

CHAPTER 355

HEALTH AND ENVIRONMENT

HOUSE BILL 19-1261

BY REPRESENTATIVE(S) Becker and Jackson, Jaquez Lewis, Bird, Cutter, Duran, Froelich, Galindo, Hooton, Kennedy, Kipp, Melton, Roberts, Singer, Sirota, Snyder, Sullivan, Tipper, Titone, Valdez A., Weissman, Arndt, Benavidez, Buckner, Buentello, Caraveo, Exum, Gonzales-Gutierrez, Gray, Hansen, Lontine, McCluskie, Michaelson Jenet, Mullica, Esgar, Herod, McLachlan; also SENATOR(S) Winter and Williams A., Moreno, Bridges, Court, Danielson, Donovan, Fenberg, Fields, Foote, Ginal, Gonzales, Lee, Pettersen, Story, Todd, Zenzinger.

AN ACT

CONCERNING THE REDUCTION OF GREENHOUSE GAS POLLUTION, AND, IN CONNECTION THEREWITH, ESTABLISHING STATEWIDE GREENHOUSE GAS POLLUTION REDUCTION GOALS AND MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **amend 25-7-102** as follows:

25-7-102. Legislative declaration. (1) In order to foster the health, welfare, convenience, and comfort of the inhabitants of the state of Colorado and to facilitate the enjoyment and use of the scenic and natural resources of the state, it is declared to be the policy of this state to achieve the maximum practical degree of air purity in every portion of the state, to attain and maintain the national ambient air quality standards, and to prevent the significant deterioration of air quality in those portions of the state where the air quality is better than the national ambient air quality standards. To that end, it is the purpose of this ~~article~~ **ARTICLE 7** to require the use of all available practical methods which are technologically feasible and economically reasonable so as to reduce, prevent, and control air pollution throughout the state of Colorado; to require the development of an air quality control program in which the benefits of the air pollution control measures utilized bear a reasonable relationship to the economic, environmental, and energy impacts and other costs of such measures; and to maintain a cooperative program between the state and local units of government. It is further declared that the prevention, abatement, and control of air pollution in each portion of the state are matters of statewide concern and are affected with a public interest and that the provisions of this ~~article~~ **ARTICLE 7** are enacted in the exercise of the police powers of this state

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.

for the purpose of protecting the health, peace, safety, and general welfare of the people of this state. The general assembly further recognizes that a current and accurate inventory of actual emissions of air pollutants from all sources is essential for the proper identification and designation of attainment and nonattainment areas, the determination of the most cost-effective regulatory strategy to reduce pollution, the targeting of regulatory efforts to achieve the greatest health and environmental benefits, and the achievement of a federally approved clean air program. In order to achieve the most accurate inventory of air pollution sources possible, this ~~article~~ ARTICLE 7 specifically provides incentives to achieve the most accurate and complete inventory possible and to provide for the most accurate enforcement program achievable based upon that inventory.

(2) IT IS FURTHER DECLARED THAT:

(a) CLIMATE CHANGE ADVERSELY AFFECTS COLORADO'S ECONOMY, AIR QUALITY AND PUBLIC HEALTH, ECOSYSTEMS, NATURAL RESOURCES, AND QUALITY OF LIFE;

(b) COLORADO IS ALREADY EXPERIENCING HARMFUL CLIMATE IMPACTS, INCLUDING DECLINING SNOWPACK, PROLONGED DROUGHT, MORE EXTREME HEAT, ELEVATED WILDFIRE RISK AND RISK TO FIRST RESPONDERS, WIDESPREAD BEETLE INFESTATION DECIMATING FORESTS, INCREASED RISK OF VECTOR-BORNE DISEASES, MORE FREQUENT AND SEVERE FLOODING, MORE SEVERE GROUND-LEVEL OZONE POLLUTION CAUSING RESPIRATORY DAMAGE AND LOSS OF LIFE, DECREASED ECONOMIC ACTIVITY FROM OUTDOOR RECREATION AND AGRICULTURE, AND DIMINISHED QUALITY OF LIFE. MANY OF THESE IMPACTS DISPROPORTIONATELY AFFECT RURAL COMMUNITIES, COMMUNITIES OF COLOR, YOUTH AND THE ELDERLY, AND WORKING FAMILIES. REDUCING STATEWIDE GREENHOUSE GAS POLLUTION AS OUTLINED IN THIS SUBSECTION (2) WILL PROTECT THESE FRONTLINE COMMUNITIES, FIRST RESPONDERS, AND ALL COLORADO RESIDENTS FROM THESE AND OTHER CLIMATE IMPACTS.

(c) WE MUST WORK TOGETHER TO REDUCE STATEWIDE GREENHOUSE GAS POLLUTION IN ORDER TO LIMIT THE INCREASE IN THE GLOBAL AVERAGE TEMPERATURE TO ONE AND ONE-HALF DEGREES CELSIUS, WHICH SCIENTISTS AGREE WOULD PROVIDE A MORE STABLE AND HOSPITABLE CLIMATE FOR CURRENT AND FUTURE GENERATIONS AND MITIGATE THE RISK OF CATASTROPHIC CLIMATE IMPACTS IN COLORADO;

(d) BY REDUCING GREENHOUSE GAS POLLUTION, COLORADO WILL ALSO REDUCE OTHER HARMFUL AIR POLLUTANTS WHICH WILL, IN TURN, IMPROVE PUBLIC HEALTH, REDUCE HEALTH CARE COSTS, IMPROVE AIR QUALITY, AND HELP SUSTAIN THE ENVIRONMENT;

(e) REDUCING GREENHOUSE GAS POLLUTION WILL CREATE NEW MARKETS, SPUR INNOVATION, DRIVE INVESTMENTS IN LOW-CARBON TECHNOLOGIES, AND PUT COLORADO SQUARELY ON THE PATH TO A MODERN, RESILIENT, ONE-HUNDRED-PERCENT CLEAN ECONOMY. DELAY IN PURSUING AND SECURING GREENHOUSE GAS REDUCTIONS AS OUTLINED IN THIS SUBSECTION (2) WILL PREVENT COLORADO COMMUNITIES FROM CAPTURING THE BENEFITS OF THESE NEW JOBS AND MARKETS, IN ADDITION TO EXACERBATING THE CLIMATE IMPACTS THAT HARM COLORADANS. THE CLEAN ENERGY ECONOMY IS ALREADY BRINGING TENS OF

THOUSANDS OF JOBS AND BILLIONS OF DOLLARS IN DIRECT INVESTMENT TO COUNTIES ACROSS THE STATE, BENEFITTING WORKERS, FAMILIES, AND COMMUNITIES. COLORADO CAN CONTINUE TO FACILITATE SUCH A TRANSITION TO A CLEAN ENERGY ECONOMY. FOOD AND FIBER PRODUCTION HAS MADE SIGNIFICANT ACHIEVEMENTS IN AREAS OF PRODUCTIVITY AND SUSTAINABILITY. MODERN TECHNOLOGY IN THIS SECTOR CONTRIBUTES TO REDUCTIONS IN GREENHOUSE GAS EMISSIONS BY SEQUESTERING CARBON IN THE SOIL AND ENHANCING SUSTAINABILITY THROUGH TECHNOLOGIES THAT REDUCE METHANE EMISSIONS AND PRODUCE RENEWABLE ENERGY. CONTINUING TO ENCOURAGE THESE TYPES OF ACHIEVEMENTS IS BENEFICIAL.

(f) BY EXERCISING A LEADERSHIP ROLE, COLORADO WILL ALSO POSITION ITS ECONOMY, TECHNOLOGY CENTERS, FINANCIAL INSTITUTIONS, AND BUSINESSES TO BENEFIT FROM NATIONAL AND INTERNATIONAL EFFORTS TO REDUCE GREENHOUSE GASES;

(g) ACCORDINGLY, COLORADO SHALL STRIVE TO INCREASE RENEWABLE ENERGY GENERATION AND ELIMINATE STATEWIDE GREENHOUSE GAS POLLUTION BY THE MIDDLE OF THE TWENTY-FIRST CENTURY AND HAVE GOALS OF ACHIEVING, AT A MINIMUM, A TWENTY-SIX-PERCENT REDUCTION IN STATEWIDE GREENHOUSE GAS POLLUTION BY 2025, A FIFTY-PERCENT REDUCTION IN STATEWIDE GREENHOUSE GAS POLLUTION BY 2030, AND A NINETY-PERCENT REDUCTION IN STATEWIDE GREENHOUSE GAS POLLUTION BY 2050. THE REDUCTIONS IDENTIFIED IN THIS SUBSECTION (2)(g) ARE MEASURED RELATIVE TO 2005 STATEWIDE GREENHOUSE GAS POLLUTION LEVELS.

SECTION 2. In Colorado Revised Statutes, 25-7-103, **amend** the introductory portion; and **add** (22.5) as follows:

25-7-103. Definitions. As used in this ~~article~~ ARTICLE 7, unless the context otherwise requires:

(22.5) "STATEWIDE GREENHOUSE GAS POLLUTION" MEANS THE TOTAL NET STATEWIDE ANTHROPOGENIC EMISSIONS OF CARBON DIOXIDE, METHANE, NITROUS OXIDE, HYDROFLUOROCARBONS, PERFLUOROCARBONS, NITROGEN TRIFLUORIDE, AND SULFUR HEXAFLUORIDE, EXPRESSED AS CARBON DIOXIDE EQUIVALENT CALCULATED USING A METHODOLOGY AND DATA ON RADIATIVE FORCING AND ATMOSPHERIC PERSISTENCE DEEMED APPROPRIATE BY THE COMMISSION.

SECTION 3. In Colorado Revised Statutes, 25-7-105, **amend** (1) introductory portion; and **add** (1)(e) as follows:

25-7-105. Duties of commission - rules - legislative declaration - definitions.
 (1) Except as provided in sections 25-7-130 and 25-7-131, the commission shall promulgate such rules and regulations as are consistent with the legislative declaration set forth in section 25-7-102 and necessary for the proper implementation and administration of this ~~article~~ ARTICLE 7, including, but not limited to:

(e) (I) STATEWIDE GREENHOUSE GAS POLLUTION ABATEMENT.

(II) CONSISTENT WITH SECTION 25-7-102 (2)(g), THE COMMISSION SHALL TIMELY PROMULGATE IMPLEMENTING RULES AND REGULATIONS. THE IMPLEMENTING RULES MAY TAKE INTO ACCOUNT OTHER RELEVANT LAWS AND RULES, AS WELL AS VOLUNTARY ACTIONS TAKEN BY LOCAL COMMUNITIES AND THE PRIVATE SECTOR, TO ENHANCE EFFICIENCY AND COST-EFFECTIVENESS, AND SHALL BE REVISED AS NECESSARY OVER TIME TO ENSURE TIMELY PROGRESS TOWARD THE 2025, 2030, AND 2050 GOALS. THE IMPLEMENTING RULES SHALL PROVIDE FOR ONGOING TRACKING OF EMISSION SOURCES THAT ADVERSELY AFFECT DISPROPORTIONATELY IMPACTED COMMUNITIES AND ARE SUBJECT TO RULES IMPLEMENTED PURSUANT TO THIS SUBSECTION (1)(e) AND MUST INCLUDE STRATEGIES DESIGNED TO ACHIEVE REDUCTIONS IN HARMFUL AIR POLLUTION AFFECTING THOSE COMMUNITIES.

(III) THE COMMISSION WILL IDENTIFY DISPROPORTIONATELY IMPACTED COMMUNITIES. IN IDENTIFYING THESE COMMUNITIES, THE COMMISSION WILL CONSIDER: MINORITY, LOW-INCOME, TRIBAL, OR INDIGENOUS POPULATIONS IN THE STATE THAT POTENTIALLY EXPERIENCE DISPROPORTIONATE ENVIRONMENTAL HARMS AND RISKS. THIS DISPROPORTIONALITY CAN BE A RESULT OF INCREASED VULNERABILITY TO ENVIRONMENTAL DEGRADATION, LACK OF OPPORTUNITY FOR PUBLIC PARTICIPATION, OR OTHER FACTORS. INCREASED VULNERABILITY MAY BE ATTRIBUTABLE TO AN ACCUMULATION OF NEGATIVE OR LACK OF POSITIVE ENVIRONMENTAL, HEALTH, ECONOMIC, OR SOCIAL CONDITIONS WITHIN THESE POPULATIONS. "DISPROPORTIONATELY IMPACTED COMMUNITIES" DESCRIBES SITUATIONS WHERE MULTIPLE FACTORS, INCLUDING BOTH ENVIRONMENTAL AND SOCIO-ECONOMIC STRESSORS, MAY ACT CUMULATIVELY TO AFFECT HEALTH AND THE ENVIRONMENT AND CONTRIBUTE TO PERSISTENT ENVIRONMENTAL HEALTH DISPARITIES.

(IV) THE DIVISION, AT THE DIRECTION OF THE COMMISSION, SHALL SOLICIT INPUT FROM OTHER STATE AGENCIES, STAKEHOLDERS, AND THE PUBLIC ON THE ADVANTAGES OF DIFFERENT STATEWIDE GREENHOUSE GAS POLLUTION MITIGATION MEASURES, SPECIFICALLY SOLICITING INPUT FROM THOSE MOST IMPACTED BY CLIMATE CHANGE, INCLUDING DISPROPORTIONATELY IMPACTED COMMUNITIES; LARGE EMISSION SOURCES; WORKERS IN RELEVANT INDUSTRIES, INCLUDING ADVANCED ENERGY AND FUEL DELIVERY; AND COMMUNITIES THAT ARE CURRENTLY ECONOMICALLY DEPENDENT ON INDUSTRIES WITH HIGH LEVELS OF GREENHOUSE GAS EMISSIONS.

(V) THE IMPLEMENTING RULES AND POLICIES MAY INCLUDE, IN ADDITION TO RENEWABLE ENERGY DEVELOPMENT STRATEGIES, REGULATORY STRATEGIES THAT HAVE BEEN DEPLOYED BY ANOTHER JURISDICTION TO REDUCE MULTI-SECTOR GREENHOUSE GAS EMISSIONS, THAT FACILITATE ADOPTION OF TECHNOLOGIES THAT HAVE VERY LOW OR ZERO EMISSIONS, AND THAT ENHANCE COST-EFFECTIVENESS, COMPLIANCE FLEXIBILITY, AND TRANSPARENCY AROUND COMPLIANCE COSTS, AMONG OTHER REGULATORY STRATEGIES. THE COMMISSION MAY COORDINATE WITH OTHER JURISDICTIONS IN SECURING EMISSION REDUCTIONS, INCLUDING IN SATISFYING FUTURE FEDERAL REGULATIONS. THE COMMISSION MAY ACCOUNT FOR REDUCTIONS IN NET GREENHOUSE GAS EMISSIONS THAT OCCUR UNDER COORDINATED JURISDICTIONS' PROGRAMS IF THE COMMISSION FINDS THAT THE IMPLEMENTING REGULATIONS OF EACH COORDINATED JURISDICTION ARE OF SUFFICIENT RIGOR TO ENSURE THE INTEGRITY OF THE REDUCTIONS IN GREENHOUSE GAS EMISSIONS TO THE ATMOSPHERE AND MAY ACCOUNT FOR CARBON DIOXIDE THAT ELECTRICITY

CONSUMPTION IN THIS STATE CAUSES TO BE EMITTED ELSEWHERE.

(VI) IN CARRYING OUT ITS RESPONSIBILITIES UNDER THIS SUBSECTION (1)(e), THE COMMISSION SHALL CONSIDER: THE BENEFITS OF COMPLIANCE, INCLUDING HEALTH, ENVIRONMENTAL, AND AIR QUALITY; THE COSTS OF COMPLIANCE; ECONOMIC AND JOB IMPACTS AND OPPORTUNITIES; THE TIME NECESSARY FOR COMPLIANCE; THE RELATIVE CONTRIBUTION OF EACH SOURCE OR SOURCE CATEGORY TO STATEWIDE GREENHOUSE GAS POLLUTION BASED ON CURRENT DATA UPDATED AT REASONABLE INTERVALS AS DETERMINED BY THE COMMISSION; HARMONIZING EMISSION REPORTING REQUIREMENTS WITH EXISTING FEDERAL REQUIREMENTS, WHERE THE COMMISSION DEEMS APPROPRIATE; THE IMPORTANCE OF STRIVING TO EQUITABLY DISTRIBUTE THE BENEFITS OF COMPLIANCE, OPPORTUNITIES TO INCENTIVIZE RENEWABLE ENERGY RESOURCES AND POLLUTION ABATEMENT OPPORTUNITIES IN DISPROPORTIONATELY IMPACTED COMMUNITIES, OPPORTUNITIES TO ENCOURAGE CLEAN ENERGY IN TRANSITIONING COMMUNITIES; ISSUES RELATED TO THE BENEFICIAL USE OF ELECTRICITY TO REDUCE GREENHOUSE GAS EMISSIONS; WHETHER PROGRAM DESIGN COULD ENHANCE THE RELIABILITY OF ELECTRIC SERVICE; THE POTENTIAL TO ENHANCE THE RESILIENCE OF COLORADO'S COMMUNITIES AND NATURAL RESOURCES TO CLIMATE IMPACTS; AND WHETHER GREATER OR MORE COST-EFFECTIVE EMISSION REDUCTIONS ARE AVAILABLE THROUGH PROGRAM DESIGN.

(VII) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE DIVISION, AT THE DIRECTION OF THE COMMISSION, SHALL REPORT TO THE GENERAL ASSEMBLY EVERY ODD-NUMBERED YEAR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1)(e) REGARDING: PROGRESS TOWARD THE GOALS SET FORTH IN SECTION 25-7-102 (2)(g); ANY NEWLY AVAILABLE, FINAL COST-BENEFIT OR REGULATORY ANALYSIS, DEVELOPED UNDER SECTION 24-4-103 (2.5) OR (4.5), FOR RULES ADOPTED TO ATTAIN THE GOALS; AND ANY RECOMMENDATIONS ON FUTURE LEGISLATIVE ACTION TO ADDRESS CLIMATE CHANGE, SUCH AS IMPLEMENTATION OF CLIMATE ADAPTATION POLICIES OR ACCELERATING DEPLOYMENT OF CLEANER TECHNOLOGIES.

(VIII)(A) IN CARRYING OUT ITS RESPONSIBILITIES UNDER THIS SUBSECTION (1)(e), THE COMMISSION SHALL CONSULT WITH THE PUBLIC UTILITIES COMMISSION, INCLUDING ON ISSUES OF COST OF ELECTRICITY, RELIABILITY OF ELECTRIC SERVICE, TECHNOLOGY DEVELOPMENTS IN ELECTRICITY PRODUCTION, AND BENEFICIAL ELECTRIFICATION, AND KEEP A RECORD OF ITS CONSULTATION.

(B) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT IT IS BENEFICIAL TO ENCOURAGE THE DEVELOPMENT OF CLEAN ENERGY PLANS THAT WILL REQUIRE GREENHOUSE GAS EMISSIONS CAUSED BY COLORADO RETAIL ELECTRICITY SALES TO DECREASE EIGHTY PERCENT BY 2030 RELATIVE TO 2005 LEVELS TO PROVIDE FOR THE COST-EFFECTIVE AND PROACTIVE DEPLOYMENT OF CLEAN ENERGY RESOURCES.

(C) IN DESIGNING, IMPLEMENTING, AND ENFORCING PROGRAMS AND REQUIREMENTS UNDER THIS SUBSECTION (1)(e), THE COMMISSION AND THE DIVISION SHALL TAKE INTO CONSIDERATION ANY CLEAN ENERGY PLAN AT THE PUBLIC UTILITIES COMMISSION THAT, AS FILED, WILL ACHIEVE AT LEAST AN EIGHTY-PERCENT REDUCTION IN GREENHOUSE GAS EMISSIONS CAUSED BY THE UTILITY'S COLORADO RETAIL ELECTRICITY SALES BY 2030 RELATIVE TO 2005 LEVELS, AS VERIFIED BY THE

DIVISION. WHEN INCLUDING PUBLIC UTILITIES IN ITS PROGRAMS OR REQUIREMENTS UNDER THIS SUBSECTION (1)(e), THE COMMISSION SHALL NOT MANDATE THAT A PUBLIC UTILITY REDUCE GREENHOUSE GAS EMISSIONS CAUSED BY THE UTILITY'S COLORADO RETAIL ELECTRICITY SALES BY 2030 MORE THAN IS REQUIRED UNDER SUCH AN APPROVED CLEAN ENERGY PLAN OR IMPOSE ANY DIRECT, NONADMINISTRATIVE COST ON THE PUBLIC UTILITY DIRECTLY ASSOCIATED WITH QUANTITIES OF GREENHOUSE GAS EMISSIONS CAUSED BY THE UTILITY'S COLORADO RETAIL ELECTRICITY SALES THAT REMAIN AFTER THE REDUCTIONS REQUIRED BY SUCH A CLEAN ENERGY PLAN THROUGH 2030 IF THOSE REDUCTIONS ARE ACHIEVED AND THE DIVISION HAS VERIFIED THAT THE APPROVED CLEAN ENERGY PLAN WILL ACHIEVE AT LEAST A SEVENTY-FIVE-PERCENT REDUCTION IN GREENHOUSE GAS EMISSIONS CAUSED BY THE UTILITY'S COLORADO RETAIL ELECTRICITY SALES BY 2030 RELATIVE TO 2005 LEVELS.

(D) IMPLEMENTING RULES DEVELOPED BY THE COMMISSION MUST NOT INCLUDE ANY REQUIREMENTS DICTATING THE MIX OF ELECTRIC GENERATING RESOURCES THAT ANY PUBLIC UTILITY SHALL USE TO MEET APPLICABLE POLLUTION LIMITS.

(E) IMPLEMENTING RULES DEVELOPED BY THE COMMISSION MUST CONSIDER ISSUES RELATING TO JOINT OWNERSHIP OF ELECTRIC GENERATING RESOURCES AS BETWEEN MULTIPLE PARTIES AND THE EXTENT TO WHICH THE PUBLIC UTILITY IS RELYING ON POWER PURCHASED FROM THIRD PARTIES IN MEETING ITS OBLIGATIONS UNDER SUCH A CLEAN ENERGY PLAN.

(F) A CLEAN ENERGY PLAN VOLUNTARILY FILED BY A COOPERATIVE ELECTRIC ASSOCIATION THAT HAS VOTED TO EXEMPT ITSELF FROM REGULATION BY THE PUBLIC UTILITIES COMMISSION PURSUANT TO ARTICLE 9.5 OF TITLE 40 OR BY A MUNICIPAL UTILITY SHALL BE DEEMED APPROVED BY THE PUBLIC UTILITIES COMMISSION AS FILED IF: THE DIVISION, IN CONSULTATION WITH THE PUBLIC UTILITIES COMMISSION, PUBLICLY VERIFIES THAT THE PLAN DEMONSTRATES THAT, BY 2030, THE COOPERATIVE ELECTRIC ASSOCIATION OR MUNICIPAL UTILITY WILL ACHIEVE AT LEAST AN EIGHTY PERCENT REDUCTION IN GREENHOUSE GAS EMISSIONS CAUSED BY THE ENTITY'S COLORADO RETAIL ELECTRICITY SALES RELATIVE TO 2005 LEVELS; AND THE CLEAN ENERGY PLAN HAS PREVIOUSLY BEEN APPROVED BY A VOTE OF THE ENTITY'S GOVERNING BODY. VOLUNTARY SUBMISSION OF A CLEAN ENERGY PLAN BY A COOPERATIVE ELECTRIC ASSOCIATION OR MUNICIPAL UTILITY DOES NOT ALTER THE ENTITY'S REGULATORY STATUS WITH RESPECT TO THE PUBLIC UTILITIES COMMISSION, INCLUDING UNDER ARTICLE 9.5 OF TITLE 40.

(IX) (A) IN ADDRESSING GREENHOUSE GAS EMISSIONS FROM AN ENERGY-INTENSIVE, TRADE-EXPOSED MANUFACTURING SOURCE, THE COMMISSION SHALL REQUIRE THE SOURCE TO EXECUTE AN ENERGY AND EMISSION CONTROL AUDIT, ACCORDING TO CRITERIA ESTABLISHED BY THE COMMISSION, OF THE SOURCE'S OPERATIONS EVERY FIVE YEARS THROUGH AT LEAST 2035. A QUALIFIED THIRD PARTY, AS DETERMINED BY THE COMMISSION, SHALL CONDUCT THE AUDIT AND SUBMIT THE RESULTS TO THE COMMISSION. IF THE COMMISSION DETERMINES THAT THE SOURCE CURRENTLY EMPLOYS BEST AVAILABLE EMISSION CONTROL TECHNOLOGIES FOR GREENHOUSE GAS EMISSIONS AND BEST AVAILABLE ENERGY EFFICIENCY PRACTICES, THE COMMISSION SHALL NOT IMPOSE A DIRECT NONADMINISTRATIVE COST ON THE SOURCE DIRECTLY ASSOCIATED WITH AT LEAST NINETY-FIVE PERCENT OF THE SOURCE'S GREENHOUSE GAS EMISSIONS ATTRIBUTABLE

TO MANUFACTURING A GOOD IN THIS STATE FOR A PERIOD OF FIVE YEARS, IF THE SOURCE'S EMISSIONS ARE NOT GREATER THAN THE EMISSIONS ASSOCIATED WITH USE OF THE BEST AVAILABLE EMISSION CONTROL TECHNOLOGIES AS DETERMINED BY THE COMMISSION. THE COMMISSION SHALL CONSIDER HOW PROGRAM DESIGN AS RELEVANT TO THOSE SOURCES CAN FURTHER MITIGATE THE COST OF REDUCING EMISSIONS FOR SUCH MANUFACTURERS WHILE PROVIDING AN INCENTIVE TO IMPROVE EFFICIENCY AND REDUCE EMISSIONS. SPECIFICALLY, THE COMMISSION SHALL DESIGN THE PROGRAM AS RELEVANT TO THOSE SOURCES SUCH THAT AS THE SOURCES ARE SUBJECT TO EMISSION REDUCTION REQUIREMENTS, THOSE SOURCES WILL HAVE, UNDER THE PROGRAM, A PATHWAY TO OBTAIN EQUIVALENT LOWER-COST EMISSION REDUCTIONS AT OTHER REGULATED SOURCES TO SATISFY THEIR COMPLIANCE OBLIGATIONS.

(B) AS USED IN THIS SUBSECTION (1)(e)(IX), "ENERGY-INTENSIVE, TRADE-EXPOSED MANUFACTURING SOURCE" MEANS AN ENTITY THAT PRINCIPALLY MANUFACTURES IRON, STEEL, ALUMINUM, PULP, PAPER, OR CEMENT AND THAT IS ENGAGED IN THE MANUFACTURE OF GOODS THROUGH ONE OR MORE EMISSIONS-INTENSIVE, TRADE-EXPOSED PROCESSES, AS DETERMINED BY THE COMMISSION.

(X) NOTHING IN THIS SUBSECTION (1)(e) DIMINISHES THE EXISTING AUTHORITY OF THE COMMISSION OR THE DIVISION. NOTHING IN THIS SUBSECTION (1)(e) ALTERS THE REGULATORY EXEMPTIONS PROVIDED IN SECTION 25-7-109 (8)(a). NOTHING AUTHORIZED IN THIS SUBSECTION (1)(e), INCLUDING THE ASSIGNMENT OF EMISSION REDUCTION OBLIGATIONS OR EMISSION AUTHORIZATIONS AND EXCLUDING PROGRAM DEVELOPMENT AND ADMINISTRATIVE COSTS, IMPLICATES STATE FISCAL YEAR SPENDING AS DEFINED IN SECTION 24-77-102. NOTHING IN THIS SUBSECTION (1)(e) ALTERS ANY REQUIREMENT TO PREPARE A COST-BENEFIT ANALYSIS UNDER SECTION 24-4-103 (2.5) OR ANY REQUIREMENT TO ISSUE A REGULATORY ANALYSIS UNDER SECTION 24-4-103 (4.5). NOTHING IN THIS SUBSECTION (1)(e) DIMINISHES THE AUTHORITY OF THE PUBLIC UTILITIES COMMISSION UNDER THE PUBLIC UTILITIES LAW, INCLUDING SECTIONS 40-3-101 AND 40-3-102.

(XI) AS USED IN THIS SUBSECTION (1)(e):

(A) "COST-EFFECTIVE" OR "COST-EFFECTIVENESS" MEANS THE COST PER UNIT OF REDUCED EMISSIONS OF GREENHOUSE GASES EXPRESSED AS CARBON DIOXIDE EQUIVALENT.

(B) "GREENHOUSE GAS" INCLUDES CARBON DIOXIDE, METHANE, NITROUS OXIDE, HYDROFLUOROCARBONS, PERFLUOROCARBONS, NITROGEN TRIFLUORIDE, AND SULFUR HEXAFLUORIDE, EXPRESSED AS CARBON DIOXIDE EQUIVALENT.

(C) "RETAIL ELECTRICITY SALES" MEANS ELECTRIC ENERGY SOLD TO RETAIL END-USE ELECTRIC CONSUMERS.

SECTION 4. Appropriation. (1) For the 2019-20 state fiscal year, \$281,588 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) \$188,321 for use by the air pollution control division for program costs, which amount is based on an assumption that the division will require an additional 2.0 FTE; and

(b) \$93,267 for the purchase of legal services.

(2) For the 2019-20 state fiscal year, \$93,267 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of public health and environment under subsection (1)(b) of this section and is based on an assumption that the department of law will require an additional 0.5 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of public health and environment.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 30, 2019