Be it Enacted by the People of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-38.5-301, **amend** (2)(c) and (2)(d) and **repeal** (2)(e) and (2)(f) as follows:

24-38.5-301. Legislative declaration.

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

(c) The enterprise provides impact remediation services when, ~~in exchange for the payment of community access retail delivery fees by or on behalf of 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:

(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) ~~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).~~

SECTION 2. In Colorado Revised Statutes, 24-38.5-302, **repeal** (11) as follows:

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

(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.~~

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

24-38.5-303. Community access enterprise - creation - board - powers and duties - fund - fee - transparency and reporting.

(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;~~

(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.

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

(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~~

(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 either collect and remit or elect to pay the community access retail delivery fee in the manner prescribed by the department in accordance with section 43-4-218 (6). 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 April15 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.~~

SECTION 4. In Colorado Revised Statutes, 25-7.5-101, **amend** (1)(d) as follows:

25-7.5-101. Legislative declaration.

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

(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

SECTION 5. In Colorado Revised Statutes, 25-7.5-102, **amend** (13) as follows:

25-7.5-102. Definitions. As used in this article 7.5, unless the context otherwise requires:

(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.

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

25-7.5-103. Clean fleet enterprise - creation - board - powers and duties - fees - fund.

(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 subsection~~s~~ (7) ~~and (8)~~ of this section;

(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 subsection~~s~~ (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.

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

(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

(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 either collect and remit or elect to pay the clean fleet retail delivery fee in the manner prescribed by the department in accordance with section 43-4-218 (6). 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 April15 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.~~

SECTION 7. In Colorado Revised Statutes, 39-21-119.5, **repeal** (2)(u) 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:

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

SECTION 8. In Colorado Revised Statutes, 39-26-102, **amend** (7)(a) as follows:

39-26-102. Definitions.

(7)

(a) "Purchase price" means the price to the consumer, exclusive of any direct tax imposed by the federal government or by this 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 9. In Colorado Revised Statutes, 39-37-103, **repeal** (15)(a)(IV) as follows:

39-37-103. Definitions.

(15)

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

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

SECTION 10. In Colorado Revised Statutes, 43-4-205, **repeal** (6.8)(b) as follows:

43-4-205. Allocation of fund.

(6.8)

(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.~~

SECTION 11. In Colorado Revised Statutes, 43-4-218, **amend** (1)(b) and **repeal** (1)(e), (2)(a), (2)(b), (3), (4), (5), (6), and (7) as follows:

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:

(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 TRAFFIC CONGESTION, RETAIL-DELIVERY-RELATED EMISSIONS, AND 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~~;

(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;~~

~~(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; and~~

~~(IV) To create an exemption from the retail delivery fees for retailers with retail sales of five hundred thousand dollars or less.~~

(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.~~

(3)

~~(a) A retail delivery fee in an amount set forth in this subsection (3)(a) and subsection (3)(b) of this section is imposed on each retail delivery. Except as otherwise provided in subsection (6)(b)(II) of this section, 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 (6)(b)(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, 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.~~

~~(d)~~

~~(I) Notwithstanding any other provision of law, a retail delivery by a qualified business made on or after July 1, 2022, is exempt from the retail delivery fee imposed by this subsection (3) and the enterprise retail delivery fees.~~

~~(II) There are no refunds under section 39-26-703 of any retail delivery fees for a retail delivery made on or after July 1, 2022, but before July 1, 2023, on the basis of the exemption set forth in subsection (3)(d)(I) of this section.~~

~~(III) As used in this subsection (3)(d), "qualified business" means a retailer that in the previous calendar year made retail sales of tangible personal property, commodities, or services in the state totaling five hundred thousand dollars or less. If the retailer had no retail sales in the state in the previous calendar year, then the retailer is deemed to be a "qualified business" for the current calendar year, until the first day of the month after the ninetieth day after the retailer has made retail sales of tangible personal property, commodities, or services in the state that total more than five hundred thousand dollars.~~

(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 as otherwise provided in this subsection (6), 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)~~

~~(I) Except as otherwise provided in subsection (6)(b)(II) of this section, 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. If 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.~~

~~(II) A retailer may elect to pay the retail delivery fee imposed by subsection (3) of this section and the enterprise retail delivery fees for a retail delivery on behalf of a purchaser. If a retailer elects to pay these fees, then:~~

~~(A) The retailer shall not add the 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;~~

(B) The purchaser is neither liable nor responsible for the payment of the fees; and

(C) The purchaser is not entitled to a refund for fees that are paid for a retail delivery that is exempt under subsection (3)(c) or (3)(d) of this section. A retailer may claim a refund under section 39-26-703 for the exempt fees paid; except that section 39-26-703 (2.5)(b)(I)(B) shall not apply in this circumstance.

(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 or electing to pay 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, if any, against the amount to be paid pursuant to this subsection (6)(c).

(d)

(I) 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.

(II) A retailer who elects to pay the retail delivery fee imposed by subsection (3) of this section and the enterprise retail delivery fees on behalf of a purchaser in accordance with subsection (6)(b)(II) of this section shall remit the fees to the department of revenue as if the fees had been collected from the purchaser on the date of the retail delivery, as specified in subsection (6)(d)(I) of this section.

(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.

(f) The department of revenue shall waive any processing costs, as defined in section 39-21-119.5 (7)(d)(II), for electronic payment of the retail delivery fee imposed by subsection (3) of this section and the enterprise retail delivery fees if:

~~(I) The processing costs would exceed the amount of the retail delivery fees the retailer is remitting; and~~

~~(II) The electronic payment is by automated clearing house (ACH) debit.~~

(7) ~~The department of revenue may promulgate rules to implement this section.~~

SECTION 12. In Colorado Revised Statutes, 43-4-805, **amend** (1)(b)(II), (2)(b(I), (2)(c), (3)(a), (5)(r)(I) and (5)(r)(III)(A), and **repeal** (5)(g.7) as follows:

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

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

(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; the completion of preventative maintenance bridge projects; and the completion of 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:

(II) Impose a bridge safety surcharge, AND 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, preventative maintenance 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 revenue generated by the surcharge and fee~~s~~ and other money, issue revenue bonds and other obligations, contract with the state, if required approvals are obtained, to receive one or more loans of money received by the state under the terms of one or more financed purchase of an asset or certificate of participation agreements authorized by this part 8, expend 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

(2)

(b) The business purpose of the bridge enterprise is to finance, repair, reconstruct, and replace any designated bridge in the state, complete preventative maintenance bridge projects, 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 by subsections (5)(g), AND (5)(g.5)~~, and (5)(g.7)~~ of this section;

(c) The bridge enterprise constitutes an enterprise for purposes of section 20 of article X of the state constitution so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total revenues in grants from all Colorado state and local governments combined. So long as it constitutes an enterprise pursuant to this subsection (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, OR a bridge and tunnel impact fee~~, or a bridge and tunnel retail delivery fee~~ imposed by the bridge enterprise as authorized by subsection (5)(g), OR (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, preventative maintenance 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 revenue received by the bridge enterprise, including, but not limited to, revenue from a bridge safety surcharge 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 money loaned to the enterprise by the state pursuant to 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, preventative maintenance bridge project, or tunnel project. The bridge enterprise also may deposit or permit others to deposit other money into the bridge special fund, but in no event may 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 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 money may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113.

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

(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 either collect and remit or elect to pay the bridge and tunnel retail delivery fee in the manner prescribed by the department in accordance with section 43-4-218 (6). 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 April15 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-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 bridge and tunnel retail delivery fee imposed pursuant to this subsection (5)(g.7) begins.~~

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

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

(r)

(I) To contract with the state to borrow money under the terms of one or more loan contracts entered into by the state and the bridge enterprise pursuant to subsection (5)(r)(III) of this section, to expend any money borrowed from the state for the purpose of completing designated bridge projects, preventative maintenance 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 revenue generated by any bridge safety surcharge, bridge and tunnel impact fee~~, or bridge and tunnel retail delivery fee~~ imposed pursuant to subsection (5)(g), OR (5)(g.5)~~, or (5)(g.7)~~ of this section and any other legally available money of the bridge enterprise to repay the 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 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 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 subsection (5)(g), OR (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 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 subsection (5)(r)(III)(A) and any pledge of 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 seller under a financed purchase of an asset or certificate of participation agreement entered into pursuant to this 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 financed purchase of an asset or certificate of participation agreement as authorized by subsection (5)(r)(IV)(B) of this section, a party to any ancillary agreement or instrument entered into

pursuant to subsection (5)(r)(V) of this section, or a party to any interest rate exchange agreement entered into pursuant to subsection (5)(r)(VII)(A) of this section.

SECTION 13. In Colorado Revised Statutes, 43-4-1101, **amend** (1) 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 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:

SECTION 14. In Colorado Revised Statutes, 43-4-1103, **amend** (1)(a) 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~~, 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.

SECTION 15. In Colorado Revised Statutes, 43-4-1201, **amend** (1)(d), (2)(c), and (2)(g) and **repeal** (2)(e) and (2)(f) as follows

43-4-1201. Legislative declaration.

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

(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~~;

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

(c) The enterprise provides impact remediation services when~~, in exchange for the payment of clean transit retail delivery fees by or on behalf of 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:

(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) and the production fee for clean transit 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 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;~~

(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); and~~

(g) The addition of the production fee for clean transit continues to serve the enterprise's primary business purposes set forth in section 43-4-1203 (3)(a). If the addition of the production fee for clean transit ~~combined with the clean transit retail delivery fee~~ is estimated to result in the collection of fees and surcharges that exceed one hundred million dollars in the enterprise's first five fiscal years, the board shall adjust the fees, lower the fees, or stop collecting the fees in order to not collect fees or surcharges that exceed one hundred million dollars in the enterprise's first five fiscal years, which five-year period, for the purpose of section 24-77-108, ends on June 30, 2026. Therefore, the enterprise, originally created in section 43-4-1203, is in compliance with section 24-77-108.

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

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

(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.~~

SECTION 17. In Colorado Revised Statutes, 43-4-1203, **amend** (5)(a), and (6)(g) **repeal** (3)(b)(I) and (7)as follows:

43-4-1203. Clean transit enterprise - creation - board - powers and duties - rules - fees - fund.

(3)

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

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

(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.

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

(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

(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 either collect and remit or elect to pay the clean transit retail delivery fee in the manner prescribed by the department in accordance with section 43-4-218 (6). 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.~~

SECTION 18. In Colorado Revised Statutes, 43-4-1301, **amend** (1)(c), (2)(a), and (2)(c) and **repeal** (2)(d) as follows:

43-4-1301. Legislative declaration.

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

(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 or on behalf of 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;

(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 section 43-4-1303 are:

~~(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).~~

SECTION 19. In Colorado Revised Statutes, 43-4-1302, **amend (**15) as follows:

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

(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-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 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.

SECTION 20. In Colorado Revised Statutes, 43-4-1303, **amend** (3)(a),(5)(a) and (6)(h) and **repeal** (8) as follows:

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

(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 subsection~~s~~ (7) ~~and (8)~~ of this section;

(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 subsection~~s~~ (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.

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

(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

(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 either collect and remit or elect to pay the air pollution mitigation retail delivery fee in the manner prescribed by the department in accordance with section 43-4-218 (6). 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 April15 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.~~