

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

REDRAFT

5.4.20

Double underlining
denotes changes from
prior draft

DRAFT

LLS NO. 20-1147.01 Pierce Lively x2059

SENATE BILL

SENATE SPONSORSHIP

Fenberg and Lee,

HOUSE SPONSORSHIP

(None),

BILL TOPIC: "PFAS Contamination Response Enterprise"

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF AN ENTERPRISE THAT IS EXEMPT FROM**
102 **THE REQUIREMENTS OF SECTION 20 OF ARTICLE X OF THE STATE**
103 **CONSTITUTION TO FINANCE THE RESPONSE TO**
104 **PERFLUOROALKYL AND POLYFLUOROALKYL CONTAMINATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 1 of the bill creates the perfluoroalkyl and polyfluoroalkyl substances enterprise (enterprise). The enterprise is a government-owned business that has the following primary purposes:

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

- Administering a grant program that provides funding for the sampling, assessment, and investigation of perfluoroalkyl and polyfluoroalkyl substances in ground water; water system infrastructure used for the treatment of identified perfluoroalkyl and polyfluoroalkyl substances; and emergency assistance to communities and water systems affected by perfluoroalkyl and polyfluoroalkyl substances;
- Administering a takeback program that purchases and disposes of eligible materials that contain perfluoroalkyl and polyfluoroalkyl substances; and
- Providing technical assistance in locating and studying perfluoroalkyl and polyfluoroalkyl substances to communities, stakeholders, and regulatory boards or commissions.

The enterprise will also establish and collect a fee reasonably related to the business services provided by the enterprise to each airport hangar used for aeronautical uses equipped with aqueous film forming foam for fire suppression. This fee is used solely to fund the enterprise.

Section 2 requires the executive director of the department of revenue to collect a fee equal to the environmental response surcharge from every first purchaser of odorized liquefied petroleum gas, every manufacturer of fuel products who manufactures such products for sale within Colorado or who ships such products from any point outside of Colorado to a distributor within Colorado, and every distributor who ships such products from any point outside of Colorado to a point within Colorado. This fee is used solely to fund the enterprise. The executive director of the department of revenue stops collecting the fee for a fiscal year once the executive director has collected \$8 million in fees for that fiscal year.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25-5-1309 as
3 follows:

4 **25-5-1309. Perfluoroalkyl and polyfluoroalkyl substances**
5 **enterprise - fund - goals - grant program - gifts, grants, or donations**
6 **- report - legislative declaration - definitions. (1) Legislative**
7 **declaration.** THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND
8 DECLARES THAT:

1 (a) PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES POSE
2 A RISK TO PUBLIC HEALTH AND THE ENVIRONMENT;

3 (b) AIRPORTS AND PETROLEUM REFINING, PRODUCTION,
4 DISTRIBUTION, AND USE CREATE A KNOWN FIRE HAZARD REQUIRING THE
5 USE OF CLASS B FIREFIGHTING FOAMS CONTAINING PERFLUOROALKYL
6 AND POLYFLUOROALKYL SUBSTANCES:

7 (I) CLASS B FIREFIGHTING FOAMS CONTAINING PERFLUOROALKYL
8 AND POLYFLUOROALKYL SUBSTANCES ARE NOT GENERALLY USED FOR
9 PURPOSES OTHER THAN THE SUPPRESSION OF PETROLEUM-BASED FIRES AT
10 AIRPORTS, AIRPORT HANGARS, GAS STATIONS, OIL AND GAS PRODUCTION
11 AND STORAGE FACILITIES, AND REFINERIES OR TO COMPLY WITH FEDERAL
12 REGULATIONS; AND

13 (II) AIRPORTS, AIRPORT HANGARS, GAS STATIONS, OIL AND GAS
14 PRODUCTION AND STORAGE FACILITIES, AND REFINERIES BENEFIT FROM
15 FIRE SERVICE ACCESS TO FLUORINE-FREE CLASS B FIREFIGHTING FOAMS
16 AND MANAGEMENT OF RISKS ASSOCIATED WITH THE STORAGE AND USE OF
17 FLUORINE-FREE CLASS B FIREFIGHTING FOAMS; <{

18
19
20
21 _____
22 (c) FIRE TRAINING FACILITIES MUST SIMULATE REAL WORLD
23 ENVIRONMENTS, WHICH INCLUDES THE USE OF CLASS B FIREFIGHTING
24 FOAMS CONTAINING PERFLUOROALKYL AND POLYFLUOROALKYL
25 SUBSTANCES;

26 (d) HIGH LEVELS OF PERFLUOROALKYL AND POLYFLUOROALKYL
27 SUBSTANCES FOUND IN WATER SUPPLIES IN COLORADO HAVE BEEN TIED TO

1 THE USE OF _____ CLASS B FIREFIGHTING FOAMS CONTAINING
2 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES AT OR NEAR
3 AIRPORTS, AIRPORT HANGARS, GAS STATIONS, OIL AND GAS PRODUCTION
4 AND STORAGE FACILITIES, AND REFINERIES, MILITARY BASES, _____ FIRE
5 TRAINING FACILITIES, AND FIRE STATIONS; _____

6 (e) ESTABLISHING THE PERFLUOROALKYL AND POLYFLUOROALKYL
7 SUBSTANCES ENTERPRISE PROVIDES USEFUL BUSINESS SERVICES TO
8 AIRPORTS, AIRPORT HANGARS, AND COLORADO MANUFACTURERS,
9 DISTRIBUTORS, AND FIRST PURCHASERS OF FUEL WHEN, IN EXCHANGE FOR
10 PAYMENT OF FEES, THE ENTERPRISE ISSUES GRANTS, PURCHASES AND
11 DISPOSES OF MATERIALS CONTAINING PERFLUOROALKYL AND
12 POLYFLUOROALKYL SUBSTANCES, AND PROVIDES TECHNICAL ASSISTANCE
13 IN LOCATING AND STUDYING PERFLUOROALKYL AND POLYFLUOROALKYL
14 SUBSTANCES TO COMMUNITIES, STAKEHOLDERS, AND REGULATORY
15 BOARDS OR COMMISSIONS;

16 (f) IT IS NECESSARY, APPROPRIATE, AND IN THE BEST INTEREST OF
17 THE STATE TO ACKNOWLEDGE THAT, BY PROVIDING BUSINESS SERVICES
18 SPECIFIED IN SUBSECTION (1)(e) OF THIS SECTION, THE ENTERPRISE
19 ENGAGES IN AN ACTIVITY CONDUCTED IN THE PURSUIT OF A BENEFIT, GAIN,
20 OR LIVELIHOOD AND THEREFORE OPERATES AS A BUSINESS;

21 (g) CONSISTENT WITH THE DETERMINATION OF THE COLORADO
22 SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896
23 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS
24 INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE
25 X OF THE STATE CONSTITUTION, IT IS THE CONCLUSION OF THE GENERAL
26 ASSEMBLY THAT THE FEES COLLECTED BY THE ENTERPRISE ARE FEES, NOT
27 TAXES, BECAUSE THE FEES ARE IMPOSED FOR THE SPECIFIC PURPOSE OF

1 ALLOWING THE ENTERPRISE TO DEFRAY THE COSTS OF PROVIDING THE
2 BUSINESS SERVICES SPECIFIED IN SUBSECTION (1)(e) OF THIS SECTION TO
3 FEE PAYERS AND THE FEES ARE COLLECTED AT RATES THAT ARE
4 REASONABLY CALCULATED BASED ON THE BENEFITS RECEIVED BY THOSE
5 FEE PAYERS; AND

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

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

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

19 (b) "CLASS B FIREFIGHTING FOAM" MEANS FOAM DESIGNED FOR
20 FLAMMABLE LIQUID FIRES.

21 (c) "ELIGIBLE ENTITY" MEANS AN ENTITY IDENTIFIED BY THE
22 BOARD AS AN ENTITY THAT MAY QUALIFY FOR THE GRANT PROGRAM.

23 (d) "ELIGIBLE MATERIAL" MEANS A MATERIAL CONTAINING
24 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES THAT IS
25 IDENTIFIED BY THE BOARD AS ELIGIBLE FOR PURCHASE UNDER THE
26 TAKEBACK PROGRAM.

27 (e) "ENTERPRISE" MEANS THE PERFLUOROALKYL AND

1 POLYFLUOROALKYL SUBSTANCES ENTERPRISE CREATED IN SUBSECTION (3)
2 OF THIS SECTION.

3 (f) "FEES" MEANS THE FEES IMPOSED BY SUBSECTION (7) OF THIS
4 SECTION AND SECTION 8-20-206.5 (6).

5 (g) "FUND" MEANS THE PERFLUOROALKYL AND
6 POLYFLUOROALKYL SUBSTANCES CASH FUND CREATED IN SUBSECTION (4)
7 OF THIS SECTION.

8 (h) "GRANT PROGRAM" MEANS THE PERFLUOROALKYL AND
9 POLYFLUOROALKYL SUBSTANCES GRANT PROGRAM CREATED IN
10 SUBSECTION (5) OF THIS SECTION.

11 (i) "PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES" OR
12 "PFAS CHEMICALS" MEANS A CLASS OF FLUORINATED ORGANIC
13 CHEMICALS CONTAINING AT LEAST ONE FULLY FLUORINATED CARBON
14 ATOM. <>

15 (j) "TAKEBACK PROGRAM" MEANS THE PROGRAM CREATED IN
16 SUBSECTION (6) OF THIS SECTION THAT ALLOWS THE ENTERPRISE TO
17 PURCHASE AND DISPOSE OF MATERIALS THAT CONTAIN PERFLUOROALKYL
18 AND POLYFLUOROALKYL SUBSTANCES.

19
20 (3) **Enterprise.** (a) THERE IS HEREBY CREATED IN THE
21 DEPARTMENT THE PERFLUOROALKYL AND POLYFLUOROALKYL
22 SUBSTANCES ENTERPRISE. THE ENTERPRISE IS AND OPERATES AS A
23 GOVERNMENT-OWNED BUSINESS WITHIN THE DEPARTMENT FOR THE
24 PURPOSE OF USING THE FEES CHARGED TO AIRPORTS, AIRPORT HANGARS,
25 AND COLORADO MANUFACTURERS, DISTRIBUTORS, AND FIRST PURCHASERS
26 OF FUEL TO ACCOMPLISH THE PRIMARY PURPOSES AND DUTIES LISTED IN
27 SUBSECTION (3)(c) OF THIS SECTION.

1 (b) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR PURPOSES
2 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT
3 RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS
4 THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS FROM ALL
5 COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT
6 CONSTITUTES AN ENTERPRISE PURSUANT TO THIS SUBSECTION (3)(b), THE
7 ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE
8 CONSTITUTION.

9 (c) THE ENTERPRISE'S PRIMARY POWERS AND DUTIES ARE TO:

10 (I) ADMINISTER THE GRANT PROGRAM AND AWARDED GRANTS IN
11 ACCORDANCE WITH SUBSECTION (5) OF THIS SECTION;

12 (II) ADMINISTER THE TAKEBACK PROGRAM AND PURCHASE AND
13 DISPOSE OF ELIGIBLE MATERIALS UNDER THE TAKEBACK PROGRAM IN
14 ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION;

15 (III) PROVIDE TECHNICAL ASSISTANCE IN LOCATING AND STUDYING
16 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES TO
17 COMMUNITIES, STAKEHOLDERS, AND REGULATORY BOARDS OR
18 COMMISSIONS FOR THE FOLLOWING PURPOSES:

19 _____

20 _____

21 _____

22 _____

23 _____

24 (A) ADDRESSING THE RISKS ASSOCIATED WITH IDENTIFIED, OR YET
25 TO BE IDENTIFIED, PERFLUOROALKYL AND POLYFLUOROALKYL
26 SUBSTANCES IN GROUNDWATER, SURFACE WATER, AND DRINKING WATER;

27 (B) IDENTIFYING SAFE DISPOSAL METHODS OF MATERIALS

1 CONTAINING PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES;
2 (C) IDENTIFYING MEANS OF CONTROLLING THE FURTHER
3 CONTAMINATION OF WATER SUPPLIES BY PERFLUOROALKYL AND
4 POLYFLUOROALKYL SUBSTANCES; AND
5 (D) SIMILAR ACTIVITIES CONSISTENT WITH THE ENTERPRISE'S
6 PRIMARY PURPOSES AND DUTIES;
7 (IV) BY RESOLUTION, AUTHORIZE AND ISSUE REVENUE BONDS
8 THAT ARE PAYABLE ONLY FROM THE MONEY IN THE FUND, AND THAT MAY
9 BE ISSUED ONLY AFTER APPROVAL BY BOTH HOUSES OF THE GENERAL
10 ASSEMBLY EITHER BY BILL OR JOINT RESOLUTION AND AFTER APPROVAL
11 BY THE GOVERNOR IN ACCORDANCE WITH SECTION 39 OF ARTICLE V OF
12 THE STATE CONSTITUTION;_____
13 (V) ADOPT, AMEND, OR REPEAL POLICIES FOR THE REGULATION OF
14 ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS CONSISTENT WITH THIS
15 SECTION; AND
16 (VI) ENGAGE THE SERVICES OF CONTRACTORS, CONSULTANTS, AND
17 LEGAL COUNSEL, INCLUDING THE DEPARTMENT AND THE ATTORNEY
18 GENERAL'S OFFICE, FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND
19 ADVICE AND TO SUPPLY OTHER SERVICES RELATED TO THE CONDUCT OF
20 THE AFFAIRS OF THE ENTERPRISE, WITHOUT REGARD TO THE
21 "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24. THE BOARD
22 SHALL ENCOURAGE DIVERSITY IN APPLICANTS FOR CONTRACTS AND SHALL
23 GENERALLY AVOID USING SINGLE-SOURCE BIDS. THE DEPARTMENT SHALL
24 PROVIDE OFFICE SPACE AND ADMINISTRATIVE STAFF TO THE ENTERPRISE
25 PURSUANT TO A CONTRACT ENTERED INTO PURSUANT TO THIS SUBSECTION
26 (3)(c)(VI). THE ENTERPRISE MAY HIRE STAFF IN CONSULTATION WITH THE
27 EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

(d) THE ENTERPRISE EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND FUNCTIONS UNDER THE DEPARTMENT AS IF TRANSFERRED TO THE DEPARTMENT BY A TYPE 1 TRANSFER, AS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24.

(e) THE ENTERPRISE IS GOVERNED BY A BOARD OF DIRECTORS. THE BOARD CONSISTS OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE AND THE FOLLOWING OTHER EIGHT MEMBERS APPOINTED BY THE EXECUTIVE DIRECTOR:

(I) TWO MEMBERS OF THE WATER QUALITY CONTROL COMMISSION, CREATED IN PART 2 OF ARTICLE 8 OF TITLE 25;

(II) TWO MEMBERS OF THE SOLID AND HAZARDOUS WASTE COMMISSION, CREATED IN PART 3 OF ARTICLE 15 OF TITLE 25;

(III) ONE MEMBER WHO IS A REPRESENTATIVE OF A COUNTY OR DISTRICT PUBLIC HEALTH AGENCY ESTABLISHED UNDER SECTION 25-1-506;

(IV) ONE MEMBER WHO IS A REPRESENTATIVE FROM A FIRE DEPARTMENT OR OTHER ENTITY THAT PROVIDES FIRE SUPPRESSION SERVICES;

(V) ONE MEMBER WHO IS A FIRST PURCHASER OF ODORIZED LIQUEFIED PETROLEUM GAS, A MANUFACTURER OF FUEL PRODUCTS WHO MANUFACTURES SUCH PRODUCTS FOR SALE WITHIN COLORADO OR WHO SHIPS SUCH PRODUCTS FROM ANY POINT OUTSIDE OF COLORADO TO A DISTRIBUTOR WITHIN COLORADO, OR A DISTRIBUTOR WHO SHIPS SUCH PRODUCTS FROM ANY POINT OUTSIDE OF COLORADO TO A POINT WITHIN COLORADO; AND

(VI) ONE MEMBER WHO IS A REPRESENTATIVE OF A PUBLIC WATER

1 SYSTEM.

2 (f) THE INITIAL BOARD MEMBERS SHALL HAVE TERMS BEGINNING
3 ON JANUARY 1, 2021, AND THE BOARD SHALL HAVE ITS FIRST MEETING BY
4 MARCH 1, 2021.

5 (g) THE TERMS OF OFFICE OF THE BOARD MEMBERS ARE THREE
6 YEARS; EXCEPT THAT THE TERMS OF OFFICE OF THE INITIAL BOARD
7 MEMBERS ARE TWO YEARS. THE BOARD SHALL ELECT A CHAIR FROM
8 AMONG ITS MEMBERS TO SERVE FOR A TERM NOT TO EXCEED TWO YEARS.

9 (h) A VACANCY ON THE BOARD IS FILLED IN THE SAME MANNER AS
10 THE ORIGINAL APPOINTMENT WAS MADE. A PERSON APPOINTED TO FILL A
11 VACANCY SERVES FOR THE REMAINDER OF THE UNEXPIRED TERM.

12

13

14 _____

15 =

16

17

18 (i) THE BOARD SHALL MEET AT LEAST QUARTERLY AND THE CHAIR
19 MAY CALL ADDITIONAL MEETINGS AS NECESSARY FOR THE BOARD TO
20 COMPLETE ITS DUTIES.

21 (j) EACH MEMBER OF THE BOARD IS ENTITLED TO RECEIVE FROM
22 MONEY IN THE FUND A PER DIEM ALLOWANCE OF FIFTY DOLLARS FOR EACH
23 DAY SPENT ATTENDING OFFICIAL BOARD MEETINGS.

24 (4) **Fund.** (a) THERE IS HEREBY CREATED IN THE STATE TREASURY
25 THE PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES CASH FUND.
26 THE FUND CONSISTS OF MONEY CREDITED TO THE FUND PURSUANT TO
27 SUBSECTION (7) OF THIS SECTION AND SECTION 8-20-206.5 (6).

1 (b) THE MONEY IN THE FUND SHALL NOT BE DEPOSITED IN OR
2 TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. THE STATE
3 TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE
4 DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. ANY
5 UNEXPENDED AND UNENCUMBERED MONEY IN THE FUND SHALL REMAIN
6 IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE
7 GENERAL FUND OR ANY OTHER FUND.

8 (c) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
9 ENTERPRISE FOR THE PURPOSE OF:

10 (I) ADMINISTERING THE GRANT PROGRAM AND AWARDING GRANTS
11 IN ACCORDANCE WITH SUBSECTION (5) OF THIS SECTION;

12 (II) ADMINISTERING THE TAKEBACK PROGRAM AND PURCHASING
13 AND DISPOSING OF ELIGIBLE MATERIALS UNDER THE TAKEBACK PROGRAM
14 IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION; AND

15 (III) ASSISTING THE STATE BOARD OF HEALTH, THE WATER
16 QUALITY CONTROL COMMISSION, THE AIR QUALITY CONTROL COMMISSION,
17 THE SOLID AND HAZARDOUS WASTE COMMISSION, AND THE OIL AND GAS
18 CONSERVATION COMMISSION IN LOCATING AND STUDYING
19 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES.

20 (d) THE BOARD MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS,
21 OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF
22 THIS SECTION, SO LONG AS THE COMBINATION OF GRANTS FROM THE STATE
23 AND LOCAL GOVERNMENTS IS LESS THAN TEN PERCENT OF THE
24 ENTERPRISE'S TOTAL ANNUAL REVENUE.

25 (5) **Grant program.** (a) THE ENTERPRISE SHALL ADMINISTER THE
26 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES GRANT PROGRAM
27 AND SHALL AWARD GRANTS FROM THE FUND AS PROVIDED IN THIS

1 SUBSECTION (5).

2 (b) THE PURPOSE OF THE GRANT PROGRAM IS TO PROVIDE FUNDING
3 FOR:

4 (I) SAMPLING, ASSESSMENT, AND INVESTIGATION OF
5 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES IN GROUND
6 WATER;

7 (II) WATER SYSTEM INFRASTRUCTURE USED FOR THE TREATMENT
8 OF IDENTIFIED PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES;

9 _____
10 (III) CONTROLLING FURTHER CONTAMINATION OF WATER SUPPLIES
11 BY PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES;

12 (IV) REPLACING SAFELY DISPOSED OF AQUEOUS FILM FORMING
13 FOAM WITH FLOURINE-FREE AQUEOUS FILM FORMING FOAM;

14 _____
15 _____
16 _____

17 (V) FIRE SUPPRESSION TRAINING, EQUIPMENT, AND
18 INFRASTRUCTURE RESOURCES THAT ASSIST IN THE TRANSITION AWAY
19 FROM FIREFIGHTING THAT CONTAINS PERFLUOROALKYL AND
20 POLYFLUOROALKYL SUBSTANCES;

21 (VI) EMERGENCY ASSISTANCE TO COMMUNITIES AND WATER
22 SYSTEMS AFFECTED BY PERFLUOROALKYL AND POLYFLUOROALKYL
23 SUBSTANCES; AND

24 (VII) OTHER SERVICES DETERMINED BY THE BOARD TO BE
25 CONSISTENT WITH THE GOALS OF THE ENTERPRISE AS PROVIDED IN
26 SUBSECTION (3)(c) OF THIS SECTION.

27 (c) THE BOARD SHALL DEVELOP POLICIES AND PROCEDURES AS

1 NECESSARY TO IMPLEMENT THE GRANT PROGRAM. AT A MINIMUM, THESE
2 POLICIES AND PROCEDURES MUST SPECIFY:

- 3 (I) WHO MAY QUALIFY AS AN ELIGIBLE ENTITY;
- 4 (II) THE TIME FRAMES FOR APPLYING FOR GRANTS;
- 5 (III) THE CRITERIA USED TO EVALUATE AND PRIORITIZE
6 APPLICATIONS FOR GRANTS;
- 7 (IV) THE FORM OF THE GRANT PROGRAM APPLICATION; AND
- 8 (V) THE TIME FRAMES FOR DISTRIBUTING GRANT MONEY.

9 (d) TO RECEIVE A GRANT, AN ELIGIBLE ENTITY MUST SUBMIT AN
10 APPLICATION TO THE ENTERPRISE IN ACCORDANCE WITH THE POLICIES AND
11 PROCEDURES SPECIFIED BY THE BOARD.

12 (e) A GRANTEE SHALL USE THE MONEY RECEIVED THROUGH THE
13 GRANT PROGRAM ONLY FOR ACHIEVING GOALS APPROVED BY THE BOARD.

14 (f) A GRANTEE SHALL REPORT ANNUALLY TO THE ENTERPRISE ON
15 THE PROGRESS OF ANY PROJECT FINANCED BY THE GRANT PURSUANT TO
16 TERMS SPECIFIED IN THE GRANT AWARD AGREEMENT.

17 (g) THE BOARD SHALL DEVELOP A POLICY REGARDING A GRANTEE'S
18 NONCOMPLIANCE WITH THE GRANT AWARD AGREEMENT ENTERED INTO BY
19 THE GRANTEE AND THE BOARD. THIS POLICY MAY INCLUDE A MECHANISM
20 FOR THE BOARD TO CONVERT THE GRANT TO A LOAN WITH INTEREST.

21 (6) **Takeback program.** (a) THE ENTERPRISE SHALL ADMINISTER
22 THE PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES TAKEBACK
23 PROGRAM AND, SUBJECT TO AVAILABLE APPROPRIATIONS AND REVENUES
24 FROM THE FUND, SHALL PURCHASE AND DISPOSE OF ELIGIBLE MATERIALS.

25 (b) THE PURPOSE OF THE TAKEBACK PROGRAM IS TO CREATE AN
26 INCENTIVE FOR THE PROPER DISPOSAL OF MATERIALS CONTAINING
27 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES BY ALLOWING

1 THE ENTERPRISE TO PURCHASE AND PROPERLY DISPOSE OF SUCH
2 MATERIALS.

3 (c) THE BOARD SHALL DEVELOP POLICIES AND PROCEDURES AS
4 NECESSARY TO IMPLEMENT THE TAKEBACK PROGRAM. AT A MINIMUM
5 THESE POLICIES AND PROCEDURES MUST DESCRIBE:

6 (I) WHAT MATERIALS QUALIFY AS ELIGIBLE MATERIALS;

7 (II) THE PURCHASE PRICE FOR EACH ELIGIBLE MATERIAL;

8 (III) THE PROPER METHOD OF DISPOSAL FOR EACH ELIGIBLE
9 MATERIAL;

10 (IV) THE TIME FRAME FOR APPLYING FOR THE PURCHASE OF
11 ELIGIBLE MATERIALS;

12 (V) THE FORM OF THE ELIGIBLE MATERIAL PURCHASE
13 APPLICATION; AND

14 (VI) THE TIME FRAME FOR PURCHASING ELIGIBLE MATERIALS.

15 (d) TO HAVE THE ENTERPRISE PURCHASE AN ELIGIBLE MATERIAL,
16 A PERSON OR ENTITY MUST SUBMIT AN ELIGIBLE MATERIAL PURCHASE
17 APPLICATION TO THE ENTERPRISE IN ACCORDANCE WITH THE POLICIES AND
18 PROCEDURES ADOPTED BY THE BOARD.

19 (e) THE BOARD SHALL PUBLISH THE PURCHASE PRICE FOR EACH
20 ELIGIBLE MATERIAL.

21 (7) Airport fees. (a) THE BOARD SHALL ESTABLISH BY RULE A FEE
22 REASONABLY RELATED TO THE BUSINESS SERVICES PROVIDED BY THE
23 ENTERPRISE TO EACH AIRPORT HANGAR USED FOR AERONAUTICAL USES,
24 AS DEFINED IN 14 CFR CHAPTER 1 "POLICY ON THE NON-AERONAUTICAL
25 USE OF AIRPORT HANGARS", AND EQUIPPED WITH AQUEOUS FILM FORMING
26 FOAM FOR FIRE SUPPRESSION.

27 (b) THE BOARD SHALL ESTABLISH BY RULE A FEE NOT TO EXCEED

1 FIVE CENTS FOR EACH GALLON OF AVIATION FUEL USED AT ANY AIRPORT
2 IN COLORADO. THE FEE SHALL BE REASONABLY RELATED TO THE BUSINESS
3 SERVICES PROVIDED TO THE AIRPORT AND AVIATION INDUSTRIES BY THE
4 ENTERPRISE. _____
5
6 _____

7 (c) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE
8 SHALL TRANSMIT ANY FEE COLLECTED IN ACCORDANCE WITH THIS
9 SUBSECTION (7) TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
10 TO THE PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES CASH
11 FUND CREATED IN SECTION 25-5-1309 (4). ANY FEE TRANSMITTED TO THE
12 STATE TREASURER THAT IS COLLECTED ON BEHALF OF THE
13 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES ENTERPRISE IS
14 EXCLUDED FROM STATE FISCAL YEAR SPENDING, AS DEFINED IN SECTION
15 24-77-102 (17).

16 (8) **Reporting.** NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I),
17
18 _____
19

20 THE BOARD SHALL SUBMIT A REPORT BY JANUARY 1 OF EACH YEAR TO THE
21 COMMITTEES OF REFERENCE OF THE GENERAL ASSEMBLY WITH
22 JURISDICTION OVER PUBLIC HEALTH REGARDING:

23 (a) ANY AMOUNTS CREDITED TO THE FUND IN THE PREVIOUS YEAR
24 AND THE UNOBLIGATED BALANCE OF THE FUND;

25 (b) THE NUMBER OF GRANT APPLICANTS AND THE NUMBER AND
26 VALUE OF GRANTS AWARDED;

27 (c) THE ELIGIBLE ENTITIES THAT HAVE APPLIED FOR A GRANT, THE

1 ACTIONS TAKEN BY EACH GRANTEE, OTHER MEASUREMENTS OF SUCCESS,
2 AND THE AMOUNT OF GRANT MONEY DISTRIBUTED TO EACH GRANTEE;

3 (d) THE AMOUNT OF ELIGIBLE MATERIALS PURCHASED AND
4 PROPERLY DISPOSED OF BY THE ENTERPRISE UNDER THE TAKEBACK
5 PROGRAM DESCRIBED IN SUBSECTION (6) OF THIS SECTION;

6 (e) ANY NEWLY-LOCATED PERFLUOROALKYL AND
7 POLYFLUOROALKYL SUBSTANCES; AND

8 (f) ANY SUGGESTED LEGISLATION OR POLICY CHANGES.

9 **SECTION 2.** In Colorado Revised Statutes, 8-20-206.5, **add** (6)
10 as follows:

11 **8-20-206.5. Environmental response surcharge - liquefied**
12 **petroleum gas and natural gas inspection fund - definitions.** (6) (a) IN
13 ADDITION TO THE PAYMENT COLLECTED UNDER SUBSECTION (1)(a) OF THIS
14 SECTION, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE, ON
15 BEHALF OF THE PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES
16 ENTERPRISE CREATED IN SECTION 25-5-1309 (3), SHALL ALSO COLLECT A
17 FEE TO FUND THE ENTERPRISE.

18 (b) THE FEE IS EQUAL TO THE AMOUNT THAT EVERY FIRST
19 PURCHASER OF ODORIZED LIQUEFIED PETROLEUM GAS, EVERY
20 MANUFACTURER OF FUEL PRODUCTS WHO MANUFACTURES SUCH
21 PRODUCTS FOR SALE WITHIN COLORADO OR WHO SHIPS SUCH PRODUCTS
22 FROM ANY POINT OUTSIDE OF COLORADO TO A DISTRIBUTOR WITHIN
23 COLORADO, AND EVERY DISTRIBUTOR WHO SHIPS SUCH PRODUCTS FROM
24 ANY POINT OUTSIDE OF COLORADO TO A POINT WITHIN COLORADO MUST
25 PAY UNDER SUBSECTION (1)(a) OF THIS SECTION.

26 (c) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE
27 SHALL TRANSMIT ANY FEE COLLECTED IN ACCORDANCE WITH THIS

1 SUBSECTION (6) TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
2 TO THE PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES CASH
3 FUND CREATED IN SECTION 25-5-1309 (4). ANY FEE TRANSMITTED TO THE
4 STATE TREASURER THAT IS COLLECTED ON BEHALF OF THE
5 PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES ENTERPRISE IS
6 EXCLUDED FROM STATE FISCAL YEAR SPENDING, AS DEFINED IN SECTION
7 24-77-102 (17).

8 (d) EVERY FIRST PURCHASER OF ODORIZED LIQUEFIED PETROLEUM
9 GAS, EVERY MANUFACTURER OF FUEL PRODUCTS WHO MANUFACTURES
10 SUCH PRODUCTS FOR SALE WITHIN COLORADO OR WHO SHIPS SUCH
11 PRODUCTS FROM ANY POINT OUTSIDE OF COLORADO TO A DISTRIBUTOR
12 WITHIN COLORADO, AND EVERY DISTRIBUTOR WHO SHIPS SUCH PRODUCTS
13 FROM ANY POINT OUTSIDE OF COLORADO TO A POINT WITHIN COLORADO
14 SUBJECT TO THIS SUBSECTION (6) SHALL TRANSMIT THE FEE PRESCRIBED
15 IN THIS SUBSECTION (6) AT THE SAME TIME THAT THEY TRANSMIT THE
16 PAYMENT DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION.

17 (e) NOTWITHSTANDING SUBSECTIONS (6)(a) TO (6)(d) OF THIS
18 SECTION, IF THE AVAILABLE FUND BALANCE IN THE PETROLEUM STORAGE
19 TANK FUND IS GREATER THAN EIGHT MILLION DOLLARS, THE EXECUTIVE
20 DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL NOT COLLECT A FEE,
21 BUT IF THE AVAILABLE FUND BALANCE IN THE FUND IS LESS THAN EIGHT
22 MILLION DOLLARS WITHIN A FISCAL YEAR, THE EXECUTIVE DIRECTOR OF
23 THE DEPARTMENT OF REVENUE SHALL IMPOSE A FEE IN ACCORDANCE WITH
24 SUBSECTIONS (6)(a) TO (6)(d) OF THIS SECTION.

25 **SECTION 3. Safety clause. The general assembly hereby finds,**
26 **determines, and declares that this act is necessary for the immediate**
27 **preservation of the public peace, health, or safety.**