

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

**REVISED**

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

LLS NO. 07-0367.03 Thomas Morris

**HOUSE BILL 07-1281**

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**A BILL FOR AN ACT**

101 **CONCERNING INCREASED RENEWABLE ENERGY STANDARDS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Expands the definition of "qualifying retail utility" to include providers of retail electric services, other than municipally owned utilities, that serve 40,000 customers or less. Raises the renewable energy standard for electrical generation by qualifying retail utilities other than cooperative electric associations and municipally owned utilities that serve more than 40,000 customers to 5% by 2008, 10% by 2011, 15% by 2015, and 20% by 2020. Establishes a renewable energy standard for cooperative electric associations and municipally owned utilities that serve more than 40,000 customers of 1% by 2008, 3% by 2011, 6% by

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.*

SENATE  
Amended 2nd Reading  
March 15, 2007

HOUSE  
3rd Reading Unamended  
February 26, 2007

HOUSE  
Amended 2nd Reading  
February 23, 2007

2015, and 10% by 2020. Defines "eligible energy resources" to include recycled energy and renewable energy resources.

For the purposes of cooperative electric associations' compliance with the renewable energy standard, counts each kilowatt-hour of renewable electricity generated from:

A community-based project as 1.5 kilowatt-hours; and

Solar electric generation technologies as 3 kilowatt-hours.

Allows each kilowatt-hour to take advantage of only one of the multipliers.

Adjusts the cost-recovery standards. Raises the maximum retail rate impact of complying with the standard to 2% for qualifying retail utilities other than cooperative electric associations. Prevents qualifying retail utilities from opting out of compliance with the renewable energy standard. Requires cooperative electric associations to submit annual reports to the public utilities commission concerning their compliance with the renewable energy standard.

Encourages electric utilities to establish community energy funds for the development of projects for the further development of renewable energy, energy efficiency, conservation, and environmental improvement.

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

2 **SECTION 1.** 40-2-124, Colorado Revised Statutes, is amended  
3 to read:

4 **40-2-124. Renewable energy standard.** (1) Each provider of  
5 retail electric service in the state of Colorado, ~~that serves over~~ OTHER  
6 THAN MUNICIPALLY OWNED UTILITIES THAT SERVE forty thousand  
7 customers OR LESS, shall be considered a qualifying retail utility. Each  
8 qualifying retail utility, with the exception of cooperative electric  
9 associations that have voted to exempt themselves from commission  
10 jurisdiction pursuant to section 40-9.5-104 and municipally owned  
11 utilities, shall be subject to the rules established under this article by the  
12 commission. No additional regulatory authority of the commission other  
13 than that specifically contained ~~herein~~ IN THIS SECTION is provided or  
14 implied. In accordance with article 4 of title 24, C.R.S., on or before

1 ~~April 1, 2005~~ OCTOBER 1, 2007, the commission shall initiate one or more  
2 rule-making processes REVISE OR CLARIFY EXISTING RULES to establish the  
3 following:

4 (a) Definitions of eligible ~~renewable~~ energy resources that can be  
5 used to meet the standards. "Eligible ~~renewable~~ energy resources" ~~are~~  
6 MEANS RECYCLED ENERGY AND RENEWABLE ENERGY RESOURCES.  
7 "RENEWABLE ENERGY RESOURCES" MEANS solar, wind, geothermal,  
8 biomass, new hydroelectricity with a nameplate rating of ten megawatts  
9 or less, and hydroelectricity in existence on January 1, 2005, with a  
10 nameplate rating of thirty megawatts or less. The commission shall  
11 determine, following an evidentiary hearing, the extent to which such  
12 electric generation technologies utilized in an optional pricing program  
13 may be used to comply with this standard. A fuel cell using hydrogen  
14 derived from ~~these~~ AN eligible ~~resources~~ ENERGY RESOURCE is also an  
15 eligible electric generation technology. Fossil and nuclear fuels and their  
16 derivatives are not eligible ENERGY resources. ~~Further~~ FOR PURPOSES OF  
17 THIS SECTION:

- 18 (I) "Biomass" ~~shall be defined to mean~~ MEANS:  
19 (H) (A) Nontoxic plant matter consisting of agricultural crops or  
20 their byproducts, urban wood waste, mill residue, slash, or brush;  
21 (H) (B) Animal wastes and products of animal wastes; or  
22 (H) (C) Methane produced at landfills or as a by-product of the  
23 treatment of wastewater residuals.

24 (II) "RECYCLED ENERGY" MEANS ENERGY PRODUCED BY A  
25 GENERATION UNIT WITH A NAMEPLATE CAPACITY OF NOT MORE THAN  
26 FIFTEEN MEGAWATTS THAT CONVERTS THE OTHERWISE LOST ENERGY  
27 FROM THE HEAT FROM EXHAUST STACKS OR PIPES TO ELECTRICITY AND

1 THAT DOES NOT COMBUST ADDITIONAL FOSSIL FUEL. "RECYCLED ENERGY"  
2 DOES NOT INCLUDE ENERGY PRODUCED BY ANY SYSTEM THAT USES  
3 ENERGY, LOST OR OTHERWISE, FROM A PROCESS WHOSE PRIMARY PURPOSE  
4 IS THE GENERATION OF ELECTRICITY, INCLUDING, WITHOUT LIMITATION,  
5 ANY PROCESS INVOLVING ENGINE-DRIVEN GENERATION OR PUMPED  
6 HYDROELECTRICITY GENERATION.

7 (b) Standards for the design, placement, and management of  
8 electric generation technologies that use eligible ~~renewable~~ energy  
9 resources to ensure that the environmental impacts of such facilities are  
10 minimized.

11 (c) ~~(f)~~ Electric resource standards: ~~for renewable energy~~  
12 ~~resources:~~

13 (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (V) OF THIS  
14 PARAGRAPH (c), the electric resource standards shall require each  
15 qualifying retail utility to generate, or cause to be generated, electricity  
16 from eligible ~~renewable~~ energy resources in the following minimum  
17 amounts:

18 (A) Three percent of its retail electricity sales in Colorado for the  
19 ~~years~~ YEAR 2007; ~~through 2010;~~

20 (B) FIVE PERCENT OF ITS RETAIL ELECTRICITY SALES IN COLORADO  
21 FOR THE YEARS 2008 THROUGH 2010;

22 ~~(B)~~ (C) ~~Six~~ TEN percent of its retail electricity sales in Colorado  
23 for the years 2011 through 2014;

24 ~~(C)~~ (D) ~~Ten~~ FIFTEEN percent of its retail electricity sales in  
25 Colorado for the years 2015 ~~and thereafter.~~ THROUGH 2019; AND

26 (E) TWENTY PERCENT OF ITS RETAIL ELECTRICITY SALES IN  
27 COLORADO FOR THE YEARS 2020 AND THEREAFTER.

1 (II) Of the amounts in subparagraph (I) of paragraph (c) of this  
2 subsection (1), at least four percent shall be derived from solar electric  
3 generation technologies. At least one-half of this four percent shall be  
4 derived from solar electric technologies located on-site at customers'  
5 facilities.

6 (III) Each kilowatt-hour of ~~renewable~~ electricity generated FROM  
7 ELIGIBLE ENERGY RESOURCES in Colorado shall be counted as one and  
8 one-quarter kilowatt-hours for the purposes of compliance with this  
9 standard.

10 (IV) To the extent that the ability of a qualifying retail utility to  
11 acquire eligible ~~renewable electric generation~~ ENERGY RESOURCES is  
12 limited by a requirements contract with a wholesale electric supplier, the  
13 qualifying retail utility shall acquire the maximum amount allowed by the  
14 contract. For any shortfalls to the amounts established by the commission  
15 pursuant to subparagraph (I) of THIS paragraph (c), ~~of this subsection (1)~~,  
16 the qualifying retail utility shall acquire an equivalent amount of either  
17 renewable energy credits; documented and verified energy savings  
18 through energy efficiency and conservation programs; or a combination  
19 of both. Any contract entered into by a qualifying retail utility after  
20 December 1, 2004, shall not conflict with this article.

21 (V) NOTWITHSTANDING ANY OTHER PROVISION OF LAW BUT  
22 SUBJECT TO SUBSECTION (4) OF THIS SECTION, THE ELECTRIC RESOURCE  
23 STANDARDS SHALL REQUIRE EACH COOPERATIVE ELECTRIC ASSOCIATIONS  
24 AND MUNICIPALLY OWNED UTILITIES THAT ARE QUALIFYING RETAIL  
25 UTILITIES TO GENERATE, OR CAUSE TO BE GENERATED, ELECTRICITY FROM  
26 ELIGIBLE ENERGY RESOURCES IN THE FOLLOWING MINIMUM AMOUNTS:

27 (A) ONE PERCENT OF ~~ITS~~ RETAIL ELECTRICITY SALES IN COLORADO

1 FOR THE YEARS 2008 THROUGH 2010;

2 (B) THREE PERCENT OF RETAIL ELECTRICITY SALES IN COLORADO  
3 FOR THE YEARS 2011 THROUGH 2014;

4 (C) SIX PERCENT OF RETAIL ELECTRICITY SALES IN COLORADO FOR  
5 THE YEARS 2015 THROUGH 2019; AND

6 (D) TEN PERCENT OF RETAIL ELECTRICITY SALES IN COLORADO  
7 FOR THE YEARS 2020 AND THEREAFTER.

8 (VI) EACH KILOWATT-HOUR OF ELECTRICITY GENERATED FROM  
9 ELIGIBLE ENERGY RESOURCES AT A COMMUNITY-BASED PROJECT SHALL BE  
10 COUNTED AS ONE AND ONE-HALF KILOWATT-HOURS. FOR PURPOSES OF  
11 THIS SUBPARAGRAPH (VI), "COMMUNITY-BASED PROJECT" MEANS A  
12 PROJECT LOCATED IN COLORADO:

13 (A) THAT IS OWNED BY INDIVIDUAL RESIDENTS OF A COMMUNITY,  
14 NONPROFIT ORGANIZATION, COOPERATIVE, LOCAL GOVERNMENT ENTITY,  
15 OR TRIBAL COUNCIL;

16 (B) THE GENERATING CAPACITY OF WHICH DOES NOT EXCEED  
17 THIRTY MEGAWATTS; AND

18 (C) FOR WHICH THERE IS A RESOLUTION OF SUPPORT ADOPTED BY  
19 THE LOCAL GOVERNING BODY OF EACH LOCAL JURISDICTION IN WHICH THE  
20 PROJECT IS TO BE LOCATED.

21 (VII) (A) FOR PURPOSES OF COMPLIANCE WITH THE STANDARDS  
22 SET FORTH IN SUBPARAGRAPH (V) OF THIS PARAGRAPH (c), EACH  
23 KILOWATT-HOUR OF RENEWABLE ELECTRICITY GENERATED FROM SOLAR  
24 ELECTRIC GENERATION TECHNOLOGIES SHALL BE COUNTED AS THREE  
25 KILOWATT-HOURS.

26 (B) SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (VII)  
27 APPLIES ONLY TO SOLAR ELECTRIC TECHNOLOGIES THAT BEGIN PRODUCING

1 ELECTRICITY PRIOR TO JULY 1, 2015. FOR SOLAR ELECTRIC TECHNOLOGIES  
2 THAT BEGIN PRODUCING ELECTRICITY ON OR AFTER JULY 1, 2015, EACH  
3 KILOWATT-HOUR OF RENEWABLE ELECTRICITY SHALL BE COUNTED AS ONE  
4 KILOWATT-HOUR FOR PURPOSES OF COMPLIANCE WITH THE RENEWABLE  
5 ENERGY STANDARD.

6 (VIII) EACH KILOWATT-HOUR OF ELECTRICITY FROM ELIGIBLE  
7 ENERGY RESOURCES MAY TAKE ADVANTAGE OF ONLY ONE OF THE  
8 METHODS FOR COUNTING KILOWATT-HOURS SET FORTH IN  
9 SUBPARAGRAPHS (III), (VI), AND (VII) OF THIS PARAGRAPH (c).

10 (d) A system of tradable renewable energy credits that may be  
11 used by a qualifying retail utility to comply with this standard. The  
12 commission shall also analyze the effectiveness of utilizing any regional  
13 system of renewable energy credits in existence at the time of its  
14 rule-making process and determine whether the system is governed by  
15 rules that are consistent with the rules established for this article. THE  
16 COMMISSION SHALL NOT RESTRICT THE QUALIFYING RETAIL UTILITY'S  
17 OWNERSHIP OF RENEWABLE ENERGY CREDITS IF THE QUALIFYING RETAIL  
18 UTILITY COMPLIES WITH THE ELECTRIC RESOURCE STANDARD OF  
19 PARAGRAPH (c) OF THIS SUBSECTION (1) AND DOES NOT EXCEED THE  
20 RETAIL RATE IMPACT ESTABLISHED BY PARAGRAPH (g) OF THIS  
21 SUBSECTION (1).

22 (e) A standard rebate offer program. Each qualifying retail utility,  
23 EXCEPT FOR COOPERATIVE ELECTRIC ASSOCIATIONS AND MUNICIPALLY  
24 OWNED UTILITIES, shall make available to its retail electricity customers  
25 a standard rebate offer of a minimum of two dollars per watt for the  
26 installation of eligible solar electric generation on customers' premises up  
27 to a maximum of one hundred kilowatts per installation. Such offer shall

1 allow the customer's retail electricity consumption to be offset by the  
2 solar electricity generated. To the extent that solar electricity generation  
3 exceeds the customer's consumption during a billing month, such excess  
4 electricity shall be carried forward as a credit to the following month's  
5 consumption. To the extent that solar electricity generation exceeds the  
6 customer's consumption during a calendar year, the customer shall be  
7 reimbursed by the qualifying retail utility at its average hourly  
8 incremental cost of electricity supply over the prior twelve-month period.  
9 The qualifying retail utility shall not apply unreasonably burdensome  
10 interconnection requirements in connection with this standard rebate  
11 offer. Electricity generated under this program shall be eligible for the  
12 qualifying retail utility's compliance with this article.

13 (f) Policies for the recovery of costs incurred with respect to these  
14 standards for qualifying retail utilities that are subject to rate regulation  
15 by the commission. THESE POLICIES SHALL PROVIDE INCENTIVES TO  
16 QUALIFYING RETAIL UTILITIES TO INVEST IN ELIGIBLE ENERGY RESOURCES  
17 IN THE STATE OF COLORADO. Such policies shall include:

18 (I) ALLOWING A QUALIFYING RETAIL UTILITY TO DEVELOP AND  
19 OWN AS UTILITY RATE-BASED PROPERTY UP TO TWENTY-FIVE PERCENT OF  
20 THE TOTAL NEW ELIGIBLE ENERGY RESOURCES THE UTILITY ACQUIRES  
21 FROM ENTERING INTO POWER PURCHASE AGREEMENTS AND FROM  
22 DEVELOPING AND OWNING RESOURCES AFTER THE EFFECTIVE DATE OF THIS  
23 SUBPARAGRAPH (I), IF THE NEW ELIGIBLE ENERGY RESOURCES PROPOSED  
24 TO BE DEVELOPED AND OWNED BY THE UTILITY CAN BE CONSTRUCTED AT  
25 REASONABLE COST COMPARED TO THE COST OF SIMILAR ELIGIBLE ENERGY  
26 RESOURCES AVAILABLE IN THE MARKET. THE QUALIFYING RETAIL UTILITY  
27 SHALL BE ALLOWED TO DEVELOP AND OWN AS UTILITY RATE-BASED

1 PROPERTY MORE THAN TWENTY-FIVE PERCENT BUT NOT MORE THAN FIFTY  
2 PERCENT OF TOTAL NEW ELIGIBLE ENERGY RESOURCES ACQUIRED AFTER  
3 THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (I), IF THE QUALIFYING  
4 RETAIL UTILITY SHOWS THAT ITS PROPOSAL WOULD PROVIDE SIGNIFICANT  
5 ECONOMIC DEVELOPMENT, EMPLOYMENT, ENERGY SECURITY, OR OTHER  
6 BENEFITS TO THE STATE OF COLORADO. THE QUALIFYING RETAIL UTILITY  
7 MAY DEVELOP AND OWN THESE RESOURCES EITHER BY ITSELF OR JOINTLY  
8 WITH OTHER OWNERS, AND, IF OWNED JOINTLY, THE ENTIRE JOINTLY  
9 OWNED RESOURCE SHALL COUNT TOWARD THE PERCENTAGE LIMITATIONS  
10 IN THIS SUBPARAGRAPH (I). FOR THE RESOURCES ADDRESSED IN THIS  
11 SUBPARAGRAPH (I), THE QUALIFYING RETAIL UTILITY SHALL NOT BE  
12 REQUIRED TO COMPLY WITH THE COMPETITIVE BIDDING REQUIREMENTS OF  
13 THE COMMISSION'S RULES; EXCEPT THAT NOTHING IN THIS SUBPARAGRAPH  
14 (I) SHALL PRECLUDE THE QUALIFYING RETAIL UTILITY FROM BIDDING TO  
15 OWN A GREATER PERCENTAGE OF NEW ELIGIBLE ENERGY RESOURCES THAN  
16 PERMITTED BY THIS SUBPARAGRAPH (I). IN ADDITION, NOTHING IN THIS  
17 SUBPARAGRAPH (I) SHALL PREVENT THE COMMISSION FROM WAIVING,  
18 REPEALING, OR REVISING ANY COMMISSION RULE IN A MANNER OTHERWISE  
19 CONSISTENT WITH APPLICABLE LAW.

20 ~~(H)~~ (II) Allowing qualifying retail utilities to earn an extra profit  
21 on their investment in renewable ELIGIBLE energy RESOURCE technologies  
22 if these investments provide net economic benefits to customers as  
23 determined by the commission. The allowable extra profit in any year  
24 shall be the qualifying retail utility's most recent commission authorized  
25 rate of return plus a bonus limited to fifty percent of the net economic  
26 benefit.

27 ~~(H)~~ (III) Allowing qualifying retail utilities to earn their most

1 recent commission authorized rate of return, but no bonus, on investments  
2 in ~~renewable~~ ELIGIBLE energy RESOURCE technologies if these  
3 investments do not provide a net economic benefit to customers.

4 (IV) CONSIDERING, WHEN THE QUALIFYING RETAIL UTILITY  
5 APPLIES FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
6 UNDER SECTION 40-5-101, RATE RECOVERY MECHANISMS THAT PROVIDE  
7 FOR EARLIER AND TIMELY RECOVERY OF COSTS PRUDENTLY AND  
8 REASONABLY INCURRED BY THE QUALIFYING RETAIL UTILITY IN  
9 DEVELOPING, CONSTRUCTING, AND OPERATING THE ELIGIBLE ENERGY  
10 RESOURCE, INCLUDING:

11 (A) RATE ADJUSTMENT CLAUSES UNTIL THE COSTS OF THE  
12 ELIGIBLE ENERGY RESOURCE CAN BE INCLUDED IN THE UTILITY'S BASE  
13 RATES; AND

14 (B) A CURRENT RETURN ON THE UTILITY'S CAPITAL EXPENDITURES  
15 DURING CONSTRUCTION AT THE UTILITY'S WEIGHTED AVERAGE COST OF  
16 CAPITAL, INCLUDING ITS MOST RECENTLY AUTHORIZED RATE OF RETURN  
17 ON EQUITY, DURING THE CONSTRUCTION, STARTUP, AND OPERATION  
18 PHASES OF THE ELIGIBLE ENERGY RESOURCE.

19 ~~(HH)~~ (V) If the commission approves the terms and conditions of  
20 a ~~renewable~~ AN ELIGIBLE energy RESOURCE contract between the  
21 qualifying retail utility and another party, the ~~renewable energy~~ contract  
22 and its terms and conditions shall be deemed to be a prudent investment,  
23 and the commission shall approve retail rates sufficient to recover all just  
24 and reasonable costs associated with the contract. All contracts for  
25 acquisition of eligible ~~renewable electricity~~ ENERGY RESOURCES shall  
26 have a minimum term of twenty years; except that the contract term may  
27 be shortened at the sole discretion of the seller. All contracts for the

1 acquisition of renewable energy credits from solar electric technologies  
2 located on site at customer facilities shall also have a minimum term of  
3 twenty years.

4 ~~(IV)~~ (VI) A requirement that qualifying retail utilities consider  
5 proposals offered by third parties for the sale of renewable energy or  
6 renewable energy credits. The commission may develop standard terms  
7 for the submission of such proposals.

8 (g) Retail rate impact rule:

9 (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (IV) OF  
10 THIS PARAGRAPH (g), for each qualifying utility, the commission shall  
11 establish a maximum retail rate impact for this section of ~~one~~ TWO  
12 percent of the total electric bill annually for each customer. The retail  
13 rate impact shall be determined net of new ~~nonrenewable~~ alternative  
14 sources of electricity supply FROM NONELIGIBLE ENERGY RESOURCES  
15 THAT ARE reasonably available at the time of the determination. IF THE  
16 RETAIL RATE IMPACT DOES NOT EXCEED THE MAXIMUM IMPACT PERMITTED  
17 BY THIS PARAGRAPH (g), THE QUALIFYING UTILITY MAY ACQUIRE MORE  
18 THAN THE MINIMUM AMOUNT OF ELIGIBLE ENERGY RESOURCES AND  
19 RENEWABLE ENERGY CREDITS REQUIRED BY THIS SECTION.

20 (II) EACH WHOLESALE ENERGY PROVIDER SHALL OFFER TO ITS  
21 WHOLESALE CUSTOMERS THAT ARE COOPERATIVE ELECTRIC ASSOCIATIONS  
22 THE OPPORTUNITY TO PURCHASE THEIR LOAD RATIO SHARE OF THE  
23 WHOLESALE ENERGY PROVIDER'S ELECTRICITY FROM ELIGIBLE ENERGY  
24 RESOURCES. If a wholesale customer agrees to pay the full costs  
25 associated with the acquisition of ~~renewable~~ ELIGIBLE ENERGY resources  
26 and associated renewable energy credits by its wholesale provider BY  
27 PROVIDING NOTICE OF ITS INTENT TO PAY THE FULL COSTS WITHIN SIXTY

1 DAYS AFTER THE WHOLESALE PROVIDER EXTENDS THE OFFER, the  
2 wholesale customer shall be entitled to receive the appropriate credit  
3 toward the renewable energy standard as well as any associated renewable  
4 energy credits. To the extent that the full costs are not recovered from  
5 wholesale customers, a qualifying retail utility shall be entitled to recover  
6 those costs from retail customers.

7 (III) SUBJECT TO THE MAXIMUM RETAIL RATE IMPACT PERMITTED  
8 BY THIS PARAGRAPH (g), THE QUALIFYING RETAIL UTILITY SHALL HAVE  
9 THE DISCRETION TO DETERMINE, IN A NONDISCRIMINATORY MANNER, THE  
10 PRICE IT WILL PAY FOR RENEWABLE ENERGY CREDITS FROM ON-SITE  
11 CUSTOMER FACILITIES THAT ARE NO LARGER THAN ONE HUNDRED  
12 KILOWATTS.

13 (IV) FOR COOPERATIVE ELECTRIC ASSOCIATIONS, THE MAXIMUM  
14 RETAIL RATE IMPACT FOR THIS SECTION IS ONE PERCENT OF THE TOTAL  
15 ELECTRIC BILL ANNUALLY FOR EACH CUSTOMER.

16 (h) **Annual reports.** Each qualifying retail utility shall submit to  
17 the commission an annual report that provides information relating to the  
18 actions taken to comply with this article including the costs and benefits  
19 of expenditures for renewable energy. The report shall be within the time  
20 prescribed and in a format approved by the commission.

21 (i) Rules necessary for the administration of this article including  
22 enforcement mechanisms necessary to ensure that each qualifying retail  
23 utility complies with this standard, and provisions governing the  
24 imposition of administrative penalties assessed after a hearing held by the  
25 commission pursuant to section 40-6-109. The commission shall exempt  
26 a qualifying retail utility from administrative penalties for an individual  
27 compliance year if the utility demonstrates that the retail rate impact cap

1 described in paragraph (g) of this subsection (1) has been reached and the  
2 utility has not achieved full compliance with paragraph (c) of this  
3 subsection (1). Under no circumstances shall the costs of administrative  
4 penalties be recovered from Colorado retail customers.

5 (2) ~~The commission shall establish all rules called for in~~  
6 ~~paragraphs (a) to (g) of subsection (1) of this section by March 31, 2006.~~

7 (3) Each municipally owned electric utility ~~and each cooperative~~  
8 ~~electric association that has voted to exempt itself from commission~~  
9 ~~jurisdiction but~~ THAT is  a qualifying retail utility shall implement a  
10 renewable energy standard substantially similar to this section. The  
11 municipally owned utility ~~or cooperative electric association~~ shall submit  
12 a statement to the commission that demonstrates such municipal utility ~~or~~  
13 ~~cooperative electric association~~ has a substantially similar renewable  
14 energy standard. The statement submitted by the municipally owned  
15 utility ~~or cooperative electric association~~ is for informational purposes  
16 and is not subject to approval by the commission. Upon filing of the  
17 certification statement, the municipally owned utility ~~or cooperative~~  
18 ~~electric association~~ shall have no further obligations under subsection (1)  
19 of this section. The renewable energy standard of a municipally owned  
20 utility ~~or cooperative electric association~~ shall, at a minimum, meet the  
21 following criteria:

22 (a) The eligible ~~renewable~~ energy resources ~~must~~ SHALL be  
23 limited to those identified in paragraph (a) of subsection (1) of this  
24 section;

25 (b) The percentage requirements ~~must~~ SHALL be equal to or  
26 greater in the same years than those identified in subparagraph ~~(F)~~ (V) of  
27 paragraph (c) of subsection (1) of this section, counted in the manner

1 allowed by ~~subparagraph (H)~~ of said paragraph (c); and

2 (c) The utility must have an optional pricing program in effect that  
3 allows retail customers the option to support through utility rates  
4 emerging renewable energy technologies.

5 (4) For municipal utilities ~~and cooperative electric associations~~  
6 that become qualifying retail utilities after December 31, 2006, the  
7 percentage requirements identified in subparagraph ~~(F)~~ (V) of paragraph  
8 (c) of subsection (1) of this section shall begin in the first calendar year  
9 following qualification as follows:

10 (a) Years one through ~~four~~: three: ONE percent of retail electricity  
11 sales;

12 (b) Years ~~five~~ FOUR through ~~eight~~: Six SEVEN: THREE percent of  
13 retail electricity sales; ~~and~~

14 (c) ~~Year nine and thereafter~~: Ten YEARS EIGHT THROUGH  
15 TWELVE: SIX percent of retail electricity sales; AND

16 (d) YEARS THIRTEEN AND THEREAFTER: TEN PERCENT OF RETAIL  
17 ELECTRICITY SALES.

18 (5) **Procedure for exemption and inclusion - election.** (a) ~~The~~  
19 ~~board of directors of each qualifying retail utility subject to this section~~  
20 ~~may, at its option, submit the question of its exemption from this section~~  
21 ~~to its consumers on a one meter equals one vote basis. Approval by a~~  
22 ~~majority of those voting in the election shall be required for such~~  
23 ~~exemption, providing that a minimum of twenty-five percent of eligible~~  
24 ~~consumers participates in the election.~~

25 (b) The board of directors of each municipally owned electric  
26 utility ~~or cooperative electric association~~ not subject to this section may,  
27 at its option, submit the question of its inclusion in this section to its

1 consumers on a one meter equals one vote basis. Approval by a majority  
2 of those voting in the election shall be required for such inclusion,  
3 providing that a minimum of twenty-five percent of eligible consumers  
4 participates in the election.

5 (5.5) EACH COOPERATIVE ELECTRIC ASSOCIATION THAT IS A  
6 QUALIFYING RETAIL UTILITY SHALL SUBMIT AN ANNUAL COMPLIANCE  
7 REPORT TO THE COMMISSION NO LATER THAN JUNE 1 OF EACH YEAR IN  
8 WHICH THE COOPERATIVE ELECTRIC ASSOCIATION IS SUBJECT TO THE  
9 RENEWABLE ENERGY STANDARD REQUIREMENTS ESTABLISHED IN THIS  
10 SECTION. THE ANNUAL COMPLIANCE REPORT SHALL DESCRIBE THE STEPS  
11 TAKEN BY THE COOPERATIVE ELECTRIC ASSOCIATION TO COMPLY WITH  
12 THE RENEWABLE ENERGY STANDARDS AND SHALL INCLUDE THE SAME  
13 INFORMATION SET FORTH IN THE RULES OF THE COMMISSION FOR  
14 JURISDICTIONAL UTILITIES. COOPERATIVE ELECTRIC ASSOCIATIONS SHALL  
15 NOT BE SUBJECT TO ANY PART OF THE COMPLIANCE REPORT REVIEW  
16 PROCESS AS PROVIDED IN THE RULES FOR JURISDICTIONAL UTILITIES.  
17 COOPERATIVE ELECTRIC ASSOCIATIONS SHALL NOT BE REQUIRED TO  
18 OBTAIN COMMISSION APPROVAL OF ANNUAL COMPLIANCE REPORTS, AND  
19 NO ADDITIONAL REGULATORY AUTHORITY OF THE COMMISSION OTHER  
20 THAN THAT SPECIFICALLY CONTAINED IN THIS SUBSECTION (5.5) IS  
21 CREATED OR IMPLIED BY THIS SUBSECTION (5.5).

22 (6) ~~Section 3 of this initiated measure provides that this section~~  
23 ~~and section 40-2-125 shall be effective December 1, 2004.~~

24 **SECTION 2.** Article 2 of title 40, Colorado Revised Statutes, is  
25 amended BY THE ADDITION OF A NEW SECTION to read:

26 **40-2-126. Community energy funds.** THE GENERAL ASSEMBLY  
27 HEREBY FINDS AND DECLARES THAT LOCAL COMMUNITIES CAN BENEFIT

1 FROM THE FURTHER DEVELOPMENT OF RENEWABLE ENERGY, ENERGY  
2 EFFICIENCY, CONSERVATION, AND ENVIRONMENTAL IMPROVEMENT  
3 PROJECTS, AND THE GENERAL ASSEMBLY HEREBY ENCOURAGES ELECTRIC  
4 UTILITIES TO ESTABLISH COMMUNITY ENERGY FUNDS FOR THE  
5 DEVELOPMENT OF SUCH PROJECTS.

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