments Due March 28, 2022	

Questions on Rules:  
Email the "Rule Contact" person listed.

5B

[State Agency Listing of Rules](#)

The Department of Regulatory Agencies (DORA) provides notice of statewide rule makings by topic.

[Sign up for DORA notices.](#)

Request a Cost-Benefit Analysis

Please submit all comments or questions regarding the proposed rules to [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us).

CDOT maintains a list of individuals and entities who are interested in being notified of CDOT rulemaking activities. If you would like to be added to this list, please email [DOT\\_Rules@state.co.us](mailto:DOT_Rules@state.co.us).

## Rules Governing Clean Transit Enterprise Processes & Fees

Number	2 CCR 607-1
Contact	<a href="#">Kay Kelly</a>
Hearing Notice	<a href="#">Updated Notice of 2 CCR 607-1 Hearing</a>
Statement of Basis and Purpose	<a href="#">2 CCR 607-1 Statement</a>
Proposed Rule	<a href="#">Proposed Rule Language 2 CCR 607-1-Updated 3/30/22</a>
Virtual Hearing Date & Time	April 12, 2022 at 1:30 p.m. MT
Virtual Hearing Registration	<a href="#">Register for 2 CCR 607-1 Hearing</a>
Hearing Exhibits	
Recording of Rulemaking Hearing	
Please submit written questions or comments to:	<a href="mailto:dot_rules@state.co.us">dot_rules@state.co.us</a>
Written Comments Due April 7, 2022	

### Virtual Public Hearing

Date	Time	Location	Virtual Registration
4/12/2022	1:30 p.m.	Virtual Only	Permanent Rulemaking Hearing Exhibits Handout

### Questions on Rules:

Email the "Rule Contact" person listed.

[State Agency Listing of Rules](#)

5C

The Department of Regulatory Agencies (DORA) provides notice of statewide rule makings by topic.

[Sign up for DORA notices.](#)

[Request a Cost-Benefit Analysis](#)

# **Exhibit 6**



# An Act

SENATE BILL 21-260

BY SENATOR(S) Fenberg and Winter, Priola, Bridges, Buckner, Danielson, Hansen, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Story; also REPRESENTATIVE(S) Garnett and Gray, Amabile, Bacon, Benavidez, Bernett, Bird, Boesenecker, Caraveo, Cutter, Duran, Esgar, Exum, Froelich, Gonzales-Gutierrez, Herod, Hooton, Jackson, Jodeh, Kennedy, Kipp, Lontine, McCluskie, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Sullivan, Titone, Valdez A., Weissman, Woodrow, Young.

CONCERNING THE SUSTAINABILITY OF THE TRANSPORTATION SYSTEM IN COLORADO, AND, IN CONNECTION THEREWITH, CREATING NEW SOURCES OF DEDICATED FUNDING AND NEW STATE ENTERPRISES TO PRESERVE, IMPROVE, AND EXPAND EXISTING TRANSPORTATION INFRASTRUCTURE, DEVELOP THE MODERNIZED INFRASTRUCTURE NEEDED TO SUPPORT THE WIDESPREAD ADOPTION OF ELECTRIC MOTOR VEHICLES, AND MITIGATE ENVIRONMENTAL AND HEALTH IMPACTS OF TRANSPORTATION SYSTEM USE; EXPANDING AUTHORITY FOR REGIONAL TRANSPORTATION IMPROVEMENTS; AND MAKING AN APPROPRIATION.

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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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

(a) The current and future health and prosperity of the state and its growing number of citizens requires the planning, funding, development, construction, maintenance, and supervision of a sustainable transportation system;

(b) A sustainable transportation system:

(I) Has sufficient capacity to allow efficient movement of people, goods, and services in all parts of the state in light of significant population growth;

(II) Is safe, well-maintained, accessible, integrated, and multimodal;

(III) Is planned, funded, designed, constructed, maintained, supervised, and regulated in a way that:

(A) Actively encourages diverse public participation in the planning process, including but not limited to participation from urban, rural, and disproportionately impacted communities;

(B) Equitably distributes transportation infrastructure among both urban and rural users in the state and is adequately and equitably funded with contributions from users that bear a reasonable relationship to their use of and impacts on the system and the environment and the costs incurred in mitigating those impacts; and

(C) Prioritizes asset management of Colorado's roads, bridges, and tunnels in order to achieve and maintain a state of good repair, consistent with federal requirements and best practices;

(IV) Addresses inequities in transportation access and the increased exposure to transportation-related air pollution for communities, including disproportionately impacted communities, communities near major roadways, and, as documented in multiple peer-reviewed scientific studies, communities where many of the residents are Black or Hispanic; and

(V) Reduces and mitigates adverse environmental and human health

impacts resulting from motor vehicle and other transportation-related emissions by incentivizing the widespread adoption of clean and efficient transportation technology such as personal electric vehicles, fleet and transit electrification, and electric motor vehicle charging and fueling infrastructure;

(c) Although a sustainable transportation system is a public good that benefits all Coloradans and the state has intermittently expended general fund money to fund transportation infrastructure, transportation system user charges such as per gallon charges on motor fuels, motor vehicle registration fees, and, increasingly, tolls have provided and continue to provide the vast majority of dedicated transportation funding;

(d) Current flat rate per gallon charges on motor fuels are unsustainable and do not reflect current or future transportation funding needs because:

(I) Such charges were last increased nearly three decades ago and are not indexed to inflation; and

(II) As internal combustion engines become more fuel efficient and electric motor vehicle usage increases, such charges generate less revenue per vehicle mile traveled and therefore are insufficient to mitigate the burden put on transportation infrastructure by these more efficient vehicles;

(e) Due to the decreased purchasing power of existing motor fuel charges, existing dedicated transportation funding has failed to adequately fund and will continue to fail to adequately fund both:

(I) The planning, development, construction, maintenance, and supervision of statewide highway transportation infrastructure; and

(II) Multimodal infrastructure and other programs and incentives needed to sufficiently reduce and mitigate the adverse environmental effects and health effects of transportation-related air pollution and greenhouse gas emissions to create a sustainable transportation system;

(f) While it is necessary and appropriate to increase general fund expenditures for transportation as provided for in this act, because the state has many other critical needs that require general fund money, it is also

necessary, appropriate, and more equitable to modernize user charges based on the costs users impose on the transportation system so that such charges remain the primary source of dedicated transportation funding;

(g) Because charges imposed on electric motor vehicles are annually applied whereas charges on motor vehicles powered by internal combustion engines are applied on a per gallon basis, it is necessary and appropriate to evaluate future opportunities to further equalize the average aggregate amount paid by all motor vehicle owners;

(h) To ensure that transportation system users are reasonably and equitably charged for their share of their transportation system use, it is necessary, appropriate, equitable, and in the best interest of all Coloradans to:

(I) Impose additional per gallon charges on motor fuels and index per gallon motor fuel charges to inflation;

(II) Ensure that owners of electric motor vehicles and owners of internal combustion engine vehicles are equitably charged for their use of the transportation system and that those charges, whether they are road usage fees or registration fees, are indexed to inflation;

(III) Impose new retail delivery fees on purchases of tangible personal property delivered to consumers and index those fees to inflation because:

(A) Demand for retail deliveries has increased and is projected to remain a significant form of commerce, which will increase both traffic and associated motor vehicle emissions that create adverse environmental and health impacts and additional costs to the state; and

(B) Imposing reasonably calculated retail delivery fees on each delivery made to a consumer accounts for the use of the transportation system associated with that delivery, generates the revenue needed to mitigate the impact of retail deliveries on transportation system infrastructure, and remediates and mitigates retail-delivery-related environmental and health impacts;

(IV) Impose new fees on passenger rides arranged through a

transportation network company and index those fees to inflation because:

(A) Such rides result in substantially more air pollution and greenhouse gas pollution from motor vehicle emissions than the alternative forms of transportation not used for the same trips, with the Union of Concerned Scientists estimating that the average ride arranged in the United States causes sixty-nine percent more greenhouse gas pollution than the alternative form of transportation not used due to factors such as deadhead miles driven without a passenger and displacement of walking, biking, and transit trips; and

(B) Imposing reasonably calculated per ride fees on each passenger ride arranged through a transportation network company helps ensure that transportation network companies pay their fair share of costs to reduce and mitigate the increased environmental and health impacts of such prearranged rides; and

(V) Ensure that the current two dollar daily motor vehicle rental fee is indexed to inflation and collected on rentals of twenty-four hours or longer but not more than thirty days that are enabled by a car sharing program;

(i) Because greenhouse gas pollution resulting from the production, distribution, and use of motor vehicle fuels produces many social costs, including but not limited to adverse public health impacts, increased heat waves, droughts, water supply shortages, flooding, biodiversity loss, and forest health issues such as forest fires, and also adversely impacts specific industries such as agriculture and outdoor recreation, it is necessary and appropriate that the state, when estimating the social costs of transportation-related greenhouse gas pollution, estimate those costs as accurately as possible and that the methodology to be used by the state when making such estimates be specified by law as provided for in this act; and

(j) (I) As part of its national infrastructure funding and job creation plan, the federal government is expected to provide substantial federal funding to the state for multimodal transportation and the widespread adoption of electric motor vehicles to help minimize and mitigate adverse environmental and health impacts.

(II) If the state receives such federal funding, the general assembly intends that the state executive branch departments, agencies, and enterprises involved in the planning, funding, development, construction, maintenance, and supervision of a sustainable transportation system evaluate whether the allocation of fee revenue authorized by this act should be modified. Further, the general assembly intends that the aggregate amount of fee revenue going to the community access enterprise, the clean fleet enterprise, the clean transit enterprise, the nonattainment area air pollution mitigation enterprise, and the multimodal transportation and mitigation options fund not be decreased. If it is determined that the allocation should be modified, the general assembly intends that recommendations be made to the general assembly regarding the modifications that should be made.

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

(a) The planning, funding, development, construction, maintenance, and supervision of a sustainable transportation system requires the implementation of a comprehensive regulatory scheme that appropriately balances and funds the necessary elements of such a system, including but not limited to:

(I) The construction, maintenance, and supervision of highways and traditional highway infrastructure; and

(II) The infrastructure, programs, and incentives needed to support the widespread adoption of electric motor vehicles for personal, commercial, and government use and, by doing so and through other appropriate means, minimizes and mitigates the adverse environmental and health impacts of transportation-related air pollution and greenhouse gas pollutant emissions that affect the general public, including disproportionately impacted communities;

(b) The planning, funding, development, construction, maintenance, and supervision of a sustainable transportation system depends, at a minimum, on the institutional and individual knowledge, expertise, and experience of the Colorado energy office, the department of transportation, the department of public health and environment, other organizations and individuals interested in a sustainable transportation system, and the general public;

(c) It is necessary and appropriate to coordinate the implementation of the scheme by:

(I) Providing additional sustainable funding for the construction, maintenance, and supervision of traditional highway infrastructure by the department of transportation, counties, and municipalities and for multimodal transportation projects; and

(II) Creating and funding a community access enterprise, a clean fleet enterprise, a clean transit enterprise, and a nonattainment area air pollution mitigation enterprise, each of which uses its distinctive competencies to contribute in a distinct way to the implementation of the scheme to support a sustainable transportation system and each of which has a governing board that includes members selected in part based on knowledge, expertise, or experience deemed specifically relevant to the development and use of the distinctive competencies of the enterprise and the individual mission of the enterprise;

(d) The community access enterprise, the clean fleet enterprise, the clean transit enterprise, and the nonattainment area air pollution mitigation enterprise created in this act have distinctive competencies and are each charged with implementing different components of the scheme required for the planning, funding, development, construction, maintenance, and supervision of a sustainable transportation system. Specifically:

(I) The community access enterprise is created to serve the primary business purpose of equitably reducing and mitigating the adverse environmental and health impacts of air pollution and greenhouse gas emissions produced by motor vehicles used to make retail deliveries to consumers within local communities. The enterprise will support the adoption of electric motor vehicles and electric alternatives to motor vehicles at the community level, which will support communities, including rural, urban, and disproportionately impacted communities, throughout the state, and will pursue its primary business purpose by, at a minimum, providing funding or financing to:

(A) Construct or install the sufficient and accessible electric motor vehicle charging infrastructure needed to reduce range anxiety and ensure that electric motor vehicles are viable in all communities; and

(B) Provide financial incentives and assistance that make it possible for owners of older, less fuel efficient, and higher polluting vehicles to replace those motor vehicles with electric motor vehicles and encourage use of electric alternatives to motor vehicles and public transit;

(II) The clean fleet enterprise is created to serve the primary business purpose of reducing and mitigating the adverse environmental and health impacts of air pollution and greenhouse gas emissions produced by the increasing number of fleet motor vehicles being used to provide transportation network company rides and make retail deliveries by supporting the electrification of such fleets and other motor vehicle fleets, and the enterprise will support the electrification of motor vehicle fleets and pursue its primary business purpose by, at a minimum, providing funding or financing to:

(A) Help owners and operators of motor vehicle fleets finance electric motor vehicle acquisitions and upgrades;

(B) Coordinate engagement and develop strategies for electrifying motor vehicle fleets and other not yet electrified freight transportation and retail delivery operations that can be electrified; and

(C) Provide or support the delivery of companion services such as fleet motor vehicle testing, inspection, and readjustment services;

(III) The clean transit enterprise is created to serve the primary business purpose of reducing and mitigating the adverse environmental and health impacts of air pollution and greenhouse gas emissions produced by retail deliveries by supporting the replacement of existing gasoline and diesel public transit vehicles with electric motor vehicles, providing the associated recharging infrastructure for electric transit fleet motor vehicles, supporting facility modifications that allow for the safe operation and maintenance of electric transit motor vehicles, and funding planning studies that enable transit agencies to plan for transit vehicle electrification; and

(IV) The nonattainment area air pollution mitigation enterprise is created to serve the primary business purpose of mitigating the environmental and health impacts of increased air pollution from motor vehicle emissions in nonattainment areas that results from the rapid and continuing growth in retail deliveries made by motor vehicles and in



prearranged rides provided by transportation network companies by providing funding for eligible projects that reduce traffic, including demand management projects that encourage alternatives to driving alone or that directly reduce air pollution, such as retrofitting of construction equipment, construction of roadside vegetation barriers, and planting trees along medians;

(e) The community access enterprise, the clean fleet enterprise, the clean transit enterprise, and the nonattainment area air pollution mitigation enterprise each serve a separate primary purpose and none of the enterprises serve primarily the same purpose as any other enterprise created in Senate Bill 21-260, enacted in 2021, or otherwise created within the five preceding years;

(f) Because the community access enterprise, the clean fleet enterprise, the nonattainment area air pollution mitigation enterprise, and the clean transit enterprise each serve primarily their own purpose and each enterprise is projected to receive revenue from fees and surcharges of less than one hundred million dollars in its first five fiscal years, including the fiscal year in which its board first meets, section 24-77-108, C.R.S., does not require any of the enterprises to be approved at a statewide general election; and

(g) Consistent with the determination of the Colorado supreme court in *Colorado Union of Taxpayers Foundation v. City of Aspen*, 2018 CO 36, that a charge is not a tax if the primary purpose of the charge is to not to raise revenue for general governmental purposes but is instead to defray some of the costs of regulating an activity under a comprehensive regulatory scheme, the charges imposed by the state and by each enterprise as authorized by this act are fees, not taxes, because each fee is collected from transportation system users for the primary purpose of defraying the costs of mitigating the impact caused by the transportation system user when engaging in an activity that is subject to the fee in an amount reasonably related to the impacts caused by the activity and the amount expended to mitigate that impact.

**SECTION 2.** In Colorado Revised Statutes, 8-20-206.5, amend (6)(a)(II) as follows:

**8-20-206.5. Environmental response surcharge - liquefied**

**petroleum gas and natural gas inspection fund - perfluoroalkyl and polyfluoroalkyl substances cash fund - definitions.** (6) (a) In addition to the payment collected under subsection (1)(a) of this section, the executive director of the department of revenue shall also collect a fee to:

(II) Support the department of transportation in functions related to freight movement and infrastructure in the state, INCLUDING THE FUNCTIONS OF THE FREIGHT MOBILITY AND SAFETY BRANCH OF THE TRANSPORTATION DEVELOPMENT DIVISION OF THE DEPARTMENT OF TRANSPORTATION CREATED IN SECTION 43-1-117 (4), as well as infrastructure projects that enhance the safety of movement of commercial materials;

**SECTION 3.** In Colorado Revised Statutes, 24-1-119, **add** (13) as follows:

**24-1-119. Department of public health and environment - creation.** (13) THE CLEAN FLEET ENTERPRISE, CREATED IN SECTION 25-7.5-103, SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AS IF THE SAME WERE TRANSFERRED BY A **TYPE 1** TRANSFER, AS DEFINED IN SECTION 24-1-105, TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

**SECTION 4.** In Colorado Revised Statutes, 24-1-128.7, **amend** (5); and **add** (9) and (10) as follows:

**24-1-128.7. Department of transportation - creation.** (5) The statewide bridge AND TUNNEL enterprise created in section 43-4-805 (2), ~~C.R.S.~~, shall exercise its powers and perform its duties and functions as if the same were transferred by a **type 1** transfer, as defined in section 24-1-105, to the department of transportation.

(9) THE CLEAN TRANSIT ENTERPRISE, CREATED IN SECTION 43-4-1203, SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AS IF THE SAME WERE TRANSFERRED BY A **TYPE 1** TRANSFER, AS DEFINED IN SECTION 24-1-105, TO THE DEPARTMENT OF TRANSPORTATION.

(10) THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE, CREATED IN SECTION 43-4-1303, SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AS IF THE SAME WERE TRANSFERRED BY A **TYPE 1** TRANSFER, AS DEFINED IN SECTION 24-1-105, TO THE DEPARTMENT OF TRANSPORTATION.

**SECTION 5.** In Colorado Revised Statutes, **add** 24-38.5-110 and 24-38.5-111 as follows:

**24-38.5-110. Electric vehicle plan and greenhouse gas pollution reduction roadmap - annual progress reports.** FOR STATE FISCAL YEAR 2022-23, AND FOR EACH SUBSEQUENT STATE FISCAL YEAR, THE COLORADO ENERGY OFFICE AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL, AFTER CONSULTATION WITH THE DEPARTMENT OF TRANSPORTATION, JOINTLY PREPARE AND PRESENT TO THE TRANSPORTATION AND LOCAL GOVERNMENT AND ENERGY AND ENVIRONMENT COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, AN ANNUAL REPORT DETAILING THE PROGRESS MADE TOWARD THE ELECTRIC MOTOR VEHICLE ADOPTION GOALS SET FORTH IN THE "COLORADO ELECTRIC VEHICLE PLAN 2020" AND THE TRANSPORTATION SECTOR GREENHOUSE GAS POLLUTION REDUCTION GOALS SET FORTH IN THE "COLORADO GREENHOUSE GAS POLLUTION REDUCTION ROADMAP", PUBLISHED BY THE COLORADO ENERGY OFFICE. THE COMMUNITY ACCESS ENTERPRISE CREATED IN SECTION 24-38.5-303 (1) AND THE CLEAN FLEET ENTERPRISE CREATED IN SECTION 25-7.5-103 (1)(a) SHALL ALSO POST THE ANNUAL REPORT ON THEIR WEBSITES.

**24-38.5-111. Social cost of greenhouse gas pollution - estimate methodology.** EXCEPT WHERE A DIFFERENT METHODOLOGY IS PRESCRIBED BY LAW, THE COLORADO ENERGY OFFICE, THE DEPARTMENT OF TRANSPORTATION, AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL, WHEN ESTIMATING THE SOCIAL COSTS OF GREENHOUSE GAS POLLUTION, BASE THEIR ESTIMATE ON THE MOST RECENT ASSESSMENT OF THE SOCIAL COST OF CARBON DIOXIDE AND OTHER GREENHOUSE GAS POLLUTANTS DEVELOPED BY THE FEDERAL GOVERNMENT USING A DISCOUNT RATE THAT IS TWO AND ONE-HALF PERCENT OR LESS AND DOES NOT YIELD A LOWER ESTIMATE OF COSTS THAN THE COSTS PUBLISHED IN THE TECHNICAL SUPPORT DOCUMENT OF THE FEDERAL INTERAGENCY WORKING GROUP ON THE SOCIAL COST OF GREENHOUSE GASES ENTITLED "TECHNICAL UPDATE OF THE SOCIAL COST OF CARBON FOR REGULATORY IMPACT ANALYSIS UNDER EXECUTIVE ORDER 12866".

**SECTION 6.** In Colorado Revised Statutes, **add** part 3 to article 38.5 of title 24 as follows:

PART 3  
COMMUNITY ACCESS TO ELECTRIC VEHICLE  
CHARGING AND FUELING INFRASTRUCTURE

**24-38.5-301. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) RETAIL DELIVERIES ARE INCREASING AND ARE EXPECTED TO CONTINUE TO INCREASE IN URBAN AND RURAL COMMUNITIES;

(b) THE MOTOR VEHICLES USED TO MAKE RETAIL DELIVERIES ARE SOME OF THE MOST POLLUTING VEHICLES ON THE ROAD, WHICH HAS RESULTED IN ADDITIONAL AND INCREASING AIR AND GREENHOUSE GAS POLLUTION AT THE LOCAL COMMUNITY LEVEL FROM IDLING DELIVERY VEHICLES IN NEIGHBORHOODS;

(c) THE ADVERSE ENVIRONMENTAL AND HEALTH IMPACTS OF INCREASED LOCAL EMISSIONS FROM MOTOR VEHICLES USED TO MAKE RETAIL DELIVERIES CAN BE MITIGATED AND OFFSET BY INVESTING IN THE CHARGING AND FUELING INFRASTRUCTURE NEEDED TO SUPPORT WIDESPREAD PUBLIC ADOPTION OF ELECTRIC MOTOR VEHICLES AND ZERO EMISSION VEHICLES AND BY REPLACING THE STATE'S DIRTIEST PASSENGER VEHICLES WITH ZERO EMISSION VEHICLES;

(d) INSTEAD OF REDUCING THE IMPACTS OF RETAIL DELIVERIES BY LIMITING RETAIL DELIVERY ACTIVITY THROUGH REGULATION, IT IS MORE APPROPRIATE TO CONTINUE TO ALLOW PERSONS WHO RECEIVE RETAIL DELIVERIES TO BENEFIT FROM THE CONVENIENCE AFFORDED BY UNFETTERED RETAIL DELIVERIES AND INSTEAD IMPOSE A SMALL FEE ON EACH RETAIL DELIVERY AND USE FEE REVENUE TO FUND NECESSARY MITIGATION ACTIVITIES;

(e) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF THE STATE AND ALL COLORADANS TO INCENTIVIZE, SUPPORT, AND ACCELERATE THE USE OF ELECTRIC MOTOR VEHICLES THROUGHOUT THE STATE AND TO ENABLE THE STATE TO ACHIEVE ITS ELECTRIC MOTOR VEHICLE ADOPTION GOALS AS SET FORTH IN THE COLORADO ENERGY OFFICE'S "COLORADO ELECTRIC VEHICLE PLAN 2020" BECAUSE WIDESPREAD ADOPTION OF ELECTRIC MOTOR VEHICLES:

(I) REDUCES EMISSIONS OF AIR POLLUTANTS, INCLUDING HAZARDOUS AIR POLLUTANTS AND GREENHOUSE GASES, AT THE COMMUNITY LEVEL THAT CONTRIBUTE TO ADVERSE HUMAN HEALTH EFFECTS SUCH AS ASTHMA, HEART ATTACKS, AND LUNG CANCER, AND ADVERSE ENVIRONMENTAL EFFECTS, INCLUDING BUT NOT LIMITED TO CLIMATE CHANGE, AND HELPS THE STATE MEET ITS STATEWIDE GREENHOUSE GAS POLLUTION REDUCTION TARGETS ESTABLISHED IN SECTION 25-7-102 (2)(g) AND ITS TRANSPORTATION SECTOR GREENHOUSE GAS POLLUTION REDUCTION TARGETS ESTABLISHED IN THE COLORADO ENERGY OFFICE'S "COLORADO GREENHOUSE GAS POLLUTION REDUCTION ROADMAP" AND COMPLY WITH AIR QUALITY ATTAINMENT STANDARDS;

(II) HELPS BUSINESSES AND GOVERNMENTAL ENTITIES OPERATE MORE EFFICIENTLY AND HELPS INDIVIDUALS AND FAMILIES SAVE MONEY OVER TIME BY REDUCING FUEL AND MAINTENANCE COSTS ASSOCIATED WITH THE USE OF MOTOR VEHICLES;

(III) REDUCES THE SOCIAL COSTS OF EMISSIONS OF GREENHOUSE GASES AND OTHER AIR POLLUTANTS BY REDUCING SUCH EMISSIONS; AND

(IV) REDUCES HIGHER EMISSIONS OF AIR POLLUTANTS IN LOCAL COMMUNITIES, INCLUDING DISPROPORTIONATELY IMPACTED COMMUNITIES, WHERE THERE IS INCREASED EXPOSURE TO TRANSPORTATION-RELATED AIR POLLUTION AND WHERE, AS MANY STUDIES CONFIRM, INCREASED EXPOSURE TO TRAFFIC AND AIR POLLUTION RESULTS IN A HIGHER RISK FOR ADVERSE HEALTH OUTCOMES;

(f) RETIRING A RELATIVELY SMALL NUMBER OF HIGH-EMITTING PASSENGER VEHICLES AND REPLACING THEM WITH LOW OR ZERO EMISSION VEHICLES WOULD HAVE A RELATIVELY LARGE IMPACT ON EMISSIONS REDUCTIONS, AS SHOWN BY A 2009 STUDY THAT FOUND THAT TEN PERCENT OF PASSENGER VEHICLES ARE RESPONSIBLE FOR MORE THAN THIRTY PERCENT OF NITROGEN OXIDE EMISSIONS AND NEARLY FIFTY PERCENT OF HYDROCARBON EMISSIONS;

(g) ONE OF THE BEST WAYS TO INCENTIVIZE, SUPPORT, AND ACCELERATE THE ADOPTION OF ELECTRIC MOTOR VEHICLES IN BOTH URBAN AND RURAL AREAS IS TO REDUCE RANGE ANXIETY AND INCONVENIENCE FOR ELECTRIC MOTOR VEHICLE USERS BY BUILDING READILY AVAILABLE, ROBUST, EASY TO USE, AND EFFICIENT ELECTRIC MOTOR VEHICLE CHARGING

AND FUELING INFRASTRUCTURE IN COMMUNITIES AND ALONG MAJOR HIGHWAY CORRIDORS THROUGHOUT THE STATE;

(h) ANOTHER WAY TO INCENTIVIZE, SUPPORT, AND ACCELERATE THE ADOPTION OF ELECTRIC MOTOR VEHICLES, PROMOTE EQUITABLE ACCESS TO ELECTRICAL MOTOR VEHICLES AND LESS EXPENSIVE ELECTRICAL ALTERNATIVES TO MOTOR VEHICLES, AND ENCOURAGE CLEAN TRAVEL IS TO PROVIDE INCENTIVES IN COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES, FOR ACQUISITION OR USE OF ELECTRIC MOTOR VEHICLES OR ELECTRIC ALTERNATIVES TO MOTOR VEHICLES AND USE OF TRANSIT. CREATING ACCESS TO ELECTRIC MOTOR VEHICLES OR ELECTRIC ALTERNATIVES TO MOTOR VEHICLES FOR COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES, ADDRESSES INEQUITIES BY ALLOWING INDIVIDUALS WHO CANNOT AFFORD TO UPGRADE TO MORE FUEL EFFICIENT MOTOR VEHICLES TO UPGRADE TO MOTOR VEHICLES THAT PRODUCE LITTLE OR NO EMISSIONS IN THEIR COMMUNITIES.

(i) BY REDUCING MOTOR VEHICLE EMISSIONS, INCENTIVIZING, SUPPORTING, AND ACCELERATING THE ADOPTION OF ELECTRIC MOTOR VEHICLES AT THE COMMUNITY LEVEL EFFECTIVELY REMEDIATES SOME OF THE IMPACTS OF RETAIL DELIVERIES BY OFFSETTING A PORTION OF THE INCREASED MOTOR VEHICLE EMISSIONS RESULTING FROM RETAIL DELIVERIES.

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

(a) TO INCENTIVIZE, SUPPORT, AND ACCELERATE THE CONSTRUCTION OF ELECTRIC MOTOR VEHICLE CHARGING AND FUELING INFRASTRUCTURE IN COMMUNITIES THROUGHOUT THE STATE; INCENTIVIZE, SUPPORT, AND ACCELERATE THE ADOPTION OF ELECTRIC MOTOR VEHICLES BY BUSINESSES, INCLUDING TRANSPORTATION NETWORK COMPANIES, GOVERNMENTAL ENTITIES, AND INDIVIDUALS; AND THEREBY INCREASE ACCESS TO ELECTRIC MOTOR VEHICLES, MINIMIZE AND MITIGATE THE ENVIRONMENTAL AND HEALTH IMPACTS CAUSED BY TRANSPORTATION-RELATED EMISSIONS OF AIR POLLUTANTS AND GREENHOUSE GASES, AND ALLOW THE STATE AND ITS CITIZENS TO REAP THE ENVIRONMENTAL, HEALTH, BUSINESS AND GOVERNMENTAL OPERATIONAL EFFICIENCY, AND PERSONAL MOTOR VEHICLE TOTAL OWNERSHIP COST SAVINGS BENEFITS OF WIDESPREAD ADOPTION OF ELECTRIC MOTOR VEHICLES, IT IS NECESSARY, APPROPRIATE, AND IN THE

BEST INTEREST OF THE STATE TO CREATE A COMMUNITY ACCESS ENTERPRISE THAT CAN PROVIDE SPECIALIZED BUSINESS SERVICES, INCLUDING IMPACT REMEDIATION SERVICES, THAT HELP COMMUNITIES, BUSINESSES, AND GOVERNMENTAL ENTITIES CONSTRUCT THE ELECTRIC MOTOR VEHICLE CHARGING AND FUELING INFRASTRUCTURE NEEDED TO SUPPORT WIDESPREAD ADOPTION OF ELECTRIC MOTOR VEHICLES, INCLUDING LIGHT-DUTY, MEDIUM-DUTY, AND HEAVY-DUTY MOTOR VEHICLES AND MOTOR VEHICLES USED TO MAKE RETAIL DELIVERIES, AND THEREBY ASSUAGE RANGE ANXIETY CONCERNS, SUPPLY CHAIN DISRUPTION CONCERNS, AND ANY OTHER CONCERNS THAT CURRENTLY DISINCENTIVIZE THE WIDESPREAD ADOPTION OF ELECTRIC MOTOR VEHICLES;

(b) THE SPECIFIC FOCUS OF THE ENTERPRISE IS THE EQUITABLE REDUCTION AND MITIGATION OF THE ADVERSE ENVIRONMENTAL AND HEALTH IMPACTS OF AIR POLLUTION AND GREENHOUSE GAS EMISSIONS AT THE COMMUNITY LEVEL THROUGH SUPPORT OF THE ADOPTION OF ELECTRIC MOTOR VEHICLES AND ELECTRIC ALTERNATIVES TO MOTOR VEHICLES AT THE COMMUNITY LEVEL, INCLUDING BUT NOT LIMITED TO WITHIN DISPROPORTIONATELY IMPACTED COMMUNITIES THROUGHOUT THE STATE;

(c) THE ENTERPRISE PROVIDES IMPACT REMEDIATION SERVICES WHEN, IN EXCHANGE FOR THE PAYMENT OF COMMUNITY ACCESS RETAIL DELIVERY FEES BY PURCHASERS OF TANGIBLE PERSONAL PROPERTY FOR RETAIL DELIVERY, IT ACTS TO MITIGATE THE IMPACTS OF RESIDENTIAL AND COMMERCIAL DELIVERIES ON THE STATE'S TRANSPORTATION INFRASTRUCTURE, AIR QUALITY, AND EMISSIONS BY:

(I) FUNDING THE CONSTRUCTION OF ELECTRIC MOTOR VEHICLE CHARGING INFRASTRUCTURE THAT SUPPORTS THE USE OF CLEAN AND QUIET ELECTRIC MOTOR VEHICLES, INCLUDING MOTOR VEHICLES USED TO MAKE RETAIL DELIVERIES;

(II) SPECIFICALLY SUPPORTING AND INCENTIVIZING THE RETIREMENT OF OLD AND INEFFICIENT MOTOR VEHICLES POWERED BY INTERNAL COMBUSTION ENGINES AND THE ADOPTION OF ELECTRIC MOTOR VEHICLES, ELECTRIC ALTERNATIVES TO MOTOR VEHICLES, AND TRANSIT USE IN COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES, THAT GENERALLY BEAR THE GREATEST BURDEN OF THE ENVIRONMENTAL AND HEALTH IMPACTS OF TRANSPORTATION EMISSIONS DUE TO DISPARITIES IN TRANSPORTATION POLLUTION EXPOSURE;

(III) PROVIDING OUTREACH, EDUCATION, PLANNING FUNDS, OR TRAINING TO SUPPORT THE SUCCESSFUL APPLICATIONS FOR FUNDING AND THE PERFORMANCE OF ENTITIES RECEIVING FUNDS;

(IV) CONTRIBUTING TO THE COMPREHENSIVE REGULATORY SCHEME REQUIRED FOR THE PLANNING, FUNDING, DEVELOPMENT, CONSTRUCTION, MAINTENANCE, AND SUPERVISION OF A SUSTAINABLE TRANSPORTATION SYSTEM; AND

(V) PROVIDING ADDITIONAL REMEDIATION SERVICES TO OFFSET IMPACTS CAUSED BY FEE PAYERS AS MAY BE PROVIDED BY LAW;

(d) BY PROVIDING REMEDIATION SERVICES AS AUTHORIZED BY THIS SECTION, THE ENTERPRISE PROVIDES A BENEFIT TO FEE PAYERS WHEN IT REMEDIATES THE IMPACTS THEY CAUSE AND THEREFORE OPERATES AS A BUSINESS IN ACCORDANCE WITH THE DETERMINATION OF THE COLORADO SUPREME COURT IN *COLORADO UNION OF TAXPAYERS FOUNDATION V. CITY OF ASPEN*, 2018 CO 36;

(e) CONSISTENT WITH THE DETERMINATION OF THE COLORADO SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL ASSEMBLY THAT THE REVENUE COLLECTED BY THE ENTERPRISE IS GENERATED BY FEES, NOT TAXES, BECAUSE THE COMMUNITY ACCESS RETAIL DELIVERY FEE IMPOSED BY THE ENTERPRISE AS AUTHORIZED BY SECTION 24-38.5-303 (7) IS:

(I) IMPOSED FOR THE SPECIFIC PURPOSE OF ALLOWING THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE REMEDIATION SERVICES SPECIFIED IN THIS SECTION, INCLUDING MITIGATING IMPACTS TO AIR QUALITY AND GREENHOUSE GAS EMISSIONS CAUSED BY THE ACTIVITIES ON WHICH THE FEE IS ASSESSED, AND CONTRIBUTES TO THE IMPLEMENTATION OF THE COMPREHENSIVE REGULATORY SCHEME REQUIRED FOR THE PLANNING, FUNDING, DEVELOPMENT, CONSTRUCTION, MAINTENANCE, AND SUPERVISION OF A SUSTAINABLE TRANSPORTATION SYSTEM; AND

(II) COLLECTED AT RATES THAT ARE REASONABLY CALCULATED BASED ON THE IMPACTS CAUSED BY FEE PAYERS AND THE COST OF



REMEDIATING THOSE IMPACTS; AND

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

**24-38.5-302. Definitions.** AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BATTERY ELECTRIC MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT IS POWERED EXCLUSIVELY BY A RECHARGEABLE BATTERY PACK THAT CAN BE RECHARGED BY BEING PLUGGED INTO AN EXTERNAL SOURCE OF ELECTRICITY AND THAT HAS NO SECONDARY SOURCE OF PROPULSION.

(2) "BOARD" MEANS THE GOVERNING BOARD OF THE ENTERPRISE.

(3) (a) "DISPROPORTIONATELY IMPACTED COMMUNITY" MEANS A COMMUNITY THAT IS IN A CENSUS BLOCK GROUP, AS DETERMINED IN ACCORDANCE WITH THE MOST RECENT UNITED STATES DECENNIAL CENSUS, WHERE THE PROPORTION OF HOUSEHOLDS THAT ARE LOW INCOME IS GREATER THAN FORTY PERCENT, THE PROPORTION OF HOUSEHOLDS THAT IDENTIFY AS MINORITY IS GREATER THAN FORTY PERCENT, OR THE PROPORTION OF HOUSEHOLDS THAT ARE HOUSING COST-BURDENED IS GREATER THAN FORTY PERCENT.

(b) AS USED IN THIS SUBSECTION (3):

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

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

(4) "ELECTRIC ALTERNATIVE TO MOTOR VEHICLES" MEANS A VEHICLE, AS DEFINED IN SECTION 42-1-102 (112), THAT IS NOT A MOTOR VEHICLE, AND THAT USES ELECTRICAL POWER IN WHOLE OR IN PART FOR PROPULSION.

(5) "ELECTRIC MOTOR VEHICLE" MEANS A BATTERY ELECTRIC MOTOR VEHICLE, A HYDROGEN FUEL CELL MOTOR VEHICLE, OR A PLUG-IN HYBRID ELECTRIC MOTOR VEHICLE.

(6) "ELECTRIC MOTOR VEHICLE CHARGING INFRASTRUCTURE" MEANS ELECTRIC VEHICLE CHARGING SYSTEMS AND OTHER ELECTRICAL EQUIPMENT INSTALLED ON SITE TO SUPPORT ELECTRIC MOTOR VEHICLE CHARGING INCLUDING BUT NOT LIMITED TO BATTERY ENERGY STORAGE SYSTEMS.

(7) "ENTERPRISE" MEANS THE COMMUNITY ACCESS ENTERPRISE CREATED IN SECTION 24-38.5-303 (1).

(8) "FUND" MEANS THE COMMUNITY ACCESS ENTERPRISE FUND CREATED IN SECTION 24-38.5-303 (5).

(9) "HEAVY-DUTY ELECTRIC MOTOR VEHICLE" MEANS AN ELECTRIC MOTOR VEHICLE THAT HAS A GROSS VEHICLE WEIGHT RATING, AS DEFINED IN SECTION 42-2-402 (6), OF GREATER THAN TWENTY-SIX THOUSAND POUNDS.

(10) "HYDROGEN FUEL CELL MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT IS POWERED BY ELECTRICITY PRODUCED FROM A FUEL CELL THAT USES HYDROGEN GAS AS FUEL.

(11) "INFLATION" MEANS THE AVERAGE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN CONSUMERS, OR ITS APPLICABLE PREDECESSOR OR SUCCESSOR INDEX, FOR THE FIVE YEARS ENDING ON THE LAST DECEMBER 31 BEFORE THE STATE FISCAL YEAR FOR WHICH AN INFLATION ADJUSTMENT TO BE MADE TO THE COMMUNITY ACCESS RETAIL DELIVERY FEE IMPOSED PURSUANT TO SECTION 24-38.5-303 (7) BEGINS.

(12) "LIGHT-DUTY ELECTRIC MOTOR VEHICLE" MEANS AN ELECTRIC MOTOR VEHICLE THAT HAS A GROSS VEHICLE WEIGHT RATING, AS DEFINED

IN SECTION 42-4-402 (6), OF NOT MORE THAN TEN THOUSAND POUNDS.

(13) "MEDIUM-DUTY ELECTRIC MOTOR VEHICLE" MEANS AN ELECTRIC MOTOR VEHICLE THAT HAS A GROSS VEHICLE WEIGHT RATING, AS DEFINED IN SECTION 42-4-402 (6), OF MORE THAN TEN THOUSAND POUNDS AND NOT MORE THAN TWENTY-SIX THOUSAND POUNDS.

(14) "MOTOR VEHICLE" HAS THE MEANING SET FORTH IN SECTION 42-1-102 (58). THE TERM DOES NOT INCLUDE A PERSONAL DELIVERY DEVICE.

(15) "PERSONAL DELIVERY DEVICE" MEANS AN AUTONOMOUSLY OPERATED ROBOT THAT IS:

(a) DESIGNED AND MANUFACTURED FOR THE PURPOSE OF TRANSPORTING TANGIBLE PERSONAL PROPERTY PRIMARILY ON SIDEWALKS, CROSSWALKS, AND OTHER PUBLIC RIGHTS-OF-WAY THAT ARE TYPICALLY USED BY PEDESTRIANS;

(b) WEIGHS NO MORE THAN FIVE HUNDRED FIFTY POUNDS, EXCLUDING ANY TANGIBLE PERSONAL PROPERTY BEING TRANSPORTED; AND

(c) OPERATES AT SPEEDS OF LESS THAN TEN MILES PER HOUR WHEN ON SIDEWALKS, CROSSWALKS, AND OTHER PUBLIC RIGHTS-OF-WAY THAT ARE TYPICALLY USED BY PEDESTRIANS.

(16) "PLUG-IN HYBRID ELECTRIC MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT IS POWERED BY BOTH A RECHARGEABLE BATTERY PACK THAT CAN BE RECHARGED BY BEING PLUGGED INTO AN EXTERNAL SOURCE OF ELECTRICITY AND A SECONDARY SOURCE OF PROPULSION SUCH AS AN INTERNAL COMBUSTION ENGINE.

(17) "RETAIL DELIVERY" MEANS A RETAIL SALE OF TANGIBLE PERSONAL PROPERTY BY A RETAILER FOR DELIVERY BY A MOTOR VEHICLE OWNED OR OPERATED BY THE RETAILER OR ANY OTHER PERSON TO THE PURCHASER AT A LOCATION IN THE STATE, WHICH SALE INCLUDES AT LEAST ONE ITEM OF TANGIBLE PERSONAL PROPERTY THAT IS SUBJECT TO TAXATION UNDER ARTICLE 26 OF TITLE 39. EACH SUCH RETAIL SALE IS A SINGLE RETAIL DELIVERY REGARDLESS OF THE NUMBER OF SHIPMENTS NECESSARY TO DELIVER THE ITEMS OF TANGIBLE PERSONAL PROPERTY PURCHASED.

(18) "RETAILER" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (8).

(19) "RETAIL SALE" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (9).

(20) "TANGIBLE PERSONAL PROPERTY" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (15).

(21) "TRANSPORTATION NETWORK COMPANY" HAS THE SAME MEANING AS SET FORTH IN SECTION 40-10.1-602 (3).

(22) "TRANSPORTATION NETWORK COMPANY DRIVER" HAS THE SAME MEANING AS SET FORTH IN SECTION 40-10.1-602 (4).

(23) "TRANSPORTATION NETWORK COMPANY SERVICES" HAS THE SAME MEANING AS SET FORTH IN SECTION 40-10.1-602 (6).

**24-38.5-303. Community access enterprise - creation - board - powers and duties - fund - fee - transparency and reporting.** (1) THE COMMUNITY ACCESS ENTERPRISE IS HEREBY CREATED IN THE COLORADO ENERGY OFFICE. THE ENTERPRISE IS AND OPERATES AS A GOVERNMENT-OWNED BUSINESS WITHIN THE OFFICE TO EXECUTE ITS BUSINESS PURPOSE AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION BY EXERCISING THE POWERS AND PERFORMING THE DUTIES SET FORTH IN THIS SECTION.

(2) (a) THE GOVERNING BOARD OF THE ENTERPRISE CONSISTS OF SEVEN MEMBERS AS FOLLOWS:

(I) THE GOVERNOR SHALL APPOINT FOUR MEMBERS WITH THE ADVICE AND CONSENT OF THE SENATE FOR TERMS OF THE LENGTH SPECIFIED IN SUBSECTION (2)(b) OF THIS SECTION. OF THE FOUR, AT LEAST ONE OF THE MEMBERS MUST REPRESENT DISPROPORTIONATELY IMPACTED COMMUNITIES; AT LEAST ONE OF THE MEMBERS MUST REPRESENT THE INTERESTS OF THE AUTOMOBILE INDUSTRY INCLUDING MANUFACTURERS AND DEALERS, THE ELECTRIC VEHICLE CHARGING AND FUELING BUSINESSES, OR OWNERS OR OPERATORS OF MOTOR VEHICLE FLEETS; AND AT LEAST ONE OF THE MEMBERS MUST REPRESENT A BUSINESS OR ORGANIZATION THAT SUPPORTS ELECTRIC ALTERNATIVES TO MOTOR VEHICLES. THE GOVERNOR SHALL MAKE

REASONABLE EFFORTS, TO THE EXTENT SUCH APPLICATIONS HAVE BEEN SUBMITTED FOR CONSIDERATION FOR THE BOARD, TO CONSIDER MEMBERS THAT REFLECT THE STATE'S GEOGRAPHIC DIVERSITY WHEN MAKING APPOINTMENTS AND SHALL MAKE INITIAL APPOINTMENTS TO THE BOARD NO LATER THAN OCTOBER 1, 2021.

(II) THE DIRECTOR OF THE COLORADO ENERGY OFFICE OR THE DIRECTOR'S DESIGNEE;

(III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE; AND

(IV) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

(b) THE MEMBERS OF THE BOARD APPOINTED BY THE GOVERNOR SERVE FOR TERMS OF FOUR YEARS; EXCEPT THAT TWO OF THE MEMBERS INITIALLY APPOINTED SHALL SERVE FOR INITIAL TERMS OF THREE YEARS. A MEMBER WHO IS APPOINTED BY THE GOVERNOR TO FILL A VACANCY ON THE BOARD SHALL SERVE THE REMAINDER OF THE UNEXPIRED TERM OF THE FORMER MEMBER. THE OTHER BOARD MEMBERS SERVE FOR AS LONG AS THEY HOLD THEIR POSITIONS OR ARE DESIGNATED TO SERVE.

(c) MEMBERS OF THE BOARD SERVE WITHOUT COMPENSATION BUT MUST BE REIMBURSED FROM MONEY IN THE FUND FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS PART 3.

(3) THE BUSINESS PURPOSE OF THE ENTERPRISE IS TO SUPPORT THE WIDESPREAD ADOPTION OF ELECTRIC MOTOR VEHICLES, INCLUDING MOTOR VEHICLES THAT ORIGINALLY WERE POWERED EXCLUSIVELY BY INTERNAL COMBUSTION ENGINES BUT HAVE BEEN CONVERTED INTO ELECTRIC MOTOR VEHICLES, IN AN EQUITABLE MANNER BY DIRECTLY INVESTING IN TRANSPORTATION INFRASTRUCTURE, MAKING GRANTS OR PROVIDING REBATES OR OTHER FINANCING OPTIONS TO FUND THE CONSTRUCTION OF ELECTRIC MOTOR VEHICLE CHARGING INFRASTRUCTURE THROUGHOUT THE STATE, AND INCENTIVIZING THE ACQUISITION AND USE OF ELECTRIC MOTOR VEHICLES AND ELECTRIC ALTERNATIVES TO MOTOR VEHICLES IN COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES, AND BY OWNERS OF OLDER, LESS FUEL EFFICIENT,

AND HIGHER POLLUTING VEHICLES. TO ALLOW THE ENTERPRISE TO ACCOMPLISH THIS BUSINESS PURPOSE AND FULLY EXERCISE ITS POWERS AND DUTIES THROUGH THE BOARD, THE ENTERPRISE MAY:

(a) IMPOSE A COMMUNITY ACCESS RETAIL DELIVERY FEE AS AUTHORIZED BY SUBSECTION (7) OF THIS SECTION;

(b) INVEST IN TRANSPORTATION INFRASTRUCTURE PROGRAMS AS AUTHORIZED BY SUBSECTION (8) OF THIS SECTION; AND

(c) ISSUE REVENUE BONDS PAYABLE FROM THE REVENUE AND OTHER AVAILABLE MONEY OF THE ENTERPRISE.

(4) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUE IN GRANTS FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (4), THE ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(5) (a) THE COMMUNITY ACCESS ENTERPRISE FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF COMMUNITY ACCESS RETAIL DELIVERY FEE REVENUE CREDITED TO THE FUND PURSUANT TO SUBSECTION (7) OF THIS SECTION, ANY MONETARY GIFTS, GRANTS, DONATIONS, OR OTHER PAYMENTS RECEIVED BY THE ENTERPRISE, ANY FEDERAL MONEY THAT MAY BE CREDITED TO THE FUND, AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE ENTERPRISE AND MAY BE EXPENDED TO PROVIDE GRANTS AND REBATES, PAY ITS REASONABLE AND NECESSARY OPERATING EXPENSES, INCLUDING THE REPAYMENT OF ANY LOAN RECEIVED PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION, AND OTHERWISE EXERCISE ITS POWERS AND PERFORM ITS DUTIES AS AUTHORIZED BY THIS PART 3.

(b) THE COLORADO ENERGY OFFICE MAY TRANSFER MONEY FROM THE ENERGY FUND CREATED IN SECTION 24-38.5-102.4 TO THE ENTERPRISE

FOR THE PURPOSE OF DEFRAYING EXPENSES INCURRED BY THE ENTERPRISE BEFORE IT RECEIVES FEE REVENUE OR REVENUE BOND PROCEEDS. THE ENTERPRISE MAY ACCEPT AND EXPEND ANY MONEY SO TRANSFERRED, AND, NOTWITHSTANDING ANY STATE FISCAL RULE OR GENERALLY ACCEPTED ACCOUNTING PRINCIPLE THAT COULD OTHERWISE BE INTERPRETED TO REQUIRE A CONTRARY CONCLUSION, SUCH A TRANSFER IS A LOAN FROM THE COLORADO ENERGY OFFICE TO THE ENTERPRISE THAT IS REQUIRED TO BE REPAYED AND IS NOT A GRANT FOR PURPOSES OF SECTION 20 (2)(d) OF ARTICLE X OF THE STATE CONSTITUTION OR AS DEFINED IN SECTION 24-77-102 (7). ALL MONEY TRANSFERRED AS A LOAN TO THE ENTERPRISE SHALL BE CREDITED TO THE COMMUNITY ACCESS ENTERPRISE INITIAL EXPENSES FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY, AND LOAN LIABILITIES THAT ARE RECORDED IN THE COMMUNITY ACCESS ENTERPRISE INITIAL EXPENSES FUND BUT THAT ARE NOT REQUIRED TO BE PAID IN THE CURRENT FISCAL YEAR SHALL NOT BE CONSIDERED WHEN CALCULATING SUFFICIENT STATUTORY FUND BALANCE FOR PURPOSES OF SECTION 24-75-109. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE COMMUNITY ACCESS ENTERPRISE INITIAL EXPENSES FUND TO THE FUND. THE COMMUNITY ACCESS ENTERPRISE INITIAL EXPENSES FUND IS CONTINUOUSLY APPROPRIATED TO THE ENTERPRISE FOR THE PURPOSE OF DEFRAYING EXPENSES INCURRED BY THE ENTERPRISE BEFORE IT RECEIVES FEE REVENUE OR REVENUE BOND PROCEEDS. AS THE ENTERPRISE RECEIVES SUFFICIENT REVENUE IN EXCESS OF EXPENSES, THE ENTERPRISE SHALL REIMBURSE THE ENERGY FUND FOR THE PRINCIPAL AMOUNT OF ANY LOAN FROM THE ENERGY FUND MADE BY THE COLORADO ENERGY OFFICE PLUS INTEREST AT A RATE SET BY THE COLORADO ENERGY OFFICE. UPON RECEIPT OF SUCH REIMBURSEMENT, THE COLORADO ENERGY OFFICE SHALL INSTRUCT THE STATE TREASURER TO TRANSFER FROM THE ENERGY FUND TO THE GENERAL FUND THE AMOUNT NEEDED TO FULLY REPAY THE AMOUNT OF ANY GENERAL FUND MONEY APPROPRIATED TO THE ENERGY FUND FOR THE PURPOSE OF FUNDING THE LOAN MADE PURSUANT TO THIS SUBSECTION (5)(b) PLUS THE INTEREST INCLUDED IN THE REIMBURSEMENT.

(6) IN ADDITION TO ANY OTHER POWERS AND DUTIES SPECIFIED IN THIS SECTION, THE BOARD HAS THE FOLLOWING GENERAL POWERS AND DUTIES:

(a) TO ADOPT BYLAWS FOR THE REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS;

(b) TO ACQUIRE, HOLD TITLE TO, AND DISPOSE OF REAL AND PERSONAL PROPERTY;

(c) IN CONSULTATION WITH THE DIRECTOR OF THE COLORADO ENERGY OFFICE OR THE DIRECTOR'S DESIGNEE, TO EMPLOY AND SUPERVISE INDIVIDUALS, PROFESSIONAL CONSULTANTS, AND CONTRACTORS AS ARE NECESSARY IN ITS JUDGMENT TO CARRY OUT ITS BUSINESS PURPOSE;

(d) TO CONTRACT WITH ANY PUBLIC OR PRIVATE ENTITY INCLUDING STATE AGENCIES, CONSULTANTS, AND THE ATTORNEY GENERAL'S OFFICE FOR PROFESSIONAL AND TECHNICAL ASSISTANCE, OFFICE SPACE AND ADMINISTRATIVE SERVICES, ADVICE, AND OTHER SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE ENTERPRISE. THE ENTERPRISE IS ENCOURAGED TO ISSUE GRANTS ON A COMPETITIVE BASIS BASED ON WRITTEN CRITERIA ESTABLISHED BY THE ENTERPRISE IN ADVANCE OF ANY DEADLINES FOR THE SUBMISSION OF GRANT APPLICATIONS. THE BOARD SHALL GENERALLY AVOID USING SOLE-SOURCE CONTRACTS.

(e) TO SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, DONATIONS, OR OTHER PAYMENTS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS PART 3 SO LONG AS THE TOTAL AMOUNT OF ALL GRANTS FROM COLORADO STATE AND LOCAL GOVERNMENTS RECEIVED IN ANY STATE FISCAL YEAR IS LESS THAN TEN PERCENT OF THE ENTERPRISE'S TOTAL ANNUAL REVENUE FOR THE STATE FISCAL YEAR. THE ENTERPRISE SHALL TRANSMIT ANY MONEY RECEIVED THROUGH GIFTS, GRANTS, DONATIONS, OR OTHER PAYMENTS TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE FUND.

(f) TO PUBLISH GRANT AND SIMILAR PROGRAM PROCESSES BY WHICH THE ENTERPRISE ACCEPTS APPLICATIONS, THE CRITERIA USED FOR EVALUATING APPLICATIONS, AND A LIST OF GRANTEEES PURSUANT TO SUBSECTION (8) OF THIS SECTION;

(g) TO PROMULGATE RULES FOR THE SOLE PURPOSE OF SETTING THE AMOUNT OF THE COMMUNITY ACCESS RETAIL DELIVERY FEE AT OR BELOW THE MAXIMUM AMOUNT AUTHORIZED IN THIS SECTION; AND

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



(7) (a) IN FURTHERANCE OF ITS BUSINESS PURPOSE, BEGINNING IN STATE FISCAL YEAR 2022-23, THE ENTERPRISE SHALL IMPOSE, AND THE DEPARTMENT OF REVENUE SHALL COLLECT ON BEHALF OF THE ENTERPRISE, A COMMUNITY ACCESS RETAIL DELIVERY FEE ON EACH RETAIL DELIVERY. EACH RETAILER WHO MAKES A RETAIL DELIVERY SHALL ADD TO THE PRICE OF THE RETAIL DELIVERY, COLLECT FROM THE PURCHASER, AND PAY TO THE DEPARTMENT OF REVENUE AT THE TIME AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT IN ACCORDANCE WITH SECTION 43-4-218 (6) THE COMMUNITY ACCESS RETAIL DELIVERY FEE. FOR THE PURPOSE OF MINIMIZING COMPLIANCE COSTS FOR RETAILERS AND ADMINISTRATIVE COSTS FOR THE STATE, THE DEPARTMENT OF REVENUE SHALL COLLECT AND ADMINISTER THE COMMUNITY ACCESS RETAIL DELIVERY FEE ON BEHALF OF THE ENTERPRISE IN THE SAME MANNER IN WHICH IT COLLECTS AND ADMINISTERS THE RETAIL DELIVERY FEE IMPOSED BY SECTION 43-4-218 (3).

(b) FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING STATE FISCAL YEAR 2022-23, THE ENTERPRISE SHALL IMPOSE THE COMMUNITY ACCESS RETAIL DELIVERY FEE IN A MAXIMUM AMOUNT OF SIX AND NINE-TENTHS CENTS.

(c) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7)(c)(II) OF THIS SECTION, FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING STATE FISCAL YEAR 2023-24 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR, THE ENTERPRISE SHALL IMPOSE THE COMMUNITY ACCESS RETAIL DELIVERY FEE IN A MAXIMUM AMOUNT THAT IS THE MAXIMUM AMOUNT FOR THE PRIOR STATE FISCAL YEAR ADJUSTED FOR INFLATION. THE ENTERPRISE SHALL NOTIFY THE DEPARTMENT OF REVENUE OF THE AMOUNT OF THE COMMUNITY ACCESS RETAIL DELIVERY FEE TO BE COLLECTED FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING EACH STATE FISCAL YEAR NO LATER THAN MARCH 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS, AND THE DEPARTMENT OF REVENUE SHALL PUBLISH THE AMOUNT NO LATER THAN APRIL 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS.

(II) THE ENTERPRISE IS AUTHORIZED TO ADJUST THE AMOUNT OF THE COMMUNITY ACCESS RETAIL DELIVERY FEE FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING A STATE FISCAL YEAR ONLY IF THE DEPARTMENT OF REVENUE ADJUSTS THE AMOUNT OF THE RETAIL DELIVERY FEE IMPOSED BY SECTION 43-4-218 (3) FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING THE

STATE FISCAL YEAR.

(8) IN FURTHERANCE OF ITS BUSINESS PURPOSE, AND SUBJECT TO THE REQUIREMENTS SET FORTH IN THIS SUBSECTION (8), THE ENTERPRISE IS AUTHORIZED TO IMPLEMENT GRANT, LOAN, OR REBATE PROGRAMS FOR THE FOLLOWING PURPOSES:

(a) TO FUND THE CONSTRUCTION OF ELECTRIC MOTOR VEHICLE CHARGING INFRASTRUCTURE INCLUDING BUT NOT LIMITED TO:

(I) PUBLIC, WORKPLACE, TRANSPORTATION NETWORK COMPANY, AND MULTIFAMILY ELECTRIC VEHICLE CHARGERS;

(II) ELECTRIC VEHICLE CHARGERS FOR COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES;

(III) ELECTRIC VEHICLE CHARGERS FOR MEDIUM-DUTY ELECTRIC MOTOR VEHICLES AND HEAVY-DUTY ELECTRIC MOTOR VEHICLES, INCLUDING ELECTRIFIED REFRIGERATED TRAILERS;

(IV) INFRASTRUCTURE NEEDS TO SUPPORT THE POWERING OF HYDROGEN FUEL CELL MOTOR VEHICLES; AND

(V) NETWORKS AND PLAZAS OF DIRECT CURRENT CHARGING INFRASTRUCTURE THAT OFFER FAST CHARGING FOR ELECTRIC MOTOR VEHICLES;

(b) TO PROVIDE INEXPENSIVE AND ACCESSIBLE ELECTRIC ALTERNATIVES TO MOTOR VEHICLES SUCH AS ELECTRICAL ASSISTED BICYCLES AND ELECTRIC SCOOTERS;

(c) TO SUPPORT THE ADOPTION OF ELECTRIC MOTOR VEHICLES IN COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES, INCLUDING BY INCENTIVIZING REPLACEMENT OF HIGH-EMITTING MOTOR VEHICLES WITH ELECTRIC MOTOR VEHICLES; AND

(d) TO PROVIDE INCENTIVES FOR TRANSPORTATION NETWORK COMPANIES AND COMPANIES THAT RENT MOTOR VEHICLES TO TRANSPORTATION NETWORK COMPANY DRIVERS FOR USE IN PROVIDING TRANSPORTATION NETWORK COMPANY SERVICES TO INCREASE ACCESS TO

OVERNIGHT CHARGING CAPABILITY FOR DRIVERS.

(9) THE ENTERPRISE SHALL CONTRACT WITH THE AIR POLLUTION CONTROL DIVISION OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO DEVELOP PROPOSED RULES FOR THE CONSIDERATION OF THE AIR QUALITY CONTROL COMMISSION THAT WILL SUPPORT THE ENTERPRISE'S BUSINESS SERVICES, INCLUDING REMEDIATION SERVICES, IN A MANNER THAT MAINTAINS COMPLIANCE WITH THE FEDERAL AND STATE STATUTES, RULES, AND REGULATIONS GOVERNING AIR QUALITY. THE DIVISION SHALL COLLABORATE WITH THE COLORADO ENERGY OFFICE AND THE DEPARTMENT OF TRANSPORTATION WHEN DEVELOPING THE RULES.

(10) (a) TO ENSURE TRANSPARENCY AND ACCOUNTABILITY, THE ENTERPRISE SHALL:

(I) NO LATER THAN JUNE 1, 2022, PUBLISH AND POST ON ITS WEBSITE A TEN-YEAR PLAN THAT DETAILS HOW THE ENTERPRISE WILL EXECUTE ITS BUSINESS PURPOSE DURING STATE FISCAL YEARS 2022-23 THROUGH 2031-32 AND ESTIMATES THE AMOUNT OF FUNDING NEEDED TO IMPLEMENT THE PLAN. NO LATER THAN JANUARY 1, 2032, THE ENTERPRISE SHALL PUBLISH AND POST ON ITS WEBSITE A NEW TEN-YEAR PLAN FOR STATE FISCAL YEARS 2032-33 THROUGH 2041-42.

(II) CREATE, MAINTAIN, AND REGULARLY UPDATE ON ITS WEBSITE A PUBLIC ACCOUNTABILITY DASHBOARD THAT PROVIDES, AT A MINIMUM, ACCESSIBLE AND TRANSPARENT SUMMARY INFORMATION REGARDING THE IMPLEMENTATION OF ITS TEN-YEAR PLAN, THE FUNDING STATUS AND PROGRESS TOWARD COMPLETION OF EACH PROJECT THAT IT WHOLLY OR PARTLY FUNDS, AND ITS PER PROJECT AND TOTAL FUNDING AND EXPENDITURES;

(III) ENGAGE REGULARLY REGARDING ITS PROJECTS AND ACTIVITIES WITH THE PUBLIC, SPECIFICALLY REACHING OUT TO AND SEEKING INPUT FROM COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES, AND INTEREST GROUPS THAT ARE LIKELY TO BE INTERESTED IN THE PROJECTS AND ACTIVITIES; AND

(IV) PREPARE AN ANNUAL REPORT REGARDING ITS ACTIVITIES AND FUNDING AND PRESENT THE REPORT TO THE TRANSPORTATION COMMISSION CREATED IN SECTION 43-1-106 (1) AND TO THE TRANSPORTATION AND LOCAL

GOVERNMENT AND ENERGY AND ENVIRONMENT COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES. THE ENTERPRISE SHALL ALSO POST THE ANNUAL REPORT ON ITS WEBSITE. NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT REQUIRED IN THIS SUBSECTION (10)(a)(IV) TO THE SPECIFIED LEGISLATIVE COMMITTEES CONTINUES INDEFINITELY.

(b) THE ENTERPRISE IS SUBJECT TO THE OPEN MEETINGS PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", CONTAINED IN PART 4 OF ARTICLE 6 OF THIS TITLE 24, AND THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE 24.

(c) FOR PURPOSES OF THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE 24, AND EXCEPT AS MAY OTHERWISE BE PROVIDED BY FEDERAL LAW OR REGULATION OR STATE LAW, THE RECORDS OF THE ENTERPRISE ARE PUBLIC RECORDS, AS DEFINED IN SECTION 24-72-202 (6), REGARDLESS OF WHETHER THE ENTERPRISE RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUE IN GRANTS, AS DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED.

(d) THE ENTERPRISE IS A PUBLIC ENTITY FOR PURPOSES OF PART 2 OF ARTICLE 57 OF TITLE 11.

**SECTION 7.** In Colorado Revised Statutes, 24-75-219, **amend** (1)(g); **repeal** (2) and (5); and **add** (1)(g.5) and (7) as follows:

**24-75-219. Transfers - transportation - capital construction - definitions - repeal.** (1) As used in this section, unless the context otherwise requires:

(g) "Multimodal transportation AND MITIGATION options fund" means the multimodal transportation AND MITIGATION options fund created in section 43-4-1103 (1).

(g.5) "REVITALIZING MAIN STREETS PROGRAM" MEANS THE DEPARTMENT OF TRANSPORTATION'S GRANT PROGRAM TO SUPPORT COMMUNITIES ACROSS THE STATE AS THEY BUILD AND IMPROVE MULTIMODAL INFRASTRUCTURE IN A WAY THAT SAFELY CONNECTS

COLORADANS TO THE COMMUNITY-FOCUSED DOWNTOWNS WHERE THEY LIVE, WORK, DINE, AND SHOP.

~~(2) (a) On June 30, 2016, the state treasurer shall transfer:~~

~~(I) One hundred ninety-nine million two hundred thousand dollars from the general fund to the highway users tax fund; and~~

~~(II) Forty-nine million eight hundred thousand dollars from the general fund to the capital construction fund:~~

~~(b) On June 30, 2017, the state treasurer shall transfer:~~

~~(I) Seventy-nine million dollars from the general fund to the highway users tax fund; and~~

~~(II) Fifty-two million seven hundred thousand dollars from the general fund to the capital construction fund:~~

~~(c) On June 30, 2018, the state treasurer shall transfer seventy-nine million dollars from the general fund to the highway users tax fund:~~

~~(c.3) On June 30, 2019, the state treasurer shall transfer:~~

~~(I) Repealed:~~

~~(II) Sixty million dollars from the general fund to the capital construction fund:~~

~~(c.7) On June 30, 2020, the state treasurer shall transfer:~~

~~(I) Repealed:~~

~~(II) Sixty million dollars from the general fund to the capital construction fund:~~

~~(d) For each state fiscal year beginning on or after July 1, 2020, the general assembly may appropriate or transfer, in its sole discretion, moneys from the general fund to the highway users tax fund, the capital construction fund, or both funds:~~

~~(c) Repealed.~~

~~(5) (a) On July 1, 2018, the state treasurer shall transfer a total amount of four hundred ninety-five million dollars from the general fund for the purposes of funding state and local transportation needs as follows:~~

~~(I) Three hundred forty-six million five hundred thousand dollars to the state highway fund;~~

~~(II) Seventy-four million two hundred fifty thousand dollars to the highway users tax fund for allocation to counties and municipalities as specified in section 43-4-205 (6.4); and~~

~~(III) Seventy-four million two hundred fifty thousand dollars to the multimodal transportation options fund.~~

~~(b) On July 1, 2019, the state treasurer shall transfer a total amount of one hundred fifty million dollars from the general fund for the purposes of funding state and local transportation needs as follows:~~

~~(I) One hundred five million dollars to the state highway fund;~~

~~(II) Twenty-two million five hundred thousand dollars to the highway users tax fund for allocation to counties and municipalities as specified in section 43-4-205 (6.4); and~~

~~(III) Twenty-two million five hundred thousand dollars to the multimodal transportation options fund.~~

~~(b.5) On July 1, 2019, the state treasurer shall transfer one hundred million dollars from the general fund to the highway users tax fund.~~

~~(c) The state treasurer shall transfer fifty million dollars from the general fund to the state highway fund on June 30, 2020. Except as otherwise provided in subsection (5)(d) of this section and section 43-4-714 (2)(a), On June 30, 2023, and on each succeeding June 30 through June 30, 2040, the state treasurer shall transfer money from the general fund to the state highway fund. as follows:~~

~~(I) and (II) Repealed.~~

~~(III) (A) If a ballot issue that authorizes the state to issue transportation revenue anticipation notes is submitted to the registered electors of the state for their approval or rejection at the November 2021 statewide election pursuant to section 43-4-705 (13)(b) and a majority of the electors voting on the ballot issue vote "No/Against", fifty million dollars;~~

~~(B) (Deleted by amendment, L. 2019.)~~

~~(C) This subsection (5)(c)(III) is repealed, effective January 1, 2022, if a ballot issue that authorizes the state to issue transportation revenue anticipation notes is submitted to the registered electors of the state for their approval or rejection at the November 2021 statewide election pursuant to section 43-4-705 (13)(b) and a majority of the electors voting on the ballot issue vote "Yes/For";~~

~~(D) This subsection (5)(c)(III)(D) and subsection (5)(c)(III)(C) of this section are repealed, effective January 1, 2022, if a ballot issue that authorizes the state to issue transportation revenue anticipation notes is submitted to the registered electors of the state for their approval or rejection at the November 2021 statewide election pursuant to section 43-4-705 (13)(b) and a majority of the electors voting on the ballot issue vote "No/Against", or~~

~~(IV) (A) If a ballot issue that authorizes the state to issue transportation revenue anticipation notes is submitted to the registered electors of the state for their approval or rejection at the November 2021 statewide election pursuant to section 43-4-705 (13)(b) and a majority of the electors voting on the ballot issue vote "Yes/For", seventy-nine million five hundred thousand dollars;~~

~~(B) (Deleted by amendment, L. 2019.)~~

~~(C) This subsection (5)(c)(IV) is repealed, effective January 1, 2022, if a ballot issue that authorizes the state to issue transportation revenue anticipation notes is submitted to the registered electors of the state for their approval or rejection at the November 2021 statewide election pursuant to section 43-4-705 (13)(b) and a majority of the electors voting on the ballot issue vote "No/Against";~~

~~(D) This subsection (5)(c)(IV)(D) and subsection (5)(c)(IV)(C) of~~

~~this section are repealed, effective January 1, 2022, if a ballot issue that authorizes the state to issue transportation revenue anticipation notes is submitted to the registered electors of the state for their approval or rejection at the November 2021 statewide election pursuant to section 43-4-705 (13)(b) and a majority of the electors voting on the ballot issue vote "Yes/For", or~~

~~(d) (I) If the transportation commission allocates money from the transportation revenue anticipation notes reserve account of the state highway fund pursuant to section 43-4-714 (2) during any state fiscal year, the amount of any transfer required by subsection (5)(c)(IV)(A) of this section is reduced by an amount equal to the amount of the allocation from the account.~~

~~(II) This subsection (5)(d) is repealed.~~

~~(A) (Deleted by amendment, L. 2019.)~~

~~(B) Effective January 1, 2022, if a ballot issue that authorizes the state to issue transportation revenue anticipation notes is submitted to the registered electors of the state for their approval or rejection at the November 2021 statewide election pursuant to section 43-4-705 (13)(b) and a majority of the electors voting on the ballot issue vote "No/Against".~~

~~(III) This subsection (5)(d)(III) and subsection (5)(d)(II) of this section are repealed, effective January 1, 2022, if a ballot issue that authorizes the state to issue transportation revenue anticipation notes is submitted to the registered electors of the state for their approval or rejection at the November 2021 statewide election pursuant to section 43-4-705 (13)(b) and a majority of the electors voting on the ballot issue vote "Yes/For".~~

(7) IN ADDITION TO ANY OTHER TRANSFERS REQUIRED BY THIS SECTION:

(a) ON JUNE 30, 2021, FROM THE MONEY THAT THE STATE RECEIVED FROM THE FEDERAL CORONAVIRUS STATE FISCAL RECOVERY FUND UNDER SECTION 9901 OF TITLE IX, SUBTITLE M OF THE FEDERAL "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, WHICH IS ELIGIBLE TO BE USED AS SPECIFIED IN SECTION 602 (c)(I)(C) OF SAID SECTION 9901, THE STATE



TREASURER SHALL TRANSFER:

(I) ONE HUNDRED EIGHTY-TWO MILLION ONE HUNDRED SIXTY THOUSAND DOLLARS TO THE STATE HIGHWAY FUND. OF THIS AMOUNT, TWENTY-TWO MILLION ONE HUNDRED SIXTY THOUSAND DOLLARS IS FOR THE PURPOSE OF PROVIDING ADDITIONAL FUNDING FOR THE REVITALIZING MAIN STREETS PROGRAM AND FIVE HUNDRED THOUSAND DOLLARS IS FOR THE PURPOSE OF ACQUIRING, PLANNING THE DEVELOPMENT OF, OR DEVELOPING THE BURNHAM YARD RAIL PROPERTY IN DENVER.

(II) ONE HUNDRED SIXTY-ONE MILLION THREE HUNDRED FORTY THOUSAND DOLLARS TO THE MULTIMODAL TRANSPORTATION AND MITIGATION OPTIONS FUND; AND

(III) THIRTY-SIX MILLION FIVE HUNDRED THOUSAND DOLLARS TO THE HIGHWAY USERS TAX FUND.

(b) ON JULY 1, 2021, THE STATE TREASURER SHALL TRANSFER ONE HUNDRED SEVENTY MILLION DOLLARS FROM THE GENERAL FUND TO THE STATE HIGHWAY FUND.

(c) ON EACH JULY 1 FROM JULY 1, 2024, THROUGH JULY 1, 2031, THE STATE TREASURER SHALL TRANSFER:

(I) TEN MILLION FIVE HUNDRED THOUSAND DOLLARS FROM THE GENERAL FUND TO THE MULTIMODAL TRANSPORTATION AND MITIGATION OPTIONS FUND; AND

(II) SEVEN MILLION DOLLARS FROM THE GENERAL FUND TO THE STATE HIGHWAY FUND FOR THE PURPOSE OF PROVIDING ADDITIONAL FUNDING FOR THE REVITALIZING MAIN STREETS PROGRAM.

(d) (I) ON EACH JULY 1 FROM JULY 1, 2024, THROUGH JULY 1, 2028, THE STATE TREASURER SHALL TRANSFER ONE HUNDRED MILLION DOLLARS FROM THE GENERAL FUND TO THE STATE HIGHWAY FUND; AND

(II) ON EACH JULY 1 FROM JULY 1, 2029, THROUGH JULY 1, 2031, THE STATE TREASURER SHALL TRANSFER EIGHTY-TWO MILLION FIVE HUNDRED THOUSAND DOLLARS FROM THE GENERAL FUND TO THE STATE HIGHWAY FUND.

(e) THE DEPARTMENT OF TRANSPORTATION SHALL EXPEND TEN MILLION DOLLARS OF EACH TRANSFER FROM THE GENERAL FUND TO THE STATE HIGHWAY FUND MADE PURSUANT TO SUBSECTION (7)(d)(I) OF THIS SECTION FROM JULY 1, 2024, THROUGH JULY 1, 2028, SOLELY TO MITIGATE THE ENVIRONMENTAL AND HEALTH IMPACTS OF INCREASED AIR POLLUTION FROM MOTOR VEHICLE EMISSIONS IN NONATTAINMENT AREAS BY FUNDING PROJECTS THAT REDUCE VEHICLE MILES TRAVELED OR THAT DIRECTLY REDUCE AIR POLLUTION.

(f) (I) ON JUNE 30, 2022, THE STATE TREASURER SHALL TRANSFER FROM THE GENERAL FUND AN AMOUNT EQUAL TO THE LESSER OF FIFTY PERCENT OF THE AMOUNT BY WHICH REVENUE FOR THE 2020-21 STATE FISCAL YEAR THAT IS SUBJECT TO THE EXCESS STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b), AND DOES NOT EXCEED THE CAP EXCEEDED WHAT THE CAP WOULD HAVE BEEN IF THE CAP HAD BEEN CALCULATED IN ACCORDANCE WITH LAW IN EFFECT IMMEDIATELY PRIOR TO THE ENACTMENT OF SENATE BILL 21-260, ENACTED IN 2021, OR ONE HUNDRED FIFTEEN MILLION DOLLARS AS FOLLOWS:

(A) NINETY-FOUR PERCENT OF THE AMOUNT TO THE MULTIMODAL TRANSPORTATION AND MITIGATION OPTIONS FUND; AND

(B) SIX PERCENT OF THE AMOUNT TO THE STATE HIGHWAY FUND FOR THE PURPOSE OF PROVIDING ADDITIONAL FUNDING FOR THE REVITALIZING MAIN STREETS PROGRAM.

(II) ON JUNE 30, 2023, AND ON JUNE 30 OF EACH SUCCEEDING STATE FISCAL YEAR THROUGH JUNE 30, 2026, THE STATE TREASURER SHALL TRANSFER FROM THE GENERAL FUND AN AMOUNT EQUAL TO THE LESSER OF FIFTY PERCENT OF THE AMOUNT BY WHICH REVENUE FOR THE PRIOR STATE FISCAL YEAR THAT IS SUBJECT TO THE EXCESS STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b), AND DOES NOT EXCEED THE CAP FOR THE PRIOR STATE FISCAL YEAR IS ESTIMATED TO EXCEED WHAT THE CAP WOULD HAVE BEEN IF THE CAP HAD BEEN CALCULATED IN ACCORDANCE WITH LAW IN EFFECT IMMEDIATELY PRIOR TO THE ENACTMENT OF SENATE BILL 21-260, ENACTED IN 2021, OR ONE HUNDRED FIFTEEN MILLION DOLLARS LESS THE CUMULATIVE AMOUNT OF ALL TRANSFERS PREVIOUSLY MADE PURSUANT TO THIS SUBSECTION (7)(f) AS FOLLOWS:

(A) NINETY-FOUR PERCENT OF THE AMOUNT TO THE MULTIMODAL

TRANSPORTATION AND MITIGATION OPTIONS FUND; AND

(B) SIX PERCENT OF THE AMOUNT TO THE STATE HIGHWAY FUND FOR THE PURPOSE OF PROVIDING ADDITIONAL FUNDING FOR THE REVITALIZING MAIN STREETS PROGRAM.

**SECTION 8.** In Colorado Revised Statutes, 24-77-103.6, amend (6)(b)(I)(C) and (6)(b)(I)(D); and add (6)(b)(I)(E), (6)(b)(I)(F), and (6)(b)(I)(G) as follows:

**24-77-103.6. Retention of excess state revenues - general fund exempt account - required uses - excess state revenues legislative report - definitions.** (6) As used in this section:

(b) (I) "Excess state revenues cap" for a given fiscal year means:

(C) For the 2017-18 fiscal year, an amount that is equal to the excess state revenues cap for the 2016-17 fiscal year calculated pursuant to subsection (6)(b)(I)(B) of this section, adjusted for inflation, the percentage change in state population, the qualification or disqualification of enterprises, and debt service changes, less two hundred million dollars; and

(D) For the 2018-19 fiscal year, ~~and each succeeding fiscal year,~~ the amount of the excess state revenues cap for the 2017-18 fiscal year calculated pursuant to subsection (6)(b)(I)(C) of this section, adjusted ~~each subsequent fiscal year~~ for inflation, the percentage change in state population, the qualification or disqualification of enterprises, and debt service changes;

(E) FOR THE 2019-20 FISCAL YEAR, THE AMOUNT OF THE EXCESS STATE REVENUES CAP FOR THE 2018-19 FISCAL YEAR CALCULATED PURSUANT TO SUBSECTION (6)(b)(I)(D) OF THIS SECTION, ADJUSTED FOR INFLATION, THE PERCENTAGE CHANGE IN STATE POPULATION, THE QUALIFICATION OR DISQUALIFICATION OF ENTERPRISES, AND DEBT SERVICE CHANGES;

(F) FOR THE 2020-21 FISCAL YEAR, AN AMOUNT THAT IS EQUAL TO THE EXCESS STATE REVENUES CAP FOR THE 2019-20 FISCAL YEAR CALCULATED PURSUANT TO SUBSECTION (6)(b)(I)(E) OF THIS SECTION, ADJUSTED FOR INFLATION, THE PERCENTAGE CHANGE IN STATE POPULATION,

THE QUALIFICATION OR DISQUALIFICATION OF ENTERPRISES, AND DEBT SERVICE CHANGES, PLUS TWO HUNDRED TWENTY-FOUR MILLION NINE HUNDRED FIFTY-SEVEN THOUSAND SIX HUNDRED TWO DOLLARS; AND

(G) FOR THE 2021-22 FISCAL YEAR AND EACH SUCCEEDING FISCAL YEAR, THE AMOUNT OF THE EXCESS STATE REVENUES CAP FOR THE 2020-21 FISCAL YEAR CALCULATED PURSUANT TO SUBSECTION (6)(b)(I)(F) OF THIS SECTION, ADJUSTED EACH SUBSEQUENT FISCAL YEAR FOR INFLATION, THE PERCENTAGE CHANGE IN STATE POPULATION, THE QUALIFICATION OR DISQUALIFICATION OF ENTERPRISES, AND DEBT SERVICE CHANGES.

**SECTION 9.** In Colorado Revised Statutes, 24-82-1303, **repeal as they will become effective only if a ballot issue is proclaimed by the governor** (2)(b) and (2)(d)(II) as follows:

**24-82-1303. Lease-purchase agreements for capital construction and transportation projects.** ~~(2) (b) The anticipated annual state-funded payments for the principal and interest components of the amount payable under all lease-purchase agreements entered into pursuant to subsection (2)(a) of this section shall not exceed one hundred twelve million five hundred thousand dollars.~~

(d) Any lease-purchase agreement executed as required by subsection (2)(a) of this section shall provide that all of the obligations of the state under the agreement are subject to the action of the general assembly in annually making money available for all payments thereunder. Payments under any lease-purchase agreement must be made, subject to annual allocation pursuant to section 43-1-113 by the transportation commission created in section 43-1-106 (1) or subject to annual appropriation by the general assembly, as applicable, from the following sources of money:

(II) ~~Next, for state fiscal year 2021-22 and for each succeeding state fiscal year for which a payment under any lease-purchase agreement must be made, thirty-six million seven hundred thousand dollars annually, or any lesser amount that is sufficient to make each full payment due, shall be paid from any legally available money under the control of the transportation commission solely for the purpose of allowing the construction, supervision, and maintenance of state highways to be funded with the proceeds of lease-purchase agreements as specified in subsection (4)(b) of~~

~~this section and section 43-4-206(1)(b)(V), except that, for the payment due during state fiscal year 2021-22 only, forty-eight million seven hundred thousand dollars, or any lesser amount that is sufficient to make the full payment due shall be paid from such legally available money for said purpose; and~~

**SECTION 10.** In Colorado Revised Statutes, **add** 24-93-110 as follows:

**24-93-110. Department of transportation - additional requirements for integrated project delivery contracts - short-listing - transparency.** (1) THE DEPARTMENT OF TRANSPORTATION SHALL NOT EXCLUDE A PARTICIPATING ENTITY FROM A SHORT LIST, PREPARED AND ANNOUNCED BY THE DEPARTMENT AS REQUIRED BY SECTION 24-93-105 (2), OF RESPONDING PARTICIPATING ENTITIES THAT HAVE BEEN DETERMINED TO BE MOST QUALIFIED TO RECEIVE A REQUEST FOR PROPOSALS FOR AN IPD CONTRACT FOR A PUBLIC PROJECT BASED SOLELY ON THE PARTICIPATING ENTITY'S LACK OF EXPERIENCE IN DELIVERING A PUBLIC PROJECT IN THE STATE BY THE IPD METHOD TO BE USED FOR THE PUBLIC PROJECT.

(2) (a) IF THE COST TO COMPLETE A PUBLIC PROJECT IS EXPECTED TO EXCEED SEVENTY-FIVE MILLION DOLLARS, THE DEPARTMENT OF TRANSPORTATION SHALL, BEFORE SELECTING THE IPD METHOD FOR A CONSTRUCTION PROJECT AND BEGINNING THE PROCUREMENT PROCESS:

(I) HOLD PUBLIC MEETINGS WITH THE CONSTRUCTION INDUSTRY AND THE GENERAL PUBLIC TO DISCUSS THE JUSTIFICATION FOR SELECTING THE IPD METHOD. THE REQUIRED PUBLIC MEETINGS MAY BE HELD IN CONJUNCTION WITH OTHER REQUIRED PUBLIC MEETINGS ABOUT THE PROJECT OR AS STAND-ALONE MEETINGS.

(II) OBTAIN APPROVAL FOR THE USE OF THE IPD METHOD FROM THE TRANSPORTATION COMMISSION CREATED IN SECTION 43-1-106.

(b) FOR ANY PUBLIC PROJECT, REGARDLESS OF THE EXPECTED COST OF COMPLETION, TO BE COMPLETED USING THE IPD METHOD, THE DEPARTMENT OF TRANSPORTATION SHALL:

(I) BEFORE BEGINNING THE PROCUREMENT PROCESS, PUBLISH ON THE DEPARTMENT'S WEBSITE, THE JUSTIFICATION FOR SELECTING THE IPD

METHOD;

(II) DURING THE PROCUREMENT PROCESS, INCLUDE THE JUSTIFICATION FOR SELECTING THE IPD METHOD IN ANY REQUEST FOR QUALIFICATIONS AND IN THE REQUEST FOR PROPOSALS;

(III) FOLLOWING THE AWARD OF THE IPD CONTRACT TO A PARTICIPATING ENTITY, PUBLISH ON THE DEPARTMENT'S WEBSITE THE EVALUATION SCORES FOR EACH STEP OF THE IPD CONTRACT SOLICITATION PHASE FOR ALL SOLICITATIONS RECEIVED AND EVALUATED; AND

(IV) FROM THE TIME THE IPD CONTRACT IS EXECUTED UNTIL THE DEPARTMENT'S FINAL ACCEPTANCE OF THE COMPLETED PUBLIC PROJECT, PROVIDE, MAINTAIN, AND UPDATE ON THE DEPARTMENT'S WEBSITE A TRANSPARENCY PLATFORM SUCH AS A DASHBOARD THAT INDICATES THE ONGOING STATUS OF THE PUBLIC PROJECT.

(3) THE REQUIREMENTS OF THIS SECTION APPLY ONLY TO A PUBLIC PROJECT INVOLVING INFRASTRUCTURE THAT IS PART OF THE STATE HIGHWAY SYSTEM, AS DESCRIBED IN SECTION 43-2-101 (1).

**SECTION 11.** In Colorado Revised Statutes, **add** article 7.5 to title 25 as follows:

**ARTICLE 7.5**  
**Clean Motor Vehicle Fleet Support**

**25-7.5-101. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) AN INCREASING NUMBER OF FLEET MOTOR VEHICLES ARE ON THE ROAD TO MEET INCREASING DEMANDS FOR RETAIL DELIVERIES AND RIDES ARRANGED THROUGH TRANSPORTATION NETWORK COMPANIES;

(b) THESE FLEET VEHICLES ARE SOME OF THE MOST POLLUTING VEHICLES ON THE ROAD, WHICH HAS RESULTED IN ADDITIONAL AND INCREASING AIR AND GREENHOUSE GAS POLLUTION AND RELATED ADVERSE ENVIRONMENTAL AND HEALTH IMPACTS ACROSS THE STATE;

(c) THE ADVERSE ENVIRONMENTAL AND HEALTH IMPACTS OF

INCREASED EMISSIONS FROM FLEET MOTOR VEHICLES USED TO MAKE RETAIL DELIVERIES AND PROVIDE RIDES ARRANGED THROUGH TRANSPORTATION NETWORK COMPANIES CAN BE MITIGATED AND OFFSET BY SUPPORTING THE WIDESPREAD ADOPTION OF ELECTRIC MOTOR VEHICLES FOR USE IN MOTOR VEHICLE FLEETS;

(d) INSTEAD OF REDUCING THE IMPACTS OF RETAIL DELIVERIES AND RIDES ARRANGED THROUGH TRANSPORTATION NETWORK COMPANIES BY LIMITING RETAIL DELIVERY AND TRANSPORTATION NETWORK COMPANY RIDE ACTIVITY THROUGH REGULATION, IT IS MORE APPROPRIATE TO CONTINUE TO ALLOW PERSONS WHO RECEIVE RETAIL DELIVERIES AND BENEFIT FROM THE CONVENIENCE AFFORDED BY UNFETTERED RETAIL DELIVERIES AND TO ALLOW TRANSPORTATION NETWORK COMPANIES THAT ARRANGE PREARRANGED RIDES TO CONTINUE TO PROVIDE THAT SERVICE WITHOUT UNDUE RESTRICTIONS AND INSTEAD IMPOSE A SMALL FEE ON EACH RETAIL DELIVERY AND RIDE AND USE FEE REVENUE TO FUND NECESSARY MITIGATION ACTIVITIES; AND

(e) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF THE STATE AND ALL COLORADANS TO INCENTIVIZE AND SUPPORT THE USE OF ELECTRIC MOTOR VEHICLES AND, TO THE EXTENT TEMPORARILY NECESSITATED BY THE LIMITATIONS OF CURRENT ELECTRIC MOTOR VEHICLE TECHNOLOGY AND AVAILABILITY FOR CERTAIN FLEET USES, COMPRESSED NATURAL GAS MOTOR VEHICLES THAT ARE FUELED BY RECOVERED METHANE AND THAT PRODUCE FEWER EMISSIONS THAN GASOLINE OR DIESEL POWERED MOTOR VEHICLES, BY BUSINESSES AND GOVERNMENTAL ENTITIES THAT USE FLEETS OF MOTOR VEHICLES, INCLUDING FLEETS COMPOSED OF PERSONAL MOTOR VEHICLES OWNED BY INDIVIDUAL CONTRACTORS WHO PROVIDE PREARRANGED RIDES FOR TRANSPORTATION NETWORK COMPANIES OR MAKE RETAIL DELIVERIES, AND TO ENABLE THE STATE TO ACHIEVE ITS STATED ELECTRIC MOTOR VEHICLE ADOPTION GOALS BECAUSE INCREASED USAGE OF ELECTRIC MOTOR VEHICLES IN MOTOR VEHICLE FLEETS:

(I) GENERALLY REDUCES EMISSIONS OF AIR POLLUTANTS, INCLUDING OZONE PRECURSORS, PARTICULATE MATTER POLLUTANTS, OTHER HAZARDOUS AIR POLLUTANTS, AND GREENHOUSE GASES, THAT CONTRIBUTE TO ADVERSE ENVIRONMENTAL EFFECTS SUCH AS CLIMATE CHANGE AND ADVERSE HUMAN HEALTH EFFECTS, INCLUDING BUT NOT LIMITED TO ASTHMA, REDUCED LUNG CAPACITY, INCREASED SUSCEPTIBILITY TO RESPIRATORY ILLNESSES, CHRONIC BRONCHITIS, HEART DISEASE, AND LUNG

CANCER, AND HELPS THE STATE MEET ITS STATEWIDE GREENHOUSE GAS POLLUTION REDUCTION TARGETS ESTABLISHED IN SECTION 25-7-102 (2)(g), COMPLY WITH AIR QUALITY ATTAINMENT STANDARDS, AND REDUCE ADVERSE ENVIRONMENTAL AND HEALTH IMPACTS ACROSS THE STATE AND IN COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES;

(II) SPECIFICALLY REDUCES HIGHER LOCALIZED EMISSIONS OF SUCH AIR POLLUTANTS IN COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES, WHERE:

(A) FLEET YARDS, WAREHOUSES, DISTRIBUTION CENTERS, REFINERIES, FUEL DEPOTS, WASTE FACILITIES, AND MAJOR INTERSTATE HIGHWAYS ARE LOCATED;

(B) USAGE OF FLEET MOTOR VEHICLES IS CONCENTRATED; AND

(C) RESIDENTS EXPERIENCE INCREASED RISKS OF AIR-POLLUTION-RELATED HEALTH IMPACTS SUCH AS ASTHMA, REDUCED LUNG CAPACITY, INCREASED SUSCEPTIBILITY TO RESPIRATORY ILLNESSES, HEART DISEASE, AND LUNG CANCER; AND

(III) BY REDUCING FUEL AND MAINTENANCE COSTS, HELPS BUSINESSES AND GOVERNMENTAL ENTITIES OPERATE MORE EFFICIENTLY OVER TIME, ALLOWING THE COST SAVINGS TO BE REINVESTED IN BUSINESS GROWTH OR USED FOR BENEFICIAL PUBLIC PURPOSES.

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

(a) TO INCENTIVIZE, SUPPORT, AND ACCELERATE THE ADOPTION OF ELECTRIC MOTOR VEHICLES IN MOTOR VEHICLE FLEETS IN THE STATE AND THEREBY MINIMIZE AND MITIGATE THE ENVIRONMENTAL AND HEALTH IMPACTS OF THE TRANSPORTATION SYSTEM AND REAP THE ENVIRONMENTAL, HEALTH, AND BUSINESS AND GOVERNMENTAL OPERATIONAL EFFICIENCY BENEFITS THAT RESULT FROM MOTOR VEHICLE FLEET ELECTRIFICATION, IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF THE STATE TO CREATE A CLEAN FLEET ENTERPRISE TO HELP BUSINESSES AND GOVERNMENTAL ENTITIES THAT OWN OR OPERATE FLEETS OF MOTOR VEHICLES USE MORE ELECTRIC MOTOR VEHICLES, AND, TO THE EXTENT TEMPORARILY NECESSITATED BY THE LIMITATIONS OF CURRENT ELECTRIC



MOTOR VEHICLE TECHNOLOGY FOR CERTAIN FLEET USES, MORE COMPRESSED NATURAL GAS MOTOR VEHICLES THAT ARE FUELED BY RECOVERED METHANE, IN THEIR MOTOR VEHICLE FLEETS;

(b) THE ENTERPRISE PROVIDES BUSINESS SERVICES, INCLUDING REMEDIATION SERVICES, WHEN, IN EXCHANGE FOR THE PAYMENT OF FEES, IT:

(I) PROVIDES FINANCING THROUGH GRANT PROGRAMS, REBATE PROGRAMS, REVOLVING LOAN FUNDS, OR ANY OTHER STRATEGIES THAT THE BOARD FINDS EFFECTIVE;

(II) HELPS OWNERS AND OPERATORS OF MOTOR VEHICLE FLEETS REDUCE THE UP-FRONT AND TOTAL COSTS OF USING MORE ELECTRIC MOTOR VEHICLES, AND, TO THE EXTENT TEMPORARILY NECESSITATED BY THE LIMITATIONS OF CURRENT ELECTRIC MOTOR VEHICLE TECHNOLOGY FOR CERTAIN FLEET USES, MORE COMPRESSED NATURAL GAS MOTOR VEHICLES THAT ARE FUELED BY RECOVERED METHANE, IN THEIR FLEETS;

(III) SUPPORTS COMPANION SERVICES SUCH AS TESTING, INSPECTION, AND READJUSTMENT SERVICES;

(IV) PROVIDES OUTREACH, EDUCATION, OR TRAINING TO SUPPORT THE SUCCESSFUL APPLICATION AND PERFORMANCE OF ENTITIES RECEIVING FUNDS;

(V) SUPPORTS THE DEVELOPMENT OF A CLEAN TRANSPORTATION WORKFORCE THAT CAN SUPPORT BUSINESSES AS THEY TRANSITION TO USING MORE ELECTRIC MOTOR VEHICLES IN THEIR FLEETS;

(VI) ASSESSES AND SUPPORTS THE IMPLEMENTATION OF CLEANER AND MORE EFFICIENT COMMERCIAL VEHICLE TECHNOLOGY TO SUPPORT MOTOR VEHICLE FLEET ELECTRIFICATION;

(VII) RESEARCHES AND DEVELOPS STRATEGIES, BUSINESS PLANS, AND GUIDANCE TO SUPPORT THE CONSISTENT APPLICATION OF GRANTS AND OTHER ENTERPRISE BUSINESS SERVICES, INCLUDING REMEDIATION SERVICES;

(VIII) CONTRIBUTES TO THE IMPLEMENTATION OF THE COMPREHENSIVE REGULATORY SCHEME REQUIRED FOR THE PLANNING,

FUNDING, DEVELOPMENT, CONSTRUCTION, MAINTENANCE, AND SUPERVISION OF A SUSTAINABLE TRANSPORTATION SYSTEM; AND

(IX) PROVIDES ADDITIONAL REMEDIATION SERVICES TO OFFSET IMPACTS CAUSED BY FEE PAYERS AS MAY BE PROVIDED BY LAW, INCLUDING BUT NOT LIMITED TO:

(A) INCENTIVIZING THE USE OF CLEAN MOBILE EQUIPMENT;

(B) PROVIDING PLANNING SERVICES TO SUPPORT COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES; AND

(C) PROVIDING SCRAPPAGE SERVICES;

(c) BY PROVIDING REMEDIATION SERVICES AS AUTHORIZED BY THIS SECTION, THE ENTERPRISE ENGAGES IN AN ACTIVITY CONDUCTED IN THE PURSUIT OF A BENEFIT, GAIN, OR LIVELIHOOD AND THEREFORE OPERATES AS A BUSINESS;

(d) BY PROVIDING REMEDIATION SERVICES AS AUTHORIZED BY THIS SECTION, THE ENTERPRISE PROVIDES A BENEFIT TO FEE PAYERS WHEN IT REMEDIATES THE IMPACTS THEY CAUSE AND THEREFORE OPERATES AS A BUSINESS IN ACCORDANCE WITH THE DETERMINATION OF THE COLORADO SUPREME COURT IN *COLORADO UNION OF TAXPAYERS FOUNDATION V. CITY OF ASPEN*, 2018 CO 36;

(e) CONSISTENT WITH THE DETERMINATION OF THE COLORADO SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896 P.2D 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL ASSEMBLY THAT THE REVENUE COLLECTED BY THE ENTERPRISE IS GENERATED BY FEES, NOT TAXES, BECAUSE THE FEES IMPOSED BY THE ENTERPRISE AS AUTHORIZED BY SECTION 25-7.5-103 (7) AND (8) ARE:

(I) IMPOSED FOR THE SPECIFIC PURPOSE OF ALLOWING THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE REMEDIATION SERVICES SPECIFIED IN THIS SECTION, INCLUDING MITIGATING IMPACTS TO AIR QUALITY AND GREENHOUSE GAS EMISSIONS CAUSED BY THE ACTIVITIES

ON WHICH THE FEE IS ASSESSED, AND CONTRIBUTES TO THE IMPLEMENTATION OF THE COMPREHENSIVE REGULATORY SCHEME REQUIRED FOR THE PLANNING, FUNDING, DEVELOPMENT, CONSTRUCTION, MAINTENANCE, AND SUPERVISION OF A SUSTAINABLE TRANSPORTATION SYSTEM; AND

(II) COLLECTED AT RATES THAT ARE REASONABLY CALCULATED BASED ON THE IMPACTS CAUSED BY FEE PAYERS AND THE COST OF REMEDIATING THOSE IMPACTS; AND

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

**25-7.5-102. Definitions.** AS USED IN THIS ARTICLE 7.5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BATTERY ELECTRIC MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT IS POWERED EXCLUSIVELY BY A RECHARGEABLE BATTERY PACK THAT CAN BE RECHARGED BY BEING PLUGGED INTO AN EXTERNAL SOURCE OF ELECTRICITY AND THAT HAS NO SECONDARY SOURCE OF PROPULSION.

(2) "BOARD" MEANS THE GOVERNING BOARD OF THE ENTERPRISE.

(3) "CARSHARE RIDE" MEANS A PREARRANGED RIDE FOR WHICH THE RIDER AGREES, AT THE TIME THE RIDER REQUESTS THE RIDE THROUGH A DIGITAL NETWORK, TO BE TRANSPORTED WITH ANOTHER RIDER WHO HAS SEPARATELY REQUESTED A PREARRANGED RIDE REGARDLESS OF WHETHER OR NOT ANOTHER RIDER IS ACTUALLY TRANSPORTED WITH THE RIDER.

(4) "COMMISSION" MEANS THE AIR QUALITY CONTROL COMMISSION CREATED IN SECTION 25-7-104.

(5) "COMPRESSED NATURAL GAS MOTOR VEHICLE" MEANS A VEHICLE THAT IS POWERED BY AN ENGINE FUELED BY COMPRESSED NATURAL GAS.

(6) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT CREATED IN SECTION 24-1-119 (1).

(7) (a) "DISPROPORTIONATELY IMPACTED COMMUNITY" MEANS A COMMUNITY THAT IS IN A CENSUS BLOCK GROUP, AS DETERMINED IN ACCORDANCE WITH THE MOST RECENT UNITED STATES DECENNIAL CENSUS, WHERE THE PROPORTION OF HOUSEHOLDS THAT ARE LOW INCOME IS GREATER THAN FORTY PERCENT, THE PROPORTION OF HOUSEHOLDS THAT IDENTIFY AS MINORITY IS GREATER THAN FORTY PERCENT, OR THE PROPORTION OF HOUSEHOLDS THAT ARE HOUSING COST-BURDENED IS GREATER THAN FORTY PERCENT.

(b) AS USED IN THIS SUBSECTION (7):

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

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

(8) "ELECTRIC MOTOR VEHICLE" MEANS A BATTERY ELECTRIC MOTOR VEHICLE, A HYDROGEN FUEL CELL MOTOR VEHICLE, OR A PLUG-IN HYBRID ELECTRIC MOTOR VEHICLE.

(9) "ENTERPRISE" MEANS THE CLEAN FLEET ENTERPRISE CREATED IN SECTION 25-7.5-103 (1)(a)(I).

(10) "FUND" MEANS THE CLEAN FLEET ENTERPRISE FUND CREATED IN SECTION 25-7.5-103 (5).

(11) "HEAVY-DUTY MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT HAS A GROSS VEHICLE WEIGHT RATING, AS DEFINED IN SECTION 42-2-402 (6), OF GREATER THAN TWENTY-SIX THOUSAND POUNDS.

(12) "HYDROGEN FUEL CELL MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT IS POWERED BY ELECTRICITY PRODUCED FROM A FUEL CELL THAT USES HYDROGEN GAS AS FUEL.

(13) "INFLATION" MEANS THE AVERAGE ANNUAL PERCENTAGE

CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN CONSUMERS, OR ITS APPLICABLE PREDECESSOR OR SUCCESSOR INDEX, FOR THE FIVE YEARS ENDING ON THE LAST DECEMBER 31 BEFORE A STATE FISCAL YEAR FOR WHICH AN INFLATION ADJUSTMENT TO BE MADE TO THE CLEAN FLEET PER RIDE FEE IMPOSED BY SECTION 25-7.5-103 (7) OR THE CLEAN FLEET RETAIL DELIVERY FEE IMPOSED BY SECTION 25-7.5-103 (8) BEGINS.

(14) "MEDIUM-DUTY MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT HAS A GROSS VEHICLE WEIGHT RATING, AS DEFINED IN SECTION 42-2-402 (6), OF MORE THAN TEN THOUSAND POUNDS AND NOT MORE THAN TWENTY-SIX THOUSAND POUNDS.

(15) "MOTOR VEHICLE" HAS THE MEANING SET FORTH IN SECTION 42-1-102 (58). THE TERM DOES NOT INCLUDE A PERSONAL DELIVERY DEVICE.

(16) "MOTOR VEHICLE FLEET" MEANS A GROUP OF MOTOR VEHICLES THAT IS OWNED OR OPERATED:

(a) BY A GOVERNMENTAL ENTITY FOR A PUBLIC PURPOSE INCLUDING BUT NOT LIMITED TO PUBLIC SCHOOL TRANSPORTATION OR LAW ENFORCEMENT; OR

(b) BY A BUSINESS ENTITY FOR A BUSINESS IF:

(I) THE GROUP OF MOTOR VEHICLES IS COMPOSED PRIMARILY OF HEAVY-DUTY MOTOR VEHICLES, MEDIUM-DUTY MOTOR VEHICLES, OR REFRIGERATED TRAILER UNITS; OR

(II) THE GROUP OF MOTOR VEHICLES IS OWNED OR OPERATED BY A COMPANY THAT RENTS MOTOR VEHICLES IN THE FLEET TO TRANSPORTATION NETWORK COMPANY DRIVERS FOR USE IN PROVIDING TRANSPORTATION NETWORK COMPANY SERVICES OR IS OWNED AND OPERATED DIRECTLY, OR INDIRECTLY THROUGH INDEPENDENT CONTRACTORS WHO OWN OR LEASE INDIVIDUAL MOTOR VEHICLES IN THE GROUP, BY A TRANSPORTATION NETWORK COMPANY OR BY A RETAILER FOR THE PURPOSE OF MAKING RETAIL DELIVERIES.

(17) "PERSONAL DELIVERY DEVICE" MEANS AN AUTONOMOUSLY

OPERATED ROBOT THAT IS:

(a) DESIGNED AND MANUFACTURED FOR THE PURPOSE OF TRANSPORTING TANGIBLE PERSONAL PROPERTY PRIMARILY ON SIDEWALKS, CROSSWALKS, AND OTHER PUBLIC RIGHTS-OF-WAY THAT ARE TYPICALLY USED BY PEDESTRIANS;

(b) WEIGHS NO MORE THAN FIVE HUNDRED FIFTY POUNDS, EXCLUDING ANY TANGIBLE PERSONAL PROPERTY BEING TRANSPORTED; AND

(c) OPERATES AT SPEEDS OF LESS THAN TEN MILES PER HOUR WHEN ON SIDEWALKS, CROSSWALKS, AND OTHER PUBLIC RIGHTS-OF-WAY THAT ARE TYPICALLY USED BY PEDESTRIANS.

(18) "PLUG-IN HYBRID ELECTRIC MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT IS POWERED BY BOTH A RECHARGEABLE BATTERY PACK THAT CAN BE RECHARGED BY BEING PLUGGED INTO AN EXTERNAL SOURCE OF ELECTRICITY AND A SECONDARY SOURCE OF PROPULSION SUCH AS AN INTERNAL COMBUSTION ENGINE.

(19) "PREARRANGED RIDE" HAS THE SAME MEANING AS SET FORTH IN SECTION 40-10.1-602 (2).

(20) "RECOVERED METHANE" MEANS ANY OF THE FOLLOWING IF THE AIR POLLUTION CONTROL DIVISION DETERMINES THEM TO PROVIDE A NET REDUCTION IN GREENHOUSE GAS EMISSIONS:

(a) BIOMETHANE;

(b) METHANE DERIVED FROM:

(I) MUNICIPAL SOLID WASTE;

(II) BIOMASS PYROLYSIS OR ENZYMATIC BIOMASS; OR

(III) WASTEWATER TREATMENT; AND

(c) COAL MINE METHANE, AS DEFINED IN SECTION 40-2-124 (1)(a)(II).

(21) "RETAIL DELIVERY" MEANS A RETAIL SALE OF TANGIBLE PERSONAL PROPERTY BY A RETAILER FOR DELIVERY BY A MOTOR VEHICLE OWNED OR OPERATED BY THE RETAILER OR ANY OTHER PERSON TO THE PURCHASER AT A LOCATION IN THE STATE, WHICH SALE INCLUDES AT LEAST ONE ITEM OF TANGIBLE PERSONAL PROPERTY THAT IS SUBJECT TO TAXATION UNDER ARTICLE 26 OF TITLE 39. EACH SUCH RETAIL SALE IS A SINGLE RETAIL DELIVERY REGARDLESS OF THE NUMBER OF SHIPMENTS NECESSARY TO DELIVER THE ITEMS OF TANGIBLE PERSONAL PROPERTY PURCHASED.

(22) "RETAILER" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (8).

(23) "RETAIL SALE" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (9).

(24) "RIDER" HAS THE SAME MEANING AS SET FORTH IN SECTION 40-10.1-602 (5).

(25) "TANGIBLE PERSONAL PROPERTY" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (15).

(26) "TRANSPORTATION NETWORK COMPANY" HAS THE SAME MEANING AS SET FORTH IN SECTION 40-10.1-602 (3).

(27) "TRANSPORTATION NETWORK COMPANY DRIVER" HAS THE SAME MEANING AS SET FORTH IN SECTION 40-10.1-602 (4).

(28) "TRANSPORTATION NETWORK COMPANY SERVICES" HAS THE SAME MEANING AS SET FORTH IN SECTION 40-10.1-602 (6).

(29) "ZERO EMISSIONS MOTOR VEHICLE" MEANS A BATTERY ELECTRIC MOTOR VEHICLE OR A HYDROGEN FUEL CELL MOTOR VEHICLE.

**25-7.5-103. Clean fleet enterprise - creation - board - powers and duties - fees - fund.** (1) (a) THE CLEAN FLEET ENTERPRISE IS HEREBY CREATED IN THE DEPARTMENT. THE ENTERPRISE IS AND OPERATES AS A GOVERNMENT-OWNED BUSINESS WITHIN THE DEPARTMENT IN ORDER TO EXECUTE ITS BUSINESS PURPOSE AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION BY EXERCISING THE POWERS AND PERFORMING THE DUTIES SET FORTH IN THIS SECTION.

(b) THE ENTERPRISE EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND FUNCTIONS UNDER THE DEPARTMENT AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 1** TRANSFER, AS DEFINED IN SECTION 24-1-105.

(2)(a) THE GOVERNING BOARD OF THE ENTERPRISE CONSISTS OF NINE MEMBERS AS FOLLOWS:

(I) THE GOVERNOR SHALL APPOINT SIX MEMBERS WITH THE ADVICE AND CONSENT OF THE SENATE FOR TERMS OF THE LENGTH SPECIFIED IN SUBSECTION (2)(b) OF THIS SECTION. ONE MEMBER SHALL REPRESENT A DISPROPORTIONATELY IMPACTED COMMUNITY, ONE MEMBER SHALL HAVE EXPERTISE IN AIR POLLUTION REDUCTION, ONE MEMBER SHALL HAVE EXPERTISE IN TRANSPORTATION, ONE MEMBER SHALL HAVE EXPERTISE IN MOTOR VEHICLE FLEET ELECTRIFICATION, ONE MEMBER SHALL HAVE EXPERTISE IN BUSINESS OR SUPPLY CHAIN MANAGEMENT, AND ONE MEMBER SHALL REPRESENT A BUSINESS THAT OWNS OR OPERATES A MOTOR VEHICLE FLEET. THE GOVERNOR SHALL MAKE REASONABLE EFFORTS, TO THE EXTENT SUCH APPLICATIONS HAVE BEEN SUBMITTED FOR CONSIDERATION FOR THE BOARD, TO CONSIDER MEMBERS THAT REFLECT THE STATE'S GEOGRAPHIC DIVERSITY WHEN MAKING APPOINTMENTS AND SHALL MAKE INITIAL APPOINTMENTS NO LATER THAN OCTOBER 1, 2021.

(II) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(III) THE DIRECTOR OF THE COLORADO ENERGY OFFICE OR THE DIRECTOR'S DESIGNEE; AND

(IV) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

(b) MEMBERS OF THE BOARD APPOINTED BY THE GOVERNOR SERVE FOR TERMS OF FOUR YEARS; EXCEPT THAT FOUR OF THE MEMBERS INITIALLY APPOINTED SHALL SERVE FOR INITIAL TERMS OF THREE YEARS. A MEMBER WHO IS APPOINTED TO FILL A VACANCY ON THE BOARD SHALL SERVE THE REMAINDER OF THE UNEXPIRED TERM OF THE FORMER MEMBER. THE OTHER BOARD MEMBERS SERVE FOR AS LONG AS THEY HOLD THEIR POSITIONS OR ARE DESIGNATED TO SERVE.



(c) MEMBERS OF THE BOARD SERVE WITHOUT COMPENSATION BUT MUST BE REIMBURSED FROM MONEY IN THE FUND FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS ARTICLE 7.5.

(3) THE BUSINESS PURPOSE OF THE ENTERPRISE IS TO INCENTIVIZE AND SUPPORT THE USE OF ELECTRIC MOTOR VEHICLES, INCLUDING MOTOR VEHICLES THAT ORIGINALLY WERE POWERED EXCLUSIVELY BY INTERNAL COMBUSTION ENGINES BUT HAVE BEEN CONVERTED INTO ELECTRIC MOTOR VEHICLES, AND, TO THE EXTENT TEMPORARILY NECESSITATED BY THE LIMITATIONS OF CURRENT ELECTRIC MOTOR VEHICLE TECHNOLOGY FOR CERTAIN FLEET USES, COMPRESSED NATURAL GAS MOTOR VEHICLES THAT ARE FUELED BY RECOVERED METHANE, BY BUSINESSES AND GOVERNMENTAL ENTITIES THAT OWN OR OPERATE FLEETS OF MOTOR VEHICLES, INCLUDING FLEETS COMPOSED OF PERSONAL MOTOR VEHICLES OWNED OR LEASED BY INDIVIDUAL CONTRACTORS WHO PROVIDE PREARRANGED RIDES FOR TRANSPORTATION NETWORK COMPANIES OR DELIVER GOODS FOR A THIRD-PARTY DELIVERY SERVICE. TO ALLOW THE ENTERPRISE TO ACCOMPLISH THIS PURPOSE AND FULLY EXERCISE ITS POWERS AND DUTIES THROUGH THE BOARD, THE ENTERPRISE MAY:

(a) IMPOSE A CLEAN FLEET PER RIDE FEE AND A CLEAN FLEET RETAIL DELIVERY FEE AS AUTHORIZED BY SUBSECTIONS (7) AND (8) OF THIS SECTION;

(b) ISSUE GRANTS, LOANS, AND REBATES AS AUTHORIZED BY SUBSECTION (9) OF THIS SECTION; AND

(c) ISSUE REVENUE BONDS PAYABLE FROM THE REVENUE AND OTHER AVAILABLE MONEY OF THE ENTERPRISE.

(4) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUE IN GRANTS FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (4), THE ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(5) (a) THE CLEAN FLEET ENTERPRISE FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF CLEAN FLEET PER RIDE FEE REVENUE AND CLEAN FLEET RETAIL DELIVERY FEE REVENUE CREDITED TO THE FUND PURSUANT TO SUBSECTIONS (7) AND (8) OF THIS SECTION, ANY MONETARY GIFTS, GRANTS, DONATIONS, OR OTHER PAYMENTS RECEIVED BY THE ENTERPRISE, ANY FEDERAL MONEY THAT MAY BE CREDITED TO THE FUND, AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE ENTERPRISE FOR THE PURPOSES SET FORTH IN THIS ARTICLE 7.5 AND TO PAY THE ENTERPRISE'S REASONABLE AND NECESSARY OPERATING EXPENSES, INCLUDING THE REPAYMENT OF ANY LOAN RECEIVED PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION.

(b) THE DEPARTMENT MAY TRANSFER MONEY FROM ANY LEGALLY AVAILABLE SOURCE TO THE ENTERPRISE FOR THE PURPOSE OF DEFRAYING EXPENSES INCURRED BY THE ENTERPRISE BEFORE IT RECEIVES FEE REVENUE OR REVENUE BOND PROCEEDS. THE ENTERPRISE MAY ACCEPT AND EXPEND ANY MONEY SO TRANSFERRED, AND, NOTWITHSTANDING ANY STATE FISCAL RULE OR GENERALLY ACCEPTED ACCOUNTING PRINCIPLE THAT COULD OTHERWISE BE INTERPRETED TO REQUIRE A CONTRARY CONCLUSION, SUCH A TRANSFER IS A LOAN FROM THE DEPARTMENT TO THE ENTERPRISE THAT IS REQUIRED TO BE REPAYED AND IS NOT A GRANT FOR PURPOSES OF SECTION 20 (2)(d) OF ARTICLE X OF THE STATE CONSTITUTION OR AS DEFINED IN SECTION 24-77-102 (7). ALL MONEY TRANSFERRED AS A LOAN TO THE ENTERPRISE SHALL BE CREDITED TO THE CLEAN FLEET ENTERPRISE INITIAL EXPENSES FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY, AND LOAN LIABILITIES THAT ARE RECORDED IN THE CLEAN FLEET ENTERPRISE INITIAL EXPENSES FUND BUT THAT ARE NOT REQUIRED TO BE PAID IN THE CURRENT FISCAL YEAR SHALL NOT BE CONSIDERED WHEN CALCULATING SUFFICIENT STATUTORY FUND BALANCE FOR PURPOSES OF SECTION 24-75-109. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE CLEAN FLEET ENTERPRISE INITIAL EXPENSES FUND TO THE FUND. THE CLEAN FLEET ENTERPRISE INITIAL EXPENSES FUND IS CONTINUOUSLY APPROPRIATED TO THE ENTERPRISE FOR THE PURPOSE OF DEFRAYING EXPENSES INCURRED BY THE ENTERPRISE BEFORE IT RECEIVES FEE REVENUE OR REVENUE BOND PROCEEDS. AS THE ENTERPRISE RECEIVES SUFFICIENT REVENUE IN EXCESS OF EXPENSES, THE ENTERPRISE SHALL REIMBURSE THE DEPARTMENT FOR THE PRINCIPAL

AMOUNT OF ANY LOAN MADE BY THE DEPARTMENT PLUS INTEREST AT A RATE SET BY THE DEPARTMENT. UPON RECEIPT OF SUCH REIMBURSEMENT, THE DEPARTMENT SHALL REMIT TO THE STATE TREASURER FOR CREDITING TO THE GENERAL FUND THE AMOUNT NEEDED TO FULLY REPAY THE AMOUNT OF ANY GENERAL FUND MONEY APPROPRIATED TO THE DEPARTMENT FOR THE PURPOSE OF FUNDING THE LOAN MADE PURSUANT TO THIS SUBSECTION (5)(b) PLUS THE INTEREST INCLUDED IN THE REIMBURSEMENT.

(6) IN ADDITION TO ANY OTHER POWERS AND DUTIES SPECIFIED IN THIS SECTION, THE BOARD HAS THE FOLLOWING GENERAL POWERS AND DUTIES:

(a) TO ADOPT BYLAWS FOR THE REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS;

(b) TO ACQUIRE, HOLD TITLE TO, AND DISPOSE OF REAL AND PERSONAL PROPERTY;

(c) IN CONSULTATION WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, TO EMPLOY AND SUPERVISE INDIVIDUALS, PROFESSIONAL CONSULTANTS AND CONTRACTORS AS ARE NECESSARY IN ITS JUDGMENT TO CARRY OUT ITS BUSINESS PURPOSE;

(d) TO CONTRACT WITH ANY PUBLIC OR PRIVATE ENTITY, INCLUDING STATE AGENCIES, CONSULTANTS, AND THE ATTORNEY GENERAL'S OFFICE, FOR PROFESSIONAL AND TECHNICAL ASSISTANCE, OFFICE SPACE, AND ADMINISTRATIVE SERVICES, ADVICE, AND OTHER SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE ENTERPRISE. THE ENTERPRISE IS ENCOURAGED TO ISSUE GRANTS ON A COMPETITIVE BASIS BASED ON WRITTEN CRITERIA ESTABLISHED BY THE ENTERPRISE IN ADVANCE OF ANY DEADLINES FOR THE SUBMISSION OF GRANT APPLICATIONS. THE BOARD SHALL GENERALLY AVOID USING SOLE-SOURCE CONTRACTS.

(e) TO SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, DONATIONS, OR OTHER PAYMENTS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS ARTICLE 7.5 SO LONG AS THE TOTAL AMOUNT OF ALL GRANTS FROM COLORADO STATE AND LOCAL GOVERNMENTS RECEIVED IN ANY STATE FISCAL YEAR IS LESS THAN TEN PERCENT OF THE ENTERPRISE'S TOTAL ANNUAL REVENUE FOR THE STATE FISCAL YEAR. THE ENTERPRISE SHALL TRANSMIT ANY MONEY RECEIVED THROUGH GIFTS, GRANTS, DONATIONS, OR

OTHER PAYMENTS TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE FUND.

(f) TO PROVIDE SERVICES AS SET FORTH IN SUBSECTION (9) OF THIS SECTION;

(g) TO PUBLISH THE PROCESSES BY WHICH THE ENTERPRISE ACCEPTS APPLICATIONS, THE CRITERIA FOR EVALUATING APPLICATIONS, AND A LIST OF GRANTEES OR PROGRAM PARTICIPANTS PURSUANT TO SUBSECTION (9) OF THIS SECTION;

(h) TO PROMULGATE RULES FOR THE SOLE PURPOSE OF SETTING THE AMOUNTS OF THE CLEAN FLEET PER RIDE FEE AND THE CLEAN FLEET RETAIL DELIVERY FEE AT OR BELOW THE MAXIMUM AMOUNTS AUTHORIZED IN THIS SECTION; AND

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

(7) (a) IN FURTHERANCE OF ITS BUSINESS PURPOSE, BEGINNING IN STATE FISCAL YEAR 2022-23, THE ENTERPRISE SHALL IMPOSE A CLEAN FLEET PER RIDE FEE TO BE PAID BY A TRANSPORTATION NETWORK COMPANY FOR EACH PREARRANGED RIDE REQUESTED AND ACCEPTED THROUGH THE COMPANY'S DIGITAL NETWORK. FOR THE PURPOSE OF MINIMIZING COMPLIANCE COSTS FOR TRANSPORTATION NETWORK COMPANIES AND ADMINISTRATIVE COSTS FOR THE STATE, THE DEPARTMENT OF REVENUE SHALL COLLECT THE CLEAN FLEET PER RIDE FEE ON BEHALF OF THE ENTERPRISE, AND A TRANSPORTATION NETWORK COMPANY SHALL PAY THE FEE TO THE DEPARTMENT OF REVENUE AS REQUIRED BY SECTION 40-10.1-607.5 (2). THE ENTERPRISE SHALL ENSURE THAT DURING THE FIRST TEN STATE FISCAL YEARS OF FEE COLLECTIONS, EXPENDITURES THAT SUPPORT TRANSPORTATION NETWORK COMPANY OPERATIONS EQUAL OR EXCEED CUMULATIVE CLEAN FLEET PER RIDE FEE REVENUE.

(b) FOR PREARRANGED RIDES REQUESTED AND ACCEPTED DURING STATE FISCAL YEAR 2022-23, THE ENTERPRISE SHALL IMPOSE THE CLEAN FLEET PER RIDE FEE IN A MAXIMUM AMOUNT OF:

(1) THREE AND THREE-QUARTERS CENTS FOR EACH PREARRANGED

RIDE THAT IS A CARSHARE RIDE OR FOR WHICH THE DRIVER TRANSPORTS THE RIDER IN A ZERO EMISSIONS MOTOR VEHICLE; AND

(II) SEVEN AND ONE-HALF CENTS FOR EVERY OTHER PREARRANGED RIDE.

(c) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7)(c)(II) OF THIS SECTION, FOR PREARRANGED RIDES REQUESTED AND ACCEPTED DURING STATE FISCAL YEAR 2023-24 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR, THE ENTERPRISE SHALL IMPOSE THE CLEAN FLEET PER RIDE FEE IN A MAXIMUM AMOUNT THAT IS THE APPLICABLE MAXIMUM AMOUNT FOR THE PRIOR STATE FISCAL YEAR ADJUSTED FOR INFLATION. THE ENTERPRISE SHALL NOTIFY THE DEPARTMENT OF REVENUE OF THE AMOUNT OF THE CLEAN FLEET PER RIDE FEE TO BE COLLECTED FOR RIDES REQUESTED AND ACCEPTED DURING EACH STATE FISCAL YEAR NO LATER THAN MARCH 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS AND THE DEPARTMENT OF REVENUE SHALL PUBLISH THE AMOUNT NO LATER THAN APRIL 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS.

(II) THE ENTERPRISE IS AUTHORIZED TO ADJUST THE AMOUNT OF THE CLEAN FLEET PER RIDE FEE FOR PREARRANGED RIDES REQUESTED AND ACCEPTED DURING A STATE FISCAL YEAR ONLY IF THE RATE OF INFLATION IS POSITIVE AND CUMULATIVE INFLATION FROM THE TIME OF THE LAST ADJUSTMENT IN THE AMOUNT OF THE FEE, WHEN APPLIED TO THE SUM OF THE CURRENT CLEAN FLEET PER RIDE FEE AND THE CURRENT AIR POLLUTION MITIGATION PER RIDE FEE IMPOSED AS REQUIRED BY SECTION 43-4-1303 (7) AND ROUNDED TO THE NEAREST WHOLE CENT, WILL RESULT IN AN INCREASE OF AT LEAST ONE WHOLE CENT IN THE TOTAL AMOUNT OF THE CLEAN FLEET PER RIDE FEE AND THE AIR POLLUTION MITIGATION PER RIDE FEE PAID BY A PERSON WHO REQUESTS AND ACCEPTS A PREARRANGED RIDE. THE AMOUNT OF CUMULATIVE INFLATION TO BE APPLIED TO THE SUM OF THE CURRENT CLEAN FLEET PER RIDE FEE AND THE CURRENT AIR POLLUTION MITIGATION PER RIDE FEE AND ROUNDED TO THE NEAREST WHOLE CENT IS THE LESSER OF ACTUAL CUMULATIVE INFLATION OR FIVE PERCENT.

(d) AS REQUIRED BY SECTION 40-10.1-607.5 (3)(a), THE DEPARTMENT OF REVENUE SHALL TRANSMIT ALL NET CLEAN FLEET PER RIDE FEE REVENUE COLLECTED TO THE STATE TREASURER, WHO SHALL CREDIT THE REVENUE TO THE FUND.

(8) (a) IN FURTHERANCE OF ITS BUSINESS PURPOSE, BEGINNING IN STATE FISCAL YEAR 2022-23, THE ENTERPRISE SHALL IMPOSE, AND THE DEPARTMENT OF REVENUE SHALL COLLECT ON BEHALF OF THE ENTERPRISE, A CLEAN FLEET RETAIL DELIVERY FEE ON EACH RETAIL DELIVERY. EACH RETAILER WHO MAKES A RETAIL DELIVERY SHALL ADD TO THE PRICE OF THE RETAIL DELIVERY, COLLECT FROM THE PURCHASER, AND PAY TO THE DEPARTMENT OF REVENUE AT THE TIME AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT IN ACCORDANCE WITH SECTION 43-4-218 (6) THE CLEAN FLEET RETAIL DELIVERY FEE. FOR THE PURPOSE OF MINIMIZING COMPLIANCE COSTS FOR RETAILERS AND ADMINISTRATIVE COSTS FOR THE STATE, THE DEPARTMENT OF REVENUE SHALL COLLECT AND ADMINISTER THE CLEAN FLEET RETAIL DELIVERY FEE ON BEHALF OF THE ENTERPRISE IN THE SAME MANNER IN WHICH IT COLLECTS AND ADMINISTERS THE RETAIL DELIVERY FEE IMPOSED BY SECTION 43-4-218 (3).

(b) FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING STATE FISCAL YEAR 2022-23, THE ENTERPRISE SHALL IMPOSE THE CLEAN FLEET RETAIL DELIVERY FEE IN A MAXIMUM AMOUNT OF FIVE AND THREE-TENTHS CENTS.

(c) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (8)(c)(II) OF THIS SECTION, FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING STATE FISCAL YEAR 2023-24 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR, THE ENTERPRISE SHALL IMPOSE THE CLEAN FLEET RETAIL DELIVERY FEE IN A MAXIMUM AMOUNT THAT IS THE MAXIMUM AMOUNT FOR THE PRIOR STATE FISCAL YEAR ADJUSTED FOR INFLATION. THE ENTERPRISE SHALL NOTIFY THE DEPARTMENT OF REVENUE OF THE AMOUNT OF THE CLEAN FLEET RETAIL DELIVERY FEE TO BE COLLECTED FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING EACH STATE FISCAL YEAR NO LATER THAN MARCH 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS, AND THE DEPARTMENT OF REVENUE SHALL PUBLISH THE AMOUNT NO LATER THAN APRIL 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS.

(II) THE ENTERPRISE IS AUTHORIZED TO ADJUST THE AMOUNT OF THE CLEAN FLEET RETAIL DELIVERY FEE FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING A STATE FISCAL YEAR ONLY IF THE DEPARTMENT OF REVENUE ADJUSTS THE AMOUNT OF THE RETAIL DELIVERY FEE IMPOSED BY SECTION 43-4-218 (3) FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING THE STATE FISCAL YEAR.

(9) (a) IN FURTHERANCE OF ITS BUSINESS PURPOSE, AND SUBJECT TO THE REQUIREMENTS SET FORTH IN THIS SUBSECTION (9), THE ENTERPRISE IS AUTHORIZED TO INCENTIVIZE, SUPPORT, AND ACCELERATE THE ADOPTION OF ELECTRIC MOTOR VEHICLES IN MOTOR VEHICLE FLEETS.

(b) THE ENTERPRISE MAY PROVIDE FUNDING OR FINANCING THROUGH GRANT PROGRAMS, REBATE PROGRAMS, REVOLVING LOAN FUNDS, OR SUCH OTHER STRATEGIES AS THE BOARD FINDS EFFECTIVE:

(I) TO HELP PUBLIC AND PRIVATE OWNERS AND OPERATORS OF MOTOR VEHICLE FLEETS FINANCE ELECTRIC MOTOR VEHICLE ACQUISITIONS TO REDUCE THE UP-FRONT COSTS OF ACQUIRING ELECTRIC MOTOR VEHICLES, THROUGH DECEMBER 31, 2026, TO HELP PUBLIC AND PRIVATE OWNERS AND OPERATORS OF MOTOR VEHICLE FLEETS FINANCE ACQUISITIONS OF COMPRESSED NATURAL GAS MOTOR VEHICLES THAT ARE TRUCKS IF AT LEAST NINETY PERCENT OF THE FUEL FOR THE TRUCKS WILL BE RECOVERED METHANE, AND, ON AND AFTER JANUARY 1, 2027, FOR SO LONG AS THE ENTERPRISE DETERMINES THAT ELECTRIC MOTOR VEHICLES OR NOT YET PRACTICALLY AVAILABLE OR DO NOT MEET THE OPERATIONAL REQUIREMENTS SUCH AS CARGO CARRYING CAPACITY AND DRIVING RANGE FOR SPECIFIC CATEGORIES OF TRUCKS, TO HELP PUBLIC AND PRIVATE OWNERS AND OPERATORS OF MOTOR VEHICLE FLEETS FINANCE ACQUISITIONS OF COMPRESSED NATURAL GAS MOTOR VEHICLES THAT ARE TRUCKS IF AT LEAST NINETY PERCENT OF THE FUEL FOR THE TRUCKS WILL BE RECOVERED METHANE;

(II) TO ASSESS AND IMPLEMENT CLEANER MOBILE SOURCE TECHNOLOGY TO SUPPORT ELECTRIFICATION OF MOTOR VEHICLES AND ELECTRIC MOTOR VEHICLE FLEETS;

(III) TO COORDINATE ENGAGEMENT WITH PUBLIC ENTITIES AND OWNERS AND OPERATORS OF MOTOR VEHICLE FLEETS TO DEVELOP STRATEGIES FOR ELECTRIFYING MOTOR VEHICLE FLEETS AND OTHER NOT YET ELECTRIFIED FREIGHT TRANSPORTATION AND RETAIL DELIVERY OPERATIONS THAT CAN BE ELECTRIFIED;

(IV) TO RESEARCH AND ASSESS INNOVATIVE AND EMERGING MOTOR VEHICLE EMISSION STRATEGIES FOR MOTOR VEHICLES AND ENGINES AND MODERNIZE AND IMPROVE CURRENT TESTING, INSPECTION, AND READJUSTMENT SERVICES OFFERED BY THE DEPARTMENT;

(V) TO PROVIDE TRAINING AND DEVELOPMENT OF A CLEAN TRANSPORTATION WORKFORCE TO SUPPORT THE ADOPTION OF ELECTRIC MOTOR VEHICLES FOR USE IN MOTOR VEHICLE FLEETS;

(VI) TO RESEARCH AND DEVELOP STRATEGIES, BUSINESS PLANS, AND GUIDANCE TO SUPPORT THE CONSISTENT APPLICATION OF GRANTS AND OTHER ENTERPRISE BUSINESS SERVICES, INCLUDING REMEDIATION SERVICES;

(VII) TO PROVIDE OUTREACH, EDUCATION, OR TRAINING TO SUPPORT THE SUCCESSFUL APPLICATION AND PERFORMANCE BY ENTITIES RECEIVING FUNDS;

(VIII) TO PROVIDE OR SUPPORT THE DELIVERY OF COMPANION SERVICES SUCH AS FLEET MOTOR VEHICLE TESTING, INSPECTION, AND READJUSTMENT SERVICES;

(IX) TO REDUCE HEALTH DISPARITIES IN DISPROPORTIONATELY IMPACTED COMMUNITIES RESULTING FROM INCREASED EXPOSURE TO MOTOR VEHICLE FLEET EMISSIONS;

(X) TO HELP COMPANIES THAT MAINTAIN MOTOR VEHICLE FLEETS AND RENT MOTOR VEHICLES IN THE FLEETS TO TRANSPORTATION NETWORK COMPANY DRIVERS FOR USE IN PROVIDING TRANSPORTATION NETWORK COMPANY SERVICES PURCHASE OR LEASE ELECTRIC MOTOR VEHICLES FOR THAT USE;

(XI) TO HELP TRANSPORTATION NETWORK COMPANIES PROVIDE INCENTIVES FOR TRANSPORTATION NETWORK COMPANY DRIVERS TO PROVIDE PREARRANGED RIDES IN ELECTRIC MOTOR VEHICLES; AND

(XII) TO PROVIDE ADDITIONAL REMEDIATION SERVICES TO FEE PAYERS AS MAY BE PROVIDED BY LAW, INCLUDING BUT NOT LIMITED TO INCENTIVIZING THE USE OF CLEAN MOBILE EQUIPMENT, PROVIDE PLANNING SERVICES TO SUPPORT COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES, OR PROVIDE SCRAPPAGE SERVICES.

(10) THE ENTERPRISE SHALL CONTRACT WITH THE AIR POLLUTION CONTROL DIVISION OF THE DEPARTMENT TO DEVELOP PROPOSED RULES FOR THE CONSIDERATION OF THE COMMISSION THAT WILL SUPPORT THE



ENTERPRISE'S BUSINESS SERVICES, INCLUDING REMEDIATION SERVICES, IN A MANNER THAT MAINTAINS COMPLIANCE WITH THE FEDERAL AND STATE STATUTES, RULES, AND REGULATIONS GOVERNING AIR QUALITY. THE DIVISION SHALL COLLABORATE WITH THE COLORADO ENERGY OFFICE AND THE DEPARTMENT OF TRANSPORTATION WHEN DEVELOPING THE RULES.

(11) (a) TO ENSURE TRANSPARENCY AND ACCOUNTABILITY, THE ENTERPRISE SHALL:

(I) NO LATER THAN JUNE 1, 2022, PUBLISH AND POST ON ITS WEBSITE A TEN-YEAR PLAN THAT DETAILS HOW THE ENTERPRISE WILL EXECUTE ITS BUSINESS PURPOSE DURING STATE FISCAL YEARS 2022-23 THROUGH 2031-32 AND ESTIMATES THE AMOUNT OF FUNDING NEEDED TO IMPLEMENT THE PLAN. NO LATER THAN JANUARY 1, 2032, THE ENTERPRISE SHALL PUBLISH AND POST ON ITS WEBSITE A NEW TEN-YEAR PLAN FOR STATE FISCAL YEARS 2032-33 THROUGH 2041-42.

(II) CREATE, MAINTAIN, AND REGULARLY UPDATE ON ITS WEBSITE A PUBLIC ACCOUNTABILITY DASHBOARD THAT PROVIDES, AT A MINIMUM, ACCESSIBLE AND TRANSPARENT SUMMARY INFORMATION REGARDING THE IMPLEMENTATION OF ITS TEN-YEAR PLAN, THE FUNDING STATUS AND PROGRESS TOWARD COMPLETION OF EACH PROJECT THAT IT WHOLLY OR PARTLY FUNDS, AND ITS PER PROJECT AND TOTAL FUNDING AND EXPENDITURES;

(III) ENGAGE REGULARLY REGARDING ITS PROJECTS AND ACTIVITIES WITH THE PUBLIC, SPECIFICALLY REACHING OUT TO AND SEEKING INPUT FROM COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES, AND INTEREST GROUPS THAT ARE LIKELY TO BE INTERESTED IN THE PROJECTS AND ACTIVITIES; AND

(IV) PREPARE AN ANNUAL REPORT REGARDING ITS ACTIVITIES AND FUNDING AND PRESENT THE REPORT TO THE TRANSPORTATION COMMISSION CREATED IN SECTION 43-1-106 (1) AND TO THE TRANSPORTATION AND LOCAL GOVERNMENT AND ENERGY AND ENVIRONMENT COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES. THE ENTERPRISE SHALL ALSO POST THE ANNUAL REPORT ON ITS WEBSITE. NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT REQUIRED IN THIS SUBSECTION (11)(a)(IV) TO THE

SPECIFIED LEGISLATIVE COMMITTEES CONTINUES INDEFINITELY.

(b) THE ENTERPRISE IS SUBJECT TO THE OPEN MEETINGS PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", CONTAINED IN PART 4 OF ARTICLE 6 OF TITLE 24, AND THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

(c) FOR PURPOSES OF THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, AND EXCEPT AS MAY OTHERWISE BE PROVIDED BY FEDERAL LAW OR REGULATION OR STATE LAW, THE RECORDS OF THE ENTERPRISE ARE PUBLIC RECORDS, AS DEFINED IN SECTION 24-72-202 (6), REGARDLESS OF WHETHER THE ENTERPRISE RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUE IN GRANTS, AS DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED.

(d) THE ENTERPRISE IS A PUBLIC ENTITY FOR PURPOSES OF PART 2 OF ARTICLE 57 OF TITLE 11.

**SECTION 12.** In Colorado Revised Statutes, 39-21-102, **add** (7) as follows:

**39-21-102. Scope.** (7) THE PROVISIONS OF THIS ARTICLE 21 APPLY TO THE FEES IMPOSED PURSUANT TO PART 3 OF ARTICLE 38.5 OF TITLE 24, ARTICLE 7.5 OF TITLE 25, AND THE FEES COLLECTED PURSUANT TO SECTION 40-10.1-607.5, BUT ONLY TO THE EXTENT THAT THE PROVISIONS OF THIS ARTICLE 21 ARE NOT INCONSISTENT WITH THE PROVISIONS OF PART 3 OF ARTICLE 38.5 OF TITLE 24, ARTICLE 7.5 OF TITLE 25, AND SECTION 40-10.1-607.5.

**SECTION 13.** In Colorado Revised Statutes, 39-21-119.5, **amend** (2)(i), (2)(s), (2)(t), (4)(d), (4)(i), and (4)(j); and **add** (2)(u) and (4)(k) as follows:

**39-21-119.5. Mandatory electronic filing of returns - mandatory electronic payment - penalty - waiver - definitions.** (2) Except as provided in subsection (6) of this section, the executive director may, as specified in subsection (3) of this section, require the electronic filing of returns and require the payment of any tax or fee due by electronic funds transfer for the following:

(i) Any motor fuel tax OR FEE return required to be filed and payment required to be made pursuant to section 39-27-303;

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

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

(u) ANY RETAIL DELIVERY FEE OR ENTERPRISE RETAIL DELIVERY FEES RETURN REQUIRED TO BE FILED PURSUANT TO SECTION 43-4-218 (6).

(4) Except as provided in subsection (6) of this section, on and after August 2, 2019, electronic filing of returns and the payment of any tax or fee by electronic funds transfer is required for the following:

(d) (I) Any gasoline or special fuel report required to be filed pursuant to section 39-27-105 and the payment required to be made pursuant to section 39-27-105.3;

(II) ANY ROAD USAGE FEE REPORT OR BRIDGE AND TUNNEL IMPACT FEE REPORT REQUIRED TO BE FILED WITH A GASOLINE OR SPECIAL FUEL REPORT PURSUANT TO SECTION 43-4-217 (7);

(i) Any tobacco products excise tax return required to be filed and payment required to be made pursuant to article 28.5 of THIS title 39; ~~and~~

(j) Any nicotine products tax return required to be filed and payment required to be paid pursuant to article 28.6 of this title 39; AND

(k) ANY CLEAN FLEET PER RIDE FEE AND AIR POLLUTION MITIGATION PER RIDE FEE RETURN REQUIRED TO BE FILED AND PAYMENT REQUIRED PURSUANT TO SECTION 40-10.1-607.5.

**SECTION 14.** In Colorado Revised Statutes, 39-26-102, **amend** (7)(a) introductory portion as follows:

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

(7) (a) "Purchase price" means the price to the consumer, exclusive of any direct tax imposed by the federal government or by this ~~article~~ ARTICLE 26, EXCLUSIVE OF ANY RETAIL DELIVERY FEE AND ENTERPRISE RETAIL DELIVERY FEES IMPOSED OR COLLECTED AS SPECIFIED IN SECTION 43-4-218, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the time and place of the exchange, if:

**SECTION 15.** In Colorado Revised Statutes, 39-26-123, **repeal** (3.5) as follows:

**39-26-123. Receipts - disposition - transfers of general fund surplus - sales tax holding fund - creation - definitions.** (3.5) ~~For each state fiscal year commencing on or after the first state fiscal year in which an appropriation or transfer is permitted pursuant to section 24-75-219 (2)(d), C.R.S., the general assembly may appropriate or transfer, in its sole discretion, moneys from the general fund to the sales and use tax holding fund.~~

**SECTION 16.** In Colorado Revised Statutes, 39-27-301, **amend** (1), (4), and (6); and **add** (3.3) as follows:

**39-27-301. Definitions.** As used in this part 3, unless the context otherwise requires:

(1) "Agreement" means a motor fuel tax AND FEE agreement under this part 3.

(3.3) "FEE" MEANS THE ROAD USAGE FEE IMPOSED BY SECTION 43-4-217(3) AND (4) AND THE BRIDGE AND TUNNEL IMPACT FEE IMPOSED BY SECTION 43-4-805 (5)(g.5).

(4) "Licensee" means a motor carrier who has been issued a fuel tax license under a motor fuel tax AND FEE agreement.

(6) "Motor fuel" means all fuel subject to FEES AND SUBJECT TO tax under this ~~article~~ ARTICLE 27.

**SECTION 17.** In Colorado Revised Statutes, **amend** 39-27-302 as follows:

**39-27-302. Agreements between jurisdictions.** The department may enter into a motor fuel tax AND FEE cooperative agreement with another jurisdiction or jurisdictions that provide for the administration, collection, and enforcement of each jurisdiction's motor fuel taxes AND FEES on motor fuel used by motor carriers. The agreement shall not contain any provision that exempts any motor vehicle, owner, or operator from complying with the laws, rules, and regulations pertaining to motor vehicle licensing, size, weight, load, or operation upon the public highways of this state.

**SECTION 18.** In Colorado Revised Statutes, 39-27-304, **amend** (1)(a), (1)(b), (1)(c), (1)(e), (1)(f), and (1)(g) as follows:

**39-27-304. Provisions of agreements.** (1) An agreement entered into under this part 3 may provide for:

(a) Defining the classes of motor vehicles upon which taxes AND FEES are to be collected under the agreement;

(b) Establishing methods for base jurisdiction fuel tax licensing, license revocation, and tax AND FEE collection from motor carriers on behalf of the jurisdictions that are parties to the agreement;

(c) Establishing procedures for the granting of credits or refunds on the purchase of excess tax-paid AND FEE-PAID fuel;

(e) Establishing tax AND FEE reporting periods not to exceed one calendar quarter and TAX AND FEE report due dates not to exceed one calendar month after the close of the reporting period;

(f) Penalties and interest for filing of tax AND FEE reports after the due dates prescribed by the agreement;

(g) Establishing procedures for the forwarding of fuel taxes, FEES, penalties, and interest collected on behalf of another jurisdiction to such jurisdiction;

**SECTION 19.** In Colorado Revised Statutes, **amend** 39-27-305 as follows:

**39-27-305. Credit for purchases.** Any licensee purchasing more

tax-paid AND FEE-PAID motor fuel in this state than the licensee uses in this state during the course of a reporting period shall be permitted a credit against future tax AND FEE liability for the excess tax-paid AND FEE-PAID fuel purchased. Upon request, this credit may be refunded to the licensee by the department in accordance with the agreement.

**SECTION 20.** In Colorado Revised Statutes, 39-27-306, **amend** (1) as follows:

**39-27-306. Tax and fee collection.** (1) The agreement may require the department to perform audits of licensees or persons required to be licensed and who are based in this state to determine whether motor fuel taxes AND FEES to be collected under the agreement have been reported properly and paid to each jurisdiction that is a party to the agreement. The agreement may authorize other jurisdictions to perform audits on licensees or persons required to be licensed and who are based in such other jurisdictions on behalf of the state of Colorado and forward the audit findings to the department. Such findings may be served upon the licensee or such other person in the same manner as audits performed by the department.

**SECTION 21.** In Colorado Revised Statutes, 39-27-310, **amend** (1) as follows:

**39-27-310. Construction of this part 3 - rules and regulations.** (1) This part 3 shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this part 3 among jurisdictions enacting it for the purpose of participating in a multijurisdictional motor fuel tax AND FEE agreement.

**SECTION 22.** In Colorado Revised Statutes, **add** 40-10.1-118 as follows:

**40-10.1-118. Certificated taxi carrier parity report - recommendations - legislative declaration - repeal.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) WHEN THE GENERAL ASSEMBLY ENACTED SENATE BILL 21-260, ENACTED IN 2021, IT ESTABLISHED A POLICY THAT A SUSTAINABLE TRANSPORTATION SYSTEM MUST BE FUNDED ADEQUATELY AND EQUITABLY

WITH CONTRIBUTIONS FROM USERS THAT BEAR A REASONABLE RELATIONSHIP TO THEIR USE OF AND IMPACTS ON THE SYSTEM AND THE ENVIRONMENT AND THE COSTS INCURRED IN MITIGATING THOSE IMPACTS;

(b) AS A RESULT OF THE ENACTMENT OF SENATE BILL 21-260, ENACTED IN 2021, ON AND AFTER JULY 1, 2022, TRANSPORTATION NETWORK COMPANIES WILL PAY PER RIDE FEES FOR EACH PREARRANGED RIDE REQUESTED AND ACCEPTED THROUGH THEIR DIGITAL NETWORKS, BUT AUTHORIZED TAXI CARRIERS WILL NOT BE REQUIRED TO PAY PER RIDE FEES; AND

(c) CONSISTENT WITH THE POLICY THAT THE TRANSPORTATION SYSTEM BE FUNDED ADEQUATELY AND EQUITABLY WITH CONTRIBUTIONS FROM USERS, IT IS NECESSARY AND APPROPRIATE TO ASSESS WHETHER THERE IS PARITY BETWEEN AUTHORIZED TAXI CARRIERS AND TRANSPORTATION NETWORK COMPANIES WITH RESPECT TO THEIR CONTRIBUTIONS TO THE FUNDING OF THE TRANSPORTATION SYSTEM.

(2) THE STAFF OF THE COMMISSION SHALL REPORT WHETHER, TAKING INTO ACCOUNT ANY RELEVANT DIFFERENCES IN THEIR BUSINESS MODELS, REGULATORY BURDENS, AND IMPACTS ON THE SUSTAINABILITY OF THE TRANSPORTATION SYSTEM, THERE IS PARITY BETWEEN AUTHORIZED TAXI CARRIERS AND TRANSPORTATION NETWORK COMPANIES WITH RESPECT TO THEIR CONTRIBUTIONS TO THE FUNDING OF THE TRANSPORTATION SYSTEM. THE STAFF OF THE COMMISSION SHALL REPORT ITS FINDINGS TO THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE OF THE GENERAL ASSEMBLY CREATED IN SECTION 43-2-145 (1)(a) DURING THE 2023 LEGISLATIVE INTERIM.

(3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2024.

**SECTION 23.** In Colorado Revised Statutes, 40-10.1-605, **amend** (1)(d) as follows:

**40-10.1-605. Operational requirements.** (1) The following requirements apply to the provision of services:

(d) Before permitting a person to act as a driver on its digital network, a transportation network company shall confirm that the person HAS SELF-CERTIFIED TO THE TRANSPORTATION NETWORK COMPANY

THROUGH THE TRANSPORTATION NETWORK COMPANY'S ONLINE APPLICATION OR DIGITAL NETWORK THAT HE OR SHE IS PHYSICALLY AND MENTALLY FIT TO DRIVE, is at least twenty-one years of age and possesses:

- (I) A valid driver's license;
- (II) Proof of automobile insurance; AND
- (III) Proof of a Colorado vehicle registration; and
- (IV) ~~Within ninety days of June 5, 2014, and pursuant to commission rules, proof that the person is medically fit to drive.~~

**SECTION 24.** In Colorado Revised Statutes, **amend** 40-10.1-607 as follows:

**40-10.1-607. Fees - transportation network company fund - creation.** The commission shall transmit all fees PAYABLE TO AND collected BY THE COMMISSION pursuant to this part 6 to the state treasurer, who shall credit the fees to the transportation network company fund, which is hereby created in the state treasury. The ~~moneys~~ MONEY in the fund ~~are~~ IS continuously appropriated to the commission for the purposes set forth in this part 6. All interest earned from the DEPOSIT AND investment of ~~moneys~~ MONEY in the fund is credited to the fund. Any ~~moneys~~ MONEY not expended at the end of the fiscal year ~~remain~~ REMAINS in the fund and ~~do~~ DOES not revert to the general fund or any other fund.

**SECTION 25.** In Colorado Revised Statutes, **add** 40-10.1-607.5 as follows:

**40-10.1-607.5. Fees - enterprise per ride fees - collection - distribution of fee proceeds - rules - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "AIR POLLUTION MITIGATION PER RIDE FEE" MEANS THE AIR POLLUTION MITIGATION PER RIDE FEE IMPOSED BY THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE AS REQUIRED BY SECTION 43-4-1303 (7).

(b) "CARSHARE RIDE" MEANS A PREARRANGED RIDE FOR WHICH THE



RIDER AGREES, AT THE TIME THE RIDER REQUESTS THE RIDE THROUGH A DIGITAL NETWORK, TO BE TRANSPORTED WITH ANOTHER RIDER WHO HAS SEPARATELY REQUESTED A PREARRANGED RIDE.

(c) "CLEAN FLEET PER RIDE FEE" MEANS THE CLEAN FLEET PER RIDE FEE IMPOSED BY THE CLEAN FLEET ENTERPRISE CREATED IN SECTION 25-7.5-103 (1)(a) AS REQUIRED BY SECTION 25-7.5-103 (7).

(d) "ENTERPRISE PER RIDE FEES" MEANS THE CLEAN FLEET PER RIDE FEE AND THE AIR POLLUTION MITIGATION PER RIDE FEE.

(2) FOR PREARRANGED RIDES REQUESTED AND ACCEPTED DURING STATE FISCAL YEAR 2022-23 OR ANY SUBSEQUENT STATE FISCAL YEAR, EACH TRANSPORTATION NETWORK COMPANY SHALL PAY TO THE DEPARTMENT OF REVENUE, AT THE TIME AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT, THE ENTERPRISE PER RIDE FEES, WHICH, FOR THE PURPOSE OF MINIMIZING COMPLIANCE COSTS FOR TRANSPORTATION NETWORK COMPANIES AND ADMINISTRATIVE COSTS FOR THE STATE, THE DEPARTMENT SHALL COLLECT ON BEHALF OF THE ENTERPRISES.

(3) THE DEPARTMENT OF REVENUE SHALL TRANSMIT ALL NET ENTERPRISE PER RIDE FEE REVENUE TO THE STATE TREASURER, WHO SHALL CREDIT THE NET REVENUE AS FOLLOWS:

(a) ALL NET CLEAN FLEET PER RIDE FEE REVENUE SHALL BE CREDITED TO THE CLEAN FLEET ENTERPRISE FUND CREATED IN SECTION 25-7.5-103 (5); AND

(b) ALL NET AIR POLLUTION MITIGATION PER RIDE FEE REVENUE SHALL BE CREDITED TO THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE FUND CREATED IN SECTION 43-4-1303 (5).

(4) WHEN COLLECTING THE ENTERPRISE PER RIDE FEES, THE DEPARTMENT OF REVENUE SHALL RETAIN AN AMOUNT THAT DOES NOT EXCEED THE TOTAL COST OF COLLECTING, ADMINISTERING, AND ENFORCING THE ENTERPRISE PER RIDE FEES AND SHALL TRANSMIT THE AMOUNT RETAINED TO THE STATE TREASURER, WHO SHALL CREDIT IT TO THE ENTERPRISE PER RIDE FEES FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY. ALL MONEY IN THE ENTERPRISE PER RIDE FEES FUND IS CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT OF REVENUE TO

DEFRAY THE COSTS INCURRED BY THE DEPARTMENT IN COLLECTING, ENFORCING, AND ADMINISTERING THE ENTERPRISE PER RIDE FEES.

(5) THE COLLECTION, ADMINISTRATION, AND ENFORCEMENT OF THE ENTERPRISE PER RIDE FEES COLLECTED AS REQUIRED BY SUBSECTION (2) OF THIS SECTION SHALL BE PERFORMED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE IN THE SAME MANNER AS THE COLLECTION, ADMINISTRATION, AND ENFORCEMENT OF STATE TAXES PURSUANT TO ARTICLE 21 OF TITLE 39. THE DEPARTMENT OF REVENUE MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION.

**SECTION 26.** In Colorado Revised Statutes, 42-3-304, amend (25)(a) and (25)(b); and add (25)(a.5), (25)(a.6), (25)(a.7), (25)(a.8), and (25)(a.9) as follows:

**42-3-304. Registration fees - passenger and passenger-mile taxes - clean screen fund - rules - definitions.** (25) (a) In addition to any other fee imposed by this section, FOR REGISTRATION PERIODS BEGINNING DURING STATE FISCAL YEARS PRIOR TO STATE FISCAL YEAR 2022-23, each authorized agent shall annually collect a fee of fifty dollars at the time of registration on every ~~plug-in~~ electric motor vehicle. FOR REGISTRATION PERIODS BEGINNING DURING STATE FISCAL YEAR 2022-23 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR, EACH AUTHORIZED AGENT SHALL CONTINUE TO COLLECT THE FEE, AND THE AMOUNT OF THE FEE FOR REGISTRATION PERIODS BEGINNING DURING ANY GIVEN STATE FISCAL YEAR IS THE AMOUNT OF THE FEE COLLECTED FOR REGISTRATION PERIODS BEGINNING DURING THE PRIOR STATE FISCAL YEAR, ADJUSTED FOR INFLATION; EXCEPT THAT AN ADJUSTMENT SHALL BE MADE ONLY IF THE RATE OF INFLATION IS POSITIVE AND MUST BE THE LESSER OF THE ACTUAL RATE OF INFLATION OR FIVE PERCENT. THE DEPARTMENT OF REVENUE SHALL ANNUALLY CALCULATE THE INFLATION-ADJUSTED AMOUNT OF THE FEE FOR REGISTRATION PERIODS BEGINNING DURING EACH STATE FISCAL YEAR AND SHALL PUBLISH THE AMOUNT NO LATER THAN APRIL 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS. The authorized agent shall transmit the fee to the state treasurer, who shall credit thirty dollars, ADJUSTED FOR INFLATION, of each fee to the highway users tax fund created in section 43-4-201, and twenty dollars, ADJUSTED FOR INFLATION, of each fee to the electric vehicle grant fund created in section 24-38.5-103.

(a.5) (I) IN ADDITION TO ANY OTHER FEE IMPOSED BY THIS SECTION,

INCLUDING THE FEE IMPOSED BY SUBSECTION (25)(a) OF THIS SECTION, FOR REGISTRATION PERIODS BEGINNING DURING STATE FISCAL YEAR 2022-23 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR, EACH AUTHORIZED AGENT SHALL ANNUALLY COLLECT AN ELECTRIC MOTOR VEHICLE ROAD USAGE EQUALIZATION FEE AT THE TIME OF REGISTRATION ON EVERY BATTERY ELECTRIC MOTOR VEHICLE AS SPECIFIED IN SUBSECTIONS (25)(a.5)(II) AND (25)(a.5)(III) OF THIS SECTION AND ON EVERY PLUG-IN HYBRID ELECTRIC MOTOR VEHICLE AS SPECIFIED IN SUBSECTIONS (25)(a.5)(IV) AND (25)(a.5)(V) OF THIS SECTION. THE AUTHORIZED AGENT SHALL TRANSMIT THE FEE TO THE STATE TREASURER, WHO SHALL CREDIT IT TO THE HIGHWAY USERS TAX FUND FOR ALLOCATION AND EXPENDITURE AS SPECIFIED IN SECTION 43-4-205 (6.8).

(II) FOR REGISTRATION PERIODS BEGINNING DURING STATE FISCAL YEARS 2022-23 THROUGH 2031-32, THE AMOUNT OF THE ELECTRIC MOTOR VEHICLE ROAD USAGE EQUALIZATION FEE FOR A BATTERY ELECTRIC MOTOR VEHICLE IS AS FOLLOWS:

FISCAL YEAR	FEE
2022-2023	\$4
2023-2024	\$8
2024-2025	\$12
2025-2026	\$16
2026-2027	\$26
2027-2028	\$36
2028-2029	\$51
2029-2030	\$66
2030-2031	\$81
2031-2032	\$96

(III) FOR REGISTRATION PERIODS BEGINNING DURING STATE FISCAL YEAR 2032-33 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR, THE AMOUNT OF THE ELECTRIC MOTOR VEHICLE ROAD USAGE EQUALIZATION FEE FOR A BATTERY ELECTRIC MOTOR VEHICLE IS THE AMOUNT OF THE FEE FOR REGISTRATION PERIODS BEGINNING DURING THE PRIOR STATE FISCAL YEAR, ADJUSTED FOR INFLATION; EXCEPT THAT AN ADJUSTMENT SHALL BE MADE ONLY IF THE RATE OF INFLATION IS POSITIVE AND MUST BE THE LESSER OF THE ACTUAL RATE OF INFLATION OR FIVE PERCENT. THE DEPARTMENT OF REVENUE SHALL ANNUALLY CALCULATE THE INFLATION ADJUSTED AMOUNT

OF THE ELECTRIC MOTOR VEHICLE ROAD USAGE EQUALIZATION FEE FOR A BATTERY ELECTRIC MOTOR VEHICLE FOR REGISTRATION PERIODS BEGINNING DURING EACH STATE FISCAL YEAR AND SHALL NOTIFY AUTHORIZED AGENTS OF THE AMOUNT NO LATER THAN THE MAY 1 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS.

(IV) FOR REGISTRATION PERIODS BEGINNING DURING STATE FISCAL YEARS 2022-23 THROUGH 2031-32, THE AMOUNT OF THE ELECTRIC MOTOR VEHICLE ROAD USAGE EQUALIZATION FEE FOR A PLUG-IN HYBRID ELECTRIC MOTOR VEHICLE IS:

FISCAL YEAR	FEE
2022-2023	\$3
2023-2024	\$5
2024-2025	\$8
2025-2026	\$11
2026-2027	\$13
2027-2028	\$16
2028-2029	\$19
2029-2030	\$21
2030-2031	\$24
2031-2032	\$27

(V) FOR REGISTRATION PERIODS BEGINNING DURING STATE FISCAL YEAR 2032-33 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR, THE AMOUNT OF THE ELECTRIC MOTOR VEHICLE ROAD USAGE EQUALIZATION FEE FOR A PLUG-IN HYBRID ELECTRIC MOTOR VEHICLE IS THE AMOUNT OF THE FEE FOR REGISTRATION PERIODS COMMENCING DURING THE PRIOR STATE FISCAL YEAR, ADJUSTED FOR INFLATION; EXCEPT THAT AN ADJUSTMENT SHALL BE MADE ONLY IF THE RATE OF INFLATION IS POSITIVE AND THE ADJUSTMENT MUST BE THE LESSER OF THE ACTUAL RATE OF INFLATION OR FIVE PERCENT. THE DEPARTMENT OF REVENUE SHALL CALCULATE THE INFLATION ADJUSTED AMOUNT OF THE ELECTRIC MOTOR VEHICLE ROAD USAGE EQUALIZATION FEE FOR A PLUG-IN HYBRID ELECTRIC MOTOR VEHICLE FOR REGISTRATION PERIODS BEGINNING DURING EACH STATE FISCAL YEAR AND SHALL NOTIFY AUTHORIZED AGENTS OF THE AMOUNT NO LATER THAN THE MAY 1 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS.

(a.6) BECAUSE THE ELECTRIC MOTOR VEHICLE FEE IMPOSED PURSUANT TO SUBSECTION (25)(a) OF THIS SECTION AND THE ELECTRIC MOTOR VEHICLE ROAD USAGE EQUALIZATION FEE IMPOSED PURSUANT TO SUBSECTION (25)(a.5) OF THIS SECTION ARE INTENDED TO EQUALIZE THE AVERAGE AGGREGATE AMOUNT OF REGISTRATION FEES AND MOTOR FUEL CHARGES ANNUALLY PAID BY OWNERS OF ELECTRIC MOTOR VEHICLES AND OWNERS OF MOTOR VEHICLES POWERED EXCLUSIVELY BY INTERNAL COMBUSTION ENGINES, AND BECAUSE MOTOR FUEL CHARGES ARE PAID THROUGHOUT THE YEAR RATHER THAN AT THE TIME OF ANNUAL MOTOR VEHICLE REGISTRATION, THE DEPARTMENT SHALL IMPLEMENT A PILOT PROGRAM TO ALLOW FEES IMPOSED PURSUANT TO THIS SUBSECTION (25) TO BE PAID ON AN AUTOMATED PRORATED QUARTERLY BASIS. AFTER EVALUATING THE SUCCESS OF THE PILOT PROGRAM AFTER THE SECOND YEAR OF IMPLEMENTATION, THE DEPARTMENT SHALL MAKE THE PILOT PROGRAM PERMANENT UNLESS THERE IS COMPELLING EVIDENCE THAT THE PILOT PROGRAM HAS NOT BEEN SUCCESSFUL. THE DEPARTMENT MAY PROMULGATE RULES TO IMPLEMENT THIS SUBSECTION (25)(a.6).

(a.7) (I) IN LIEU OF ANY OTHER FEE IMPOSED BY THIS SUBSECTION (25), FOR REGISTRATION PERIODS BEGINNING DURING STATE FISCAL YEAR 2022-23 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR, EACH AUTHORIZED AGENT SHALL ANNUALLY COLLECT A COMMERCIAL ELECTRIC MOTOR VEHICLE ROAD USAGE EQUALIZATION FEE IN THE AMOUNT SPECIFIED IN SUBSECTION (25)(a.7)(II) OR (25)(a.7)(III) OF THIS SECTION. THE AUTHORIZED AGENT SHALL TRANSMIT THE FEE TO THE STATE TREASURER, WHO SHALL CREDIT IT AS SPECIFIED IN SUBSECTION (25)(a.7)(IV) OF THIS SECTION.

(II) FOR REGISTRATION PERIODS BEGINNING DURING STATE FISCAL YEAR 2022-23, THE AMOUNT OF THE COMMERCIAL ELECTRIC MOTOR VEHICLE ROAD USAGE EQUALIZATION FEE IS:

(A) FIFTY DOLLARS FOR AN COMMERCIAL ELECTRIC MOTOR VEHICLE THAT WEIGHS MORE THAN TEN THOUSAND POUNDS BUT NOT MORE THAN SIXTEEN THOUSAND POUNDS;

(B) ONE HUNDRED DOLLARS FOR A COMMERCIAL ELECTRIC MOTOR VEHICLE THAT WEIGHS MORE THAN SIXTEEN THOUSAND POUNDS BUT NOT MORE THAT TWENTY-SIX THOUSAND POUNDS; AND

(C) ONE HUNDRED FIFTY DOLLARS FOR A COMMERCIAL ELECTRIC MOTOR VEHICLE THAT WEIGHS MORE THAN TWENTY-SIX THOUSAND POUNDS.

(III) FOR REGISTRATION PERIODS BEGINNING DURING STATE FISCAL YEAR 2023-24 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR, THE AMOUNT OF THE COMMERCIAL ELECTRIC MOTOR VEHICLE ROAD USAGE EQUALIZATION FEE IS THE AMOUNT OF THE FEE FOR REGISTRATION PERIODS COMMENCING DURING THE PRIOR STATE FISCAL YEAR, ADJUSTED FOR INFLATION; EXCEPT THAT AN ADJUSTMENT SHALL BE MADE ONLY IF THE RATE OF INFLATION IS POSITIVE AND THE ADJUSTMENT MUST BE THE LESSER OF THE ACTUAL RATE OF INFLATION OR FIVE PERCENT. THE DEPARTMENT OF REVENUE SHALL CALCULATE THE INFLATION ADJUSTED AMOUNT OF THE COMMERCIAL ELECTRIC MOTOR VEHICLE ROAD USAGE EQUALIZATION FEE FOR A COMMERCIAL ELECTRIC MOTOR VEHICLE FOR REGISTRATION PERIODS BEGINNING DURING EACH STATE FISCAL YEAR AND SHALL NOTIFY AUTHORIZED AGENTS OF THE AMOUNT NO LATER THAN THE MAY 1 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS.

(IV) THE STATE TREASURER SHALL CREDIT FEE REVENUE COLLECTED PURSUANT TO THIS SUBSECTION (25)(a.7) AS FOLLOWS:

(A) SEVENTY PERCENT TO THE HIGHWAY USERS TAX FUND FOR ALLOCATION AND EXPENDITURE AS SPECIFIED IN SECTION 43-4-205 (6.8); AND

(B) THIRTY PERCENT TO THE STATE HIGHWAY FUND CREATED IN SECTION 43-1-219 FOR THE PURPOSE OF FUNDING FREIGHT-RELATED PROJECTS THAT EASE EFFECTIVE, EFFICIENT, AND SAFE FREIGHT TRANSPORT.

(a.8) DURING THE 2026 LEGISLATIVE INTERIM, THE COLORADO ENERGY OFFICE, THE DEPARTMENT OF TRANSPORTATION, AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AFTER CONSULTING WITH THE COMMUNITY ACCESS ENTERPRISE CREATED IN SECTION 24-38.5-303 (1), THE CLEAN FLEET ENTERPRISE CREATED IN SECTION 25-7.5-103 (1)(a), THE CLEAN TRANSIT ENTERPRISE CREATED IN SECTION 43-4-1203 (1)(a), AND THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE CREATED IN SECTION 43-4-1303 (1)(a), SHALL JOINTLY COMPLETE A WRITTEN REPORT AND PRESENT THE REPORT AT A HEARING OF THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE CREATED IN SECTION 43-2-145 (1)(a). THE REPORT SHALL DETAIL PROGRESS

ON ALL PROJECTS COMPLETED OR UNDERTAKEN USING FUNDING PROVIDED PURSUANT TO SENATE BILL 21-260, ENACTED IN 2021, IDENTIFY OTHER PROJECTS EXPECTED TO BE COMPLETED IN THE NEXT FIVE YEARS, SPECIFICALLY DOCUMENT THE USE OF GENERAL FUND MONEY PROVIDED PURSUANT TO SENATE BILL 21-260, ENACTED IN 2021, AND MAKE RECOMMENDATIONS AS TO WHETHER ADDITIONAL GENERAL FUND MONEY SHOULD BE PROVIDED FOR SIMILAR USES IN LIGHT OF CURRENT ECONOMIC CONDITIONS, INFLATION, AND OTHER PROJECT COMPLETION COST FACTORS, AND AVAILABLE STATE REVENUE. THE REPORT SHALL ALSO INCLUDE THE JOINT RECOMMENDATIONS OF THE OFFICE AND THE DEPARTMENTS AS TO WHETHER, BEGINNING IN STATE FISCAL YEAR 2027-28 OR A LATER STATE FISCAL YEAR, THE AMOUNT OF ANY OR ALL OF THE FEES IMPOSED BY THIS SUBSECTION (25) SHOULD BE ADJUSTED OR, DUE TO INCREASED USE OF SUCH MOTOR VEHICLES, FEES SHOULD ALSO BE IMPOSED ON HYDROGEN FUEL CELL MOTOR VEHICLES THAT ARE POWERED BY ELECTRICITY PRODUCED FROM A FUEL CELL THAT USES HYDROGEN GAS AS FUEL TO ENSURE THAT THE GOAL OF EQUALIZING THE AVERAGE AGGREGATE AMOUNT OF REGISTRATION FEES AND MOTOR FUEL CHARGES ANNUALLY PAID BY OWNERS OF ELECTRIC MOTOR VEHICLES AND OWNERS OF MOTOR VEHICLES POWERED EXCLUSIVELY BY INTERNAL COMBUSTION ENGINES CONTINUES TO BE REALIZED. WHEN DEVELOPING THEIR RECOMMENDATIONS REGARDING THE FEES, THE OFFICE AND THE DEPARTMENTS SHALL TAKE INTO ACCOUNT, AT A MINIMUM, THE MOST RECENT AVAILABLE RELIABLE DATA ON CURRENT AVERAGE FUEL EFFICIENCY AND CURRENT FUEL EFFICIENCY FOR THE MOST FUEL-EFFICIENT MOTOR VEHICLES FOR THE COLORADO LIGHT-DUTY AND COMMERCIAL MOTOR VEHICLE FLEETS OR, IF COLORADO DATA IS NOT AVAILABLE, THE UNITED STATES LIGHT-DUTY AND COMMERCIAL MOTOR VEHICLE FLEETS, AND THE MOST RECENT AVAILABLE RELIABLE PROJECTIONS OF FUTURE AVERAGE FUEL EFFICIENCY AND FUTURE FUEL EFFICIENCY FOR THE MOST FUEL-EFFICIENT MOTOR VEHICLES FOR THE COLORADO LIGHT-DUTY AND COMMERCIAL MOTOR VEHICLE FLEETS OR, IF COLORADO DATA IS NOT AVAILABLE, FOR THE UNITED STATES LIGHT-DUTY AND COMMERCIAL MOTOR VEHICLE FLEETS. TO THE EXTENT FEASIBLE BASED ON THE DATA AVAILABLE, ANALYSIS OF COMMERCIAL MOTOR VEHICLE FLEET DATA SHALL ACCOUNT SEPARATELY FOR DIFFERENT CATEGORIES OR WEIGHT CLASSES OF COMMERCIAL MOTOR VEHICLES.

(a.9) AS USED IN THIS SUBSECTION (25), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "BATTERY ELECTRIC MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT IS POWERED EXCLUSIVELY BY A RECHARGEABLE BATTERY PACK THAT CAN BE RECHARGED BY BEING PLUGGED INTO AN EXTERNAL SOURCE OF ELECTRICITY AND THAT HAS NO SECONDARY SOURCE OF PROPULSION.

(II) "COMMERCIAL ELECTRIC MOTOR VEHICLE" MEANS AN ELECTRIC MOTOR VEHICLE THAT IS A COMMERCIAL VEHICLE.

(III) "ELECTRIC MOTOR VEHICLE" MEANS A BATTERY ELECTRIC MOTOR VEHICLE AND A PLUG-IN HYBRID ELECTRIC MOTOR VEHICLE.

(IV) "INFLATION" MEANS THE AVERAGE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, NATIONAL HIGHWAY CONSTRUCTION COST INDEX OR ITS APPLICABLE PREDECESSOR OR SUCCESSOR INDEX FOR THE FIVE-YEAR PERIOD ENDING ON THE LAST DECEMBER 31 BEFORE A STATE FISCAL YEAR FOR WHICH AN ANNUAL INFLATION ADJUSTMENT TO THE AMOUNT OF ANY FEE IMPOSED PURSUANT TO THIS SUBSECTION (25) IS TO BE MADE BEGINS.

(V) "PLUG-IN HYBRID ELECTRIC MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT IS POWERED BY BOTH A RECHARGEABLE BATTERY PACK THAT CAN BE RECHARGED BY BEING PLUGGED INTO AN EXTERNAL SOURCE OF ELECTRICITY AND A SECONDARY SOURCE OF PROPULSION SUCH AS AN INTERNAL COMBUSTION ENGINE.

(b) The department of revenue shall create an electric vehicle decal, which an authorized agent shall give to each person who pays the ~~fee~~ FEES charged under ~~subsection (25)(a)~~ SUBSECTIONS (25)(a), (25)(a.5), AND (25)(a.7) of this section. The decal must be attached to the upper right-hand corner of the front windshield on the motor vehicle for which it was issued. If there is a change of vehicle ownership, the decal is transferable to the new owner.

**SECTION 27.** In Colorado Revised Statutes, 42-4-307, add (16) as follows:

**42-4-307. Powers and duties of the department of public health and environment - division of administration - automobile inspection and readjustment program - basic emissions program - enhanced**



**emissions program - clean screen program.** (16) PRIOR TO JULY 1, 2022, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL SEEK APPROVAL FROM THE ENVIRONMENTAL PROTECTION AGENCY TO MODIFY THE STATE IMPLEMENTATION PLAN TO EXPAND THE TESTING EXEMPTION FOR NEW VEHICLES TO TEN MODEL YEARS. IF THE ENVIRONMENTAL PROTECTION AGENCY APPROVES THE REQUEST, THE COMMISSION SHALL ADOPT A RULE EXPANDING THE TESTING EXEMPTION FOR NEW VEHICLES TO TEN MODEL YEARS WITHIN TWELVE MONTHS FOLLOWING THE APPROVAL. IN ADDITION, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL SEEK APPROVAL FROM THE ENVIRONMENTAL PROTECTION AGENCY TO EXPAND THE TESTING EXEMPTION FOR PLUG-IN HYBRID ELECTRIC MOTOR VEHICLES TO TWELVE MODEL YEARS.

**SECTION 28.** In Colorado Revised Statutes, 43-1-116, **add** (5) as follows:

**43-1-116. Engineering, design, and construction division - created - duties - environmental justice and equity branch.** (5) THE ENVIRONMENTAL JUSTICE AND EQUITY BRANCH IS CREATED IN THE ENGINEERING, DESIGN, AND CONSTRUCTION DIVISION. THE FUNCTION OF THE ENVIRONMENTAL JUSTICE AND EQUITY BRANCH IS TO WORK DIRECTLY WITH DISPROPORTIONATELY IMPACTED COMMUNITIES, AS WELL AS WITH OTHER DEPARTMENT PROGRAMS, IN THE PROJECT PLANNING, ENVIRONMENTAL STUDY, AND PROJECT DELIVERY PHASES OF TRANSPORTATION CAPACITY PROJECTS. THE ENVIRONMENTAL JUSTICE AND EQUITY BRANCH SHALL IDENTIFY AND ADDRESS TECHNOLOGICAL, LANGUAGE, AND INFORMATION BARRIERS THAT MAY PREVENT DISPROPORTIONATELY IMPACTED COMMUNITIES FROM PARTICIPATING FULLY IN TRANSPORTATION DECISIONS THAT AFFECT HEALTH, QUALITY OF LIFE, AND ACCESS FOR DISADVANTAGED AND MINORITY BUSINESSES IN PROJECT DELIVERY.

**SECTION 29.** In Colorado Revised Statutes, 43-1-117, **add** (4) as follows:

**43-1-117. Transportation development division - created - duties - freight mobility and safety branch.** (4) THE FREIGHT MOBILITY AND SAFETY BRANCH IS CREATED IN THE TRANSPORTATION DEVELOPMENT DIVISION. THE FUNCTION OF THE FREIGHT MOBILITY AND SAFETY BRANCH IS TO PLAN, DESIGN, AND IMPLEMENT PROGRAMS AND PROJECTS THAT ENHANCE FREIGHT MOBILITY AND SAFETY WITHIN THE STATE. NO LATER THAN

JANUARY 1, 2022, THE FREIGHT MOBILITY AND SAFETY BRANCH SHALL PROVIDE TO THE COMMISSION A LONG-TERM STRATEGIC PLAN THAT SETS FORTH THE VISION AND GOALS FOR THE BRANCH, KEY PRIORITIES FOR ALL FREIGHT-RELATED PROGRAMS, ACTIVITIES, AND PROJECTS, AND GUIDELINES FOR COORDINATION BETWEEN THE BRANCH AND THE FREIGHT ADVISORY COMMITTEE.

**SECTION 30.** In Colorado Revised Statutes, add 43-1-128, 43-1-129, and 43-1-130 as follows:

**43-1-128. Environmental impacts of capacity projects - additional requirements - legislative declaration - definitions.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) TRANSPORTATION CAPACITY PROJECTS THAT ARE INTENDED TO ALLEVIATE TRAFFIC CONGESTION, ADDRESS MOBILITY, AND IMPROVE TRAVEL TIME RELIABILITY BY INCREASING THE CAPACITY OF HIGHWAYS IN MAJOR TRANSPORTATION CORRIDORS CAN CAUSE ADVERSE ENVIRONMENTAL IMPACTS, INCLUDING BUT NOT LIMITED TO INCREMENTAL ACCELERATION OF CLIMATE CHANGE, AND ADVERSE HEALTH IMPACTS;

(b) THESE IMPACTS FALL MOST HEAVILY ON COMMUNITIES ADJACENT TO PROJECTS, INCLUDING DISPROPORTIONATELY IMPACTED COMMUNITIES;

(c) TO MINIMIZE THE ADVERSE ENVIRONMENTAL AND HEALTH IMPACTS OF PLANNED TRANSPORTATION CAPACITY PROJECTS AND ADDRESS INEQUITABLE DISTRIBUTION OF THE BURDENS OF SUCH PROJECTS, IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTERESTS OF THE STATE AND ALL COLORADANS TO REQUIRE THE DEPARTMENT AND METROPOLITAN PLANNING ORGANIZATIONS, WHICH ARE THE STATE'S PRIMARY TRANSPORTATION PLANNING ENTITIES WITH RESPONSIBILITY FOR SELECTING AND FUNDING TRANSPORTATION CAPACITY PROJECTS, TO ENGAGE IN AN ENHANCED LEVEL OF PLANNING, MODELING AND OTHER ANALYSIS, COMMUNITY ENGAGEMENT, AND MONITORING WITH RESPECT TO SUCH PROJECTS AS REQUIRED BY THIS SECTION; AND

(d) THE REQUIREMENTS OF THIS SECTION ARE IN ADDITION TO AND SHALL TO THE EXTENT PRACTICABLE BE EXECUTED CONCURRENTLY WITH, AND DO NOT SUPPLANT, ANY OTHER REQUIREMENTS OR PROCESSES, INCLUDING FEDERAL SAFETY AND STATE OF GOOD REPAIR REQUIREMENTS,

FOR TRANSPORTATION PLANNING, PROJECT PRIORITIZATION, PUBLIC OUTREACH, PROJECT IMPLEMENTATION, OR TRANSPARENCY AND ACCOUNTABILITY THAT ARE ESTABLISHED BY LAW, RULE, OR COMMISSION OR DEPARTMENT POLICY.

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

(a) "AIR POLLUTANT" HAS THE SAME MEANING AS SET FORTH IN SECTION 25-7-103 (1.5).

(b) "CRITERIA POLLUTANT" MEANS CARBON MONOXIDE, GROUND-LEVEL OZONE, LEAD, NITROGEN DIOXIDE, PARTICULATE MATTER, AND SULFUR DIOXIDE.

(c) (I) "DISPROPORTIONATELY IMPACTED COMMUNITY" MEANS A COMMUNITY THAT IS IN A CENSUS BLOCK GROUP, AS DETERMINED IN ACCORDANCE WITH THE MOST RECENT UNITED STATES DECENNIAL CENSUS, WHERE THE PROPORTION OF HOUSEHOLDS THAT ARE LOW INCOME IS GREATER THAN FORTY PERCENT, THE PROPORTION OF HOUSEHOLDS THAT IDENTIFY AS MINORITY IS GREATER THAN FORTY PERCENT, OR THE PROPORTION OF HOUSEHOLDS THAT ARE HOUSING COST-BURDENED IS GREATER THAN FORTY PERCENT.

(II) AS USED IN THIS SUBSECTION (2)(c):

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

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

(d) "GREENHOUSE GAS POLLUTANTS" MEANS ANTHROPOGENIC EMISSIONS OF CARBON DIOXIDE, METHANE, NITROUS OXIDE, HYDROFLUOROCARBONS, PERFLUOROCARBONS, NITROGEN TRIFLUORIDE, AND SULFUR HEXAFLUORIDE.

(e) "STATEWIDE GREENHOUSE GAS POLLUTION" HAS THE SAME MEANING AS SET FORTH IN SECTION 25-7-103 (22.5).

(3) EFFECTIVE AS OF JULY 1, 2022, THE DEPARTMENT SHALL ESTABLISH AND PROPOSE TO THE COMMISSION FOR ITS REVIEW IMPLEMENTING PROCEDURES AND GUIDELINES THAT REQUIRE THE DEPARTMENT AND METROPOLITAN PLANNING ORGANIZATIONS TO TAKE ADDITIONAL STEPS IN THE PLANNING PROCESS FOR REGIONALLY SIGNIFICANT TRANSPORTATION CAPACITY PROJECTS TO ACCOUNT FOR THE IMPACTS ON THE AMOUNT OF STATEWIDE GREENHOUSE GAS POLLUTION AND STATEWIDE VEHICLE MILES TRAVELED THAT ARE EXPECTED TO RESULT FROM SUCH PROJECTS. SUCH GUIDELINES AND PROCEDURES SHALL APPLY TO ADOPTION OF THE NEXT TEN-YEAR PLAN AND SUBSEQUENT PLANNING CYCLES AND SHALL FULLY EVALUATE THE POTENTIAL ENVIRONMENTAL AND HEALTH IMPACTS ON DISPROPORTIONATELY IMPACTED COMMUNITIES. THE COMMISSION SHALL, WITH SUCH MODIFICATIONS AS THE COMMISSION MAY MAKE SUBJECT TO THE REQUIREMENTS OF THIS SECTION AND WITH OPPORTUNITIES FOR PUBLIC INVOLVEMENT, ADOPT THE PROCEDURES AND GUIDELINES. AT A MINIMUM, BOTH THE PROPOSED AND ADOPTED PROCEDURES AND GUIDELINES MUST REQUIRE THE DEPARTMENT AND METROPOLITAN PLANNING ORGANIZATIONS TO:

(a) IMPLEMENT RELEVANT RULES AND REGULATIONS ISSUED PURSUANT TO SECTION 25-7-105;

(b) OTHERWISE REDUCE GREENHOUSE GAS EMISSIONS TO HELP ACHIEVE THE STATEWIDE GREENHOUSE GAS POLLUTION REDUCTION TARGETS ESTABLISHED IN SECTION 25-7-102 (2)(g);

(c) MODIFY THEIR GUIDANCE DOCUMENTS TO ENSURE THAT AT LEAST THE SAME LEVEL OF ANALYTICAL SCRUTINY IS GIVEN TO GREENHOUSE GAS POLLUTANTS AS IS GIVEN TO OTHER AIR POLLUTANTS OF CONCERN IN THE STATE INCLUDING CONSIDERATION OF THE IMPACT ON EMISSIONS OF GREENHOUSE GAS POLLUTANTS OF INDUCED DEMAND RESULTING FROM REGIONALLY SIGNIFICANT TRANSPORTATION CAPACITY PROJECTS ALONGSIDE TRAFFIC MODELING; AND

(d) CONSIDER THE ROLE OF LAND USE IN THE TRANSPORTATION PLANNING PROCESS AND DEVELOP STRATEGIES TO ENCOURAGE LAND USE DECISIONS THAT REDUCE VEHICLE MILES TRAVELED AND GREENHOUSE GAS EMISSIONS.

(4) IF A PLANNED TRANSPORTATION CAPACITY PROJECT IS A

REGIONALLY SIGNIFICANT PROJECT, AS DETERMINED BY THE DEPARTMENT WITH CONSIDERATION GIVEN TO FEDERAL LAW OR REGULATIONS THAT DEFINE OR DESCRIBE SUCH PROJECTS, THE DEPARTMENT SHALL, THROUGH ITS ENVIRONMENTAL STUDY PROCESS:

(a) USE ENVIRONMENTAL PROTECTION AGENCY APPROVED MODELS TO DETERMINE AIR POLLUTANT EMISSIONS IMPACTS FOR THE PLANNED PROJECT AND PROVIDE MONITORING AND MEASUREMENT OF CRITERIA POLLUTANTS PRIOR TO CONSTRUCTION;

(b) DEVELOP AND IMPLEMENT A PARTICULATE MATTER CONSTRUCTION PLAN TO PROVIDE CONTINUOUS MONITORING AND TRANSPARENT PUBLIC REPORTING OF CONCENTRATIONS, PUBLIC ALERTS ISSUED AS SOON AS POSSIBLE WHEN EXCEEDANCE EVENTS OCCUR, AND ACTION PLANS TO ADDRESS EMISSION LEVELS ON CONSTRUCTION PROJECTS PRIOR TO EXCEEDANCES WITH PARTICULAR FOCUS ON DISPROPORTIONATELY IMPACTED COMMUNITIES; AND

(c) DEVELOP AND IMPLEMENT A PLAN TO MITIGATE AIR QUALITY IMPACTS ON COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES ADJACENT TO THE PROJECT, WITH PARTICULAR FOCUS WHERE FEASIBLE ON MITIGATION OF FINE PARTICULATE MATTER POLLUTION.

(5) WITH THE EXCEPTION OF THE INTERSTATE HIGHWAY 270 CORRIDOR IMPROVEMENT PROJECT, THE REQUIREMENTS OF SUBSECTIONS (4)(a) AND (4)(c) OF THIS SECTION DO NOT APPLY TO ANY PROJECTS THAT HAVE, ON OR BEFORE JULY 1, 2022, A SIGNED RECORD OF DECISION, FINDING OF NO SIGNIFICANT IMPACT, OR CATEGORICAL EXCLUSIONS AS PROVIDED BY THE NATIONAL ENVIRONMENTAL POLICY ACT.

(6) TO PROMOTE TRANSPARENCY AND INCREASE BOTH PUBLIC PARTICIPATION AND PUBLIC CONFIDENCE IN REGIONALLY SIGNIFICANT TRANSPORTATION CAPACITY PROJECT SELECTION, PLANNING, AND IMPLEMENTATION IN COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES, THE DEPARTMENT SHALL, WITH OPPORTUNITY FOR PUBLIC INPUT, REVIEW, UPDATE, AND IMPROVE AS NECESSARY ITS PUBLIC ENGAGEMENT PROGRAM FOR PLANNED TRANSPORTATION CAPACITY PROJECTS. IN DOING SO, THE DEPARTMENT SHALL CREATE DIVERSE AND IMPACTFUL WAYS TO GATHER INPUT FROM

COMMUNITIES ACROSS THE STATE BY COMMUNICATING IN MULTIPLE LANGUAGES AND MULTIPLE FORMATS AND TRANSPARENTLY SHARING READILY UNDERSTANDABLE INFORMATION ABOUT POTENTIAL ADVERSE IMPACTS, INCLUDING BUT NOT LIMITED TO ENVIRONMENTAL AND HEALTH IMPACTS, OF POTENTIAL TRANSPORTATION CAPACITY PROJECTS.

**43-1-129. Road usage charge study - repeal.** (1) THE DEPARTMENT SHALL STUDY THE FEASIBILITY OF IMPLEMENTING A ROAD USAGE CHARGE PROGRAM IN THE STATE. THE STUDY MUST, AT A MINIMUM:

(a) IDENTIFY AND ANALYZE THE IMPLEMENTATION OF ROAD USAGE CHARGE PROGRAMS IN OTHER STATES;

(b) IDENTIFY AND ASSESS AVAILABLE AND DEVELOPING TECHNOLOGY FOR TRACKING MILEAGE AND COLLECTING ROAD USAGE CHARGES;

(c) IDENTIFY BARRIERS TO IMPLEMENTING A ROAD USAGE CHARGE PROGRAM AND IDENTIFY AND ASSESS OPTIONS FOR OVERCOMING THOSE BARRIERS; AND

(d) IDENTIFY WAYS IN WHICH THE STATE CAN CONSULT OR COORDINATE WITH OTHER STATES THAT HAVE ROAD USAGE CHARGE PROGRAMS AND WITH REGIONAL GROUPS THAT HAVE ROAD USAGE CHARGE PROGRAM INFORMATION AND EXPERTISE TO LEVERAGE THEIR EXPERIENCE AND EXPERTISE AND ENSURE THAT ANY ROAD USAGE CHARGE PROGRAM TO BE IMPLEMENTED IN THE STATE IS IMPLEMENTED IN ACCORDANCE WITH IDENTIFIED AND ESTABLISHED BEST PRACTICES.

(2) THE DEPARTMENT SHALL PRESENT THE REPORT TO THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE CREATED IN SECTION 43-2-145 (1) DURING THE 2023 LEGISLATIVE INTERIM.

(3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2024.

**43-1-130. Autonomous motor vehicles study - repeal.** (1) THE DEPARTMENT SHALL STUDY ISSUES RELATING TO THE DEVELOPMENT AND ADOPTION OF AUTONOMOUS MOTOR VEHICLES. THE STUDY MUST, AT A MINIMUM:

(a) SUMMARIZE THE CURRENT STATUS OF AUTONOMOUS MOTOR VEHICLE TECHNOLOGY AND THE EXTENT OF THE USE OF SUCH TECHNOLOGY IN COMMERCIAL AND GOVERNMENT MOTOR VEHICLE FLEETS AND PERSONAL MOTOR VEHICLES;

(b) PROVIDE AN ESTIMATED TIMELINE FOR FUTURE ADVANCEMENTS IN AUTONOMOUS MOTOR VEHICLE TECHNOLOGY, IN PARTICULAR ADVANCEMENTS THAT ENABLE MOTOR VEHICLE AUTOMATION TO ATTAIN HIGHER LEVELS IN THE MOTOR VEHICLE CLASSIFICATION SYSTEM ADOPTED BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION, AND THE ADOPTION OF SUCH ADVANCEMENTS FOR USE IN COMMERCIAL AND GOVERNMENT MOTOR VEHICLE FLEETS AND PERSONAL MOTOR VEHICLES;

(c) SUMMARIZE THE ANTICIPATED SAFETY BENEFITS, INCLUDING BENEFITS TO TRANSPORTATION SYSTEMS ASSOCIATED WITH THE TRANSITION TO AUTOMATED COMMERCIAL AND GOVERNMENT MOTOR VEHICLE FLEETS AND PERSONAL MOTOR VEHICLES, AND SAFETY RISKS, INCLUDING CYBERSECURITY RISKS, OF AUTONOMOUS MOTOR VEHICLES;

(d) IDENTIFY ANY MODIFICATIONS OR ADDITIONS THAT EXISTING STATE TRANSPORTATION INFRASTRUCTURE MAY NEED TO ENABLE THE USE OF AUTONOMOUS MOTOR VEHICLES, THE TIMELINE FOR MAKING SUCH MODIFICATIONS OR ADDITIONS, AND THE ANTICIPATED COST OF MAKING SUCH MODIFICATIONS OR ADDITIONS; AND

(e) IDENTIFY AND SUMMARIZE LEGAL ISSUES RELATING TO THE USE OF AUTONOMOUS MOTOR VEHICLES.

(2) THE DEPARTMENT SHALL PRESENT THE REPORT TO THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE CREATED IN SECTION 43-2-145 (1) DURING THE 2025 LEGISLATIVE INTERIM.

(3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2026.

**SECTION 31.** In Colorado Revised Statutes, amend 43-1-219 as follows:

**43-1-219. Funds created.** There are hereby created two separate funds, one to be known as the state highway fund and the other to be known as the state highway supplementary fund. All ~~moneys~~ MONEY paid into

either of ~~said~~ THE funds shall be available immediately, without further appropriation, for the purposes of ~~such~~ THE fund as provided by law. MONEY TRANSFERRED TO THE STATE HIGHWAY FUND PURSUANT TO SECTION 24-75-219 (7)(c) AND (7)(f) AND ANY INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF SUCH MONEY MAY BE EXPENDED FOR MULTIMODAL PROJECTS, AS DEFINED IN SECTION 43-4-1102 (5). Any sums paid into the state treasury, which by law belong to the state highway fund or to the state highway supplementary fund, shall be immediately placed by the state treasurer to the credit of the appropriate fund. Upon request of the commission or of the chief engineer, it is the duty of the state treasurer to report to the commission or to the chief engineer the amount of money on hand in each of ~~said~~ THE two funds and the amounts derived from each source from which each such fund is accumulated. All accounts and expenditures from each of ~~said~~ THE two funds shall be certified by the chief engineer and paid by the state treasurer upon warrants drawn by the controller. The controller is authorized as directed to draw warrants payable out of the specified fund upon such vouchers properly certified and audited. Nothing in this part 2 shall operate to alter the manner of the execution and issuance of transportation revenue anticipation notes provided in part 7 of article 4 of this title TITLE 43.

**SECTION 32.** In Colorado Revised Statutes, 43-4-203, **amend** (1) introductory portion; and **add** (1)(f) and (1)(g) as follows:

**43-4-203. Sources of revenue.** (1) All net revenue from the following sources shall be paid into and credited to the highway users tax fund as soon as IT IS received:

(f) FROM THE IMPOSITION OF ELECTRIC MOTOR VEHICLE ROAD USAGE EQUALIZATION FEES PURSUANT TO SECTION 42-3-304 (25)(a.5); AND

(g) FROM THE IMPOSITION OF ROAD USAGE FEES PURSUANT TO SECTION 43-4-217 (3) AND (4).

**SECTION 33.** In Colorado Revised Statutes, 43-4-205, **amend** (6) introductory portion and (6)(b) introductory portion; and **add** (6.8) as follows:

**43-4-205. Allocation of fund.** (6) ~~Revenues~~ REVENUE raised by the excise tax imposed on gasoline and special fuel pursuant to sections



39-27-102 and 39-27-102.5 ~~C.R.S.~~, in excess of seven cents per gallon of tax shall be placed in the highway users tax fund to be allocated as follows; except that revenues REVENUE raised by the excise tax imposed on gasoline in excess of eighteen cents per gallon of tax shall be allocated according to the provisions of paragraph (b) of this subsection (6) SUBSECTION (6)(b) OF THIS SECTION:

(b) The remaining balance of such revenue may be expended only for improvements to highways within the state, including new construction, safety improvements, maintenance, and capacity improvements, and for other transportation-related projects to the extent authorized by SUBSECTION (6.8) OF THIS SECTION AND sections 43-4-206 (3), 43-4-207 (1), and 43-4-208 (1), and may not be expended for administrative purposes. Such revenue is allocated as follows:

(6.8) (a) REVENUE FROM THE ELECTRIC MOTOR VEHICLE FEE, THE ELECTRIC MOTOR VEHICLE ROAD USAGE EQUALIZATION FEE, AND THE COMMERCIAL ELECTRIC MOTOR VEHICLE FEE IMPOSED PURSUANT TO SECTION 42-3-304 (25) THAT IS CREDITED TO THE HIGHWAY USERS TAX FUND AS REQUIRED BY SECTION 42-3-304 (25)(a), (25)(a.5), AND (25)(a.7) AND REVENUE FROM THE ROAD USAGE FEES IMPOSED PURSUANT TO SECTION 43-4-217 (3) AND (4) THAT IS CREDITED TO THE HIGHWAY USERS TAX FUND AS REQUIRED BY SECTION 43-4-217 (8) MUST BE ALLOCATED AND EXPENDED IN ACCORDANCE WITH THE FORMULA SPECIFIED IN SUBSECTION (6)(b) OF THIS SECTION.

(b) (I) REVENUE FROM THE RETAIL DELIVERY FEE IMPOSED PURSUANT TO SECTION 43-4-218 (3) THAT IS CREDITED TO THE HIGHWAY USERS TAX FUND AS REQUIRED BY SECTION 43-4-218 (5)(a)(I) MUST BE ALLOCATED AND EXPENDED AS FOLLOWS:

(A) FORTY PERCENT MUST BE PAID TO THE STATE HIGHWAY FUND AND EXPENDED AS PROVIDED IN SECTION 43-4-206;

(B) THIRTY-THREE PERCENT MUST BE PAID TO THE COUNTY TREASURERS OF THE RESPECTIVE COUNTIES, SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, AND ALLOCATED AND EXPENDED AS PROVIDED IN SECTION 43-4-207; AND

(C) TWENTY-SEVEN PERCENT MUST BE PAID TO THE CITIES AND

INCORPORATED TOWNS, SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, AND MUST BE ALLOCATED AND EXPENDED AS PROVIDED IN SECTION 43-4-208 (2)(b) AND (6)(a).

(II) REVENUE FROM THE RETAIL DELIVERY FEE MAY BE EXPENDED FOR THE PURPOSES SPECIFIED IN SUBSECTION (6)(b) OF THIS SECTION AND MAY ALSO BE EXPENDED FOR TRANSIT-RELATED PROJECTS NEEDED TO INTEGRATE DIFFERENT TRANSPORTATION MODES WITHIN A MULTIMODAL TRANSPORTATION SYSTEM.

(c) MONEY TRANSFERRED FROM THE GENERAL FUND TO THE HIGHWAY USERS TAX FUND PURSUANT TO SECTION 24-75-219 (7)(a)(III) MUST BE ALLOCATED AND EXPENDED AS FOLLOWS:

(I) FIFTY-FIVE PERCENT MUST BE PAID TO THE COUNTY TREASURERS OF THE RESPECTIVE COUNTIES, SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, AND ALLOCATED AND EXPENDED AS PROVIDED IN SECTION 43-4-207;

(II) FORTY-FIVE PERCENT MUST BE PAID TO THE CITIES AND INCORPORATED TOWNS, SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, AND MUST BE ALLOCATED AND EXPENDED AS PROVIDED IN SECTION 43-4-208 (2)(b) AND (6)(a).

**SECTION 34.** In Colorado Revised Statutes, 43-4-206, **amend** (2)(b) introductory portion, (2)(b)(III), and (2)(b)(IV) as follows:

**43-4-206. State allocation.** (2) (b) Notwithstanding section 24-1-136 (11)(a)(I), beginning in 1998, the department of transportation shall report annually to the transportation committee of the senate and the transportation and energy committee of the house of representatives concerning the revenue expended by the department pursuant to subsection (2)(a) of this section and, beginning in 2019, ~~any state general fund money that is credited to the state highway fund pursuant to section 24-75-219 (5);~~ any net proceeds of lease-purchase agreements executed as required by section 24-82-1303 (2)(a) that are credited to the state highway fund pursuant to section 24-82-1303 (4)(b) and expended by the department pursuant to subsection (1)(b)(V) of this section. ~~and any net proceeds of transportation revenue anticipation notes issued as authorized by a ballot issue submitted to and approved by the registered electors of the state at the~~

~~2020 statewide election pursuant to section 43-4-705 (13)(b) that are credited to the state highway fund pursuant to this section. The department shall present the report at the joint meeting required under section 43-1-113 (9)(a), and the report shall describe for each fiscal year, if applicable:~~

(III) The projected amounts of revenue and net proceeds that the department expects to receive under this subsection (2) ~~section 24-75-219 (5); AND section 24-82-1303 (4)(b) and section 43-4-714 (1)(a)~~ during the fiscal year;

(IV) The amount of revenue and net proceeds that the department has already received under this subsection (2) ~~section 24-75-219 (5); AND section 24-82-1303 (4)(b) and section 43-4-714 (1)(a)~~ during the fiscal year; and

**SECTION 35.** In Colorado Revised Statutes, **add** 43-4-217 and 43-4-218 as follows:

**43-4-217. Additional funding - road usage fees - legislative declaration - definition.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) STATE MOTOR FUEL EXCISE TAXES LEVIED ON THE PURCHASE OF MOTOR FUELS REPRESENT THE LARGEST SOURCE OF STATE FUNDING FOR THE CONSTRUCTION, MAINTENANCE, AND SUPERVISION OF THE HIGHWAYS, ROADS, AND STREETS OF THE STATE;

(b) THE AMOUNT OF MOTOR FUEL TAXES PAID FOR MOTOR FUEL USED TO PROPEL A MOTOR VEHICLE BEARS A REASONABLE RELATIONSHIP TO THE VEHICLE'S USE OF AND IMPACT ON THE HIGHWAYS, ROADS, AND STREETS OF THE STATE BECAUSE THE AMOUNT OF MOTOR FUEL USED BY A VEHICLE IS IN LARGE PART A FUNCTION OF THE AMOUNT OF MILES TRAVELED BY THE VEHICLE AND THE WEIGHT OF THE VEHICLE;

(c) MOTOR FUEL TAX RATES HAVE NOT BEEN INCREASED IN OVER TWENTY-FIVE YEARS, AND MOTOR FUEL TAX REVENUE HAS NOT KEPT PACE AND WILL NOT KEEP PACE WITH INFLATION OR THE INCREASED TRANSPORTATION INFRASTRUCTURE DEMANDS OF THE GROWING POPULATION OF THE STATE BECAUSE:

(I) THE AMOUNT OF MOTOR FUEL TAX PAID DOES NOT DEPEND ON THE PRICE OF MOTOR FUEL AND THEREFORE DOES NOT INCREASE WHEN MOTOR FUEL PRICES INCREASE BUT INSTEAD DEPENDS ON THE QUANTITY OF MOTOR FUEL PURCHASED, WHICH FOR MOST DRIVERS DOES NOT INCREASE OVER TIME; AND

(II) MOTOR VEHICLES HAVE BECOME MORE FUEL-EFFICIENT OVER TIME;

(d) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF THE STATE TO MITIGATE THE DECLINING PURCHASING POWER OF MOTOR FUEL EXCISE TAXES BY COLLECTING A ROAD USAGE FEE FROM PERSONS WHO USE THE TRANSPORTATION SYSTEM TO TRAVEL BY MOTOR VEHICLE, BASING THE AMOUNT OF THE FEE ON REASONABLE ESTIMATES OF FEE PAYERS' USAGE OF AND IMPACT ON THE SYSTEM, AND USING FEE REVENUE SOLELY FOR THE CONSTRUCTION, MAINTENANCE, AND SUPERVISION OF THE HIGHWAYS OF THE STATE;

(e) BECAUSE MOTOR FUEL CONSUMPTION IS REASONABLY RELATED TO USE OF AND IMPACT ON THE TRANSPORTATION SYSTEM, IT IS FAIR TO FEE PAYERS, REASONABLE, AND APPROPRIATE TO CALCULATE THE AMOUNT OF THE ROAD USE FEE BASED ON THEIR MOTOR FUEL CONSUMPTION;

(f) IT IS ALSO FAIR TO FEE PAYERS, REASONABLE, AND APPROPRIATE TO STREAMLINE FEE COLLECTION BY COLLECTING THE ROAD USE FEE FROM DISTRIBUTORS OF MOTOR FUELS WHEN MOTOR FUEL TAXES ARE COLLECTED BECAUSE THE AMOUNT OF THE FEE WILL BE INCORPORATED INTO THE RETAIL PRICE OF MOTOR FUEL AND THEREFORE PASSED ON TO USERS OF THE TRANSPORTATION SYSTEM IN PRECISE PROPORTION TO THEIR CONSUMPTION OF MOTOR FUEL AND IN REASONABLE RELATION TO THEIR USE OF AND IMPACT ON THE TRANSPORTATION SYSTEM; AND

(g) IN ACCORDANCE WITH NUMEROUS COLORADO JUDICIAL PRECEDENTS, THE ROAD USAGE FEE AND THE BRIDGE AND TUNNEL IMPACT FEE IMPOSED AS AUTHORIZED BY SECTION 43-4-805 (5)(g.5) AND COLLECTED BY THE DEPARTMENT OF REVENUE ON BEHALF OF THE STATEWIDE BRIDGE AND TUNNEL ENTERPRISE PURSUANT TO THIS SECTION ARE FEES AND ARE NOT TAXES BECAUSE:

(I) THE FEES ARE IMPOSED NOT TO RAISE REVENUE FOR GENERAL

GOVERNMENTAL PURPOSES BUT INSTEAD ARE IMPOSED FOR THE SOLE PURPOSE OF FUNDING THE CONSTRUCTION, MAINTENANCE, AND SUPERVISION OF THE TRANSPORTATION SYSTEM, WITH A PRIORITY PLACED ON PROJECTS THAT ARE DESIGNATED AS TEN-YEAR VISION PROJECTS ON THE DEPARTMENT'S TEN-YEAR VISION PROJECT LIST;

(II) FEE REVENUE DEFRAYS COSTS INCURRED BY THE STATE IN FUNDING CONSTRUCTION, MAINTENANCE, AND SUPERVISION OF THE TRANSPORTATION SYSTEM THAT IS NECESSITATED BY INCREASED USE OF THE SYSTEM BY THE FEE PAYERS WHO USE MOTOR VEHICLES ON THE TRANSPORTATION SYSTEM; AND

(III) THE FEES ARE IMPOSED AT RATES THAT ARE REASONABLY CALCULATED TO DEFRAY THE COSTS OF PROVIDING THE SERVICE, ARE BASED ON THE USE AND IMPACT ON THE TRANSPORTATION SYSTEM BY FEE PAYERS, AND ARE THUS PROPORTIONAL TO THE BENEFITS RECEIVED BY FEE PAYERS.

(2) AS USED IN THIS SECTION:

(a) "GASOLINE" MEANS GASOLINE, AS DEFINED IN SECTION 39-27-101 (12), THAT IS TAXED AT THE RATE SPECIFIED IN SECTION 39-27-102 (1)(a)(II)(A).

(b) "INFLATION" MEANS THE AVERAGE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, NATIONAL HIGHWAY CONSTRUCTION COST INDEX OR ITS APPLICABLE PREDECESSOR OR SUCCESSOR INDEX FOR THE FIVE-YEAR PERIOD ENDING ON THE LAST DECEMBER 31 BEFORE A STATE FISCAL YEAR FOR WHICH AN ADJUSTMENT TO THE ROAD USAGE FEE IMPOSED PURSUANT TO SUBSECTION (3) OR (4) OF THIS SECTION IS TO BE MADE BEGINS.

(c) "SPECIAL FUEL" MEANS SPECIAL FUEL, AS DEFINED IN SECTION 39-27-101 (29), THAT IS TAXED AT THE RATE SPECIFIED IN SECTION 39-27-102 (1)(a)(II)(B). "SPECIAL FUEL" DOES NOT INCLUDE DIESEL FUEL AND KEROSENE TO WHICH INDELIBLE DYE MEETING FEDERAL REGULATIONS IS ADDED BEFORE OR UPON REMOVAL FROM A TERMINAL SO LONG AS SUCH FUEL IS NOT USED FOR A TAXABLE PURPOSE AS DESCRIBED IN SECTION 39-27-102.5 (1.5).

(3) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6) OF THIS SECTION, ON AND AFTER JULY 1, 2022, EACH DISTRIBUTOR OF GASOLINE THAT PAYS THE EXCISE TAX IMPOSED ON GASOLINE SHALL ALSO PAY, AT THE SAME TIME AND IN THE SAME MANNER AS THE EXCISE TAX, A ROAD USAGE FEE IN THE AMOUNT SPECIFIED IN SUBSECTION (3)(b)(I) OF THIS SECTION OR ANNUALLY CALCULATED BY THE DEPARTMENT OF REVENUE AS REQUIRED BY SUBSECTION (3)(b)(II) OR (3)(b)(III) OF THIS SECTION.

(b) (I) THE AMOUNT OF THE ROAD USAGE FEE FOR EACH GALLON OF GASOLINE ACQUIRED, SOLD, OFFERED FOR SALE, OR USED IN THIS STATE DURING STATE FISCAL YEARS 2022-23 THROUGH 2031-32, IS:

- (A) TWO CENTS PER GALLON FOR STATE FISCAL YEAR 2022-23;
- (B) THREE CENTS PER GALLON FOR STATE FISCAL YEAR 2023-24;
- (C) FOUR CENTS PER GALLON FOR STATE FISCAL YEAR 2024-25;
- (D) FIVE CENTS PER GALLON FOR STATE FISCAL YEAR 2025-26;
- (E) SIX CENTS PER GALLON FOR STATE FISCAL YEAR 2026-27;
- (F) SEVEN CENTS PER GALLON FOR STATE FISCAL YEAR 2027-28; AND
- (G) EIGHT CENTS PER GALLON FOR STATE FISCAL YEARS 2028-29 THROUGH 2031-32.

(II) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3)(b)(III) OF THIS SECTION, THE AMOUNT OF THE ROAD USAGE FEE FOR EACH GALLON OF GASOLINE ACQUIRED, SOLD, OFFERED FOR SALE, OR USED IN THIS STATE DURING STATE FISCAL YEAR 2032-33 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR IS THE SUM OF:

(A) THE NOMINAL AMOUNT OF EIGHT CENTS ON DECEMBER 31, 2030, ADJUSTED FOR INFLATION; AND

(B) THE DIFFERENCE BETWEEN THE NOMINAL AMOUNT OF TWENTY-TWO CENTS ON DECEMBER 31, 2030, ADJUSTED FOR INFLATION, AND THE NOMINAL AMOUNT OF TWENTY-TWO CENTS ON DECEMBER 31, 2030.

(III) AN ADJUSTMENT FOR INFLATION SHALL BE MADE PURSUANT TO SUBSECTION (3)(b)(II) OF THIS SECTION ONLY IF THE RATE OF INFLATION IS POSITIVE AND MUST BE THE LESSER OF THE ACTUAL RATE OF INFLATION OR FIVE PERCENT. THE DEPARTMENT OF REVENUE SHALL CALCULATE THE INFLATION ADJUSTED AMOUNT OF THE ROAD USAGE FEE FOR STATE FISCAL YEAR 2032-33 AND SHALL PUBLISH THE AMOUNT NO LATER THAN APRIL 15, 2032.

(4) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6) OF THIS SECTION, ON AND AFTER JULY 1, 2022, EACH DISTRIBUTOR OF SPECIAL FUEL THAT PAYS THE EXCISE TAX IMPOSED ON SPECIAL FUEL SHALL ALSO PAY, AT THE SAME TIME AND IN THE SAME MANNER AS THE EXCISE TAX, A ROAD USAGE FEE IN THE AMOUNT SPECIFIED IN SUBSECTION (4)(b)(I) OF THIS SECTION OR ANNUALLY CALCULATED BY THE DEPARTMENT OF REVENUE AS REQUIRED BY SUBSECTION (4)(b)(II) OF (4)(b)(III) OF THIS SECTION.

(b) (I) THE AMOUNT OF THE ROAD USAGE FEE FOR EACH GALLON OF SPECIAL FUEL ACQUIRED, SOLD, OFFERED FOR SALE, OR USED IN THIS STATE DURING STATE FISCAL YEARS 2022-23 THROUGH 2031-32 IS:

(A) TWO CENTS PER GALLON FOR STATE FISCAL YEAR 2022-23;

(B) THREE CENTS PER GALLON FOR STATE FISCAL YEAR 2023-24;

(C) FOUR CENTS PER GALLON FOR STATE FISCAL YEAR 2024-25;

(D) FIVE CENTS PER GALLON FOR STATE FISCAL YEAR 2025-26;

(E) SIX CENTS PER GALLON FOR STATE FISCAL YEAR 2026-27;

(F) SEVEN CENTS PER GALLON FOR STATE FISCAL YEAR 2027-28; AND

(G) EIGHT CENTS PER GALLON FOR STATE FISCAL YEARS 2028-29 THROUGH 2031-32.

(II) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4)(b)(III) OF THIS SECTION, THE AMOUNT OF THE ROAD USAGE FEE FOR EACH GALLON OF SPECIAL FUEL ACQUIRED, SOLD, OFFERED FOR SALE, OR USED IN THIS STATE DURING STATE FISCAL YEAR 2032-33 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR IS THE SUM OF:

(A) THE NOMINAL AMOUNT OF EIGHT CENTS ON DECEMBER 31, 2030, ADJUSTED FOR INFLATION; AND

(B) THE DIFFERENCE BETWEEN THE NOMINAL AMOUNT OF TWENTY AND ONE-HALF CENTS ON DECEMBER 31, 2030, ADJUSTED FOR INFLATION, AND THE NOMINAL AMOUNT OF TWENTY AND ONE-HALF CENTS ON DECEMBER 31, 2030.

(III) AN ADJUSTMENT FOR INFLATION SHALL BE MADE PURSUANT TO SUBSECTION (4)(b)(II) OF THIS SECTION ONLY IF THE RATE OF INFLATION IS POSITIVE AND MUST BE THE LESSER OF THE ACTUAL RATE OF INFLATION OR FIVE PERCENT. THE DEPARTMENT OF REVENUE SHALL CALCULATE THE INFLATION ADJUSTED AMOUNT OF THE ROAD USAGE FEE FOR STATE FISCAL YEAR 2032-33 AND SHALL PUBLISH THE AMOUNT NO LATER THAN APRIL 15, 2032.

(5) EACH DISTRIBUTOR OF SPECIAL FUEL THAT PAYS THE EXCISE TAX IMPOSED ON SPECIAL FUEL SHALL ALSO PAY, AT THE SAME TIME AND IN THE SAME MANNER AS THE EXCISE TAX AND THE ROAD USAGE FEE IMPOSED PURSUANT TO SUBSECTIONS (3) AND (4) OF THIS SECTION, A BRIDGE AND TUNNEL IMPACT FEE IN THE AMOUNT IMPOSED BY THE STATEWIDE BRIDGE AND TUNNEL ENTERPRISE AS AUTHORIZED BY SECTION 43-4-805 (5)(g.5). THE COLLECTION AND ADMINISTRATION OF THE BRIDGE AND TUNNEL IMPACT FEE BY THE DEPARTMENT OF REVENUE ON BEHALF OF THE STATEWIDE BRIDGE AND TUNNEL ENTERPRISE IS DONE ON BEHALF OF THE ENTERPRISE FOR THE PURPOSE OF MINIMIZING COMPLIANCE COSTS FOR DISTRIBUTORS AND ADMINISTRATIVE COSTS FOR THE STATE, AND ALL BRIDGE AND TUNNEL IMPACT FEE REVENUE IS REVENUE OF THE ENTERPRISE ONLY AND IS EXCLUDED FROM STATE FISCAL YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17).

(6) (a) A DISTRIBUTOR IS NOT REQUIRED TO PAY THE ROAD USAGE FEE IMPOSED BY SUBSECTION (3) OR (4) OF THIS SECTION OR THE BRIDGE AND TUNNEL IMPACT FEE IMPOSED AS AUTHORIZED BY SECTION 43-4-805 (5)(g.5), IF THE DISTRIBUTOR WOULD OTHERWISE BE LIABLE FOR THE EXCISE TAX ON THE GASOLINE OR SPECIAL FUEL SUBJECT TO THE FEE BUT IS ALLOWED TO SELL THE GASOLINE OR SPECIAL FUEL WITHOUT PAYMENT OF THE APPLICABLE EXCISE TAX PURSUANT TO SECTION 39-27-102 (1)(b)(II) OR SECTION 39-27-102.5 (2)(b).



(b) GASOLINE OR SPECIAL FUEL REMOVED FROM A TERMINAL IN THIS STATE BY A PERSON LICENSED AS AN EXPORTER PURSUANT TO SECTION 39-27-104 EXCLUSIVELY FOR DELIVERY TO ANOTHER STATE IS NOT SUBJECT TO THE ROAD USAGE FEE IMPOSED BY SUBSECTION (3) OR (4) OF THIS SECTION OR THE BRIDGE AND TUNNEL IMPACT FEE IMPOSED AS AUTHORIZED BY SECTION 43-4-805 (5)(g.5).

(c) THE BURDEN OF PROVING THAT GASOLINE OR SPECIAL FUEL IS NOT SUBJECT TO THE ROAD USAGE FEE IMPOSED BY SUBSECTION (3) OR (4) OF THIS SECTION OR THE BRIDGE AND TUNNEL IMPACT FEE IMPOSED AS AUTHORIZED BY SECTION 43-4-805 (5)(g.5) IS ON THE DISTRIBUTOR UNDER SUCH REASONABLE REQUIREMENTS OF PROOF AS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE MAY PRESCRIBE.

(7) THE COLLECTION, ADMINISTRATION, AND ENFORCEMENT OF THE ROAD USAGE FEES IMPOSED BY SUBSECTION (3) OR (4) OF THIS SECTION, AND THE BRIDGE AND TUNNEL IMPACT FEE IMPOSED AS AUTHORIZED BY SECTION 43-4-805 (5)(g.5) SHALL BE PERFORMED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE IN THE SAME MANNER AS THE COLLECTION, ADMINISTRATION, AND ENFORCEMENT OF STATE GASOLINE AND SPECIAL FUEL TAXES PURSUANT TO ARTICLE 27 OF TITLE 39. A DISTRIBUTOR WHO PAYS THE ROAD USAGE FEE AS REQUIRED BY SUBSECTION (3) OR (4) OF THIS SECTION SHALL REMIT THE FEE, TOGETHER WITH ANY BRIDGE AND TUNNEL IMPACT FEE THAT THE DISTRIBUTOR ALSO PAYS AS REQUIRED BY SECTION 43-4-805 (5)(g.5) AND SUBSECTION (5) OF THIS SECTION TO THE DEPARTMENT OF REVENUE AT THE SAME TIME AND IN THE SAME MANNER IN WHICH THE DISTRIBUTOR REMITS GASOLINE OR SPECIAL FUEL TAXES COLLECTED BY THE DISTRIBUTOR AS REQUIRED BY ARTICLE 27 OF TITLE 39. THE DEPARTMENT OF REVENUE MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION.

(8) IN ACCORDANCE WITH SECTION 43-4-203 (1)(f), THE STATE TREASURER SHALL CREDIT ALL ROAD USAGE FEE REVENUE COLLECTED AS REQUIRED BY THIS SECTION TO THE HIGHWAY USERS TAX FUND CREATED IN SECTION 43-4-201. IN ACCORDANCE WITH SECTION 43-4-805 (5)(g.5), THE STATE TREASURER SHALL CREDIT ALL BRIDGE AND TUNNEL IMPACT FEE REVENUE COLLECTED AS REQUIRED BY THIS SECTION TO THE STATEWIDE BRIDGE AND TUNNEL ENTERPRISE SPECIAL REVENUE FUND CREATED IN SECTION 43-4-805 (3)(a). ALL FEES CREDITED TO THE HIGHWAY USERS TAX FUND PURSUANT TO THIS SECTION SHALL BE ALLOCATED FROM THE HIGHWAY

USERS TAX FUND TO THE STATE, COUNTIES, AND MUNICIPALITIES AS REQUIRED BY SECTION 43-4-205 (6.8).

**43-4-218. Additional funding - retail delivery fee - fund created - simultaneous collection of enterprise fees - rules - legislative declaration - definitions.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) IN RECENT YEARS, THE NUMBER OF RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY, INCLUDING RESTAURANT FOOD, HAS RAPIDLY INCREASED, AND THIS RAPID GROWTH IS EXPECTED TO CONTINUE;

(b) THE WORLD ECONOMIC FORUM ESTIMATES THAT BY 2030 THERE WILL BE OVER THIRTY PERCENT MORE DELIVERY VEHICLES ON ROADS TO DELIVER SEVENTY-EIGHT PERCENT MORE PACKAGES, WHICH WILL INCREASE USAGE OF THE HIGHWAYS, ROADS, AND STREETS OF THE STATE BY MOTOR VEHICLES USED TO MAKE RETAIL DELIVERIES, TRAFFIC CONGESTION, AND RETAIL-DELIVERY-RELATED EMISSIONS;

(c) THIS ADDITIONAL USAGE HAS ACCELERATED AND IS EXPECTED TO CONTINUE TO ACCELERATE DETERIORATION OF SURFACE TRANSPORTATION SYSTEM INFRASTRUCTURE, AND HAS REQUIRED AND IS EXPECTED TO CONTINUE TO REQUIRE THE STATE, COUNTIES, AND MUNICIPALITIES TO PERFORM MORE MAINTENANCE AND RECONSTRUCTION OF STATE HIGHWAYS, COUNTY ROADS, AND CITY STREETS;

(d) THIS ADDITIONAL USAGE HAS ALSO INCREASED AND IS EXPECTED TO CONTINUE TO INCREASE MOTOR-VEHICLE-RELATED EMISSIONS OF AIR POLLUTANTS, INCLUDING OZONE PRECURSORS, PARTICULATE MATTER POLLUTANTS, OTHER HAZARDOUS AIR POLLUTANTS, AND GREENHOUSE GASES, THAT CONTRIBUTE TO ADVERSE ENVIRONMENTAL EFFECTS, INCLUDING BUT NOT LIMITED TO CLIMATE CHANGE, AND ADVERSE HUMAN HEALTH EFFECTS;

(e) IT IS THEREFORE NECESSARY AND APPROPRIATE:

(I) TO IMPOSE A RETAIL DELIVERY FEE AS SPECIFIED IN THIS SECTION AND TO CREDIT THE PROCEEDS OF THE FEE TO THE HIGHWAY USERS TAX FUND CREATED IN SECTION 43-4-201 FOR ALLOCATION TO THE STATE, COUNTIES, AND MUNICIPALITIES AND TO THE MULTIMODAL TRANSPORTATION

AND MITIGATION OPTIONS FUND CREATED IN SECTION 43-4-1103 (1)(a);

(II) TO AUTHORIZE THE COMMUNITY ACCESS ENTERPRISE CREATED IN SECTION 24-38.5-303 (1) TO IMPOSE A COMMUNITY ACCESS RETAIL DELIVERY FEE AS SPECIFIED IN SECTION 24-38.5-303 (7), AUTHORIZE THE CLEAN FLEET ENTERPRISE CREATED IN SECTION 25-7.5-103 (1)(a) TO IMPOSE A CLEAN FLEET RETAIL DELIVERY FEE AS SPECIFIED IN SECTION 25-7.5-103 (8), AUTHORIZE THE STATEWIDE BRIDGE AND TUNNEL ENTERPRISE CREATED IN SECTION 43-4-805 (2)(a)(I) TO IMPOSE A BRIDGE AND TUNNEL RETAIL DELIVERY FEE AS SPECIFIED IN SECTION 43-4-805 (5)(g.7), AUTHORIZE THE CLEAN TRANSIT ENTERPRISE CREATED IN SECTION 43-4-1203 (1)(a) TO IMPOSE A CLEAN TRANSIT RETAIL DELIVERY FEE AS SPECIFIED IN SECTION 43-4-1203 (7), AND AUTHORIZE THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE CREATED IN SECTION 43-4-1303 (1)(a) TO IMPOSE AN AIR POLLUTION MITIGATION RETAIL DELIVERY FEE AS SPECIFIED IN SECTION 43-1-1303 (8) TO HELP FUND THE ENTERPRISES' PURSUIT OF THEIR RESPECTIVE BUSINESS PURPOSES; AND

(III) FOR THE PURPOSE OF MINIMIZING COMPLIANCE COSTS FOR FEE PAYERS AND ADMINISTRATIVE COSTS FOR THE STATE, TO REQUIRE THE DEPARTMENT OF REVENUE TO COLLECT THE RETAIL DELIVERY FEES IMPOSED BY THE ENTERPRISES ON BEHALF OF THE ENTERPRISES WHEN IT COLLECTS THE RETAIL DELIVERY FEE IMPOSED BY SUBSECTION (3) OF THIS SECTION AND TO DISTRIBUTE THE ENTERPRISE FEE REVENUE TO THE ENTERPRISES.

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

(a) "ENTERPRISE RETAIL DELIVERY FEES" MEANS:

(I) THE COMMUNITY ACCESS RETAIL DELIVERY FEE IMPOSED BY THE COMMUNITY ACCESS ENTERPRISE CREATED IN SECTION 24-38.5-303 (1), AS SPECIFIED IN SECTION 24-38.5-303 (7);

(II) THE CLEAN FLEET RETAIL DELIVERY FEE IMPOSED BY THE CLEAN FLEET ENTERPRISE CREATED IN SECTION 25-7.5-103 (1)(a), AS SPECIFIED IN SECTION 25-7.5-103 (8);

(III) THE BRIDGE AND TUNNEL RETAIL DELIVERY FEE IMPOSED BY THE STATEWIDE BRIDGE AND TUNNEL ENTERPRISE CREATED IN SECTION

43-4-805 (2)(a)(I), AS SPECIFIED IN SECTION 43-4-805 (5)(g.7);

(IV) THE CLEAN TRANSIT RETAIL DELIVERY FEE IMPOSED BY THE CLEAN TRANSIT ENTERPRISE CREATED IN SECTION 43-4-1203 (1)(a) AS SPECIFIED IN SECTION 43-4-1203 (7); AND

(V) THE AIR POLLUTION MITIGATION RETAIL DELIVERY FEE IMPOSED BY THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE CREATED IN SECTION 43-4-1303 (1)(a) AS SPECIFIED IN SECTION 43-1-1303 (8).

(b) "INFLATION" MEANS THE AVERAGE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN CONSUMERS, OR ITS APPLICABLE PREDECESSOR OR SUCCESSOR INDEX, FOR THE FIVE YEARS ENDING ON THE LAST DECEMBER 31 BEFORE THE CALENDAR YEAR IN WHICH A STATE FISCAL YEAR FOR WHICH AN INFLATION ADJUSTMENT TO THE RETAIL DELIVERY FEE IMPOSED BY SUBSECTION (3) OF THIS SECTION IS TO BE MADE BEGINS.

(c) "MOTOR VEHICLE" HAS THE SAME MEANING AS SET FORTH IN SECTION 42-1-102 (58). THE TERM DOES NOT INCLUDE A PERSONAL DELIVERY DEVICE.

(d) "PERSONAL DELIVERY DEVICE" MEANS AN AUTONOMOUSLY OPERATED ROBOT THAT IS:

(I) DESIGNED AND MANUFACTURED FOR THE PURPOSE OF TRANSPORTING TANGIBLE PERSONAL PROPERTY PRIMARILY ON SIDEWALKS, CROSSWALKS, AND OTHER PUBLIC RIGHTS-OF-WAY THAT ARE TYPICALLY USED BY PEDESTRIANS;

(II) WEIGHS NO MORE THAN FIVE HUNDRED FIFTY POUNDS, EXCLUDING ANY TANGIBLE PERSONAL PROPERTY BEING TRANSPORTED; AND

(III) OPERATES AT SPEEDS OF LESS THAN TEN MILES PER HOUR WHEN ON SIDEWALKS, CROSSWALKS, AND OTHER PUBLIC RIGHTS-OF-WAY THAT ARE TYPICALLY USED BY PEDESTRIANS.

(e) "RETAIL DELIVERY" MEANS A RETAIL SALE OF TANGIBLE

PERSONAL PROPERTY BY A RETAILER FOR DELIVERY BY A MOTOR VEHICLE OWNED OR OPERATED BY THE RETAILER OR ANY OTHER PERSON TO THE PURCHASER AT A LOCATION IN THIS STATE, WHICH SALE INCLUDES AT LEAST ONE ITEM OF TANGIBLE PERSONAL PROPERTY THAT IS SUBJECT TO TAXATION UNDER ARTICLE 26 OF TITLE 39. EACH SUCH RETAIL SALE IS A SINGLE RETAIL DELIVERY REGARDLESS OF THE NUMBER OF SHIPMENTS NECESSARY TO DELIVER THE ITEMS OF TANGIBLE PERSONAL PROPERTY PURCHASED.

(f) "RETAILER" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (8).

(g) "RETAIL SALE" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (9).

(h) "TANGIBLE PERSONAL PROPERTY" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (15).

(3) (a) FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING STATE FISCAL YEAR 2022-23, EACH RETAILER WHO MAKES A RETAIL DELIVERY SHALL ADD TO THE PRICE OF THE RETAIL DELIVERY, COLLECT FROM THE PURCHASER, AND PAY TO THE DEPARTMENT OF REVENUE AT THE TIME AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION A RETAIL DELIVERY FEE IN THE AMOUNT OF EIGHT AND FOUR-TENTHS CENTS.

(b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3)(c) OF THIS SECTION, FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING STATE FISCAL YEAR 2023-24 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR, EACH RETAILER WHO MAKES A RETAIL DELIVERY SHALL ADD TO THE PRICE OF THE RETAIL DELIVERY, COLLECT FROM THE PURCHASER, AND PAY TO THE DEPARTMENT OF REVENUE AT THE TIME AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION A RETAIL DELIVERY FEE EQUAL TO THE AMOUNT OF THE RETAIL DELIVERY FEE FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING THE PRIOR STATE FISCAL YEAR ADJUSTED FOR INFLATION. THE DEPARTMENT OF REVENUE SHALL ANNUALLY CALCULATE THE INFLATION ADJUSTED AMOUNT OF THE RETAIL DELIVERY FEE TO BE IMPOSED ON RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING EACH STATE FISCAL YEAR AND SHALL PUBLISH THE AMOUNT NO LATER THAN APRIL 15 OF THE

CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS.

(II) THE DEPARTMENT OF REVENUE SHALL ADJUST THE AMOUNT OF THE RETAIL DELIVERY FEE FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING A STATE FISCAL YEAR ONLY IF INFLATION IS POSITIVE AND CUMULATIVE INFLATION FROM THE TIME OF THE LAST ADJUSTMENT IN THE AMOUNT OF THE RETAIL DELIVERY FEE, WHEN APPLIED TO THE SUM OF THE CURRENT RETAIL DELIVERY FEE AND ALL CURRENT ENTERPRISE RETAIL DELIVERY FEES AND ROUNDED TO THE NEAREST WHOLE CENT, WILL RESULT IN AN INCREASE OF AT LEAST ONE WHOLE CENT IN THE TOTAL AMOUNT OF THE RETAIL DELIVERY FEE AND ALL ENTERPRISE RETAIL DELIVERY FEES IMPOSED ON EACH RETAIL DELIVERY. THE AMOUNT OF CUMULATIVE INFLATION TO BE APPLIED TO THE SUM OF THE CURRENT RETAIL DELIVERY FEE AND ALL CURRENT ENTERPRISE RETAIL DELIVERY FEES AND ROUNDED TO THE NEAREST WHOLE CENT IS THE LESSER OF ACTUAL CUMULATIVE INFLATION OR FIVE PERCENT.

(c) A RETAIL DELIVERY THAT INCLUDES ONLY TANGIBLE PERSONAL PROPERTY, THE SALE OF WHICH IS EXEMPT FROM STATE SALES TAX UNDER ARTICLE 26 OF TITLE 39, IS EXEMPT FROM THE RETAIL DELIVERY FEE AND FROM THE ENTERPRISE RETAIL DELIVERY FEES. A RETAIL DELIVERY MADE TO A PURCHASER WHO IS EXEMPT FROM PAYING STATE SALES TAX UNDER ARTICLE 26 OF TITLE 39 IS EXEMPT FROM THE RETAIL DELIVERY FEE AND FROM THE ENTERPRISE RETAIL DELIVERY FEES.

(4) (a) FOR THE PURPOSE OF MINIMIZING COMPLIANCE COSTS FOR RETAILERS AND ADMINISTRATIVE COSTS FOR THE STATE, THE DEPARTMENT OF REVENUE SHALL, WHEN IT COLLECTS THE RETAIL DELIVERY FEE IMPOSED BY SUBSECTION (3) OF THIS SECTION, ALSO COLLECT ON BEHALF OF THE COMMUNITY ACCESS ENTERPRISE CREATED IN SECTION 24-38.5-303 (1), THE CLEAN FLEET ENTERPRISE CREATED IN SECTION 25-7.5-103 (1)(a), THE STATEWIDE BRIDGE AND TUNNEL ENTERPRISE CREATED IN SECTION 43-4-805 (2)(a)(I), THE CLEAN TRANSIT ENTERPRISE CREATED IN SECTION 43-1-1203 (1)(a), AND THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE CREATED IN SECTION 43-4-1303 (1)(a), THE ENTERPRISE RETAIL DELIVERY FEES.

(b) WHEN COLLECTING THE RETAIL DELIVERY FEE AND, IN ACCORDANCE WITH SUBSECTION (4)(a) OF THIS SECTION, THE ENTERPRISE RETAIL DELIVERY FEES, THE DEPARTMENT OF REVENUE SHALL RETAIN AN

AMOUNT THAT DOES NOT EXCEED THE TOTAL COST OF COLLECTING, ADMINISTERING, AND ENFORCING THE RETAIL DELIVERY FEE AND THE ENTERPRISE RETAIL DELIVERY FEES AND SHALL TRANSMIT THE AMOUNT RETAINED TO THE STATE TREASURER, WHO SHALL CREDIT IT TO THE RETAIL DELIVERY FEES FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY. ALL MONEY IN THE RETAIL DELIVERY FEES FUND IS CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT OF REVENUE TO DEFRAY THE COSTS INCURRED BY THE DEPARTMENT IN COLLECTING, ENFORCING, AND ADMINISTERING THE RETAIL DELIVERY FEE AND THE ENTERPRISE RETAIL DELIVERY FEES.

(5) (a) THE DEPARTMENT OF REVENUE SHALL TRANSMIT ALL NET REVENUE COLLECTED FROM THE RETAIL DELIVERY FEE IMPOSED BY SUBSECTION (3) OF THIS SECTION TO THE STATE TREASURER, WHO SHALL CREDIT THE NET REVENUE AS FOLLOWS:

(I) SEVENTY-ONE AND ONE-TENTH PERCENT SHALL BE CREDITED TO THE HIGHWAY USERS TAX FUND CREATED IN SECTION 43-4-201 AND ALLOCATED FROM THE HIGHWAY USERS TAX FUND TO THE STATE, COUNTIES, AND MUNICIPALITIES AS REQUIRED BY SECTION 43-4-205 (6.8); AND

(II) TWENTY-EIGHT AND NINE-TENTHS PERCENT SHALL BE CREDITED TO THE MULTIMODAL TRANSPORTATION AND MITIGATION OPTIONS FUND CREATED IN SECTION 43-4-1103 (1)(a);

(b) THE DEPARTMENT OF REVENUE SHALL TRANSMIT ALL NET REVENUE COLLECTED FROM ENTERPRISE RETAIL DELIVERY FEES TO THE STATE TREASURER WHO SHALL CREDIT THE NET REVENUE AS FOLLOWS:

(I) ALL NET COMMUNITY ACCESS RETAIL DELIVERY FEE REVENUE SHALL BE CREDITED TO THE COMMUNITY ACCESS ENTERPRISE FUND CREATED IN SECTION 24-38.5-303 (5);

(II) ALL NET CLEAN FLEET RETAIL DELIVERY FEE REVENUE SHALL BE CREDITED TO THE CLEAN FLEET ENTERPRISE FUND CREATED IN SECTION 25-7.5-103 (5);

(III) ALL NET BRIDGE AND TUNNEL RETAIL DELIVERY FEE REVENUE SHALL BE CREDITED TO THE STATEWIDE BRIDGE AND TUNNEL ENTERPRISE SPECIAL REVENUE FUND CREATED IN SECTION 43-4-805 (3)(a);

(IV) ALL NET CLEAN TRANSIT RETAIL DELIVERY FEE REVENUE SHALL BE CREDITED TO THE CLEAN TRANSIT ENTERPRISE FUND CREATED IN SECTION 43-4-1203 (5); AND

(V) ALL NET AIR POLLUTION MITIGATION RETAIL DELIVERY FEE REVENUE SHALL BE CREDITED TO THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE FUND CREATED IN SECTION 43-4-1303 (5).

(6) (a) EXCEPT TO THE EXTENT OTHERWISE AUTHORIZED OR REQUIRED BY THE DEPARTMENT OF REVENUE PURSUANT TO SUBSECTION (6)(d) OF THIS SECTION WITH RESPECT TO THE TIMING OF THE REMITTANCE OF FEES TO THE DEPARTMENT, THE COLLECTION, ADMINISTRATION, AND ENFORCEMENT OF THE RETAIL DELIVERY FEE IMPOSED BY SUBSECTION (3) OF THIS SECTION AND THE ENTERPRISE RETAIL DELIVERY FEES SHALL BE PERFORMED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE IN THE SAME MANNER AS THE COLLECTION, ADMINISTRATION, AND ENFORCEMENT OF STATE SALES TAX PURSUANT TO ARTICLE 26 OF TITLE 39.

(b) EVERY RETAILER WHO MAKES A RETAIL DELIVERY SHALL ADD THE RETAIL DELIVERY FEE IMPOSED BY SUBSECTION (3) OF THIS SECTION AND THE ENTERPRISE RETAIL DELIVERY FEES TO THE PRICE OR CHARGE FOR THE RETAIL DELIVERY SHOWING THE TOTAL OF THE FEES AS ONE ITEM CALLED "RETAIL DELIVERY FEES" THAT IS SEPARATE AND DISTINCT FROM THE PRICE AND ANY OTHER TAXES OR FEES IMPOSED ON THE RETAIL DELIVERY. WHEN ADDED, THE FEES CONSTITUTE A PART OF THE RETAIL DELIVERY PRICE OR CHARGE, ARE A DEBT FROM THE PURCHASER TO THE RETAILER UNTIL PAID, AND ARE RECOVERABLE AT LAW IN THE SAME MANNER AS OTHER DEBTS.

(c) EVERY RETAILER WHO MAKES A RETAIL DELIVERY IS LIABLE AND RESPONSIBLE FOR THE PAYMENT OF AN AMOUNT EQUIVALENT TO THE TOTAL AMOUNT OF THE RETAIL DELIVERY FEE IMPOSED BY SUBSECTION (3) OF THIS SECTION AND THE ENTERPRISE RETAIL DELIVERY FEES FOR EACH RETAIL DELIVERY MADE IRRESPECTIVE OF THE REQUIREMENTS OF SUBSECTION (6)(b) OF THIS SECTION. THE BURDEN OF PROVING THAT A RETAILER IS EXEMPT FROM COLLECTING THE FEES ON ANY RETAIL DELIVERY AND PAYING THE FEES TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE IS ON THE RETAILER UNDER SUCH REASONABLE REQUIREMENTS OF PROOF AS THE EXECUTIVE DIRECTOR MAY PRESCRIBE. THE RETAILER IS ENTITLED, AS COLLECTING AGENT FOR THE STATE, TO APPLY AND CREDIT THE AMOUNT OF THE RETAILER'S COLLECTIONS AGAINST THE AMOUNT TO BE PAID PURSUANT



TO THIS SUBSECTION (6)(c).

(d) A RETAILER WHO COLLECTS THE RETAIL DELIVERY FEE IMPOSED BY SUBSECTION (3) OF THIS SECTION AND THE ENTERPRISE RETAIL DELIVERY FEES SHALL REMIT THE FEES TO THE DEPARTMENT OF REVENUE AT THE SAME TIME AND IN THE SAME MANNER AS THE RETAILER REMITS SALES TAX REVENUE COLLECTED TO THE DEPARTMENT AS REQUIRED BY ARTICLE 26 OF TITLE 39 UNLESS THE DEPARTMENT REQUIRES OR AUTHORIZES THE FEES TO BE REMITTED AT ANOTHER TIME OR IN ANOTHER MANNER.

(e) ALL MONEY PAID TO A RETAILER AS A RETAIL DELIVERY FEE IMPOSED BY SUBSECTION (3) OF THIS SECTION, OR AS ONE OR MORE OF THE ENTERPRISE RETAIL DELIVERY FEES, SHALL BE AND REMAINS PUBLIC MONEY, THE PROPERTY OF THE STATE OF COLORADO, IN THE HANDS OF THE RETAILER, AND THE RETAILER SHALL HOLD THE MONEY IN TRUST FOR THE SOLE USE AND BENEFIT OF THE STATE OF COLORADO UNTIL PAID TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE, AND, FOR FAILURE TO PAY THE MONEY TO THE EXECUTIVE DIRECTOR, A RETAILER SHALL BE PUNISHED AS PROVIDED BY LAW. IF ANY RETAILER COLLECTS FEES IN EXCESS OF THE AMOUNT IMPOSED BY THIS SECTION AND SECTIONS 24-38.5-303 (7), 25-7.5-103 (8), 43-4-1203 (7), AND 43-4-1303 (8), THE RETAILER SHALL REMIT TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE THE FULL AMOUNT OF THE FEES AND ALSO THE FULL AMOUNT OF THE EXCESS.

(7) THE DEPARTMENT OF REVENUE MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION.

**SECTION 36.** In Colorado Revised Statutes, 43-4-602, amend (1.5), (2), and (12.5); and add (3.5) and (19) as follows:

**43-4-602. Definitions.** As used in this part 6, unless the context otherwise requires:

(1.5) "Authority" means a body corporate and political subdivision of the state created pursuant to this part 6 OR A TRANSPORTATION PLANNING ORGANIZATION EXERCISING THE POWERS OF AN AUTHORITY AS AUTHORIZED BY SECTION 43-4-622.

(2) "Board" means the board of directors of an authority OR OF A TRANSPORTATION PLANNING ORGANIZATION EXERCISING THE POWERS OF AN

AUTHORITY AS AUTHORIZED BY SECTION 43-4-622.

(3.5) "BOUNDARIES OF THE AUTHORITY" MEANS THE BOUNDARIES SPECIFIED IN THE CONTRACT CREATING THE AUTHORITY, AS MAY BE CHANGED IN THE MANNER PROVIDED IN SECTION 43-4-605 (2), OR THE BOUNDARIES OF THE TERRITORY IN WHICH A TRANSPORTATION PLANNING ORGANIZATION IS AUTHORIZED TO EXERCISE THE POWERS OF AN AUTHORITY AS SPECIFIED IN THE RESOLUTION AUTHORIZING THE TRANSPORTATION PLANNING ORGANIZATION TO EXERCISE THE POWERS OF AN AUTHORITY ADOPTED BY THE BOARD OF THE TRANSPORTATION PLANNING ORGANIZATION AS AUTHORIZED BY SECTION 43-4-622, AS MAY BE CHANGED IN THE MANNER PROVIDED IN SECTION 43-4-605 (2).

(12.5) "Region" means all of the territory within the boundaries of, and subject to the jurisdiction of, the governing body of any member of a combination that creates an authority pursuant to section 43-4-603 OR THE GOVERNING BODY OF ANY MEMBER OF A TRANSPORTATION PLANNING ORGANIZATION EXERCISING THE POWERS OF AN AUTHORITY AS AUTHORIZED BY SECTION 43-4-622.

(19) "TRANSPORTATION PLANNING ORGANIZATION" MEANS A METROPOLITAN PLANNING ORGANIZATION, AS DEFINED IN SECTION 43-1-1102 (4), OR A RURAL TRANSPORTATION PLANNING ORGANIZATION RESPONSIBLE FOR TRANSPORTATION PLANNING FOR A TRANSPORTATION PLANNING REGION, AS DEFINED IN SECTION 43-1-1102 (8).

**SECTION 37.** In Colorado Revised Statutes, 43-4-603, **amend** (1), (1.5), and (3); and **add** (2.5) as follows:

**43-4-603. Creation of authorities - exercise of powers of an authority by transportation planning organization.** (1) Any combination may create, by contract, an authority that is authorized to exercise the functions conferred by the provisions of this part 6 upon the issuance by the director of the division of a certificate stating that the authority has been duly organized according to the laws of the state. IN ADDITION, ANY TRANSPORTATION PLANNING ORGANIZATION MAY ADOPT A RESOLUTION AUTHORIZING IT TO EXERCISE THE POWERS OF AN AUTHORITY AS AUTHORIZED BY SECTION 43-4-622 UPON THE ISSUANCE BY THE DIRECTOR OF THE DIVISION OF A CERTIFICATE STATING THAT THE TRANSPORTATION PLANNING ORGANIZATION HAS BEEN DULY AUTHORIZED TO EXERCISE THE

POWERS OF AN AUTHORITY ACCORDING TO THE LAWS OF THE STATE. The combination joining in the creation of the authority OR THE TRANSPORTATION PLANNING ORGANIZATION ADOPTING A RESOLUTION AUTHORIZING IT TO EXERCISE THE POWERS OF AN AUTHORITY shall provide a copy of the contract OR RESOLUTION to the department of transportation for comment and, if the territory of the proposed authority OR THE TERRITORY IN WHICH THE TRANSPORTATION PLANNING ORGANIZATION IS AUTHORIZED TO EXERCISE THE POWERS OF AN AUTHORITY includes or borders any territory of the regional transportation district created in article 9 of title 32 C.R.S., or intersects with or is likely to divert vehicle traffic to or from a toll highway operated by a public highway authority established under part 5 of this ~~article~~ ARTICLE 4, shall also provide a copy of the contract OR RESOLUTION to the district or the affected public highway authority, as applicable, for comment. The combination OR TRANSPORTATION PLANNING ORGANIZATION shall also provide a copy of the contract OR RESOLUTION FOR COMMENT to each county and municipality that is not a member of the combination OR A MEMBER OF THE TRANSPORTATION PLANNING ORGANIZATION but that includes territory that borders the territory of the proposed authority ~~for comment~~ OR THE TERRITORY IN WHICH THE TRANSPORTATION PLANNING ORGANIZATION IS AUTHORIZED TO EXERCISE THE POWERS OF AN AUTHORITY. A TRANSPORTATION PLANNING ORGANIZATION ADOPTING A RESOLUTION AUTHORIZING IT TO EXERCISE THE POWERS OF AN AUTHORITY SHALL ALSO PROVIDE A COPY OF THE RESOLUTION FOR COMMENT TO ANY EXISTING AUTHORITY THAT INCLUDES OR BORDERS ANY OF THE TERRITORY IN WHICH THE TRANSPORTATION PLANNING ORGANIZATION WILL EXERCISE THE POWERS OF AN AUTHORITY AND TO THE REGIONAL TRANSPORTATION DISTRICT CREATED IN SECTION 32-9-105 IF THE REGIONAL TRANSPORTATION DISTRICT INCLUDES OR BORDERS ANY OF THAT TERRITORY. IF THE TRANSPORTATION PLANNING ORGANIZATION IS REQUIRED TO PROVIDE A COPY OF THE RESOLUTION FOR COMMENT TO THE REGIONAL TRANSPORTATION DISTRICT, IT SHALL ALSO COLLABORATE WITH THE DISTRICT AND ENSURE THAT THE DISTRICT'S SERVICES ARE TAKEN INTO CONSIDERATION AND PROTECTED WHEN THE ORGANIZATION PLANS TO EXERCISE AND EXERCISES THE POWERS OF AN AUTHORITY. The director shall issue the certificate upon the filing with the director of a copy of the contract by the combination joining in the creation of the authority OR A COPY OF THE RESOLUTION ADOPTED BY THE BOARD OF THE TRANSPORTATION PLANNING ORGANIZATION AUTHORIZING THE TRANSPORTATION PLANNING ORGANIZATION TO EXERCISE THE POWERS OF AN AUTHORITY. The director shall cause the certificate to be recorded in the real estate records in each

county having territory included in the boundaries of the authority. Upon issuance of the certificate by the director, ~~the AN authority shall constitute~~ CREATED BY A COMBINATION BY CONTRACT CONSTITUTES a separate political subdivision and body corporate of the state and shall have all of the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate.

(1.5) ~~On and after January 1, 2006,~~ If, after reviewing a contract that creates an authority OR A RESOLUTION AUTHORIZING A TRANSPORTATION PLANNING ORGANIZATION TO EXERCISE THE POWERS OF AN AUTHORITY provided pursuant to subsection (1) of this section, but in no event more than ninety days after a copy of the contract OR RESOLUTION is provided pursuant to subsection (1) of this section, the department of transportation, the regional transportation district created in article 9 of title 32, ~~C.R.S.~~, a bordering county or municipality, ~~or~~ a public highway authority established under part 5 of this ~~article~~ ARTICLE 4, OR, WITH RESPECT TO A RESOLUTION ONLY, AN EXISTING AUTHORITY, informs the combination that executed the contract OR THE TRANSPORTATION PLANNING ORGANIZATION THAT ADOPTED THE RESOLUTION that any portions of the regional transportation systems to be provided by the proposed authority that involve road construction or improvement, as specified in the contract OR RESOLUTION pursuant to ~~paragraph (a) of subsection (2) of this section~~ SUBSECTION (2)(a) OF THIS SECTION, and that are on, alter the physical structure of, or negatively impact safe operation of any highway, road, or street under its jurisdiction or will provide mass transportation services that impact the district, then, at the request of the affected entity, the combination OR THE TRANSPORTATION PLANNING ORGANIZATION shall enter into an intergovernmental agreement concerning the identified portions or mass transportation services with the department, the district, the bordering county or municipality, the public highway authority, THE EXISTING AUTHORITY, or any combination thereof, as applicable, within one hundred eighty days after a copy of the contract OR RESOLUTION was provided, ~~or~~ eliminate those portions or services from the list of projects specified in the contract before it submits the contract to a vote of the registered electors residing within the boundaries of the proposed authority as required by subsection (4) of this section, OR AMEND OR REPLACE THE RESOLUTION TO ELIMINATE THOSE PORTIONS OR SERVICES FROM THE LIST OF PROJECTS SPECIFIED IN THE RESOLUTION. When requesting that an intergovernmental agreement be entered into or that portions of a regional transportation system be eliminated due to a negative impact to safe operation of a highway, road, or street, the requesting entity shall

provide, at the time of the request, evidence of the negative impact. The intergovernmental agreement shall specify whatever terms the combination OR TRANSPORTATION PLANNING ORGANIZATION and the affected entity or entities deem necessary to avoid duplication of effort and to ensure coordinated transportation planning, efficient allocation of resources, and equitable sharing of costs. If the department is a party to the intergovernmental agreement, the agreement shall also describe in detail any effect on department funding of any portion of the state highway system within the proposed region that is expected to result from the creation of the proposed authority OR THE EXERCISE OF THE POWER OF AN AUTHORITY BY THE TRANSPORTATION PLANNING ORGANIZATION. Nothing in this subsection (1.5) shall be construed to preclude a combination, ~~or any~~ authority, OR TRANSPORTATION PLANNING ORGANIZATION EXERCISING THE POWERS OF AN AUTHORITY from entering into an intergovernmental agreement with the department, the district, a public highway authority, a bordering county or municipality, or any other governmental entity regarding any regional transportation system.

(2.5) A RESOLUTION AUTHORIZING A TRANSPORTATION PLANNING ORGANIZATION TO EXERCISE THE POWERS OF AN AUTHORITY ADOPTED AS AUTHORIZED BY SECTION 43-4-622 MUST SPECIFY:

(a) THE REGIONAL TRANSPORTATION SYSTEMS TO BE PROVIDED; AND

(b) THE BOUNDARIES OF THE TERRITORY IN WHICH THE TRANSPORTATION PLANNING ORGANIZATION IS AUTHORIZED TO EXERCISE THE POWERS OF AN AUTHORITY, WHICH MAY NOT INCLUDE:

(I) TERRITORY OUTSIDE OF THE BOUNDARIES OF THE MEMBERS OF THE TRANSPORTATION PLANNING ORGANIZATION;

(II) TERRITORY WITHIN THE BOUNDARIES OF AN EXISTING AUTHORITY WITHOUT THE APPROVAL OF THE EXISTING AUTHORITY;

(III) TERRITORY WITHIN THE BOUNDARIES OF A MUNICIPALITY THAT IS A MEMBER OF THE TRANSPORTATION PLANNING ORGANIZATION IF THE GOVERNING BODY OF THE MUNICIPALITY ADOPTS A RESOLUTION OBJECTING TO THE INCLUSION OF THE TERRITORY;

(IV) TERRITORY WITHIN THE BOUNDARIES OF A COUNTY THAT IS A

MEMBER OF THE TRANSPORTATION PLANNING ORGANIZATION IF THE GOVERNING BODY OF THE COUNTY ADOPTS A RESOLUTION OBJECTING TO THE INCLUSION OF THE TERRITORY;

(V) TERRITORY WITHIN THE BOUNDARIES OF A MUNICIPALITY THAT IS NOT A MEMBER OF THE TRANSPORTATION PLANNING ORGANIZATION AS THE BOUNDARIES OF THE MUNICIPALITY EXIST ON THE DATE THE RESOLUTION IS ADOPTED WITHOUT THE CONSENT OF THE GOVERNING BODY OF THE MUNICIPALITY; OR

(VI) TERRITORY WITHIN THE UNINCORPORATED BOUNDARIES OF A COUNTY THAT IS NOT A MEMBER OF THE TRANSPORTATION PLANNING ORGANIZATION AS THE UNINCORPORATED BOUNDARIES OF THE COUNTY EXIST ON THE DATE THE RESOLUTION IS ADOPTED WITHOUT THE CONSENT OF THE GOVERNING BODY OF THE COUNTY.

(3) No municipality, county, or special district shall enter into a contract establishing an authority AND NO TRANSPORTATION PLANNING ORGANIZATION SHALL ADOPT A RESOLUTION AUTHORIZING IT TO EXERCISE THE POWERS OF AN AUTHORITY AS AUTHORIZED BY SECTION 43-4-622 without holding at least two public hearings thereon in addition to other requirements imposed by law for public notice. The municipality, county, or special district, OR TRANSPORTATION PLANNING ORGANIZATION shall give notice of the time, place, and purpose of the public hearing by publication in a newspaper of general circulation in the municipality, county, or special district, OR TERRITORY OF THE TRANSPORTATION PLANNING ORGANIZATION as the case may be, at least ten days prior to the date of the public hearing.

**SECTION 38.** In Colorado Revised Statutes, 43-4-604, **amend** (3)(i) as follows:

**43-4-604. Board of directors.** (3) The board, in addition to all other powers conferred by this part 6, has the following powers:

(i) AS APPLICABLE, to amend the contract that created the authority to the extent that any amendment procedures specified in the contract pursuant to section 43-4-603 (2)(f) authorize the board, rather than the members of the combination that are parties to the contract, to amend the contract OR TO AMEND OR REPLACE THE RESOLUTION AUTHORIZING THE TRANSPORTATION PLANNING ORGANIZATION TO EXERCISE THE POWERS OF

AN AUTHORITY ADOPTED AS AUTHORIZED BY SECTION 43-4-622.

**SECTION 39.** In Colorado Revised Statutes, 43-4-605, **amend** (1) introductory portion, (1)(f), (1)(i), (1)(i.5)(I) introductory portion, (1)(j)(I), and (2)(a) as follows:

**43-4-605. Powers of the authority - inclusion or exclusion of property - determination of regional transportation system alignment - fund created - repeal.** (1) In addition to any other powers granted to ~~the~~ AN authority pursuant to this part 6, ~~the~~ AN authority has the following powers:

(f) To finance, construct, operate, or maintain regional transportation systems within or without the boundaries of the authority; except that the authority shall not construct regional transportation systems in any territory located outside the boundaries of the authority and within the boundaries of a municipality as the boundaries of the municipality exist on the date the authority is created without the consent of the governing body of the municipality; outside the boundaries of the authority and within the unincorporated boundaries of a county as the unincorporated boundaries of the county exist on the date the authority is created without the consent of the governing body of the county; or inside or outside the boundaries of the authority if the regional transportation systems would alter the state highway system, as defined in section 43-2-101 (1), or the interstate system, as defined in section 43-2-101 (2), except as authorized by an intergovernmental agreement entered into by the members of the combination that created the authority OR THE TRANSPORTATION PLANNING ORGANIZATION EXERCISING THE POWERS OF AN AUTHORITY and the department of transportation as required by section 43-4-603 (1.5);

(i) To impose an annual motor vehicle registration fee of not more than ten dollars for each motor vehicle registered with the authorized agent, as defined in section 42-1-102, of the county by persons residing in all or any designated portion of the members of the combination OR OF THE MEMBERS OF THE TRANSPORTATION PLANNING ORGANIZATION EXERCISING THE POWERS OF AN AUTHORITY AS AUTHORIZED BY SECTION 43-4-622; except that the authority shall not impose a motor registration fee with respect to motor vehicles registered to persons residing outside the boundaries of the authority and within the boundaries of a municipality as the boundaries of the municipality exist on the date the authority is created

OR THE RESOLUTION AUTHORIZING THE TRANSPORTATION PLANNING ORGANIZATION TO EXERCISE THE POWERS OF AN AUTHORITY IS ADOPTED without the consent of the governing body of the municipality or outside the boundaries of the authority and within the unincorporated boundaries of a county as the unincorporated boundaries of the county exist on the date the authority is created without the consent of the governing body of the county. The registration fee is in addition to any fee or tax imposed by the state or any other governmental unit. If a motor vehicle is registered in a county that is a member of more than one authority, the total of all fees imposed pursuant to this subsection (1)(i) for ~~any such~~ THE motor vehicle shall not exceed ten dollars. The authorized agent of the county in which the registration fee is imposed shall collect the fee and remit the fee to the authority. The authority shall apply the registration fees solely to the financing, construction, operation, or maintenance of regional transportation systems that are consistent with the expenditures specified in section 18 of article X of the state constitution.

(i.5) (I) Subject to the provisions of section 43-4-612, to impose, in all or any designated portion of the members of the combination OR OF THE MEMBERS OF THE TRANSPORTATION PLANNING ORGANIZATION EXERCISING THE POWERS OF AN AUTHORITY AS AUTHORIZED BY SECTION 43-4-622, a visitor benefit tax on persons who purchase overnight rooms or accommodations in any amount that would not cause the aggregate amount of the visitor benefit tax and any lodging tax imposed on such overnight rooms or accommodations to exceed two percent of the price of such overnight rooms or accommodations; except that the authority shall not impose ~~any such~~ A visitor benefit tax on overnight rooms or accommodations that are in any territory:

(j) (I) Subject to the provisions of section 43-4-612, to levy, in all or any designated portion of the members of the combination OR OF THE MEMBERS OF THE TRANSPORTATION PLANNING ORGANIZATION EXERCISING THE POWERS OF AN AUTHORITY AS AUTHORIZED BY SECTION 43-4-622, a sales or use tax, or both, at a rate not to exceed one percent upon every transaction or other incident with respect to which a sales or use tax is levied by the state; except that, ~~on and after January 1, 2006~~, if the authority includes territory that is within the regional transportation district created and existing pursuant to article 9 of title 32, ~~C.R.S.~~, a designated portion of the members of the combination OR OF THE MEMBERS OF THE TRANSPORTATION PLANNING ORGANIZATION in which a new tax is levied



~~shall~~ MUST be composed of entire territories of members of the combination OR OF THE MEMBERS OF THE TRANSPORTATION PLANNING ORGANIZATION so that the rate of tax imposed pursuant to this part 6 within the territory of any single member of the combination OR OF THE MEMBERS OF THE TRANSPORTATION PLANNING ORGANIZATION is uniform and except that the authority shall not levy a sales or use tax on any transaction or other incident occurring in any territory located outside the boundaries of the authority and within the boundaries of a municipality as the boundaries of the municipality exist on the date the authority is created without the consent of the governing body of the municipality or outside the boundaries of the authority and within the unincorporated boundaries of a county as the unincorporated boundaries exist on the date the authority is created without the consent of the governing body of the county. Subject to the provisions of section 43-4-612, the authority may elect to levy any such sales or use tax at different rates in different designated portions of the members of the combination OR OF THE MEMBERS OF THE TRANSPORTATION PLANNING ORGANIZATION; except that, ~~on and after January 1, 2006~~, if the authority includes territory that is within the regional transportation district, a designated portion of the members of the combination OR OF THE MEMBERS OF THE TRANSPORTATION PLANNING ORGANIZATION in which a new tax is levied ~~shall~~ MUST be composed of entire territories of members of the combination OR OF THE MEMBERS OF THE TRANSPORTATION PLANNING ORGANIZATION so that the rate of tax imposed pursuant to this part 6 within the territory of any single member of the combination OR OF THE TRANSPORTATION PLANNING ORGANIZATION is uniform. If the authority so elects, it shall submit a single ballot question that lists all of the different rates to the registered electors of all designated portions of the members of the combination OR OF THE TRANSPORTATION PLANNING ORGANIZATION in which the proposed sales or use tax is to be levied. The tax imposed pursuant to this ~~paragraph (j)~~ SUBSECTION (1)(j) is in addition to any other sales or use tax imposed pursuant to law. If a member of the combination OR OF THE TRANSPORTATION PLANNING ORGANIZATION is located within more than one authority, the sales or use tax, or both, authorized by this ~~paragraph (j)~~ SUBSECTION (1)(j) shall not exceed one percent upon every transaction or other incident with respect to which a sales or use tax is levied by the state. The executive director of the department of revenue shall collect, administer, and enforce the sales or use tax, to the extent feasible, in the manner provided in section 29-2-106. ~~C.R.S.~~ The director shall make monthly distributions of the tax collections to the authority, which shall apply the proceeds solely to the financing, construction,

operation, or maintenance of regional transportation systems. The department shall retain an amount not to exceed the ~~net incremental~~ TOTAL cost of the collection, administration, and enforcement and shall transmit the amount to the state treasurer, who shall credit the same to the regional transportation authority sales tax fund, which fund is hereby created. The amounts so retained are hereby appropriated annually from the fund to the department to the extent necessary for the department's collection, administration, and enforcement of ~~the provisions of~~ this part 6. Any ~~moneys~~ MONEY remaining in the fund attributable to taxes collected in the prior fiscal year shall be transmitted to the authority; except that, prior to the transmission to the authority of such ~~moneys~~ MONEY, any ~~moneys~~ MONEY appropriated from the general fund to the department for the collection, administration, and enforcement of the tax for the prior fiscal year shall be repaid.

(2) (a) The board may include property within or exclude property from the boundaries of the authority in the manner provided in this subsection (2). Property may not be included within the boundaries of the authority unless it is within the boundaries of the members of the combination OR OF THE TRANSPORTATION PLANNING ORGANIZATION EXERCISING THE POWERS OF AN AUTHORITY AS AUTHORIZED BY SECTION 43-4-622 at the time of the inclusion. Property located within the boundaries of a municipality that is not a member of the combination OR OF THE TRANSPORTATION PLANNING ORGANIZATION as the boundaries of the municipality exist on the date the property is included may not be included without the consent of the governing body of ~~such~~ THE municipality, and property within the unincorporated boundaries of a county that is not a member of the combination OR OF THE TRANSPORTATION PLANNING ORGANIZATION as the unincorporated boundaries of the county exist on the date the property is included may not be included without the consent of the governing body of ~~such~~ THE county.

**SECTION 40.** In Colorado Revised Statutes, 43-4-611, **amend** (2) as follows:

**43-4-611. Powers of governmental units.** (2) To assist in the financing, construction, operation, or maintenance of a regional transportation system, any county, municipality, or special district that is a member of a combination OR OF A TRANSPORTATION PLANNING ORGANIZATION EXERCISING THE POWERS OF AN AUTHORITY AS AUTHORIZED

BY SECTION 43-4-622 may, by contract, pledge to the authority all or a portion of the revenues it receives from the highway users tax fund or from any other legally available funds. The authority shall apply revenues that it receives pursuant to the pledge to the financing, construction, operation, or maintenance of any regional transportation system. The authority may refuse to accept any revenues that would cause a member of the combination OR OF THE TRANSPORTATION PLANNING ORGANIZATION to exceed its allowable fiscal year spending under section 20 of article X of the state constitution and that could result in a refund of excess revenues under said section 20.

**SECTION 41.** In Colorado Revised Statutes, 43-4-612, **amend** (1) as follows:

**43-4-612. Referendum.** (1) (a) No action by an authority to establish or increase any tax authorized by this part 6 shall take effect unless first submitted to a vote of the registered electors of that portion of the combination OR THAT PORTION OF THE TERRITORY IN WHICH A TRANSPORTATION PLANNING ORGANIZATION IS AUTHORIZED TO EXERCISE THE POWERS OF AN AUTHORITY in which the tax is proposed to be collected.

(b) THE EFFECTIVE DATE OF ANY SALES OR USE TAX ADOPTED UNDER THIS PART 6 MUST BE EITHER JANUARY 1 OR JULY 1 FOLLOWING THE DATE OF THE ELECTION IN WHICH THE SALES OR USE TAX IS APPROVED, AND THE BOARD SHALL NOTIFY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE OF THE ADOPTION OF A SALES OR USE TAX PROPOSAL AT LEAST FORTY-FIVE DAYS PRIOR TO THE EFFECTIVE DATE OF THE TAX. IF A SALES OR USE TAX PROPOSAL IS APPROVED AT AN ELECTION HELD LESS THAN FORTY-FIVE DAYS PRIOR TO THE JANUARY 1 OR JULY 1 FOLLOWING THE DATE OF THE ELECTION, THE TAX SHALL NOT BE EFFECTIVE UNTIL THE NEXT SUCCEEDING JANUARY 1 OR JULY 1.

**SECTION 42.** In Colorado Revised Statutes, **amend** 43-4-615 as follows:

**43-4-615. Agreement of the state not to limit or alter rights of obligees.** The state hereby pledges and agrees with the holders of any bonds issued under this part 6 and with those parties who enter into contracts with an authority or any member of ~~the~~ A combination OR MEMBER OF A TRANSPORTATION PLANNING ORGANIZATION EXERCISING THE POWERS OF AN

AUTHORITY AS AUTHORIZED BY SECTION 43-4-622 pursuant to this part 6 that the state will not impair the rights vested in the authority or the rights or obligations of any person with which the authority contracts to fulfill the terms of any agreements made pursuant to this part 6. The state further agrees that it will not impair the rights or remedies of the holders of any bonds of the authority until the bonds have been paid or until adequate provision for payment has been made. The authority may include this provision and undertaking for the state in such THE bonds.

**SECTION 43.** In Colorado Revised Statutes, add 43-4-622 as follows:

**43-4-622. Exercise of authority powers by transportation planning organization.** (1) BY ADOPTING A RESOLUTION, THE BOARD OF A TRANSPORTATION PLANNING ORGANIZATION MAY AUTHORIZE ITSELF TO EXERCISE SOME OR ALL OF THE POWERS OF AN AUTHORITY SET FORTH IN THIS PART 6 WITHIN THE REGION OR ANY PORTION OF THE REGION OF THE TRANSPORTATION PLANNING ORGANIZATION.

(2) THE EXERCISE OF THE POWERS OF AN AUTHORITY BY A TRANSPORTATION PLANNING ORGANIZATION IS SUBJECT TO ALL REQUIREMENTS AND LIMITATIONS SET FORTH IN THIS PART 6 OR ANY OTHER LAW INCLUDING, BUT NOT LIMITED TO:

(a) THE NOTICE REQUIREMENTS SET FORTH IN SECTIONS 43-4-603 (1), 43-4-613, AND 43-4-614 (1);

(b) THE INTERGOVERNMENTAL AGREEMENT AND SERVICES ELIMINATION REQUIREMENTS SET FORTH IN SECTION 43-4-603 (1.5);

(c) THE PUBLIC HEARING REQUIREMENTS SET FORTH IN SECTION 43-4-603 (3);

(d) THE LIMITATIONS ON THE BOARD DELEGATING CERTAIN POWERS SET FORTH IN SECTION 43-4-604 (1);

(e) ALL REQUIREMENTS SET FORTH IN THIS PART 6 THAT REQUIRE THE CONSENT OF A COUNTY OR MUNICIPALITY THAT IS NOT A MEMBER OF THE TRANSPORTATION PLANNING ORGANIZATION TO OPERATIONS, TAXATION, OR OTHER ACTIVITIES WITHIN ITS TERRITORY;

(f) ALL BOARD SUPER-MAJORITY VOTING REQUIREMENTS SET FORTH IN THIS PART 6; AND

(g) THE VOTER APPROVAL REQUIREMENTS SET FORTH IN SECTION 43-4-612.

(3) BEFORE COMMENCING CONSTRUCTION OF A REGIONAL TRANSPORTATION SYSTEM, A TRANSPORTATION PLANNING ORGANIZATION EXERCISING THE POWERS OF AN AUTHORITY SHALL COMPLY WITH THE PROCEDURES AND GUIDELINES ADOPTED BY THE TRANSPORTATION COMMISSION PURSUANT TO SECTION 43-1-128 (3) AND ANALYZE AND DOCUMENT TO THE DEPARTMENT OF TRANSPORTATION THE SYSTEM'S ANTICIPATED IMPACTS ON THE ACHIEVEMENT OF THE STATE GREENHOUSE GAS POLLUTION GOALS SET FORTH IN SECTION 25-7-102 (2)(g) AND ON COMPLIANCE WITH APPLICABLE STANDARDS UNDER THE ATTAINMENT PROGRAM CREATED AND DEVELOPED PURSUANT TO PART 3 OF ARTICLE 7 OF TITLE 25. UPON THE REQUEST OF A RURAL TRANSPORTATION PLANNING ORGANIZATION, THE DEPARTMENT OF TRANSPORTATION SHALL PROVIDE TECHNICAL ASSISTANCE TO FACILITATE THE COMPLETION OF THE ANALYSIS.

(4) NOTWITHSTANDING ANY PROVISION OF THIS PART 6 TO THE CONTRARY, A TRANSPORTATION PLANNING ORGANIZATION MAY NOT EXERCISE ANY OF THE POWERS OF AN AUTHORITY WITHIN THE BOUNDARIES OF AN EXISTING AUTHORITY WITHOUT THE PRIOR APPROVAL OF THE BOARD OF THE EXISTING AUTHORITY BY ADOPTION OF A RESOLUTION BY THE AFFIRMATIVE VOTE OF TWO-THIRDS OF THE DIRECTORS OF THE BOARD. THE BOARD OF THE EXISTING AUTHORITY SHALL FILE ANY SUCH RESOLUTION ADOPTED WITH THE DIRECTOR OF THE DIVISION. THE DIRECTOR OF THE DIVISION SHALL NOT ISSUE THE CERTIFICATE REQUIRED BY SECTION 43-4-603 (1) TO A TRANSPORTATION PLANNING ORGANIZATION, IF THE TRANSPORTATION PLANNING ORGANIZATION IS ATTEMPTING TO EXERCISE THE POWERS OF AN AUTHORITY WITHIN THE BOUNDARIES OF AN EXISTING AUTHORITY WITHOUT THE EXISTING AUTHORITY'S DULY ADOPTED AND FILED RESOLUTION OF APPROVAL.

**SECTION 44.** In Colorado Revised Statutes, 43-4-705, **repeal** (2)(a)(II.5) and (13)(b) as follows:

**43-4-705. Revenue anticipation notes - ballot issue - repeal.**  
(2) (a) Subject to the provisions of this subsection (2), the principal of and

interest on revenue anticipation notes and any costs associated with the issuance and administration of such notes shall be payable solely from:

~~(II.5) Money transferred from the general fund to the state highway fund pursuant to section 24-75-219 (5)(c); and~~

~~(13) (b) (I) Subject to voter approval of the ballot issue submitted at the November 2021 statewide election pursuant to subsection (13)(b)(III) of this section and the repayment funding commitment requirement specified in subsection (13)(b)(II) of this section, the executive director shall issue additional transportation revenue anticipation notes in a maximum amount of one billion three hundred thirty-seven million dollars and with a maximum repayment cost of one billion eight hundred sixty-five million dollars. The maximum repayment term for any notes issued pursuant to this subsection (13)(b) is twenty years, and the certificate, trust indenture, or other instrument authorizing their issuance shall provide that the state may pay the notes in full without penalty no later than ten years following the date of issuance.~~

~~(II) Notwithstanding section 43-1-113 (19) and subsection (12)(a) of this section, before issuing any revenue anticipation notes as authorized by subsection (13)(b)(I) of this section, the transportation commission shall adopt a resolution in which it agrees, subject to the requirements of section 43-4-706 (2), that it intends to annually allocate from legally available money under its control any amount needed for payment of the notes until the notes are fully repaid. The commission shall first allocate for payment of the notes money transferred from the general fund to the state highway fund pursuant to section 24-75-219 (5)(b) and any money allocated by the commission from the transportation revenue anticipation notes reserve account created in section 43-4-714 (2) and thereafter shall allocate for payment of the notes any other legally available money under its control.~~

~~(III) The secretary of state shall submit to the registered electors of the state for their approval or rejection at the November 2021 statewide election the following ballot issue: "Shall state of Colorado debt be increased \$1,337,000,000, with a maximum repayment cost of \$1,865,000,000, without raising taxes, through the issuance of transportation revenue anticipation notes for the purpose of addressing critical priority transportation needs in the state by financing transportation projects, shall note proceeds and investment earnings on note proceeds be~~

~~excluded from state fiscal year spending limits, and shall the amount of lease-purchase agreements required by current law to be issued for the purpose of financing transportation projects be reduced?"~~

~~(IV) No later than May 1, 2021, the department shall provide to the director of research of the legislative council the most recent available list of qualified federal aid transportation projects, including multimodal capital projects, that are designated for tier 1 funding as ten-year development program projects on the department's 2021 development program project list and that the department will fund with proceeds of any transportation revenue anticipation notes issued as authorized by this subsection (13)(b). In order to fully inform the voters of the state concerning the projects to be funded with proceeds of any such additional transportation revenue anticipation notes before the voters vote on the ballot question specified in subsection (13)(b)(III) of this section, the director of research shall publish the list, including any subsequent updates to the list made before final approval by the legislative council of the 2021 ballot information booklet prepared pursuant to section 1-40-124.5, which updates the department shall expeditiously provide to the director of research, in the ballot information booklet.~~

~~(V) (A) (Deleted by amendment, L. 2019.)~~

~~(B) This subsection (13)(b) is repealed, effective January 1, 2022, if a majority of the electors voting on the ballot issue in subsection (13)(b)(III) of this section vote "No/Against".~~

~~(C) This subsection (13)(b)(V) is repealed, effective January 1, 2022, if a majority of the electors voting on the ballot issue in subsection (13)(b)(III) of this section vote "Yes/For".~~

**SECTION 45.** In Colorado Revised Statutes, 43-4-802, **amend** (2)(c), (2)(d), (2)(f), and (3)(a) introductory portion as follows:

**43-4-802. Legislative declaration.** (2) The general assembly further finds and declares that:

(c) Increasing funding for designated bridge projects, TUNNEL PROJECTS, and road safety projects in the short- and medium-term through the imposition of bridge and road safety surcharges, A BRIDGE AND TUNNEL

IMPACT FEE, and other new fees at rates reasonably calculated based on the benefits received by the persons paying the fees will not only provide funding to complete the projects but will also accelerate the state's economic recovery by increasing bridge, TUNNEL, and road construction, repair, reconstruction, and maintenance activity, as well as related economic activity, and by employing significant numbers of Coloradans;

(d) The creation of a statewide bridge AND TUNNEL enterprise authorized to complete designated bridge projects AND TUNNEL PROJECTS, to impose a bridge safety surcharge AND A BRIDGE AND TUNNEL IMPACT FEE and issue revenue bonds, and, if required approvals are obtained, to contract with the state to receive one or more loans of moneys received by the state under the terms of one or more lease-purchase agreements authorized by this part 8 and to use the revenues generated by the bridge safety surcharge AND THE BRIDGE AND TUNNEL IMPACT FEE to repay any such loan or loans, will improve the safety and efficiency of the state transportation system by allowing the state to accelerate the repair, reconstruction, and replacement of structurally deficient, functionally obsolete, and rated as poor bridges AND REPAIR, MAINTAIN, AND MORE SAFELY OPERATE TUNNELS;

(f) Granting the bridge enterprise and the transportation enterprise both responsibility for the completion, respectively, of designated bridge projects AND TUNNEL PROJECTS and other important surface transportation projects and the flexibility to execute their respective missions in a variety of innovative ways will ensure that available resources for such projects are efficiently and effectively leveraged so that both the projects and the state's economic recovery can be completed as quickly as possible.

(3) The general assembly further finds and declares that:

(a) While it is necessary, appropriate, and in the best interests of the state to fund designated bridge projects, TUNNEL PROJECTS, and highway safety projects and stimulate economic recovery in the short- and medium-term, the state must also develop a long-term strategy to provide sustainable long-term revenue streams dedicated for the construction of important surface transportation infrastructure projects and the continuing maintenance, repair, and reconstruction of the statewide surface transportation system that will:

**SECTION 46.** In Colorado Revised Statutes, 43-4-803, **amend** (4)



and (7); and **add** (26.5) as follows:

**43-4-803. Definitions.** As used in this part 8, unless the context otherwise requires:

(4) "Bridge enterprise" means the statewide bridge AND TUNNEL enterprise created in section 43-4-805 (2).

(7) "Bridge special fund" means the statewide bridge AND TUNNEL enterprise special revenue fund created in section 43-4-805 (3)(a).

(26.5) "TUNNEL PROJECT" MEANS A PROJECT TO REPAIR, MAINTAIN, OR ENHANCE THE OPERATION OF ANY TUNNEL THAT IS PART OF THE STATE HIGHWAY SYSTEM.

**SECTION 47.** In Colorado Revised Statutes, 43-4-804, **amend** (1)(a)(I) introductory portion and (1)(b)(I); and **add** (1)(a)(VIII) and (1)(b)(IV) as follows:

**43-4-804. Highway safety projects - surcharges and fees - crediting of money to highway users tax fund - definition.** (1) On and after July 1, 2009, the following surcharges, fees, and fines shall be collected and credited to the highway users tax fund created in section 43-4-201 (1)(a) and allocated to the state highway fund, counties, and municipalities as specified in section 43-4-205 (6.3):

(a) (I) A road safety surcharge, which, except as otherwise provided in subsections (1)(a)(II) and (1)(a)(VI) of this section, is imposed for any registration period that commences on or after July 1, 2009, upon the registration of any vehicle for which a registration fee must be paid pursuant to ~~the provisions of~~ part 3 of article 3 of title 42. Except as otherwise provided in subsections ~~(1)(a)(IV) and (1)(a)(V)~~ (1)(a)(IV), (1)(a)(V), AND (1)(a)(VIII) of this section, the amount of the surcharge is:

(VIII) (A) FOR ANY REGISTRATION PERIOD THAT BEGINS ON OR AFTER JANUARY 1, 2022, BUT BEFORE JANUARY 1, 2023, THE AMOUNT OF EACH ROAD SAFETY SURCHARGE IMPOSED PURSUANT TO SUBSECTION (1)(a)(I) OF THIS SECTION IS REDUCED BY ELEVEN DOLLARS AND TEN CENTS.

(B) FOR ANY REGISTRATION PERIOD THAT BEGINS ON OR AFTER

JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2024, THE AMOUNT OF EACH ROAD SAFETY SURCHARGE IMPOSED PURSUANT TO SUBSECTION (1)(a)(I) OF THIS SECTION IS REDUCED BY FIVE DOLLARS AND FIFTY-FIVE CENTS.

(b) (I) (A) Except as otherwise provided in ~~subparagraph (III) of this paragraph (b)~~ SUBSECTIONS (1)(b)(III) AND (1)(b)(IV) OF THIS SECTION, a daily vehicle rental fee is imposed on all short-term vehicle rentals at the rate of two dollars per day; except that a subsequent renewal of a short-term vehicle rental is exempt from the fee to the extent that the renewal extends the total rental period beyond thirty days. The rental invoice shall list the daily vehicle rental fee separately as a Colorado road safety program fee. ON AND AFTER JULY 1, 2022, A CAR SHARING PROGRAM, AS DEFINED IN SECTION 6-1-1202 (4), SHALL COLLECT THE DAILY VEHICLE RENTAL FEE FOR ANY SHORT-TERM VEHICLE RENTAL OF TWENTY-FOUR HOURS OR LONGER THAT IS ENABLED BY THE CAR SHARING PROGRAM.

(B) As used in this ~~section~~ SUBSECTION (1)(b), "short-term vehicle rental" means the rental of any motor vehicle, as defined in section 42-1-102 (58), ~~C.R.S.~~, with a gross vehicle weight rating of twenty-six thousand pounds or less that is rented within Colorado for a period of not more than thirty days.

(IV) (A) FOR SHORT-TERM VEHICLE RENTALS BEGINNING DURING STATE FISCAL YEAR 2022-23 AND FOR SHORT-TERM VEHICLE RENTAL PERIODS BEGINNING DURING ANY SUBSEQUENT STATE FISCAL YEAR, THE DEPARTMENT OF REVENUE SHALL ANNUALLY ADJUST THE AMOUNT OF THE DAILY VEHICLE RENTAL FEE FOR INFLATION. THE DEPARTMENT OF REVENUE SHALL CALCULATE THE INFLATION ADJUSTED AMOUNT OF THE SHORT-TERM VEHICLE RENTAL FEE FOR EACH STATE FISCAL YEAR AND SHALL PUBLISH THE AMOUNT NO LATER THAN THE MAY 1 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS.

(B) AS USED IN THIS SUBSECTION (1)(b)(IV), "INFLATION" MEANS THE AVERAGE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN CONSUMERS, OR ITS APPLICABLE PREDECESSOR OR SUCCESSOR INDEX, FOR THE FIVE YEARS ENDING ON THE LAST DECEMBER 31 BEFORE A STATE FISCAL YEAR FOR WHICH AN INFLATION ADJUSTMENT TO THE SHORT-TERM VEHICLE RENTAL FEE IS TO BE MADE BEGINS.

**SECTION 48.** In Colorado Revised Statutes, 43-4-805, **amend** (1), (2)(a)(I), (2)(b) introductory portion, (2)(b)(I), (2)(c), (3)(a), (3)(c), (4), (5)(c), (5)(k), (5)(r)(I), and (5)(r)(III)(A); and **add** (5)(g.5) and (5)(g.7) as follows:

**43-4-805. Statewide bridge enterprise - creation - board - funds - powers and duties - legislative declaration - definition.** (1) The general assembly hereby finds and declares that:

(a) The completion of designated bridge projects AND TUNNEL PROJECTS is essential to address increasing traffic congestion and delays, hazards, injuries, and fatalities;

(b) Due to the limited availability of state and federal funding and the need to accomplish the financing, repair, reconstruction, and replacement of designated bridges AND TUNNEL PROJECTS as promptly and efficiently as possible, it is necessary to create a statewide bridge AND TUNNEL enterprise and to authorize the enterprise to:

(I) Enter into agreements with the commission or the department to finance, repair, reconstruct, and replace designated bridges AND COMPLETE TUNNEL PROJECTS in the state; and

(II) Impose a bridge safety surcharge, A BRIDGE AND TUNNEL IMPACT FEE, AND A BRIDGE AND TUNNEL RETAIL DELIVERY FEE at rates reasonably calculated to defray the costs of completing designated bridge projects AND TUNNEL PROJECTS and distribute the burden of defraying the costs in a manner based on the benefits received by persons paying the fees and using designated bridges AND TUNNELS AND RECEIVING RETAIL DELIVERIES, receive and expend ~~revenues~~ REVENUE generated by the surcharge AND FEES and other ~~moneys~~ MONEY, issue revenue bonds and other obligations, contract with the state, if required approvals are obtained, to receive one or more loans of ~~moneys~~ MONEY received by the state under the terms of one or more lease-purchase agreements authorized by this part 8, expend ~~revenues~~ REVENUE generated by the surcharge to repay any such loan or loans received, and exercise other powers necessary and appropriate to carry out its purposes; and

(c) The creation of a statewide bridge AND TUNNEL enterprise is in the public interest and will promote the health, safety, and welfare of all

Coloradans and visitors to the state by providing bridges AND REPAIRING, MAINTAINING, AND OPERATING TUNNELS IN A MANNER that ~~incorporate~~ INCORPORATES the benefits of advanced engineering design, experience, and safety.

(2) (a) (I) The SCOPE OF THE EXISTING statewide bridge enterprise ~~is hereby created~~ IN THIS SUBSECTION (2)(a)(I) IN 2009 IS HEREBY EXPANDED TO INCLUDE BOTH DESIGNATED BRIDGE PROJECTS AND SURFACE TRANSPORTATION INFRASTRUCTURE PROJECTS FOR TUNNELS, AND THE NAME OF THE EXPANDED ENTERPRISE IS THE STATEWIDE BRIDGE AND TUNNEL ENTERPRISE. The bridge enterprise ~~shall be and shall operate~~ IS AND OPERATES as a government-owned business within the department. The commission shall serve as the bridge enterprise board and shall, with the consent of the executive director, appoint a bridge enterprise director who shall possess such qualifications as may be established by the commission and the state personnel board. The bridge enterprise director shall oversee the discharge of all responsibilities of the bridge enterprise and shall serve at the pleasure of the bridge enterprise board.

(b) The business purpose of the bridge enterprise is to finance, repair, reconstruct, and replace any designated bridge in the state and COMPLETE TUNNEL PROJECTS AND, as agreed upon by the enterprise and the commission, or the department to the extent authorized by the commission, to maintain the bridges it finances, repairs, reconstructs, and replaces. To allow the bridge enterprise to accomplish this purpose and fully exercise its powers and duties through the bridge enterprise board, the bridge enterprise may:

(I) Impose a bridge safety surcharge, A BRIDGE AND TUNNEL IMPACT FEE, AND A BRIDGE AND TUNNEL RETAIL DELIVERY FEE as authorized ~~in paragraph (g) of subsection (5)~~ BY SUBSECTIONS (5)(g), (5)(g.5), AND (5)(g.7) of this section;

(c) The bridge enterprise shall constitute an enterprise for purposes of section 20 of article X of the state constitution so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total revenues in grants from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to this ~~paragraph (c)~~ SUBSECTION (2)(c), the bridge enterprise shall not be subject to any provisions of section 20 of article X of the state constitution. Consistent

with the determination of the Colorado supreme court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo. 1995), that the power to impose taxes is inconsistent with "enterprise" status under section 20 of article X of the state constitution, the general assembly finds and declares that a bridge safety surcharge, A BRIDGE AND TUNNEL IMPACT FEE, OR A BRIDGE AND TUNNEL RETAIL DELIVERY FEE imposed by the bridge enterprise pursuant to paragraph (g) of subsection (5) AS AUTHORIZED BY SUBSECTION (5)(g), (5)(g.5), OR (5)(g.7) of this section is not a tax but is instead a fee imposed by the bridge enterprise to defray the cost of completing designated bridge projects AND TUNNEL PROJECTS that the enterprise provides as a specific service to the persons upon whom the fee is imposed and at rates reasonably calculated based on the benefits received by such persons.

(3) (a) The statewide bridge AND TUNNEL enterprise special revenue fund, referred to in this part 8 as the "bridge special fund", is hereby created in the state treasury. All ~~revenues~~ REVENUE received by the bridge enterprise, including, but not limited to, ~~any revenues~~ REVENUE from a bridge safety surcharge collected pursuant to paragraph (g) of subsection (5) IMPOSED AS AUTHORIZED BY SUBSECTION (5)(g) of this section, REVENUE FROM A BRIDGE AND TUNNEL IMPACT FEE IMPOSED AS AUTHORIZED BY SUBSECTION (5)(g.5) OF THIS SECTION, REVENUE FROM A BRIDGE AND TUNNEL RETAIL DELIVERY FEE IMPOSED AS AUTHORIZED BY SUBSECTION (5)(g.7) OF THIS SECTION, and any ~~moneys~~ MONEY loaned to the enterprise by the state pursuant to ~~paragraph (r) of subsection (5)~~ SUBSECTION (5)(r) of this section, shall be deposited into the bridge special fund. The bridge enterprise board may establish separate accounts within the bridge special fund as needed in connection with any specific designated bridge project OR TUNNEL PROJECT. The bridge enterprise also may deposit or permit others to deposit other ~~moneys~~ MONEY into the bridge special fund, but in no event may ~~revenues~~ REVENUE from any tax otherwise available for general purposes be deposited into the bridge special fund. The state treasurer, after consulting with the bridge enterprise board, shall invest any ~~moneys~~ MONEY in the bridge special fund, including any surplus or reserves, but excluding any proceeds from the sale of bonds or earnings on such proceeds invested pursuant to section 43-4-807 (2), that are not needed for immediate use. Such ~~moneys~~ MONEY may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113. ~~C.R.S.~~

(c) The bridge enterprise may expend ~~moneys~~ MONEY in the bridge special fund to pay bond or loan obligations, to fund the administration,

planning, financing, repair, reconstruction, replacement, or maintenance of designated bridges AND THE COMPLETION OF TUNNEL PROJECTS, and for the acquisition of land to the extent required in connection with any designated bridge project. The bridge enterprise may also expend ~~moneys~~ MONEY in the bridge special fund to pay its operating costs and expenses. The bridge enterprise board shall have exclusive authority to budget and approve the expenditure of ~~moneys~~ MONEY in the bridge special fund.

(4) The commission may transfer ~~moneys~~ MONEY from the state highway fund created in section 43-1-219 to the bridge enterprise for the purpose of defraying expenses incurred by the enterprise prior to the receipt of bond proceeds or ~~revenues~~ REVENUE by the enterprise. The bridge enterprise may accept and expend any ~~moneys~~ MONEY so transferred, and, notwithstanding any state fiscal rule or generally accepted accounting principle that could otherwise be interpreted to require a contrary conclusion, such a transfer shall constitute a loan from the commission to the bridge enterprise and shall not be considered a grant for purposes of section 20 (2)(d) of article X of the state constitution. As the bridge enterprise receives sufficient revenues in excess of expenses, the enterprise shall reimburse the state highway fund for the principal amount of any loan from the state highway fund made by the commission plus interest at a rate set by the commission. Any ~~moneys~~ MONEY loaned from the state highway fund to the bridge enterprise pursuant to this section shall be deposited into a fund to be known as the statewide bridge AND TUNNEL enterprise operating fund, which fund is hereby created, and shall not be deposited into the bridge special fund. ~~Moneys~~ MONEY from the bridge special fund may, however, be used to reimburse the state highway fund for the amount of any loan from the state highway fund or any interest thereon.

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

(c) To issue revenue bonds, payable solely from the bridge special fund, for the purpose of paying the cost of financing, repairing, reconstructing, replacing, and maintaining designated bridges AND COMPLETING TUNNEL PROJECTS;

(g.5) (I) IN FURTHERANCE OF ITS BUSINESS PURPOSE, TO IMPOSE A BRIDGE AND TUNNEL IMPACT FEE TO BE PAID IN THE AMOUNT IMPOSED BY THE BRIDGE ENTERPRISE AS AUTHORIZED BY SUBSECTION (5)(g.5)(II) OR

(5)(g.5)(III) OF THIS SECTION BY EACH DISTRIBUTOR OF SPECIAL FUEL, AS DEFINED IN SECTION 43-4-217 (2)(c), THAT PAYS THE EXCISE TAX IMPOSED ON SPECIAL FUEL PURSUANT TO ARTICLE 27 OF TITLE 39, AT THE SAME TIME AND IN THE SAME MANNER AS THE EXCISE TAX AND THE ROAD USAGE FEE IMPOSED PURSUANT TO SECTION 43-4-217 (3) AND (4). FOR THE PURPOSE OF MINIMIZING COMPLIANCE COSTS FOR DISTRIBUTORS AND ADMINISTRATIVE COSTS FOR THE STATE, THE DEPARTMENT OF REVENUE SHALL COLLECT AND ADMINISTER THE BRIDGE AND TUNNEL IMPACT FEE ON BEHALF OF THE BRIDGE ENTERPRISE IN THE SAME MANNER IN WHICH IT COLLECTS AND ADMINISTERS THE EXCISE TAX AND THE ROAD USAGE FEE IMPOSED PURSUANT TO SECTION 43-4-217 (3) AND (4).

(II) FOR EACH GALLON OF SPECIAL FUEL ACQUIRED, SOLD, OFFERED FOR SALE, OR USED IN THIS STATE DURING STATE FISCAL YEARS 2022-23 THROUGH 2031-32, THE BRIDGE ENTERPRISE SHALL IMPOSE THE BRIDGE AND TUNNEL IMPACT FEE IN AN AMOUNT OF UP TO:

- (A) TWO CENTS PER GALLON FOR STATE FISCAL YEAR 2022-23;
- (B) THREE CENTS PER GALLON FOR STATE FISCAL YEAR 2023-24;
- (C) FOUR CENTS PER GALLON FOR STATE FISCAL YEAR 2024-25;
- (D) FIVE CENTS PER GALLON FOR STATE FISCAL YEAR 2025-26;
- (E) SIX CENTS PER GALLON FOR STATE FISCAL YEAR 2026-27;
- (F) SEVEN CENTS PER GALLON FOR STATE FISCAL YEAR 2027-28; AND
- (G) EIGHT CENTS PER GALLON FOR STATE FISCAL YEARS 2028-29 THROUGH 2031-32.

(III) FOR EACH GALLON OF SPECIAL FUEL ACQUIRED, SOLD, OFFERED FOR SALE, OR USED IN THIS STATE DURING STATE FISCAL YEARS 2032-33 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR, THE BRIDGE ENTERPRISE SHALL IMPOSE THE BRIDGE AND TUNNEL IMPACT FEE IN AN AMOUNT OF UP TO THE MAXIMUM AMOUNT OF THE FEE FOR THE PRIOR STATE FISCAL YEAR ADJUSTED FOR INFLATION. THE BRIDGE ENTERPRISE SHALL NOTIFY THE DEPARTMENT OF REVENUE OF THE AMOUNT OF THE BRIDGE AND TUNNEL IMPACT FEE TO BE COLLECTED FOR EACH STATE FISCAL YEAR NO LATER THAN

MARCH 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS, AND THE DEPARTMENT OF REVENUE SHALL PUBLISH THE AMOUNT NO LATER THAN APRIL 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS.

(IV) AS USED IN THIS SUBSECTION (5)(g.5) "INFLATION" MEANS THE AVERAGE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, NATIONAL HIGHWAY CONSTRUCTION COST INDEX OR ITS APPLICABLE PREDECESSOR OR SUCCESSOR INDEX FOR THE FIVE-YEAR PERIOD ENDING ON THE LAST DECEMBER 31 BEFORE A STATE FISCAL YEAR FOR WHICH AN ADJUSTMENT TO THE BRIDGE AND TUNNEL IMPACT FEE IMPOSED AS AUTHORIZED BY THIS SUBSECTION (5)(g.5) IS TO BE MADE BEGINS.

(g.7) (I) IN FURTHERANCE OF ITS BUSINESS PURPOSE, BEGINNING IN STATE FISCAL YEAR 2022-23, THE BRIDGE ENTERPRISE SHALL IMPOSE, AND THE DEPARTMENT OF REVENUE SHALL COLLECT ON BEHALF OF THE BRIDGE ENTERPRISE, A BRIDGE AND TUNNEL RETAIL DELIVERY FEE ON EACH RETAIL DELIVERY. EACH RETAILER WHO MAKES A RETAIL DELIVERY SHALL ADD TO THE PRICE OF THE RETAIL DELIVERY, COLLECT FROM THE PURCHASER, AND PAY TO THE DEPARTMENT OF REVENUE AT THE TIME AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT IN ACCORDANCE WITH SECTION 43-4-218 (6) THE BRIDGE AND TUNNEL RETAIL DELIVERY FEE. FOR THE PURPOSE OF MINIMIZING COMPLIANCE COSTS FOR RETAILERS AND ADMINISTRATIVE COSTS FOR THE STATE, THE DEPARTMENT OF REVENUE SHALL COLLECT AND ADMINISTER THE BRIDGE AND TUNNEL RETAIL DELIVERY FEE ON BEHALF OF THE BRIDGE ENTERPRISE IN THE SAME MANNER IN WHICH IT COLLECTS AND ADMINISTERS THE RETAIL DELIVERY FEE IMPOSED BY SECTION 43-4-218 (3).

(II) FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING STATE FISCAL YEAR 2022-23, THE BRIDGE ENTERPRISE SHALL IMPOSE THE BRIDGE AND TUNNEL RETAIL DELIVERY FEE IN A MAXIMUM AMOUNT OF TWO AND SEVEN-TENTHS CENTS.

(III) (A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5)(g.7)(III)(B) OF THIS SECTION, FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING STATE FISCAL YEAR 2023-24 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR, THE BRIDGE ENTERPRISE SHALL IMPOSE THE BRIDGE AND TUNNEL RETAIL DELIVERY FEE IN A MAXIMUM AMOUNT THAT IS THE MAXIMUM AMOUNT FOR THE PRIOR STATE



FISCAL YEAR ADJUSTED FOR INFLATION. THE BRIDGE ENTERPRISE SHALL NOTIFY THE DEPARTMENT OF REVENUE OF THE AMOUNT OF THE BRIDGE AND TUNNEL RETAIL DELIVERY FEE TO BE COLLECTED FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING EACH STATE FISCAL YEAR NO LATER THAN MARCH 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS, AND THE DEPARTMENT OF REVENUE SHALL PUBLISH THE AMOUNT NO LATER THAN APRIL 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS.

(B) THE BRIDGE ENTERPRISE IS AUTHORIZED TO ADJUST THE AMOUNT OF THE BRIDGE AND TUNNEL RETAIL DELIVERY FEE FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING A STATE FISCAL YEAR ONLY IF THE DEPARTMENT OF REVENUE ADJUSTS THE AMOUNT OF THE RETAIL DELIVERY FEE IMPOSED BY SECTION 43-4-218 (3) FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING THE STATE FISCAL YEAR.

(IV) AS USED IN THIS SUBSECTION (5)(g.7):

(A) "INFLATION" MEANS THE AVERAGE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKESIDE FOR ALL ITEMS AND ALL URBAN CONSUMERS, OR ITS APPLICABLE PREDECESSOR OR SUCCESSOR INDEX, FOR THE FIVE YEARS ENDING ON THE LAST DECEMBER 31 BEFORE A STATE FISCAL YEAR FOR WHICH AN INFLATION ADJUSTMENT TO BE MADE TO THE BRIDGE AND TUNNEL RETAIL DELIVERY FEE IMPOSED PURSUANT TO THIS SUBSECTION (5)(g.7) BEGINS.

(B) "RETAIL DELIVERY" MEANS A RETAIL SALE OF TANGIBLE PERSONAL PROPERTY BY A RETAILER FOR DELIVERY BY A MOTOR VEHICLE OWNED OR OPERATED BY THE RETAILER OR ANY OTHER PERSON TO THE PURCHASER AT A LOCATION IN THE STATE, WHICH SALE INCLUDES AT LEAST ONE ITEM OF TANGIBLE PERSONAL PROPERTY THAT IS SUBJECT TO TAXATION UNDER ARTICLE 26 OF TITLE 39. EACH SUCH RETAIL SALE IS A SINGLE RETAIL DELIVERY REGARDLESS OF THE NUMBER OF SHIPMENTS NECESSARY TO DELIVER THE ITEMS OF TANGIBLE PERSONAL PROPERTY PURCHASED.

(k) To prepare, or cause to be prepared, detailed plans, specifications, or estimates for any designated bridge project OR TUNNEL PROJECT within the state;

(r) (I) To contract with the state to borrow ~~moneys~~ MONEY under the terms of one or more loan contracts entered into by the state and the bridge enterprise pursuant to ~~subparagraph (III) of this paragraph (r)~~ SUBSECTION (5)(r)(III) OF THIS SECTION, to expend any ~~moneys~~ MONEY borrowed from the state for the purpose of completing designated bridge projects AND TUNNEL PROJECTS and for any other authorized purpose that constitutes the construction, supervision, and maintenance of the public highways of this state for purposes of section 18 of article X of the state constitution, and to use ~~revenues~~ REVENUE generated by any bridge safety surcharge, BRIDGE AND TUNNEL IMPACT FEE, OR BRIDGE AND TUNNEL RETAIL DELIVERY FEE imposed pursuant to ~~paragraph (g) of this subsection (5)~~ SUBSECTION (5)(g), (5)(g.5), OR (5)(g.7) OF THIS SECTION and any other legally available ~~moneys~~ MONEY of the bridge enterprise to repay the ~~moneys~~ MONEY borrowed and any other amounts payable under the terms of the loan contract.

(III) (A) If the state treasurer receives a list from the governor pursuant to ~~subparagraph (II) of this paragraph (r)~~ SUBSECTION (5)(r)(II) OF THIS SECTION, the state, acting by and through the state treasurer, may enter into a loan contract with the bridge enterprise and may raise the money needed to make a loan pursuant to the terms of the loan contract by selling or leasing one or more of the state buildings or other state capital facilities on the list. The state treasurer shall have sole discretion to enter into a loan contract on behalf of the state and to determine the amount of a loan; except that the principal amount of a loan shall not exceed the maximum amount specified by the governor pursuant to ~~subparagraph (II) of this paragraph (r)~~ SUBSECTION (5)(r)(II) OF THIS SECTION. The state treasurer shall also have sole discretion to determine the timing of the entry of the state into any loan contract or the sale or lease of one or more state buildings or other state capital facilities. The loan contract shall require the bridge enterprise to pledge to the state all or a portion of the revenues of any bridge safety surcharge, BRIDGE AND TUNNEL IMPACT FEE, OR BRIDGE AND TUNNEL RETAIL DELIVERY FEE imposed pursuant to ~~paragraph (g) of this subsection (5)~~ SUBSECTION (5)(g), (5)(g.5), OR (5)(g.7) OF THIS SECTION for the repayment of the loan and may also require the BRIDGE enterprise to pledge to the state any other legally available ~~revenues~~ REVENUE of the BRIDGE enterprise. Any loan contract entered into by the state, acting by and through the state treasurer, and the bridge enterprise pursuant to this ~~sub-subparagraph (A)~~ SUBSECTION (5)(r)(III)(A) and any pledge of ~~revenues~~ REVENUE by the BRIDGE enterprise pursuant to such a loan contract shall be only for the benefit of, and enforceable only by, the state and the BRIDGE enterprise.

Specifically, but without limiting the generality of said limitation, no such loan contract or pledge shall be for the benefit of, or enforceable by, a lessor under a lease-purchase agreement entered into pursuant to this ~~subparagraph (H)~~ SUBSECTION (5)(r)(III), an owner of any instrument evidencing rights to receive rentals or other payments made and to be made under such a lease-purchase agreement as authorized by ~~sub-subparagraph (B) of subparagraph (IV) of this paragraph (r)~~ SUBSECTION (5)(r)(IV)(B) OF THIS SECTION, a party to any ancillary agreement or instrument entered into pursuant to ~~subparagraph (V) of this paragraph (r)~~ SUBSECTION (5)(r)(V) OF THIS SECTION, or a party to any interest rate exchange agreement entered into pursuant to ~~sub-subparagraph (A) of subparagraph (VII) of this paragraph (r)~~ SUBSECTION (5)(r)(VII)(A) OF THIS SECTION.

**SECTION 49.** In Colorado Revised Statutes, **amend** 43-4-1101 as follows:

**43-4-1101. Legislative declaration.** (1) The general assembly hereby finds and declares that it is necessary, appropriate, and in the best interest of the state to use a portion of the general fund money that is dedicated for transportation purposes pursuant to section 24-75-219 ~~(5)~~ to fund multimodal transportation projects and operations throughout the state AND TO USE A PORTION OF THE MONEY THAT IS GENERATED BY THE RETAIL DELIVERY FEE IMPOSED ON THE DELIVERY OF RETAIL GOODS TRANSPORTED TO THE DELIVERY SITE BY MOTOR VEHICLE PURSUANT TO SECTION 43-4-218 (3) TO FUND TRANSPORTATION-RELATED GREENHOUSE GAS MITIGATION EXPENSES THROUGHOUT THE STATE as authorized by this part 11 because, in addition to the general benefits that it provides to all Coloradans, a complete and integrated multimodal transportation system THAT INCLUDES GREENHOUSE GAS MITIGATION PROJECTS AND SERVICES:

(a) Benefits seniors by making aging in place more feasible for them;

(b) Benefits residents of COMMUNITIES, IN rural **areas** AND DISPROPORTIONATELY IMPACTED COMMUNITIES, by providing them with MORE ACCESSIBLE AND flexible public transportation services;

(c) Provides enhanced mobility for persons with disabilities; **and**

(d) Provides safe routes to schools for children; AND

(e) REDUCES EMISSIONS OF AIR POLLUTANTS, INCLUDING HAZARDOUS AIR POLLUTANTS AND GREENHOUSE GASES, THAT CONTRIBUTE TO ADVERSE ENVIRONMENTAL EFFECTS, INCLUDING BUT NOT LIMITED TO CLIMATE CHANGE, AND ADVERSE HUMAN HEALTH EFFECTS.

**SECTION 50.** In Colorado Revised Statutes, 43-4-1102, **amend** (4) and (5); **repeal** (1); and **add** (4.5) as follows:

**43-4-1102. Definitions.** As used in this part 11, unless the context otherwise requires:

(1) ~~"Account" means the transportation revenue anticipation notes proceeds account of the multimodal transportation options fund created in section 43-4-1103 (1)(b).~~

(4) "Fund" means the multimodal transportation AND MITIGATION options fund created in section 43-4-1103 (1)(a).

(4.5) "GREENHOUSE GAS MITIGATION PROJECT" MEANS A PROJECT THAT HELPS ACHIEVE COMPLIANCE WITH FEDERAL OR STATE LAWS OR RULES THAT REGULATE TRANSPORTATION-RELATED GREENHOUSE GAS EMISSIONS BY REDUCING VEHICLE MILES TRAVELED OR INCREASING MULTIMODAL TRAVEL.

(5) "Multimodal projects" means capital or operating costs for fixed route and on-demand transit, transportation demand management programs, multimodal mobility projects enabled by new technology, multimodal transportation studies, MODELING TOOLS, GREENHOUSE GAS MITIGATION PROJECTS, and bicycle or pedestrian projects.

**SECTION 51.** In Colorado Revised Statutes, 43-4-1103, **amend** (1)(a), (2)(a), (2)(c), (3)(a) introductory portion, (3)(a)(I), and (3)(a)(II) introductory portion; **repeal** (1)(b) and (2)(b); and **add** (2)(d) and (3)(a.5) as follows:

**43-4-1103. Multimodal transportation options fund - creation - revenue sources for fund - use of fund.** (1) (a) The multimodal transportation AND MITIGATION options fund is hereby created in the state treasury. The fund consists of money transferred from the general fund to the fund pursuant to section 24-75-219, ~~(5)(a)(III) and (5)(b)(III)~~ RETAIL

DELIVERY FEE REVENUE CREDITED TO THE FUND PURSUANT TO SECTION 43-4-218 (5)(a)(II), and any other money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

~~(b) The transportation revenue anticipation notes proceeds account is hereby created in the fund. Net proceeds of transportation revenue anticipation notes that the state issues shall be credited to the account as specified in section 43-4-714 (1)(b). The state treasurer shall credit all interest and income derived from the deposit and investment of money in the account to the account.~~

(2) (a) (I) Except as otherwise provided in ~~subsections (2)(a)(II) and (2)(a)(III)~~ SUBSECTIONS (2)(a)(IV) AND (2)(d) of this section, subject to annual appropriation by the general assembly, money must be expended from the fund as follows:

(A) Eighty-five percent to the commission for local multimodal projects; and

(B) Fifteen percent to the commission for state multimodal projects that are selected by the commission.

~~(II) On July 1, 2018, the state treasurer shall transfer two million five hundred thousand dollars from the fund to the fund created in section 43-4-1002 (1).~~

~~(III) On June 30, 2020, the state treasurer shall transfer ten million dollars from the fund to the general fund.~~

(IV) (A) ON JULY 1, 2021, THE STATE TREASURER SHALL TRANSFER TWELVE MILLION DOLLARS FROM THE FUND TO THE FUND CREATED IN SECTION 43-4-1002 FOR THE PURPOSE OF PROVIDING ADDITIONAL FUNDING FOR THE SOUTHWEST CHIEF LA JUNTA ROUTE RESTORATION PROGRAM.

(B) ON FEBRUARY 15, 2022, THE STATE TREASURER SHALL TRANSFER TWO MILLION FIVE HUNDRED THOUSAND DOLLARS TO THE FUND CREATED IN SECTION 43-4-1002.

~~(b) (f) Subject to the limitations set forth in subsection (2)(b)(H) of this section, money must be expended from the account as follows:~~

~~(A) Eighty-five percent to the commission for local multimodal projects; and~~

~~(B) Fifteen percent to the commission for state multimodal projects that are selected by the commission.~~

~~(H) The commission shall ensure, in cooperation with each recipient of such money from the account, that any net proceeds of tax-exempt transportation revenue anticipation notes credited to the account and any interest and income derived from the deposit and investment of any such proceeds are expended only in compliance with all applicable federal laws and regulations governing the use of tax-exempt note proceeds.~~

(c) With respect to the ~~distribution~~ DISTRIBUTIONS of money for local multimodal projects required by subsection (2)(a)(I)(A) of this section, and, ~~for net proceeds of taxable transportation revenue anticipation notes and interest and income derived from the deposit and investment of such proceeds only, the distribution of money for local multimodal projects required by subsection (2)(b)(I)(A) of this section,~~ the commission shall establish a formula for disbursement of the amount allocated for local multimodal projects, based on population and transit ridership AND OTHER CRITERIA DEVELOPED in consultation with the transportation advisory committee created in section 43-1-1104, the transit and rail advisory committee of the department, THE STATE TRANSPORTATION ADVISORY COMMITTEE OF THE DEPARTMENT, transit advocacy organizations, and bicycle and pedestrian advocacy organizations. Recipients shall provide a match equal to the amount of the award; except that the commission may create a formula for reducing or exempting the match requirement for local governments or agencies due to their size or any other special circumstances AND MAY ALSO, IF RECOMMENDED BY DEPARTMENT STAFF, REDUCE OR EXEMPT ANY INDIVIDUAL RECIPIENT FROM THE MATCH REQUIREMENT FOR A SPECIFIC PROJECT.

(d) (I) ON AND AFTER OCTOBER 1, 2022, UNLESS THE DEPARTMENT HAS BOTH ADOPTED IMPLEMENTING GUIDELINES AND PROCEDURES THAT SATISFY THE REQUIREMENTS OF SECTION 43-1-128 (3) AND UPDATED ITS TEN-YEAR VISION PLAN TO COMPLY WITH THE IMPLEMENTING GUIDELINES

AND PROCEDURES, EXPENDITURES FROM THE FUNDS MADE AVAILABLE FOR MULTIMODAL PROJECTS PURSUANT TO SECTIONS 24-75-219 (7)(c)(I) AND (7)(f)(II) AND 43-4-218 (5)(a)(II) FOR STATE MULTIMODAL PROJECTS SHALL ONLY BE MADE FOR MULTIMODAL PROJECTS THAT THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, DETERMINES WILL HELP BRING THE TEN-YEAR VISION PLAN INTO COMPLIANCE WITH THE REQUIREMENTS OF SECTION 43-1-128 (3).

(II) ON AND AFTER OCTOBER 1, 2022, UNLESS THE DEPARTMENT HAS ADOPTED IMPLEMENTING GUIDELINES AND PROCEDURES THAT SATISFY THE REQUIREMENTS OF SECTION 43-1-128 (3) AND A METROPOLITAN PLANNING ORGANIZATION THAT IS IN AN AREA OR INCLUDES AN AREA THAT HAS BEEN OUT OF ATTAINMENT FOR NATIONAL AMBIENT AIR QUALITY STANDARDS FOR OZONE FOR TWO YEARS OR MORE HAS UPDATED ITS REGIONAL TRANSPORTATION PLAN TO COMPLY WITH THE IMPLEMENTING GUIDELINES AND PROCEDURES, EXPENDITURES FROM THE FUNDS MADE AVAILABLE FOR MULTIMODAL PROJECTS PURSUANT TO SECTIONS 24-75-219 (7)(c)(I) AND (7)(f)(II) AND 43-4-218 (5)(a)(II) FOR LOCAL MULTIMODAL PROJECTS WITHIN THE TERRITORY OF THE METROPOLITAN PLANNING ORGANIZATION SHALL ONLY BE MADE FOR MULTIMODAL PROJECTS THAT THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, DETERMINES WILL HELP BRING THE REGIONAL TRANSPORTATION PLAN INTO COMPLIANCE WITH THE REQUIREMENTS OF SECTION 43-1-128 (3).

(III) THE RESTRICTIONS SET FORTH IN SUBSECTIONS (2)(d)(I) AND (2)(d)(II) OF THIS SECTION APPLY UNTIL THE DEPARTMENT OR AN AFFECTED METROPOLITAN PLANNING ORGANIZATION UPDATES ITS TEN-YEAR VISION PLAN OR REGIONAL TRANSPORTATION PLAN, AS APPLICABLE, TO COMPLY WITH THE IMPLEMENTING GUIDELINES AND PROCEDURES AS REQUIRED. BOTH THE DEPARTMENT AND AN AFFECTED METROPOLITAN PLANNING ORGANIZATION SHALL WORK DILIGENTLY TO ACHIEVE SUCH COMPLIANCE UNTIL IT IS ACHIEVED.

(3) (a) The department shall annually report to the transportation legislation review committee of the general assembly created in section 43-2-145 (1) regarding its expenditures from the fund ~~and the account~~ including, at a minimum:

(I) An aggregate accounting of all money expended from the fund

~~and the account~~ during the prior fiscal year; and

(II) A listing of all projects receiving funding from the fund ~~and the account~~ during the prior fiscal year that includes for each project:

(a.5) EACH TRANSPORTATION PLANNING REGION SHALL ANNUALLY REPORT TO THE DEPARTMENT REGARDING THE STATUS OF LOCAL MULTIMODAL PROJECTS WITHIN THE REGION THAT HAVE RECEIVED FUNDING FROM THE FUND.

**SECTION 52.** In Colorado Revised Statutes, **add** parts 12 and 13 to article 4 of title 43 as follows:

PART 12  
CLEAN TRANSIT

**43-4-1201. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) RETAIL DELIVERIES ARE INCREASING AND ARE EXPECTED TO CONTINUE TO INCREASE IN COMMUNITIES ACROSS THE STATE;

(b) THE MOTOR VEHICLES USED TO MAKE RETAIL DELIVERIES ARE SOME OF THE MOST POLLUTING VEHICLES ON THE ROAD, WHICH HAS RESULTED IN ADDITIONAL AND INCREASING AIR AND GREENHOUSE GAS POLLUTION;

(c) THE ADVERSE ENVIRONMENTAL AND HEALTH IMPACTS OF INCREASED EMISSIONS FROM MOTOR VEHICLES USED TO MAKE RETAIL DELIVERIES CAN BE MITIGATED AND OFFSET BY SUPPORTING THE WIDESPREAD ADOPTION OF ELECTRIC BUSES FOR TRANSIT FLEETS AND REDUCING VEHICLE MILES TRAVELED BY ENCOURAGING PEOPLE TO CHOOSE CLEAN, EFFICIENT, PUBLIC TRANSIT OPTIONS INSTEAD OF PERSONAL MOTOR VEHICLE TRAVEL;

(d) INSTEAD OF REDUCING THE IMPACTS OF RETAIL DELIVERIES BY LIMITING RETAIL DELIVERY ACTIVITY THROUGH REGULATION, IT IS MORE APPROPRIATE TO CONTINUE TO ALLOW PERSONS WHO RECEIVE RETAIL DELIVERIES TO BENEFIT FROM THE CONVENIENCE AFFORDED BY UNFETTERED RETAIL DELIVERIES AND INSTEAD IMPOSE A SMALL FEE ON EACH RETAIL



DELIVERY AND USE FEE REVENUE TO FUND NECESSARY MITIGATION ACTIVITIES;

(e) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF THE STATE AND ALL COLORADANS TO INCENTIVIZE, SUPPORT, AND ACCELERATE THE ELECTRIFICATION OF PUBLIC TRANSIT IN RURAL AND URBAN AREAS THROUGHOUT THE STATE BECAUSE ELECTRIFICATION:

(I) REDUCES EMISSIONS OF AIR POLLUTANTS, INCLUDING HAZARDOUS AIR POLLUTANTS AND GREENHOUSE GASES, THAT CONTRIBUTE TO ADVERSE ENVIRONMENTAL EFFECTS, INCLUDING BUT NOT LIMITED TO CLIMATE CHANGE, AND ADVERSE HUMAN HEALTH EFFECTS IN AND BETWEEN COMMUNITIES, INCLUDING COMMUNITIES NEAR HIGH-USE TRANSIT CORRIDORS AND DISPROPORTIONATELY IMPACTED COMMUNITIES, AND HELPS THE STATE MEET ITS STATUTORY GREENHOUSE GAS POLLUTION REDUCTION TARGETS AND COMPLY WITH AIR QUALITY ATTAINMENT STANDARDS; AND

(II) BY REDUCING FUEL AND MAINTENANCE COSTS ASSOCIATED WITH THE USE OF MOTOR VEHICLES, HELPS PUBLIC TRANSIT PROVIDERS OPERATE MORE EFFICIENTLY, USE COST SAVINGS TO PROVIDE MORE RELIABLE AND CONVENIENT TRANSIT SERVICE TO MORE RIDERS, AND FURTHER REDUCE EMISSIONS BY REDUCING PERSONAL MOTOR VEHICLE USE; AND

(f) BY REDUCING MOTOR VEHICLE EMISSIONS, TRANSIT FLEET ELECTRIFICATION EFFECTIVELY REMEDIATES SOME OF THE IMPACTS OF RETAIL DELIVERIES BY OFFSETTING A PORTION OF THE INCREASED MOTOR VEHICLE EMISSIONS RESULTING FROM SUCH DELIVERIES.

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

(a) IN ORDER TO INCENTIVIZE, SUPPORT, AND ACCELERATE THE ELECTRIFICATION OF PUBLIC TRANSIT AND THEREBY REAP THE ENVIRONMENTAL, HEALTH, BUSINESS, AND OPERATIONAL EFFICIENCY BENEFITS OF ELECTRIFICATION, IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF THE STATE TO CREATE A CLEAN TRANSIT ENTERPRISE THAT CAN PROVIDE SPECIALIZED REMEDIATION AND OTHER SERVICES THAT HELP PUBLIC TRANSIT PROVIDERS FUND BOTH THE CONSTRUCTION OF THE CHARGING INFRASTRUCTURE NEEDED TO SUPPORT ELECTRIFICATION AND THE ACQUISITION OF ELECTRIC MOTOR VEHICLES;

(b) THE SPECIFIC FOCUS OF THE ENTERPRISE IS THE EQUITABLE REDUCTION AND MITIGATION OF THE ADVERSE ENVIRONMENTAL AND HEALTH IMPACTS OF AIR POLLUTION AND GREENHOUSE GAS EMISSIONS THROUGH INCENTIVIZATION, SUPPORT, AND ACCELERATION OF THE ELECTRIFICATION OF PUBLIC TRANSIT IN RURAL AND URBAN AREAS THROUGHOUT THE STATE;

(c) THE ENTERPRISE PROVIDES IMPACT REMEDIATION SERVICES WHEN, IN EXCHANGE FOR THE PAYMENT OF CLEAN TRANSIT RETAIL DELIVERY FEES BY PURCHASERS OF TANGIBLE PERSONAL PROPERTY FOR RETAIL DELIVERY, IT ACTS TO MITIGATE THE IMPACTS OF RESIDENTIAL AND COMMERCIAL DELIVERIES ON THE STATE'S TRANSPORTATION INFRASTRUCTURE, AIR QUALITY, AND EMISSIONS BY:

(I) MAKING GRANTS OR LOANS OR PROVIDING REBATES TO FUND THE ACQUISITION OF CLEAN, QUIET, AND COST-EFFICIENT ELECTRIC MOTOR VEHICLES FOR USE IN TRANSIT FLEETS AND THE CONSTRUCTION OF CHARGING INFRASTRUCTURE THAT SUPPORTS THE USE OF SUCH ELECTRIC MOTOR VEHICLES FOR PUBLIC TRANSIT AND THEREBY:

(A) IMPROVING TRANSPORTATION OPTIONS FOR FEE PAYERS AND THE GENERAL PUBLIC, MAKING TRANSIT MORE ATTRACTIVE TO NEW OR INFREQUENT USERS, AND REDUCING PERSONAL MOTOR VEHICLE EMISSIONS; AND

(B) BY MAKING TRANSIT MORE ATTRACTIVE, REDUCING TRAFFIC CONGESTION, WHICH ALLOWS MORE TIMELY AND EFFICIENT RETAIL DELIVERIES, FURTHER REDUCES EMISSIONS OF AIR POLLUTANTS AND GREENHOUSE GAS POLLUTANTS FROM MOTOR VEHICLES, AND REDUCES AND MITIGATES THE ADVERSE ENVIRONMENTAL AND HEALTH IMPACTS OF SUCH EMISSIONS;

(II) CONTRIBUTING IN A UNIQUE AND TARGETED WAY TO THE IMPLEMENTATION OF THE COMPREHENSIVE REGULATORY SCHEME REQUIRED FOR THE PLANNING, FUNDING, DEVELOPMENT, CONSTRUCTION, MAINTENANCE, AND SUPERVISION OF A SUSTAINABLE TRANSPORTATION SYSTEM; AND

(III) PROVIDING ADDITIONAL REMEDIATION SERVICES TO OFFSET IMPACTS CAUSED BY FEE PAYERS AS MAY BE PROVIDED BY LAW;

(d) BY PROVIDING REMEDIATION SERVICES AS AUTHORIZED BY THIS SECTION, THE CLEAN TRANSIT ENTERPRISE ENGAGES IN AN ACTIVITY CONDUCTED IN THE PURSUIT OF A BENEFIT, GAIN, OR LIVELIHOOD AND THEREFORE OPERATES AS A BUSINESS IN ACCORDANCE WITH THE DETERMINATION OF THE COLORADO SUPREME COURT IN *COLORADO UNION OF TAXPAYERS FOUNDATION V. CITY OF ASPEN*, 2018 CO 36;

(e) CONSISTENT WITH THE DETERMINATION OF THE COLORADO SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896 P.2D 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL ASSEMBLY THAT THE REVENUE COLLECTED BY THE ENTERPRISE IS GENERATED BY FEES, NOT TAXES, BECAUSE THE CLEAN TRANSIT RETAIL DELIVERY FEE IMPOSED BY THE ENTERPRISE AS AUTHORIZED BY SECTION 43-4-1203 (7) IS:

(I) IMPOSED FOR THE SPECIFIC PURPOSE OF ALLOWING THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE REMEDIATION SERVICES SPECIFIED IN THIS SECTION, INCLUDING MITIGATING IMPACTS TO AIR QUALITY AND GREENHOUSE GAS EMISSIONS CAUSED BY THE ACTIVITIES ON WHICH THE FEE IS ASSESSED, AND CONTRIBUTES TO THE IMPLEMENTATION OF THE COMPREHENSIVE REGULATORY SCHEME REQUIRED FOR THE PLANNING, FUNDING, DEVELOPMENT, CONSTRUCTION, MAINTENANCE, AND SUPERVISION OF A SUSTAINABLE TRANSPORTATION SYSTEM SPECIFIED IN THIS SECTION; AND

(II) COLLECTED AT RATES THAT ARE REASONABLY CALCULATED BASED ON THE IMPACTS CAUSED BY FEE PAYERS AND THE COST OF REMEDIATING THOSE IMPACTS; AND

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

**43-4-1202. Definitions.** AS USED IN THIS PART 12, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BATTERY ELECTRIC MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT IS POWERED EXCLUSIVELY BY A RECHARGEABLE BATTERY PACK THAT CAN BE RECHARGED BY BEING PLUGGED INTO AN EXTERNAL SOURCE OF ELECTRICITY AND THAT HAS NO SECONDARY SOURCE OF PROPULSION.

(2) "BOARD" MEANS THE GOVERNING BOARD OF THE ENTERPRISE.

(3) "COMMISSION" MEANS THE TRANSPORTATION COMMISSION CREATED IN SECTION 43-1-106 (1).

(4) "DEPARTMENT" MEANS THE DEPARTMENT OF TRANSPORTATION CREATED IN SECTION 24-1-128.7.

(5) (a) "DISPROPORTIONATELY IMPACTED COMMUNITY" MEANS A COMMUNITY THAT IS IN A CENSUS BLOCK GROUP, AS DETERMINED IN ACCORDANCE WITH THE MOST RECENT UNITED STATES DECENNIAL CENSUS, WHERE THE PROPORTION OF HOUSEHOLDS THAT ARE LOW INCOME IS GREATER THAN FORTY PERCENT, THE PROPORTION OF HOUSEHOLDS THAT IDENTIFY AS MINORITY IS GREATER THAN FORTY PERCENT, OR THE PROPORTION OF HOUSEHOLDS THAT ARE HOUSING COST-BURDENED IS GREATER THAN FORTY PERCENT.

(b) AS USED IN THIS SUBSECTION (5):

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

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

(6) "ELECTRIC MOTOR VEHICLE" MEANS A BATTERY ELECTRIC MOTOR VEHICLE, A HYDROGEN FUEL CELL MOTOR VEHICLE, OR A PLUG-IN HYBRID ELECTRIC MOTOR VEHICLE.

(7) "ELECTRIC MOTOR VEHICLE CHARGING INFRASTRUCTURE" MEANS ELECTRIC VEHICLE CHARGING SYSTEMS AND OTHER ELECTRICAL EQUIPMENT

INSTALLED ON SITE TO SUPPORT ELECTRIC MOTOR VEHICLE CHARGING INCLUDING BUT NOT LIMITED TO BATTERY ENERGY STORAGE SYSTEMS.

(8) "ENTERPRISE" MEANS THE CLEAN TRANSIT ENTERPRISE CREATED IN SECTION 43-4-1203 (1)(a).

(9) "FUND" MEANS THE CLEAN TRANSIT ENTERPRISE FUND CREATED IN SECTION 43-4-1203 (5).

(10) "HYDROGEN FUEL CELL MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT IS POWERED BY ELECTRICITY PRODUCED FROM A FUEL CELL THAT USES HYDROGEN GAS AS FUEL.

(11) "INFLATION" MEANS THE AVERAGE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN CONSUMERS, OR ITS APPLICABLE PREDECESSOR OR SUCCESSOR INDEX, FOR THE FIVE YEARS ENDING ON THE LAST DECEMBER 31 BEFORE A STATE FISCAL YEAR FOR WHICH AN INFLATION ADJUSTMENT TO BE MADE TO THE CLEAN TRANSIT RETAIL DELIVERY FEE IMPOSED PURSUANT TO SECTION 43-4-1203 (7) BEGINS.

(12) "MOTOR VEHICLE" HAS THE SAME MEANING AS SET FORTH IN SECTION 42-1-102 (58). THE TERM DOES NOT INCLUDE A PERSONAL DELIVERY DEVICE.

(13) "PERSONAL DELIVERY DEVICE" MEANS AN AUTONOMOUSLY OPERATED ROBOT THAT IS:

(a) DESIGNED AND MANUFACTURED FOR THE PURPOSE OF TRANSPORTING TANGIBLE PERSONAL PROPERTY PRIMARILY ON SIDEWALKS, CROSSWALKS, AND OTHER PUBLIC RIGHTS-OF-WAY THAT ARE TYPICALLY USED BY PEDESTRIANS;

(b) WEIGHS NO MORE THAN FIVE HUNDRED FIFTY POUNDS, EXCLUDING ANY TANGIBLE PERSONAL PROPERTY BEING TRANSPORTED; AND

(c) OPERATES AT SPEEDS OF LESS THAN TEN MILES PER HOUR WHEN ON SIDEWALKS, CROSSWALKS, AND OTHER PUBLIC RIGHTS-OF-WAY THAT ARE TYPICALLY USED BY PEDESTRIANS.

(14) "PLUG-IN HYBRID ELECTRIC MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT IS POWERED BY BOTH A RECHARGEABLE BATTERY PACK THAT CAN BE RECHARGED BY BEING PLUGGED INTO AN EXTERNAL SOURCE OF ELECTRICITY AND A SECONDARY SOURCE OF PROPULSION SUCH AS AN INTERNAL COMBUSTION ENGINE.

(15) "RETAIL DELIVERY" MEANS A RETAIL SALE OF TANGIBLE PERSONAL PROPERTY BY A RETAILER FOR DELIVERY BY A MOTOR VEHICLE OWNED OR OPERATED BY THE RETAILER OR ANY OTHER PERSON TO THE PURCHASER AT A LOCATION IN THE STATE, WHICH SALE INCLUDES AT LEAST ONE ITEM OF TANGIBLE PERSONAL PROPERTY THAT IS SUBJECT TO TAXATION UNDER ARTICLE 26 OF TITLE 39. EACH SUCH RETAIL SALE IS A SINGLE RETAIL DELIVERY REGARDLESS OF THE NUMBER OF SHIPMENTS NECESSARY TO DELIVER THE ITEMS OF TANGIBLE PERSONAL PROPERTY PURCHASED.

(16) "RETAILER" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (8).

(17) "RETAIL SALE" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (9).

(18) "TANGIBLE PERSONAL PROPERTY HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (15).

(19) "TRANSIT" MEANS MASS TRANSIT, AS DEFINED IN SECTION 43-1-102 (4).

(20) "ZERO EMISSIONS MOTOR VEHICLE" MEANS A BATTERY ELECTRIC MOTOR VEHICLE OR A HYDROGEN FUEL CELL MOTOR VEHICLE.

**43-4-1203. Clean transit enterprise - creation - board - powers and duties - fees - fund.** (1) (a) THE CLEAN TRANSIT ENTERPRISE IS HEREBY CREATED IN THE DEPARTMENT. THE ENTERPRISE IS AND OPERATES AS A GOVERNMENT-OWNED BUSINESS WITHIN THE DEPARTMENT IN ORDER TO EXECUTE ITS BUSINESS PURPOSE AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION BY EXERCISING THE POWERS AND PERFORMING THE DUTIES SET FORTH IN THIS SECTION.

(b) THE ENTERPRISE EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND FUNCTIONS UNDER THE DEPARTMENT AS IF THE SAME WERE

TRANSFERRED TO THE DEPARTMENT BY A **TYPE 1** TRANSFER, AS DEFINED IN SECTION 24-1-105.

(2)(a) THE GOVERNING BOARD OF THE ENTERPRISE CONSISTS OF NINE MEMBERS APPOINTED AS FOLLOWS:

(I) THE GOVERNOR SHALL APPOINT SIX MEMBERS WITH THE ADVICE AND CONSENT OF THE SENATE FOR TERMS OF THE LENGTH SPECIFIED IN SUBSECTION (2)(b) OF THIS SECTION. THE GOVERNOR SHALL MAKE REASONABLE EFFORTS, TO THE EXTENT SUCH APPLICATIONS HAVE BEEN SUBMITTED FOR CONSIDERATION FOR THE BOARD, TO CONSIDER MEMBERS THAT REFLECT THE STATE'S GEOGRAPHIC DIVERSITY WHEN MAKING APPOINTMENTS AND SHALL MAKE INITIAL APPOINTMENTS NO LATER THAN OCTOBER 1, 2021. OF THE MEMBERS APPOINTED BY THE GOVERNOR:

(A) ONE MEMBER MUST BE A MEMBER OF THE COMMISSION AND HAVE STATEWIDE TRANSPORTATION EXPERTISE;

(B) ONE MEMBER MUST REPRESENT AN URBAN AREA AND HAVE TRANSIT EXPERTISE;

(C) ONE MEMBER MUST REPRESENT A RURAL AREA AND HAVE TRANSIT EXPERTISE;

(D) ONE MEMBER MUST HAVE EXPERTISE IN ZERO-EMISSIONS TRANSPORTATION, MOTOR VEHICLE FLEETS, OR UTILITIES;

(E) ONE MEMBER MUST REPRESENT A TRANSPORTATION-FOCUSED ORGANIZATION THAT SERVES AN ENVIRONMENTAL JUSTICE COMMUNITY; AND

(F) ONE MEMBER MUST REPRESENT A PUBLIC ADVOCACY GROUP THAT HAS TRANSIT OR COMPREHENSIVE TRANSPORTATION EXPERTISE.

(II) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(III) THE DIRECTOR OF THE COLORADO ENERGY OFFICE OR THE DIRECTOR'S DESIGNEE; AND

(IV) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

(b) MEMBERS OF THE BOARD APPOINTED BY THE GOVERNOR SERVE FOR TERMS OF FOUR YEARS; EXCEPT THAT THREE OF THE MEMBERS INITIALLY APPOINTED SHALL SERVE FOR INITIAL TERMS OF THREE YEARS AND THE TERM OF THE MEMBER APPOINTED PURSUANT TO SUBSECTION (2)(a)(I)(A) OF THIS SECTION CONTINUES FOR AS LONG AS THE MEMBER IS A MEMBER OF THE COMMISSION. A MEMBER WHO IS APPOINTED TO FILL A VACANCY ON THE BOARD SHALL SERVE THE REMAINDER OF THE UNEXPIRED TERM OF THE FORMER MEMBER. THE OTHER BOARD MEMBERS SERVE FOR AS LONG AS THEY HOLD THEIR POSITIONS OR ARE DESIGNATED TO SERVE.

(c) MEMBERS OF THE BOARD SERVE WITHOUT COMPENSATION BUT MUST BE REIMBURSED FROM MONEY IN THE FUND FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS PART 12.

(3) THE PRIMARY BUSINESS PURPOSE OF THE ENTERPRISE IS TO REDUCE AND MITIGATE THE ADVERSE ENVIRONMENTAL AND HEALTH IMPACTS OF AIR POLLUTION AND GREENHOUSE GAS EMISSIONS PRODUCED BY MOTOR VEHICLES USED TO MAKE RETAIL DELIVERIES BY SUPPORTING THE REPLACEMENT OF EXISTING GASOLINE AND DIESEL TRANSIT VEHICLES WITH ELECTRIC MOTOR VEHICLES, INCLUDING MOTOR VEHICLES THAT ORIGINALLY WERE POWERED EXCLUSIVELY BY INTERNAL COMBUSTION ENGINES BUT HAVE BEEN CONVERTED INTO ELECTRIC MOTOR VEHICLES, PROVIDING THE ASSOCIATED CHARGING INFRASTRUCTURE FOR ELECTRIC TRANSIT FLEET MOTOR VEHICLES, SUPPORTING FACILITY MODIFICATIONS THAT ALLOW FOR THE SAFE OPERATION AND MAINTENANCE OF ELECTRIC TRANSIT MOTOR VEHICLES, AND FUNDING PLANNING STUDIES THAT ENABLE TRANSIT AGENCIES TO PLAN FOR TRANSIT VEHICLE ELECTRIFICATION. TO ALLOW THE ENTERPRISE TO ACCOMPLISH THIS BUSINESS PURPOSE AND FULLY EXERCISE ITS POWERS AND DUTIES THROUGH THE BOARD, THE ENTERPRISE MAY:

(a) IMPOSE A CLEAN TRANSIT RETAIL DELIVERY FEE AS AUTHORIZED BY SUBSECTION (7) OF THIS SECTION;

(b) ISSUE GRANTS AND PROVIDE LOANS AND REBATES AS AUTHORIZED BY SUBSECTION (8) OF THIS SECTION; AND



(c) ISSUE REVENUE BONDS PAYABLE FROM THE REVENUE AND OTHER AVAILABLE MONEY OF THE ENTERPRISE.

(4) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUE IN GRANTS FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (4), THE ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(5) (a) THE CLEAN TRANSIT ENTERPRISE FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF CLEAN TRANSIT RETAIL DELIVERY FEE REVENUE CREDITED TO THE FUND PURSUANT TO SUBSECTION (7) OF THIS SECTION, ANY MONETARY GIFTS, GRANTS, DONATIONS, OR OTHER MONEY RECEIVED BY THE ENTERPRISE, ANY FEDERAL MONEY THAT MAY BE CREDITED TO THE FUND, AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, THE ENTERPRISE MAY EXPEND MONEY FROM THE FUND TO PROVIDE GRANTS, PAY ITS REASONABLE AND NECESSARY OPERATING EXPENSES, INCLUDING REPAYMENT OF ANY LOAN RECEIVED BY THE ENTERPRISE PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION, AND OTHERWISE EXERCISE ITS POWERS AND PERFORM ITS DUTIES AS AUTHORIZED BY THIS PART 3.

(b) THE COMMISSION MAY TRANSFER MONEY FROM THE STATE HIGHWAY FUND CREATED IN SECTION 43-1-219 TO THE ENTERPRISE FOR THE PURPOSE OF DEFRAYING EXPENSES INCURRED BY THE ENTERPRISE BEFORE IT RECEIVES FEE REVENUE OR REVENUE BOND PROCEEDS, AND A TRANSFER FOR SUCH PURPOSE IS MADE, IN ACCORDANCE WITH SECTION 18 OF ARTICLE X OF THE STATE CONSTITUTION, FOR THE SUPERVISION OF THE PUBLIC HIGHWAYS OF THIS STATE. THE ENTERPRISE MAY ACCEPT AND EXPEND ANY MONEY SO TRANSFERRED, AND, NOTWITHSTANDING ANY STATE FISCAL RULE OR GENERALLY ACCEPTED ACCOUNTING PRINCIPLE THAT COULD OTHERWISE BE INTERPRETED TO REQUIRE A CONTRARY CONCLUSION, SUCH A TRANSFER IS A LOAN FROM THE COMMISSION TO THE ENTERPRISE THAT IS REQUIRED TO BE REPAYED AND IS NOT A GRANT FOR PURPOSES OF SECTION 20 (2)(d) OF ARTICLE

X OF THE STATE CONSTITUTION OR AS DEFINED IN SECTION 24-77-102 (7). ALL MONEY TRANSFERRED AS A LOAN TO THE ENTERPRISE SHALL BE CREDITED TO THE CLEAN TRANSIT ENTERPRISE INITIAL EXPENSES FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY, AND LOAN LIABILITIES THAT ARE RECORDED IN THE FUND BUT THAT ARE NOT REQUIRED TO BE PAID IN THE CURRENT FISCAL YEAR SHALL NOT BE CONSIDERED WHEN CALCULATING SUFFICIENT STATUTORY FUND BALANCE FOR PURPOSES OF SECTION 24-75-109. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE CLEAN TRANSIT ENTERPRISE INITIAL EXPENSES FUND TO THE FUND. THE CLEAN TRANSIT ENTERPRISE INITIAL EXPENSES FUND IS CONTINUOUSLY APPROPRIATED TO THE ENTERPRISE FOR THE PURPOSE OF DEFRAYING EXPENSES INCURRED BY THE ENTERPRISE BEFORE IT RECEIVES FEE REVENUE OR REVENUE BOND PROCEEDS. AS THE ENTERPRISE RECEIVES SUFFICIENT REVENUE IN EXCESS OF EXPENSES, THE ENTERPRISE SHALL REIMBURSE THE STATE HIGHWAY FUND FOR THE PRINCIPAL AMOUNT OF ANY LOAN MADE BY THE COMMISSION PLUS INTEREST AT A RATE SET BY THE COMMISSION.

(6) IN ADDITION TO ANY OTHER POWERS AND DUTIES SPECIFIED IN THIS SECTION, THE BOARD HAS THE FOLLOWING GENERAL POWERS AND DUTIES:

(a) TO ADOPT BYLAWS FOR THE REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS;

(b) TO ACQUIRE, HOLD TITLE TO, AND DISPOSE OF REAL AND PERSONAL PROPERTY;

(c) TO EMPLOY AND SUPERVISE INDIVIDUALS, PROFESSIONAL CONSULTANTS AND CONTRACTORS AS ARE NECESSARY IN ITS JUDGMENT TO CARRY OUT ITS BUSINESS PURPOSE;

(d) TO CONTRACT WITH ANY PUBLIC OR PRIVATE ENTITY;

(e) TO SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, AND DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS PART 12. THE ENTERPRISE SHALL TRANSMIT ANY MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE FUND.

(f) TO DIRECTLY PROVIDE ANY SERVICE THAT IT IS AUTHORIZED TO PROVIDE INDIRECTLY THROUGH GRANTS AWARDED PURSUANT TO SUBSECTION (8) OF THIS SECTION;

(g) TO PROMULGATE RULES TO SET THE AMOUNT OF THE CLEAN TRANSIT RETAIL DELIVERY FEE AT OR BELOW THE MAXIMUM AMOUNT AUTHORIZED IN THIS SECTION AND TO GOVERN THE PROCESS BY WHICH THE ENTERPRISE ACCEPTS APPLICATIONS FOR, AWARDS, AND OVERSEES GRANTS, LOANS, AND REBATES PURSUANT TO SUBSECTION (8) OF THIS SECTION; AND

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

(7) (a) IN FURTHERANCE OF ITS BUSINESS PURPOSE, BEGINNING IN STATE FISCAL YEAR 2022-23, THE ENTERPRISE SHALL IMPOSE, AND THE DEPARTMENT OF REVENUE SHALL COLLECT ON BEHALF OF THE ENTERPRISE, A CLEAN TRANSIT RETAIL DELIVERY FEE ON EACH RETAIL DELIVERY. EACH RETAILER WHO MAKES A RETAIL DELIVERY SHALL ADD TO THE PRICE OF THE RETAIL DELIVERY, COLLECT FROM THE PURCHASER, AND PAY TO THE DEPARTMENT OF REVENUE AT THE TIME AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT IN ACCORDANCE WITH SECTION 43-4-218 (6) THE CLEAN TRANSIT RETAIL DELIVERY FEE. FOR THE PURPOSE OF MINIMIZING COMPLIANCE COSTS FOR RETAILERS AND ADMINISTRATIVE COSTS FOR THE STATE, THE DEPARTMENT OF REVENUE SHALL COLLECT AND ADMINISTER THE CLEAN TRANSIT RETAIL DELIVERY FEE ON BEHALF OF THE ENTERPRISE IN THE SAME MANNER IN WHICH IT COLLECTS AND ADMINISTERS THE RETAIL DELIVERY FEE IMPOSED BY SECTION 43-4-218 (3).

(b) FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING STATE FISCAL YEAR 2022-23, THE ENTERPRISE SHALL IMPOSE THE CLEAN TRANSIT RETAIL DELIVERY FEE IN A MAXIMUM AMOUNT OF THREE CENTS.

(c) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7)(c)(II) OF THIS SECTION, FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING STATE FISCAL YEAR 2023-24 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR, THE ENTERPRISE SHALL IMPOSE THE CLEAN TRANSIT RETAIL DELIVERY FEE IN A MAXIMUM AMOUNT THAT IS THE MAXIMUM AMOUNT FOR THE PRIOR STATE FISCAL YEAR ADJUSTED FOR

INFLATION. THE ENTERPRISE SHALL NOTIFY THE DEPARTMENT OF REVENUE OF THE AMOUNT OF THE CLEAN TRANSIT RETAIL DELIVERY FEE TO BE COLLECTED FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING EACH STATE FISCAL YEAR NO LATER THAN MARCH 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS, AND THE DEPARTMENT OF REVENUE SHALL PUBLISH THE AMOUNT NO LATER THAN APRIL 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS.

(II) THE ENTERPRISE IS AUTHORIZED TO ADJUST THE AMOUNT OF THE CLEAN TRANSIT RETAIL DELIVERY FEE FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING A STATE FISCAL YEAR ONLY IF THE DEPARTMENT OF REVENUE ADJUSTS THE AMOUNT OF THE RETAIL DELIVERY FEE IMPOSED BY SECTION 43-4-218 (3) FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING THE STATE FISCAL YEAR.

(8) (a) IN FURTHERANCE OF ITS BUSINESS PURPOSE, AND SUBJECT TO THE REQUIREMENTS SET FORTH IN THIS SUBSECTION (8), THE ENTERPRISE IS AUTHORIZED TO MAKE GRANTS, LOANS, OR REBATES TO SUPPORT ELECTRIFICATION OF PUBLIC TRANSIT.

(b) THE ENTERPRISE MAY MAKE GRANTS, LOANS, OR REBATES TO FUND:

(I) CLEAN TRANSIT PLANNING EFFORTS;

(II) FACILITY UPGRADES NECESSARY FOR THE SAFE OPERATION AND MAINTENANCE OF ELECTRIC MOTOR VEHICLES USED BY PUBLIC TRANSIT PROVIDERS;

(III) THE CONSTRUCTION OF ELECTRIC MOTOR VEHICLE CHARGING INFRASTRUCTURE USED BY PUBLIC TRANSIT PROVIDERS; AND

(IV) THE REPLACEMENT OF MOTOR VEHICLES USED BY PUBLIC TRANSIT PROVIDERS THAT ARE NOT ELECTRIC MOTOR VEHICLES BY ELECTRIC MOTOR VEHICLES, OR, IF ELECTRIC MOTOR VEHICLES ARE NOT PRACTICALLY AVAILABLE, BY COMPRESSED NATURAL GAS MOTOR VEHICLES, AS DEFINED IN SECTION 25-7.5-102 (5), IF AT LEAST NINETY PERCENT OF THE FUEL FOR THE COMPRESSED NATURAL GAS MOTOR VEHICLES WILL BE RECOVERED METHANE, AS DEFINED IN SECTION 25-7.5-102 (20).

(c) THE ENTERPRISE SHALL AWARD GRANTS ON A COMPETITIVE BASIS BASED ON WRITTEN CRITERIA ESTABLISHED BY THE ENTERPRISE IN ADVANCE OF ANY DEADLINES FOR THE SUBMISSION OF GRANT APPLICATIONS.

(9) THE ENTERPRISE SHALL CONTRACT WITH THE AIR POLLUTION CONTROL DIVISION OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO DEVELOP PROPOSED RULES FOR THE CONSIDERATION OF THE AIR QUALITY CONTROL COMMISSION THAT WILL SUPPORT THE ENTERPRISE'S BUSINESS SERVICES, INCLUDING REMEDIATION SERVICES, IN A MANNER THAT MAINTAINS COMPLIANCE WITH THE FEDERAL AND STATE STATUTES, RULES, AND REGULATIONS GOVERNING AIR QUALITY. THE DIVISION SHALL COLLABORATE WITH THE COLORADO ENERGY OFFICE AND THE DEPARTMENT WHEN DEVELOPING THE RULES.

(10) (a) TO ENSURE TRANSPARENCY AND ACCOUNTABILITY, THE ENTERPRISE SHALL:

(I) NO LATER THAN JUNE 1, 2022, PUBLISH AND POST ON ITS WEBSITE A TEN-YEAR PLAN THAT DETAILS HOW THE ENTERPRISE WILL EXECUTE ITS BUSINESS PURPOSE DURING STATE FISCAL YEARS 2022-23 THROUGH 2031-32 AND ESTIMATES THE AMOUNT OF FUNDING NEEDED TO IMPLEMENT THE PLAN. NO LATER THAN JANUARY 1, 2032, THE ENTERPRISE SHALL PUBLISH AND POST ON ITS WEBSITE A NEW TEN-YEAR PLAN FOR STATE FISCAL YEARS 2032-33 THROUGH 2041-42.

(II) CREATE, MAINTAIN, AND REGULARLY UPDATE ON ITS WEBSITE A PUBLIC ACCOUNTABILITY DASHBOARD THAT PROVIDES, AT A MINIMUM, ACCESSIBLE AND TRANSPARENT SUMMARY INFORMATION REGARDING THE IMPLEMENTATION OF ITS TEN-YEAR PLAN, THE FUNDING STATUS AND PROGRESS TOWARD COMPLETION OF EACH PROJECT THAT IT WHOLLY OR PARTLY FUNDS, AND ITS PER PROJECT AND TOTAL FUNDING AND EXPENDITURES;

(III) ENGAGE REGULARLY REGARDING ITS PROJECTS AND ACTIVITIES WITH THE PUBLIC, SPECIFICALLY REACHING OUT TO AND SEEKING INPUT FROM COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES, AND INTEREST GROUPS THAT ARE LIKELY TO BE INTERESTED IN THE PROJECTS AND ACTIVITIES; AND

(IV) PREPARE AN ANNUAL REPORT REGARDING ITS ACTIVITIES AND

FUNDING AND PRESENT THE REPORT TO THE TRANSPORTATION COMMISSION CREATED IN SECTION 43-1-106 (1) AND TO THE TRANSPORTATION AND LOCAL GOVERNMENT AND ENERGY AND ENVIRONMENT COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES. THE ENTERPRISE SHALL ALSO POST THE ANNUAL REPORT ON ITS WEBSITE. NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT REQUIRED IN THIS SUBSECTION (10)(a)(IV) TO THE SPECIFIED LEGISLATIVE COMMITTEES CONTINUES INDEFINITELY.

(b) THE ENTERPRISE IS SUBJECT TO THE OPEN MEETINGS PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", CONTAINED IN PART 4 OF ARTICLE 6 OF TITLE 24, AND THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

(c) FOR PURPOSES OF THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, AND EXCEPT AS MAY OTHERWISE BE PROVIDED BY FEDERAL LAW OR REGULATION OR STATE LAW, THE RECORDS OF THE ENTERPRISE ARE PUBLIC RECORDS, AS DEFINED IN SECTION 24-72-202 (6), REGARDLESS OF WHETHER THE ENTERPRISE RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUE IN GRANTS, AS DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED.

(d) THE ENTERPRISE IS A PUBLIC ENTITY FOR PURPOSES OF PART 2 OF ARTICLE 57 OF TITLE 11.

PART 13  
NONATTAINMENT AREA AIR POLLUTION  
MITIGATION ENTERPRISE

**43-4-1301. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) RAPID AND CONTINUING GROWTH IN RETAIL DELIVERIES MADE BY MOTOR VEHICLES AND IN PREARRANGED RIDES ARRANGED THROUGH TRANSPORTATION NETWORK COMPANIES HAS INCREASED AND WILL CONTINUE TO INCREASE TRAFFIC CONGESTION AND AIR POLLUTION FROM MOTOR VEHICLE EMISSIONS, ALONG WITH THE ADVERSE ENVIRONMENTAL AND HEALTH IMPACTS THAT RESULT FROM SUCH POLLUTION, IN

NONATTAINMENT AREAS, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES AND COMMUNITIES ADJACENT TO HIGHWAYS;

(b) IT IS NECESSARY AND APPROPRIATE TO OFFSET AND MITIGATE THESE IMPACTS BY CREATING A NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE THAT HAS THE BUSINESS PURPOSE OF PROVIDING FUNDING FOR ELIGIBLE PROJECTS THAT REDUCE TRAFFIC CONGESTION, INCLUDING DEMAND MANAGEMENT PROJECTS THAT ENCOURAGE ALTERNATIVES TO DRIVING ALONE, AND THEREBY REDUCE TRAVEL DELAYS, ENGINE IDLE TIME, AND UNPRODUCTIVE FUEL CONSUMPTION OR THAT DIRECTLY REDUCE EMISSIONS BY MEANS SUCH AS RETROFITTING OF CONSTRUCTION EQUIPMENT;

(c) INSTEAD OF REDUCING THE IMPACTS OF RETAIL DELIVERIES AND PREARRANGED RIDES ARRANGED THROUGH TRANSPORTATION NETWORK COMPANIES, BY LIMITING RETAIL DELIVERY AND PREARRANGED RIDE ACTIVITY THROUGH REGULATION, IT IS MORE APPROPRIATE TO CONTINUE TO ALLOW PERSONS WHO RECEIVE RETAIL DELIVERIES AND BENEFIT FROM THE CONVENIENCE AFFORDED BY UNFETTERED RETAIL DELIVERIES AND TO ALLOW TRANSPORTATION NETWORK COMPANIES THAT ARRANGE PREARRANGED RIDES TO CONTINUE TO PROVIDE THAT SERVICE WITHOUT UNDUE RESTRICTIONS AND TO INSTEAD IMPOSE A SMALL FEE ON EACH RETAIL DELIVERY AND PREARRANGED RIDE AND USE FEE REVENUE TO FUND NECESSARY MITIGATION ACTIVITIES.

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

(a) THE ENTERPRISE PROVIDES IMPACT REMEDIATION SERVICES WHEN, IN EXCHANGE FOR THE PAYMENT OF AIR POLLUTION MITIGATION PER RIDE FEES BY TRANSPORTATION NETWORK COMPANIES AND AIR POLLUTION MITIGATION RETAIL DELIVERY FEES BY PURCHASERS OF TANGIBLE PERSONAL PROPERTY FOR RETAIL DELIVERY, IT ACTS AS AUTHORIZED BY THIS SECTION TO MITIGATE THE IMPACTS OF PREARRANGED RIDES ARRANGED THROUGH TRANSPORTATION NETWORK COMPANIES AND RESIDENTIAL AND COMMERCIAL DELIVERIES ON THE STATE'S TRANSPORTATION INFRASTRUCTURE, AIR QUALITY, AND EMISSIONS;

(b) BY PROVIDING IMPACT REMEDIATION SERVICES AS AUTHORIZED BY THIS SECTION, THE NONATTAINMENT AREA AIR POLLUTION MITIGATION

ENTERPRISE PROVIDES A BENEFIT TO FEE PAYERS WHEN IT REMEDIATES THE IMPACTS THEY CAUSE AND THEREFORE OPERATES AS A BUSINESS IN ACCORDANCE WITH THE DETERMINATION OF THE COLORADO SUPREME COURT IN *COLORADO UNION OF TAXPAYERS FOUNDATION V. CITY OF ASPEN*, 2018 CO 36;

(c) CONSISTENT WITH THE DETERMINATION OF THE COLORADO SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL ASSEMBLY THAT THE REVENUE COLLECTED BY THE ENTERPRISE IS GENERATED BY FEES, NOT TAXES, BECAUSE THE AIR POLLUTION MITIGATION PER RIDE FEE AND THE AIR POLLUTION MITIGATION RETAIL DELIVERY FEE IMPOSED BY THE ENTERPRISE AS AUTHORIZED BY SUBSECTIONS (7) AND (8) OF THIS SECTION ARE:

(I) IMPOSED FOR THE SPECIFIC PURPOSE OF ALLOWING THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE REMEDIATION SERVICES SPECIFIED IN THIS SECTION, INCLUDING MITIGATING IMPACTS TO AIR QUALITY AND GREENHOUSE GAS EMISSIONS CAUSED BY THE ACTIVITIES ON WHICH THE FEES ARE ASSESSED, AND CONTRIBUTE TO THE IMPLEMENTATION OF THE COMPREHENSIVE REGULATORY SCHEME REQUIRED FOR THE PLANNING, FUNDING, DEVELOPMENT, CONSTRUCTION, MAINTENANCE, AND SUPERVISION OF A SUSTAINABLE TRANSPORTATION SYSTEM; AND

(II) COLLECTED AT RATES THAT ARE REASONABLY CALCULATED BASED ON THE IMPACTS CAUSED BY FEE PAYERS AND THE COST OF REMEDIATING THOSE IMPACTS; AND

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



**43-4-1302. Definitions.** AS USED IN THIS PART 13, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AIR POLLUTANT" HAS THE SAME MEANING AS SET FORTH IN SECTION 25-7-103 (1.5).

(2) "BATTERY ELECTRIC MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT IS POWERED EXCLUSIVELY BY A RECHARGEABLE BATTERY PACK THAT CAN BE RECHARGED BY BEING PLUGGED INTO AN EXTERNAL SOURCE OF ELECTRICITY AND THAT HAS NO SECONDARY SOURCE OF PROPULSION.

(3) "BOARD" MEANS THE GOVERNING BOARD OF THE ENTERPRISE.

(4) "CARSHARE RIDE" MEANS A PREARRANGED RIDE FOR WHICH THE RIDER AGREES, AT THE TIME THE RIDER REQUESTS THE RIDE THROUGH A DIGITAL NETWORK, TO BE TRANSPORTED WITH ANOTHER RIDER WHO HAS SEPARATELY REQUESTED A PREARRANGED RIDE REGARDLESS OF WHETHER OR NOT ANOTHER RIDER IS ACTUALLY TRANSPORTED WITH THE RIDER.

(5) "CMAQ" MEANS THE CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM ADMINISTERED BY THE FEDERAL HIGHWAY ADMINISTRATION OR ANY SUBSTANTIALLY SIMILAR SUCCESSOR PROGRAM.

(6) "DEPARTMENT" MEANS THE DEPARTMENT OF TRANSPORTATION.

(7) (a) "DISPROPORTIONATELY IMPACTED COMMUNITY" MEANS A COMMUNITY THAT IS IN A CENSUS BLOCK GROUP, AS DETERMINED IN ACCORDANCE WITH THE MOST RECENT UNITED STATES DECENNIAL CENSUS, WHERE THE PROPORTION OF HOUSEHOLDS THAT ARE LOW INCOME IS GREATER THAN FORTY PERCENT, THE PROPORTION OF HOUSEHOLDS THAT IDENTIFY AS MINORITY IS GREATER THAN FORTY PERCENT, OR THE PROPORTION OF HOUSEHOLDS THAT ARE HOUSING COST-BURDENED IS GREATER THAN FORTY PERCENT.

(b) AS USED IN THIS SUBSECTION (7):

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

(II) "LOW INCOME" MEANS THE MEDIAN HOUSEHOLD INCOME IS LESS

THAN OR EQUAL TO TWO HUNDRED PERCENT OF THE FEDERAL POVERTY GUIDELINE.

(8) "ELECTRIC MOTOR VEHICLE" MEANS A BATTERY ELECTRIC MOTOR VEHICLE, A HYDROGEN FUEL CELL MOTOR VEHICLE, OR A PLUG-IN HYBRID ELECTRIC MOTOR VEHICLE.

(9) "ELIGIBLE ENTITY" MEANS A METROPOLITAN PLANNING ORGANIZATION OR ANY OTHER PUBLIC ENTITY THAT IS ELIGIBLE TO RECEIVE CMAQ FUNDING AND THAT IS SEEKING FUNDING FROM THE FUND FOR AN ELIGIBLE PROJECT.

(10) "ELIGIBLE PROJECT" MEANS A PROJECT LOCATED WITHIN A NONATTAINMENT AREA THAT:

(a) IS ELIGIBLE FOR CMAQ FUNDING; OR

(b) REDUCES EMISSIONS OF AIR POLLUTANTS OR GREENHOUSE GAS POLLUTANTS.

(11) "ENTERPRISE" MEANS THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE CREATED IN SECTION 43-4-1303 (1)(a).

(12) "FUND" MEANS THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE FUND CREATED IN SECTION 43-4-1303 (5).

(13) "GREENHOUSE GAS POLLUTANT" MEANS ANTHROPOGENIC EMISSIONS OF CARBON DIOXIDE, METHANE, NITROUS OXIDE, HYDROFLUOROCARBONS, PERFLUOROCARBONS, NITROGEN TRIFLUORIDE, AND SULFUR HEXAFLUORIDE.

(14) "HYDROGEN FUEL CELL MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT IS POWERED BY ELECTRICITY PRODUCED FROM A FUEL CELL THAT USES HYDROGEN GAS AS FUEL.

(15) "INFLATION" MEANS THE AVERAGE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKESIDE FOR ALL ITEMS AND ALL URBAN CONSUMERS, OR ITS APPLICABLE PREDECESSOR OR SUCCESSOR INDEX, FOR THE FIVE YEARS ENDING ON THE LAST DECEMBER

31 BEFORE A STATE FISCAL YEAR FOR WHICH AN INFLATION ADJUSTMENT TO BE MADE TO THE AIR POLLUTION MITIGATION PER RIDE FEE IMPOSED BY SECTION 43-4-1303 (7) OR THE AIR POLLUTION MITIGATION RETAIL DELIVERY FEE IMPOSED BY SECTION 43-4-1303 (8) BEGINS.

(16) "NONATTAINMENT AREA" MEANS AN AREA THAT THE AIR QUALITY CONTROL COMMISSION CREATED IN SECTION 25-7-104 HAS DESIGNATED AS A NONATTAINMENT AREA PURSUANT TO SECTION 25-7-107.

(17) "PLUG-IN HYBRID ELECTRIC MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT IS POWERED BY BOTH A RECHARGEABLE BATTERY PACK THAT CAN BE RECHARGED BY BEING PLUGGED INTO AN EXTERNAL SOURCE OF ELECTRICITY AND A SECONDARY SOURCE OF PROPULSION SUCH AS AN INTERNAL COMBUSTION ENGINE.

(18) "PREARRANGED RIDE" HAS THE SAME MEANING AS SET FORTH IN SECTION 40-10.1-602 (2).

(19) "RETAIL DELIVERY" MEANS A RETAIL SALE OF TANGIBLE PERSONAL PROPERTY BY A RETAILER FOR DELIVERY BY A MOTOR VEHICLE OWNED OR OPERATED BY THE RETAILER OR ANY OTHER PERSON TO THE PURCHASER AT A LOCATION IN THE STATE, WHICH SALE INCLUDES AT LEAST ONE ITEM OF TANGIBLE PERSONAL PROPERTY THAT IS SUBJECT TO TAXATION UNDER ARTICLE 26 OF TITLE 39. EACH SUCH RETAIL SALE IS A SINGLE RETAIL DELIVERY REGARDLESS OF THE NUMBER OF SHIPMENTS NECESSARY TO DELIVER THE ITEMS OF TANGIBLE PERSONAL PROPERTY PURCHASED.

(20) "RETAILER" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (8).

(21) "RETAIL SALE" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (9).

(22) "RIDER" HAS THE SAME MEANING AS SET FORTH IN SECTION 40-10.1-602 (5).

(23) "TANGIBLE PERSONAL PROPERTY HAS THE SAME MEANING AS SET FORTH IN SECTION 39-26-102 (15).

(24) "TRANSPORTATION NETWORK COMPANY" HAS THE SAME

MEANING AS SET FORTH IN SECTION 40-10.1-602 (3).

(25) "ZERO EMISSIONS MOTOR VEHICLE" MEANS A BATTERY ELECTRIC MOTOR VEHICLE OR A HYDROGEN FUEL CELL MOTOR VEHICLE.

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

(1) (a) THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE IS HEREBY CREATED IN THE DEPARTMENT. THE ENTERPRISE IS AND OPERATES AS A GOVERNMENT-OWNED BUSINESS WITHIN THE DEPARTMENT IN ORDER TO EXECUTE ITS BUSINESS PURPOSE AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION BY EXERCISING THE POWERS AND PERFORMING THE DUTIES SET FORTH IN THIS SECTION.

(b) THE ENTERPRISE EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND FUNCTIONS UNDER THE DEPARTMENT AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 1** TRANSFER, AS DEFINED IN SECTION 24-1-105.

(2) (a) THE GOVERNING BOARD OF THE ENTERPRISE CONSISTS OF UP TO SEVEN MEMBERS AS FOLLOWS:

(I) FIVE MEMBERS APPOINTED BY THE GOVERNOR WITH THE CONSENT OF THE SENATE AS FOLLOWS:

(A) ONE MEMBER WITH EXPERTISE ON ENVIRONMENTAL, ENVIRONMENTAL JUSTICE, OR PUBLIC HEALTH ISSUES;

(B) ONE MEMBER WHO IS AN ELECTED OFFICIAL OF A DISPROPORTIONATELY IMPACTED COMMUNITY THAT IS A MEMBER OF THE DENVER REGIONAL COUNCIL OF GOVERNMENTS;

(C) ONE MEMBER WHO IS AN ELECTED OFFICIAL OF A LOCAL GOVERNMENT THAT IS A MEMBER OF THE NORTH FRONT RANGE METROPOLITAN PLANNING ORGANIZATION; AND

(D) UP TO TWO MEMBERS WHO ARE REPRESENTATIVES OF DISPROPORTIONATELY IMPACTED COMMUNITIES;

(II) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF

TRANSPORTATION OR THE EXECUTIVE DIRECTOR'S DESIGNEE; AND

(III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

(b) APPOINTED MEMBERS OF THE BOARD SERVE AT THE PLEASURE OF THE GOVERNOR. THE OTHER BOARD MEMBERS SERVE FOR AS LONG AS THEY HOLD THEIR EXECUTIVE DIRECTOR POSITIONS OR ARE DESIGNATED TO SERVE BY AN EXECUTIVE DIRECTOR.

(3) THE BUSINESS PURPOSE OF THE ENTERPRISE IS TO MITIGATE THE ENVIRONMENTAL AND HEALTH IMPACTS OF INCREASED AIR POLLUTION FROM MOTOR VEHICLE EMISSIONS IN NONATTAINMENT AREAS THAT RESULTS FROM THE RAPID AND CONTINUING GROWTH IN RETAIL DELIVERIES MADE BY MOTOR VEHICLES AND IN PREARRANGED RIDES PROVIDED BY TRANSPORTATION NETWORK COMPANIES BY PROVIDING FUNDING FOR ELIGIBLE PROJECTS THAT REDUCE TRAFFIC, INCLUDING DEMAND MANAGEMENT PROJECTS THAT ENCOURAGE ALTERNATIVES TO DRIVING ALONE OR THAT DIRECTLY REDUCE AIR POLLUTION, SUCH AS RETROFITTING OF CONSTRUCTION EQUIPMENT, CONSTRUCTION OF ROADSIDE VEGETATION BARRIERS, AND PLANTING TREES ALONG MEDIANS. TO ALLOW THE ENTERPRISE TO ACCOMPLISH THIS PURPOSE AND FULLY EXERCISE ITS POWERS AND DUTIES THROUGH THE BOARD, THE ENTERPRISE MAY:

(a) IMPOSE AN AIR POLLUTION MITIGATION PER RIDE FEE AND AN AIR POLLUTION MITIGATION RETAIL DELIVERY FEE AS AUTHORIZED BY SUBSECTIONS (7) AND (8) OF THIS SECTION;

(b) ISSUE GRANTS, LOANS, AND REBATES AS AUTHORIZED BY SUBSECTION (9) OF THIS SECTION; AND

(c) ISSUE REVENUE BONDS PAYABLE FROM THE REVENUE AND OTHER AVAILABLE MONEY OF THE ENTERPRISE.

(4) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUE IN GRANTS FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (4), THE

ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(5) (a) THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF AIR POLLUTION MITIGATION PER RIDE FEE REVENUE AND AIR POLLUTION MITIGATION RETAIL DELIVERY FEE REVENUE CREDITED TO THE FUND PURSUANT TO SUBSECTIONS (7) AND (8) OF THIS SECTION, ANY MONETARY GIFTS, GRANTS, DONATIONS, OR OTHER PAYMENTS RECEIVED BY THE ENTERPRISE, ANY FEDERAL MONEY THAT MAY BE CREDITED TO THE FUND, AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE ENTERPRISE FOR THE PURPOSES SET FORTH IN THIS PART 13 AND TO PAY THE ENTERPRISE'S REASONABLE AND NECESSARY OPERATING EXPENSES, INCLUDING THE REPAYMENT OF ANY LOAN RECEIVED PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION.

(b) THE DEPARTMENT MAY TRANSFER MONEY FROM ANY LEGALLY AVAILABLE SOURCE TO THE ENTERPRISE FOR THE PURPOSE OF DEFRAYING EXPENSES INCURRED BY THE ENTERPRISE BEFORE IT RECEIVES FEE REVENUE OR REVENUE BOND PROCEEDS. THE ENTERPRISE MAY ACCEPT AND EXPEND ANY MONEY SO TRANSFERRED, AND, NOTWITHSTANDING ANY STATE FISCAL RULE OR GENERALLY ACCEPTED ACCOUNTING PRINCIPLE THAT COULD OTHERWISE BE INTERPRETED TO REQUIRE A CONTRARY CONCLUSION, SUCH A TRANSFER IS A LOAN FROM THE DEPARTMENT TO THE ENTERPRISE THAT IS REQUIRED TO BE REPAID AND IS NOT A GRANT FOR PURPOSES OF SECTION 20 (2)(d) OF ARTICLE X OF THE STATE CONSTITUTION OR AS DEFINED IN SECTION 24-77-102 (7). ALL MONEY TRANSFERRED AS A LOAN TO THE ENTERPRISE SHALL BE CREDITED TO THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE INITIAL EXPENSES FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY, AND LOAN LIABILITIES THAT ARE RECORDED IN THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE INITIAL EXPENSES FUND BUT THAT ARE NOT REQUIRED TO BE PAID IN THE CURRENT FISCAL YEAR SHALL NOT BE CONSIDERED WHEN CALCULATING SUFFICIENT STATUTORY FUND BALANCE FOR PURPOSES OF SECTION 24-75-109. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE INITIAL

EXPENSES FUND TO THE FUND. THE NONATTAINMENT AREA AIR POLLUTION MITIGATION ENTERPRISE INITIAL EXPENSES FUND IS CONTINUOUSLY APPROPRIATED TO THE ENTERPRISE FOR THE PURPOSE OF DEFRAYING EXPENSES INCURRED BY THE ENTERPRISE BEFORE IT RECEIVES FEE REVENUE OR REVENUE BOND PROCEEDS. AS THE ENTERPRISE RECEIVES SUFFICIENT REVENUE IN EXCESS OF EXPENSES, THE ENTERPRISE SHALL REIMBURSE THE DEPARTMENT FOR THE PRINCIPAL AMOUNT OF ANY LOAN MADE BY THE DEPARTMENT PLUS INTEREST AT A RATE SET BY THE DEPARTMENT.

(6) IN ADDITION TO ANY OTHER POWERS AND DUTIES SPECIFIED IN THIS SECTION, THE BOARD HAS THE FOLLOWING GENERAL POWERS AND DUTIES:

(a) TO ADOPT BYLAWS FOR THE REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS;

(b) TO ACQUIRE, HOLD TITLE TO, AND DISPOSE OF REAL AND PERSONAL PROPERTY;

(c) IN CONSULTATION WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, TO EMPLOY AND SUPERVISE INDIVIDUALS, PROFESSIONAL CONSULTANTS, AND CONTRACTORS AS ARE NECESSARY IN ITS JUDGMENT TO CARRY OUT ITS BUSINESS PURPOSE;

(d) TO CONTRACT WITH ANY PUBLIC OR PRIVATE ENTITY, INCLUDING STATE AGENCIES, CONSULTANTS, AND THE ATTORNEY GENERAL'S OFFICE, FOR PROFESSIONAL AND TECHNICAL ASSISTANCE, OFFICE SPACE AND ADMINISTRATIVE SERVICES, ADVICE, AND OTHER SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE ENTERPRISE. THE ENTERPRISE IS ENCOURAGED TO ISSUE GRANTS ON A COMPETITIVE BASIS BASED ON WRITTEN CRITERIA ESTABLISHED BY THE ENTERPRISE IN ADVANCE OF ANY DEADLINES FOR THE SUBMISSION OF GRANT APPLICATIONS. THE BOARD SHALL GENERALLY AVOID USING SOLE-SOURCE CONTRACTS.

(e) TO SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, DONATIONS, OR OTHER PAYMENTS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS PART 13 SO LONG AS THE TOTAL AMOUNT OF ALL GRANTS FROM COLORADO STATE AND LOCAL GOVERNMENTS RECEIVED IN ANY STATE FISCAL YEAR IS LESS THAN TEN PERCENT OF THE ENTERPRISE'S TOTAL ANNUAL REVENUE FOR THE STATE FISCAL YEAR. THE ENTERPRISE SHALL

TRANSMIT ANY MONEY RECEIVED THROUGH GIFTS, GRANTS, DONATIONS, OR OTHER PAYMENTS TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE FUND.

(f) TO PROVIDE SERVICES AS SET FORTH IN SUBSECTION (9) OF THIS SECTION;

(g) TO PUBLISH THE PROCESSES BY WHICH THE ENTERPRISE ACCEPTS APPLICATIONS, THE CRITERIA FOR EVALUATING APPLICATIONS, AND A LIST OF GRANTEES OR PROGRAM PARTICIPANTS PURSUANT TO SUBSECTION (9) OF THIS SECTION;

(h) TO PROMULGATE RULES FOR THE SOLE PURPOSE OF SETTING THE AMOUNTS OF THE AIR POLLUTION MITIGATION PER RIDE FEE AND THE AIR POLLUTION MITIGATION RETAIL DELIVERY FEE AT OR BELOW THE MAXIMUM AMOUNTS AUTHORIZED IN THIS SECTION; AND

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

(7) (a) IN FURTHERANCE OF ITS BUSINESS PURPOSE, BEGINNING IN STATE FISCAL YEAR 2022-23, THE ENTERPRISE SHALL IMPOSE AN AIR POLLUTION MITIGATION PER RIDE FEE TO BE PAID BY A TRANSPORTATION NETWORK COMPANY FOR EACH PREARRANGED RIDE REQUESTED AND ACCEPTED THROUGH THE COMPANY'S DIGITAL NETWORK. FOR THE PURPOSE OF MINIMIZING COMPLIANCE COSTS FOR TRANSPORTATION NETWORK COMPANIES AND ADMINISTRATIVE COSTS FOR THE STATE, THE DEPARTMENT OF REVENUE SHALL COLLECT THE AIR POLLUTION MITIGATION PER RIDE FEE ON BEHALF OF THE ENTERPRISE, AND A TRANSPORTATION NETWORK COMPANY SHALL PAY THE FEE TO THE DEPARTMENT OF REVENUE AS REQUIRED BY SECTION 40-10.1-607.5 (2).

(b) FOR PREARRANGED RIDES REQUESTED AND ACCEPTED DURING STATE FISCAL YEAR 2022-23, THE ENTERPRISE SHALL IMPOSE THE AIR POLLUTION MITIGATION PER RIDE FEE IN A MAXIMUM AMOUNT OF:

(I) ELEVEN AND ONE-QUARTER CENTS FOR EACH PREARRANGED RIDE THAT IS A CARSHARE RIDE OR FOR WHICH THE DRIVER TRANSPORTS THE RIDER IN A ZERO EMISSIONS MOTOR VEHICLE; AND



(II) TWENTY-TWO AND ONE-HALF CENTS FOR EVERY OTHER PREARRANGED RIDE.

(c) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7)(c)(II) OF THIS SECTION, FOR PREARRANGED RIDES REQUESTED AND ACCEPTED DURING STATE FISCAL YEAR 2023-24 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR, THE ENTERPRISE SHALL IMPOSE THE AIR POLLUTION MITIGATION PER RIDE FEE IN A MAXIMUM AMOUNT THAT IS THE APPLICABLE MAXIMUM AMOUNT FOR THE PRIOR STATE FISCAL YEAR ADJUSTED FOR INFLATION. THE ENTERPRISE SHALL NOTIFY THE DEPARTMENT OF REVENUE OF THE AMOUNT OF THE AIR POLLUTION MITIGATION PER RIDE FEE TO BE COLLECTED FOR RIDES REQUESTED AND ACCEPTED DURING EACH STATE FISCAL YEAR NO LATER THAN MARCH 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS, AND THE DEPARTMENT OF REVENUE SHALL PUBLISH THE AMOUNT NO LATER THAN APRIL 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS.

(II) THE ENTERPRISE IS AUTHORIZED TO ADJUST THE AMOUNT OF THE AIR POLLUTION MITIGATION PER RIDE FEE FOR PREARRANGED RIDES REQUESTED AND ACCEPTED DURING A STATE FISCAL YEAR ONLY IF THE RATE OF INFLATION IS POSITIVE AND CUMULATIVE INFLATION FROM THE TIME OF THE LAST ADJUSTMENT IN THE AMOUNT OF THE FEE, WHEN APPLIED TO THE SUM OF THE CURRENT AIR POLLUTION MITIGATION PER RIDE FEE AND THE CURRENT CLEAN FLEET PER RIDE FEE IMPOSED AS REQUIRED BY SECTION 25-7.5-103 (7) AND ROUNDED TO THE NEAREST WHOLE CENT, WILL RESULT IN AN INCREASE OF AT LEAST ONE WHOLE CENT IN THE TOTAL AMOUNT OF THE AIR POLLUTION MITIGATION PER RIDE FEE AND THE CLEAN FLEET PER RIDE FEE PAID BY A PERSON WHO REQUESTS AND ACCEPTS A PREARRANGED RIDE. THE AMOUNT OF CUMULATIVE INFLATION TO BE APPLIED TO THE SUM OF THE CURRENT AIR POLLUTION MITIGATION PER RIDE FEE AND THE CURRENT CLEAN FLEET PER RIDE FEE AND ROUNDED TO THE NEAREST WHOLE CENT IS THE LESSER OF ACTUAL CUMULATIVE INFLATION OR FIVE PERCENT.

(d) AS REQUIRED BY SECTION 40-10.1-607.5 (3)(a), THE DEPARTMENT OF REVENUE SHALL TRANSMIT ALL NET AIR POLLUTION MITIGATION PER RIDE FEE REVENUE COLLECTED TO THE STATE TREASURER, WHO SHALL CREDIT THE REVENUE TO THE FUND.

(8) (a) IN FURTHERANCE OF ITS BUSINESS PURPOSE, BEGINNING IN STATE FISCAL YEAR 2022-23, THE ENTERPRISE SHALL IMPOSE, AND THE

DEPARTMENT OF REVENUE SHALL COLLECT ON BEHALF OF THE ENTERPRISE, AN AIR POLLUTION MITIGATION RETAIL DELIVERY FEE ON EACH RETAIL DELIVERY. EACH RETAILER WHO MAKES A RETAIL DELIVERY SHALL ADD TO THE PRICE OF THE RETAIL DELIVERY, COLLECT FROM THE PURCHASER, AND PAY TO THE DEPARTMENT OF REVENUE AT THE TIME AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT IN ACCORDANCE WITH SECTION 43-4-218 (6) THE AIR POLLUTION MITIGATION RETAIL DELIVERY FEE. FOR THE PURPOSE OF MINIMIZING COMPLIANCE COSTS FOR RETAILERS AND ADMINISTRATIVE COSTS FOR THE STATE, THE DEPARTMENT OF REVENUE SHALL COLLECT AND ADMINISTER THE AIR POLLUTION MITIGATION RETAIL DELIVERY FEE ON BEHALF OF THE ENTERPRISE IN THE SAME MANNER IN WHICH IT COLLECTS AND ADMINISTERS THE RETAIL DELIVERY FEE IMPOSED BY SECTION 43-4-218 (3).

(b) FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING STATE FISCAL YEAR 2022-23, THE ENTERPRISE SHALL IMPOSE THE AIR POLLUTION MITIGATION RETAIL DELIVERY FEE IN A MAXIMUM AMOUNT OF SEVEN-TENTHS OF ONE CENT.

(c) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (8)(c)(II) OF THIS SECTION, FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING STATE FISCAL YEAR 2023-24 OR DURING ANY SUBSEQUENT STATE FISCAL YEAR, THE ENTERPRISE SHALL IMPOSE THE AIR POLLUTION MITIGATION RETAIL DELIVERY FEE IN A MAXIMUM AMOUNT THAT IS THE MAXIMUM AMOUNT FOR THE PRIOR STATE FISCAL YEAR ADJUSTED FOR INFLATION. THE ENTERPRISE SHALL NOTIFY THE DEPARTMENT OF REVENUE OF THE AMOUNT OF THE AIR POLLUTION MITIGATION RETAIL DELIVERY FEE TO BE COLLECTED FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING EACH STATE FISCAL YEAR NO LATER THAN MARCH 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS, AND THE DEPARTMENT OF REVENUE SHALL PUBLISH THE AMOUNT NO LATER THAN APRIL 15 OF THE CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR BEGINS.

(II) THE ENTERPRISE IS AUTHORIZED TO ADJUST THE AMOUNT OF THE AIR POLLUTION MITIGATION RETAIL DELIVERY FEE FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING A STATE FISCAL YEAR ONLY IF THE DEPARTMENT OF REVENUE ADJUSTS THE AMOUNT OF THE RETAIL DELIVERY FEE IMPOSED BY SECTION 43-4-218 (3) FOR RETAIL DELIVERIES OF TANGIBLE PERSONAL PROPERTY PURCHASED DURING THE

STATE FISCAL YEAR.

(9) IN FURTHERANCE OF ITS BUSINESS PURPOSE, AND SUBJECT TO THE REQUIREMENTS SET FORTH IN THIS SUBSECTION (9), THE ENTERPRISE IS AUTHORIZED TO PROVIDE GRANTS TO ELIGIBLE ENTITIES FOR ELIGIBLE PROJECTS. THE ENTERPRISE SHALL ACTIVELY SEEK INPUT FROM COMMUNITIES, INCLUDING BUT NOT LIMITED TO DISPROPORTIONATELY IMPACTED COMMUNITIES, AND LOCAL GOVERNMENTS TO MITIGATE THE ENVIRONMENTAL AND HEALTH IMPACTS OF HIGHWAY PROJECTS, REDUCE TRAFFIC CONGESTION, AND IMPROVE NEIGHBORHOOD CONNECTIVITY FOR COMMUNITIES ADJACENT TO HIGHWAYS. THE ENTERPRISE SHALL INCLUDE MITIGATION STRATEGIES THAT TAKE INTO ACCOUNT THE INPUT AS WELL AS ISSUES AND IMPACTS OF PARTICULAR IMPORTANCE TO THE STATE SUCH AS REDUCTION OF GREENHOUSE GAS EMISSIONS AND FINE PARTICULATE MATTER.

(10) (a) TO ENSURE TRANSPARENCY AND ACCOUNTABILITY, THE ENTERPRISE SHALL:

(I) NO LATER THAN JUNE 1, 2022, PUBLISH AND POST ON ITS WEBSITE A TEN-YEAR PLAN THAT DETAILS HOW THE ENTERPRISE WILL EXECUTE ITS BUSINESS PURPOSE DURING STATE FISCAL YEARS 2022-23 THROUGH 2031-32 AND ESTIMATES THE AMOUNT OF FUNDING NEEDED TO IMPLEMENT THE PLAN. NO LATER THAN JANUARY 1, 2032, THE ENTERPRISE SHALL PUBLISH AND POST ON ITS WEBSITE A NEW TEN-YEAR PLAN FOR STATE FISCAL YEARS 2032-33 THROUGH 2041-42.

(II) CREATE, MAINTAIN, AND REGULARLY UPDATE ON ITS WEBSITE A PUBLIC ACCOUNTABILITY DASHBOARD THAT PROVIDES, AT A MINIMUM, ACCESSIBLE AND TRANSPARENT SUMMARY INFORMATION REGARDING THE IMPLEMENTATION OF ITS TEN-YEAR PLAN, THE FUNDING STATUS AND PROGRESS TOWARD COMPLETION OF EACH PROJECT THAT IT WHOLLY OR PARTLY FUNDS, AND ITS PER PROJECT AND TOTAL FUNDING AND EXPENDITURES;

(III) ENGAGE REGULARLY REGARDING ITS PROJECTS AND ACTIVITIES WITH THE PUBLIC, INCLUDING BUT NOT LIMITED TO SEEKING INPUT FROM DISPROPORTIONATELY IMPACTED COMMUNITIES AND INTEREST GROUPS THAT ARE LIKELY TO BE INTERESTED IN THE PROJECTS AND ACTIVITIES; AND

(IV) PREPARE AN ANNUAL REPORT REGARDING ITS ACTIVITIES AND FUNDING AND PRESENT THE REPORT TO THE TRANSPORTATION COMMISSION CREATED IN SECTION 43-1-106 (1) AND TO THE TRANSPORTATION AND LOCAL GOVERNMENT AND ENERGY AND ENVIRONMENT COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES. THE ENTERPRISE SHALL ALSO POST THE ANNUAL REPORT ON ITS WEBSITE. NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT REQUIRED IN THIS SUBSECTION (10)(a)(IV) TO THE SPECIFIED LEGISLATIVE COMMITTEES CONTINUES INDEFINITELY.

(b) THE ENTERPRISE IS SUBJECT TO THE OPEN MEETINGS PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", CONTAINED IN PART 4 OF ARTICLE 6 OF TITLE 24, AND THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

(c) FOR PURPOSES OF THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, AND EXCEPT AS MAY OTHERWISE BE PROVIDED BY FEDERAL LAW OR REGULATION OR STATE LAW, THE RECORDS OF THE ENTERPRISE ARE PUBLIC RECORDS, AS DEFINED IN SECTION 24-72-202 (6), REGARDLESS OF WHETHER THE ENTERPRISE RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUE IN GRANTS, AS DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED.

(d) THE ENTERPRISE IS A PUBLIC ENTITY FOR PURPOSES OF PART 2 OF ARTICLE 57 OF TITLE 11.

**SECTION 53.** In Colorado Revised Statutes, **repeal** 43-4-714.

SECTION 54. Appropriation to the offices of the governor, lieutenant governor, and state planning and budgeting for the fiscal year beginning July 1, 2021. Section 2 of SB 21-205, amend Part IV (1)(C), as follows:

Section 2. Appropriation.

**PART IV  
GOVERNOR - LIEUTENANT GOVERNOR - STATE PLANNING AND BUDGETING**

**(1) OFFICE OF THE GOVERNOR**

**(C) Colorado Energy Office**

Program Administration	6,257,311 (24.8 FTE)	2,625,625		3,631,686(I)
Electric Vehicle Charging Station Grants	1,036,204		<del>1,036,204<sup>a</sup></del> 1,036,204(I) <sup>a</sup>	
Legal Services	486,329	433,951		52,378(I)
Vehicle Lease Payments	13,182	13,182		
Leased Space	218,835	218,835		
Indirect Cost Assessment	<u>153,808</u>	37,763		116,045(I)
	8,165,669			

<sup>a</sup> This amount shall be from the Electric Vehicle Grant Fund created in Section 24-38.5-103 (1)(a), C.R.S. THIS AMOUNT IS SHOWN FOR INFORMATIONAL PURPOSES ONLY BECAUSE THE ELECTRIC VEHICLE GRANT FUND IS CONTINUOUSLY APPROPRIATED TO THE OFFICE PURSUANT TO SECTION 24-38.5-103 (2)(a), C.R.S.

**TOTALS PART IV  
(GOVERNOR-  
LIEUTENANT  
GOVERNOR- STATE  
PLANNING AND  
BUDGETING)**

\$365,384,731      \$57,569,143      \_\_\_\_\_      \$16,648,484<sup>a</sup>      \$284,399,642      \$6,767,462<sup>b</sup>

<sup>a</sup> Of this amount, ~~\$7,300,000~~ \$8,336,204 contains an (I) notation.

<sup>b</sup> This amount contains an (I) notation.

**SECTION 55. Appropriation.** (1) For the 2021-22 state fiscal year, \$161,599,957 is appropriated to the department of transportation. This appropriation consists of \$259,957 from the state highway fund created in section 43-1-219, C.R.S., \$146,840,000 from the multimodal transportation and mitigation options fund created in section 43-4-1103 (1)(a), C.R.S., and \$14,500,000 from the southwest chief rail line economic development, rural tourism, and infrastructure repair and maintenance fund created in Section 43-4-1002 (1), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$259,957 from the state highway fund for administration, which amount is based on an assumption that the department will require an additional 3.0 FTE;

(b) \$14,500,000 from the southwest chief rail line economic development, rural tourism, and infrastructure repair and maintenance fund for southwest chief and front range passenger rail commission; and

(c) \$146,840,000 from the multimodal transportation and mitigation options fund for multimodal transportation projects.

(2) For the 2021-22 state fiscal year, \$1,104,661 is appropriated to the department of revenue. This appropriation consists of \$1,082,480 from the general fund and \$22,181 from the license plate cash fund created in section 42-3-301 (1)(b), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$109,135 general fund for use by the executive director's office for personal services related to administration and support, which amount is based on an assumption that the office will require an additional 1.8 FTE;

(b) \$259,875 general fund for use by the taxation business group for tax administration IT system (GenTax) support related to administration;

(c) \$231,020 general fund for use by the taxation business group for personal services related to taxation services, which amount is based on an assumption that the group will require an additional 3.5 FTE;

(d) \$70,250 general fund for use by the taxation business group for operating expenses related to taxation services;

(e) \$412,200 general fund for use by the division of motor vehicles for DRIVES maintenance and support; and

(f) \$22,181 from the license plate cash fund for use by the division of motor vehicles for license plate ordering.

(3) For the 2021-22 state fiscal year, \$100,491 is appropriated to the energy fund created in section 24-38.5-102.4, C.R.S. This appropriation is from the general fund. The office of the governor is responsible for the accounting related to this appropriation.

(4) For the 2021-22 state fiscal year, \$1,702,187 is appropriated to the department of public health and environment. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$23,449 for use by the air pollution control division for personal services related to mobile sources, which amount is based on an assumption that the division will require an additional 0.3 FTE;

(b) \$9,405 for use by the air pollution control division for operating expenses related to mobile sources; and

(c) \$1,669,333 for use by the air pollution control division for transfer to the clean fleet enterprise initial expenses fund pursuant to section 25-7.5-103 (5)(b), C.R.S.

(5) For the 2021-22 state fiscal year, \$504,583 is appropriated to the department of law and is based on the assumption that the department will require an additional 2.6 FTE. Of this appropriation, \$191,412 is from reappropriated funds received from the department of transportation under subsection (1)(a) of this section and is based on an assumption that the department of law will require an additional 1.0 FTE; \$100,491 is from reappropriated funds received from the office of the governor under subsection (3) of this section and is based on an assumption that the department of law will require an additional 0.5 FTE; and \$212,680 is from reappropriated funds received from the department of public health and environment under subsection (4)(c) of this section and is based on an assumption that the department of law will require an additional 1.1 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of

transportation, office of the governor, and department of public health and environment.

**SECTION 56. Appropriation.** (1) For the 2021-22 state fiscal year, \$159,099,957 is appropriated to the department of transportation. This appropriation consists of \$259,957 from the state highway fund created in section 43-1-219, C.R.S., \$146,840,000 from the multimodal transportation and mitigation options fund created in section 43-4-1103 (1)(a), C.R.S., and \$12,000,000 from the southwest chief rail line economic development, rural tourism, and infrastructure repair and maintenance fund created in Section 43-4-1002 (1), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$259,957 from the state highway fund for administration, which amount is based on an assumption that the division will require an additional 3.0 FTE;

(b) \$12,000,000 from the southwest chief rail line economic development, rural tourism and infrastructure repair and maintenance fund for southwest chief and front range passenger rail commission; and

(c) \$146,840,000 from the multimodal transportation and mitigation options fund for multimodal transportation projects.

(2) For the 2021-22 state fiscal year, \$1,104,661 is appropriated to the department of revenue. This appropriation consists of \$1,082,480 from the general fund and \$22,181 from the license plate cash fund created in section 42-3-301 (1)(b), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$109,135 general fund for use by the executive director's office for personal services related to administration and support, which amount is based on an assumption that the office will require an additional 1.8 FTE;

(b) \$259,875 general fund for use by the taxation business group for tax administration IT system (GenTax) support related to administration;

(c) \$231,020 general fund for use by the taxation business group for personal services related to taxation services, which amount is based



on an assumption that the group will require an additional 3.5 FTE;

(d) \$70,250 general fund for use by the taxation business group for operating expenses related to taxation services;

(e) \$412,200 general fund for use by the division of motor vehicles for DRIVES maintenance and support; and

(f) \$22,181 from the license plate cash fund for use by the division of motor vehicles for license plate ordering.

(3) For the 2021-22 state fiscal year, \$100,491 is appropriated to the energy fund created in section 24-38.5-102.4, C.R.S. This appropriation is from the general fund. The office of the governor is responsible for the accounting related to this appropriation.

(4) For the 2021-22 state fiscal year, \$1,702,187 is appropriated to the department of public health and environment. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$23,449 for use by the air pollution control division for personal services related to mobile sources, which amount is based on an assumption that the division will require an additional 0.3 FTE;

(b) \$9,405 for use by the air pollution control division for operating expenses related to mobile sources; and

(c) \$1,669,333 for use by the air pollution control division for transfer to the clean fleet enterprise initial expenses fund pursuant to section 25-7.5-103 (5)(b), C.R.S.

(5) For the 2021-22 state fiscal year, \$504,583 is appropriated to the department of law and is based on the assumption that the department will require an additional 2.6 FTE. Of this appropriation, \$191,412 is from reappropriated funds received from the department of transportation under subsection (1)(a) of this section and is based on an assumption that the department of law will require an additional 1.0 FTE; \$100,491 is from reappropriated funds received from the office of the governor under subsection (3) of this section and is based on an assumption that the department of law will require an additional 0.5 FTE; and \$212,680 is

from reappropriated funds received from the department of public health and environment under subsection (4)(c) of this section and is based on an assumption that the department of law will require an additional 1.1 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of transportation, office of the governor, and department of public health and environment.

**SECTION 57. Severability.** If any provision of this Senate Bill 21-260 or the application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this Senate Bill 21-260 that can be given effect without the invalid provision or application, and to this end the provisions of this Senate Bill 21-260 are declared to be severable.

**SECTION 58. Effective date.** (1) Except as otherwise provided in this section, this act takes effect upon passage.

(2) Section 55 of this act and section 43-1-1103 (2)(a)(IV)(B), Colorado Revised Statutes, as enacted in section 51 of this act, take effect only if Senate Bill 21-238 becomes law, in which case section 55 of this act and section 43-1-1103 (2)(a)(IV)(B) take effect either upon the effective date of this act or Senate Bill 21-238, whichever is later.

(3) Section 56 of this act takes effect only if Senate Bill 21-238 does not become law.

**SECTION 59. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.



Leroy M. Garcia  
PRESIDENT OF  
THE SENATE



Alec Garnett  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

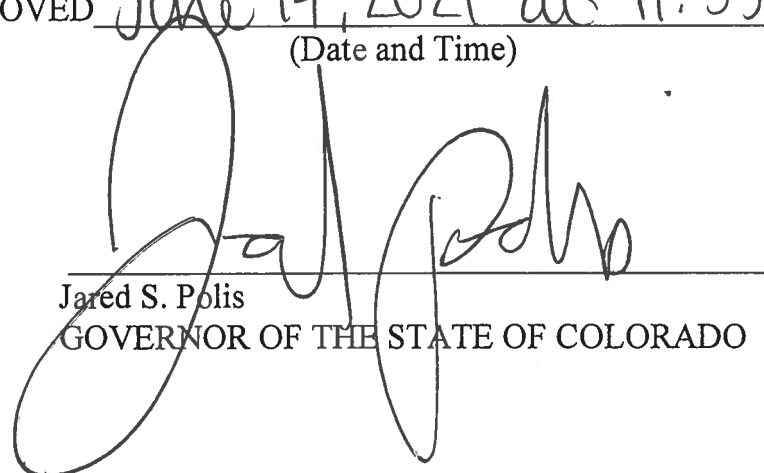


Cindi L. Markwell  
SECRETARY OF  
THE SENATE



Robin Jones  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED June 17, 2021 at 11:35am  
(Date and Time)



Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO

**Exhibit 7**

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STATE OF  
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Rules - CDOT, DOT\_ <dot\_rules@state.co.us>

## CTE Stakeholder

1 message

**CDOT Rules** <cdot\_rules@state.co.us>

Fri, Feb 25, 2022 at 12:12 PM

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Dear Stakeholder:

You have been identified as a stakeholder with interests and experience relevant to the Clean Transit Enterprise (CTE) in Colorado. In June 2021, Senate Bill 21-260 created several new state-owned enterprises, including CTE. The bill directed CTE to set a fee per retail delivery of tangible personal property beginning in fiscal year 2022 to support the expansion of electric motor vehicles and infrastructure for transit in support of the goal of reducing greenhouse gas emissions. As a result, CTE must promulgate rules governing fees and the process governing CTE grants, loans and rebates. These rules will be codified as 2 CCR 607-1 ("Rules Governing Clean Transit Enterprise Processes and Fees").

In this rulemaking, CTE proposes to set the retail delivery fee at three cents, following the guidance found at C.R.S. §43-4-1201, *et seq.* In addition, CTE plans to follow the same processes for any grants, loans, or rebates that the Colorado Department of Transportation (CDOT) currently uses for transit grants. This would include posting the criteria for grants, loans, and rebates on the CTE website no later than 60 days prior to the application deadline and notification of the CTE Board's decisions on proposals within 90 days of the application deadline.

CDOT invites you to comment on the proposed rules for the Clean Transit Enterprise by March 28, 2022. Please submit all written comments to [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us). The proposed rule is attached for your review. All comments received from stakeholders between February 25-March 28, 2022 will be posted on CDOT's rulemaking [website](#) and will be available for review during the public comment period.

A proposed permanent rulemaking hearing will be held on April 4, 2022 at 1:00 p.m. MT. I have attached the notice of the hearing, the statement of basis and purpose, and the proposed rule language in a single PDF document for your reference.

The rulemaking hearing will be conducted in a virtual setting due to COVID-19. All interested parties are urged to attend this public hearing by registering for the webinar [here](#). After registering, you will receive a confirmation email containing information about joining the webinar. Interested parties may also register for the virtual rulemaking hearing on CDOT's [website](#).

While you are welcome to attend the virtual rulemaking hearing and provide comments at that time, receiving written comments in advance allows CDOT and the Hearing Officer the opportunity to consider comments and make any changes necessary to the proposed rules. Please submit written comments to me via email at [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us) on or before 5:00 p.m. on March 28, 2022.

Together, we can create meaningful and effective regulations. Please feel free to contact the CDOT rules team at [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us) if you have any questions or would like to be removed from our stakeholder list. Thank you for your participation in the rulemaking process and for providing feedback on the proposed rules.

Kind regards,  
Sari

Sari Weichbrodt  
CDOT Rules, Policies, and Procedures Advisor

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 **2 CCR 607-1Notice.Statement.RuleCombined.pdf**  
341K



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COLORADO

Rules - CDOT, DOT\_ <dot\_rules@state.co.us> **7C**

## Updated Notice of Proposed Rulemaking for the Clean Transit Enterprise - New Hearing Date

1 message

**CDOT Rules** <cdot\_rules@state.co.us>

Mon, Mar 7, 2022 at 11:46 AM

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In this rulemaking, CTE proposes to set the retail delivery fee at three cents, following the guidance found at C.R.S. §43-4-1201, *et seq.* In addition, CTE plans to follow the same processes for any grants, loans, or rebates that the Colorado Department of Transportation (CDOT) currently uses for transit grants. This would include posting the criteria for grants, loans, and rebates on the CTE website no later than 60 days prior to the application deadline and notification of the CTE Board's decisions on proposals within 90 days of the application deadline.

CDOT invites you to comment on the proposed rules for the Clean Transit Enterprise by **April 7, 2022**. Please submit all written comments to [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us). The proposed rule is attached for your review. All comments received from stakeholders between February 25-April 7, 2022 will be posted on CDOT's rulemaking [website](#) and will be available for review during the public comment period.

**Please note: We have moved our proposed permanent rulemaking hearing to CTE's regular board meeting scheduled for Tuesday, April 12, 2022 at 1:30 p.m.** This change better allows the CTE Board to hear your input directly and provides you the chance to remain on the Zoom meeting to hear more about the important work of this new enterprise. I have attached the updated notice of the hearing, the statement of basis and purpose, and the proposed rule language in a single PDF document for your reference. The language of the proposed rule remains unchanged.

The rulemaking hearing will be conducted in a virtual setting due to COVID-19. All interested parties are urged to attend this public hearing by registering for the webinar [here](#). Interested parties may also register for the virtual rulemaking hearing on CDOT's [website](#). We plan to start the rulemaking hearing promptly after calling the meeting to order, so we encourage you to join at 1:30 p.m., particularly if you plan to provide comments.

While you are welcome to attend the virtual rulemaking hearing and provide comments at that time, receiving written comments in advance allows the CTE Board the opportunity to consider comments and make any changes necessary to the proposed rules in advance of the meeting. Please submit written comments to me via email at [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us) on or before 5:00 p.m. on **April 7, 2022**.

Together, we can create meaningful and effective regulations. Please feel free to contact the CDOT rules team at [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us) if you have any questions or would like to be removed from our stakeholder list. Thank you for your participation in the rulemaking process and for providing feedback on the proposed rules.

Kind regards,

Sari

Sari Weichbrodt

CDOT Rules, Policies, and Procedures Advisor

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 **2 CCR 607-1 Updated Notice.Statement.RuleCombined.pdf**  
348K

**Exhibit 8**



STATE OF  
COLORADO

Weichbrodt - CDOT, Sari &lt;sari.weichbrodt@state.co.us&gt;

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## CTE Interested Party

1 message

**CDOT Rules** <cdot\_rules@state.co.us>

Fri, Feb 25, 2022 at 12:14 PM

To: Sari Weichbrodt - CDOT &lt;sari.weichbrodt@state.co.us&gt;, Kay Kelly - CDOT &lt;kay.kelly@state.co.us&gt;, Michael King - CDOT &lt;michael.king@state.co.us&gt;

Hello Stakeholder:

Since you requested notification of the Colorado Department of Transportation's ("CDOT") rulemakings, this email serves to notify you as an interested party regarding proposed permanent rulemaking for CDOT's new Clean Transit Enterprise, 2 CCR 607-1.

Senate Bill 21-260 was enacted in June 2021. It created several new state-owned enterprises and directed the new Clean Transit Enterprise (CTE) to set a fee per retail delivery of tangible personal property beginning in fiscal year 2022 to support the expansion of electric motor vehicles and infrastructure for electric transit in an effort to reduce greenhouse gas emissions. CTE must promulgate rules governing fees and the process for soliciting, awarding, and overseeing CTE grants, loans, and rebates. These rules will be codified as 2 CCR 607-1 ("Rules Governing Clean Transit Enterprise Processes and Fees").

In this rulemaking, CTE proposes to set the retail delivery fee at three cents, following the guidance found at C.R.S. § 43-4-1201, *et seq.* In addition, CTE plans to follow the same processes for any grants, loans, or rebates that CDOT currently uses for transit grants. This would include posting the criteria for grants, loans, and rebates on the CTE website no later than 60 days prior to the application deadline and notification of the CTE Board's decisions on proposals within 90 days of the application deadline.

CDOT invites you to comment on the proposed rules for the Clean Transit Enterprise by March 28, 2022. Please submit all written comments to [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us). The proposed rule is attached for your review. All comments received from stakeholders between February 25-March 28, 2022, will be posted on CDOT's [rulemaking page](#) and will be available for review during the public comment period.

A proposed permanent rulemaking hearing will be held on April 4, 2022 at 1:00 p.m. MT. I have attached the notice of the hearing, the statement of basis and purpose, and the proposed rule language in a single PDF document.

The rulemaking hearing will be conducted in a virtual setting due to COVID-19. All interested parties are urged to attend this public hearing by registering for the webinar [here](#).

After registering, you will receive a confirmation email containing information about joining the webinar. Interested parties may also register for the virtual rulemaking hearing on CDOT's [website](#).

While you are welcome to attend the virtual rulemaking hearing and provide comments at that time, receiving written comments in advance allows CTE, CDOT, and the Hearing Officer the opportunity to consider comments and make any changes necessary to the proposed rules. Please submit written comments to me via email at [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us) on or before 5:00 p.m. on March 28, 2022.

Together, we can create meaningful and effective regulations. Please feel free to contact me at [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us) if you have any questions or would like to be removed from our notification list. Thank you for your participation in the rulemaking process and for providing feedback on the proposed rules.

Kind regards,

Sari Weichbrodt, CDOT Rules Advisor

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 2 CCR 607-1Notice.Statement.RuleCombined.pdf  
341K



STATE OF  
COLORADO

Weichbrodt - CDOT, Sari &lt;sari.weichbrodt@state.co.us&gt;

8B

## Updated Notice of Proposed Rulemaking for the Clean Transit Enterprise - New Hearing Date

1 message

CDOT Rules &lt;cdot\_rules@state.co.us&gt;

Mon, Mar 7, 2022 at 11:56 AM

To: Sari Weichbrodt - CDOT &lt;sari.weichbrodt@state.co.us&gt;, Kay Kelly - CDOT &lt;kay.kelly@state.co.us&gt;, Michael King - CDOT &lt;michael.king@state.co.us&gt;

Hello Stakeholder:

Since you requested notification of rulemaking by the Colorado Department of Transportation ("CDOT"), this email serves to notify you as an interested party regarding proposed permanent rulemaking for CDOT's new Clean Transit Enterprise ("CTE"), 2 CCR 607-1.

In June 2021, Senate Bill 21-260 created several new state-owned enterprises, including CTE. The bill directed CTE to set a fee per retail delivery of tangible personal property beginning in fiscal year 2022 to support the expansion of electric motor vehicles and infrastructure for transit in support of the goal of reducing greenhouse gas emissions. As a result, CTE must promulgate rules governing fees and the process governing CTE grants, loans and rebates. These rules will be codified as 2 CCR 607-1 ("Rules Governing Clean Transit Enterprise Processes and Fees").

In this rulemaking, CTE proposes to set the retail delivery fee at three cents, following the guidance found at C.R.S. §43-4-1201, *et seq.* In addition, CTE plans to follow the same processes for any grants, loans, or rebates that the Colorado Department of Transportation (CDOT) currently uses for transit grants. This would include posting the criteria for grants, loans, and rebates on the CTE website no later than 60 days prior to the application deadline and notification of the CTE Board's decisions on proposals within 90 days of the application deadline.

CDOT invites you to comment on the proposed rules for the Clean Transit Enterprise by **April 7, 2022**. Please submit all written comments to [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us). The proposed rule is attached for your review. All comments received from stakeholders between February 25-April 7, 2022 will be posted on CDOT's rulemaking [website](#) and will be available for review during the public comment period.

**Please note: We have moved our proposed permanent rulemaking hearing to CTE's regular board meeting scheduled for Tuesday, April 12, 2022 at 1:30 p.m.** This change better allows the CTE Board to hear your input directly and provides you the chance to remain on the Zoom meeting to hear more about the important work of this new enterprise. I have attached the updated notice of the hearing, the statement of basis and purpose, and the proposed rule language in a single PDF document for your reference. The language of the proposed rule remains unchanged.

The rulemaking hearing will be conducted in a virtual setting due to COVID-19. All interested parties are urged to attend this public hearing by registering for the webinar [here](#). Interested parties may also register for the virtual rulemaking hearing on CDOT's [website](#). We plan to start the rulemaking hearing promptly after calling the meeting to order, so we encourage you to join at 1:30 p.m., particularly if you plan to provide comments.

While you are welcome to attend the virtual rulemaking hearing and provide comments at that time, receiving written comments in advance allows the CTE Board the opportunity to consider comments and make any changes necessary to the proposed rules in advance of the meeting. Please submit written comments to me via email at [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us) on or before 5:00 p.m. on **April 7, 2022**.

Together, we can create meaningful and effective regulations. Please feel free to contact the CDOT rules team at [dot\\_rules@state.co.us](mailto:dot_rules@state.co.us) if you have any questions or would like to be removed from our stakeholder list. Thank you for your participation in the rulemaking process and for providing feedback on the proposed rules.

Kind regards,

Sari

Sari Weichbrodt

CDOT Rules, Policies, and Procedures Advisor

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 **2 CCR 607-1 Updated Notice.Statement.RuleCombined.pdf**  
348K

# **Exhibit 9**

STATE OF  
COLORADO

Weichbrodt - CDOT, Sari &lt;sari.weichbrodt@state.co.us&gt;

9

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## Updated Hearing Date, Time, and Registration Link for CTE Proposed Rule Hearing

1 message

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**CDOT Rules** <cdot\_rules@state.co.us>

Fri, Mar 4, 2022 at 5:28 PM

To: Sari Weichbrodt - CDOT &lt;sari.weichbrodt@state.co.us&gt;

Good evening-

Thank you for registering for the CTE Proposed Rule Hearing. I am writing to let you know directly that the CTE Board will now be holding the rulemaking hearing at the beginning of its April Board meeting on Tuesday, April 12, 2022 at 1:30 p.m. on Zoom. I hope that you will still be able to attend. If you are not able to attend, please feel free to send me written comments by April 7, 2022 and I will ensure that they are part of the rulemaking record to be considered by the Board. The new registration link is <https://cdot.zoom.us/meeting/register/tJctd-iuqD4sGtTnKXX612ISu1NIOZw4bkj0>.

As a new Board, we would like the Board members to have their best opportunity to hear directly from the public and rescheduling the hearing will allow that to happen. It also provides a chance for public participants in the rulemaking part of the meeting to remain on the Zoom and hear about the work of this new CTE Board. I have attached an updated notice of hearing with the same statement of basis and purpose and proposed rule you may have received in my email last Friday. Nothing has changed aside from the date, time, and the fact that the Board meeting uses Zoom rather than GoToWebinar. I do apologize for making this change after you had already registered on GoToWebinar and please feel free to reach out to me with any questions or concerns.

Thank you again for your interest in participating in our rulemaking and I hope you have a nice weekend.

Kind regards,  
Sari

Sari Weichbrodt  
CDOT Rules Advisor

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**2 CCR 607-1 Updated Notice.Statement.RuleCombined.pdf**  
348K

**Exhibit 10**

STATE OF  
COLORADO

Rules - CDOT, DOT\_ &lt;dot\_rules@state.co.us&gt;

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**RE: Senate Bill 21-260**

1 message

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**Alma Sekulich** <ASekulich@powerpro.com>  
To: CDOT Rules <cdot\_rules@state.co.us>

Tue, Mar 22, 2022 at 9:43 AM

Yes. Please include my comment. Thank you so much.

Alma

970-250-3002

**From:** CDOT Rules [mailto:[cdot\\_rules@state.co.us](mailto:cdot_rules@state.co.us)]  
**Sent:** Tuesday, March 22, 2022 9:13 AM  
**To:** Alma Sekulich <[ASekulich@powerpro.com](mailto:ASekulich@powerpro.com)>  
**Subject:** Re: Senate Bill 21-260

Dear Ms. Sekulich,

Thank you for providing this important feedback on Senate Bill 21-260. I will forward it along to the rest of the team. Do you wish for this comment to be included in the rulemaking record for the Clean Transit Enterprise and/or the Nonattainment Area Air Pollution Mitigation Enterprise?

My best,

Sari

Sari Weichbrodt

CDOT Rules, Policies, and Procedures Advisor

On Tue, Mar 22, 2022 at 8:00 AM Alma Sekulich <[ASekulich@powerpro.com](mailto:ASekulich@powerpro.com)> wrote:

Hello,

This upcharge will hurt the sick and aged most of all. Home delivery was proven during Covid to enable people to remain in their homes and still survive. I suggest those who are disabled, or over 65 are exempt from this additional tax.

Those who are able will probably just start driving to the store if home delivery becomes too expensive.



Thank you for your attention.

*Alma Sekulich*, PHR SHRM-CP

HR/Acctg Manager

Innovative Textiles, Inc.

970-683-6701

970-250-3002

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STATE OF  
COLORADO

Rules - CDOT, DOT\_ <dot\_rules@state.co.us>

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## Clean Transit Enterprise Comments from Grand Valley RTPO

1 message

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**Dana Brosig** <dana.brosig@mesacounty.us>  
To: dot\_rules@state.co.us

Tue, Apr 5, 2022 at 8:35 AM

Dear Clean Transit Enterprise Board-

Thank you for the opportunity to comment on the CTE Rulemaking . Attached you will find the comments from the Mesa County Regional Transportation Planning Office submitted on behalf of the Grand Valley Metropolitan Planning Organization, Grand Valley Transportation Planning Region and Grand Valley Transit.

Sincerely,

**Dana Brosig P.E.**  
GVMPO Director  
Regional Transportation Planning Office  
525 S. 6th Street  
Grand Junction, CO 81501  
(970) 255-7187  
[dana.brosig@mesacounty.us](mailto:dana.brosig@mesacounty.us)



**Clean Transit Enterprise Comments-FINAL SIGNED.pdf**  
153K



## Mesa County Regional Transportation Planning Office

March 31, 2022

Dear Clean Transit Enterprise Governing Board:

Thank you for the opportunity to provide public comment on 2 CCR 607-1- Rules Governing Clean Transit Enterprise (CTE) Processes & Fees. The Regional Transportation Planning Office (RTPO) includes the Grand Valley Metropolitan Planning Organization (GVMPO), the Grand Valley Transportation Planning Region (TPR) and is the contract administrator for Grand Valley Transit (GVT). These comments are sent on behalf of the Grand Valley Regional Transportation Committee (GVRTC), the transportation policy board that oversees the GVMPO, GVT and GVT. The GVRTC includes elected officials from Mesa County, City of Grand Junction, City of Fruita and Town of Palisade, all of whom also help to fund GVT and the RTPO.

The RTPO supports the progression of clean transit in Colorado and the creation of the CTE. However, we do have a number of concerns with the rule with respect to equity as it does not currently apply to all Colorado transit agencies, including GVT, nor does it account for the expansions of transit services in Colorado.

Grand Valley Transit was an early adopter in transitioning its fleet to clean energy with the first CNG buses arriving in 2011. In 2015, the Persigo WWTP commissioned a first-of-its-kind project that beneficially recaptures waste methane gas (biogas) produced as a byproduct of the treatment process and converts it into compressed natural gas (CNG) which is used as a vehicle fuel. The CNG produced at the Persigo WWTP is a carbon-neutral advanced biofuel (considered a Renewable and recoverable Natural Gas-RNG) and is used locally to fuel approximately 74 fleet vehicles owned by the City of Grand Junction and GVT buses. This RNG accounts for approximately 50% of the fuel used to power GVT buses, gas that would otherwise be burned off with no beneficial use. Additional storage has recently been added to the system so that all methane captured at the WWTP is being used to power vehicles. Since 2011, GVT has converted all 29 buses to CNG and considers the system to be Clean Transit. With this conversion to CNG buses, GVT is no longer eligible for FTA low-no funding for bus replacements as there are no longer diesel or gasoline buses eligible for replacement and, as the CTE rule is written, would not be eligible for CTE funds.

With this, GVT does not agree with the CTE focus on electric vehicles with an allowance for CNG vehicles only if electric vehicles are not, "practically available". RNG has proven to be a reliable and affordable fuel source for GVT and the CTE focus on electric vehicles may prevent other communities from capturing this methane to fuel vehicles whereby this methane is burned off without a beneficial use. With this we request that the Rule be modified so that RNG vehicles are eligible for funding from the Clean Transit Enterprise in the same way electric vehicles are eligible.

Additionally, we feel that the requirement that "at least ninety percent of the fuel for the Compressed Natural Gas Motor Vehicles will be Recovered Methane" would be difficult to achieve and prohibitive of communities capturing and using methane. Instead, we request that the Rule change so that the



## Mesa County Regional Transportation Planning Office

percent of RNG is to be greater than the percent of renewable energy in the local grid which would be charging the electric vehicles.

While we support the replacement of gas and diesel buses with cleaner alternatives, we believe that this funding should also be available for fleet expansion with electric or CNG buses. While we desire a future where transit is a viable, reliable and clean mode of transportation, viability depends upon service expansion. Currently GVT has one-hour headways on all regular routes. While the system does serve the travelling public, ridership is largely made up of community members that have no other transportation options leading to low ridership. In order to increase ridership so that it is attractive to the travelling public, resulting in a greater reduction in Vehicle Miles Traveled (VMT) and greenhouse gas emissions (GHG), increased frequency is needed to decrease headways to 30-min or less. Of course, additional fleet is needed to do so. With this, we request that the Rule be expanded such that fleet expansion in addition to fleet replacement is eligible for Clean Transit Enterprise funding.

We understand that the Retail Delivery Fees will be collected across the state and believe the requested revisions to the rule will lead to equity in the distribution of these funds to transit agencies across the state. This fee would be collected from residents in Mesa County but Grand Valley Transit, which serves Mesa County residents, would not be eligible to access these funds as the Rule is currently written. With this, we respectfully request that RNG be included as an option for CTE funding, that the percentage of RNG be reduced and that fleet expansions of RNG and electric buses are eligible for CTE funding. If these changes are not possible, we request a way for equity to be achieved by CDOT or the CTE board through other transit funding mechanisms.

Respectfully signed,

DocuSigned by:

684C69665A9C430...  
Scott McInnis  
GVRTC Chair  
Mesa County Commissioner

DocuSigned by:

E01E52CA7AA54A2...  
Greg Mikolai  
GVRTC Vice Chair  
Town of Palisade- Mayor

DocuSigned by:

40FE89E8B1534E4...  
Dennis Simpson  
GVRTC Representative  
City of Grand Junction Councilman

DocuSigned by:

99EC1FDAAA3C4A6...  
Lori Buck  
GVRTC Representative  
City of Fruita- Mayor Pro Tem

Dana Brosig, P.E.  
Grand Valley MPO Director

**Exhibit 11**



**COLORADO**  
Department of Transportation

2829 W. Howard Place  
Denver, CO 80204-2305

**MEMORANDUM**

To: Office of Policy and Government Relations

From: Sari Weichbrodt, Rules Advisor

Date: February 25, 2022

RE: **Permanent Records Retention of Rule File regarding 2 CCR 607-1: "Rules Governing Clean Transit Enterprise Processes and Fees"**

Please establish an official rule making file for the Rule Making Process and Hearing pursuant to § 24-4-103(8.1), C.R.S. which requires that "an agency shall maintain an official rule-making record for each proposed rule for which a notice of proposed rule-making has been published in the Colorado register. Such rule-making record shall be maintained by the agency until all administrative and judicial review procedures have been completed pursuant to the provisions of this article. The rule-making record shall be available for public inspection."

For retention purposes, this file should be considered permanent.

Please contact me if you need additional information.

Sari Weichbrodt  
303.757.9441  
[sari.weichbrodt@state.co.us](mailto:sari.weichbrodt@state.co.us)



# **Exhibit 12**

## DEPARTMENT OF TRANSPORTATION

### Clean Transit Enterprise

## RULES GOVERNING CLEAN TRANSIT ENTERPRISE PROCESSES AND FEES

### 2 CCR 607-1

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#### 1.00 Statement of Basis and Purpose and Authority

The Clean Transit Enterprise is authorized by C.R.S. § 43-4-1203(6)(g) to promulgate rules setting the amount of the Clean Transit Retail Delivery Fee at or below maximum levels contained in C.R.S. § 43-4-1203(7) and to govern the process by which the Enterprise accepts applications for, awards, and oversees grants, loans, and rebates pursuant to C.R.S. § 43-4-1203(8).

SB21-260 Sustainability of the Transportation System created new sources of dedicated funding and new state enterprises intended to preserve, improve, and expand existing transportation infrastructure, develop the modernized infrastructure needed to support the widespread adoption of Electric Motor Vehicles, and mitigate environmental and health impacts of transportation system use. To accomplish these goals, the legislation established a Clean Transit Enterprise (CTE), an enterprise and government owned business within the Colorado Department of Transportation (CDOT) for the purpose of collecting fee revenue to reduce or mitigate the adverse impacts of air pollution and greenhouse gas emissions produced by gas and diesel-powered motor vehicles used for Retail Deliveries. CTE will support the adoption of Electric Motor Vehicles for Transit. The Enterprise is a Type 1 transfer agency and as such the Legislature specifically vested the Enterprise with the authority to promulgate rules to set the amount of the required Clean Transit Retail Delivery Fee and to govern the process by which the Enterprise accepts applications for, awards, and oversees grants, loans, and rebates. Per statute, the Enterprise can set a maximum fee of \$0.03 per Retail Delivery. The fee delineated in the rule mirrors the fee amount set in C.R.S. § 43-4-1203.

The Enterprise shall notify the Department of Revenue (DOR) of the amount of the Clean Transit Retail Delivery Fee to be collected for Retail Deliveries of Tangible Personal Property purchased during each state fiscal year no later than March 15 of the calendar year in which the state fiscal year begins. CDOT will work with DOR to determine the maximum fee amount that may be imposed, which shall be the maximum amount for the prior state fiscal year adjusted for inflation.

#### 2.00 Definitions

- 2.1 “Colorado Department of Transportation Division of Transit and Rail” or “CDOT Division of Transit and Rail” means the division within the Colorado Department of Transportation responsible for planning, developing, operating, and integrating Transit and rail into the statewide transportation system.
- 2.2 “Compressed Natural Gas Motor Vehicle” means a vehicle that is powered by an engine fueled by methane that has been compressed and stored onboard at a pressure up to 3,000 pounds per square inch, also known as compressed natural gas.
- 2.3 “Disproportionately Impacted Community” means a community that is in a census block group, as determined in accordance with the most recent United States decennial census, where the proportion of households that are low income is greater than forty percent, the proportion of households that identify as minority is greater than forty percent, or the proportion of households that are housing cost-burdened is greater than forty percent, as defined in C.R.S. § 43-4-1202(5).



- 2.4 “Electric Motor Vehicle” means a vehicle that uses a battery to store energy that powers the motor, including:
- 2.4.1 A Battery Electric Motor Vehicle powered exclusively by a rechargeable battery pack that can be recharged by being plugged into an external source of electricity and that has no secondary source of propulsion.
  - 2.4.2 A Hydrogen Fuel Cell Motor Vehicle powered by electricity produced from a fuel cell that uses hydrogen gas as fuel.
  - 2.4.3 A Plug-in Hybrid Electric Motor Vehicle powered by both a rechargeable battery pack that can be charged by being plugged into an external source of electricity and a secondary source of propulsion such as an internal combustion engine.
- 2.5 “Recovered Methane” means any of the following if the Air Pollution Control Division determines them to provide a net reduction in greenhouse gas emissions:
- 2.5.1 Biomethane;
  - 2.5.2 Methane derived from municipal solid waste, biomass pyrolysis or enzymatic biomass, or wastewater treatment; and
  - 2.5.3 Coal mine methane, as defined in C.R.S. § 40-2-124(1)(a)(II).
- 2.6 “Retail Delivery” means a retail sale of Tangible Personal Property by a retailer for delivery by a motor vehicle owned or operated by the retailer or any other person to the purchaser at a location in the state, which sale includes at least one item of Tangible Personal Property that is subject to taxation under Article 26 of Title 39. Each such retail sale is a single Retail Delivery regardless of the number of shipments necessary to deliver the items of Tangible Personal Property purchased.
- 2.7 “Tangible Personal Property” means all goods, wares, merchandise, products and commodities, and all tangible or corporeal things and substances which are dealt in, capable of being possessed and exchanged, except newspapers excluded by law. Tangible property does not include:
- 2.7.1 Real property, such as land or buildings, nor Tangible Personal Property that loses its identity when it becomes an integral and inseparable part of the realty, and is removable only with substantial damage to the premises. Property severed from real estate becomes Tangible Personal Property.
  - 2.7.2 Intangible personal property constituting mere rights of action and having no intrinsic value, such as contracts, deeds, mortgages, stocks, bonds, certificates of deposit or memberships, or uncanceled United States postage or revenue stamps sold for postage or revenue purposes.
  - 2.7.3 Water in pipes, conduits, ditches or reservoirs, but does include water in bottles, wagons, tanks or other containers.
  - 2.7.4 Computer software that does not meet the criteria enumerated in C.R.S. § 39-26-102(15)(c).
  - 2.7.5 An advertising supplement included in a newspaper.

- 2.7.6 The method of delivery does not impact the definition of Tangible Personal Property as defined in C.R.S. § 39-26-102(15).
- 2.8 “Transit” means a coordinated system of Transit modes providing transportation use by the general public, as defined in C.R.S. § 43-1-102(4).
- 2.9 “Transit Agency” means an organization that provides Transit services to the general public or a segment of the public defined by age, disability, or low income.
- 3.00 Fees**
- 3.1 Effective July 1, 2022, the Enterprise shall impose a Clean Transit Retail Delivery Fee of three cents per Retail Delivery of Tangible Personal Property.
- 3.2 Starting in 2023, CDOT will work with the Department of Revenue (DOR) to determine the maximum fee amount that may be imposed, which shall be the maximum amount for the prior state fiscal year adjusted for inflation.
- 3.3 Starting in 2023, the Enterprise shall notify DOR of the amount of the Clean Transit Retail Delivery Fee to be collected for Retail Deliveries of Tangible Personal Property purchased during each state fiscal year no later than March 15 of the calendar year in which the state fiscal year begins.
- 4.00 Process for Awarding and Overseeing Enterprise Grants, Loans, and Rebates**
- 4.1 The selection of grant, loan, and rebate recipients will be on a competitive basis as a part of regular calls for Transit grant applications and will be based on criteria established by the Enterprise and posted on its website no fewer than 60 days in advance of any deadlines for the submission of applications for grants, loans, and rebates.
- 4.1.1 CDOT Division of Transit and Rail (DTR) staff will consult with the Clean Transit Enterprise Board to determine the overall available funding amount, project selection criteria, required match levels, and other programmatic details in advance of any notice of funding availability.
- 4.1.2 A notice of funding availability for grants, loans, and rebates will be posted no fewer than 60 days prior to the application deadline.
- 4.1.3 Eligible applicants will be any organization considered to be a Transit Agency as defined in these Rules.
- 4.1.4 Applications will be assessed for eligibility and scored based on their support for the business purpose of the Clean Transit Enterprise by a review panel. Additional consideration will be given in the evaluation process to those Transit Agencies located within or providing service to Disproportionately Impacted Communities.
- 4.1.5 The applicant must include evidence that the proposed project(s) will support the business purpose of the Clean Transit Enterprise and will be used for one or more of the following purposes by:
- 4.1.5.1 Supporting the replacement of existing gasoline and diesel transit vehicles with Electric Motor Vehicles, including motor vehicles that originally were powered exclusively by internal combustion engines but have been converted into Electric Motor Vehicles. If Electric Motor Vehicles are not practically available, they may be replaced by Compressed Natural Gas Motor Vehicles, if at least ninety

percent of the fuel for the Compressed Natural Gas Motor Vehicles will be Recovered Methane;

4.1.5.2 Providing the associated charging infrastructure for Electric Motor Vehicles in the Transit fleet;

4.1.5.3 Supporting facility modifications that allow for the safe operation and maintenance of Electric Motor Vehicles; or

4.1.5.4 Funding planning studies that enable Transit Agencies to plan for Transit vehicle electrification.

4.2 CDOT staff will present a list of applications recommended for funding to the Clean Transit Enterprise Board for final approval.

4.3 Applicants will be notified of the results of their project proposal(s) within 90 days of the application deadline.

4.4 The CDOT Division of Transit & Rail Transit Programming Unit will be the responsible entity for overseeing any grants, loans, and rebates provided by the Enterprise.

#### **5.00 Declaratory Orders**

The Enterprise board may, at its discretion, entertain petitions for declaratory orders pursuant to C.R.S. § 24-4-105(11).