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Colorado Energy & Environmental Legislation

2024 Year in Review

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Colorado Energy & Environmental Legislation Year in Review 2024

In 2024, the Colorado General Assembly continued to focus on state-wide climate objectives, with a particular focus on reducing emissions of both greenhouse gases and conventional air pollutants from the oil and gas sector. The General Assembly also sought to enhance the distributed energy system in the state.

If you have questions about these developments, please do not hesitate to contact:

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* *Indicates that a bill is still awaiting the Governor's signature as of May 20, 2024.*

Air Quality & Environmental Justice

In 2022, the U.S. Environmental Protection Agency (EPA) reclassified the Denver metro/north Front Range as a severe nonattainment area with respect to ozone pollution, and as a result, Democrats introduced multiple bills to curb air pollution during the first few weeks of the 2024 legislative session. Many of those bills focused on reducing emissions from the oil and gas (O&G) industry. In response, the industry proposed several ballot initiatives for the upcoming November election, including a ban on measures to restrict gas appliances in new buildings and a plan to add Republicans and Independents to the state air pollution commission. This caused several environmental groups to file competing ballot initiatives, including holding O&G companies strictly liable for damages caused by certain kinds of production and establishing the right to clean air and water and a healthy environment in state law.

To avoid a costly and confusing ballot fight, legislative leaders, Governor Polis, the O&G industry, and environmental advocates negotiated an agreement to withdraw the competing ballot initiatives, several pending air quality bills, and endorse two compromise bills, which became SB24-229 and SB24-230. This marks the third time in a decade industry and environmental groups have mutually agreed to withdraw competing sets of initiatives slated for the November ballot, and of note, the negotiated agreement includes a commitment to not seek changes at the ballot box for at least the next three years. A bill regarding environmental justice was also passed.

SB24-229 **Ozone Mitigation Measures**
Sens. Winter & Priola, Reps. Bacon & Willford

SB24-229 increases the state's authority to mitigate ozone pollution from O&G production in several ways. First, the bill requires O&G operators to acquire a license to conduct operations, alongside their existing permitting requirements. Second, the bill directs the Colorado Department of Public Health and Environment (CDPHE) to propose rules for the Air Quality Control Commission (AQCC) to reduce NOx pollution from the O&G industry in the ozone nonattainment area by 50% below the 2017 baseline in the next six years. Third, the bill requires the Energy and Carbon Management Commission (ECMC) to adopt rules to avoid, minimize, and mitigate emissions of ozone precursors from O&G operations at newly permitted wells in the ozone nonattainment area, and it authorizes the ECMC to revoke licenses and suspend permits for serious violations. Fourth, the bill enacts various measures to make it easier to enforce violations against operators, including removing certain restrictions on injunctions, expanding the types of violations that can lead to license suspensions, limiting a court's authority to postpone the effective dates of such suspensions, and clarifying state authority to impose civil penalties for certain violations. Fifth, the bill expands the scope of the orphaned wells mitigation enterprise to help finance the plugging, reclamation, and remediation of marginal wells that are at the highest risk of becoming orphaned. Finally, the bill authorizes hiring at least two community liaisons to serve as dedicated resources for disproportionality impacted communities (DICs).

SB24-230 **Oil & Gas Production Fees**
Sens. Fenberg & Cutter, Reps. McCluskie & Velasco

SB24-230 imposes new fees on O&G produced in the state on and after July 1, 2024 based on average O&G spot prices, and recalculated quarterly. The fees are expected to generate an average of $138 million annually. 80% of the fees will be dedicated to transit projects, with 70% of that total used to expand local transit service and prioritize transit improvements in certain communities, 20% used for passenger rail projects and service, and 10% used to provide competitive grants to certain entities for expenses incurred while providing public transportation. The other 20% will be directed to Colorado Parks and Wildlife (CPW) for certain wildlife and land remediation purposes to help offset impacts from O&G operations.

HB24-1338 **Cumulative Impacts & Environmental Justice* |** Reps. Rutinel & Velasco, Sen. Michaelson Jenet

HB24-1338 creates an Office of Environmental Justice within CDPHE, which is responsible for managing CDPHE's environmental justice goals, partnering with other agencies to implement environmental justice mandates, and working with DICs. The bill requires the Office to develop two environmental equity and cumulative impact analyses for specific geographic locations within Colorado, which must include recommendations for implementing the reports'

findings. The bill also requires CDPHE to hire an expert to assess whether to establish a petroleum refinery control regulation, and it authorizes the AQCC to pass such a regulation at its discretion. In addition, the bill requires petroleum refineries to install certain community-based monitoring equipment and to report specific data from monitoring systems to the state in real-time. Finally, the bill requires CDPHE to establish a rapid response inspection team to respond quickly to air quality complaints filed with the agency.

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As mentioned above, the General Assembly also proposed many other air quality bills that were set aside in favor of these two compromise bills. Those included: HB24-1330, which would have required the state to consider additional emissions information when determining whether to grant a permit for an emitting source that includes an O&G system, and required the state to grant permits in nonattainment areas only if the source would not lead to excessive emissions; HB24-1339, which would have expanded the membership of the AQCC and imposed stricter GHG and air pollutant emissions reduction requirements on 18 industrial and manufacturing companies; SB24-095, which would have provided various subsidies to parties in nonattainment areas to encourage adoption of electric equipment and to repair non-compliant equipment, and also would have required the state to perform photochemical modeling studies and data analysis in the ozone nonattainment area; SB24-165, which would have required the state to impose deep cuts on ozone precursor emissions from O&G operations, and would have prohibited O&G operators from conducting preproduction operations during the summer, unless they use grid-powered electric equipment; and SB24-166, which would have authorized, and in some instances, required the state to impose larger fines and orders of compliance on repeat violators of certain air quality laws, and would have allowed district courts to award plaintiffs litigation costs in certain suits related to energy and carbon management.

Distributed Energy, Community Solar & Electric Vehicles

SB 24-218 **Modernize Energy Distribution Systems*** Sens. Hansen & Fenberg, Reps. Duran & Brown

SB 24-218 requires utilities with more than 500,000 customers to upgrade the electric distribution system to timely and affordably achieve the state's beneficial and transportation electrification and decarbonization goals. To do so, utilities must meet certain deadlines to provide electricity and interconnection to the grid to ensure that customer needs are met in a timely manner, while meeting certain cost caps for customers. The bill also establishes cost recovery mechanisms for distribution system investment and activities. The bill also directs these utilities to file distribution system plans (DSP) with the Public Utilities Commission (PUC) to create sufficient hosting capacity across the distribution system to support the implementation of air quality and decarbonization targets and standards and policies. The PUC must consider the DSPs, and thereafter, must undertake a rulemaking to establish average and maximum energization timelines; any necessary updates to interconnection rules; and maximum customer costs or fees.

The bill also establishes a virtual power plant (VPP) program to enable distributed energy resources, such as solar paired with battery storage systems, smart thermostats, and electric vehicles, to store and supply energy to the grid. Utilities with more than 500,000 customers must file an application with the PUC to implement a VPP program by February 1, 2025.

The bill creates the Office of Future of Work, which is instructed to create a grant program to expand apprenticeship programs to train transmission or distribution lineworkers on construction projects and related installations.

SB 24-212 **Local Governments Renewable Energy Projects*** | Sens. Hansen & Fenberg, Reps. Brown & McCormick

SB 24-212 requires the ECMC to provide technical support to local or Tribal governments to develop local codes governing renewable energy projects and to review land use approval applications for renewable energy projects. In addition, at the request of a facility owner or local or Tribal government, CPW must provide a set of best management practices (BMPs) to avoid,

minimize, and mitigate wildlife impacts of renewable energy projects, which BMPs may be incorporated into project plans by the facility owner or may be a condition of approval of a local or Tribal government. The bill requires CPW to identify high-priority habitat (HPH) for renewable energy projects, update the list at least annually, and make the list publicly available. The bill also requires the Colorado Energy Office (CEO) to develop a repository of codes and ordinances that support renewable energy projects and commercial transmission. In addition, by September 30, 2025, CEO must submit a report to the legislature that: (1) evaluates and assesses local government processes for siting renewable energy projects and energy transmission facilities and (2) evaluates the impact of renewable energy projects and energy transmission facilities on wildlife resources, the use of wildlife mitigation, decommissioning and community benefit agreements, and the range of fees imposed by local governments. The bill also prohibits local governments from granting a development permit in the Brunot Area (an area of approximately 3.7 million acres in the San Juan Mountain region that is the ancestral homelands of the Confederated Bands of the Ute Nation) without consulting with the Tribal governments of the Ute Mountain Ute Tribe and the Southern Ute Indian Tribe.

SB 24-207 **Access to Distributed Generation***
Sens. Fenberg & Hansen, Reps. Soper & Valdez

SB 24-207 requires that community solar facilities must: have a nameplate capacity rating of 5 MW or less, interconnect to the electric distribution system of a utility, reserve at least 51% of the capacity for subscribers who are income-qualified, and not allocate to any single subscriber more than 40% of the generating capacity of the facility. It establishes that a subscription to a community solar facility must not supply more than 120% of a subscriber's reasonably expected electricity consumption and must be portable and transferable within the service territory of the utility in which the facility is interconnected. The bill incentivizes community solar facilities in preferred locations (i.e. rooftops, parking lots, brownfields sites, a body of water, or a previously disturbed location) or that utilize agrivoltaics by allowing a larger capacity (up to 10 MW) on a single parcel of land. The bill also establishes requirements and best practices for community solar bill credits and subscriber enrollment procedures for income-qualified customers and other customers. The bill requires the PUC to require utilities with more than 500,000 customers to implement certain billing practices and that utilities must file an application with the PUC that establishes a process for the utility to prioritize community solar facilities in preferred locations.

The bill also requires utilities with more than 500,000 customers to acquire at least 50 MW of dispatchable distributed generation by June 1, 2026 and an additional 50 MW in the first half of 2027. To implement this requirement, the PUC must establish a procedure for a utility to acquire the dispatchable distributed generation and establish a methodology to value dispatchable distributed generation located in specific areas of the electric grid to direct the development of those resources in optimal locations.

HB 24-1173 **Electric Vehicle Charging System Permits*** | Rep. Valdez, Sens. Priola & Jaquez Lewis

HB24-1173 is intended to facilitate the permitting of electric vehicle charging systems by streamlining the process for local governments to approve such permits. The bill requires boards of county commissioners (of counties with 20,000 residents or more) and governing bodies of municipalities (with populations of over 10,000) to, by December 31, 2025, either: (1) adopt the standards and permitting process (or less restrictive standards and permitting process) described in the EV Charger Permitting Model Code to be developed by CEO; (2) adopt objective standards and an administrative review process for the county or municipality to use in reviewing applications for EV Charger Permits; or (3) adopt an ordinance or resolution that the county or municipality does not intend to adopt either of the above and will use the existing permitting review process for EV Charger Permit applications. As to (1), the bill requires CEO to develop an EV charger permitting model code with counties, municipalities, DICs, public electric utilities, and other stakeholders. As to (2), it sets forth certain guardrails for county- and municipal-development of its own standards and processes for reviewing EV Charger Permit applications. Each county and municipality must report to CEO which option it intends to utilize by March 1, 2026, and file a report to CEO by January 31, 2027 describing the results and timing of each EV Charger Permit application it has received.

HB24-1036 **Adjusting Certain Tax Expenditures***
Reps. Weissman & Frizell, Sens. Hansen & Kolker

HB24-1036 repeals numerous existing tax expenditures, including an exemption from taxation for the sale of low-emitting vehicles with a gross vehicle weight rating of over 26,000 pounds, effective December 31, 2028. It also clarifies that the tax exemption for the sale, storage, and use of components used in producing renewable energy is intended to create additional incentives for developing new renewable energy projects that are not already created by other state or Federal law.

Climate Change & Carbon Sequestration

HB24-1346 **Energy & Carbon Management Regulation*** | Reps. Titone & McCormic, Sens. Hansen & Priola

HB24-1346 extends the authority of the ECMC to regulate geologic storage operations, including the injection and underground sequestration of carbon dioxide into pore space. It requires ECMC, in issuing and enforcing permits for such activities, to ensure it has consulted with any local government whose boundaries include lands overlying the geologic storage facility. The bill also requires ECMC to provide technical assistance to local governments for developing land use and siting regulations for geological storage operations.

Under the bill, CDPHE must establish accounting procedures for geologic storge operations, and ECMC and CDPHE must work collaboratively to share data to facilitate the monitoring, verification, and accounting of carbon dioxide in geological storage operations.

Finally, the bill clarifies that pore space (or the sequestration estate) is presumed to be part of the overlying surface estate and owned by the surface owner; and injected carbon dioxide is owned by the person who injects the carbon dioxide. It also clarifies that the sequestration estate may be expressly severed and separately conveyed from the surface estate.

SB24-214 **Implement State Climate Goals**
Sens. Hansen & Cutter, Reps. Amabile & McCormick

SB24-214 establishes an Office of Sustainability in the Department of Personnel to implement various sustainability items. The bill aims to reduce state operating and energy costs, focus procurement on environmentally preferable products and services achieve energy performance standards for state-owned buildings, expand EV charging infrastructure, install water-conserving fixtures and plants, and implement other sustainability measures on state property, with and for employees, and in conjunction with state agencies. The Office of Sustainability will have a revolving fund that receives $400,000 at the start of each fiscal year. The fund will be used to support various initiatives, expend related grants and donations at the Office's discretion, and transition the State's gas and diesel-powered equipment to electric equivalents. The Office of Sustainability will also be responsible for reviewing and coordinating elective pay applications from state agencies with the state controller pursuant to the Inflation Reduction Act.

SB24-214 also requires that construction projects receiving financial assistance from the State must use electric or fuel powered appliances and devices certified by the Energy Star program. The program contains a recordkeeping provision for enforcement but allows for waiver of the requirement when there is no reasonably available covered product that meets the functional requirements of the project. In the event program standards are violated, the bill permits the State Attorney General to initiate a civil enforcement action. Projects already in motion before January 1, 2025 are exempt.

As of January 1, 2026, retailers will be prohibited from selling or leasing residential products such as windows, doors, and skylights unless they are Energy Star certified, with the exception for products designed for historically designated buildings. With the passage of SB24-214, CEO may publish an alternative standard if the standard "cannot reasonably be met by manufacturers."

SB24-214 also amends the Industrial and Manufacturing Operations Clean Air Grant Program for certain geothermal equipment. At least twenty-five percent (25%) of the money awarded for single-structure grants must go to projects in low-income,

disproportionately impacted, or just transition communities. The bill makes minor edits to Energy Code Board deadlines, energy code grants to local governments, electric heating and appliance grants, electric bicycle tax credits, the electric bus program, and the industrial clean energy tax credit program in favor of promoting environmental sustainability; and expands the definition of "eligible taxpayer" for geothermal energy project tax credits. Tribal Governments, among others, are now eligible for incentives under this and the geothermal electricity generation tax credit program.

SB24-124 directs CEO to investigate the viability of using heat pumps in homes by August 1, 2024. CEO's first progress report is due January 1, 2025. In tandem, investor-owned utilities will be required to propose rates for residential customers who utilize a heat pump as their primary heating source that result in an overall reduction of those residents' monthly bill.

Finally, SB24-124 ensures that any surplus in money appropriated to the department of higher education from the O&G conservation and environmental response fund goes back into the budget for the following year.

Pollution, Waste & Sustainability

SB24-081 **Perfluoroalkyl & Polyfluoroalkyl Chemicals** | Sen. Cutter, Reps. Kipp & Rutinel

SB24-081 expands Colorado's restrictions on products containing intentionally added per- and polyfluoroalkyl substances (PFAS) to a wide range of consumer products. In 2022, Colorado enacted its first PFAS law, which phased-out consumer products containing intentionally added PFAS by barring any person in Colorado from selling or distributing any of the following products containing intentionally added PFAS: (i) carpets and rugs fabric treatments, food packaging, and juvenile products beginning on January 1, 2024; (ii) cosmetic products, indoor textiles and upholstery beginning on January 1, 2025; and (iii) outdoor textiles and upholstery beginning on January 1, 2027. SB24-081 expands on these protections by barring the sales and distribution of the following additional consumer products containing intentionally added PFAS:

- **January 1, 2025:** Outdoor apparel for severe wet conditions, unless the product contains an easily discernible "made with PFAS chemicals" disclosure.
- **January 1, 2026:** Cleaning products (except floor maintenance products used in hospital or medical settings), cookware, dental floss, menstruation products, and ski wax.
- **January 1, 2028:** Floor maintenance products used in hospital or medical settings, textile articles, outdoor apparel for severe weather conditions, and food equipment intended primarily for use in commercial settings that comes into direct contact with food.

SB24-081 also provides definitions for the following new terms: automotive cleaning product, cleaning product, cookware, outdoor apparel, outdoor apparel for severe wet conditions, ski wax, and textile article. Finally, the bill bars any person from installing artificial turf containing intentionally added PFAS beginning on January 1, 2026.

VETOED: SB24-150 **Processing of Municipal Solid Waste** | Sens. Cutter &. Michaelson Jenet, Rep. Froelich

SB24-150 sought to curtail the generation of hazardous waste and toxic pollutants from municipal solid waste combustion and to promote recycling materials back into the supply chain. To do so, the bill would have made municipal solid waste combustion units that target plastic feedstock ineligible for any state-level incentives not granted or awarded, or that apply to income tax years, before January 1, 2025. Notably, this prohibition would not have extended to: (i) operations to exclusively treat source-separated organic materials for the creation of compost, biosolids, bio-oil, and biochar; (ii) operations to conduct anaerobic digestion; (iii) air curtain incinerators used for wildlife mitigation; (iv) units that combust contraband or prohibited goods; (v) units operating as a crematory incinerator; (vi) biomass boilers firing materials or other approved fuels; or (vii) processes to produce sustainable aviation fuel, so long as a producer complies with ASTM D7566 and the Clean Air Act.

Further, the prohibition would not extend to entities participating in the waste tire cleanup program, or federal or state agencies or institutions of higher education conducting research to improve environmental and health outcomes of combustion units, which does not include the operation of a commercial-scale combustion unit. SB24-150 would also have clarified that, beginning on January 1, 2025, combustion is no longer considered "recycling," "renewable energy," "clean energy," "green energy," "climate-friendly," "carbon-free," "biofuel," "zero-carbon," or any other similar term for the purpose of a program established by state law or rules.

HB24-1449 **Environmental Sustainability Circular Economy*** | Reps. Joseph & Lindsay, Sens. Cutter & Priola

HB24-1449 seeks to modernize the Pollution Prevention Act of 1992 by building a comprehensive framework for advancing statewide sustainability and circularity efforts. The bill merges the Recycling Resources Economic Opportunity Program and the Front Range Waste Diversion Enterprise into a new Colorado Circular Communities Enterprise (Enterprise). The Enterprise operates as a government-owned business within CDPHE to collect a fee charged to waste producers, use the fees collected to provide grants, funding, and technical assistance, and pay for studies to promote a circular economy, i.e., waste diversion and aversion.

The Enterprise must consist of 13 members: one member representing CDPHE and 12 members representing a balance of for-profit and nonprofit businesses and local governments. The Enterprise is required to promote a circular economy within the state and possesses certain powers and duties, specifically: (i) issue revenue bonds to promote a circular economy; (ii) annually publish strategies prioritized for grant funding, (iii) establish policies to regulate the Enterprise's affairs and establish requirements for grant applications, review, approval, and reporting; (iv) engage contractors, consultants, and legal counsel for professional and technical assistance; (v) pay the costs of CDPHE's oversight and the Administrator's operation of the circular economy; (vi) pay the costs of conducting an organics diversion study; and (vii) ensure the continuity of the Enterprise's operations.

HB24-1449 also creates a statewide, voluntary sustainability program to support for-profit entities, nonprofits, local governments, schools, and state institutions of higher education engaged in sustainability efforts. Further, HB24-1449 establishes a pollution prevention fund to be annually appropriated to CDPHE to cover the costs for providing sustainability services. The bill also stipulates fees assessed to operators of solid waste disposal sites for loads transported for disposal.

Water Quality

HB24-1379 **Regulate Dredge & Fill Activities in State Waters*** | Reps. McCluskie & McCormick, Sens. Roberts & Kirkmeyer

HB24-1327 is the State's response to *Sackett v. EPA*, the 2023 Supreme Court decision that narrowed the scope of "waters of the United States" for protection under the federal Clean Water Act. As a result of the decision, a significant portion of dredge and fill activity that was previously subject to permitting requirements by the Army Corps of Engineers can proceed largely unabated. To close this regulatory gap, this bill establishes a comprehensive permitting scheme under the Water Quality Control Commission (WQCC). Dredge and fill operators planning activities in and around in-state wetlands and seasonal streams must meet stringent state permit conditions and conduct compensatory mitigation where negative impacts meet a certain threshold.

The bill lays out a high-level framework for the program and directs the WQCC to promulgate rules by which it will authorize dredge and fill permits by December 31, 2025. The general framework is similar to Clean Water Act Section 404, and the rules must:

- Prioritize the protection of waters by avoiding and minimizing adverse impacts and requiring compensation for unavoidable adverse impacts.
- Establish procedures regarding permit application requirements, how the WQCC will evaluate, modify, and terminate permits, public

notice and participation, and the determination of fees and duration, and pre-construction notifications and notices of authorization.
- Determine the degree of required compensation and how mitigation will be implemented.
- Establish categorical authorizations for certain types of activities that cause only minimal adverse impacts to state waters, which will correspond with the Corps' nationwide and regional general permits and add additional categories (e.g., wildfire restoration projects).
- Exempt activities of federally recognized tribes, voluntary stream restoration efforts, maintenance work, farming activities, etc.; establish definitional exemptions for activities such as harvesting for food production and installing pilings; and include a general exemption for existing Section 404 permitholders with certain caveats.

Not all waters within the state will be covered by this program. The bill largely excludes artificially created water bodies for public and private use, groundwater, converted cropland, and other waters that do not have an ordinary high watermark.

Conservation Easements

SB24-126 **Conservation Easement Income Tax Credit*** | Sens. Will & Winter, Reps. Lukens & Lynch

SB24-126 indefinitely extends the conservation easement oversight commission and the certified holder program, which were originally intended to be repealed on July 1, 2026. In addition, the bill expands the size of the commission from eight to nine members, adding a voting member who is appointed by the Governor and who represents a socially disadvantaged farmer or rancher.

Furthermore, SB24-126 increases the limit on conservation easement income tax credits available to donors in one calendar year. The state can now issue up to $45 million in tax credits for each of the 2014 to 2024 calendar years, and up to $50 million in tax credits for each of the 2025 to 2031 calendar years. The law also caps the amount of tax credits donors can receive. For conservation easements in gross donated to a governmental entity or charitable organization from January 1, 2021, to December 31, 2026, donors can receive 90% of the fair market value of the donated portion of the conservation easement, except in no case shall the credit exceed $5 million per donation. For conservation easements in gross donated to a governmental entity or charitable organization on or after January 1, 2027, donors can receive 80% of the fair market value of the donated portion of the conservation easement, except the credit cannot exceed $5 million per donation. Credits must be issued in increments not to exceed $1.5 million per year—easements donated in a prior year are eligible for tax credit certificates in subsequent years.

For income tax years from January 1, 2015, to December 31, 2026, the total aggregate amount of the credit that can be refunded to the owners, partners, and shareholders of an entity donating an easement may not exceed $50,000 for that income tax year. For income tax years on and after January 1, 2027, the total aggregate amount of the credit that can be refunded to the owners, partners, and shareholders of an entity donating an easement may not exceed $200,000 for that income tax year. The bill also permits insurance companies to purchase credits to offset insurance premium taxes. Additionally, the bill allows any conservation easement granted on or after January 1, 2025, to include a provision that permits the holder to approve expanded wind or solar energy facilities, which are compatible with, and do not impair, conservation values.

Just Transition

SB24-190 **Rail & Coal Transition Community Economic Measures*** | Sen. Roberts, Reps. Lukens & McCluskie

SB24-190 supports the Office of Just Transition (OJT) in responding to the impending closures of coal-fired power plants and related entities, which constitute a large portion of the labor and business markets in a number of localized communities—referred to as "coal transition communities." This bill specifically targets the anticipated withdrawal of freight and rail activities from these communities by incentivizing economic development that rely on existing or generate new rail freight activity. The bill also restricts ownership and possession of the Moffat Tunnel.

New railroad operators and businesses that act to maintain rail line access to coal transition communities are poised to benefit from the tax credit program. For tax years 2027-2037, a qualified entity with a tax credit certificate containing an amount determined by the Colorado Department of Transportation (CDOT) may receive a credit totaling that amount. The credit claimed may not exceed 75% of the taxpayer's qualified expenditures. A list of qualified taxpayers will be maintained by CDOT and submitted annually to the Department of Revenue. If CDOT determines that a qualified taxpayer has failed to meet one or more of the service criteria in its rail access agreement, or the rail line is not adequately maintained, the taxpayers credit will be disallowed and must be recaptured for that taxable year. Qualified taxpayers will also be subject to certain reporting requirements and oversight by CDOT.

The OJT may not reserve more than $5,000,000 in tax credits in any given calendar year. If taxpayer interest in the program is insufficient, the OJT may make such determination as of January 1, 2031, and terminate the program.

SB24-190 pursues these initiatives by:

- Authorizing the Rural Opportunity Office to oversee this program and any applications for tax credits thereunder;
- Limiting future contracts involving use of the tunnel to ninety-nine (99) years; and
- Providing tax credits to businesses that utilize freight rail lines at risk of abandonment.

Coal transition communities can apply to be designated as an enterprise zone. To qualify, a community must have no more than 115,000 persons, or 150,000 persons if in a rural area, with a high unemployment rate, low population growth rate, and/or per capita income less than 75% of the state average. Such communities with particularly high unemployment or lower per capita income may qualify as an enhanced rural enterprise zone, unlocking additional incentives.