

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 23-0894.01 Sarah Lozano x3858

HOUSE BILL 23-1281

HOUSE SPONSORSHIP

Titone and Vigil,

SENATE SPONSORSHIP

Cutter and Priola,

House Committees

Energy & Environment
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO ADVANCE THE USE OF CLEAN HYDROGEN**
102 **IN THE STATE, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

Bill Summary

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

Section 2 of the bill defines clean hydrogen (clean hydrogen) as hydrogen that is:

- Derived from a clean energy resource that uses water as the source of hydrogen; or
- Produced through a process that results in lifecycle

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

HOUSE
Amended 2nd Reading
April 29, 2023

greenhouse gas emissions rates that are less than 1.5 kilograms of carbon dioxide equivalent per kilogram of hydrogen, as set forth in applicable federal law.

Section 2 also directs the public utilities commission (commission) to establish a stand-alone application, review, and approval process for investor-owned utility projects that result in the production of clean hydrogen (clean hydrogen project). For a clean hydrogen project to be approved by the commission, an investor-owned utility must submit an application to the commission demonstrating that the clean hydrogen project involves collaboration between the investor-owned utility and a state or federal agency. Any application for a clean hydrogen project must include:

- Best practices utilized by the investor-owned utility to reduce air emissions and environmental impacts, conduct leak detection monitoring, and increase public safety;
- If the investor-owned utility's clean hydrogen production facilities are located in a disproportionately impacted community, a cumulative impact analysis that evaluates past, present, and future impacts; and
- An assessment of the annual volume of water used in electrolysis of water to produce clean hydrogen for the clean hydrogen project.

Section 2 also requires the commission to allow an investor-owned utility to sell clean hydrogen to third parties under a clean hydrogen tariff.

For income tax years commencing on or after January 1, 2024, but before January 1, 2033, **section 3** creates a state income tax credit in specified amounts per kilogram of clean hydrogen used for industrial operations, for operating a heavy-duty vehicle, or for aviation (tax credit). Any taxpayer seeking to claim the tax credit must first apply for and receive a tax credit certificate from the Colorado energy office.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) In 2019, Colorado adopted the following goals for the
5 statewide reduction of greenhouse gas pollution from a 2005 baseline:

6 (I) Reducing greenhouse gas pollution by more than twenty-six
7 percent by 2025;

8 (II) Reducing greenhouse gas pollution by more than fifty percent

1 by 2030; and

2 (III) Reducing greenhouse gas pollution by more than ninety
3 percent by 2050;

4 (b) The Colorado Greenhouse Gas Pollution Reduction Roadmap,
5 published by the Colorado energy office and dated January 14, 2021,
6 recognizes that:

7 (I) Achieving the state's greenhouse gas pollution reduction goals
8 from 2030 to 2050 will require further technical innovation and
9 economies of scale to bring costs down for deployment of innovative
10 technologies both for emission reductions of end uses and to generate
11 energy through innovative methods such as clean hydrogen; and

12 (II) Clean hydrogen may be an important resource to lower
13 greenhouse gas emissions from sectors that are harder to decarbonize,
14 such as heavy-duty transportation and heavy industry;

15 (c) The federal government enacted the "Inflation Reduction Act
16 of 2022", Pub.L. 117-169, which recognizes the importance of clean
17 energy production in the fight against climate change and creates
18 important incentives that make investments in clean hydrogen more
19 affordable and attainable;

20 (d) To support diversification of the state's energy production and
21 create well-paid clean energy jobs, Colorado has joined three other
22 regional states in a partnership to pursue funding from the United States
23 department of energy for a regional hydrogen hub; ■

24 (e) As Colorado diversifies and decarbonizes its energy economy
25 with clean energy sources, clean hydrogen may play an important role in
26 the resilience of the state's electric grid and for dispatchable electricity
27 generation that complements the use of wind and solar resources, while

1 also helping achieve Governor Polis's goal of one hundred percent
2 renewable electricity generation in the state by 2040; and

3 (f) The inclusion of clean hydrogen as an element in
4 decarbonization pathways should include comprehensive assessments of
5 clean hydrogen in comparison to alternatives, including consideration of
6 life cycle emissions, costs, impacts on communities, including
7 disproportionately impacted communities, and environmental impacts on
8 water, air, land, and biodiversity.

9 (2) The general assembly therefore declares that state law should:

10 (a) Provide for various methods to advance the use of clean
11 hydrogen in the state;

12 (b) Allow for agencies of the state and users of clean hydrogen in
13 the state to coordinate with each other to take advantage of available
14 federal funding and tax credits; and

15 (c) Ensure that the use of clean hydrogen in the state is in
16 alignment with the state's greenhouse gas emission reduction and
17 environmental justice goals.

18 **SECTION 2.** In Colorado Revised Statutes, **add** 40-2-138 as
19 follows:

20 **40-2-138. Projects for the production of clean hydrogen**
21 **-proceeding - hydrogen hub projects - rules - definitions.** (1) AS USED
22 IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

23 (a) "CLEAN HYDROGEN" MEANS:

24 (I) GREEN HYDROGEN, AS DEFINED IN SECTION 40-3.2-108 (2)(j);

25 OR

26 (II) HYDROGEN THAT IS PRODUCED THROUGH A PROCESS THAT
27 RESULTS IN LIFECYCLE GREENHOUSE GAS EMISSIONS RATES THAT ARE

1 WITHIN THE LIFECYCLE GREENHOUSE GAS EMISSIONS RATE RANGES SET
2 FORTH IN 26 U.S.C. SECS. 45V (b)(2)(C) AND 45V (b)(2)(D), AS
3 AMENDED.

4 (b) (I) "CLEAN HYDROGEN PROJECT" MEANS A PROJECT THAT
5 RESULTS IN THE PRODUCTION OF CLEAN HYDROGEN BY AN
6 INVESTOR-OWNED UTILITY.

7 (II) "CLEAN HYDROGEN PROJECT" MAY INCLUDE PIPELINES,
8 ELECTROLYZERS, ENVIRONMENTAL CONTROLS, MONITORING EQUIPMENT,
9 DEDICATED RENEWABLE ENERGY SOURCES FOR ELECTROLYSIS, THE
10 PURCHASE OF CLEAN HYDROGEN FROM THIRD PARTIES, AND AN UPGRADE
11 TO A TURBINE AT AN ELECTRIC GENERATING STATION IF THAT UPGRADE IS
12 PART OF A STATE OR FEDERAL APPLICATION FOR A REGIONAL CLEAN
13 HYDROGEN HUB UNDER 42 U.S.C. 16161a.

14 (c) "CUMULATIVE IMPACTS" MEANS THE INCREMENTAL EFFECTS
15 OF A CLEAN HYDROGEN PROJECT ON THE ENVIRONMENT, INCLUDING
16 EFFECTS ON AIR QUALITY, WATER QUALITY, WATER RESOURCE
17 AVAILABILITY, CLIMATE, AND PUBLIC HEALTH, THAT A CLEAN HYDROGEN
18 PROJECT HAS WHEN ADDED TO THE IMPACTS FROM OTHER PAST, PRESENT,
19 AND REASONABLY FORESEEABLE FUTURE DEVELOPMENT OF ANY TYPE ON
20 THE RELEVANT AREA, INCLUDING AN AIRSHED OR WATERSHED, AS
21 DETERMINED BY RULE BY THE COMMISSION, OR ON A
22 DISPROPORTIONATELY IMPACTED COMMUNITY.

23 (d) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE
24 MEANING SET FORTH IN SECTION 24-4-109 (2)(b)(II).

25 (e) (I) "HARD TO DECARBONIZE END USE" MEANS INDUSTRIAL USES
26 THAT INCLUDE:

27 (A) THE GENERATION OF HEAT OF AT LEAST ONE HUNDRED FIFTY

1 DEGREES CELSIUS FOR INDUSTRIAL PURPOSES; AND

2 (B) ADDITION AS FEEDSTOCK FOR INDUSTRIAL PURPOSES,
3 INCLUDING MANUFACTURE OF STEEL, AMMONIA, FERTILIZER, AND
4 CHEMICALS.

5 (II) "HARD TO DECARBONIZE END USE" DOES NOT INCLUDE THE
6 DIRECT USE OF HYDROGEN FOR RESIDENTIAL OR COMMERCIAL HEATING.

7 (f) "HYDROGEN HUB PROJECT" MEANS A PROJECT THAT IS PART OF
8 AN APPLICATION FOR FEDERAL FUNDING BY A PARTNERSHIP OF REGULATED
9 UTILITIES, PRIVATE PARTNERS, AND COMPANIES AND MAY INCLUDE STATE
10 OR FEDERAL GOVERNMENT AGENCIES IN COLLABORATION WITH OTHER
11 STATES THAT IS DESIGNED TO UTILIZE AVAILABLE FEDERAL FUNDS AND
12 TAX CREDITS, WHICH MAY INCLUDE THE PRODUCTION, TRANSPORT, AND
13 USE OF CLEAN HYDROGEN.

14 (g) "LIFECYCLE GREENHOUSE GAS EMISSIONS RATE" MEANS
15 LIFECYCLE GREENHOUSE GAS EMISSIONS, AS DEFINED IN 26 U.S.C. SEC.
16 45V (c)(1)(A), AS AMENDED, MEASURED IN ACCORDANCE WITH ANY
17 APPLICABLE FEDERAL INTERNAL REVENUE SERVICE REGULATIONS OR
18 GUIDANCE.

19 (h) "OFFICE" MEANS THE COLORADO ENERGY OFFICE CREATED IN
20 SECTION 24-38.5-101.

21 (i) "QUALIFIED USE" MEANS THE USE OF CLEAN HYDROGEN IN THE
22 STATE FOR:

23 (I) HARD TO DECARBONIZE END USES;

24 (II) THE OPERATION OF A HEAVY-DUTY MOTOR VEHICLE, AS
25 DEFINED IN SECTION 25-7.5-102 (11); AND

26 (III) AVIATION.

27 (2) THE COMMISSION SHALL INITIATE AN INVESTIGATORY

1 PROCEEDING, NO LATER THAN SEPTEMBER 1, 2023, TO CONSIDER:

2 (a) THE POTENTIAL FOR CLEAN HYDROGEN PROJECTS OPERATED BY
3 INVESTOR-OWNED UTILITIES SUBJECT TO REGULATION BY THE COMMISSION
4 TO CONTRIBUTE TO MEETING THE GREENHOUSE GAS EMISSION REDUCTION
5 GOALS DESCRIBED IN SECTION 25-7-102 (2)(g), INCLUDING LIFECYCLE
6 GREENHOUSE GAS EMISSIONS RATES, WITH A PREFERENCE FOR QUALIFIED
7 USES;

8 (b) THE IMPACT OF CLEAN HYDROGEN PROJECTS ON THE EMISSION
9 OF AIR POLLUTANTS OTHER THAN GREENHOUSE GASES AND HUMAN
10 HEALTH;

11 (c) POTENTIAL MARKETS FOR CLEAN HYDROGEN IN COLORADO;

12 (d) THE IMPACT OF CLEAN HYDROGEN PRODUCTION ON WATER
13 QUALITY AND QUANTITY IN COLORADO;

14 (e) THE POTENTIAL IMPACTS OF PIPELINE LEAKAGE AND BEST
15 PRACTICES FOR MITIGATION;

16 (f) THE POTENTIAL FOR THE DEVELOPMENT OF CLEAN HYDROGEN
17 TO HELP CREATE OR SUSTAIN JOBS IN COLORADO, INCLUDING UTILITY
18 JOBS;

19 (g) THE COST, CAPABILITIES, AND MARKET AVAILABILITY OF
20 CLEAN HYDROGEN TECHNOLOGIES, INCLUDING PIPELINE INVESTMENTS;

21 (h) THE APPROPRIATE ROLES FOR INVESTOR-OWNED UTILITIES IN
22 THE PRODUCTION, SALE, OR USE OF CLEAN HYDROGEN, INCLUDING
23 CONSIDERING WHETHER COSTS MAY BE RECOVERED FROM RATEPAYERS;

24 (i) THE POTENTIAL IMPACT OF INVESTOR-OWNED UTILITY
25 INVESTMENTS IN A CLEAN HYDROGEN PROJECT ON RATEPAYERS,
26 INCLUDING ON BILLS, RATES, AND RATE STABILITY, AND OPTIONS FOR
27 AVOIDING POTENTIAL CROSS-SUBSIDIZATION AND COST SHIFTING ACROSS

1 RATE CLASSES;

2 (j) PRINCIPLES AND REQUIREMENTS FOR ANY TARIFFS FOR THE
3 SALE OF CLEAN HYDROGEN TO THIRD PARTIES, INCLUDING PRINCIPLES AND
4 REQUIREMENTS TO ENSURE THAT COSTS ARISING FROM THE DEVELOPMENT,
5 PRODUCTION, TRANSPORT, AND DELIVERY OF THE CLEAN HYDROGEN
6 UNDER THOSE TARIFFS ARE NOT BORNE BY CUSTOMERS WHO DO NOT TAKE
7 SERVICE FROM THOSE TARIFFS;

8 (k) THE PROCESS AND DATA NECESSARY AND AVAILABLE TO
9 IMPLEMENT A REQUIREMENT FOR THE ADOPTION OF METHODS FOR:

10 (I) THE MEASUREMENT OF LIFECYCLE GREENHOUSE GAS EMISSIONS
11 RATES, INCLUDING FOR HOURLY MATCHING OF ELECTRICITY USED;

12 (II) THE TRACKING OF THE DEPLOYMENT OF NEW RENEWABLE
13 ENERGY RESOURCES OR USE OF CURTAILED RENEWABLE ENERGY TO MEET
14 ELECTRICITY REQUIREMENTS FOR PRODUCTION OF CLEAN HYDROGEN IN
15 THE SAME LOAD BALANCING AREA; AND

16 (III) THE COMMISSION TO DETERMINE WHEN AT LEAST TWO
17 HUNDRED MEGAWATTS OF ELECTROLYZERS ARE OPERATIONAL IN THE
18 STATE;

19 (l) THE PROCESS AND DATA NECESSARY FOR AN INVESTOR-OWNED
20 UTILITY TO CONDUCT A CUMULATIVE IMPACT ANALYSIS OF A CLEAN
21 HYDROGEN PROJECT AND ANY PROCESS NECESSARY TO AVOID ADVERSE
22 CUMULATIVE IMPACTS ON DISPROPORTIONATELY IMPACTED COMMUNITIES,
23 IF ANY, WHICH MAY INCLUDE THE COMMISSION CONSIDERING:

24 (I) THE TIME FRAME OVER WHICH A CUMULATIVE IMPACT
25 ANALYSIS SHOULD BE CONDUCTED;

26 (II) THE GEOGRAPHICAL SCOPE OF A CUMULATIVE IMPACT
27 ANALYSIS; AND

1 (III) WHETHER THE CUMULATIVE IMPACT ANALYSIS SHOULD BE
2 COMPARED TO ALTERNATIVE PROJECTS;

3 (m) REQUIREMENTS FOR ANY APPLICATION FOR A CLEAN
4 HYDROGEN PROJECT, IN ADDITION TO THE REQUIREMENTS DESCRIBED IN
5 SUBSECTION (3)(a)(VI) OF THIS SECTION AND SUBJECT TO SUBSECTIONS (4)
6 AND (5) OF THIS SECTION;

7 (n) ANY DATA OR INFORMATION NECESSARY OR AVAILABLE TO
8 EVALUATE A CLEAN HYDROGEN PROJECT AGAINST ALTERNATIVE
9 PROJECTS, INCLUDING HOW TO MEASURE, TRACK, AND REPORT LIFECYCLE
10 GREENHOUSE GAS EMISSIONS RATES, CUMULATIVE IMPACTS, AND THE
11 CUMULATIVE IMPACTS AND INDIVIDUAL IMPACTS ON JOBS, LOCAL
12 ECONOMIC BENEFITS, AND WATER USE BY CLEAN HYDROGEN PROJECTS
13 UNDER THE COMMISSION'S JURISDICTION;

14 (o) OPPORTUNITIES TO ENCOURAGE NON-UTILITY PRODUCTION OF
15 CLEAN HYDROGEN IN COLORADO, INCLUDING OPPORTUNITIES FOR AN
16 INVESTOR-OWNED UTILITY TO PROPOSE A TARIFF FOR THE SALE OF
17 RENEWABLE ENERGY THAT WOULD OTHERWISE BE CURTAILED; AND

18 (p) ANY OTHER RELEVANT ISSUES THAT THE COMMISSION
19 DETERMINES ARE NECESSARY TO CONSIDER.

20 (3) (a) NO LATER THAN DECEMBER 1, 2024, UNLESS THE OFFICE
21 FILES A NOTICE WITH THE COMMISSION STATING THAT THE FEDERAL
22 DEPARTMENT OF ENERGY HAS EXTENDED OR OTHERWISE ALTERED THE
23 DEADLINE REGARDING FUNDING FOR A HYDROGEN HUB PROJECT, THE
24 COMMISSION SHALL ADOPT RULES THAT:

25 (I) UNLESS THE COMMISSION DETERMINES THAT INVESTOR-OWNED
26 UTILITIES SHOULD NOT DEVELOP CLEAN HYDROGEN PROJECTS FOR COST
27 RECOVERY FROM RATEPAYERS, ESTABLISH REQUIREMENTS FOR THE

1 PRESENTATION OF A CLEAN HYDROGEN PROJECT TO THE COMMISSION FOR
2 THE COMMISSION'S APPROVAL;

3 (II) ESTABLISH REQUIREMENTS FOR LIFECYCLE GREENHOUSE GAS
4 EMISSIONS RATE ACCOUNTING FOR CLEAN HYDROGEN PROJECTS;

5 (III) ADDRESS THE APPROPRIATE ROLE OF INVESTOR-OWNED
6 UTILITIES IN THE PRODUCTION, SALE, AND USE OF CLEAN HYDROGEN,
7 INCLUDING WHETHER AND HOW COSTS MAY BE RECOVERED FROM
8 RATEPAYERS AND APPROPRIATE TREATMENT OF REVENUES FROM CLEAN
9 HYDROGEN SALES;

10 (IV) ADDRESS HOW INVESTOR-OWNED UTILITIES MAY USE
11 COMPETITIVE SOLICITATIONS IN A CLEAN HYDROGEN PROJECT AND ANY
12 LIMITATIONS FOR THE USE OF COMPETITIVE SOLICITATIONS TO DEVELOP
13 THE CLEAN HYDROGEN PROJECT;

14 (V) ESTABLISH A REQUIREMENT THAT ANY PLANNED OR
15 POTENTIAL USE FOR THE CLEAN HYDROGEN IN BUILDINGS OR GAS
16 DISTRIBUTION SYSTEMS OF AN INVESTOR-OWNED UTILITY BE PROPOSED TO
17 AND APPROVED BY THE COMMISSION THROUGH A CLEAN HEAT PLAN, AS
18 DEFINED IN SECTION 40-3.2-108 (2)(b); AND

19 (VI) ADDRESS WHAT IS REQUIRED IN AN APPLICATION BY AN
20 INVESTOR-OWNED UTILITY FOR A CLEAN HYDROGEN PROJECT, SUBJECT TO
21 SUBSECTIONS (4) AND (5) OF THIS SECTION, INCLUDING:

22 (A) A COMPARISON OF A CLEAN HYDROGEN PROJECT TO
23 ALTERNATIVE PROJECTS, INCLUDING AN ANALYSIS OF THE COSTS AND
24 BENEFITS OF THE CLEAN HYDROGEN PROJECT COMPARED TO ALTERNATIVE
25 PROJECTS;

26 (B) A DESCRIPTION OF HOW THE INVESTOR-OWNED UTILITY WILL
27 MEASURE AND TRACK THE ANNUAL AND CUMULATIVE LIFECYCLE

1 GREENHOUSE GAS EMISSIONS RATES AND THE EMISSION OF OTHER AIR
2 POLLUTANTS IN ACCORDANCE WITH THE RULES ADOPTED PURSUANT TO
3 SUBSECTION (3)(a)(II) OF THIS SECTION;

4 (C) A DESCRIPTION OF HOW THE INVESTOR-OWNED UTILITY WILL:
5 MINIMIZE THE LIFECYCLE GREENHOUSE GAS EMISSIONS RATES OF THE
6 CLEAN HYDROGEN PROJECT; CONDUCT LEAK DETECTION THROUGHOUT THE
7 LIFE OF THE CLEAN HYDROGEN PROJECT; AND CONDUCT A CUMULATIVE
8 IMPACT ANALYSIS OF THE CLEAN HYDROGEN PROJECT;

9 (D) AN ASSESSMENT OF THE ANNUAL WATER VOLUME THAT WILL
10 BE USED IN THE CLEAN HYDROGEN PROJECT, INCLUDING THE SOURCE OF
11 WATER TO BE USED;

12 (E) A DESCRIPTION OF ANY PLANNED USES, INCLUDING POTENTIAL
13 END USES BY THE INVESTOR-OWNED UTILITY'S CUSTOMERS, OF THE CLEAN
14 HYDROGEN PRODUCED THROUGH THE CLEAN HYDROGEN PROJECT, WITH A
15 PREFERENCE FOR QUALIFIED USES;

16 (F) A DESCRIPTION OF ANY PLANNED SALES OF CLEAN HYDROGEN
17 TO NON-UTILITY CUSTOMERS, WITH A PREFERENCE FOR QUALIFIED USES;

18 (G) A DESCRIPTION OF THE PROPOSED METHOD OF COST RECOVERY
19 FOR THE CLEAN HYDROGEN PROJECT, INCLUDING INFORMATION
20 REGARDING WHICH RATE CLASSES WILL COVER THE COSTS OF THE CLEAN
21 HYDROGEN PROJECT;

22 (H) A DESCRIPTION OF THE TOTAL REVENUE REQUIREMENT FOR
23 THE CLEAN HYDROGEN PROJECT;

24 (I) A DESCRIPTION OF THE RATE AND BILL IMPACTS OF THE CLEAN
25 HYDROGEN PROJECT;

26 (J) A DESCRIPTION OF ANY TARIFFS FOR THE SALE OF CLEAN
27 HYDROGEN PRODUCED BY THE CLEAN HYDROGEN PROJECT;

1 (K) A PROPOSAL FOR THE ALLOCATION OF REVENUES RECEIVED
2 FROM THE SALE OF CLEAN HYDROGEN PRODUCED BY THE CLEAN
3 HYDROGEN PROJECT TO NON-UTILITY CUSTOMERS AMONG CUSTOMERS
4 AND THE INVESTOR-OWNED UTILITY, INCLUDING WHICH PARTY BEARS THE
5 RISK THAT THE AMOUNT OF REVENUE ANTICIPATED FROM THE CLEAN
6 HYDROGEN PROJECT IS NOT ULTIMATELY RECEIVED;

7 (L) A CUMULATIVE IMPACT ANALYSIS FRAMEWORK; AND

8 (M) IF THE INVESTOR-OWNED UTILITY PLANS TO USE A
9 COMPETITIVE SOLICITATION PROCESS AS PART OF THE CLEAN HYDROGEN
10 PROJECT, A DESCRIPTION OF HOW THE PLANNED COMPETITIVE
11 SOLICITATION PROCESS WILL BE USED AND IN WHAT CIRCUMSTANCES THE
12 PROCESS WILL BE USED.

13 (b) (I) THE RULES ADOPTED BY THE COMMISSION PURSUANT TO
14 SUBSECTION (3)(a)(II) OF THIS SECTION MUST INCLUDE REQUIREMENTS
15 FOR:

16 (A) THE MATCHING OF ELECTROLYZER ENERGY CONSUMPTION
17 WITH ELECTRICITY PRODUCTION ON AN HOURLY BASIS, IF THE
18 TECHNOLOGY IS AVAILABLE;

19 (B) IDENTIFYING THE APPLICABLE ENERGY SOURCE, IF THE
20 INVESTOR-OWNED UTILITY IS REPORTING THE ENERGY SOURCE AS
21 RESULTING IN ZERO EMISSIONS FOR CLEAN HYDROGEN PRODUCTION AND
22 DEMONSTRATING THAT THE ELECTRICITY USED TO PRODUCE CLEAN
23 HYDROGEN COMES FROM RENEWABLE ENERGY THAT WOULD OTHERWISE
24 HAVE BEEN CURTAILED OR NOT DELIVERED TO LOAD OR FROM NEW ZERO
25 CARBON GENERATION THAT BEGAN PRODUCTION NO MORE THAN
26 THIRTY-SIX MONTHS BEFORE THE START OF THE OPERATIONS OF THE
27 ELECTROLYZER; AND

1 (C) THE DELIVERABILITY OF RENEWABLE ENERGY USED BY THE
2 ELECTROLYZER INTO THE SAME LOAD BALANCING AREA AS THE
3 ELECTROLYZER.

4 (II) THE COMMISSION SHALL MAKE THE RULES ADOPTED BY THE
5 COMMISSION PURSUANT TO SUBSECTION (3)(a)(II) OF THIS SECTION
6 EFFECTIVE NO LATER THAN JANUARY 1, 2028, OR NO LATER THAN ONE
7 YEAR AFTER THE DEPLOYMENT OF HYDROGEN ELECTROLYZERS IN THE
8 STATE EXCEEDS TWO HUNDRED MEGAWATTS, WHICHEVER IS EARLIER.

9 (c) (I) IN DEVELOPING THE RULES PURSUANT TO SUBSECTION (3)(a)
10 OF THIS SECTION, THE COMMISSION SHALL CONSIDER THE POTENTIAL FOR
11 FEDERAL FUNDING FOR CLEAN HYDROGEN PROJECTS AND THAT CLEAN
12 HYDROGEN PROJECTS IMPLEMENTED BY INVESTOR-OWNED UTILITIES MAY
13 BE NECESSARY TO SECURE FEDERAL FUNDING.

14 (II) IN DEVELOPING THE RULES PURSUANT TO SUBSECTION
15 (3)(a)(II) OF THIS SECTION, THE COMMISSION SHALL CONSIDER WHAT
16 INFORMATION AND MARKET MECHANISMS ARE NECESSARY AND
17 AVAILABLE FOR HYDROGEN PRODUCERS TO COMPLY WITH THE RULES. IF
18 THE FEDERAL INTERNAL REVENUE SERVICE ISSUES GUIDANCE THAT MEETS
19 OR EXCEEDS THE RULES, THE COMMISSION SHALL ADOPT RULES THAT
20 COMPLY WITH THE GUIDANCE.

21 (d) IF THE OFFICE FILES THE NOTICE DESCRIBED IN SUBSECTION
22 (3)(a) OF THIS SECTION WITH THE COMMISSION, THE COMMISSION SHALL
23 COORDINATE WITH THE OFFICE TO DETERMINE AN APPROPRIATE DATE FOR
24 THE ADOPTION OF THE RULES DESCRIBED IN SUBSECTION (3)(a) OF THIS
25 SECTION.

26 (4) (a) THE COMMISSION SHALL ALLOW AN INVESTOR-OWNED
27 UTILITY TO PRESENT TO THE COMMISSION A STAND-ALONE APPLICATION

1 FOR A CLEAN HYDROGEN PROJECT FOR WHICH AN INVESTOR-OWNED
2 UTILITY HAS APPLIED FOR FEDERAL FUNDING AS PART OF A HYDROGEN HUB
3 PROJECT AT ANY TIME BEFORE JUNE 1, 2024, UNLESS THE OFFICE FILES A
4 NOTICE WITH THE COMMISSION STATING THAT THE FEDERAL DEPARTMENT
5 OF ENERGY HAS EXTENDED OR OTHERWISE ALTERED THE DEADLINE
6 REGARDING FUNDING FOR A HYDROGEN HUB PROJECT. THE APPLICATION
7 MAY ONLY ADDRESS ELEMENTS OF A HYDROGEN HUB PROJECT THAT ARE
8 NOT LOCATED IN THE DENVER METROPOLITAN AREA.

9 (b) THE APPLICATION PROCESS DESCRIBED IN SUBSECTION (4)(a)
10 OF THIS SECTION MUST BE CONSISTENT WITH THE REQUIREMENTS OF
11 SUBSECTION (3) OF THIS SECTION. AN INVESTOR-OWNED UTILITY SEEKING
12 APPROVAL OF A CLEAN HYDROGEN PROJECT PURSUANT TO SUBSECTION
13 (4)(a) OF THIS SECTION SHALL ALSO DEMONSTRATE THAT A
14 TIME-SENSITIVE REVIEW OF THE INVESTOR-OWNED UTILITY'S APPLICATION
15 IS NECESSARY BASED ON THE TIMING REQUIREMENTS FOR OBTAINING
16 NECESSARY FUNDING, NOT INCLUDING TAX CREDITS, FROM, OR A
17 PARTNERSHIP WITH, A FEDERAL OR STATE AGENCY FOR THE ACQUISITION
18 OF NECESSARY FACILITIES AND THAT THE FUNDING OR PARTNERSHIP
19 CANNOT BE ACCOMPLISHED THROUGH ANY PENDING OR FUTURE ELECTRIC
20 RESOURCE PLANNING PROCESS.

21 (c) IF THE FUNDING OR PARTNERSHIP DESCRIBED IN SUBSECTION
22 (4)(b) OF THIS SECTION, INCLUDING ANY ASSOCIATED CONTRACTS,
23 AWARDS, OR TIMING REQUIREMENTS, ALLOWS FOR COMPETITIVE
24 SOLICITATIONS AS PART OF THE DEVELOPMENT OF THE CLEAN HYDROGEN
25 PROJECT, THE COMMISSION MAY DIRECT THE INVESTOR-OWNED UTILITY TO
26 ISSUE A SOLICITATION TO ACQUIRE THE NECESSARY PROJECTS OR
27 FACILITIES FOR THE CLEAN HYDROGEN PROJECT. THE COMMISSION SHALL

1 REVIEW ANY APPROVED COMPETITIVE SOLICITATION PROCESS AND BIDS
2 RECEIVED PRIOR TO THE INVESTOR-OWNED UTILITY'S ACQUISITION OF THE
3 NECESSARY FACILITIES FOR THE CLEAN HYDROGEN PROJECT. AN
4 INVESTOR-OWNED UTILITY THAT FILED THE CLEAN HYDROGEN PROJECT
5 APPLICATION PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION MAY
6 SUBMIT A BID IN RESPONSE TO A SOLICITATION PURSUANT TO THIS
7 SUBSECTION (4)(c).

8 (5) (a) IN REVIEWING, APPROVING, DENYING, OR AMENDING AN
9 APPLICATION PURSUANT TO THIS SECTION, THE COMMISSION SHALL
10 CONSIDER, AT A MINIMUM:

11 (I) WHETHER IT IS IN THE PUBLIC INTEREST FOR AN
12 INVESTOR-OWNED UTILITY TO INVEST IN THE ELEMENTS OF THE CLEAN
13 HYDROGEN PROJECT AS SET FORTH IN THE APPLICATION;

14 (II) THE POTENTIAL CONTRIBUTION OF THE CLEAN HYDROGEN
15 PROJECT IN MEETING THE GREENHOUSE GAS EMISSION REDUCTION GOALS
16 DESCRIBED IN SECTION 25-7-102 (2)(g), INCLUDING LIFECYCLE
17 GREENHOUSE GAS EMISSIONS RATES;

18 (III) THE IMPACTS OF THE CLEAN HYDROGEN PROJECT COMPARED
19 TO ALTERNATIVE PROJECTS, INCLUDING:

- 20 (A) RATE AND BILL IMPACTS;
- 21 (B) THE IMPACTS ON RATE STABILITY; AND
- 22 (C) ANY OTHER IMPACTS IDENTIFIED BY THE COMMISSION
23 PURSUANT TO THIS SUBSECTION (5)(a);

24 (III) THE USE OF COMPETITIVE SOLICITATIONS, IF ANY;

25 (IV) IF THE CLEAN HYDROGEN PROJECT CONTEMPLATES THE SALE
26 OF CLEAN HYDROGEN, THE POTENTIAL FOR CROSS-SUBSIDIZATION AND
27 COST SHIFTING ACROSS RATE CLASSES;

1 (V) THE IMPACTS OF THE CLEAN HYDROGEN PROJECT ON THE
2 UTILITY WORKFORCE IN THE STATE, INCLUDING THE USE OF "BEST VALUE"
3 EMPLOYMENT METRICS PURSUANT TO SECTION 40-2-129;

4 (VI) THE IMPACTS OF THE CLEAN HYDROGEN PROJECT ON A
5 COMMUNITY'S TAX BASE AND REVENUES;

6 (VII) THE USES OF THE CLEAN HYDROGEN PRODUCED BY THE
7 CLEAN HYDROGEN PROJECT, WITH A PREFERENCE FOR QUALIFIED USES;

8 (VIII) THE PUBLIC HEALTH AND SAFETY IMPACTS OF THE CLEAN
9 HYDROGEN PROJECT; AND

10 (IX) THE AVAILABILITY OF FEDERAL FUNDING FOR THE CLEAN
11 HYDROGEN PROJECT.

12 (b) THE COMMISSION SHALL REVIEW ANY CLEAN HYDROGEN
13 PROJECT APPLICATION SUBMITTED PURSUANT TO THIS SECTION IN
14 ACCORDANCE WITH ANY APPLICABLE ELECTRIC RESOURCE PLANNING
15 RULES.

16 (c) IN REVIEWING, APPROVING, DENYING, OR AMENDING AN
17 APPLICATION PURSUANT TO THIS SECTION, IF THE CLEAN HYDROGEN
18 PROJECT IS PROPOSED TO BE SITED IN AN AREA THAT WOULD AFFECT A
19 DISPROPORTIONATELY IMPACTED COMMUNITY, THE COMMISSION SHALL
20 WEIGH THE APPLICANT'S CUMULATIVE IMPACTS ANALYSIS AND DETERMINE
21 WHETHER, ON BALANCE, THE CLEAN HYDROGEN PROJECT WILL HAVE A
22 POSITIVE EFFECT ON THE DISPROPORTIONATELY IMPACTED COMMUNITY.
23 ANY PROPOSAL THAT WILL HAVE NET NEGATIVE CUMULATIVE IMPACTS ON
24 ANY DISPROPORTIONATELY IMPACTED COMMUNITY MUST BE DENIED. THE
25 COMMISSION'S DETERMINATION MUST INCLUDE A PLAIN LANGUAGE
26 SUMMARY OF ITS DETERMINATION.

27 (6) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE

1 CONTRARY, AN INVESTOR-OWNED UTILITY SHALL PROVIDE NOTICE TO THE
2 COMMISSION OF ANY APPLICATION FOR FEDERAL FUNDING AS PART OF A
3 HYDROGEN HUB PROJECT, INCLUDING:

4 (a) ANY HYDROGEN HUB PROJECT MILESTONES;

5 (b) A DESCRIPTION OF ANY DEADLINES FOR SUBMISSION OF
6 MATERIALS TO SUPPORT THE APPLICATION, INCLUDING WHETHER ANY
7 ADDITIONAL FILINGS WILL BE REQUIRED; AND

8 (c) TO THE EXTENT KNOWN OR CONSISTENT WITH ANY
9 REQUIREMENTS OR LIMITATIONS OF THE FEDERAL DEPARTMENT OF ENERGY
10 OR ANY RELATED JOINT MEMORANDUMS OF UNDERSTANDING OR OTHER
11 CONTRACTS ENTERED INTO BY THE INVESTOR-OWNED UTILITY AND THE
12 STATE, INFORMATION REGARDING WHEN FUNDING AWARDS WILL BE
13 DETERMINED.

14 (7) (a) AN INVESTOR-OWNED UTILITY THAT OPERATES A CLEAN
15 HYDROGEN PROJECT APPROVED PURSUANT TO THIS SECTION SHALL SUBMIT
16 TO THE COMMISSION AN ANNUAL REPORT THAT SHOWS:

17 (I) THE LIFECYCLE GREENHOUSE GAS EMISSIONS RATES FROM THE
18 CLEAN HYDROGEN PROJECT;

19 (II) THE GREENHOUSE GAS EMISSIONS FROM THE CLEAN HYDROGEN
20 PROJECT;

21 (III) ANY EMISSION OF OTHER AIR POLLUTANTS FROM THE CLEAN
22 HYDROGEN PROJECT;

23 (IV) THE WATER USE OF THE CLEAN HYDROGEN PROJECT;

24 (V) PRODUCTION VOLUMES AND SALES OF HYDROGEN, INCLUDING
25 TYPES OF CUSTOMERS AND USES;

26 (VI) PROJECT DEVELOPMENT AND COST UPDATES FOR PROJECTS
27 WITH COST RECOVERY FROM RATEPAYERS; AND

1 (VII) NET CUMULATIVE IMPACT UPDATES FOR PROJECTS LOCATED
2 IN DISPROPORTIONATELY IMPACTED COMMUNITIES.

3 (b) IF THE CLEAN HYDROGEN PROJECT INCLUDES THE PRODUCTION
4 AND THE USE OR CONSUMPTION OF CLEAN HYDROGEN BY THE
5 INVESTOR-OWNED UTILITY, THE INVESTOR-OWNED UTILITY SHALL REPORT
6 THE LIFECYCLE GREENHOUSE GAS EMISSIONS RATES OF THE CLEAN
7 HYDROGEN PROJECT SEPARATELY BY EACH PRODUCTION FACILITY AND
8 USE.

9 (c) THE ANNUAL REPORT MUST INCLUDE INFORMATION THAT
10 ALLOWS THE OFFICE TO MAKE THE VERIFICATIONS REQUIRED PURSUANT TO
11 SECTION 39-22-549 (4)(a)(II).

12 SECTION 3. In Colorado Revised Statutes, add 39-22-549 as
13 follows:

14 39-22-549. Clean hydrogen tax credit - qualified uses - tax
15 preference performance statement - definitions - legislative
16 declaration - repeal. (1) (a) IN ACCORDANCE WITH SECTION 39-21-304
17 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE
18 TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A
19 STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY FINDS
20 AND DECLARES THAT THE PURPOSE OF THE TAX CREDIT PROVIDED IN THIS
21 SECTION IS TO INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS.
22 SPECIFICALLY, THE TAX EXPENDITURE IS INTENDED TO PROVIDE TAX
23 RELIEF FOR CERTAIN BUSINESSES OR INDIVIDUALS FOR PURPOSES OF
24 ENCOURAGING THEM TO ENGAGE IN CERTAIN QUALIFIED USES OF CLEAN
25 HYDROGEN.

26 (b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
27 MEASURE THE EFFECTIVENESS OF THE CREDIT IN ACHIEVING THE PURPOSE

1 SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION BASED ON THE
2 INFORMATION REQUIRED TO BE MAINTAINED BY AND REPORTED TO THE
3 STATE AUDITOR BY THE OFFICE PURSUANT TO SUBSECTION (4)(b) OF THIS
4 SECTION.

5 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
6 REQUIRES:

7 (a) "CLEAN HYDROGEN" HAS THE MEANING SET FORTH IN SECTION
8 40-2-138 (1)(a).

9 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

10 (c) "HARD TO DECARBONIZE END USE" HAS THE MEANING SET
11 FORTH IN SECTION 40-2-138 (1)(e).

12 (d) "LIFECYCLE GREENHOUSE GAS EMISSIONS RATE" MEANS
13 LIFECYCLE GREENHOUSE GAS EMISSIONS, AS DEFINED IN 26 U.S.C. SEC.
14 45V (c)(1)(A), AS AMENDED, MEASURED IN ACCORDANCE WITH ANY
15 APPLICABLE FEDERAL INTERNAL REVENUE SERVICE REGULATIONS OR
16 GUIDANCE, SUBJECT TO THE RULES ADOPTED BY THE PUBLIC UTILITIES
17 COMMISSION PURSUANT TO SECTION 40-2-138 (3)(a)(I).

18 (e) "OFFICE" MEANS THE COLORADO ENERGY OFFICE CREATED IN
19 SECTION 24-38.5-101.

20 (f) "QUALIFIED USE" HAS THE MEANING SET FORTH IN SECTION
21 40-2-138 (1)(i).

22 (g) "TAXPAYER" MEANS A PERSON SUBJECT TO TAX PURSUANT TO
23 THIS ARTICLE 22 OR A PERSON OR POLITICAL SUBDIVISION OF THE STATE
24 THAT IS EXEMPT FROM TAX PURSUANT TO SECTION 39-22-112 (1).

25 (h) "TIER ONE GREENHOUSE GAS EMISSIONS RATE" MEANS A
26 QUALIFIED USE OF HYDROGEN THAT RESULTS IN LIFECYCLE GREENHOUSE
27 GAS EMISSIONS RATES THAT ARE WITHIN THE RANGE SET FORTH IN 26

1 U.S.C. SEC. 45V (b)(2)(D), AS AMENDED.

2 (i) "TIER TWO GREENHOUSE GAS EMISSIONS RATE" MEANS A
3 QUALIFIED USE OF HYDROGEN THAT RESULTS IN LIFECYCLE GREENHOUSE
4 GAS EMISSIONS RATES THAT ARE WITHIN THE RANGE SET FORTH IN 26
5 U.S.C. SEC. 45V (b)(2)(C), AS AMENDED.

6 (3) (a) SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTION
7 (3)(b) OF THIS SECTION, FOR INCOME TAX YEARS COMMENCING ON OR
8 AFTER JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2033, A TAXPAYER IS
9 ALLOWED A CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS
10 ARTICLE 22 IN AN AMOUNT EQUAL TO:

11 (I) ONE DOLLAR PER KILOGRAM OF CLEAN HYDROGEN USED FOR A
12 QUALIFIED USE THAT RESULTS IN A TIER ONE GREENHOUSE GAS EMISSIONS
13 RATE IN THE INCOME TAX YEAR; OR

14 (II) THIRTY-THREE CENTS PER KILOGRAM OF CLEAN HYDROGEN
15 USED FOR A QUALIFIED USE THAT RESULTS IN A TIER TWO GREENHOUSE
16 GAS EMISSIONS RATE IN THE INCOME TAX YEAR.

17 (b) IN ORDER TO CLAIM THE CREDIT, THE TAXPAYER MUST
18 ANNUALLY APPLY FOR AND RECEIVE A TAX CREDIT CERTIFICATE FROM THE
19 OFFICE PURSUANT TO SUBSECTION (4) OF THIS SECTION. IF THE OFFICE
20 DETERMINES THAT AN APPLICANT IS NOT ENTITLED TO A TAX CREDIT
21 CERTIFICATE UNDER THIS SECTION, THE OFFICE SHALL NOTIFY THE
22 APPLICANT OF ITS DISAPPROVAL IN WRITING.

23 (c) (I) FOR INCOME TAX YEARS COMMENCING ON AND AFTER
24 JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2026, AND NOT BEFORE THE
25 PUBLIC UTILITIES COMMISSION ADOPTS RULES PURSUANT TO SECTION
26 40-2-138 (3)(a)(I), THE OFFICE SHALL NOT ISSUE A TAX CREDIT
27 CERTIFICATE TO A TAXPAYER INDICATING ELIGIBILITY FOR A TAX CREDIT

1 FOR AN AMOUNT EXCEEDING ONE MILLION DOLLARS IN A TAX YEAR.

2 (II) FOR INCOME TAX YEARS COMMENCING ON AND AFTER
3 JANUARY 1, 2026, BUT BEFORE JANUARY 1, 2029, THE OFFICE SHALL NOT
4 ISSUE A TAX CREDIT CERTIFICATE TO A TAXPAYER INDICATING ELIGIBILITY
5 FOR A TAX CREDIT FOR AN AMOUNT EXCEEDING FIVE HUNDRED THOUSAND
6 DOLLARS IN A TAX YEAR.

7 (III) FOR INCOME TAX YEARS COMMENCING ON AND AFTER
8 JANUARY 1, 2029, BUT BEFORE JANUARY 1, 2033, THE OFFICE SHALL NOT
9 ISSUE A TAX CREDIT CERTIFICATE TO A TAXPAYER INDICATING ELIGIBILITY
10 FOR A TAX CREDIT FOR AN AMOUNT EXCEEDING TWO HUNDRED FIFTY
11 THOUSAND DOLLARS IN A TAX YEAR.

12 (4) (a) (I) A TAXPAYER SHALL SUBMIT AN APPLICATION TO THE
13 OFFICE FOR A TAX CREDIT CERTIFICATE TO CLAIM THE CREDIT ALLOWED BY
14 THIS SECTION ON A FORM AND IN A MANNER PRESCRIBED BY THE OFFICE.
15 THE APPLICATION MUST INCLUDE INFORMATION TO ALLOW THE OFFICE TO
16 MAKE A DETERMINATION THAT THE USE IS A QUALIFIED USE AND THAT THE
17 HYDROGEN USED MEETS THE DEFINITION OF CLEAN HYDROGEN PURSUANT
18 TO SUBSECTION (2)(a) OF THIS SECTION AND TO VERIFY THE AMOUNT FOR
19 WHICH THE TAX CREDIT CERTIFICATE IS APPLIED. A TAXPAYER IS ENTITLED
20 TO RECEIVE ONE TAX CREDIT CERTIFICATE PER INCOME TAX YEAR.

21 (II) THE APPLICATION DESCRIBED IN SUBSECTION (4)(a)(I) OF THIS
22 SECTION MUST ALSO INCLUDE VERIFICATION FROM THE HYDROGEN
23 PRODUCER PASSED TO THE USER AT THE POINT OF SALE THAT THE
24 HYDROGEN USED MEETS THE DEFINITION OF CLEAN HYDROGEN PURSUANT
25 TO SUBSECTION (2)(a) OF THIS SECTION.

26 (b) (I) THE OFFICE SHALL MAINTAIN A DATABASE OF ANY
27 INFORMATION DETERMINED NECESSARY BY THE OFFICE TO EVALUATE THE

1 EFFECTIVENESS OF THE INCOME TAX CREDIT ALLOWED IN THIS SECTION IN
2 MEETING THE PURPOSE SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION
3 AND SHALL PROVIDE SUCH INFORMATION, AND ANY OTHER INFORMATION
4 THAT MAY BE NEEDED, IF AVAILABLE, TO THE STATE AUDITOR AS PART OF
5 THE STATE AUDITOR'S EVALUATION OF THIS TAX EXPENDITURE REQUIRED
6 BY SECTION 39-21-305.

7 (II) THE OFFICE SHALL, IN A SUFFICIENTLY TIMELY MANNER TO
8 ALLOW THE DEPARTMENT TO PROCESS RETURNS CLAIMING THE INCOME
9 TAX CREDIT ALLOWED IN THIS SECTION, PROVIDE THE DEPARTMENT WITH
10 AN ELECTRONIC REPORT FOR THE PRECEDING TAX YEAR LISTING EACH
11 TAXPAYER TO WHICH THE OFFICE ISSUED A TAX CREDIT CERTIFICATE AND
12 THAT INCLUDES THE FOLLOWING INFORMATION:

13 (A) THE TAXPAYER'S NAME;

14 (B) THE AMOUNT OF THE INCOME TAX CREDIT THAT THE
15 CERTIFICATE INDICATES THE TAXPAYER IS ELIGIBLE TO CLAIM; AND

16 (C) THE TAXPAYER'S SOCIAL SECURITY NUMBER OR THE
17 TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL EMPLOYER
18 IDENTIFICATION NUMBER.

19 (III) THE OFFICE SHALL DEVELOP STANDARDS FOR THE QUALIFIED
20 USES FOR WHICH AN INCOME TAX CREDIT UNDER THIS SECTION IS
21 ALLOWED. THE OFFICE SHALL POST THE STANDARDS ON THE OFFICE'S
22 WEBSITE.

23 (5) IN ORDER TO CLAIM THE CREDIT AUTHORIZED BY THIS SECTION,
24 A TAXPAYER SHALL FILE THE TAX CREDIT CERTIFICATE WITH THE
25 TAXPAYER'S STATE INCOME TAX RETURN, AND, IF THE TAXPAYER IS
26 EXEMPT FROM TAX PURSUANT TO SECTION 39-22-112 (1), THE TAXPAYER
27 SHALL FILE A RETURN PURSUANT TO SECTION 39-22-601 (7)(b). THE

1 AMOUNT OF THE CREDIT THAT THE TAXPAYER MAY CLAIM PURSUANT TO
2 THIS SECTION IS THE AMOUNT STATED ON THE TAX CREDIT CERTIFICATE.

3 (6) IF AN INCOME TAX CREDIT AUTHORIZED IN THIS SECTION
4 EXCEEDS THE INCOME TAX DUE ON THE INCOME OF THE TAXPAYER FOR
5 THE TAXABLE YEAR, THE EXCESS CREDIT MAY NOT BE CARRIED FORWARD
6 AND MUST BE REFUNDED TO THE TAXPAYER.

7 [REDACTED]

8 (7) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2036.

9 **SECTION 4. Appropriation.** (1) For the 2023-24 state fiscal
10 year, \$360,758 is appropriated to the department of regulatory agencies for
11 use by the public utilities commission. This appropriation is from the
12 public utilities commission fixed utility fund created in section 40-2-114
13 (1)(b)(II), C.R.S. To implement this act, the department may use this
14 appropriation as follows:

15 (a) \$241,532 for use by the public utilities commission for personal
16 services, which amount is based on an assumption that the commission
17 will require an additional 3.0 FTE;

18 (b) \$24,060 for use by the public utilities commission for
19 operating expenses; and

20 (c) \$95,166 for legal services.

21 (2) For the 2023-24 state fiscal year, \$95,166 is appropriated to
22 the department of law. This appropriation is from reappropriated funds
23 received from the department of regulatory agencies under subsection
24 (1)(c) of this section and is based on an assumption that the department
25 of law will require an additional 0.5 FTE. To implement this act, the
26 department of law may use this appropriation to provide legal services for
27 the department of regulatory agencies.

1 (3) For the 2023-24 state fiscal year, \$12,861 is appropriated to
2 the department of revenue for use by taxation services. This appropriation
3 is from the general fund. To implement this act, the division may use this
4 appropriation for the purchase of document management services.

5 (4) For the 2023-24 state fiscal year, \$12,861 is appropriated to
6 the department of personnel. This appropriation is from reappropriated
7 funds received from the department of revenue under subsection (3) of
8 this section. To implement this act, the department of personnel may use
9 this appropriation to provide document management services for the
10 department of revenue.

11 **SECTION 5. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly; except
14 that, if a referendum petition is filed pursuant to section 1 (3) of article V
15 of the state constitution against this act or an item, section, or part of this
16 act within such period, then the act, item, section, or part will not take
17 effect unless approved by the people at the general election to be held in
18 November 2024 and, in such case, will take effect on the date of the
19 official declaration of the vote thereon by the governor.