

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0183.03 Pierce Lively x2059

SENATE BILL 24-190

SENATE SPONSORSHIP

Roberts, Will, Winter F.

HOUSE SPONSORSHIP

Lukens and McCluskie, Amabile, Catlin, McLachlan, Soper, Titone, Velasco

Senate Committees

Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING ECONOMIC MEASURES RELATED TO COAL TRANSITION**
102 **COMMUNITIES, AND, IN CONNECTION THEREWITH, CREATING AN**
103 **INCOME TAX CREDIT FOR QUALIFIED COSTS INCURRED IN THE**
104 **USE OF CERTAIN FREIGHT RAIL LINES; CREATING AN INCOME**
105 **TAX CREDIT FOR QUALIFIED COSTS INCURRED IN THE**
106 **MAINTENANCE, OPERATION, AND IMPROVEMENT OF CERTAIN**
107 **RAIL LINES; EXPANDING THE RURAL OPPORTUNITY OFFICE'S**
108 **DUTIES IN RELATION TO COAL TRANSITION COMMUNITIES;**
109 **ALLOWING COAL TRANSITION COMMUNITIES TO QUALIFY AS**
110 **ENTERPRISE ZONES AND ENHANCED RURAL ENTERPRISE ZONES;**
111 **RESTRICTING THE LENGTH OF CONTRACTS THAT ALLOW USE OF**
112 **THE MOFFAT TUNNEL; AND RESTRICTING THE ABILITY TO**
113 **PURCHASE REAL PROPERTY INTERESTS OF THE MOFFAT TUNNEL**

*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.*

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>.)

A coal transition community is a Colorado municipality, county, or region where a Colorado coal-fueled electrical power generating plant that was in operation at any time in 2017, a Colorado coal mine that was actively producing at any time in 2017, or a center for the manufacturing or transportation supply chain of such a plant or coal mine was or is located.

Section 2 of the bill expands the duties of the rural opportunity office in relation to coal transition communities by requiring the rural opportunity office, in coordination with county commissioners, municipal officials, local chambers of commerce and economic development organizations, institutions of higher education, private industry, and any local organizations dedicated to increased rail usage, to pursue opportunities for new, early state, and existing businesses and support business and industry development and economic diversification in coordination with workforce training opportunities and existing state and federal programs that are designed for coal transition communities.

Sections 3 and 4 concern the Moffat tunnel. **Section 3** prohibits contracts for the right to use the Moffat tunnel for more than 99 years. **Section 4** allows the department to convey or transfer ownership of all tangible property, real and personal, or any interest of that property owned by the Moffat tunnel improvement district for less than fair market value if the department finds that such a conveyance and transfer is in the public interest.

Section 5 creates 2 income tax credits.

The first income tax credit created in **section 5** is a fully refundable income tax credit (freight tax credit). The freight tax credit incentivizes taxpayers to incur costs in the use of freight rail transportation of freight that either originates or terminates at a business located in a coal transition community and on a rail line in this state that the department of transportation has determined is at risk of inactivity or abandonment due to a lack of demand resulting from coal transition (relevant costs). The Colorado office of economic development (office) administers the freight tax credit and may annually reserve up to \$5 million worth of tax credits on or after January 1, 2025, but prior to January 1, 2036. A taxpayer must apply to the office for the reservation

of the freight tax credit. After the office reserves the freight tax credit for a taxpayer, the office may issue the taxpayer a tax credit certificate in an amount equal to 75% of the relevant costs both stated in the taxpayer's tax credit application and incurred by the taxpayer.

The second income tax credit created in **section 5** is also a fully refundable income tax credit (operator tax credit). The operator tax credit incentivizes railroad operators to maintain rail line access to coal transition communities. For income tax years 2027 through 2037, a common carrier engaged in the transportation of freight on a rail line designated by the department of transportation (department) as a "qualified rail line" is allowed a credit in an amount stated in a tax credit certificate issued by the department. The amount in a tax credit certificate must equal up to 75% of the direct operating and capital improvements necessary to maintain or improve a qualified rail line as stated in the taxpayer's tax credit application and incurred by the taxpayer. The department shall designate a rail line as a qualified rail line if the department determines that the rail line is at risk of inactivity or abandonment and is covered by an access agreement for passenger rail access. A taxpayer must apply to the department for the issuance of an operator tax credit certificate. The department may annually issue up to \$5 million worth of operator tax credits. The operator tax credit is subject to recapture if the taxpayer does not meet one or more of the service criteria specified in an access agreement for the qualified rail line.

Current law establishes a number of criteria for any municipality, county, or group of contiguous municipalities or counties to propose an area of such municipality, county, or group of municipalities or counties to be designated as an enterprise zone. **Section 6** allows an area that is both a rural area and a tier one transition community to be proposed as an enterprise zone.

A business in an enhanced rural enterprise zone can earn a tax credit for hiring new employees. **Section 7** designates the portion of any county that is a coal transition community as an enhanced rural enterprise zone.

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) The impending closures of coal-fired power plants, coal mines,
5 and supply chain businesses in Colorado's coal transition communities,
6 as defined in section 8-83-502 (1), Colorado Revised Statutes, threatens

1 to cause a significant loss of high-quality jobs, economic activity, and
2 property and other tax revenue in these communities. These closures also
3 threaten the economic security of the coal workers and families who have
4 helped power Colorado's prosperity for generations.

5 (b) In 2019, the general assembly established the just transition
6 office to develop strong and comprehensive policies to help these
7 communities to grow and diversify their local and regional economies to
8 continue to prosper after coal and to help these workers and families
9 remain economically secure. The just transition office works with
10 workers, communities, and other state and federal agencies, including the
11 office of economic development and international trade and its rural
12 opportunity office, to seek new business and job opportunities in coal
13 transition communities.

14 (c) Rail transportation and freight services are a critical
15 component of coal transition communities' transportation systems and
16 local economies. When coal activity ceases in coal transition communities
17 along some rail lines that have depended on coal shipping, freight
18 activities may drop to unsustainable levels and result in abandonment or
19 mothballing of the lines. This will further affect the ability of these
20 communities to expand existing businesses and attract new business
21 opportunities with high-value jobs, thereby threatening their ability to
22 continue to prosper after coal.

23 (d) Therefore, to help ensure a just transition away from coal for
24 these communities, further efforts are needed to target, coordinate, and
25 incentivize new opportunities related to businesses that rely on existing
26 or generate new rail freight activity. Tax credits to incentivize new or
27 expanded freight activity will help attract new and expanded business

1 opportunities and help keep lines in service, thereby supporting the
2 creation of good new jobs, new and more diverse business activity, and
3 increased tax revenue for coal transition communities.

4 (e) Similarly, income tax credits to support investments in the
5 maintenance, operation, and improvement of lines at risk of abandonment
6 or mothballing will help ensure that this infrastructure is available for
7 freight-dependent businesses and passenger operations in coal transition
8 communities;

9 (f) A business in an enhanced rural enterprise zone can earn an
10 income tax credit for hiring new employees. Ensuring that coal transition
11 communities can access these tax credits with the assistance of viable rail
12 options will expand business and job opportunities and support a just
13 transition in these communities. Directing the rural opportunity office of
14 the office of economic development and international trade to pursue
15 early-stage business and industry development opportunities in
16 coordination with workforce training opportunities will enhance these
17 effects.

18 (g) The viability of local and regional rail lines in coal transition
19 communities is greatly enhanced by the viability of Colorado's statewide
20 rail system. The Moffat tunnel is critical to this statewide system and was
21 financed through public cooperation between counties ranging from the
22 city and county of Denver to Moffat county to provide a year-round
23 reliable freight and passenger link.

24 (h) The Moffat tunnel is an essential economic link for freight and
25 passenger rail service, connecting the east and west parts of the state, and
26 the access it provides is essential to achieving a just transition in many
27 coal transition communities.

1 **SECTION 2.** In Colorado Revised Statutes, 24-48.5-133, **amend**
2 (3)(c) and (3)(d); and **add** (3)(e) as follows:

3 **24-48.5-133. Rural opportunity office - creation - duties -**
4 **legislative declaration.** (3) The rural opportunity office shall:

5 (c) Make recommendations that inform the governor's policy on
6 rural economic development matters, including policy on economic
7 development issues unique to rural communities; **and**

8 (d) Measure the success of program outreach and conduct research
9 to determine whether Colorado's rural communities receive more
10 statewide funding as a result of the efforts of the rural opportunity office;

11 **AND**

12 (e) **IN COORDINATION WITH COUNTY COMMISSIONERS, MUNICIPAL**
13 **OFFICIALS, LOCAL CHAMBERS OF COMMERCE AND ECONOMIC**
14 **DEVELOPMENT ORGANIZATIONS, INSTITUTIONS OF HIGHER EDUCATION,**
15 **PRIVATE INDUSTRY, AND ANY LOCAL ORGANIZATIONS DEDICATED TO**
16 **INCREASED RAIL USAGE, PURSUE OPPORTUNITIES FOR NEW, EARLY STAGE,**
17 **AND EXISTING BUSINESSES AND SUPPORT BUSINESS AND INDUSTRY**
18 **DEVELOPMENT AND ECONOMIC DIVERSIFICATION IN COORDINATION WITH**
19 **WORKFORCE TRAINING OPPORTUNITIES AND EXISTING STATE AND FEDERAL**
20 **PROGRAMS THAT ARE DESIGNED FOR COAL TRANSITION COMMUNITIES.**

21 **SECTION 3.** In Colorado Revised Statutes, 32-8-124.3, **amend**
22 (1)(b) as follows:

23 **32-8-124.3. Contracts for use of tunnel.** (1) The department
24 shall have:

25 (b) The power to enter into contracts with persons and with
26 private and public corporations for the right to use the tunnel for the
27 transmission of power, for telephone and other communication lines, for

1 railroad and railway purposes, and for any other purpose to which the
2 same may be adapted. THE TERM OF A CONTRACT WITH ANY PERSON FOR
3 THE RIGHT TO USE THE TUNNEL MUST NOT EXCEED NINETY-NINE YEARS.
4 All the contracts and rights of use shall be subject and subordinate to all
5 prior contracts and may not impair the rights of any existing legal user.

6 **SECTION 4.** In Colorado Revised Statutes, 32-8-124.7, **amend**
7 (1)(a) as follows:

8 **32-8-124.7. Property of Moffat tunnel improvement district.**

9 (1) (a) The department ~~shall have the~~ HAS authority to convey or transfer
10 ownership of all tangible property, real and personal, or any interest
11 therein owned by the district for fair market value AND FOR LESS THAN
12 FAIR MARKET VALUE, IF THE DEPARTMENT FINDS SUCH A CONVEYANCE
13 AND TRANSFER IS IN THE PUBLIC INTEREST. ~~Each user shall have the right~~
14 ~~to purchase, to the extent of its use, real property interests of the district~~
15 ~~at fair market value, which shall be determined pursuant to the appraisal~~
16 ~~procedures of the department. Fair market value, as used in this section,~~
17 ~~shall not include any improvements or the value of any improvements~~
18 ~~owned or paid for by the user. In addition, when determining fair market~~
19 ~~value of any portion of or interest in the real property of the district, the~~
20 ~~value or detriment of any lease, license, or permit granted for the benefit~~
21 ~~of the party acquiring such real property shall not be considered. Each~~
22 ~~user shall also have a commercially reasonable right of first refusal to~~
23 ~~purchase at the fair market value, to the extent of its use, any real property~~
24 ~~interest offered for conveyance.~~

25 **SECTION 5.** In Colorado Revised Statutes, **add** 39-22-560 and
26 39-22-561 as follows:

27 **39-22-560. Tax credit for freight rail use - tax preference**

1 **performance statement - legislative declaration - definitions - repeal.**

2 (1) **Tax preference performance statement.** (a) IN ACCORDANCE WITH
3 SECTION 39-21-304(1), WHICH REQUIRES EACH BILL THAT CREATES A NEW
4 TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE
5 STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE
6 GENERAL ASSEMBLY FINDS AND DECLARES THAT THE PURPOSES OF THE
7 TAX CREDIT PROVIDED IN THIS SECTION ARE TO PROVIDE TAX RELIEF TO
8 CERTAIN BUSINESSES, SPECIFICALLY THOSE BUSINESSES ENGAGED IN NEW
9 OR EXPANDED MANUFACTURING, REPAIR OR REFURBISHING, AGRICULTURE,
10 RECYCLING, DISTRIBUTION CENTERS FOR CONSUMER PRODUCTS, OR
11 ENERGY PRODUCTION THAT WILL UTILIZE FREIGHT RAIL THAT IS IN DANGER
12 OF GOING OUT OF SERVICE DUE TO COAL PRODUCTION REDUCTIONS AND
13 CLOSURES, AND TO INDUCE CERTAIN DESIGNATED BEHAVIORS BY
14 TAXPAYERS, SPECIFICALLY EXPENDITURES ON FREIGHT RAIL
15 TRANSPORTATION SERVICE IN A COAL TRANSITION COMMUNITY.

16 (b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
17 MEASURE THE EFFECTIVENESS OF THE TAX CREDITS AWARDED PURSUANT
18 TO THIS SECTION IN ACHIEVING THE PURPOSES SPECIFIED IN SUBSECTION
19 (1)(a) OF THIS SECTION BASED ON THE NUMBER AND VALUE OF TAX
20 CREDITS CLAIMED PURSUANT TO THIS SECTION.

21 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
22 OTHERWISE REQUIRES:

23 (a) "CERTIFIED FREIGHT RAIL USE" MEANS THE USE OF FREIGHT
24 RAIL TRANSPORTATION:

25 (I) OF FREIGHT EITHER ORIGINATING OR TERMINATING AT A
26 BUSINESS LOCATED IN A COAL TRANSITION COMMUNITY; AND

27 (II) ON A RAIL LINE IN THIS STATE THAT THE DEPARTMENT OF

1 TRANSPORTATION HAS DETERMINED IS AT RISK OF INACTIVITY OR
2 ABANDONMENT DUE TO A LACK OF DEMAND RESULTING FROM COAL
3 TRANSITION.

4 (b) "COAL TRANSITION COMMUNITY" HAS THE SAME MEANING AS
5 SET FORTH IN SECTION 8-83-502 (1).

6 (c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

7 (d) "FREIGHT RAIL USE PLAN" MEANS A PLAN SUBMITTED BY A
8 QUALIFIED APPLICANT TO THE OFFICE PURSUANT TO SUBSECTION (4) OF
9 THIS SECTION.

10 (e) "OFFICE" MEANS THE COLORADO OFFICE OF ECONOMIC
11 DEVELOPMENT CREATED IN SECTION 24-48.5-101.

12 (f) "QUALIFIED APPLICANT" MEANS A PERSON SUBJECT TO TAX
13 UNDER THIS ARTICLE 22 WHOSE ENGAGEMENT IN MANUFACTURING,
14 AGRICULTURE, REPAIRING OR REFURBISHING, RECYCLING, DISTRIBUTION
15 CENTERS FOR CONSUMER PRODUCTS, OR ENERGY PRODUCTION WITH A
16 REGULAR DEMAND FOR SUBSTANTIAL NEW OR EXPANDED RAIL FREIGHT
17 TRANSPORTATION CAUSES THE PERSON TO INCUR A QUALIFIED
18 EXPENDITURE.

19 (g) "QUALIFIED EXPENDITURE" MEANS THE AMOUNT PAID BY A
20 QUALIFIED APPLICANT FOR CERTIFIED FREIGHT RAIL USE.

21 (3) **Reservation of tax credit and tax credit allowed.** (a) ON OR
22 AFTER JANUARY 1, 2025, BUT PRIOR TO JANUARY 1, 2036, THE OFFICE MAY
23 RESERVE THE ALLOCATION OF A CREDIT AGAINST THE INCOME TAXES
24 IMPOSED BY THIS ARTICLE 22 FOR A QUALIFIED APPLICANT PURSUANT TO
25 SUBSECTION (5) OF THIS SECTION.

26 (b) IN ORDER TO CLAIM A TAX CREDIT RESERVED PURSUANT TO
27 SUBSECTION (5) OF THIS SECTION, A QUALIFIED APPLICANT MUST, ON OR

1 BEFORE DECEMBER 31, 2038, EXECUTE THE FREIGHT RAIL USE PLAN THAT
2 IT SUBMITS TO THE OFFICE PURSUANT TO SUBSECTION (4) OF THIS SECTION.

3 (c) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
4 1, 2026, AND BEFORE JANUARY 1, 2039, A QUALIFIED APPLICANT IS
5 ALLOWED A CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS
6 ARTICLE 22 IN THE AMOUNT SET FORTH IN THE TAX CREDIT CERTIFICATE
7 ISSUED BY THE OFFICE PURSUANT TO SUBSECTION (6) OF THIS SECTION.

8 (4) **Submission and review of application, freight rail use plan,
9 and qualified expenditures estimate.** (a) TO RECEIVE A TAX CREDIT
10 RESERVATION PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION, A
11 QUALIFIED APPLICANT MUST SUBMIT AN APPLICATION, FREIGHT RAIL USE
12 PLAN, AND QUALIFIED EXPENDITURES ESTIMATE TO THE OFFICE IN
13 ACCORDANCE WITH POLICIES AND PROCEDURES CREATED BY THE OFFICE.
14 AT A MINIMUM, THE APPLICATION MUST INCLUDE AN ESTIMATE OF THE
15 AMOUNT OF QUALIFIED EXPENDITURES THAT THE QUALIFIED APPLICANT
16 EXPECTS TO INCUR FOR ONE OR MORE FUTURE TAX YEARS FOR WHICH THE
17 APPLICANT IS APPLYING FOR THE TAX CREDIT RESERVATION.

18 (b) THE OFFICE SHALL REVIEW A QUALIFIED APPLICANT'S
19 APPLICATION, FREIGHT RAIL USE PLAN, AND QUALIFIED EXPENDITURES
20 ESTIMATE TO:

- 21 (I) DETERMINE WHETHER SUCH INFORMATION IS COMPLETE;
- 22 (II) MAKE PRELIMINARY DETERMINATIONS OF WHETHER THE
23 APPLICANT IS A QUALIFIED APPLICANT AND WHETHER THE FREIGHT RAIL
24 USE PLAN WILL RESULT IN A CERTIFIED FREIGHT RAIL USE;
- 25 (III) MAKE FINAL DETERMINATIONS OF WHETHER THE APPLICANT
26 IS A QUALIFIED APPLICANT AND WHETHER THE FREIGHT RAIL USE PLAN
27 WILL RESULT IN A CERTIFIED FREIGHT RAIL USE; AND

1 (IV) DETERMINE WHICH FREIGHT RAIL USE PLANS TO APPROVE IN
2 CONNECTION WITH THE RESERVATION OF A TAX CREDIT AS PROVIDED IN
3 SUBSECTION (5) OF THIS SECTION.

4 (c) FOR ANY APPLICATION, FREIGHT RAIL USE PLAN, AND
5 QUALIFIED EXPENDITURES ESTIMATE THAT THE OFFICE DETERMINES
6 PURSUANT TO SUBSECTION (4)(b)(I) OF THIS SECTION IS INCOMPLETE, THE
7 OFFICE SHALL NOTIFY THE QUALIFIED APPLICANT IN WRITING OF THE
8 OFFICE'S DETERMINATION AND REMOVE THE APPLICATION, FREIGHT RAIL
9 USE PLAN, AND QUALIFIED EXPENDITURES ESTIMATE FROM THE REVIEW
10 PROCESS.

11 (d) THE OFFICE SHALL MAKE THE PRELIMINARY DETERMINATIONS,
12 PURSUANT TO SUBSECTION (4)(b)(II) OF THIS SECTION, OF WHETHER THE
13 APPLICANT IS A QUALIFIED APPLICANT AND WHETHER THE FREIGHT RAIL
14 USE PLAN IS A CERTIFIED FREIGHT RAIL USE WITHIN NINETY DAYS OF
15 RECEIVING THE APPLICATION, FREIGHT RAIL USE PLAN, AND QUALIFIED
16 EXPENDITURES ESTIMATE PURSUANT TO SUBSECTION (4)(b) OF THIS
17 SECTION.

18 (e) THE OFFICE SHALL DEVELOP STANDARDS IN CONSULTATION
19 WITH THE JUST TRANSITION OFFICE CREATED IN SECTION 8-83-503 (1) AND
20 THE DEPARTMENT OF TRANSPORTATION TO INFORM THE OFFICE'S
21 DETERMINATIONS, PURSUANT TO SUBSECTION (4)(b)(III) OF THIS SECTION,
22 OF WHETHER THE APPLICANT IS A QUALIFIED APPLICANT AND WHETHER
23 THE FREIGHT RAIL USE PLAN WILL RESULT IN A CERTIFIED FREIGHT RAIL
24 USE.

25 (f) IN MAKING THE DETERMINATION, PURSUANT TO SUBSECTION
26 (4)(b)(IV) OF THIS SECTION, OF WHICH FREIGHT RAIL USE PLANS TO
27 APPROVE FOR THE RESERVATION FOR THE BENEFIT OF THE QUALIFIED

1 APPLICANT OF AN ALLOCATION OF A TAX CREDIT, THE OFFICE SHALL
2 PRIORITIZE FREIGHT RAIL USE PLANS THAT:

3 (I) SPECIFY REGULAR, FREQUENT, ONGOING, AND SUBSTANTIAL
4 LONG-TERM FREIGHT RAIL USE;

5 (II) PROVIDE SUBSTANTIAL ECONOMIC DEVELOPMENT BENEFITS;

6 (III) DEMONSTRATE FINANCIAL VIABILITY;

7 (IV) INCORPORATE ENVIRONMENTALLY RESPONSIBLE AND
8 SUSTAINABLE USE OF RESOURCES; AND

9 (V) INCENTIVIZE A DIVERSE GROUP OF BUSINESSES AND SECTORS
10 TO USE TARGETED RAIL LINES.

11 (5) **Reservation of tax credits.** SUBJECT TO SUBSECTION (7) OF
12 THIS SECTION, THE OFFICE MAY RESERVE A TAX CREDIT FOR THE BENEFIT
13 OF A QUALIFIED APPLICANT FOR ANY FUTURE TAX YEAR IN AN AMOUNT
14 NOT TO EXCEED SEVENTY-FIVE PERCENT OF THE QUALIFIED APPLICANT'S
15 QUALIFIED EXPENDITURE ESTIMATE SUBMITTED BY THE QUALIFIED
16 APPLICANT PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION. IF THE
17 OFFICE RESERVES A TAX CREDIT FOR THE BENEFIT OF A QUALIFIED
18 APPLICANT, THE OFFICE SHALL NOTIFY THE QUALIFIED APPLICANT IN
19 WRITING OF THE RESERVATION AND THE AMOUNT RESERVED. THE
20 RESERVATION OF A TAX CREDIT BY THE OFFICE FOR A QUALIFIED
21 APPLICANT DOES NOT ENTITLE THE QUALIFIED APPLICANT TO THE
22 ISSUANCE OF A TAX CREDIT CERTIFICATE UNTIL THE QUALIFIED APPLICANT
23 COMPLIES WITH ALL THE REQUIREMENTS SPECIFIED IN THIS SECTION FOR
24 THE ISSUANCE OF THE TAX CREDIT CERTIFICATE. WHEN THE OFFICE
25 APPROVES A RESERVATION OF TAX CREDITS, THE OFFICE MAY ALSO IMPOSE
26 ADDITIONAL REQUIREMENTS THAT A QUALIFIED APPLICANT SHALL SATISFY
27 AS PART OF EXECUTING A FREIGHT RAIL USE PLAN BEFORE THE OFFICE

1 ISSUES A TAX CREDIT CERTIFICATE TO THE APPLICANT. THE OFFICE MAY
2 USE THE RESERVATION OF A TAX CREDIT IN SUPPORT OF BUSINESS
3 RECRUITMENT.

4 **(6) Deadline for incurring qualified expenditures - proof of**
5 **compliance - audit of freight rail use plan execution - issuance of tax**

6 **credit certificate.** (a) A QUALIFIED APPLICANT RECEIVING A
7 RESERVATION OF TAX CREDITS PURSUANT TO SUBSECTION (5) OF THIS
8 SECTION SHALL INCUR THE QUALIFIED EXPENDITURES DESCRIBED IN THE
9 QUALIFIED EXPENDITURES ESTIMATE SUBMITTED BY THE QUALIFIED
10 APPLICANT PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION IN THE TAX
11 YEARS SET FORTH IN THE QUALIFIED EXPENDITURES ESTIMATE AND IN THE
12 RESERVATION MADE BY THE OFFICE PURSUANT TO SUBSECTION (5) OF THIS
13 SECTION.

14 (b) AFTER EXECUTING A FREIGHT RAIL USE PLAN, THE QUALIFIED
15 APPLICANT SHALL NOTIFY THE OFFICE THAT IT HAS DONE SO AND SHALL
16 ANNUALLY CERTIFY THE RELEVANT QUALIFIED EXPENDITURES. IN THIS
17 NOTICE, THE APPLICANT SHALL INCLUDE A REVIEW OF THE CERTIFICATION
18 THAT ALIGNS WITH OFFICE POLICIES FOR CERTIFICATION OF QUALIFIED
19 EXPENDITURES BY A LICENSED CERTIFIED PUBLIC ACCOUNTANT THAT IS
20 NOT AFFILIATED WITH THE QUALIFIED APPLICANT. THE APPLICANT SHALL
21 ALSO CERTIFY AND PROVIDE DOCUMENTS DEMONSTRATING THAT THE
22 APPLICANT SATISFIED ANY REQUIREMENTS IMPOSED BY THE OFFICE
23 PURSUANT TO SUBSECTION (5) OF THIS SECTION. WITHIN ONE HUNDRED
24 EIGHTY DAYS AFTER RECEIPT OF SUCH DOCUMENTATION FROM THE
25 QUALIFIED APPLICANT, THE OFFICE SHALL REVIEW THE QUALIFIED
26 APPLICANT'S DOCUMENTATION OF QUALIFIED EXPENDITURES, DETERMINE
27 WHETHER THE DOCUMENTATION SATISFIES THE FREIGHT RAIL USE PLAN

1 AND OTHER REQUIREMENTS, AND, IF THE OFFICE DETERMINES THAT THE
2 DOCUMENTATION SATISFIES THE FREIGHT RAIL USE PLAN AND OTHER
3 REQUIREMENTS, THE OFFICE SHALL ISSUE A TAX CREDIT CERTIFICATE IN AN
4 AMOUNT EQUAL TO SEVENTY-FIVE PERCENT OF THE AMOUNT OF THE
5 ACTUAL QUALIFIED EXPENDITURES INCURRED BY THE QUALIFIED
6 APPLICANT, SUBJECT TO SUBSECTION (6)(d) OF THIS SECTION.

7 (c) IF THE OFFICE DETERMINES THAT A QUALIFIED APPLICANT HAS
8 FAILED TO COMPLY WITH THE REQUIREMENTS OF SUBSECTION (6)(a) OR
9 (6)(b) OF THIS SECTION, THE OFFICE SHALL PROMPTLY NOTIFY THE
10 QUALIFIED APPLICANT AND MAY RESCIND THE ISSUANCE OF THE WRITTEN
11 NOTICE IT PREVIOUSLY GAVE THE QUALIFIED APPLICANT GRANTING THE
12 RESERVATION OF A TAX CREDIT IN WHOLE OR IN PART. IF THE OFFICE SO
13 RESCINDS AN ISSUANCE OF THE WRITTEN NOTICE, THE QUALIFIED
14 APPLICANT MAY SUBMIT A NEW APPLICATION, FREIGHT RAIL USE PLAN,
15 AND QUALIFIED EXPENDITURES ESTIMATE IN ACCORDANCE WITH THE
16 REQUIREMENTS OF SUBSECTION (4) OF THIS SECTION AND THE TOTAL
17 AMOUNT OF TAX CREDITS MADE AVAILABLE FOR RESERVATION IN THE
18 CALENDAR YEAR DURING WHICH THE OFFICE RESCINDS THE ISSUANCE OF
19 THE WRITTEN NOTICE MUST INCREASE BY THE AMOUNT OF THE TAX CREDIT
20 RESERVED IN THE WRITTEN NOTICE.

21 (d) NOTWITHSTANDING SUBSECTION (6)(b) OF THIS SECTION, THE
22 TOTAL AMOUNT OF THE TAX CREDIT CERTIFICATE ISSUED FOR ANY
23 PARTICULAR FREIGHT RAIL USE PLAN MUST NOT EXCEED THE AMOUNT OF
24 THE TAX CREDIT RESERVED BY THE OFFICE PURSUANT TO SUBSECTION (5)
25 OF THIS SECTION.

26 (e) TO THE EXTENT THAT THE ACTUAL QUALIFIED EXPENDITURES
27 INCURRED BY A QUALIFIED APPLICANT ARE LESS THAN THE AMOUNT

1 DESCRIBED IN THE RELEVANT RESERVATION ISSUED BY THE OFFICE FOR A
2 TAX YEAR PURSUANT TO SUBSECTION (5) OF THIS SECTION, THE TOTAL
3 AMOUNT OF TAX CREDITS MADE AVAILABLE FOR RESERVATION IN THE
4 CALENDAR YEAR IN WHICH THE QUALIFIED APPLICANT FILED THE
5 CERTIFICATION REQUIRED BY SUBSECTION (6)(b) OF THIS SECTION MUST
6 INCREASE BY THE DIFFERENCE BETWEEN ACTUAL QUALIFIED
7 EXPENDITURES INCURRED BY THE QUALIFIED APPLICANT AND THE AMOUNT
8 DESCRIBED IN THE RELEVANT RESERVATION ISSUED BY THE OFFICE FOR A
9 TAX YEAR PURSUANT TO SUBSECTION (5) OF THIS SECTION.

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

- 16 (I) THE TAXPAYER'S NAME;
- 17 (II) THE AMOUNT OF THE INCOME TAX CREDIT THAT THE
18 CERTIFICATE INDICATES THE TAXPAYER IS ELIGIBLE TO CLAIM; AND
- 19 (III) THE TAXPAYER'S SOCIAL SECURITY NUMBER OR THE
20 TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL EMPLOYER
21 IDENTIFICATION NUMBER.

22 (7) **Limit on aggregate amount of all tax credits that the office**
23 **may reserve.** (a) THE AGGREGATE AMOUNT OF ALL TAX CREDITS THAT
24 THE OFFICE MAY RESERVE PURSUANT TO THIS SECTION MUST NOT EXCEED
25 FIVE MILLION DOLLARS IN ANY CALENDAR YEAR, IN ADDITION TO THE
26 AMOUNT OF ANY PREVIOUSLY RESERVED TAX CREDITS THAT WERE
27 RESCINDED OR NOT UTILIZED PURSUANT TO SUBSECTIONS (6)(c) AND (6)(e)

1 OF THIS SECTION DURING THE CALENDAR YEAR AND THE AMOUNT
2 DESCRIBED IN SUBSECTION (7)(c) OF THIS SECTION. IN THE CASE OF A TAX
3 CREDIT RESERVED FOR THE BENEFIT OF A QUALIFIED APPLICANT THAT
4 FILES AN INCOME TAX RETURN FOR A TAX YEAR OTHER THAN A CALENDAR
5 YEAR, THE AMOUNT RESERVED MUST COUNT AGAINST THE LIMIT FOR THE
6 CALENDAR YEAR IN WHICH THE QUALIFIED APPLICANT'S INCOME TAX YEAR
7 BEGINS.

8 (b) THE AMOUNT OF EACH TAX CREDIT THAT THE OFFICE MAY
9 RESERVE IS DETERMINED PURSUANT TO SUBSECTION (5) OF THIS SECTION;
10 EXCEPT THAT IF THE OFFICE DETERMINES THAT RESERVING EACH TAX
11 CREDIT CERTIFICATE IN AN AMOUNT DETERMINED PURSUANT TO
12 SUBSECTION (5) OF THIS SECTION WILL CAUSE THE TOTAL AMOUNT OF TAX
13 CREDITS RESERVED BY THE OFFICE FOR A CALENDAR YEAR TO EXCEED THE
14 LIMIT SET FORTH IN SUBSECTION (7)(a) OF THIS SECTION, THE OFFICE
15 SHALL PROPORTIONALLY REDUCE THE AMOUNT OF EACH TAX CREDIT
16 RESERVATION SO THAT THE TOTAL AMOUNT OF TAX CREDITS RESERVED BY
17 THE OFFICE FOR THAT CALENDAR YEAR EQUALS THE LIMIT SET FORTH IN
18 SUBSECTION (7)(a) OF THIS SECTION.

19 (c) IF THE AGGREGATE AMOUNT OF ALL TAX CREDITS RESERVED BY
20 THE OFFICE FOR ANY CALENDAR YEAR IS LESS THAN THE AMOUNT
21 AVAILABLE AS CALCULATED PURSUANT TO SUBSECTION (7)(a) OF THIS
22 SECTION, THEN THE AGGREGATE AMOUNT OF ALL TAX CREDITS THAT THE
23 OFFICE MAY RESERVE IN THE NEXT CALENDAR YEAR IS INCREASED BY THE
24 UNRESERVED AMOUNT.

25 (8) **Filing tax credit certificate with income tax return.** IN
26 ORDER TO CLAIM THE TAX CREDIT AUTHORIZED BY THIS SECTION, A
27 QUALIFIED APPLICANT SHALL FILE THE TAX CREDIT CERTIFICATE ISSUED BY

1 THE OFFICE PURSUANT TO SUBSECTION (6) OF THIS SECTION WITH THE
2 QUALIFIED APPLICANT'S STATE INCOME TAX RETURN. THE AMOUNT OF THE
3 TAX CREDIT THAT A QUALIFIED APPLICANT MAY CLAIM PURSUANT TO THIS
4 SECTION IS THE AMOUNT STATED ON THE TAX CREDIT CERTIFICATE.

5 (9) **Refundability.** THE ENTIRE TAX CREDIT TO BE ISSUED
6 PURSUANT TO THIS SECTION MAY BE CLAIMED BY THE QUALIFIED
7 APPLICANT FOR THE QUALIFIED EXPENDITURES MADE IN THE TAXABLE
8 YEAR IN WHICH THE QUALIFIED APPLICANT EXECUTES A FREIGHT RAIL USE
9 PLAN. IF THE AMOUNT OF THE TAX CREDIT ALLOWED PURSUANT TO THIS
10 SECTION EXCEEDS THE AMOUNT OF INCOME TAXES OTHERWISE DUE ON THE
11 INCOME OF THE QUALIFIED APPLICANT IN THE INCOME TAX YEAR FOR
12 WHICH THE TAX CREDIT IS BEING CLAIMED, THE ENTIRE AMOUNT OF THE
13 TAX CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES IN THE
14 INCOME TAX YEAR IS REFUNDED TO THE QUALIFIED APPLICANT.

15 (10) **Policies and procedures.** THE OFFICE MAY CREATE AND
16 MODIFY POLICIES AND PROCEDURES AS NECESSARY TO FURTHER
17 IMPLEMENT THIS SECTION AND SHALL SOLICIT ADVICE FROM THE
18 DEPARTMENT IN CREATING AND MODIFYING SUCH POLICIES AND
19 PROCEDURES.

20 (11) Insufficient taxpayer interest. NOTWITHSTANDING ANY LAW
21 TO THE CONTRARY, FOR CALENDAR YEARS BEGINNING ON OR AFTER
22 JANUARY 1, 2031, THE OFFICE MAY DETERMINE THAT THERE IS
23 INSUFFICIENT TAXPAYER INTEREST TO CONTINUE OFFERING THE TAX
24 CREDIT PURSUANT TO THIS SECTION. AFTER THE OFFICE MAKES SUCH A
25 DETERMINATION, IT SHALL NOT ACCEPT ANY MORE APPLICATIONS FOR TAX
26 CREDITS PURSUANT TO THIS SECTION AND IT SHALL INFORM THE
27 DEPARTMENT THAT IT HAS DISCONTINUED THE CREDIT.

1 **(12) Repeal.** THIS SECTION IS REPEALED, EFFECTIVE DECEMBER
2 31, 2045.

3 **39-22-561. New railroad operator tax credit - tax preference**
4 **performance statement - definitions - repeal. (1) Tax preference**
5 **performance statement.** (a) IN ACCORDANCE WITH SECTION 39-21-304
6 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE
7 TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A
8 STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY FINDS
9 AND DECLARES THAT THE PURPOSES OF THE TAX CREDIT PROVIDED IN THIS
10 SECTION ARE TO PROVIDE TAX RELIEF TO CERTAIN BUSINESSES,
11 SPECIFICALLY RAILROAD OPERATORS, AND TO INDUCE CERTAIN
12 DESIGNATED BEHAVIOR BY TAXPAYERS, SPECIFICALLY MAINTAINING RAIL
13 LINE ACCESS TO COAL TRANSITION COMMUNITIES.

14 (b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
15 MEASURE THE EFFECTIVENESS OF THE TAX CREDIT IN ACHIEVING THE
16 PURPOSES SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION BASED ON THE
17 NUMBER AND VALUE OF TAX CREDITS CLAIMED PURSUANT TO THIS
18 SECTION.

19 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
20 OTHERWISE REQUIRES:

21 (a) "COAL TRANSITION COMMUNITY" MEANS A TIER ONE
22 TRANSITION COMMUNITY AS DEFINED IN SECTION 8-83-502 (10).

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

24 (c) "QUALIFIED EXPENDITURE" MEANS DIRECT OPERATING AND
25 CAPITAL IMPROVEMENT EXPENDITURES NECESSARY TO MAINTAIN OR
26 IMPROVE A QUALIFIED RAIL LINE.

27 (d) "QUALIFIED RAIL LINE" MEANS A RAIL LINE IN THIS STATE THAT

1 THE DEPARTMENT OF TRANSPORTATION HAS DETERMINED IS BOTH:

2 (I) AT RISK OF INACTIVITY OR ABANDONMENT DUE TO A LACK OF
3 DEMAND; AND

4 (II) COVERED BY AN ACCESS AGREEMENT FOR PASSENGER RAIL
5 ACCESS ON THE LINE BETWEEN THE QUALIFIED TAXPAYER AND THE STATE
6 THROUGH AT LEAST JANUARY 1, 2038.

7 (e) "QUALIFIED TAXPAYER" MEANS A COMMON CARRIER ENGAGED
8 IN THE TRANSPORTATION OF FREIGHT ON A QUALIFIED RAIL LINE.

9 (3) **Tax credit allowed.** FOR INCOME TAX YEARS COMMENCING ON
10 OR AFTER JANUARY 1, 2027, BUT BEFORE JANUARY 1, 2038, A QUALIFIED
11 TAXPAYER IS ALLOWED A CREDIT AGAINST THE INCOME TAXES IMPOSED BY
12 THIS ARTICLE 22 IN AN AMOUNT EQUAL TO THE AMOUNT STATED ON THE
13 TAX CREDIT CERTIFICATE ISSUED BY THE DEPARTMENT OF
14 TRANSPORTATION PURSUANT TO SUBSECTION (4)(c) OF THIS SECTION.

15 (4) **Application - tax credit certificate issuance.** (a) (I) IN ORDER
16 TO CLAIM A TAX CREDIT PURSUANT TO THIS SECTION, A TAXPAYER MUST
17 SUBMIT AN APPLICATION TO THE DEPARTMENT OF TRANSPORTATION ON OR
18 BEFORE DECEMBER 31 OF THE YEAR FOR WHICH THE TAXPAYER WISHES TO
19 CLAIM THE TAX CREDIT, AND THE TAXPAYER MUST SUBMIT THE
20 APPLICATION IN A FORM AND MANNER DETERMINED BY THE DEPARTMENT.

21 (II) A TAXPAYER'S APPLICATION SUBMITTED PURSUANT TO
22 SUBSECTION (4)(a)(I) OF THIS SECTION MUST INCLUDE A CERTIFICATION OF
23 THE TAXPAYER'S QUALIFIED EXPENDITURES AND A REVIEW OF THE
24 CERTIFICATION THAT ALIGNS WITH DEPARTMENT OF TRANSPORTATION
25 POLICIES FOR CERTIFICATION OF QUALIFIED EXPENDITURES BY A LICENSED
26 CERTIFIED PUBLIC ACCOUNTANT THAT IS NOT AFFILIATED WITH THE
27 TAXPAYER.

1 (b) THE DEPARTMENT OF TRANSPORTATION SHALL REVIEW A
2 TAXPAYER'S APPLICATION SUBMITTED PURSUANT TO SUBSECTION (4)(a) OF
3 THIS SECTION TO DETERMINE:

4 (I) WHETHER THE TAXPAYER IS A QUALIFIED TAXPAYER;

5 (II) WHETHER THE TAXPAYER INCURRED QUALIFIED
6 EXPENDITURES;

7 (III) THE AMOUNT OF THE QUALIFIED EXPENDITURES INCURRED BY
8 THE TAXPAYER; AND

9 (IV) THE AMOUNT OF THE TAX CREDIT THAT THE TAXPAYER MAY
10 CLAIM FOR THE RELEVANT TAX YEAR, WHICH AMOUNT MUST NOT EXCEED
11 SEVENTY-FIVE PERCENT OF THE AMOUNT OF QUALIFIED EXPENDITURES
12 INCURRED BY THE TAXPAYER.

13 (c) UPON APPROVING A QUALIFIED TAXPAYER'S APPLICATION AND
14 MAKING THE DETERMINATIONS DESCRIBED IN SUBSECTION (4)(b) OF THIS
15 SECTION, AND SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTION (5)
16 OF THIS SECTION, THE DEPARTMENT OF TRANSPORTATION SHALL ISSUE A
17 TAX CREDIT CERTIFICATE TO THE QUALIFIED TAXPAYER IN AN AMOUNT
18 EQUAL TO THE AMOUNT DETERMINED BY THE DEPARTMENT OF
19 TRANSPORTATION PURSUANT TO SUBSECTION (4)(b)(IV) OF THIS SECTION.

20 (d) THE DEPARTMENT OF TRANSPORTATION SHALL, IN A
21 SUFFICIENTLY TIMELY MANNER TO ALLOW THE DEPARTMENT TO PROCESS
22 RETURNS CLAIMING THE TAX CREDIT ALLOWED IN THIS SECTION, PROVIDE
23 THE DEPARTMENT WITH AN ELECTRONIC REPORT FOR THE PRECEDING TAX
24 YEAR THAT LISTS EACH QUALIFIED TAXPAYER TO WHICH THE DEPARTMENT
25 OF TRANSPORTATION ISSUED A TAX CREDIT CERTIFICATE AND INCLUDES
26 THE FOLLOWING INFORMATION:

27 (I) THE QUALIFIED TAXPAYER'S NAME;

1 (II) THE AMOUNT OF THE INCOME TAX CREDIT THAT THE
2 CERTIFICATE INDICATES THE QUALIFIED TAXPAYER IS ELIGIBLE TO CLAIM;
3 AND

4 (III) THE QUALIFIED TAXPAYER'S SOCIAL SECURITY NUMBER OR
5 THE QUALIFIED TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL
6 EMPLOYER IDENTIFICATION NUMBER.

7 **(5) Limit on aggregate amount of all tax credits that the**
8 **department of transportation may reserve.** (a) THE AGGREGATE
9 AMOUNT OF ALL TAX CREDIT CERTIFICATES THAT THE DEPARTMENT OF
10 TRANSPORTATION MAY ISSUE PURSUANT TO THIS SECTION MUST NOT
11 EXCEED FIVE MILLION DOLLARS IN ANY CALENDAR YEAR, IN ADDITION TO
12 THE AMOUNT OF ANY PREVIOUSLY ISSUED TAX CREDIT CERTIFICATES THAT
13 WERE RESCINDED OR NOT UTILIZED DURING THE CALENDAR YEAR AND THE
14 AMOUNT DESCRIBED IN SUBSECTION (5)(c) OF THIS SECTION. IN THE CASE
15 OF A TAX CREDIT CERTIFICATE ISSUED FOR THE BENEFIT OF A QUALIFIED
16 TAXPAYER THAT FILES AN INCOME TAX RETURN FOR A TAX YEAR OTHER
17 THAN A CALENDAR YEAR, THE AMOUNT IN THE TAX CREDIT CERTIFICATE
18 MUST COUNT AGAINST THE LIMIT FOR THE CALENDAR YEAR IN WHICH THE
19 QUALIFIED APPLICANT'S INCOME TAX YEAR BEGINS.

20 (b) THE AMOUNT OF EACH TAX CREDIT THAT THE DEPARTMENT OF
21 TRANSPORTATION MAY ISSUE IN A TAX CREDIT CERTIFICATE IS
22 DETERMINED PURSUANT TO SUBSECTION (4) OF THIS SECTION; EXCEPT
23 THAT IF THE DEPARTMENT OF TRANSPORTATION DETERMINES THAT THE
24 ISSUING OF EACH TAX CREDIT CERTIFICATE IN AN AMOUNT DETERMINED
25 PURSUANT TO SUBSECTION (4) OF THIS SECTION WILL CAUSE THE TOTAL
26 AMOUNT OF TAX CREDIT CERTIFICATES ISSUED BY THE DEPARTMENT OF
27 TRANSPORTATION FOR A CALENDAR YEAR TO EXCEED THE LIMIT SET

1 FORTH IN SUBSECTION (5)(a) OF THIS SECTION, THE DEPARTMENT OF
2 TRANSPORTATION SHALL PROPORTIONALLY REDUCE THE AMOUNT OF EACH
3 TAX CREDIT CERTIFICATE ISSUED BY THE DEPARTMENT OF
4 TRANSPORTATION SO THAT THE TOTAL AMOUNT OF TAX CREDIT
5 CERTIFICATES ISSUED BY THE DEPARTMENT OF TRANSPORTATION FOR
6 THAT CALENDAR YEAR EQUALS THE LIMIT SET FORTH IN SUBSECTION (5)(a)
7 OF THIS SECTION.

8 (c) IF THE AGGREGATE AMOUNT OF ALL TAX CREDIT CERTIFICATES
9 ISSUED BY THE DEPARTMENT OF TRANSPORTATION FOR ANY CALENDAR
10 YEAR IS LESS THAN THE AMOUNT AVAILABLE AS CALCULATED PURSUANT
11 TO SUBSECTION (5)(a) OF THIS SECTION, THEN THE AGGREGATE AMOUNT
12 OF ALL TAX CREDIT CERTIFICATES THAT THE DEPARTMENT OF
13 TRANSPORTATION MAY ISSUE IN THE NEXT CALENDAR YEAR IS INCREASED
14 BY THE UNISSUED AMOUNT.

15 (d) IF, PURSUANT TO SECTION 39-22-560 (11), THE COLORADO
16 OFFICE OF ECONOMIC DEVELOPMENT DETERMINES THAT THERE IS
17 INSUFFICIENT INTEREST IN THE TAX CREDIT OFFERED PURSUANT TO
18 SECTION 39-22-560, THE AGGREGATE AMOUNT OF ALL TAX CREDIT
19 CERTIFICATES THAT THE DEPARTMENT OF TRANSPORTATION MAY ISSUE IS
20 INCREASED BY FIVE MILLION DOLLARS FOR EACH OF THE FOLLOWING
21 CALENDAR YEARS THROUGH CALENDAR YEAR 2037.

22 (6) **Refundability.** IF THE AMOUNT OF THE TAX CREDIT ALLOWED
23 PURSUANT TO THIS SECTION EXCEEDS THE AMOUNT OF INCOME TAXES
24 OTHERWISE DUE ON THE INCOME OF THE QUALIFIED TAXPAYER IN THE
25 INCOME TAX YEAR FOR WHICH THE CREDIT IS BEING CLAIMED, THE
26 AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES
27 IN THE INCOME TAX YEAR IS REFUNDED TO THE QUALIFIED TAXPAYER.

1 **(7) Filing tax credit certificate with income tax return.** IN
2 ORDER TO CLAIM THE TAX CREDIT AUTHORIZED BY THIS SECTION, A
3 QUALIFIED TAXPAYER SHALL FILE THE TAX CREDIT CERTIFICATE ISSUED BY
4 THE DEPARTMENT OF TRANSPORTATION PURSUANT TO SUBSECTION (4)(c)
5 OF THIS SECTION WITH THE QUALIFIED TAXPAYER'S STATE INCOME TAX
6 RETURN. THE AMOUNT OF THE TAX CREDIT THAT A QUALIFIED TAXPAYER
7 MAY CLAIM PURSUANT TO THIS SECTION IS THE AMOUNT STATED ON THE
8 TAX CREDIT CERTIFICATE.

9 **(8) Compliance monitoring and recapture.** (a) IF, AS OF THE
10 LAST DAY OF ANY TAXABLE YEAR DURING THE COMPLIANCE PERIOD, THE
11 QUALIFIED RAIL LINE IS NOT IN GOOD OPERATING CONDITION OR THE
12 QUALIFIED TAXPAYER IS NOT MEETING ONE OR MORE OF THE SERVICE
13 CRITERIA SPECIFIED IN ACCESS AGREEMENTS TO THE QUALIFIED RAIL LINE
14 FOR PASSENGER OPERATIONS, THE DEPARTMENT OF TRANSPORTATION
15 SHALL NOTIFY THE QUALIFIED TAXPAYER AND THE DEPARTMENT THAT ALL
16 OR A PORTION OF THE TOTAL AMOUNT OF THE TAX CREDITS ALLOWED TO
17 THE QUALIFIED TAXPAYER PURSUANT TO THIS SECTION FOR THE TAX YEAR
18 THAT PRECEDED THE COMPLIANCE PERIOD AND ANY TAX YEAR
19 THEREAFTER IS DISALLOWED. THE QUALIFIED TAXPAYER SHALL ADD THE
20 AMOUNT OF THE TAX CREDIT THAT IS DISALLOWED TO ITS RETURN AS A
21 RECAPTURED TAX CREDIT FOR THE TAXABLE YEAR IN WHICH THE TAX
22 CREDIT IS DISALLOWED PURSUANT TO THIS SUBSECTION (8).

23 **(b) (I)** THE DEPARTMENT OF TRANSPORTATION SHALL ESTABLISH
24 REPORTING REQUIREMENTS TO MONITOR COMPLIANCE WITH THIS
25 SUBSECTION (8), INCLUDING REQUIREMENTS REGARDING THE REPORTING
26 OF THE STATUS OF A QUALIFIED RAIL LINE BY THE QUALIFIED TAXPAYER
27 AND WHETHER THE QUALIFIED TAXPAYER IS OR IS NOT MEETING ANY

1 SERVICE CRITERIA SPECIFIED IN ACCESS AGREEMENTS.

2 (II) IF A DISPUTE ARISES ABOUT WHETHER A QUALIFIED RAIL LINE
3 IS NOT IN GOOD OPERATING CONDITION OR THE QUALIFIED TAXPAYER IS
4 NOT MEETING ANY SERVICE CRITERIA SPECIFIED IN ACCESS AGREEMENTS,
5 THE DEPARTMENT OF TRANSPORTATION SHALL RESOLVE THE DISPUTE AND
6 NOTIFY THE DEPARTMENT OF THE RESOLUTION.

7 (c) AS USED IN THIS SUBSECTION (8), UNLESS THE CONTEXT
8 OTHERWISE REQUIRES, "COMPLIANCE PERIOD" MEANS THE PERIOD OF
9 THREE YEARS FOLLOWING ANY YEAR IN WHICH THE QUALIFIED TAXPAYER
10 CLAIMED A TAX CREDIT PURSUANT TO THIS SECTION.

11 (9) **Application of tax credit.** A QUALIFIED TAXPAYER WHO
12 CLAIMS A TAX CREDIT PURSUANT TO THIS SECTION SHALL PROVIDE THE
13 STATE OR OTHER PASSENGER RAIL OPERATOR FULL CREDIT FOR THE VALUE
14 OF THAT TAX CREDIT AGAINST ANY COSTS, FEES, OR OTHER CHARGES THAT
15 THE QUALIFIED TAXPAYER MAY CHARGE FOR PASSENGER RAIL OPERATIONS
16 ACCESS, OPERATIONS, OR MAINTENANCE ON THE QUALIFYING RAIL LINE
17 PURSUANT TO AN ACCESS AGREEMENT BETWEEN THE QUALIFIED
18 TAXPAYER AND THE STATE FOR PASSENGER RAIL ACCESS.

19 (10) **Rules.** THE DEPARTMENT OF TRANSPORTATION AND THE
20 DEPARTMENT MAY PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4
21 OF TITLE 24 AS MAY BE NECESSARY TO EFFECTUATE THE PURPOSES OF THIS
22 SECTION.

23 (11) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE DECEMBER
24 31, 2045.

25 **SECTION 6.** In Colorado Revised Statutes, 39-30-103, **amend**
26 (1) as follows:

27 **39-30-103. Zones established - review - termination.**

1 (1) (a) Any municipality, county, or group of contiguous municipalities
2 or counties may propose an area of such municipality, county, or group
3 of municipalities or counties to be designated as an enterprise zone if the
4 area has a population of no more than one hundred fifteen thousand
5 persons as calculated pursuant to subsection (1.3) of this section, or one
6 hundred fifty thousand persons as calculated pursuant to subsection (1.3)
7 of this section if the area is a rural area, and meets at least one of the
8 following additional criteria:

9 (a) (I) An unemployment rate at least twenty-five percent above
10 the state average for the most recent period of twelve consecutive months
11 for which data is available from the United States census bureau or the
12 department of local affairs;

13 (b) (II) A population growth rate less than twenty-five percent of
14 the state average rate for the most recent five-year period for which data
15 are available from the United States census bureau or the department of
16 local affairs, or, if such data is not available for any five-year period, for
17 the most recent period of not less than five nor more than ten years for
18 which such data is available; or

19 (c) (III) A per capita income less than seventy-five percent of the
20 state average for the most recent period for which data is available from
21 the United States census bureau or the department of local affairs.

22 (b) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, ON OR
23 AFTER JULY 1, 2024, BUT BEFORE JANUARY 1, 2034, ANY MUNICIPALITY,
24 COUNTY, OR GROUP OF CONTIGUOUS MUNICIPALITIES OR COUNTIES MAY
25 PROPOSE AN AREA OF SUCH MUNICIPALITY, COUNTY, OR GROUP OF
26 MUNICIPALITIES OR COUNTIES TO BE DESIGNATED AS AN ENTERPRISE ZONE,
27 SO LONG AS THAT AREA IS A RURAL AREA DESIGNATED AS A TIER ONE

1 TRANSITION COMMUNITY AS DEFINED IN SECTION 8-83-502 (10).

2 **SECTION 7.** In Colorado Revised Statutes, 39-30-103.2, **amend**
3 (2); and **add** (1.5) as follows:

4 **39-30-103.2. Enhanced rural enterprise zones - criteria -**
5 **termination.** (1.5) ON JANUARY 1, 2025, THROUGH DECEMBER 31, 2035,
6 THE PORTION OF ANY COUNTY WITHIN AN ENTERPRISE ZONE IN A RURAL
7 AREA, AS DEFINED IN SECTION 39-30-103 (1.5), THAT IS A TIER ONE
8 TRANSITION COMMUNITY, AS DEFINED IN SECTION 8-83-502 (10), IS
9 DESIGNATED AS AN ENHANCED RURAL ENTERPRISE ZONE PURSUANT TO
10 THIS SECTION.

11 (2) By December 1, 2002, and every two years thereafter, the
12 director of the Colorado office of economic development shall determine
13 whether each county meets two or more of the criteria specified in
14 subsection (1) of this section OR MEET THE SINGLE CRITERION SPECIFIED
15 IN SUBSECTION (1.5) OF THIS SECTION. Such determination shall be based
16 on the most recent statistics available. The director of the Colorado office
17 of economic development shall provide to each enterprise zone
18 administrator and to the board of county commissioners of each eligible
19 county a list of the counties that meet two or more of the criteria specified
20 in subsection (1) of this section OR MEET THE SINGLE CRITERION SPECIFIED
21 IN SUBSECTION (1.5) OF THIS SECTION.

22 **SECTION 8. Act subject to petition - effective date.** This act
23 takes effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly; except
25 that, if a referendum petition is filed pursuant to section 1 (3) of article V
26 of the state constitution against this act or an item, section, or part of this
27 act within such period, then the act, item, section, or part will not take

1 effect unless approved by the people at the general election to be held in
2 November 2024 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.