

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

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 13-0962.01 Duane Gall x4335

**SENATE BILL 13-252**

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**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.**

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**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.*

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.

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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-FIVE PERCENT OF THE ENERGY IT PROVIDES TO ITS CUSTOMERS  
26 FROM 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 THIS SUBPARAGRAPH  
14 (X) DOES NOT APPLY TO A QUALIFYING RETAIL UTILITY THAT IS A  
15 MUNICIPAL UTILITY.

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

21 (g) Retail rate impact rule:

22 (I) (A) Except as otherwise provided in subparagraph (IV) of this  
23 paragraph (g), for each qualifying utility, the commission shall establish  
24 a maximum retail rate impact for this section FOR COMPLIANCE WITH THE  
25 ELECTRIC RESOURCE STANDARDS of two percent of the total electric bill  
26 annually for each customer. The retail rate impact shall be determined net  
27 of new alternative sources of electricity supply from noneligible energy

1 resources that are reasonably available at the time of the determination.

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

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

15 (b) **Electric resource standard.** NOTWITHSTANDING ANY OTHER  
16 PROVISION OF LAW, EACH QUALIFYING WHOLESALE UTILITY SHALL  
17 GENERATE, OR CAUSE TO BE GENERATED, AT LEAST TWENTY-FIVE PERCENT  
18 OF THE ENERGY IT PROVIDES TO ITS COLORADO MEMBERS AT WHOLESALE  
19 FROM ELIGIBLE ENERGY RESOURCES IN THE YEAR 2020 AND THEREAFTER,  
20 IF, AND TO THE EXTENT THAT, THE PURCHASE OF ENERGY GENERATED  
21 FROM ELIGIBLE ENERGY RESOURCES BY A COLORADO MEMBER FROM A  
22 QUALIFYING WHOLESALE UTILITY WOULD CAUSE AN INCREASE IN RATES  
23 FOR THE COLORADO MEMBER THAT EXCEEDS THE RETAIL RATE IMPACT  
24 LIMITATION IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (IV) OF  
25 PARAGRAPH (g) OF SUBSECTION (1) OF THIS SECTION, THE OBLIGATION  
26 IMPOSED ON THE QUALIFYING WHOLESALE UTILITY IS REDUCED BY THE  
27 AMOUNT OF SUCH ENERGY NECESSARY TO ENABLE THE COLORADO

1 MEMBER TO COMPLY WITH THE RATE IMPACT LIMITATION.

2 (c) A QUALIFYING WHOLESale UTILITY MAY COUNT THE ENERGY  
3 GENERATED OR CAUSED TO BE GENERATED FROM ELIGIBLE ENERGY  
4 RESOURCES BY ITS COLORADO MEMBERS OR BY THE QUALIFYING  
5 WHOLESale UTILITY ON BEHALF OF ITS COLORADO MEMBERS PURSUANT  
6 TO SUBPARAGRAPH (V) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS  
7 SECTION TOWARD COMPLIANCE WITH THE ENERGY RESOURCE STANDARD  
8 ESTABLISHED IN THIS SUBSECTION.

9 (d) PREFERENCES FOR CERTAIN ELIGIBLE ENERGY RESOURCES AND  
10 THE LIMIT ON THEIR APPLICABILITY ESTABLISHED IN SUBPARAGRAPH (VIII)  
11 OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION MAY BE USED BY  
12 A QUALIFYING WHOLESale UTILITY IN MEETING THE ENERGY RESOURCE  
13 STANDARD ESTABLISHED IN THIS SUBSECTION (8).

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

21 (f) IN IMPLEMENTING THE ELECTRIC RESOURCE STANDARD  
22 ESTABLISHED IN THIS SUBSECTION (8), A QUALIFYING WHOLESale UTILITY  
23 SHALL ASSURE THAT THE COSTS, BOTH DIRECT AND INDIRECT,  
24 ATTRIBUTABLE TO COMPLIANCE WITH THE STANDARD ARE RECOVERED  
25 FROM ITS COLORADO MEMBERS. THE QUALIFYING WHOLESale UTILITY  
26 SHALL EMPLOY SUCH COST ALLOCATION METHODS AS ARE REQUIRED TO  
27 ASSURE THAT ANY DIRECT OR INDIRECT COSTS ATTRIBUTABLE TO

1 COMPLIANCE WITH THE STANDARD ESTABLISHED IN THIS SUBSECTION (8)  
2 DO NOT AFFECT THE COST OR PRICE OF THE QUALIFYING WHOLESALE  
3 UTILITY'S SALES TO CUSTOMERS OUTSIDE OF COLORADO.

4 (g) **Reports.** EACH QUALIFYING WHOLESALE UTILITY SHALL  
5 SUBMIT AN ANNUAL REPORT TO THE COMMISSION NO LATER THAN JUNE 1,  
6 2014, AND JUNE 1 OF EACH YEAR THEREAFTER. IN ADDITION, THE  
7 QUALIFYING WHOLESALE UTILITY SHALL POST AN ELECTRONIC COPY OF  
8 EACH REPORT ON ITS WEB SITE AND SHALL PROVIDE THE COMMISSION WITH  
9 AN ELECTRONIC COPY OF THE REPORT. IN EACH REPORT, THE QUALIFYING  
10 WHOLESALE UTILITY SHALL:

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

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

20 (III) IN 2020 AND THEREAFTER, DESCRIBE WHETHER IT HAS  
21 ACHIEVED COMPLIANCE WITH THE ELECTRIC RESOURCE STANDARD  
22 ESTABLISHED IN THIS SUBSECTION (8) AND WHETHER IT ANTICIPATES  
23 CONTINUING TO DO SO. IF IT HAS NOT ACHIEVED SUCH COMPLIANCE OR  
24 DOES NOT ANTICIPATE CONTINUING TO DO SO, IT SHALL EXPLAIN WHY AND  
25 SHALL INDICATE THE STEPS IT INTENDS TO TAKE TO MEET THE STANDARD  
26 AND BY WHAT DATE.

27 (h) NOTHING IN THIS SUBSECTION (8) AMENDS OR WAIVES ANY

1 PROVISION OF SUBSECTIONS (1) TO (7) OF THIS SECTION.

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

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