

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Energy & Environment.

HB20-1064 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1.** In Colorado Revised Statutes, **add** 40-4-120 as
4 follows:

5 **40-4-120. Community choice in wholesale electric supply -**
6 **investigation and analysis - duties of commission - reports - legislative**
7 **declaration - definition - repeal.** (1) **Legislative declaration.** (a) THE
8 GENERAL ASSEMBLY FINDS AND DETERMINES THAT:

9 (I) AT LEAST A DOZEN COMMUNITIES IN COLORADO, KNOWN AS
10 THE "READY FOR 100" CITIES, HAVE COMMITTED TO OBTAINING ONE
11 HUNDRED PERCENT RENEWABLE ENERGY BY 2025 TO 2035. IN ADDITION,
12 AT LEAST TWO DOZEN COMMUNITIES, KNOWN AS "COLORADO
13 COMMUNITIES FOR CLIMATE ACTION", HAVE ORGANIZED TO ADVOCATE
14 FOR CLIMATE CHANGE SOLUTIONS. THESE COMMUNITIES, WHICH
15 REPRESENT MORE THAN ONE MILLION COLORADANS, ARE EXPLORING
16 WAYS TO REACH THEIR ENERGY AND CLIMATE GOALS WITHIN THEIR
17 DESIRED TIME PERIODS.

18 (II) A KEY ELEMENT OF THE GOVERNOR'S POLICY INITIATIVE,
19 ENTITLED "ROADMAP TO 100% RENEWABLE ENERGY BY 2040 AND BOLD
20 CLIMATE ACTION", PRIORITIZES SUPPORTING LOCAL COMMITMENTS TO
21 ONE HUNDRED PERCENT RENEWABLE ENERGY.

22 (III) THE ABILITY OF A COMMUNITY TO ACHIEVE ITS ENERGY
23 GOALS IS CURRENTLY LIMITED BY THE ENERGY SUPPLY AND
24 DECARBONIZATION TIMELINE OF THE ELECTRIC UTILITY THAT SERVES THAT
25 COMMUNITY'S GEOGRAPHIC AREA. THE ABILITY TO PROCURE ELECTRICITY
26 FROM ALTERNATIVE WHOLESALE SUPPLIERS MAY ENABLE COMMUNITIES
27 TO ACHIEVE THEIR ENERGY GOALS SUBSTANTIALLY FASTER AND MORE
28 COST-EFFECTIVELY.

29 (IV) COMMUNITY CHOICE ENERGY (CCE, ALSO COMMONLY
30 KNOWN AS COMMUNITY CHOICE AGGREGATION OR CCA), IS A LOCAL
31 ENERGY MODEL THAT HAS BEEN ADOPTED IN A NUMBER OF STATES AND
32 HAS PROVEN TO BE EFFECTIVE IN HELPING COMMUNITIES ACHIEVE THEIR
33 RENEWABLE ENERGY OR COST-CONTAINMENT GOALS, OR BOTH. THE
34 STUDY OF CCE WOULD ANSWER KEY QUESTIONS AND ILLUMINATE THE
35 POSSIBLE BENEFITS AND CHALLENGES OF ADAPTING THE CCE MODEL AS
36 AN OPTION FOR COLORADO COMMUNITIES.

37 (V) IN THE CCE MODEL, COMMUNITIES THAT ARE SERVED BY AN
38 INVESTOR-OWNED ELECTRIC UTILITY MAY CHOOSE THEIR WHOLESALE
39 ELECTRICITY SUPPLIERS, WHILE THE ELECTRICITY CONTINUES TO BE
40 DELIVERED BY THE INCUMBENT UTILITY. IN STATES THAT HAVE ENABLED
41 CCE TO DATE, CCE IS NOT PERMITTED IN COMMUNITIES THAT ARE SERVED

1 BY A COOPERATIVE ELECTRIC ASSOCIATION OR A MUNICIPALLY OWNED
2 ELECTRIC UTILITY.

3 (VI) IN THE CCE MODEL, AN INVESTOR-OWNED ELECTRIC UTILITY
4 CONTINUES TO OWN AND OPERATE ITS TRANSMISSION AND DISTRIBUTION
5 SYSTEM TO SERVE BOTH CCE CUSTOMERS AND ITS OWN CUSTOMERS, WITH
6 APPROPRIATE COMPENSATION, AND THE UTILITY CONTINUES TO
7 IMPLEMENT DEMAND-SIDE MANAGEMENT PROGRAMS, MANAGE CUSTOMER
8 SERVICE, AND PROVIDE METERING AND BILLING SERVICES. THE UTILITY
9 CONTINUES TO OWN ITS POWER GENERATION TO SERVE ITS OWN
10 CUSTOMERS. IF A COMMUNITY CHOOSES TO ADOPT CCE, THE UTILITY
11 WOULD DELIVER THE ELECTRICITY FROM ONE OR MORE ALTERNATIVE
12 SUPPLIERS TO CCE CUSTOMERS.

13 (VII) THIS SECTION CONCERNS THE "WHOLESALE, OPT-OUT"
14 MODEL OF CCE, PURSUANT TO WHICH INDIVIDUAL CUSTOMERS ARE
15 AUTOMATICALLY ENROLLED AND RETAIN THE RIGHT TO OPT OUT OF THEIR
16 COMMUNITY'S CCE OFFERINGS AND PURCHASE THEIR ELECTRICITY FROM
17 THE UTILITY UNDER ITS TRADITIONAL "BUNDLED SERVICE". THE RETAIL
18 MODEL OF CCE, IN WHICH INDIVIDUALS IN DEREGULATED "RETAIL
19 CHOICE" STATES CAN SHOP FOR THEIR ELECTRICITY FROM AMONG MANY
20 COMPETING SUPPLIERS, DOES NOT PROMOTE THE STABLE REVENUE
21 CONDITIONS NEEDED FOR DEVELOPMENT OF HIGH LEVELS OF RENEWABLE
22 ENERGY. THE RETAIL CCE MODEL IS EXPLICITLY NOT THE SUBJECT OF THIS
23 SECTION.

24 (VIII) A WELL-DESIGNED WHOLESALE, OPT-OUT CCE PROGRAM
25 WOULD INTRODUCE AN ELEMENT OF WHOLESALE COMPETITION AND
26 COMMUNITY-LEVEL CHOICE INTO THE SUPPLY OF ELECTRICITY AND COULD
27 PROVIDE COMMUNITIES THAT HAVE AMBITIOUS RENEWABLE ENERGY
28 GOALS WITH A MEANS TO REACH THOSE GOALS MORE QUICKLY AND
29 COST-EFFECTIVELY.

30 (IX) THIS SECTION PERTAINS ONLY TO THE STUDY OF CCE, NOT TO
31 ITS IMPLEMENTATION. WHILE CCE IN OTHER STATES SHOWS THE
32 POTENTIAL FOR COMMUNITIES TO MAKE LOCAL ENERGY DECISIONS, REACH
33 THEIR ENERGY GOALS, REDUCE ENERGY COSTS, AND FOSTER LOCAL
34 ECONOMIC DEVELOPMENT AND LOCAL EMPLOYMENT, IT IS PRUDENT TO
35 FIRST STUDY THE FINANCIAL FEASIBILITY AND THE REGULATORY, LEGAL,
36 AND ENVIRONMENTAL IMPLICATIONS OF CCE IN COLORADO BEFORE ANY
37 CONSIDERATION OF ENABLING CCE AS AN OPTION FOR COMMUNITIES IN
38 COLORADO.

39 (X) THE TWO INDEPENDENT STUDIES DESCRIBED IN THIS SECTION
40 WILL ANSWER KEY QUESTIONS ABOUT THE POTENTIAL VIABILITY OF CCE
41 IN COLORADO AND WILL IDENTIFY BEST PRACTICES AND LESSONS LEARNED
42 FROM THE EXPERIENCES OF STATES THAT HAVE ALREADY IMPLEMENTED
43 CCE. THE STUDIES WILL PROVIDE THE INFORMATION NEEDED TO

1 DETERMINE WHETHER CCE WOULD PROVIDE NET BENEFITS TO COLORADO
2 COMMUNITIES.

3 (b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS IN
4 THE PUBLIC INTEREST TO DIRECT THE COMMISSION TO EVALUATE THE
5 VIABILITY OF THE WHOLESALE, OPT-OUT MODEL OF CCE IN COLORADO
6 AND TO ANSWER KEY QUESTIONS ABOUT CCE IN COLORADO THROUGH
7 TWO INVESTIGATIONS:

8 (I) BY OVERSEEING A THIRD-PARTY FINANCIAL FEASIBILITY STUDY;
9 AND

10 (II) BY CONDUCTING ITS OWN INVESTIGATORY PROCEEDING USING
11 THE MECHANISM OF AN INVESTIGATORY DOCKET TO STUDY REGULATORY
12 AND LEGAL ISSUES.

13 (2) **Definition.** AS USED IN THIS SECTION, "COMMUNITY CHOICE
14 ENERGY" OR "CCE" MEANS A MECHANISM THAT ALLOWS CITIES OR
15 COUNTIES, OR GROUPS OF CITIES AND COUNTIES, TO COMBINE THEIR
16 PURCHASING POWER AND CHOOSE ONE OR MORE ALTERNATIVE
17 WHOLESALE ELECTRICITY SUPPLIERS ON BEHALF OF THE RESIDENTS,
18 BUSINESSES, AND MUNICIPAL FACILITIES IN THE JURISDICTION WHILE THE
19 INCUMBENT UTILITY MAINTAINS ITS EXISTING GENERATION AND
20 CONTINUES TO OWN AND OPERATE ITS TRANSMISSION AND DISTRIBUTION
21 SYSTEM AND DELIVER THE ELECTRICITY TO BOTH ITS OWN CUSTOMERS
22 AND CCE CUSTOMERS.

23 (3) **Feasibility study.** (a) IN ACCORDANCE WITH THIS SUBSECTION
24 (3), THE COMMISSION SHALL OVERSEE, AND REPORT TO THE GENERAL
25 ASSEMBLY THE CONCLUSIONS OF, A STUDY ON THE FINANCIAL FEASIBILITY
26 OF ALLOWING CCE IN COLORADO.

27 (b) THE COMMISSION SHALL:

28 (I) SELECT, THROUGH A TRANSPARENT AND COMPETITIVE
29 SOLICITATION OVERSEEN DIRECTLY BY THE COMMISSIONERS AND ISSUED
30 ON OR BEFORE SEPTEMBER 1, 2020, AN INDEPENDENT AND QUALIFIED
31 AGENT TO PERFORM THE STUDY, USING SELECTION CRITERIA THAT ENSURE
32 THE AGENT DOES NOT CARRY BIASES THAT ARE ESPECIALLY FAVORABLE
33 OR UNFAVORABLE TO CCE OR TO INVESTOR-OWNED UTILITIES;

34 (II) DETERMINE THE SCOPE OF, AND SPECIFIC QUESTIONS TO BE
35 ADDRESSED BY, THE STUDY, SUBJECT TO THE GUIDELINES SET FORTH IN
36 THIS SUBSECTION (3);

37 (III) ACQUIRE THE DATA NECESSARY TO EFFECTIVELY CONDUCT
38 THE STUDY FROM THE INVESTOR-OWNED ELECTRIC UTILITIES IN A TIMELY
39 FASHION, UTILIZING CONFIDENTIALITY AND NONDISCLOSURE AGREEMENTS
40 AS NEEDED; AND

41 (IV) REPORT THE PROCESS AND CONCLUSIONS OF THE FEASIBILITY
42 STUDY, AS WELL AS THE CONCLUSIONS OF THE CONCURRENT
43 INVESTIGATORY DOCKET SET FORTH IN SUBSECTION (4) OF THIS SECTION,

1 IN A FINAL REPORT TO THE TRANSPORTATION AND ENERGY COMMITTEE OF
2 THE SENATE AND THE ENERGY AND ENVIRONMENT COMMITTEE OF THE
3 HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, ON OR
4 BEFORE JUNE 1, 2021.

5 (c) THE PURPOSE OF THE STUDY IS TO ASSESS FINANCIAL
6 FEASIBILITY AND RISK, INCLUDING THE POTENTIAL FOR RATE
7 COMPETITIVENESS, PRINCIPLES FOR CALCULATING THE AMOUNT AND
8 DURATION OF ANY TRANSITION FEES, AND AN ESTIMATE OF SUCH FEES,
9 ALSO KNOWN AS EXIT FEES, THAT COMMUNITIES FORMING A CCE
10 AUTHORITY WOULD PAY TO OFFSET THEIR FAIR SHARE OF THE COSTS OF
11 UTILITY ASSETS AND CONTRACTS THAT WERE PROCURED ON THEIR BEHALF
12 AND PREVIOUSLY APPROVED. THE AGENT SHALL MAKE THESE
13 ASSESSMENTS AND DEVELOP THESE PRINCIPLES USING INDUSTRY BEST
14 PRACTICES AND ASSUMING A RANGE OF SCENARIOS THAT INCLUDE:

15 (I) THE LEVEL OF CCE PARTICIPATION IN COLORADO, INCLUDING
16 THE NUMBER OF ELIGIBLE COMMUNITIES THAT CHOOSE TO FORM OR JOIN
17 A CCE AUTHORITY AND THE ASSUMED OPT-OUT RATE OF THEIR
18 CUSTOMERS, TO EVALUATE THE MARKET SCALE AND REVENUE
19 GENERATION NEEDED FOR CCE TO SUCCEED IN COLORADO;

20 (II) FACTORS TO BE INCLUDED IN THE EXIT FEE CONSIDERATION,
21 INCLUDING THE AGE AND TIME OF SERVICE COMMENCEMENT OF
22 GENERATION ASSETS AND EXISTING CONTRACTS; AND

23 (III) RATE ANALYSIS TO DETERMINE THE POTENTIAL FOR CCE TO
24 BE COST-COMPETITIVE IN COLORADO, ASSUMING DIFFERENT LEVELS OF
25 RENEWABLE ENERGY CONTENT THAT CORRESPOND TO THE RENEWABLE
26 ENERGY STANDARD SPECIFIED IN SECTION 40-2-124 AS WELL AS
27 SCENARIOS EXCEEDING STATE REQUIREMENTS, INCLUDING ONE HUNDRED
28 PERCENT RENEWABLE ENERGY, AND CONSIDERATION OF REASONABLY
29 ANTICIPATED TRENDS AND CONTINGENCIES AFFECTING THE PRICES OF
30 FOSSIL FUELS AND RENEWABLE ENERGY RESOURCES AND THE MIX OF NEW
31 RENEWABLE ENERGY RESOURCES VERSUS RENEWABLE ENERGY
32 CERTIFICATES.

33 (d) THE SCOPE OF THE STUDY IS LIMITED TO CONSIDERATION OF
34 THE FEASIBILITY OF ALLOWING CCE IN AREAS NOT CURRENTLY SERVED BY
35 MUNICIPALLY OWNED ELECTRIC UTILITIES OR COOPERATIVE ELECTRIC
36 ASSOCIATIONS.

37 (4) **Investigatory docket.** (a) ON OR BEFORE SEPTEMBER 1, 2020,
38 AND IN ACCORDANCE WITH THIS SUBSECTION (4), THE COMMISSION SHALL
39 OPEN AN INVESTIGATORY DOCKET TO ACCEPT TESTIMONY AND
40 DOCUMENTATION FROM STAKEHOLDERS, INDEPENDENT ENERGY AND
41 UTILITY EXPERTS, REGULATORS FROM STATES IN WHICH CCE HAS BEEN
42 IMPLEMENTED OR IS UNDER CONSIDERATION, REPRESENTATIVES OF
43 OPERATIONAL CCE AUTHORITIES, AND OTHER INTERESTED PARTIES. THE

1 GOAL OF THE PROCEEDING IS TO CONSIDER THE REGULATORY
2 IMPLICATIONS AND LEGAL IMPACTS OF POSSIBLE FUTURE CCE-ENABLING
3 LEGISLATION AND PROVIDE RECOMMENDATIONS TO THE GENERAL
4 ASSEMBLY. CONCLUSIONS SHOULD INCLUDE BEST PRACTICES AND LESSONS
5 LEARNED FROM STATES THAT HAVE ENABLED CCE AT THE WHOLESALE
6 LEVEL. THE COMMISSION SHALL EMPLOY PROCEDURES THAT PROMOTE A
7 PRODUCTIVE, EFFECTIVE, AND EVIDENCE-BASED PROCESS.

8 (b) THE COMMISSION SHALL SOLICIT INPUT FROM A BROAD AND
9 INCLUSIVE RANGE OF STAKEHOLDERS AND PRESENTERS TO ENSURE THAT
10 THE PROCESS IS NOT DOMINATED BY ANY ONE GROUP OR VIEWPOINT.
11 STAKEHOLDERS AND PRESENTERS MAY INCLUDE:

12 (I) COMMUNITIES WITH DECLARED GOALS REGARDING CARBON
13 EMISSIONS OR ENERGY SUPPLY CHOICES;

14 (II) BUSINESS GROUPS;

15 (III) ENVIRONMENTAL ADVOCATES;

16 (IV) CONSUMER ADVOCATES;

17 (V) ELECTRIC UTILITIES, INCLUDING INVESTOR-OWNED ELECTRIC
18 UTILITIES, MUNICIPALLY OWNED ELECTRIC UTILITIES, AND COOPERATIVE
19 ELECTRIC ASSOCIATIONS;

20 (VI) INDEPENDENT POWER PRODUCERS;

21 (VII) POWER MARKETERS;

22 (VIII) RENEWABLE ENERGY DEVELOPERS;

23 (IX) CONSULTANTS OR OTHER EXPERTS IN ENERGY PROJECT
24 FINANCING;

25 (X) CONSULTANTS OR OTHER EXPERTS IN ENERGY EFFICIENCY AND
26 DISTRIBUTED ENERGY RESOURCES;

27 (XI) REPRESENTATIVES OF OPERATIONAL CCE AUTHORITIES THAT
28 USE THE WHOLESALE CCE MODEL; AND

29 (XII) MEMBERS OF THE GENERAL PUBLIC.

30 (c) THE TOPICS AND QUESTIONS TO BE EXPLORED IN THE DOCKET
31 MAY INCLUDE:

32 (I) WHETHER THE COMMISSION WOULD REQUIRE ADDITIONAL
33 STATUTORY AUTHORITY TO CONDUCT A RULE-MAKING PROCEEDING
34 CONCERNING THE CREATION OF CCE AUTHORITIES IN COLORADO;

35 (II) THE APPROPRIATE SCOPE OF REGULATORY OVERSIGHT OF CCE
36 OPERATIONS, ON A SCALE RANGING FROM COMPREHENSIVE AS WITH
37 INVESTOR-OWNED ELECTRIC UTILITIES TO MINIMAL AS WITH MUNICIPALLY
38 OWNED ELECTRIC UTILITIES;

39 (III) WHICH ASPECTS, IF ANY, OF CURRENT OR ANTICIPATED
40 INVESTOR-OWNED ELECTRIC UTILITY REGULATION BY THE COMMISSION
41 SHOULD APPLY TO CCE AUTHORITIES AS WELL, AND TO WHAT EXTENT,
42 INCLUDING REGULATION IN THE AREAS OF:

43 (A) RESOURCE ADEQUACY PLANNING;

1 (XII) REGULATORY AND POLICY CONSIDERATIONS RELATED TO
2 FORMING CCE AUTHORITIES IN A STATE THAT DOES NOT CURRENTLY
3 BELONG TO A REGIONAL TRANSMISSION ORGANIZATION OR PARTICIPATE
4 IN A WHOLESALE ELECTRICITY MARKET, AND POSSIBLE SOLUTIONS,
5 INCLUDING CONSIDERATIONS IN THE AREAS OF:

6 (A) WHETHER LEGISLATION SHOULD BE ADOPTED TO GUARANTEE
7 OPEN ACCESS AND FAIR PRICES FOR TRANSMISSION SERVICES;

11 (C) WHETHER THERE ARE OTHER LEGISLATIVE AND REGULATORY
12 MODIFICATIONS NECESSARY TO SUCCESSFULLY IMPLEMENT CCE IN
13 COLORADO;

14 (XIII) WHAT, IF ANY, MINIMUM REQUIREMENTS AND STANDARDS
15 SHOULD APPLY TO INDEPENDENT POWER PRODUCERS AND POWER
16 MARKETERS WHO WISH TO SUPPLY ENERGY TO A CCE AUTHORITY;

17 (XIV) WHAT, IF ANY, DATA-SHARING REQUIREMENTS SHOULD BE
18 IMPOSED ON INVESTOR-OWNED ELECTRIC UTILITIES TO HELP ENSURE THAT
19 A CCE AUTHORITY OR A JURISDICTION INVESTIGATING WHETHER TO FORM
20 OR JOIN A CCE AUTHORITY CAN REASONABLY EVALUATE ITS FINANCIAL
21 AND TECHNICAL VIABILITY AND IMPLEMENT ITS CCE PROGRAM;

22 (XV) How CCE MIGHT FACILITATE OR IMPEDE INCREASED
23 INTEGRATION OF DISTRIBUTED ENERGY RESOURCES, SUCH AS ROOFTOP
24 SOLAR, COMMUNITY SOLAR, AND BATTERY ENERGY STORAGE INTO
25 DISTRIBUTION SYSTEMS, AND FACILITATE OR IMPEDE INCREASED
26 INVESTMENT IN BENEFICIAL ELECTRIFICATION INCLUDING
27 ELECTRIFICATION OF TRANSPORT:

28 (XVI) THE APPROPRIATE CONSIDERATIONS FOR ENSURING THAT
29 THE IMPLEMENTATION OF CCE DOES NOT INCLUDE CUSTOMERS IN THE
30 CERTIFICATE TERRITORIES OF MUNICIPALLY OWNED ELECTRIC UTILITIES
31 OR COOPERATIVE ELECTRIC ASSOCIATIONS;

32 (XVII) THE IMPACT OF ALLOWING CCE IN COLORADO ON THE
33 ABILITY OF COLORADO TO REACH ITS CLEAN ENERGY AND GREENHOUSE
34 GAS REDUCTION GOALS AND WHAT LEGISLATIVE AND REGULATORY
35 REQUIREMENTS FOR CCE WOULD BE NEEDED TO FACILITATE REACHING
36 THOSE GOALS:

37 (XVIII) THE IMPACT, BOTH POSITIVE AND NEGATIVE, OF CCE IN
38 COMMUNITIES THAT HAVE FORMED OR JOINED A CCE AUTHORITY IN
39 STATES THAT HAVE ENABLED THE WHOLESALE, OPT-OUT MODEL OF CCE;

40 (XIX) THE IMPACT OF CCE ON LOW-INCOME CUSTOMERS,
41 INCLUDING THE AVAILABILITY OF LOW-INCOME PROGRAMS OFFERED
42 THROUGH THE INVESTOR-OWNED ELECTRIC UTILITY TO CCE CUSTOMERS
43 AND THE ABILITY OF CCE AUTHORITIES TO ESTABLISH ADDITIONAL

1 PROGRAMS TO ASSIST LOW-INCOME CUSTOMERS; AND
2 (XX) THE RISKS A CCE AUTHORITY MIGHT FACE THAT MERIT
3 CONSIDERATION, SUCH AS RESOURCE PRICE RISKS, CONTRACT RISKS, OR
4 LOAD DEFLECTION, AND THEIR SIGNIFICANCE.

5 **(d) Report.** THE COMMISSION SHALL SUMMARIZE ITS FINDINGS,
6 CONCLUSIONS, AND RECOMMENDATIONS FROM THE INVESTIGATORY
7 DOCKET AND FROM THE CONCURRENT FEASIBILITY STUDY REQUIRED IN
8 SUBSECTION (3) OF THIS SECTION IN A FINAL REPORT TO THE
9 TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE AND THE
10 ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF
11 REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES. THE COMMISSION
12 SHALL SUBMIT THE REPORT ON OR BEFORE JUNE 1, 2021.
13 RECOMMENDATIONS MAY BE SPLIT INTO MAJORITY VIEWS AND DISSENTING
14 VIEWS IF NECESSARY.

15 **(5) Repeal.** THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1,
16 2023.

17 **SECTION 2. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, or safety.".

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