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

Article X of the constitution of the state of Colorado is amended BY THE ADDITION OF A NEW SECTION to read:

Section 22. Colorado Clean Energy Tax Shift

The purpose of this section is to reduce emissions of carbon dioxide from fossil fuels by implementing a consumption-based, revenue-neutral carbon tax, and specifies how the tax rate is set, who pays the tax and under what conditions, and how the tax revenue is collected and distributed.

To the extent these provisions contradict or are not consistent with provisions elsewhere in the constitution, this section supercedes such provisions. Such superceded sections include, but are not limited to those that divert all taxes on transportation fuels to transportation funding, require statewide votes to change tax rates, and place limits or totals on revenue or spending.

As used in this section, unless the context otherwise requires:

"Fossil fuel" shall refer to any substance composed of more than fifty percent carbon by mass that is obtained by extraction from the earth and was not created by human activity, including but not limited to coal, petroleum, natural gas, and their products and derivatives.

(1) The carbon tax rate shall be set at a level that causes annual statewide emissions of carbon dioxide from extraction, processing and use of fossil fuels to meet or fall below the emissions target in the year specified in the target.

(a) Such target shall be expressed in the form of a percentage reduction in annual statewide carbon dioxide emissions from fossil fuels from a previous level to be achieved by a specified future year.

(I) Targets shall be specified for the years 2020 and 2050. Targets for interim or later years may be specified by statute.

(II) The initial targets are: twenty percent below the 2005 level of carbon dioxide emissions from fossil fuels by 2020; and eighty percent below the 1990 level of carbon dioxide emissions from fossil fuels by 2050. These targets may be changed by statute.

(b) The carbon tax rate, per metric ton of carbon dioxide emitted, shall be set each year by the governor. Changes in this tax rate shall not require a vote. The governor shall announce the carbon tax rate for the following fiscal year on or before April 1 of each year. Such carbon tax rate shall be effective from July 1 through June 30.

(I) The carbon tax rate for 2009-2010 shall be $12.00 per metric ton carbon dioxide emitted. Such carbon tax rate shall take effect on July 1, 2009 and remain in effect through June 30, 2010.

(II) The annual change in the carbon tax rate shall be limited to $25.00 per metric ton carbon dioxide or ten percent of the rate for the previous year, whichever is higher.

(III) The carbon tax rate shall apply to any fraction of a metric ton of carbon dioxide emitted in proportion to the amount of carbon dioxide emitted.

(c) At the same time the carbon tax rate is announced, the governor shall post for public viewing on the internet or its successor a report detailing the data and calculations used to arrive at this carbon tax rate.

(I) The principal author of the report, whose name shall appear on the first page of such report, shall hold a doctorate in economics, have been employed in the field for at least ten years, and be a member in good standing of either the American Agricultural Economics Association, the American Economic Association, or a successor organization.

(II) The report shall remain posted for at least twelve months on the internet or its successor for public comment.

(III) Comments on the report shall be posted for public viewing with the report, along with the full name, city, occupation and employer of the commenter. Anonymous comments shall not be posted.

(IV) In addition to the carbon tax rate for the following year, the report shall include projected carbon tax rates for the next four years. These projected carbon tax rates are not binding, and are published to provide guidance to the public.

(V) The report shall also include a listing of carbon tax rate per unit of each type of fossil fuel product sold or transferred in Colorado, and the carbon tax rate per kilowatt hour for each electric utility serving customers in Colorado. The carbon tax rate per unit shall be proportional to the fraction of a metric ton of carbon dioxide that, in the case of fuels, will be emitted when the particular fuel is burned, or, in the case of electricity, was emitted on average when the electricity was generated.

(2) Carbon dioxide may be released from a geologic deposit directly as a result of mining or other activity, or it may be created as a product of a chemical process in which a reactant is a fossil fuel. Both types of release obligate the collection of the carbon tax. The party responsible for paying the carbon tax is the one who benefits from the carbon dioxide emission, either directly or through the energy released by use of the fossil fuel.

(a) If carbon dioxide which was previously contained in a geologic deposit is released to the atmosphere in Colorado, the party responsible for the release must pay the carbon tax to the state on the amount of carbon dioxide emitted. The governor shall designate the appropriate agency to enforce this provision.

(b) Electric power providers shall collect from their electric power users the carbon tax on each kilowatt hour delivered to such users in Colorado, and shall forward this revenue to the state.

(c) Fossil fuel suppliers shall collect the carbon tax from the receivers for each unit of fossil fuel transferred to any person or entity in Colorado that will not resell or transfer the fuel, and shall forward this revenue to the state.

(I) Fossil fuels transferred to electric power providers for use in electric power generation equipment are exempt from the carbon tax.

(II) Fossil fuel handlers, processors, resellers, distributors and parties using fossil fuels for uses that do not create carbon dioxide, shall pay the carbon tax to the state for emissions of carbon dioxide from such fossil fuel during their physical possession of the fossil fuel or its products. The governor shall designate the appropriate agency to enforce this provision.

(d) Carbon tax liability incurred as a result of operating heating, ventilation, air conditioning, lighting or building mechanical systems of a leased residential or commercial building shall be paid by the owner of the building. Suppliers of electricity or fossil fuel to the building shall collect the carbon tax from the building owner and forward it to the state. Building owners shall not pass this expense directly to tenants, except in the case where the tenant has contractually agreed before this section took effect to pay all taxes related to the building.

(e) Carbon tax revenue collected on transportation fuels shall not be diverted to transportation funding.

(3) Carbon tax revenue shall be held by the state in the Colorado clean energy tax shift fund. Moneys in the Colorado clean energy tax shift fund shall be distributed by the treasurer in three ways: to fund administrative expenses; to fund a discount to the sales and use tax rate; and to fund income tax credits for earned income, business personal property taxes paid, payroll taxes paid and per capita. Moneys held in the Colorado clean energy tax shift fund shall be excluded from any revenue or spending limits or totals.

(a) $3 million per year shall be allocated from the Colorado clean energy tax shift fund for administrative expenses related to this section. If less than that amount is needed, the unclaimed portion shall remain in the Colorado clean energy tax shift fund and be included in the moneys refunded through income tax credits. The treasurer shall transfer the amount needed to the appropriate state funds for distribution.

(I) Such moneys for administrative expenses shall not be included in any revenue or spending totals or limits.

(II) The amount of such moneys for administrative expenses shall be allowed to increase as needed in future years, subject to the same constraints placed on increases of the general fund.

(III) If the Colorado clean energy tax shift fund has insufficient revenue to cover administrative expenses, such expenses shall be reduced.

(b) On or before April 1 of each year, the governor shall announce the discounted sales and use tax rate for the following fiscal year. The discounted sales and use tax rate takes effect starting July 1 and remains in effect through June 30. Such discounted sales and use tax rate shall be calculated as follows:

(I) The anticipated revenue available to fund the sales and use tax discount shall equal thirty percent of the quantity: the gross anticipated carbon tax revenue for the upcoming fiscal year minus the anticipated administrative expenses for the same period minus the anticipated expense of funding the earned income tax credit at twenty percent of the federal level. If the anticipated revenue available to fund the sales and use tax discount is zero or less, such discount shall be zero.

(II) The discounted sales and use tax rate shall equal the sales and use tax rate set by statute multiplied by the ratio of the quantity: anticipated annual sales and use tax revenue minus anticipated revenue available to fund the sales and use tax discount in the same period; divided by the anticipated annual sales and use tax revenue. If such calculation results in a discounted sales and use tax rate less than one tenth of one percent, the discounted sales and use tax rate shall equal one-tenth of one percent.

(III) The discounted sales and use tax rate is calculated every year based on the sales and use tax rate set by statute. Year to year increases in the discounted sales and use tax rate shall occur without voter approval.

(IV) The treasurer shall transfer moneys from the Colorado clean energy tax shift fund to reimburse the state for actual sales and use tax revenue lost as a result of the discount. Such reimbursement moneys shall be included in the revenue and spending limits constraining sales and use tax revenue.

(c) Carbon tax revenue remaining in the Colorado clean energy tax shift fund at the end of the fiscal year, after reimbursements for lost sales and use tax revenue and administrative expenses are paid, shall be returned to taxpayers in the following calendar year through the income tax credits listed below. The treasurer shall transfer moneys from the Colorado clean energy tax shift fund to reimburse the state for actual revenue lost as a result of claims of such tax credits. Such reimbursement moneys shall be excluded from any revenue or spending limits or totals.

(I) Taxpayers claiming the federal earned income tax credit may claim a Colorado supplement to such federal earned income tax credit. Such state supplement to the federal earned income tax credit shall equal twenty percent of the federal earned income tax credit. If the Colorado clean energy tax shift fund has insufficient revenue to reimburse the state for such tax credit, an adjustment may be made by statute to the percentage amount of the credit for that year, or an alternative source of revenue for such credit may be designated by statute. If the federal earned income tax credit is discontinued, the general assembly may choose to create a new program by statute which would distribute an amount of money within ten percent of the amount distributed by the state supplement to the earned income tax credit in a previous year, and have the same eligibility requirements.

(II) Taxpayers may claim a rebate of business personal property tax paid in the previous year. Moneys available for such rebate shall equal two-sevenths of the quantity: the amount to be returned through income tax credits minus the anticipated expense of reimbursement for the earned income tax credit. The percentage of business personal property tax paid to be rebated shall equal one hundred times the ratio of the moneys available for such rebate divided by the total business personal property paid in the state. If the amount available in the Colorado clean energy tax shift fund for such business personal property tax rebate exceeds the total amount of business personal property tax paid in the state, the rebate percentage shall equal one hundred percent. The governor shall announce such percentage on or before September 15 of each year.

(III) Taxpayers may claim a rebate of a percentage of payroll taxes paid in the previous year. Payroll taxes include federal self-employment tax and the corresponding employer payments to federal or state programs. Moneys available for such rebate shall equal two-sevenths of the quantity: the amount to be returned through income tax credits minus the anticipated expense of reimbursement for the earned income tax credit. The percentage of payroll taxes paid to be rebated shall equal one hundred times the ratio of the amount available for such rebate divided by total statewide payroll taxes paid. Such calculated percentage shall be rebated even if it exceeds one hundred percent. The governor shall announce such percentage on or before September 15 of each year.

(IV) Taxpayers may claim a per capita tax credit for all persons domiciled in Colorado at the time distribution is made. Payments made to dependents shall be made to the party claiming such dependents on that year's Colorado state income tax return. This rebate shall have equal value for everyone. Moneys available for such rebate shall equal three-sevenths of the quantity: the amount to be returned through income tax credits minus the anticipated expense of reimbursement for the earned income tax credit. The amount to be credited shall equal the amount available for such rebate divided by the total number of people domiciled in Colorado. The governor shall announce this amount on or before September 15 of each year.