

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 13-0962.01 Duane Gall x4335

SENATE BILL 13-252

SENATE SPONSORSHIP

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Senate Committees

State, Veterans, & Military Affairs

House Committees

Transportation & Energy

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO INCREASE COLORADO'S RENEWABLE**
102 **ENERGY STANDARD SO AS TO ENCOURAGE THE DEPLOYMENT OF**
103 **METHANE CAPTURE TECHNOLOGIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

In the statute creating Colorado's renewable energy standard, the bill removes in-state preferences with respect to:

- ! Wholesale distributed generation;
- ! The 1.25 kilowatt-hour multiplier for each kilowatt-hour of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
April 27, 2013

SENATE
3rd Reading Unamended
April 15, 2013

SENATE
Amended 2nd Reading
April 12, 2013

electricity generated from eligible energy resources other than retail distributed generation;

- ! The 1.5 kilowatt-hour multiplier for community-based projects; and
- ! Policies the Colorado public utilities commission (PUC) must implement by rule to provide incentives to qualifying retail utilities to invest in eligible energy resources.

The bill also raises the percentage of retail electricity sales that must be achieved from eligible energy resources by cooperative electric associations that provide service to 100,000 meters or more from 10% to 25%, starting in 2020, and increases the allowable retail rate impact for cooperative electric associations from 1% to 2%.

The bill expands the definition of "eligible energy resources" that can be used to meet the standards to include coal mine methane and synthetic gas produced by pyrolysis of municipal solid waste, subject to a determination by the PUC that the production and use of these gases does not cause a net increase in greenhouse gas emissions.

The bill also implements a new eligible energy standard of 25% for generation and transmission cooperative electric associations that directly provide electricity at wholesale to cooperative electric associations in Colorado that are its members. The standard applies only to sales by these wholesale providers to their members in Colorado. The wholesale providers are required to make public reports of their annual progress toward meeting the standard by 2020. The PUC is granted no additional regulatory authority over these providers in the implementation of this standard.

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-2-124, **amend** (1)
3 introductory portion, (1) (a), (1) (c) (II) (A), (1) (c) (III), (1) (c) (V)
4 introductory portion, (1) (c) (VI) introductory portion, (1) (c) (VII)
5 (A), (1) (f) introductory portion, (1) (g) (I) (A), and (1) (g) (IV) (A); and
6 **add** (1) (c) (V.5), (1) (c) (X), and (8) as follows:

7 **40-2-124. Renewable energy standards - qualifying retail and**
8 **wholesale utilities - definitions - net metering - legislative declaration.**

9 (1) Each provider of retail electric service in the state of Colorado, other
10 than municipally owned utilities that serve forty thousand customers or

1 fewer, ~~shall be considered~~ IS a qualifying retail utility. Each qualifying
2 retail utility, with the exception of cooperative electric associations that
3 have voted to exempt themselves from commission jurisdiction pursuant
4 to section 40-9.5-104 and municipally owned utilities, ~~shall be~~ IS subject
5 to the rules established under this article by the commission. No
6 additional regulatory authority ~~of~~ IS PROVIDED TO the commission other
7 than that specifically contained in this section. ~~is provided or implied.~~ In
8 accordance with article 4 of title 24, C.R.S., the commission shall revise
9 or clarify existing rules to establish the following:

10 (a) Definitions of eligible energy resources that can be used to
11 meet the standards. "Eligible energy resources" means recycled energy
12 and renewable energy resources. IN ADDITION, RESOURCES USING COAL
13 MINE METHANE AND SYNTHETIC GAS PRODUCED BY PYROLYSIS OF
14 MUNICIPAL SOLID WASTE ARE ELIGIBLE ENERGY RESOURCES IF THE
15 COMMISSION DETERMINES THAT THE ELECTRICITY GENERATED BY THOSE
16 RESOURCES IS GREENHOUSE GAS NEUTRAL. The commission shall
17 determine, following an evidentiary hearing, the extent to which such
18 electric generation technologies utilized in an optional pricing program
19 may be used to comply with this standard. A fuel cell using hydrogen
20 derived from an eligible energy resource is also an eligible electric
21 generation technology. Fossil and nuclear fuels and their derivatives are
22 not eligible energy resources. For purposes of this section:

- 23 (I) "Biomass" means:
- 24 (A) Nontoxic plant matter consisting of agricultural crops or their
25 byproducts, urban wood waste, mill residue, slash, or brush;
- 26 (B) Animal wastes and products of animal wastes; or
- 27 (C) Methane produced at landfills or as a by-product of the

1 treatment of wastewater residuals.

2 (II) "COAL MINE METHANE" MEANS METHANE CAPTURED FROM
3 ACTIVE AND INACTIVE COAL MINES WHERE THE METHANE IS ESCAPING TO
4 THE ATMOSPHERE. IN THE CASE OF METHANE ESCAPING FROM ACTIVE
5 MINES, ONLY METHANE VENTED IN THE NORMAL COURSE OF MINE
6 OPERATIONS THAT IS NATURALLY ESCAPING TO THE ATMOSPHERE IS COAL
7 MINE METHANE FOR PURPOSES OF ELIGIBILITY UNDER THIS SECTION.

8 ~~(H)~~ (III) "Distributed renewable electric generation" or
9 "distributed generation" means:

10 (A) Retail distributed generation; and

11 (B) Wholesale distributed generation.

12 (IV) "GREENHOUSE GAS NEUTRAL", WITH RESPECT TO ELECTRICITY
13 GENERATED BY A COAL MINE METHANE OR SYNTHETIC GAS FACILITY,
14 MEANS THAT THE VOLUME OF GREENHOUSE GASES EMITTED INTO THE
15 ATMOSPHERE FROM THE CONVERSION OF FUEL TO ELECTRICITY IS NO
16 GREATER THAN THE VOLUME OF GREENHOUSE GASES THAT WOULD HAVE
17 BEEN EMITTED INTO THE ATMOSPHERE OVER THE NEXT FIVE YEARS,
18 BEGINNING WITH THE PLANNED DATE OF OPERATION OF THE FACILITY, IF
19 THE FUEL HAD NOT BEEN CONVERTED TO ELECTRICITY, WHERE
20 GREENHOUSE GASES ARE MEASURED IN TERMS OF CARBON DIOXIDE
21 EQUIVALENT.

22 (V) "PYROLYSIS" MEANS THE THERMOCHEMICAL DECOMPOSITION
23 OF MATERIAL AT ELEVATED TEMPERATURES WITHOUT THE PARTICIPATION
24 OF OXYGEN.

25 ~~(H)~~ (VI) "Recycled energy" means energy produced by a
26 generation unit with a nameplate capacity of not more than fifteen
27 megawatts that converts the otherwise lost energy from the heat from

1 exhaust stacks or pipes to electricity and that does not combust additional
2 fossil fuel. "Recycled energy" does not include energy produced by any
3 system that uses energy, lost or otherwise, from a process whose primary
4 purpose is the generation of electricity, including, without limitation, any
5 process involving engine-driven generation or pumped hydroelectricity
6 generation.

7 ~~(IV)~~ (VII) "Renewable energy resources" means solar, wind,
8 geothermal, biomass, new hydroelectricity with a nameplate rating of ten
9 megawatts or less, and hydroelectricity in existence on January 1, 2005,
10 with a nameplate rating of thirty megawatts or less.

11 ~~(V)~~ (VIII) "Retail distributed generation" means a renewable
12 energy resource that is located on the site of a customer's facilities and is
13 interconnected on the customer's side of the utility meter. In addition,
14 retail distributed generation shall provide electric energy primarily to
15 serve the customer's load and shall be sized to supply no more than one
16 hundred twenty percent of the average annual consumption of electricity
17 by the customer at that site. For purposes of this subparagraph ~~(V)~~ (VIII),
18 the customer's "site" includes all contiguous property owned or leased by
19 the customer without regard to interruptions in contiguity caused by
20 easements, public thoroughfares, transportation rights-of-way, or utility
21 rights-of-way.

22 ~~(VI)~~ (IX) "Wholesale distributed generation" means a renewable
23 energy resource ~~in Colorado~~ with a nameplate rating of thirty megawatts
24 or less and that does not qualify as retail distributed generation.

25 (c) Electric resource standards:

26 (II) (A) Of the amounts of distributed generation in
27 sub-subparagraphs (C), (D), and (E) of subparagraph (I),

1 SUB-SUBPARAGRAPH (D) OF SUBPARAGRAPH (V), AND SUBPARAGRAPH
2 (V.5) of this paragraph (c), at least one-half ~~shall~~ MUST be derived from
3 retail distributed generation; EXCEPT THAT THIS SUB-SUBPARAGRAPH (A)
4 DOES NOT APPLY TO A QUALIFYING RETAIL UTILITY THAT IS A MUNICIPAL
5 UTILITY.

6 (III) Each kilowatt-hour of electricity generated from eligible
7 energy resources, ~~in Colorado~~, other than retail distributed generation
8 ~~shall be counted~~ AND OTHER THAN ELIGIBLE ENERGY RESOURCES
9 BEGINNING OPERATION ON OR AFTER JANUARY 1, 2015, COUNTS as one
10 and ~~one-quarter~~ ONE-FOURTH kilowatt-hours for the purposes of
11 compliance with this standard.

12 (V) Notwithstanding any other provision of law but subject to
13 subsection (4) of this section, the electric resource standards ~~shall~~ MUST
14 require each cooperative electric association THAT IS A QUALIFYING
15 RETAIL UTILITY AND THAT PROVIDES SERVICE TO FEWER THAN ONE
16 HUNDRED THOUSAND METERS, and EACH municipally owned utility that
17 is a qualifying retail utility, to generate, or cause to be generated,
18 electricity from eligible energy resources in the following minimum
19 amounts:

20 ==
21 (V.5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EACH
22 COOPERATIVE ELECTRIC ASSOCIATION THAT PROVIDES ELECTRICITY AT
23 RETAIL TO ITS CUSTOMERS AND SERVES ONE HUNDRED THOUSAND OR
24 MORE METERS SHALL GENERATE OR CAUSE TO BE GENERATED AT LEAST
25 TWENTY PERCENT OF THE ENERGY IT PROVIDES TO ITS CUSTOMERS FROM
26 ELIGIBLE ENERGY RESOURCES IN THE YEARS 2020 AND THEREAFTER.

27 (VI) Each kilowatt-hour of electricity generated from eligible

1 energy resources at a community-based project ~~shall~~ MUST be counted as
2 one and one-half kilowatt-hours. For purposes of this subparagraph (VI),
3 "community-based project" means a project: ~~located in Colorado:~~

4 (VII) (A) For purposes of compliance with the standards set forth
5 in subparagraph SUBPARAGRAPHS (V) AND (V.5) of this paragraph (c),
6 each kilowatt-hour of renewable electricity generated from solar electric
7 generation technologies shall be counted as three kilowatt-hours.

8 (X) OF THE MINIMUM AMOUNTS OF ELECTRICITY REQUIRED TO BE
9 GENERATED OR CAUSED TO BE GENERATED BY QUALIFYING RETAIL
10 UTILITIES IN ACCORDANCE WITH SUBPARAGRAPH (V.5) AND
11 SUB-SUBPARAGRAPH (D) OF SUBPARAGRAPH (V) OF THIS PARAGRAPH (C),
12 ONE-TENTH, OR ONE PERCENT OF TOTAL RETAIL ELECTRICITY SALES, MUST
13 BE FROM DISTRIBUTED GENERATION; EXCEPT THAT:

14 (A) FOR A COOPERATIVE ELECTRIC ASSOCIATION THAT IS A
15 QUALIFYING RETAIL UTILITY AND THAT PROVIDES SERVICE TO FEWER THAN
16 TEN THOUSAND METERS, THE DISTRIBUTED GENERATION COMPONENT MAY
17 BE THREE-QUARTERS OF ONE PERCENT OF TOTAL RETAIL ELECTRICITY
18 SALES; AND

19 (B) THIS SUBPARAGRAPH (X) DOES NOT APPLY TO A QUALIFYING
20 RETAIL UTILITY THAT IS A MUNICIPAL UTILITY.

21 (f) Policies for the recovery of costs incurred with respect to these
22 standards for qualifying retail utilities that are subject to rate regulation
23 by the commission. These policies ~~shall~~ MUST provide incentives to
24 qualifying retail utilities to invest in eligible energy resources ~~in the state~~
25 ~~of Colorado. Such policies shall~~ AND MUST include:

26 (g) Retail rate impact rule:
27 (I) (A) Except as otherwise provided in subparagraph (IV) of this

1 paragraph (g), for each qualifying utility, the commission shall establish
2 a maximum retail rate impact for this section FOR COMPLIANCE WITH THE
3 ELECTRIC RESOURCE STANDARDS of two percent of the total electric bill
4 annually for each customer. The retail rate impact shall be determined net
5 of new alternative sources of electricity supply from noneligible energy
6 resources that are reasonably available at the time of the determination.

7 (IV) (A) For cooperative electric associations, the maximum retail
8 rate impact for this section is ~~one~~ TWO percent of the total electric bill
9 annually for each customer.

10 (8) **Qualifying wholesale utilities - definition - electric resource**
11 **standard - tradable credits - reports.** (a) **Definition.** EACH
12 GENERATION AND TRANSMISSION COOPERATIVE ELECTRIC ASSOCIATION
13 THAT PROVIDES WHOLESALE ELECTRIC SERVICE DIRECTLY TO COLORADO
14 ELECTRIC ASSOCIATIONS THAT ARE ITS MEMBERS IS A QUALIFYING
15 WHOLESALE UTILITY. COMMISSION RULES ADOPTED UNDER SUBSECTIONS
16 (1) TO (7) OF THIS SECTION DO NOT APPLY DIRECTLY TO QUALIFYING
17 WHOLESALE UTILITIES, AND THIS SUBSECTION (8) DOES NOT PROVIDE THE
18 COMMISSION WITH ADDITIONAL REGULATORY AUTHORITY OVER
19 QUALIFYING WHOLESALE UTILITIES.

20 (b) **Electric resource standard.** NOTWITHSTANDING ANY OTHER
21 PROVISION OF LAW, EACH QUALIFYING WHOLESALE UTILITY SHALL
22 GENERATE, OR CAUSE TO BE GENERATED, AT LEAST TWENTY PERCENT OF
23 THE ENERGY IT PROVIDES TO ITS COLORADO MEMBERS AT WHOLESALE
24 FROM ELIGIBLE ENERGY RESOURCES IN THE YEAR 2020 AND THEREAFTER.
25 IF, AND TO THE EXTENT THAT, THE PURCHASE OF ENERGY GENERATED
26 FROM ELIGIBLE ENERGY RESOURCES BY A COLORADO MEMBER FROM A
27 QUALIFYING WHOLESALE UTILITY WOULD CAUSE AN INCREASE IN RATES

1 FOR THE COLORADO MEMBER THAT EXCEEDS THE RETAIL RATE IMPACT
2 LIMITATION IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (IV) OF
3 PARAGRAPH (g) OF SUBSECTION (1) OF THIS SECTION, THE OBLIGATION
4 IMPOSED ON THE QUALIFYING WHOLESALE UTILITY IS REDUCED BY THE
5 AMOUNT OF SUCH ENERGY NECESSARY TO ENABLE THE COLORADO
6 MEMBER TO COMPLY WITH THE RATE IMPACT LIMITATION.

7 (c) A QUALIFYING WHOLESALE UTILITY MAY COUNT THE ENERGY
8 GENERATED OR CAUSED TO BE GENERATED FROM ELIGIBLE ENERGY
9 RESOURCES BY ITS COLORADO MEMBERS OR BY THE QUALIFYING
10 WHOLESALE UTILITY ON BEHALF OF ITS COLORADO MEMBERS PURSUANT
11 TO SUBPARAGRAPH (V) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS
12 SECTION TOWARD COMPLIANCE WITH THE ENERGY RESOURCE STANDARD
13 ESTABLISHED IN THIS SUBSECTION.

14 (d) PREFERENCES FOR CERTAIN ELIGIBLE ENERGY RESOURCES AND
15 THE LIMIT ON THEIR APPLICABILITY ESTABLISHED IN SUBPARAGRAPH (VIII)
16 OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION MAY BE USED BY
17 A QUALIFYING WHOLESALE UTILITY IN MEETING THE ENERGY RESOURCE
18 STANDARD ESTABLISHED IN THIS SUBSECTION (8).

19 (e) **Tradable renewable energy credits.** A QUALIFYING
20 WHOLESALE UTILITY SHALL USE A SYSTEM OF TRADABLE RENEWABLE
21 ENERGY CREDITS TO COMPLY WITH THE ELECTRIC RESOURCE STANDARD
22 ESTABLISHED IN THIS SUBSECTION (8); EXCEPT THAT A RENEWABLE
23 ENERGY CREDIT ACQUIRED UNDER THIS SUBSECTION (8) EXPIRES AT THE
24 END OF THE FIFTH CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN
25 WHICH IT WAS GENERATED.

26 (f) IN IMPLEMENTING THE ELECTRIC RESOURCE STANDARD
27 ESTABLISHED IN THIS SUBSECTION (8), A QUALIFYING WHOLESALE UTILITY

1 SHALL ASSURE THAT THE COSTS, BOTH DIRECT AND INDIRECT,
2 ATTRIBUTABLE TO COMPLIANCE WITH THE STANDARD ARE RECOVERED
3 FROM ITS COLORADO MEMBERS. THE QUALIFYING WHOLESALE UTILITY
4 SHALL EMPLOY SUCH COST ALLOCATION METHODS AS ARE REQUIRED TO
5 ASSURE THAT ANY DIRECT OR INDIRECT COSTS ATTRIBUTABLE TO
6 COMPLIANCE WITH THE STANDARD ESTABLISHED IN THIS SUBSECTION (8)
7 DO NOT AFFECT THE COST OR PRICE OF THE QUALIFYING WHOLESALE
8 UTILITY'S SALES TO CUSTOMERS OUTSIDE OF COLORADO.

9 (g) **Reports.** EACH QUALIFYING WHOLESALE UTILITY SHALL
10 SUBMIT AN ANNUAL REPORT TO THE COMMISSION NO LATER THAN JUNE 1,
11 2014, AND JUNE 1 OF EACH YEAR THEREAFTER. IN ADDITION, THE
12 QUALIFYING WHOLESALE UTILITY SHALL POST AN ELECTRONIC COPY OF
13 EACH REPORT ON ITS WEB SITE AND SHALL PROVIDE THE COMMISSION WITH
14 AN ELECTRONIC COPY OF THE REPORT. IN EACH REPORT, THE QUALIFYING
15 WHOLESALE UTILITY SHALL:

16 (I) DESCRIBE THE STEPS IT TOOK DURING THE IMMEDIATELY
17 PRECEDING TWELVE MONTHS TO COMPLY WITH THE ELECTRIC RESOURCE
18 STANDARD ESTABLISHED IN THIS SUBSECTION (8);

19 (II) IN THE YEARS BEFORE 2020, DESCRIBE WHETHER IT IS MAKING
20 SUFFICIENT PROGRESS TOWARD MEETING THE STANDARD IN 2020 OR IS
21 LIKELY TO MEET THE 2020 STANDARD EARLY. IF IT IS NOT MAKING
22 SUFFICIENT PROGRESS TOWARD MEETING THE STANDARD IN 2020, IT SHALL
23 EXPLAIN WHY AND SHALL INDICATE THE STEPS IT INTENDS TO TAKE TO
24 INCREASE THE PACE OF PROGRESS; AND

25 (III) IN 2020 AND THEREAFTER, DESCRIBE WHETHER IT HAS
26 ACHIEVED COMPLIANCE WITH THE ELECTRIC RESOURCE STANDARD
27 ESTABLISHED IN THIS SUBSECTION (8) AND WHETHER IT ANTICIPATES

1 CONTINUING TO DO SO. IF IT HAS NOT ACHIEVED SUCH COMPLIANCE OR
2 DOES NOT ANTICIPATE CONTINUING TO DO SO, IT SHALL EXPLAIN WHY AND
3 SHALL INDICATE THE STEPS IT INTENDS TO TAKE TO MEET THE STANDARD
4 AND BY WHAT DATE.

5 (h) NOTHING IN THIS SUBSECTION (8) AMENDS OR WAIVES ANY
6 PROVISION OF SUBSECTIONS (1) TO (7) OF THIS SECTION.

7 **SECTION 2. Effective date.** This act takes effect July 1, 2013.

8 **SECTION 3. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.