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HOUSE BILL 25-1292

BY REPRESENTATIVE(S) Boesenecker and Joseph, Bacon, Lindsay, Marshall, Ricks, Rutinel, Smith, McCluskie, English, Paschal, Sirota, Stewart K., Valdez, Velasco;
also SENATOR(S) Winter F., Amabile, Bridges, Cutter, Kipp, Snyder.

CONCERNING THE PROCESS TO ALLOW A TRANSMISSION DEVELOPER TO
LOCATE HIGH VOLTAGE TRANSMISSION LINES WITHIN A STATE
HIGHWAY RIGHT-OF-WAY.

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) Colorado will need to expand electric transmission to meet its clean energy and greenhouse gas reduction targets and reliability and affordability obligations;

(b) It is the policy of the state that high voltage transmission lines may be constructed or maintained within the access control lines of highway, freeway, and interstate highway rights-of-way unless the executive director of the Colorado department of transportation, consulting

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.

with appropriate state agencies, disapproves of this co-location to protect public safety, communities, and wildlife habitat, crossings, and migratory corridors or to ensure the proper functioning of a state highway, freeway, or interstate highway. If the installation is on an interstate highway, the express approval of the federal highway administration is required and the project may be required to undergo the review process required by the federal "National Environmental Policy Act of 1969", 42 U.S.C. sec. 4321, et seq.

(c) Co-locating transmission lines along highways can significantly reduce impacts on wildlife and habitat compared to building new lines through greenfield areas. The impacts on communities, including disproportionately impacted communities, must be evaluated and mitigated through the use of approaches like those outlined in the Colorado electric transmission authority's 2024 "Principles of Community Engagement" and the Colorado environmental justice action task force's 2022 "Final Report of Recommendations".

SECTION 2. In Colorado Revised Statutes, **add** 43-1-228 as follows:

43-1-228. High voltage lines in state highway right-of-way - development projects and priorities - surcharge - study - rules - definitions. (1) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "HIGH VOLTAGE LINE" MEANS ANY LINE FOR THE TRANSMISSION OF ELECTRIC CURRENT WITH A NOMINAL VOLTAGE IN EXCESS OF ONE HUNDRED FIFTEEN KILOVOLTS THAT IS CO-LOCATED LONGITUDINALLY IN A STATE HIGHWAY RIGHT-OF-WAY, AND ALL SUPPORTING STRUCTURES AND ACCESSORIES NECESSARY FOR SUCH LINE. "HIGH VOLTAGE LINE" DOES NOT INCLUDE ANY LINE FOR THE TRANSMISSION OF ELECTRIC CURRENT THAT CROSSES A STATE HIGHWAY RIGHT-OF-WAY.

(b) "RULE" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-4-102 (15).

(c) "STATE HIGHWAY" MEANS ANY HIGHWAY OWNED, CONTROLLED, OR MAINTAINED BY THE STATE, INCLUDING FEDERAL-AID PRIMARY OR SECONDARY SYSTEMS OR THE INTERSTATE SYSTEM. "STATE HIGHWAY" DOES

NOT INCLUDE A PUBLIC HIGHWAY OPERATED BY A PUBLIC HIGHWAY AUTHORITY IN ACCORDANCE WITH THE "PUBLIC HIGHWAY AUTHORITY LAW", PART 5 OF ARTICLE 4 OF THIS TITLE 43.

(d) "TRANSMISSION DEVELOPER" MEANS:

(I) A TRANSMISSION UTILITY, AS DEFINED IN SECTION 40-5-108 (1)(b);

(II) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY CREATED IN SECTION 40-42-103;

(III) A GENERATION AND TRANSMISSION COOPERATIVE OR ASSOCIATION;

(IV) AN INDEPENDENT TRANSMISSION DEVELOPER, WHICH IS AN ENTITY NOT OWNED BY A PUBLIC OR INVESTOR-OWNED UTILITY AND WHICH DEVELOPS TRANSMISSION LINES AND INFRASTRUCTURE; AND

(V) ANY OF THE FOLLOWING ENTITIES THAT HAVE VOTED TO EXEMPT THEMSELVES FROM THE "PUBLIC UTILITIES LAW", ARTICLES 1 TO 7 OF TITLE 40, PURSUANT TO SECTION 40-9.5-103:

(A) A MUNICIPALLY OWNED UTILITY;

(B) A POWER AUTHORITY ESTABLISHED PURSUANT TO SECTION 29-1-204 (1); OR

(C) A COOPERATIVE ELECTRIC ASSOCIATION, AS DEFINED IN SECTION 40-9.5-102 (1).

(2) State highway high voltage line co-location projects.

(a) (I) UPON THE REQUEST OF A TRANSMISSION DEVELOPER, THE DEPARTMENT SHALL PROVIDE TO THE TRANSMISSION DEVELOPER THE BEST AVAILABLE INFORMATION ON POTENTIAL FUTURE STATE HIGHWAY DEVELOPMENT PROJECTS, AS INCLUDED IN THE STATEWIDE TRANSPORTATION PLAN, THAT COULD IMPACT THE PLACEMENT OF A HIGH VOLTAGE LINE WITHIN A STATE HIGHWAY RIGHT-OF-WAY.

(II) THE DEPARTMENT SHALL PROCESS SUCH A REQUEST FOR

INFORMATION IN THE ORDER THAT IT WAS RECEIVED, IN ACCORDANCE WITH THE DEPARTMENT'S SPECIAL USE PERMITTING PROCESS.

(b)(I) IF THE DEPARTMENT AND A TRANSMISSION DEVELOPER AGREE THAT AN IDENTIFIED SITE MAY BE SUITABLE FOR DEVELOPMENT OR CONSTRUCTION OF A HIGH VOLTAGE LINE WITHIN A STATE HIGHWAY RIGHT-OF-WAY, THE DEPARTMENT SHALL DEVELOP A PRECONSTRUCTION PLAN REVIEW SCHEDULE THAT INCLUDES ALL APPLICABLE SECTIONS OF THE STATE HIGHWAY UTILITY ACCOMMODATION CODE, 2 CCR 601-18, OR ANY SUCCESSOR CODE.

(II) UPON APPROVAL OF THE PRECONSTRUCTION REQUIREMENTS OUTLINED IN A PRECONSTRUCTION PLAN, THE TRANSMISSION DEVELOPER SHALL PROVIDE A CONSTRUCTABILITY, ACCESS, AND MAINTENANCE REPORT TO BE UTILIZED WHEN TRANSMISSION LINE CO-LOCATION PROJECTS IN A STATE HIGHWAY RIGHT-OF-WAY ARE BEING PLANNED AND APPROVED.

(III) THE CONSTRUCTABILITY, ACCESS, AND MAINTENANCE REPORT MUST INCLUDE MITIGATION STRATEGIES FOR POTENTIAL IMPACTS OF THE PROPOSED HIGH VOLTAGE LINE, AS IDENTIFIED BY THE DEPARTMENT IN CONSULTATION WITH THE COLORADO ENERGY OFFICE CREATED IN SECTION 24-38.5-101 AND OTHER CONSULTING AGENCIES IN THE DISCRETION OF THE DEPARTMENT. POTENTIAL IMPACTS INCLUDE IMPACTS TO:

(A) HABITAT, WILDLIFE, AND WILDLIFE CROSSINGS;

(B) COMMUNITIES; AND

(C) DISPROPORTIONATELY IMPACTED COMMUNITIES, AS DEFINED IN SECTION 24-4-109 (2)(b)(II).

(IV) (A) A MITIGATION STRATEGY FOR AN IMPACT TO A DISPROPORTIONATELY IMPACTED COMMUNITY, AS OUTLINED IN A CONSTRUCTABILITY, ACCESS, AND MAINTENANCE REPORT, MUST INCLUDE COMMUNITY ENGAGEMENT THAT FOLLOWS BEST PRACTICES FOR COMMUNITY ENGAGEMENT. THE DEPARTMENT SHALL REVIEW WHETHER A TRANSMISSION DEVELOPER HAS FOLLOWED BEST PRACTICES FOR COMMUNITY ENGAGEMENT. IN ITS REVIEW, THE DEPARTMENT SHALL CONSIDER THE RECOMMENDATIONS OUTLINED IN THE COLORADO ENVIRONMENTAL JUSTICE ACTION TASK FORCE'S 2022 FINAL REPORT OF THE TASK FORCE, AS DEFINED IN SECTION

25-1-133 (1)(f).

(B) COMMUNITY ENGAGEMENT ACTIVITIES THAT ARE CONSISTENT WITH REGULATIONS OR REQUIREMENTS OF THE PUBLIC UTILITIES COMMISSION SATISFY THE REQUIREMENTS OF THIS SUBSECTION (2)(b)(IV) FOR COMMUNITY ENGAGEMENT.

(V) A CONSTRUCTABILITY, ACCESS, AND MAINTENANCE REPORT MUST BE APPROVED BY THE DEPARTMENT BEFORE THE DEPARTMENT ISSUES A PERMIT FOR THE USE OF A STATE HIGHWAY RIGHT-OF-WAY.

(c) ALL WORK PERFORMED UNDER A CONTRACT FOR THE LOCATION OF A HIGH VOLTAGE LINE WITHIN A STATE HIGHWAY RIGHT-OF-WAY, AS ALLOWED PURSUANT TO THIS SECTION, THAT IS AN ENERGY SECTOR PUBLIC WORKS PROJECT, AS DEFINED IN SECTION 24-92-303 (5)(a), MUST COMPLY WITH THE REQUIREMENTS OF SECTION 24-92-115 (7) AND PART 2 OF ARTICLE 92 OF TITLE 24. ANY CONTRACTOR HIRED TO PERFORM SUCH WORK SHALL COMPLY WITH THE STANDARDS DESCRIBED IN SECTION 40-42-107.

(d) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, A TRANSMISSION DEVELOPER SEEKING TO LOCATE A HIGH VOLTAGE LINE WITHIN A STATE HIGHWAY RIGHT-OF-WAY WITHIN THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION SHALL FIRST OBTAIN WRITTEN CONSENT OF THE APPLICABLE TRIBAL GOVERNMENT.

(3) High voltage line or facility site priorities - reports.

(a) BEGINNING ON JANUARY 1, 2027, WITHIN THIRTY CALENDAR DAYS OF FILING FOR A LOCAL PERMIT FOR THE CONSTRUCTION OR DEVELOPMENT OF HIGH VOLTAGE LINES OR FACILITIES NECESSARY FOR HIGH VOLTAGE TRANSMISSION, A TRANSMISSION DEVELOPER SHALL MAKE AVAILABLE ON A PUBLIC-FACING PROJECT WEBSITE OR UTILITY WEBSITE A REPORT THAT:

(I) DESCRIBES THE ANALYSIS UNDERTAKEN FOR ROUTE SELECTION;

(II) DEMONSTRATES THAT THE TRANSMISSION DEVELOPER CONSIDERED OR IS CONSIDERING DEVELOPMENT SITES IN THE FOLLOWING ORDER OF PRIORITY:

(A) FIRST, EXISTING UTILITY CORRIDORS, WHERE ADDING NEW LINES OR MAKING IMPROVEMENTS TO EXISTING LINES CAN ACHIEVE EXPANDED

ELECTRIC CAPACITY AT THE LOWEST POSSIBLE COST;

(B) SECOND, STATE HIGHWAY RIGHTS-OF-WAY; AND

(C) LAST, NEW UTILITY CORRIDORS; AND

(III) INCLUDES AN EVALUATION OF THE ECONOMIC IMPACTS, ENGINEERING CONSIDERATIONS, AND RELIABILITY OF THE ELECTRIC SYSTEM.

(b) A TRANSMISSION DEVELOPER SHALL UPDATE THE REPORT DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION IF THE TRANSMISSION DEVELOPER MATERIALLY CHANGES THE TRANSMISSION ROUTE BEYOND MINOR ROUTE ADJUSTMENTS AND SHALL MAKE THE UPDATED REPORT AVAILABLE ON THE SAME PUBLIC-FACING PROJECT WEBSITE OR UTILITY WEBSITE.

(c) NOTHING IN THIS SUBSECTION (3) REQUIRES A TRANSMISSION DEVELOPER TO SELECT AN EXISTING UTILITY CORRIDOR OR A STATE HIGHWAY RIGHT-OF-WAY FOR DEVELOPMENT OF HIGH VOLTAGE LINES OR FACILITIES.

(d) THE FAILURE OF A TRANSMISSION DEVELOPER TO COMPLY WITH THIS SUBSECTION (3) DOES NOT:

(I) CREATE A CAUSE OF ACTION FOR A CIVIL SUIT SEEKING MONETARY DAMAGES OR INJUNCTIVE RELIEF; AND

(II) CONSTITUTE A LEGAL BASIS FOR A GOVERNMENTAL ENTITY TO DENY A PERMIT OR WITHHOLD OTHER APPROVAL FOR A HIGH VOLTAGE LINE.

(4) Compensation to department for right-of-way access.

(a) (I) A TRANSMISSION DEVELOPER SHALL COMPENSATE THE DEPARTMENT FOR ITS CO-LOCATION OF HIGH VOLTAGE LINES IN A STATE HIGHWAY RIGHT-OF-WAY. A TRANSMISSION DEVELOPER MAY COMPENSATE THE DEPARTMENT THROUGH SURCHARGES AS PROVIDED IN SUBSECTION (4)(b) OF THIS SECTION OR THROUGH A PUBLIC-PRIVATE INITIATIVE AS PROVIDED IN SUBSECTION (4)(c) OF THIS SECTION.

(II) THE SURCHARGES FOR A TRANSMISSION DEVELOPER'S USE OF A STATE HIGHWAY RIGHT-OF-WAY IS AN ALTERNATIVE METHOD TO

COMPENSATING THE STATE THROUGH IN-KIND INFRASTRUCTURE EXCHANGE IN A PUBLIC-PRIVATE INITIATIVE, AS DEFINED IN SECTION 43-1-1201 (3). THE ENTITY REQUESTING ACCESS TO THE RIGHT-OF-WAY HAS THE DISCRETION TO CHOOSE WHICH PROCESS IT WILL USE TO COMPENSATE THE STATE FOR ITS USE OF THE RIGHT-OF-WAY.

(III) A TRANSMISSION DEVELOPER MAY ENTER INTO A PUBLIC-PRIVATE INITIATIVE TO COMPENSATE THE DEPARTMENT FOR ACCESS TO THE STATE HIGHWAY RIGHT-OF-WAY AFTER RULEMAKING PURSUANT TO SUBSECTION (6) OF THIS SECTION IS COMPLETE. THE OPTION TO COMPENSATE THE DEPARTMENT FOR ACCESS TO THE STATE HIGHWAY RIGHT-OF-WAY BY PAYING SURCHARGES IS AVAILABLE BEGINNING ON JULY 1, 2027.

(b) THE DEPARTMENT MAY IMPOSE SURCHARGES ON A TRANSMISSION DEVELOPER FOR ITS ACCESS TO A STATE HIGHWAY RIGHT-OF-WAY, INCLUDING A ONE-TIME SURCHARGE TO COVER THE COSTS OF A PERMIT FOR THE USE OF THE RIGHT-OF-WAY AND AN ANNUAL USE SURCHARGE FOR THE USE OF THE RIGHT-OF-WAY. THE DEPARTMENT SHALL ESTABLISH THE SURCHARGES BY RULE PURSUANT TO SUBSECTION (6)(b)(IV) OF THIS SECTION.

(c) A TRANSMISSION DEVELOPER MAY COMPENSATE THE DEPARTMENT FOR ITS ACCESS TO A STATE HIGHWAY RIGHT-OF-WAY THROUGH IN-KIND INFRASTRUCTURE EXCHANGE IN A PUBLIC-PRIVATE INITIATIVE, AS DEFINED IN SECTION 43-1-1201 (3).

(5) State highway corridor study - report. (a) THROUGH A PUBLIC-PRIVATE PARTNERSHIP, WHERE FUNDING IS PROVIDED BY PRIVATE PARTNERS, THE COLORADO ELECTRIC TRANSMISSION AUTHORITY CREATED IN SECTION 40-42-103, IN COLLABORATION WITH THE DEPARTMENT, THE COLORADO ENERGY OFFICE CREATED IN SECTION 24-38.5-101, THE COLORADO PUBLIC UTILITIES COMMISSION CREATED IN SECTION 40-2-101, AND OTHER STATE AGENCIES, INCLUDING THE DIVISION OF PARKS AND WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES CREATED IN SECTION 33-9-104, SHALL STUDY STATE HIGHWAY CORRIDORS TO IDENTIFY POTENTIAL CORRIDORS THAT MAY BE SUITABLE FOR HIGH VOLTAGE TRANSMISSION LINE DEVELOPMENT. THE STUDY MUST IDENTIFY ALL PRIVATE ENTITIES PROVIDING FUNDING.

(b) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY SHALL

COMPLETE THE STUDY REQUIRED BY THIS SUBSECTION (5) NO LATER THAN EIGHTEEN MONTHS AFTER THE DATE THAT FUNDING IS SECURED FROM PRIVATE PARTNERS.

(c) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY SHALL PUBLISH A REPORT ON THE FINDINGS OF THE STUDY REQUIRED BY THIS SUBSECTION (5) ON ITS WEBSITE AND SHALL SHARE THE REPORT WITH THE DEPARTMENT, THE COLORADO ENERGY OFFICE, THE COLORADO PUBLIC UTILITIES COMMISSION, THE DIVISION OF PARKS AND WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES CREATED IN SECTION 33-9-104, AND, AS APPROPRIATE, OTHER STATE AGENCIES.

(6) **Rules.** (a) THE DEPARTMENT SHALL UPDATE ITS RULES CONCERNING ACCESS TO STATE HIGHWAY RIGHTS-OF-WAY TO ACCOMMODATE HIGH VOLTAGE LINES PURSUANT TO THE STATE HIGHWAY UTILITY ACCOMMODATION CODE, 2 CCR 601-18, OR ANY SUCCESSOR CODE.

(b) THE EXECUTIVE DIRECTOR SHALL ADOPT RULES AS NECESSARY TO IMPLEMENT THIS SECTION. THE RULES MUST:

(I) CLARIFY THAT LONGITUDINAL HIGH VOLTAGE LINES MAY BE PERMITTED IN STATE HIGHWAY RIGHTS-OF-WAY IF IDENTIFIED CRITERIA ARE MET;

(II) CREATE A PROCESS THROUGH WHICH A TRANSMISSION DEVELOPER MUST SUBMIT A REQUEST TO THE DEPARTMENT FOR A PERMIT FOR THE USE OF A STATE HIGHWAY RIGHT-OF-WAY TO CONSTRUCT A HIGH VOLTAGE LINE;

(III) ESTABLISH THE PROCESS FOR THE DENIAL OF A PERMIT REQUEST SUBMITTED BY A TRANSMISSION DEVELOPER FOR A HIGH VOLTAGE LINE IF THE PROPOSED PROJECT PRESENTS A RISK TO PUBLIC SAFETY OR PREVENTS THE PROPER FUNCTIONING OF THE STATE HIGHWAY; AND

(IV) SET THE SURCHARGES FOR A TRANSMISSION DEVELOPER'S ACCESS TO A STATE HIGHWAY RIGHT-OF-WAY, AS DESCRIBED IN SUBSECTION (4) OF THIS SECTION, AS FOLLOWS:

(A) SURCHARGES MUST BE PAID AT A RATE OF SIX HUNDRED DOLLARS PER MILE;

(B) SURCHARGES COVER A TWENTY-YEAR ACCESS TERM AND MAY BE PAID AS A LUMP SUM ONE-TIME PAYMENT OF TWELVE THOUSAND DOLLARS PER MILE OR AS AN ANNUAL PAYMENT OF SIX HUNDRED DOLLARS PER MILE FOR EACH YEAR OF THE TWENTY-YEAR ACCESS TERM;

(C) BEGINNING ON JULY 1, 2028, AND ON EVERY JULY 1 THEREAFTER, THE DEPARTMENT MAY ADJUST THE AMOUNT OF THE DOLLAR-PER-MILE SURCHARGE FOR INFLATION IN ACCORDANCE WITH THE AVERAGE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION, NATIONAL HIGHWAY CONSTRUCTION COST INDEX OR ITS APPLICABLE PREDECESSOR OR SUCCESSOR INDEX FOR THE FIVE-YEAR PERIOD ENDING ON THE LAST DECEMBER 31 BEFORE A STATE FISCAL YEAR FOR WHICH AN INFLATION ADJUSTMENT TO THE SURCHARGE IS MADE TO BEGIN;

(D) THE TWENTY-YEAR ACCESS TERM COVERED BY THE SURCHARGES MAY BE RENEWED EVERY TWENTY YEARS; AND

(E) THE DEPARTMENT SHALL ESTABLISH PRORATED SURCHARGES FOR HIGH VOLTAGE LINE TRANSMISSION DEVELOPMENT PROJECTS WITH INSTALLATIONS OF LESS THAN THREE HUNDRED FEET.

(c) THE DEPARTMENT SHALL UPDATE ITS RULES AS REQUIRED BY SUBSECTION (6)(a) OF THIS SECTION AND ADOPT THE RULES REQUIRED BY SUBSECTION (6)(b) OF THIS SECTION NO LATER THAN JANUARY 1, 2027.

SECTION 3. In Colorado Revised Statutes, 12-10-602, **amend** (9)(b)(VI) as follows:

12-10-602. Definitions. As used in this part 6, unless the context otherwise requires:

(9) (b) "Real estate appraiser" or "appraiser" does not include:

(VI) A right-of-way acquisition agent, an appraiser who is licensed and certified pursuant to this part 6, or any other individual who has sufficient understanding of the local real estate market to be qualified to make a waiver valuation when the agent, appraiser, or other qualified individual is employed by or contracts with a public entity and provides an opinion of value that is not represented as an appraisal and when, for any

purpose, the property or portion of property being valued is valued at ~~twenty-five thousand dollars or less, as~~ NOT MORE THAN THE SPECIFIED AMOUNT permitted by federal law and 49 CFR 24.102 (c)(2), as amended;

SECTION 4. 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 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO