

## CHAPTER 280

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**TRANSPORTATION**

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**SENATE BILL 24-190**

BY SENATOR(S) Roberts, Will, Winter F., Bridges, Buckner, Cutter, Exum, Ginal, Hansen, Marchman, Michaelson Jenet, Priola, Simpson, Fenberg;  
also REPRESENTATIVE(S) Lukens and McCluskie, Amabile, Catlin, McLachlan, Soper, Titone, Velasco, Bird, Boesenecker, Brown, Duran, Hamrick, Jodeh, Joseph, Kipp, Lindsay, Marvin, Mauro, McCormick, Ortiz, Ricks, Rutinel, Story, Willford, Woodrow.

**AN ACT**

**CONCERNING ECONOMIC MEASURES RELATED TO COAL TRANSITION COMMUNITIES, AND, IN CONNECTION THEREWITH, CREATING AN INCOME TAX CREDIT FOR QUALIFIED COSTS INCURRED IN THE USE OF CERTAIN FREIGHT RAIL LINES; CREATING AN INCOME TAX CREDIT FOR QUALIFIED COSTS INCURRED IN THE MAINTENANCE, OPERATION, AND IMPROVEMENT OF CERTAIN RAIL LINES; EXPANDING THE RURAL OPPORTUNITY OFFICE'S DUTIES IN RELATION TO COAL TRANSITION COMMUNITIES; ALLOWING COAL TRANSITION COMMUNITIES TO QUALIFY AS ENTERPRISE ZONES AND ENHANCED RURAL ENTERPRISE ZONES; RESTRICTING THE LENGTH OF CONTRACTS THAT ALLOW USE OF THE MOFFAT TUNNEL; RESTRICTING THE ABILITY TO PURCHASE REAL PROPERTY INTERESTS OF THE MOFFAT TUNNEL IMPROVEMENT DISTRICT; AND MAKING AN APPROPRIATION.**

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

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

(a) The impending closures of coal-fired power plants, coal mines, and supply chain businesses in Colorado's coal transition communities, as defined in section 8-83-502 (1), Colorado Revised Statutes, threatens to cause a significant loss of high-quality jobs, economic activity, and property and other tax revenue in these communities. These closures also threaten the economic security of the coal workers and families who have helped power Colorado's prosperity for generations.

(b) In 2019, the general assembly established the just transition office to develop strong and comprehensive policies to help these communities to grow and diversify their local and regional economies to continue to prosper after coal and to help these workers and families remain economically secure. The just transition office works with workers, communities, and other state and federal agencies, including the

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

office of economic development and international trade and its rural opportunity office, to seek new business and job opportunities in coal transition communities.

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

(d) Therefore, to help ensure a just transition away from coal for these communities, further efforts are needed to target, coordinate, and incentivize new opportunities related to businesses that rely on existing or generate new rail freight activity. Tax credits to incentivize new or expanded freight activity will help attract new and expanded business opportunities and help keep lines in service, thereby supporting the creation of good new jobs, new and more diverse business activity, and increased tax revenue for coal transition communities.

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

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

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

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

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

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

(c) Make recommendations that inform the governor's policy on rural economic

development matters, including policy on economic development issues unique to rural communities; ~~and~~

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

(e) IN COORDINATION WITH COUNTY COMMISSIONERS, MUNICIPAL OFFICIALS, LOCAL CHAMBERS OF COMMERCE AND ECONOMIC DEVELOPMENT ORGANIZATIONS, INSTITUTIONS OF HIGHER EDUCATION, PRIVATE INDUSTRY, AN EMPLOYEE ORGANIZATION REPRESENTING RAIL WORKERS, AND ANY LOCAL ORGANIZATIONS DEDICATED TO INCREASED RAIL USAGE, PURSUE OPPORTUNITIES FOR NEW, EARLY STAGE, 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.

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

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

(b) The power to enter into contracts with persons and with private and public corporations for the right to use the tunnel for the transmission of power, for telephone and other communication lines, for railroad and railway purposes, and for any other purpose to which the same may be adapted. THE TERM OF A CONTRACT WITH ANY PERSON FOR THE RIGHT TO USE THE TUNNEL MUST NOT EXCEED NINETY-NINE YEARS. All the contracts and rights of use shall be subject and subordinate to all prior contracts and may not impair the rights of any existing legal user.

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

**32-8-124.7. Property of Moffat tunnel improvement district.** (1) (a) The department ~~shall have the~~ HAS authority to convey or transfer ownership of all tangible property, real and personal, or any interest therein owned by the district for fair market value AND FOR LESS THAN FAIR MARKET VALUE, IF THE DEPARTMENT FINDS SUCH A CONVEYANCE AND TRANSFER IS IN THE PUBLIC INTEREST. ~~Each user shall have the right to purchase, to the extent of its use, real property interests of the district at fair market value, which shall be determined pursuant to the appraisal procedures of the department. Fair market value, as used in this section, shall not include any improvements or the value of any improvements owned or paid for by the user. In addition, when determining fair market value of any portion of or interest in the real property of the district, the value or detriment of any lease, license, or permit granted for the benefit of the party acquiring such real property shall not be considered. Each user shall also have a commercially reasonable right of first refusal to purchase at the fair market value, to the extent of its use, any real property interest offered for conveyance.~~

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

**39-22-560. Tax credit for freight rail use - tax preference performance statement - legislative declaration - definitions - repeal. (1) Tax preference performance statement.** (a) IN ACCORDANCE WITH SECTION 39-21-304(1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE PURPOSES OF THE TAX CREDIT PROVIDED IN THIS SECTION ARE TO PROVIDE TAX RELIEF TO CERTAIN BUSINESSES, SPECIFICALLY THOSE BUSINESSES ENGAGED IN NEW OR EXPANDED MANUFACTURING, REPAIR OR REFURBISHING, AGRICULTURE, RECYCLING, DISTRIBUTION CENTERS FOR CONSUMER PRODUCTS, OR ENERGY PRODUCTION THAT WILL UTILIZE FREIGHT RAIL THAT IS IN DANGER OF GOING OUT OF SERVICE DUE TO COAL PRODUCTION REDUCTIONS AND CLOSURES, AND TO INDUCE CERTAIN DESIGNATED BEHAVIORS BY TAXPAYERS, SPECIFICALLY EXPENDITURES ON FREIGHT RAIL TRANSPORTATION SERVICE IN A COAL TRANSITION COMMUNITY.

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

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

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

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

(II) 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.

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

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

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

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

(f) "QUALIFIED APPLICANT" MEANS A PERSON SUBJECT TO TAX UNDER THIS ARTICLE 22 WHOSE ENGAGEMENT IN MANUFACTURING, AGRICULTURE, REPAIRING OR REFURBISHING, RECYCLING, DISTRIBUTION CENTERS FOR CONSUMER PRODUCTS, OR ENERGY PRODUCTION WITH A REGULAR DEMAND FOR SUBSTANTIAL NEW OR

EXPANDED RAIL FREIGHT TRANSPORTATION CAUSES THE PERSON TO INCUR A QUALIFIED EXPENDITURE.

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

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

(b) IN ORDER TO CLAIM A TAX CREDIT RESERVED PURSUANT TO SUBSECTION (5) OF THIS SECTION, A QUALIFIED APPLICANT MUST, ON OR BEFORE DECEMBER 31, 2038, EXECUTE THE FREIGHT RAIL USE PLAN THAT IT SUBMITS TO THE OFFICE PURSUANT TO SUBSECTION (4) OF THIS SECTION.

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

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

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

(I) DETERMINE WHETHER SUCH INFORMATION IS COMPLETE;

(II) MAKE PRELIMINARY DETERMINATIONS OF WHETHER THE APPLICANT IS A QUALIFIED APPLICANT AND WHETHER THE FREIGHT RAIL USE PLAN WILL RESULT IN A CERTIFIED FREIGHT RAIL USE;

(III) MAKE FINAL DETERMINATIONS OF WHETHER THE APPLICANT IS A QUALIFIED APPLICANT AND WHETHER THE FREIGHT RAIL USE PLAN WILL RESULT IN A CERTIFIED FREIGHT RAIL USE; AND

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

(c) FOR ANY APPLICATION, FREIGHT RAIL USE PLAN, AND QUALIFIED EXPENDITURES ESTIMATE THAT THE OFFICE DETERMINES PURSUANT TO SUBSECTION

(4)(b)(I) OF THIS SECTION IS INCOMPLETE, THE OFFICE SHALL NOTIFY THE QUALIFIED APPLICANT IN WRITING OF THE OFFICE'S DETERMINATION AND REMOVE THE APPLICATION, FREIGHT RAIL USE PLAN, AND QUALIFIED EXPENDITURES ESTIMATE FROM THE REVIEW PROCESS.

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

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

(f) IN MAKING THE DETERMINATION, PURSUANT TO SUBSECTION (4)(b)(IV) OF THIS SECTION, OF WHICH FREIGHT RAIL USE PLANS TO APPROVE FOR THE RESERVATION FOR THE BENEFIT OF THE QUALIFIED APPLICANT OF AN ALLOCATION OF A TAX CREDIT, THE OFFICE SHALL PRIORITIZE FREIGHT RAIL USE PLANS THAT:

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

(II) PROVIDE SUBSTANTIAL ECONOMIC DEVELOPMENT BENEFITS;

(III) DEMONSTRATE FINANCIAL VIABILITY;

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

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

(5) **Reservation of tax credits.** SUBJECT TO SUBSECTION (7) OF THIS SECTION, THE OFFICE MAY RESERVE A TAX CREDIT FOR THE BENEFIT OF A QUALIFIED APPLICANT FOR ANY FUTURE TAX YEAR IN AN AMOUNT NOT TO EXCEED SEVENTY-FIVE PERCENT OF THE QUALIFIED APPLICANT'S QUALIFIED EXPENDITURE ESTIMATE SUBMITTED BY THE QUALIFIED APPLICANT PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION. IF THE OFFICE RESERVES A TAX CREDIT FOR THE BENEFIT OF A QUALIFIED APPLICANT, THE OFFICE SHALL NOTIFY THE QUALIFIED APPLICANT IN WRITING OF THE RESERVATION AND THE AMOUNT RESERVED. THE RESERVATION OF A TAX CREDIT BY THE OFFICE FOR A QUALIFIED APPLICANT DOES NOT ENTITLE THE QUALIFIED APPLICANT TO THE ISSUANCE OF A TAX CREDIT CERTIFICATE UNTIL THE QUALIFIED APPLICANT COMPLIES WITH ALL THE REQUIREMENTS SPECIFIED IN THIS SECTION FOR THE ISSUANCE OF THE TAX CREDIT CERTIFICATE. WHEN THE OFFICE APPROVES A RESERVATION OF TAX CREDITS, THE OFFICE MAY ALSO IMPOSE ADDITIONAL REQUIREMENTS THAT A QUALIFIED APPLICANT SHALL SATISFY AS PART

OF EXECUTING A FREIGHT RAIL USE PLAN BEFORE THE OFFICE ISSUES A TAX CREDIT CERTIFICATE TO THE APPLICANT. THE OFFICE MAY USE THE RESERVATION OF A TAX CREDIT IN SUPPORT OF BUSINESS RECRUITMENT AND EXPANSION.

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

**(a)** A QUALIFIED APPLICANT RECEIVING A RESERVATION OF TAX CREDITS PURSUANT TO SUBSECTION (5) OF THIS SECTION SHALL INCUR THE QUALIFIED EXPENDITURES DESCRIBED IN THE QUALIFIED EXPENDITURES ESTIMATE SUBMITTED BY THE QUALIFIED APPLICANT PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION IN THE TAX YEARS SET FORTH IN THE QUALIFIED EXPENDITURES ESTIMATE AND IN THE RESERVATION MADE BY THE OFFICE PURSUANT TO SUBSECTION (5) OF THIS SECTION.

**(b)** AFTER EXECUTING A FREIGHT RAIL USE PLAN, THE QUALIFIED APPLICANT SHALL NOTIFY THE OFFICE THAT IT HAS DONE SO AND SHALL ANNUALLY CERTIFY THE RELEVANT QUALIFIED EXPENDITURES. IN THIS NOTICE, THE APPLICANT SHALL INCLUDE A REVIEW OF THE CERTIFICATION THAT ALIGNS WITH OFFICE POLICIES FOR CERTIFICATION OF QUALIFIED EXPENDITURES BY A LICENSED CERTIFIED PUBLIC ACCOUNTANT THAT IS NOT AFFILIATED WITH THE QUALIFIED APPLICANT. THE APPLICANT SHALL ALSO CERTIFY AND PROVIDE DOCUMENTS DEMONSTRATING THAT THE APPLICANT SATISFIED ANY REQUIREMENTS IMPOSED BY THE OFFICE PURSUANT TO SUBSECTION (5) OF THIS SECTION. WITHIN ONE HUNDRED EIGHTY DAYS AFTER RECEIPT OF SUCH DOCUMENTATION FROM THE QUALIFIED APPLICANT, THE OFFICE SHALL REVIEW THE QUALIFIED APPLICANT'S DOCUMENTATION OF QUALIFIED EXPENDITURES, DETERMINE WHETHER THE DOCUMENTATION SATISFIES THE FREIGHT RAIL USE PLAN AND OTHER REQUIREMENTS, AND, IF THE OFFICE DETERMINES THAT THE DOCUMENTATION SATISFIES THE FREIGHT RAIL USE PLAN AND OTHER REQUIREMENTS, THE OFFICE SHALL ISSUE A TAX CREDIT CERTIFICATE IN AN AMOUNT EQUAL TO SEVENTY-FIVE PERCENT OF THE AMOUNT OF THE ACTUAL QUALIFIED EXPENDITURES INCURRED BY THE QUALIFIED APPLICANT, SUBJECT TO SUBSECTION (6)(d) OF THIS SECTION.

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

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

**(e)** TO THE EXTENT THAT THE ACTUAL QUALIFIED EXPENDITURES INCURRED BY

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

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

(I) THE TAXPAYER'S NAME;

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

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

**(7) Limit on aggregate amount of all tax credits that the office may reserve.**

(a) THE AGGREGATE AMOUNT OF ALL TAX CREDITS THAT THE OFFICE MAY RESERVE PURSUANT TO THIS SECTION MUST NOT EXCEED FIVE MILLION DOLLARS IN ANY CALENDAR YEAR, IN ADDITION TO THE AMOUNT OF ANY PREVIOUSLY RESERVED TAX CREDITS THAT WERE RESCINDED OR NOT UTILIZED PURSUANT TO SUBSECTIONS (6)(c) AND (6)(e) OF THIS SECTION DURING THE CALENDAR YEAR AND THE AMOUNT DESCRIBED IN SUBSECTION (7)(c) OF THIS SECTION. IN THE CASE OF A TAX CREDIT RESERVED FOR THE BENEFIT OF A QUALIFIED APPLICANT THAT FILES AN INCOME TAX RETURN FOR A TAX YEAR OTHER THAN A CALENDAR YEAR, THE AMOUNT RESERVED MUST COUNT AGAINST THE LIMIT FOR THE CALENDAR YEAR IN WHICH THE QUALIFIED APPLICANT'S INCOME TAX YEAR BEGINS.

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

(c) IF THE AGGREGATE AMOUNT OF ALL TAX CREDITS RESERVED BY THE OFFICE FOR ANY CALENDAR YEAR IS LESS THAN THE AMOUNT AVAILABLE AS CALCULATED PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION, THEN THE AGGREGATE AMOUNT



OF ALL TAX CREDITS THAT THE OFFICE MAY RESERVE IN THE NEXT CALENDAR YEAR IS INCREASED BY THE UNRESERVED AMOUNT.

(8) **Filing tax credit certificate with income tax return.** IN ORDER TO CLAIM THE TAX CREDIT AUTHORIZED BY THIS SECTION, A QUALIFIED APPLICANT SHALL FILE THE TAX CREDIT CERTIFICATE ISSUED BY THE OFFICE PURSUANT TO SUBSECTION (6) OF THIS SECTION WITH THE QUALIFIED APPLICANT'S STATE INCOME TAX RETURN. THE AMOUNT OF THE TAX CREDIT THAT A QUALIFIED APPLICANT MAY CLAIM PURSUANT TO THIS SECTION IS THE AMOUNT STATED ON THE TAX CREDIT CERTIFICATE.

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

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

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

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

**39-22-561. New railroad operator tax credit - tax preference performance statement - definitions - repeal. (1) Tax preference performance statement.**

(a) IN ACCORDANCE WITH SECTION 39-21-304(1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE PURPOSES OF THE TAX CREDIT PROVIDED IN THIS SECTION ARE TO PROVIDE TAX RELIEF TO CERTAIN BUSINESSES, SPECIFICALLY RAILROAD OPERATORS, AND TO INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS, SPECIFICALLY MAINTAINING RAIL LINE ACCESS TO COAL TRANSITION COMMUNITIES.

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

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

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

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

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

(d) "QUALIFIED RAIL LINE" MEANS A RAIL LINE IN THIS STATE THAT THE DEPARTMENT OF TRANSPORTATION HAS DETERMINED IS BOTH:

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

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

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

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

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

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

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

(I) WHETHER THE TAXPAYER IS A QUALIFIED TAXPAYER;

(II) WHETHER THE TAXPAYER INCURRED QUALIFIED EXPENDITURES;

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

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

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

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

(I) THE QUALIFIED TAXPAYER'S NAME;

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

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

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

(b) THE AMOUNT OF EACH TAX CREDIT THAT THE DEPARTMENT OF TRANSPORTATION MAY ISSUE IN A TAX CREDIT CERTIFICATE IS DETERMINED PURSUANT TO SUBSECTION (4) OF THIS SECTION; EXCEPT THAT IF THE DEPARTMENT OF TRANSPORTATION DETERMINES THAT THE ISSUING OF EACH TAX CREDIT CERTIFICATE IN AN AMOUNT DETERMINED PURSUANT TO SUBSECTION (4) OF THIS SECTION WILL CAUSE THE TOTAL AMOUNT OF TAX CREDIT CERTIFICATES ISSUED BY

THE DEPARTMENT OF TRANSPORTATION FOR A CALENDAR YEAR TO EXCEED THE LIMIT SET FORTH IN SUBSECTION (5)(a) OF THIS SECTION, THE DEPARTMENT OF TRANSPORTATION SHALL PROPORTIONALLY REDUCE THE AMOUNT OF EACH TAX CREDIT CERTIFICATE ISSUED BY THE DEPARTMENT OF TRANSPORTATION SO THAT THE TOTAL AMOUNT OF TAX CREDIT CERTIFICATES ISSUED BY THE DEPARTMENT OF TRANSPORTATION FOR THAT CALENDAR YEAR EQUALS THE LIMIT SET FORTH IN SUBSECTION (5)(a) OF THIS SECTION.

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

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

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

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

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

(b) (I) THE DEPARTMENT OF TRANSPORTATION SHALL ESTABLISH REPORTING REQUIREMENTS TO MONITOR COMPLIANCE WITH THIS SUBSECTION (8), INCLUDING REQUIREMENTS REGARDING THE REPORTING OF THE STATUS OF A QUALIFIED RAIL LINE BY THE QUALIFIED TAXPAYER AND WHETHER THE QUALIFIED TAXPAYER IS OR IS NOT MEETING ANY SERVICE CRITERIA SPECIFIED IN ACCESS AGREEMENTS.

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

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

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

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

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

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

**39-30-103. Zones established - review - termination.** (1) (a) Any municipality, county, or group of contiguous municipalities or counties may propose an area of such municipality, county, or group of municipalities or counties to be designated as an enterprise zone if the area has a population of no more than one hundred fifteen thousand persons as calculated pursuant to subsection (1.3) of this section, or one hundred fifty thousand persons as calculated pursuant to subsection (1.3) of this section if the area is a rural area, and meets at least one of the following additional criteria:

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

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

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

(b) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, ON OR AFTER JULY 1, 2024, BUT BEFORE JANUARY 1, 2034, ANY MUNICIPALITY, COUNTY, OR GROUP OF CONTIGUOUS MUNICIPALITIES OR COUNTIES MAY PROPOSE AN AREA OF SUCH MUNICIPALITY, COUNTY, OR GROUP OF MUNICIPALITIES OR COUNTIES TO BE DESIGNATED AS AN ENTERPRISE ZONE, SO LONG AS THAT AREA IS A RURAL AREA DESIGNATED AS A TIER ONE TRANSITION COMMUNITY AS DEFINED IN SECTION 8-83-502 (10).

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

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

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

**SECTION 8. Appropriation.** For the 2024-25 state fiscal year, \$215,021 is appropriated to office of the governor for use by the economic development programs. This appropriation is from the general fund and is based on an assumption that the office will require an additional 1.5 FTE. To implement this act, the office may use this appropriation for the rural opportunity office.

**SECTION 9. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 29, 2024