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SENATE BILL 25-162

BY SENATOR(S) Cutter and Snyder, Amabile, Ball, Bridges, Danielson, Daugherty, Exum, Gonzales J., Jodeh, Kipp, Kolker, Marchman, Michaelson Jenet, Mullica, Roberts, Rodriguez, Sullivan, Wallace, Weissman, Winter F.;

also REPRESENTATIVE(S) Mabrey and Velasco, Lieder, Bird, Boesenecker, Brown, Clifford, Duran, Froelich, Garcia, Hamrick, Jackson, Joseph, Lindsay, Lindstedt, Martinez, Mauro, Paschal, Rutinel, Sirota, Smith, Story, Titone, McCluskie.

CONCERNING MEASURES TO INCREASE RAILROAD SAFETY.

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

SECTION 1. Legislative declaration. (1) The general assembly finds that:

(a) The safety and efficiency of Colorado's rail infrastructure is critical to protecting public health, ensuring environmental sustainability, and supporting economic vitality;

(b) Railroad transportation is a critical component of Colorado's economy and provides efficient and cost-effective movement of goods

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.

across the state and beyond;

(c) Colorado's fragile ecosystems, weather extremes, extensive number of hard-to-maintain and difficult-to-access railroad track miles, and number of communities through which railroads operate necessitate a state office of rail safety;

(d) The office of rail safety needs the authority and resources to address all railroad safety disciplines, including crossings, track, signal and train control, motive power and equipment, operating practices, compliance, and hazardous materials;

(e) The establishment of the office of rail safety in the public utilities commission provides a dedicated, state-led approach to rail inspection, enforcement, and risk mitigation. By securing funding for the office, Colorado will be in line with 30 other states across the country that have rail safety programs and will enhance its ability to conduct safety inspections, enforce rail regulations, and coordinate with federal and local partners to prevent accidents and respond effectively to rail-related incidents. Reducing the risk of accidents, derailments, and other incidents associated with railroad transportation lowers costs, improves efficiency, and reduces liability for railroad companies.

(f) Railroads should not face multiple fee structures to support rail safety. A new office of rail safety fund should provide a single funding source for the office of rail safety and the regulation of highway-rail grade crossing safety for subject railroads.

(2) Therefore, the general assembly declares that Colorado must fund the office of rail safety to fulfill its mandate of ensuring that rail operations in Colorado meet the highest standards of safety and reliability.

SECTION 2. In Colorado Revised Statutes, 40-20-302, **amend** (9); and **add** (5.5), (8.5), and (23.5) as follows:

40-20-302. Definitions - repeal. As used in this part 3, unless the context otherwise requires:

(5.5) "CORRECTIVE ACTION" MEANS AN ACTIVITY CONDUCTED TO ENSURE THAT A RAILROAD TRACK, A CAR, A LOCOMOTIVE, CROSSING

EQUIPMENT, SIGNAL EQUIPMENT, OR OTHER FACILITY OF A RAILROAD IS IN GOOD CONDITION AND THAT A TRAIN RUNS SAFELY AND SMOOTHLY.

(8.5) "ENVIRONMENTALLY CRITICAL AREA" MEANS AN AREA OR FEATURE THAT IS OF SIGNIFICANT ECOLOGICAL VALUE, INCLUDING A:

(a) STREAM CORRIDOR;

(b) HEADWATER;

(c) WETLAND;

(d) FEDERAL, STATE, OR LOCALLY DESIGNATED PUBLIC LAND OR NATURAL AREA SITE;

(e) NATURAL HERITAGE PRIORITY SITE;

(f) HABITAT OF ENDANGERED OR THREATENED SPECIES;

(g) LARGE AREA OF A CONTIGUOUS OPEN SPACE OR FOREST;

(h) STEEP SLOPE;

(i) GEOLOGICAL HERITAGE SITE; OR

(j) GROUNDWATER RECHARGE AREA.

(9) (a) "Fund" means the rail district maintenance and safety fund created in section 40-20-309.

(b) THIS SUBSECTION (9) IS REPEALED, EFFECTIVE JULY 1, 2025.

(23.5) "VULNERABLE ENVIRONMENTAL CORRIDOR" MEANS A CONTINUOUS SYSTEM OF OPEN SPACE THAT SERVES AS A KEY LINKAGE POINT FOR HABITAT AND SPECIES, INCLUDING WILDLIFE OR ECOLOGICAL CORRIDORS.

SECTION 3. In Colorado Revised Statutes, 40-20-306, **amend** (1) introductory portion and (4); and **add** (5) and (6) as follows:

40-20-306. Emergency notifications - accident response - immunity from civil liability - report. (1) Within thirty minutes after discovering an emergency involving a train, unless communication is impossible, the railroad operating the train shall notify the state's watch center IN THE DEPARTMENT OF PUBLIC SAFETY of the emergency by telephone or another agreed-upon method of communication to ensure that authorities can respond swiftly and appropriately. Emergency conditions that require a railroad to provide such notice include:

~~(4)(a) A railroad that provides a notification described in subsection (1) of this section shall also notify the community rail safety advisory committee and the rail industry safety advisory committee of the incident within thirty days after providing the notification described in subsection (1) of this section~~ IMMEDIATELY AFTER RECEIVING THE EMERGENCY NOTIFICATION DESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE STATE'S WATCH CENTER IN THE DEPARTMENT OF PUBLIC SAFETY SHALL NOTIFY THE COMMISSION AND THE OFFICE OF RAIL SAFETY OF THE INCIDENT. THE NOTIFICATION MUST INCLUDE THE INFORMATION LISTED IN SUBSECTION (2) OF THIS SECTION.

(b) WITHIN THIRTY DAYS AFTER RECEIVING THE EMERGENCY NOTIFICATION DESCRIBED IN SUBSECTION (4)(a) OF THIS SECTION, THE OFFICE OF RAIL SAFETY SHALL NOTIFY THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE AND THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE OF THE INCIDENT. THE NOTIFICATION MUST INCLUDE THE INFORMATION LISTED IN SUBSECTION (2) OF THIS SECTION.

(5) (a) SUBJECT TO FEDERAL REGULATIONS AND THE MOST RECENT EDITION OF THE "GENERAL CODE OF OPERATING RULES" PUBLISHED BY THE GENERAL CODE OF OPERATING RULES COMMITTEE, A CREW MEMBER OF A TRAIN OPERATED BY A RAILROAD MAY COMMUNICATE WITH FIRST RESPONDERS DURING AN EMERGENCY SITUATION AFTER NOTIFYING THE RAILROAD DISPATCH. A CREW MEMBER HAS DISCRETION IN DETERMINING THE APPROPRIATE RESPONSE TO THE EMERGENCY SITUATION, INCLUDING CUTTING THE CROSSING.

(b) A RAILROAD EMPLOYEE OR A CREW MEMBER OF A TRAIN OPERATED BY A RAILROAD IS IMMUNE FROM CIVIL LIABILITY AND IS NOT LIABLE IN CIVIL DAMAGES FOR ACTIONS TAKEN IN GOOD FAITH IN THE COURSE OF A RESPONSE TO AN EMERGENCY SITUATION PURSUANT TO

SUBSECTION (5)(a) OF THIS SECTION.

(6) (a) ON OR BEFORE FEBRUARY 1, 2026, AND ON OR BEFORE FEBRUARY 1 OF EACH YEAR THEREAFTER, THE COMMISSION SHALL PROVIDE A REPORT TO THE TRANSPORTATION, HOUSING, AND LOCAL GOVERNMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE, OR THEIR SUCCESSOR COMMITTEES, CONTAINING THE DETAILS OF THE INFORMATION REPORTED PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(b) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORTING REQUIREMENT DESCRIBED IN SUBSECTION (6)(a) OF THIS SECTION CONTINUES INDEFINITELY.

SECTION 4. In Colorado Revised Statutes, 40-20-308, **amend** (3) as follows:

40-20-308. Violations - penalties - rules. (3) The public utilities commission shall transfer all fines collected pursuant to subsections (1) and (2) of this section to the state treasurer, who shall credit the fines to the STATE HIGHWAY fund CREATED IN SECTION 43-1-219.

SECTION 5. In Colorado Revised Statutes, 40-20-309, **add** (4) and (5) as follows:

40-20-309. Rail district maintenance and safety fund - created - repeal. (4) THE STATE TREASURER SHALL TRANSFER ALL UNEXPENDED AND UNENCUMBERED MONEY IN THE FUND ON JUNE 30, 2025, TO THE STATE HIGHWAY FUND CREATED IN SECTION 43-1-219.

(5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 6. In Colorado Revised Statutes, **add** 40-20-309.5 as follows:

40-20-309.5. Penalties collected and credited to the state highway fund - expenditure. (1) MONEY CREDITED OR TRANSFERRED TO THE STATE HIGHWAY FUND PURSUANT TO SECTIONS 40-20-308 (3) AND 40-20-309 (4) MUST BE EXPENDED BY THE TRANSIT AND RAIL DIVISION IN THE DEPARTMENT OF TRANSPORTATION FOR THE PURPOSES OF:

(a) SAFETY PLANNING AND DEVELOPMENT DURING THE RESEARCH, DEVELOPMENT, AND CONSTRUCTION OF A PASSENGER RAIL SYSTEM;

(b) PLANNING, DESIGN, CONSTRUCTION, OR MAINTENANCE AND OPERATION OF SAFETY IMPROVEMENTS ON ANY RAILROAD OR RAILROAD CROSSING IN THE STATE; AND

(c) COMPLETING CAPITAL DEVELOPMENT PROJECTS TO IMPROVE THE SAFETY OF A PASSENGER RAIL SYSTEM.

(2) MONEY CREDITED OR TRANSFERRED TO THE STATE HIGHWAY FUND PURSUANT TO SECTIONS 40-20-308 (3) AND 40-20-309 (4) IS NOT INTENDED TO INCREASE THE NUMBER OF FULL-TIME EMPLOYEES OF THE DEPARTMENT OF TRANSPORTATION.

SECTION 7. In Colorado Revised Statutes, 40-20-311, **amend** (3) introductory portion, (5), (6), and (9); and **add** (15), (16), (17), (18), and (19) as follows:

40-20-311. Office of rail safety - agreement with federal railroad administration - duties of commission - inspections - information gathering - reports - rules - repeal. (3) ~~The commission the department of public safety, and the department of transportation shall engage in inspection and investigation activities~~ HAS AUTHORITY TO ENGAGE IN INSPECTION, INVESTIGATION, AND ENFORCEMENT ACTIVITIES, as described in 49 CFR 212, to address compliance with ~~the requirements of this part 3~~ FEDERAL RAILROAD SAFETY LAWS AND REGULATIONS. Notwithstanding any provision of this section, the authority of the commission ~~the department of public safety, and the department of transportation~~ to engage in inspection, ~~and~~ investigation, AND ENFORCEMENT activities pursuant to this section is limited to:

(5) An interested party may request that the commission ~~the department of public safety, or the department of transportation~~ investigate an alleged violation of this part 3.

(6) The commission ~~the department of public safety, or the department of transportation~~ may report an alleged violation of this part 3 or any other safety concern to the federal railroad administration or the federal surface transportation board.

(9) ~~The commission the department of public safety, and the department of transportation are~~ IS immune from liability for actions performed pursuant to this section, as described in article 10 of title 24.

(15) (a) THE OFFICE OF RAIL SAFETY SHALL COLLECT AND ANALYZE DATA TO CREATE A MORE COMPREHENSIVE UNDERSTANDING OF RAIL SAFETY. THE OFFICE OF RAIL SAFETY SHALL WORK TO COMPILE EXISTING DATA COLLECTED BY THE FEDERAL RAILROAD ADMINISTRATION AND COMPILE ADDITIONAL DATA ON COVERED RAILROADS AND FACILITIES, INCLUDING:

(I) THE AVERAGE TRAIN LENGTH AND DATA ON TRAINS OVER EIGHT THOUSAND FIVE HUNDRED FEET IN LENGTH;

(II) WAYSIDE DETECTOR INFORMATION, INCLUDING INFORMATION REQUIRED IN WAYSIDE DETECTOR REPORTING PURSUANT TO SECTION 40-20-303;

(III) BLOCKED PUBLIC CROSSING LOCATIONS BY UNITED STATES DEPARTMENT OF TRANSPORTATION INVENTORY NUMBER, DURATION OF BLOCKAGE, AND REASON FOR BLOCKAGE; AND

(IV) MAINTENANCE ACTIVITY, INCLUDING:

(A) CAR AND LOCOMOTIVE MAINTENANCE, INCLUDING HOW OFTEN A DEFECT IS IDENTIFIED, THE TYPE OF DEFECT IDENTIFIED, THE CORRECTIVE ACTION RECOMMENDED, THE CORRECTIVE ACTION TAKEN, AND WHEN CORRECTIVE ACTION, IF NECESSARY, WAS TAKEN;

(B) TRACK MAINTENANCE, INCLUDING HOW OFTEN A DEFECT IS IDENTIFIED, THE TYPE OF DEFECT IDENTIFIED, THE CORRECTIVE ACTION RECOMMENDED, THE CORRECTIVE ACTION TAKEN, AND WHEN CORRECTIVE ACTION, IF NECESSARY, WAS TAKEN;

(C) SIGNAL EQUIPMENT MAINTENANCE, INCLUDING HOW OFTEN A DEFECT IS IDENTIFIED, THE TYPE OF DEFECT IDENTIFIED, THE CORRECTIVE ACTION RECOMMENDED, THE CORRECTIVE ACTION TAKEN, AND WHEN CORRECTIVE ACTION, IF NECESSARY, WAS TAKEN; AND

(D) CROSSING EQUIPMENT MAINTENANCE, INCLUDING HOW OFTEN

A DEFECT IS IDENTIFIED, THE TYPE OF DEFECT IDENTIFIED, THE CORRECTIVE ACTION RECOMMENDED, THE CORRECTIVE ACTION TAKEN, AND WHEN CORRECTIVE ACTION, IF NECESSARY, WAS TAKEN.

(b) THE OFFICE OF RAIL SAFETY SHALL SUMMARIZE THE DATA COLLECTED AND ANALYZED PURSUANT TO SUBSECTION (15)(a) OF THIS SECTION AND INCLUDE THE SUMMARY IN THE ANNUAL REPORT REQUIRED BY SUBSECTION (17)(b) OF THIS SECTION. THE OFFICE OF RAIL SAFETY MAY DETERMINE THAT CERTAIN DATA IS INFEASIBLE TO COLLECT. THE OFFICE OF RAIL SAFETY SHALL CONSULT WITH THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE AND THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE REGARDING ANY DATA THAT THE OFFICE OF RAIL SAFETY DETERMINES IS INFEASIBLE TO COLLECT AND SHALL PROVIDE INFORMATION TO THE COMMITTEES AS TO WHY CERTAIN DATA MAY BE INFEASIBLE TO COLLECT.

(16) THE OFFICE OF RAIL SAFETY SHALL ENSURE THAT DATA COLLECTED PURSUANT TO THIS SECTION THAT IS NOT SUBJECT TO EXCEPTIONS UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, IS MADE AVAILABLE TO THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE AND THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE.

(17)(a) BEGINNING ON JULY 1, 2027, THE OFFICE OF RAIL SAFETY, IN COORDINATION WITH THE DEPARTMENT OF PUBLIC SAFETY AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, SHALL CONDUCT A COMPREHENSIVE ASSESSMENT OF THE STATE'S ABILITY TO RESPOND TO A LARGE-SCALE RELEASE OF HAZARDOUS MATERIALS FROM RAIL TRANSPORTATION. THE ASSESSMENT MUST INCLUDE:

(I) A DETERMINATION OF THE NUMBER OF FIRST RESPONDERS WHO ARE TRAINED TO RESPOND TO AN EMERGENCY INVOLVING HAZARDOUS MATERIALS, THEIR LOCATIONS, AND THEIR TRAINING LEVELS;

(II) A SUMMARY OF RAILROADS' EXISTING TRAINING PROVIDED TO FIRST RESPONDERS, INCLUDING THROUGH THE USE OF VIRTUAL TRAINING OR MOBILE TRAINING CARS, AND RAILROADS' EFFORTS TO ENCOURAGE ENROLLMENT IN THIS TRAINING;

(III) AN INVENTORY OF THE EQUIPMENT AVAILABLE TO DEPLOY DURING AN EMERGENCY INVOLVING HAZARDOUS MATERIALS, INCLUDING

CURRENT LOCATIONS OF HAZMAT RESPONSE CACHES, TO IDENTIFY GAPS IN HAZMAT RESPONSE RELATING TO PERSONNEL, TRAINING, AND EQUIPMENT;

(IV) RECOMMENDATIONS ON WAYS TO INCREASE ACCESS TO TRAINING FOR VOLUNTEER FIREFIGHTERS AND INCENTIVES FOR THEM TO ATTEND THE TRAINING DESCRIBED IN SECTION 40-20-310;

(V) A MAP THAT IDENTIFIES ENVIRONMENTALLY CRITICAL AREAS OF THE STATE, VULNERABLE ENVIRONMENTAL CORRIDORS, AND DISPROPORTIONALLY IMPACTED COMMUNITIES THAT ARE ADJACENT TO ROUTES OPERATED BY FREIGHT TRAINS AND PROVIDES INFORMATION ABOUT THE TYPES AND AMOUNTS OF HAZARDOUS MATERIALS GENERALLY TRANSPORTED ALONG THESE ROUTES FOR THE PURPOSE OF DETERMINING WHAT A LARGE-SCALE RELEASE COULD INVOLVE;

(VI) RECOMMENDATIONS ON THE TYPES AND NUMBER OF ADDITIONAL CACHES OF EQUIPMENT AND MATERIALS NECESSARY TO RESPOND TO ENVIRONMENTALLY CRITICAL AREAS AND VULNERABLE ENVIRONMENTAL CORRIDORS FOR USE BY LOCAL FIRST RESPONDERS TO CONDUCT A SAFE AND EFFECTIVE FIRST RESPONSE TO AN INCIDENT INVOLVING A LARGE-SCALE RELEASE OF HAZARDOUS MATERIALS, ALONG WITH RECOMMENDATIONS AS TO THE BEST LOCATIONS IN THE STATE AT WHICH TO STORE EQUIPMENT AND MATERIALS READY FOR DEPLOYMENT BY LOCAL FIRST RESPONDERS;

(VII) THE RESPONSE PLANS OF CLASS I RAILROADS, AND THE RESPONSE PLANS OF OTHER EMERGENCY RESPONSE AND HEALTH ENTITIES THAT ARE EXPECTED TO ARRIVE AT THE SITE OF A LARGE-SCALE HAZARDOUS RELEASE PREPARED TO ASSUME RESPONSIBILITY FOR THE CONTAINMENT, COLLECTION, CLEANUP, AND REMEDIATION OF THE SITE, INCLUDING:

(A) AN ESTIMATE OF THE NUMBER OF PERSONNEL AND THE AMOUNT AND TYPE OF EQUIPMENT AND MATERIALS REQUIRED TO ADDRESS A LARGE-SCALE RELEASE OF HAZARDOUS MATERIALS;

(B) A DESCRIPTION OF THE BEST ROUTES AND THE BEST MODES OF TRANSPORTATION TO BE USED TO TRANSPORT PERSONNEL, EQUIPMENT, AND MATERIALS TO CRITICAL AREAS OF THE STATE; AND

(C) AN ESTIMATE OF THE AMOUNT OF TIME REQUIRED FOR

PERSONNEL, EQUIPMENT, AND MATERIALS TO BE DEPLOYED TO ENVIRONMENTALLY CRITICAL AREAS AND VULNERABLE ENVIRONMENTAL CORRIDORS OF THE STATE; AND

(VIII) ANY ADDITIONAL INFORMATION THAT ASSISTS IN THE DEVELOPMENT OF COMPREHENSIVE PLANS TO PROMPTLY DEPLOY THE STATE'S LOCAL RESOURCES, IMMEDIATELY FOLLOWED BY THE DEPLOYMENT OF CORPORATE RAILROAD RESOURCES AND THOSE OF OTHER EMERGENCY RESPONSE AND HEALTH ENTITIES, TO CONTAIN AND COLLECT, TO THE MAXIMUM EXTENT POSSIBLE, A LARGE-SCALE RELEASE OF HAZARDOUS MATERIALS IN CRITICAL AREAS OF THE STATE.

(b) ON OR BEFORE DECEMBER 15, 2029, THE OFFICE OF RAIL SAFETY SHALL REPORT TO THE TRANSPORTATION, HOUSING, AND LOCAL GOVERNMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE, OR THEIR SUCCESSOR COMMITTEES, SUMMARIZING THE ASSESSMENT CONDUCTED PURSUANT TO SUBSECTION (17)(a) OF THIS SECTION.

(c) THE OFFICE OF RAIL SAFETY SHALL WORK WITH THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE AND THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE AND RELEVANT STATE AGENCIES ON IMPLEMENTING THE RECOMMENDATIONS OF THE ASSESSMENT CONDUCTED PURSUANT TO SUBSECTION (17)(a) OF THIS SECTION AND REPORT CREATED PURSUANT TO SUBSECTION (17)(b) OF THIS SECTION.

(18) THE OFFICE OF RAIL SAFETY SHALL ASSESS THE BEST PRACTICES FOR ENSURING FINANCIAL RESPONSIBILITY FOR RESPONSE, CLEANUP, AND DAMAGES FROM MAJOR RAIL EVENTS, INCLUDING REVIEWING BEST PRACTICES FROM OTHER STATES.

(19) THE OFFICE OF RAIL SAFETY SHALL MONITOR AND ASSESS COMMUNICATION ISSUES IMPACTING RAIL LINES IN THE STATE, INCLUDING:

(a) COMMUNICATION WITH STATE ENTITIES, INCLUDING THE DEPARTMENT OF PUBLIC SAFETY;

(b) COMMUNICATION ISSUES BETWEEN CREWS WORKING ON TRAINS MEASURING MORE THAN EIGHT THOUSAND FIVE HUNDRED FEET IN LENGTH; AND

(c) COMMUNICATION FROM WAYSIDE DETECTORS TO CREWS.

SECTION 8. In Colorado Revised Statutes, **add** 40-20-311.5 as follows:

40-20-311.5. Rail safety fee - rules - fund created.

(1) (a) BEGINNING ON JULY 1, 2027, AND SUBJECT TO THE DEADLINES DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION, THE FOLLOWING TYPES OF RAILROADS SHALL PAY AN ANNUAL FEE TO COVER THE OFFICE OF RAIL SAFETY'S AND THE COMMISSION'S DIRECT AND INDIRECT COSTS OF IMPLEMENTING THE REQUIREMENTS OF THIS ARTICLE 20:

(I) A CLASS I RAILROAD;

(II) A RAILROAD OPERATING ANY LINE THAT WAS USED BY CLASS I RAILROADS AS OF JULY 1, 2024, EXCEPT FOR A CLASS II RAILROAD OR A CLASS III RAILROAD UTILIZING TRACKAGE RIGHTS OR HAULAGE RIGHTS IN EFFECT AS OF JULY 1, 2024, TO OPERATE ON A LINE OWNED BY A CLASS I RAILROAD; AND

(III) A PASSENGER RAIL SYSTEM.

(b) (I) ON OR BEFORE SEPTEMBER 30, 2026, THE COMMISSION SHALL DETERMINE A METHODOLOGY, THROUGH RULE-MAKING, FOR CALCULATING THE ANNUAL FEE APPORTIONMENT DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION BY RULE FOR EACH RAILROAD TYPE DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION OPERATING WITHIN THE STATE, TOTALING NO LESS THAN THE AMOUNT REQUIRED FOR THE OFFICE OF RAIL SAFETY TO ADMINISTER AND ENFORCE THIS ARTICLE 20 AND THE RAILROADS' RELATED SHARE OF THE COMMISSION'S GRADE CROSSING SAFETY PROGRAM RESPONSIBILITIES DESCRIBED IN SECTION 40-4-106. THE TOTAL AMOUNT COLLECTED PURSUANT TO THE ANNUAL FEE MUST NOT EXCEED TWO MILLION NINE HUNDRED THOUSAND DOLLARS IN A CALENDAR YEAR.

(II) THE METHODOLOGY FOR CALCULATING THE ANNUAL FEE DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION MAY INCLUDE IN THE CALCULATION:

(A) THE TOTAL TRAIN MILES TRAVELED IN COLORADO ANNUALLY;

(B) THE TOTAL GROSS TON-MILES OF FREIGHT TRAIN CARS, CONTENTS, AND CABOOSES; AND

(C) THE TOTAL PUBLIC CROSSINGS.

(III) THE COMMISSION SHALL CONSULT WITH AND SOLICIT COMMENT FROM THE COMMUNITY RAIL SAFETY ADVISORY COMMITTEE AND THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE DURING THE RULE-MAKING PROCESS TO ESTABLISH THE FEE CALCULATION METHODOLOGY AND YEARLY CALCULATION OF THE FEE PURSUANT TO THIS SUBSECTION (1).

(IV) (A) THE COMMISSION SHALL NOTIFY EACH RAILROAD REQUIRED TO PAY THE ANNUAL FEE DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION OF THE AMOUNT OF THE ANNUAL FEE FOR THE UPCOMING STATE FISCAL YEAR ON OR BEFORE JUNE 1, 2027, AND ON OR BEFORE EACH JUNE 1 THEREAFTER.

(B) THE COMMISSION SHALL SEND A QUARTERLY INVOICE TO EACH RAILROAD REQUIRED TO PAY THE ANNUAL FEE DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION ON OR BEFORE JUNE 1, 2027. THEREAFTER, THE COMMISSION SHALL SEND A QUARTERLY INVOICE TO EACH RAILROAD REQUIRED TO PAY THE ANNUAL FEE ON OR BEFORE SEPTEMBER 1, DECEMBER 1, MARCH 1, AND JUNE 1 OF EACH STATE FISCAL YEAR.

(2) (a) THE STATE TREASURER SHALL CREDIT THE FEES COLLECTED PURSUANT TO THIS ARTICLE 20 TO THE OFFICE OF RAIL SAFETY FUND, WHICH FUND IS CREATED IN THE STATE TREASURY. THE MONEY IN THE FUND IS ANNUALLY APPROPRIATED TO THE OFFICE OF RAIL SAFETY FOR THE PURPOSES SET FORTH IN THIS ARTICLE 20 AND FOR ADMINISTERING THE RAILROADS' SHARE OF THE COMMISSION'S GRADE CROSSING SAFETY PROGRAM RESPONSIBILITIES OUTLINED IN SECTION 40-4-106. ALL INTEREST EARNED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND IS CREDITED TO THE FUND.

(b) THE OFFICE OF RAILROAD SAFETY SHALL NOT EXPEND MONEY FROM THE RAIL SAFETY FUND ON EQUIPMENT OR HIRING STAFF UNTIL JULY 1, 2027.

(3) (a) EACH RAILROAD SUBJECT TO THE FEE DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION SHALL PAY THE FEE TO THE COMMISSION IN EQUAL QUARTERLY INSTALLMENTS ON OR BEFORE JULY 1, OCTOBER 1,

JANUARY 1, AND APRIL 1 OF EACH STATE FISCAL YEAR.

(b) IF A RAILROAD DOES NOT PAY THE FEE BEFORE A QUARTERLY DEADLINE DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION, THE COMMISSION SHALL CHARGE THE RAILROAD A PENALTY OF TEN PERCENT OF THE INSTALLMENT DUE PLUS INTEREST AT THE RATE OF ONE PERCENT PER MONTH ON THE AMOUNT OF THE UNPAID INSTALLMENT UNTIL THE FULL AMOUNT OF THE INSTALLMENT, PENALTY, AND INTEREST HAS BEEN PAID.

(c) UPON FAILURE, REFUSAL, OR NEGLECT OF ANY RAILROAD TO PAY THE FEE OR ANY PENALTY OR INTEREST, THE ATTORNEY GENERAL SHALL COMMENCE AN ACTION ON BEHALF OF THE STATE TO COLLECT THE AMOUNT DUE.

SECTION 9. In Colorado Revised Statutes, 40-20-313, **amend** (3) as follows:

40-20-313. Rail industry safety advisory committee - membership - duties - rail safety plan - repeal. (3) Members of the rail industry safety advisory committee ~~serve without compensation but must be reimbursed from money in the fund for actual and necessary expenses incurred in the performance of the members' duties pursuant to this section~~ WHO ARE NOT COMPENSATED FOR ACTING IN OFFICIAL JOB ROLES MAY RECEIVE PER DIEM COMPENSATION FROM THE OFFICE OF RAIL SAFETY CREATED IN SECTION 40-20-311. MEMBERS OF THE RAIL INDUSTRY SAFETY ADVISORY COMMITTEE MAY BE REIMBURSED FOR EXPENSES INCURRED WHILE PERFORMING THEIR DUTIES.

SECTION 10. In Colorado Revised Statutes, 40-2-109, **add** (2)(a)(III) as follows:

40-2-109. Report to executive director of the department of revenue. (2) (a) On March 1 of each year, the public utilities commission shall furnish the executive director of the department of revenue with a list of those public utilities subject to its jurisdiction, supervision, and regulation on January 1 of each year. The provisions of this subsection (2) shall not apply to:

(III) ON AND AFTER JULY 1, 2027, RAILROADS IDENTIFIED IN SECTION 40-20-311 (3) FOR INSPECTION, INVESTIGATION, AND ENFORCEMENT

ACTIVITIES PURSUANT TO PART 3 OF ARTICLE 20 OF THIS TITLE 40.

SECTION 11. In Colorado Revised Statutes, 43-1-220, **add** (3) as follows:

43-1-220. Sources of funds - assumption of obligations. (3) ALL MONEY CREDITED OR TRANSFERRED TO THE STATE HIGHWAY FUND PURSUANT TO SECTIONS 40-20-308 (3) AND 40-20-309 (4) MUST BE EXPENDED BY THE TRANSIT AND RAIL DIVISION IN THE DEPARTMENT OF TRANSPORTATION FOR PURPOSES DESCRIBED IN SECTION 40-20-309.5 (1).

SECTION 12. Severability. If any provision of this act or the application of this act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 13. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO