

PROPOSED INITIATIVE 2025-2026 #89 FIFTH DRAFT 06/19/2025

Initiated Statute for Just Compensation In Refinery Purchase Act

Be it Enacted by the People of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** Article 44 to Title 40 as follows:

ARTICLE 44

JUST COMPENSATION FOR REFINERY PURCHASE ACT

40-44-101. SHORT TITLE. THE SHORT TITLE OF THIS ACT IS “JUST COMPENSATION FOR REFINERY PURCHASE ACT.”

40-44-102. LEGISLATIVE DECLARATION. (1) THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT:

(A) THE COLORADO REVISED STATUTES **ALREADY** INCLUDE PART 125.5 **OF ARTICLE 2 OF TITLE 40** TITLED “CARBON DIOXIDE EMISSION REDUCTIONS - GOAL TO ELIMINATE BY 2050” WHICH MANDATES THAT QUALIFYING RETAIL UTILITIES SEEK TO ACHIEVE 100% CLEAN ENERGY FOR THEIR CUSTOMERS **BY 2050**;

(B) THE COLORADO 2023 ELECTRIC VEHICLE (EV) PLAN SIGNED BY THE GOVERNOR HAS A GOAL OF 100% TRANSITION TO ZERO-EMISSION VEHICLES BY 2050, WHICH MEANS A DRAMATIC DROP IN REFINED GASOLINE SALES IN COLORADO BY 2050;

(C) THE OWNER AND OPERATOR OF THE COMMERCE CITY REFINERIES HAS OVER 58 ENVIRONMENTAL AND SAFETY VIOLATIONS SINCE 2005 CULMINATING IN EXCESSIVE DUMPING OF CYANIDE IN SAND CREEK IN FEBRUARY 2025 AND, THUS, LOSING THE TRUST OF COLORADO CITIZENS;

(D) THE REFINERIES HISTORICALLY EARN HUNDREDS OF MILLIONS OF DOLLARS IN PROFIT EACH YEAR THAT GO INTO THE POCKETS OF INVESTORS RATHER THAN COLORADO CITIZENS;

(E) THE UNITED STATES CONSTITUTION'S FIFTH AMENDMENT, THROUGH ITS "TAKINGS CLAUSE," GRANTS THE GOVERNMENT THE POWER OF EMINENT DOMAIN, ALLOWING IT TO SEIZE PRIVATE PROPERTY FOR PUBLIC USE, BUT ONLY WITH "JUST COMPENSATION" TO THE OWNER;

(F) THE STATE OF VIRGINIA USED EMINENT DOMAIN TO ACQUIRE LAND WHICH WAS DONATED TO THE SHENANDOAH NATIONAL PARK FOR PUBLIC USE;

(G) WITHOUT RAISING TAXES OR FEES, THIS ARTICLE 44 AUTHORIZES THE SALE OF REVENUE ANTICIPATION NOTES WITH THE PROCEEDS TO BE SPENT AS JUST COMPENSATION FOR THE EMINENT DOMAIN PURCHASE OF BOTH COMMERCE CITY REFINERIES AS WELL AS ANY LEGAL FEES, THAT THE PRINCIPAL AND INTEREST ON THE BORROWED MONEY SHALL BE PAID OUT OF THE STATE BUDGET AS PROVIDED IN THIS ARTICLE 44, THAT THE BORROWED MONEY AND THE INTEREST BE EXCLUDED FROM THE STATE'S FISCAL YEAR SPENDING LIMIT, AND THE PROCEEDS BE EXCLUDED FROM THE STATE'S FISCAL YEAR REVENUE LIMIT; AND

(H) THE REFINERY'S PUBLIC USE INCLUDES THE FOLLOWING:

(I) FIXING REFINERY LEAKS THAT AFFECT PUBLIC AIR, WATER AND LAND WHICH THE CURRENT OWNER REFUSES TO CORRECT;

(II) COMPENSATING RESIDENTS NEAR THE REFINERIES AFFECTED BY THE LEAKS;

(III) PAYING FOR A 550 MEGAWATT OR GREATER SOLAR ENERGY FARM THAT WILL PROVIDE ABOUT A THOUSAND JOBS AND SAVE COLORADO CITIZENS POTENTIALLY 7% ON ELECTRICITY ANNUALLY IN SUPPORT OF COLORADO'S 2050 CLEAN ENERGY GOAL; AND

(IV) EVENTUALLY REPLACING THE REFINERIES WITH PUBLIC PARKS RATHER THAN BE EYE SORES.

40-44-103. REVENUE ANTICIPATION NOTES.

AS SOON AS POSSIBLE AFTER THE EFFECTIVE DATE OF THIS ARTICLE 44, AND DEPENDING ON ANY RELATED LAWSUITS, THE STATE TREASURER IS AUTHORIZED TO USE DISCRETION BEFORE ISSUING REVENUE ANTICIPATION NOTES IN A MAXIMUM AMOUNT OF FOUR HUNDRED MILLION DOLLARS

WITH A MAXIMUM REPAYMENT COST OF SIX HUNDRED MILLION DOLLARS. THE MAXIMUM REPAYMENT TERM FOR ANY NOTES SHALL BE TWENTY YEARS, AND THE CERTIFICATE, TRUST INDENTURE OR OTHER INSTRUMENT AUTHORIZING THEIR ISSUANCE SHALL PROVIDE THAT THE STATE MAY PAY THE NOTES IN FULL BEFORE THE END OF THE SPECIFIED PAYMENT TERM WITHOUT PENALTY. THESE PURPOSES CAN BE ACHIEVED WITHOUT RAISING TAXES.

40-44-104. RESTRICTED USE OF PROCEEDS.

THE PROCEEDS OF SUCH REVENUE ANTICIPATION NOTES SHALL BE **DISTRIBUTED** BY THE STATE TREASURER. THE PROCEEDS SHALL BE USED AS JUST COMPENSATION FOR THE EMINENT DOMAIN PURCHASE OF THE TWO COMMERCE CITY REFINERIES **WITHOUT APPROVAL BY THE COLORADO PUBLIC UTILITIES COMMISSION AND THE COLORADO ENERGY AND CARBON MANAGEMENT COMMISSION (ECMC). JUST COMPENSATION WILL BE** BASED ON THE VALUE OF THE STATE'S APPRAISER NOT TO EXCEED TWICE THE COMBINED LAST PURCHASE PRICE OF ONE-HUNDRED-FIFTY MILLION FOR THE 2003 REFINERY PURCHASE AND FORTY-FIVE MILLION DOLLARS FOR THE 2005 REFINERY PURCHASE **MINUS DEPRECIATION** FOR A TOTAL OF THREE-HUNDRED-NINETY MILLION DOLLARS. THE PROCEEDS WILL ALSO BE USED FOR ANY LEGAL FEES NOT TO EXCEED **TWO** MILLION DOLLARS. THE STATE TREASURER WILL CREATE **CASH** FUNDS FOR THE DEPARTMENT OF NATURAL RESOURCES AND THE DEPARTMENT OF PERSONNEL AND ADMINISTRATION. AFTER PURCHASE OF THE REFINERIES AND ANY LEGAL FEES, THE STATE TREASURER SHALL TRANSFER \$250,000 TO THE DEPARTMENT OF PERSONNEL AND ADMINISTRATION FUND **FOR SALARIES AND EQUIPMENT TO** TRANSITION COLORADO REFINERY EMPLOYEES TO THE STATE BY CURRENT STATE EMPLOYEES. THE STATE TREASURER SHALL TRANSFER THE REMAINING PROCEEDS **(APPROXIMATELY \$7.75 MILLION)** TO THE DEPARTMENT OF NATURAL RESOURCES FUND FOR **SALARIES AND EQUIPMENT** OVER TWENTY YEARS FOR **MANAGING** PROJECTS LISTED IN COLORADO REVISED STATUTE **SECTION 40-44-108.**

40-44-105. REQUIRED ACTION TO PAY OFF NOTES.

THE STATE TREASURER WILL CREATE A FUND FOR THE INCOME AND EXPENSES OF THE REFINERIES AND THE FUTURE SOLAR ENERGY FARM, PURSUANT TO SECTION 40-44-108, FOR THE DEPARTMENT OF NATURAL RESOURCES WHICH WILL USE THE FUND IN PART TO PAY OFF THE NOTES. WITHOUT RAISING TAXES OR FEES, COMMENCING AS SOON AS POSSIBLE AFTER THE EFFECTIVE DATE OF THIS ARTICLE 44, AND EACH YEAR THEREAFTER UNTIL THE NOTES ARE PAID IN FULL, THE DEPARTMENT OF NATURAL RESOURCES SHALL IDENTIFY AND PAY IN EACH FISCAL YEAR THE REPAYMENT COST OF THE NOTES UNTIL THE NOTES ARE PAID IN FULL, PREFERABLY IN THREE YEARS. ANY ANNUAL EXPENDITURES MADE BY THE DEPARTMENT OF NATURAL RESOURCES SHALL BE MADE IN ACCORDANCE WITH CURRENT LAW AND RULINGS ISSUED BY THE COLORADO SUPREME COURT.

40-44-106. REQUIRED ACTION BY THE DEPARTMENT OF NATURAL RESOURCES.

WITHOUT RAISING TAXES OR FEES THE DEPARTMENT OF NATURAL RESOURCES, WHICH SHALL BE RESPONSIBLE FOR THE REFINERIES AND SOLAR ENERGY FARM, SHALL MANAGE ALL OPERATIONS PERSONNEL, MANAGE ALL IMPROVEMENTS, MANAGE ALL CONTRACTS, AND MANAGE THE INCOME AND EXPENSES OF THE REFINERIES AND SOLAR ENERGY FARM TO BE AUDITED BY THE OFFICE OF THE STATE AUDITOR.

40-44-107. REQUIRED ACTION BY THE DEPARTMENT OF PERSONNEL AND ADMINISTRATION.

WITHOUT RAISING TAXES OR FEES, THE DEPARTMENT OF PERSONNEL AND ADMINISTRATION WILL MANAGE THE TRANSITION OF ALL COLORADO REFINERY EMPLOYEES TO THE STATE AND FROM THE REFINERIES TO THE NEW SOLAR ENERGY FARM AS WELL AS HIRE NEW EMPLOYEES FOR BOTH. THE TRANSITION TO THE STATE WILL BE AUTOMATIC TO THE DEPARTMENT OF NATURAL RESOURCES FOR ALL COLORADO EMPLOYEES AT BOTH REFINERIES OF BETWEEN 500 AND 900 PERSONNEL. NON-COLORADO EMPLOYEES WILL BE LET GO. REFINERY EMPLOYEES THAT DECLINE THE TRANSITION TO THE STATE OR TO THE SOLAR ENERGY FARM ALSO WILL BE LET GO. CONSEQUENTLY, JOB OPENINGS

WITH THE STATE WILL BE CREATED. ADDITIONAL PAYROLL COSTS SUCH AS HEALTHCARE AND RETIREMENT COSTS MAY CHANGE WITH STATE BENEFIT PLANS BUT WILL COME OUT OF PAYROLL CHECKS JUST LIKE THE PREVIOUS EMPLOYER. THE EMPLOYEES AT THE REFINERIES AND THE SOLAR ENERGY FARM WILL HAVE THE SAME RIGHTS TO JOIN THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION (PERA) AS OTHER STATE EMPLOYEES INCLUDING STATE PENSION BENEFITS STARTING WITH THE FIRST DAY OF STATE EMPLOYMENT. STATE REFINERY EMPLOYEES CAN TRANSITION TO THE SOLAR ENERGY FARM REMAINING AS STATE EMPLOYEES WITHOUT LOSS OF PENSION TIME EARNED. THE TRANSFERRED REFINERY EMPLOYEES WILL ALSO BE ABLE TO VOTE TO JOIN THE COLORADO WORKERS FOR INNOVATIVE AND NEW SOLUTIONS (WINS) UNION OR STAY IN THEIR CURRENT UNION IF IN ONE.

40-44-108. PUBLIC PROJECTS USING PROFITS.

WITH A HISTORY OF EARNING HUNDREDS OF MILLIONS OF DOLLARS OF REFINERY PROFITS EACH YEAR, THE INCOME AND EXPENSES OF THE REFINERIES AS WELL AS THE NEW SOLAR ENERGY FARM WILL BE EXEMPT FROM THE LIMITATION ON FISCAL YEAR REVENUE AND SPENDING SPECIFIED IN SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION. SUCH INCOME WILL BE TRANSFERRED BY THE STATE TREASURER TO THE DEPARTMENT OF NATURAL RESOURCES FUND TO BE MANAGED WITH AUDITS BY THE OFFICE OF THE STATE AUDITOR. THE DEPARTMENT OF NATURAL RESOURCES WILL HAVE THE DISCRETION TO DECIDE HOW MUCH AND WHEN TO USE THE INCOME FROM THE REFINERIES AND THE SOLAR ENERGY FARM TO PAY FOR THESE PUBLIC PROJECTS IN THE FOLLOWING PREFERRED PRIORITY ORDER AS INCOME ALLOWS:

1. REFINERY OPERATIONS;
2. REFINERY REPAIRS AND IMPROVEMENTS SUCH AS FIXING ALL LEAKS;
3. COMPENSATION TO COVER HEALTH ISSUES OR MOVING EXPENSES OF \$10,000 PER PERSON WITHOUT PROOF OF EITHER HEALTH ISSUES OR MOVING EXPENSES TO APPROXIMATELY 3,500 RESIDENTS WHO PROVE THEY LIVE WITHIN A THREE-MILE

RADIUS OF THE REFINERY WITHIN ONE YEAR PRIOR TO THE NOVEMBER 2026 ELECTION WITH A DRIVER'S LICENSE OR UTILITY BILL AND SIGN A COVENANT NOT TO SUE THE STATE FOR PAST OR FUTURE HEALTH CONDITIONS;

4. PHASING OUT THE REFINERIES WITHIN TWENTY YEARS AND REPLACING THEM WITH PUBLIC PARKS WHICH MEANS STARTING PLANS IN THE THIRD YEAR FROM THE PURCHASE AND IMPLEMENTING THE PHASE OUT AND REPLACEMENT IN THE LAST FIVE YEARS; AND
5. A SOLAR ENERGY FARM IN COLORADO LIKE THE TOPAZ SOLAR FARM NEAR SAN LUIS OBISPO CALIFORNIA WHICH WOULD PROVIDE ABOUT A THOUSAND JOBS FOR REFINERY EMPLOYEES TO TRANSITION TO, BETWEEN 550 AND 970 MEGAWATTS OF POWER, VARIOUS LIVESTOCK, CROPS, AND FLOWERS ANNUALLY, AND ONE OF THE LARGEST BEE COLONIES IN COLORADO WHICH MEANS STARTING PLANS IN THE THIRD YEAR FROM THE PURCHASE AND IMPLEMENTING THE FARM IN THE REMAINDER OF THE TWENTY YEARS.

40-44-109. AWARD FEE CONTRACTS.

ALL THE PROJECTS MENTIONED IN ARTICLE 44, AT THE DISCRETION OF THE DEPARTMENT OF NATURAL RESOURCES, SHOULD USE AWARD FEE CONTRACTS WITH MANY PRIVATE AND PUBLIC ORGANIZATIONS. AN AWARD FEE CONTRACT IS AN INCENTIVE CONTRACT WHERE THE CONTRACTOR EARNS A BONUS (THE AWARD FEE) OF 10% OF THE CONTRACT TOTAL FOR EXCEEDING PERFORMANCE EXPECTATIONS INCLUDING COMPLETION ON TIME (UP TO 55 POINTS), UNDER BUDGET (UP TO 35 POINTS) AND BEYOND TECHNICAL EXPECTATIONS (UP TO 10 POINTS). THE OFFICE OF THE STATE AUDITOR WILL AUDIT THE COMPLETED PROJECT AND GIVE IT A POINT TOTAL SCORE BETWEEN 0 AND 100 WHICH WILL BE USED BY THE DEPARTMENT OF NATURAL RESOURCES TO PAY A PERCENTAGE OF THE BONUS POSSIBLE I.E. BONUS TIMES SCORE DIVIDED BY 100. FOR EXAMPLE, A PROJECT THAT

DOES NOT FINISH ON TIME, GOES OVER BUDGET, AND PROVIDES NO EXTRAS TECHNICALLY WOULD GET A ZERO SCORE AND RECEIVE A \$0 BONUS.

40-44-110. SUCCESSFUL PRIVATE AND PUBLIC PARTNERSHIPS USING PROFITS.

ALL THE PROJECTS MENTIONED IN ARTICLE 44, AT THE DISCRETION OF THE DEPARTMENT OF NATURAL RESOURCES, REQUIRE SUCCESSFUL PARTNERSHIPS WITH MANY PRIVATE AND PUBLIC ORGANIZATIONS. THE STATE TREASURER WILL TRANSFER REFINERY AND SOLAR FARM INCOME TO THE DEPARTMENT OF NATURAL RESOURCES FUND TO BE MANAGED IN CONJUNCTION WITH THESE PARTNERSHIPS. AS PROFITS ARE IDENTIFIED, THE FOLLOWING ARE SOME OF THE ORGANIZATIONS TO BE PAID BY THE DEPARTMENT OF NATURAL RESOURCES, AS WELL AS THE MAXIMUM PAYMENTS TO BE SPREAD OVER TWENTY YEARS, AND THE REASONS FOR THE PAYMENTS:

1. XCEL ENERGY WILL BE PAID UP TO \$40 MILLION FOR THE CONNECTION OF THE SOLAR ENERGY FARM TO THE COLORADO ELECTRIC GRID SYSTEM;
2. THE COLORADO PUBLIC UTILITY COMMISSION (CPUC) WILL BE PAID UP TO \$2 MILLION FOR THE MANAGEMENT OF THE CONNECTION OF THE SOLAR ENERGY FARM TO THE COLORADO ELECTRIC GRID SYSTEM AND ENSURING THE COLORADO ELECTRIC GRID AND THE SOLAR ENERGY FARM COMPLY WITH ALL COLORADO STATUTES; AND
3. COMMERCE CITY WILL BE PAID UP TO \$1 MILLION FOR MANAGEMENT OF THE TRANSITION OF THE REFINERIES TO PUBLIC PARKS; AND
4. THE OFFICE OF THE STATE AUDITOR WILL BE PAID UP TO \$600 THOUSAND FOR UP TO 20 ANNUAL AUDITS AND VARIOUS AWARD FEE ANALYSES.

40-44-111. EFFECTIVE DATE

THIS ARTICLE 44 SHALL BECOME EFFECTIVE UPON PROCLAMATION BY THE GOVERNOR AND SHALL BE SELF-EXECUTING.