A BILL FOR AN ACT

CONCERNING THE REDUCTION OF GREENHOUSE GAS POLLUTION, AND,

IN CONNECTION THEREWITH, ESTABLISHING STATEWIDE GREENHOUSE GAS POLLUTION REDUCTION GOALS AND MAKING AN APPROPRIATION.

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://leg.colorado.gov.)

Section 1 of the bill states that Colorado shall have statewide goals to reduce 2025 greenhouse gas emissions by at least 26%, 2030 greenhouse gas emissions by at least 50%, and 2050 greenhouse gas...
emissions by at least 90% of the levels of greenhouse gas emissions that existed in 2005.

Section 3 specifies considerations that the air quality control commission is to take into account in implementing policies and promulgating rules to reduce greenhouse gas pollution, including the benefits of compliance and the equitable distribution of those benefits, the costs of compliance, opportunities to incentivize clean energy in transitioning communities, and the potential to enhance the resilience of Colorado's communities and natural resources to climate impacts. The commission will consult with the public utilities commission with regard to rules that affect the providers of retail electricity in Colorado.

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

SECTION 1. In Colorado Revised Statutes, amend 25-7-102 as follows:

25-7-102. Legislative declaration. (1) In order to foster the health, welfare, convenience, and comfort of the inhabitants of the state of Colorado and to facilitate the enjoyment and use of the scenic and natural resources of the state, it is declared to be the policy of this state to achieve the maximum practical degree of air purity in every portion of the state, to attain and maintain the national ambient air quality standards, and to prevent the significant deterioration of air quality in those portions of the state where the air quality is better than the national ambient air quality standards. To that end, it is the purpose of this article ARTICLE 7 to require the use of all available practical methods which are technologically feasible and economically reasonable so as to reduce, prevent, and control air pollution throughout the state of Colorado; to require the development of an air quality control program in which the benefits of the air pollution control measures utilized bear a reasonable relationship to the economic, environmental, and energy impacts and other costs of such measures; and to maintain a cooperative program
between the state and local units of government. It is further declared that
the prevention, abatement, and control of air pollution in each portion of
the state are matters of statewide concern and are affected with a public
interest and that the provisions of this article are enacted in the
exercise of the police powers of this state for the purpose of protecting
the health, peace, safety, and general welfare of the people of this state.
The general assembly further recognizes that a current and accurate
inventory of actual emissions of air pollutants from all sources is essential
for the proper identification and designation of attainment and
nonattainment areas, the determination of the most cost-effective
regulatory strategy to reduce pollution, the targeting of regulatory efforts
to achieve the greatest health and environmental benefits, and the
achievement of a federally approved clean air program. In order to
achieve the most accurate inventory of air pollution sources possible, this
article specifically provides incentives to achieve the most
accurate and complete inventory possible and to provide for the most
accurate enforcement program achievable based upon that inventory.

(2) IT IS FURTHER DECLARED THAT:

(a) CLIMATE CHANGE ADVERSELY AFFECTS COLORADO'S
ECONOMY, AIR QUALITY AND PUBLIC HEALTH, ECOSYSTEMS, NATURAL
RESOURCES, AND QUALITY OF LIFE;

(b) COLORADO IS ALREADY EXPERIENCING HARMFUL CLIMATE
IMPACTS, INCLUDING DECLINING SNOWPACK, PROLONGED DROUGHT, MORE
EXTREME HEAT, ELEVATED WILDFIRE RISK AND RISK TO FIRST
RESPONDERS, WIDESPREAD BEETLE INFESTATION DECIMATING FORESTS,
INCREASED RISK OF VECTOR-BORNE DISEASES, MORE FREQUENT AND
SEVERE FLOODING, MORE SEVERE GROUND-LEVEL OZONE POLLUTION
CAUSING RESPIRATORY DAMAGE AND LOSS OF LIFE, DECREASED ECONOMIC
ACTIVITY FROM OUTDOOR RECREATION AND AGRICULTURE, AND
DIMINISHED QUALITY OF LIFE. MANY OF THESE IMPACTS
DISPROPORTIONATELY AFFECT RURAL COMMUNITIES, COMMUNITIES OF
COLOR, YOUTH AND THE ELDERLY, AND WORKING FAMILIES. REDUCING
STATEWIDE GREENHOUSE GAS POLLUTION AS OUTLINED IN THIS
SUBSECTION (2) WILL PROTECT THESE FRONTLINE COMMUNITIES, FIRST
RESPONDERS, AND ALL COLORADO RESIDENTS FROM THESE AND OTHER
CLIMATE IMPACTS.

(c) WE MUST WORK TOGETHER TO REDUCE STATEWIDE
GREENHOUSE GAS POLLUTION IN ORDER TO LIMIT THE INCREASE IN THE
GLOBAL AVERAGE TEMPERATURE TO ONE AND ONE-HALF DEGREES
CELSIUS, WHICH SCIENTISTS AGREE WOULD PROVIDE A MORE STABLE AND
HOSPITABLE CLIMATE FOR CURRENT AND FUTURE GENERATIONS AND
MITIGATE THE RISK OF CATASTROPHIC CLIMATE IMPACTS IN COLORADO;

(d) BY REDUCING GREENHOUSE GAS POLLUTION, COLORADO WILL
ALSO REDUCE OTHER HARMFUL AIR POLLUTANTS WHICH WILL, IN TURN,
IMPROVE PUBLIC HEALTH, REDUCE HEALTH CARE COSTS, IMPROVE AIR
QUALITY, AND HELP SUSTAIN THE ENVIRONMENT;

(e) REDUCING GREENHOUSE GAS POLLUTION WILL CREATE NEW
MARKETS, SPUR INNOVATION, DRIVE INVESTMENTS IN LOW-CARBON
TECHNOLOGIES, AND PUT COLORADO SQUARELY ON THE PATH TO A
MODERN, RESILIENT, ONE-HUNDRED-PERCENT CLEAN ECONOMY. DELAY
IN PURSUITING AND SECURING GREENHOUSE GAS REDUCTIONS AS OUTLINED
IN THIS SUBSECTION (2) WILL PREVENT COLORADO COMMUNITIES FROM
CAPTURING THE BENEFITS OF THESE NEW JOBS AND MARKETS, IN ADDITION
TO EXACERBATING THE CLIMATE IMPACTS THAT HARM COLORADANS. THE
CLEAN ENERGY ECONOMY IS ALREADY BRINGING TENS OF THOUSANDS OF JOBS AND BILLIONS OF DOLLARS IN DIRECT INVESTMENT TO COUNTIES ACROSS THE STATE, BENEFITTING WORKERS, FAMILIES, AND COMMUNITIES. COLORADO CAN CONTINUE TO FACILITATE SUCH A TRANSITION TO A CLEAN ENERGY ECONOMY. FOOD AND FIBER PRODUCTION HAS MADE SIGNIFICANT ACHIEVEMENTS IN AREAS OF PRODUCTIVITY AND SUSTAINABILITY. MODERN TECHNOLOGY IN THIS SECTOR CONtributes TO REDUCTIONS IN GREENHOUSE GAS EMISSIONS BY SEQUESTERING CARBON IN THE SOIL AND ENHANCING SUSTAINABILITY THROUGH TECHNOLOGIES THAT REDUCE METHANE EMISSIONS AND PRODUCE RENEWABLE ENERGY. CONTINUING TO ENCOURAGE THESE TYPES OF ACHIEVEMENTS IS BENEFICIAL.

(f) BY EXERCISING A LEADERSHIP ROLE, COLORADO WILL ALSO POSITION ITS ECONOMY, TECHNOLOGY CENTERS, FINANCIAL INSTITUTIONS, AND BUSINESSES TO BENEFIT FROM NATIONAL AND INTERNATIONAL EFFORTS TO REDUCE GREENHOUSE GASES;

(g) ACCORDINGLY, COLORADO SHALL STRIVE TO INCREASE RENEWABLE ENERGY GENERATION AND ELIMINATE STATEWIDE GREENHOUSE GAS POLLUTION BY THE MIDDLE OF THE TWENTY-FIRST CENTURY AND HAVE GOALS OF ACHIEVING, AT A MINIMUM, A TWENTY-SIX-PERCENT REDUCTION IN STATEWIDE GREENHOUSE GAS POLLUTION BY 2025, A FIFTY-PERCENT REDUCTION IN STATEWIDE GREENHOUSE GAS POLLUTION BY 2030, AND A NINETY-PERCENT REDUCTION IN STATEWIDE GREENHOUSE GAS POLLUTION BY 2050. THE REDUCTIONS IDENTIFIED IN THIS SUBSECTION (2)(g) ARE MEASURED RELATIVE TO 2005 STATEWIDE GREENHOUSE GAS POLLUTION LEVELS.

SECTION 2. In Colorado Revised Statutes, 25-7-103, amend the introductory portion; and add (22.5) as follows:
25-7-103. Definitions. As used in this article ARTICLE 7, unless the context otherwise requires:

(22.5) "STATEWIDE GREENHOUSE GAS POLLUTION" MEANS THE TOTAL NET STATEWIDE ANTHROPOGENIC EMISSIONS OF CARBON DIOXIDE, METHANE, NITROUS OXIDE, HYDROFLUOROCARBONS, PERFLUOROCARBONS, NITROGEN TRIFLUORIDE, AND SULFUR HEXAFLUORIDE, EXPRESSED AS CARBON DIOXIDE EQUIVALENT.

SECTION 3. In Colorado Revised Statutes, 25-7-105, amend (1) introductory portion; and add (1)(e) as follows:

25-7-105. Duties of commission - rules - legislative declaration - definitions. (1) Except as provided in sections 25-7-130 and 25-7-131, the commission shall promulgate such rules and regulations as are consistent with the legislative declaration set forth in section 25-7-102 and necessary for the proper implementation and administration of this article ARTICLE 7, including, but not limited to:

(e) (I) STATEWIDE GREENHOUSE GAS POLLUTION ABATEMENT.

(II) CONSISTENT WITH SECTION 25-7-102 (2)(g), THE COMMISSION SHALL TIMELY PROMULGATE IMPLEMENTING RULES AND REGULATIONS. THE IMPLEMENTING RULES MAY TAKE INTO ACCOUNT OTHER RELEVANT LAWS AND RULES, AS WELL AS VOLUNTARY ACTIONS TAKEN BY LOCAL COMMUNITIES AND THE PRIVATE SECTOR, TO ENHANCE EFFICIENCY AND COST-EFFECTIVENESS, AND SHALL BE REVISED AS NECESSARY OVER TIME TO ENSURE TIMELY PROGRESS TOWARD THE 2025, 2030, AND 2050 GOALS. THE IMPLEMENTING RULES SHALL PROVIDE FOR ONGOING TRACKING OF EMISSION SOURCES THAT ADVERSELY AFFECT DISPROPORTIONATELY IMPACTED COMMUNITIES AND ARE SUBJECT TO RULES IMPLEMENTED PURSUANT TO THIS SUBSECTION (1)(e) AND MUST INCLUDE STRATEGIES
DESIGNED TO ACHIEVE REDUCTIONS IN HARMFUL AIR POLLUTION AFFECTING THOSE COMMUNITIES.

(III) The Division, at the direction of the Commission, shall solicit input from other state agencies, stakeholders, and the public on the advantages of different statewide greenhouse gas pollution mitigation measures, specifically soliciting input from those most impacted by climate change and from workers in relevant industries, including advanced energy and fuel delivery, and communities that are currently economically dependent on industries with high levels of greenhouse gas emissions.

(IV) The implementing rules and policies may include, in addition to renewable energy development strategies, regulatory strategies that have been deployed by another jurisdiction to reduce multi-sector greenhouse gas emissions, that facilitate adoption of technologies that have zero emissions, and that enhance cost-effectiveness, compliance flexibility, and transparency around compliance costs, among other regulatory strategies. The Commission may coordinate with other jurisdictions in securing emission reductions, including in satisfying future federal regulations. The Commission may account for reductions in net greenhouse gas emissions that occur under coordinated jurisdictions' programs if the Commission finds that the implementing regulations of each coordinated jurisdiction are of sufficient rigor to ensure the integrity of the reductions in greenhouse gas emissions to the atmosphere and may account for carbon dioxide that
ELECTRICITY CONSUMPTION IN THIS STATE CAUSES TO BE EMITTED ELSEWHERE.

(V) IN CARRYING OUT ITS RESPONSIBILITIES UNDER THIS SUBSECTION (1)(e), THE COMMISSION SHALL CONSIDER: THE BENEFITS OF COMPLIANCE, INCLUDING HEALTH, ENVIRONMENTAL, AND AIR QUALITY; THE COSTS OF COMPLIANCE; ECONOMIC AND JOB IMPACTS AND OPPORTUNITIES; THE TIME NECESSARY FOR COMPLIANCE; THE RELATIVE CONTRIBUTION OF EACH SOURCE OR SOURCE CATEGORY TO STATEWIDE GREENHOUSE GAS POLLUTION BASED ON CURRENT DATA UPDATED AT REASONABLE INTERVALS AS DETERMINED BY THE COMMISSION; THE IMPORTANCE OF STRIVING TO EQUITABLY DISTRIBUTE THE BENEFITS OF COMPLIANCE, OPPORTUNITIES TO INCENTIVIZE RENEWABLE ENERGY RESOURCES AND POLLUTION ABATEMENT OPPORTUNITIES IN DISPROPORTIONATELY IMPACTED COMMUNITIES, OPPORTUNITIES TO ENCOURAGE CLEAN ENERGY IN TRANSITIONING COMMUNITIES; ISSUES RELATED TO THE BENEFICIAL USE OF ELECTRICITY TO REDUCE GREENHOUSE GAS EMISSIONS; THE POTENTIAL TO ENHANCE THE RESILIENCE OF COLORADO'S COMMUNITIES AND NATURAL RESOURCES TO CLIMATE IMPACTS; AND WHETHER GREATER OR MORE COST-EFFECTIVE EMISSION REDUCTIONS ARE AVAILABLE THROUGH PROGRAM DESIGN.

(VI) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE DIVISION, AT THE DIRECTION OF THE COMMISSION, SHALL REPORT TO THE GENERAL ASSEMBLY EVERY ODD-NUMBERED YEAR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1)(e) REGARDING: PROGRESS TOWARD THE GOALS SET FORTH IN SECTION 25-7-102 (2)(g); ANY NEWLY AVAILABLE, FINAL COST-BENEFIT OR REGULATORY ANALYSIS, DEVELOPED UNDER SECTION 24-4-103 (2.5) OR (4.5), FOR RULES ADOPTED TO ATTAIN THE
GOALS; AND ANY RECOMMENDATIONS ON FUTURE LEGISLATIVE ACTION TO ADDRESS CLIMATE CHANGE, SUCH AS IMPLEMENTATION OF CLIMATE ADAPTATION POLICIES OR ACCELERATING DEPLOYMENT OF CLEANER TECHNOLOGIES.

(VII) (A) IN CARRYING OUT ITS RESPONSIBILITIES UNDER THIS SUBSECTION (1)(e), THE COMMISSION SHALL CONSULT WITH THE PUBLIC UTILITIES COMMISSION.

(B) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT IT IS BENEFICIAL TO ENCOURAGE THE DEVELOPMENT OF CLEAN ENERGY PLANS THAT WILL REQUIRE GREENHOUSE GAS EMISSIONS CAUSED BY COLORADO RETAIL ELECTRICITY SALES TO DECREASE EIGHTY PERCENT BY 2030 RELATIVE TO 2005 LEVELS TO PROVIDE FOR THE COST-EFFECTIVE AND PROACTIVE DEPLOYMENT OF CLEAN ENERGY RESOURCES.

(C) IN DESIGNING, IMPLEMENTING, AND ENFORCING PROGRAMS AND REQUIREMENTS UNDER THIS SUBSECTION (1)(e), THE COMMISSION AND THE DIVISION SHALL TAKE INTO CONSIDERATION ANY CLEAN ENERGY PLAN AT THE PUBLIC UTILITIES COMMISSION THAT, AS FILED, WILL ACHIEVE AT LEAST AN EIGHTY-PERCENT REDUCTION IN GREENHOUSE GAS EMISSIONS CAUSED BY THE UTILITY’S COLORADO RETAIL ELECTRICITY SALES BY 2030 RELATIVE TO 2005 LEVELS, AS VERIFIED BY THE DIVISION. WHEN INCLUDING PUBLIC UTILITIES IN ITS PROGRAMS OR REQUIREMENTS UNDER THIS SUBSECTION (1)(e), THE COMMISSION SHALL NOT MANDATE THAT A PUBLIC UTILITY REDUCE GREENHOUSE GAS EMISSIONS CAUSED BY THE UTILITY’S COLORADO RETAIL ELECTRICITY SALES BY 2030 MORE THAN IS REQUIRED UNDER SUCH AN APPROVED CLEAN ENERGY PLAN OR IMPOSE ANY DIRECT, NONADMINISTRATIVE COST ON THE PUBLIC UTILITY DIRECTLY
ASSOCIATED WITH QUANTITIES OF GREENHOUSE GAS EMISSIONS CAUSED
BY THE UTILITY'S COLORADO RETAIL ELECTRICITY SALES THAT REMAIN
AFTER THE REDUCTIONS REQUIRED BY SUCH A CLEAN ENERGY PLAN
THROUGH 2030 IF THOSE REDUCTIONS ARE ACHIEVED AND THE DIVISION
HAS VERIFIED THAT THE APPROVED CLEAN ENERGY PLAN WILL ACHIEVE AT
LEAST A SEVENTY-FIVE-PERCENT REDUCTION IN GREENHOUSE GAS
EMISSIONS CAUSED BY THE UTILITY'S COLORADO RETAIL ELECTRICITY
SALES BY 2030 RELATIVE TO 2005 LEVELS.

(D) IMPLEMENTING RULES DEVELOPED BY THE COMMISSION MUST
NOT INCLUDE ANY REQUIREMENTS DICTATING THE MIX OF ELECTRIC
GENERATING RESOURCES THAT ANY PUBLIC UTILITY SHALL USE TO MEET
APPLICABLE POLLUTION LIMITS.

(E) IMPLEMENTING RULES DEVELOPED BY THE COMMISSION MUST
CONSIDER ISSUES RELATING TO JOINT OWNERSHIP OF ELECTRIC
GENERATING RESOURCES AS BETWEEN MULTIPLE PARTIES AND THE EXTENT
TO WHICH THE PUBLIC UTILITY IS RELYING ON POWER PURCHASED FROM
THIRD PARTIES IN MEETING ITS OBLIGATIONS UNDER SUCH A CLEAN
ENERGY PLAN.

(F) A CLEAN ENERGY PLAN VOLUNTARILY FILED BY A
COOPERATIVE ELECTRIC ASSOCIATION THAT HAS VOTED TO EXEMPT ITSELF
FROM REGULATION BY THE PUBLIC UTILITIES COMMISSION PURSUANT TO
ARTICLE 9.5 OF TITLE 40 OR BY A MUNICIPAL UTILITY SHALL BE DEEMED
APPROVED BY THE PUBLIC UTILITIES COMMISSION AS FILED IF: THE
DIVISION, IN CONSULTATION WITH THE PUBLIC UTILITIES COMMISSION,
PUBLICLY VERIFIES THAT THE PLAN DEMONSTRATES THAT, BY 2030, THE
COOPERATIVE ELECTRIC ASSOCIATION OR MUNICIPAL UTILITY WILL
ACHIEVE AT LEAST AN EIGHTY PERCENT REDUCTION IN GREENHOUSE GAS
EMISSIONS CAUSED BY THE ENTITY'S COLORADO RETAIL ELECTRICITY SALES RELATIVE TO 2005 LEVELS; AND THE CLEAN ENERGY PLAN HAS PREVIOUSLY BEEN APPROVED BY A VOTE OF THE ENTITY'S GOVERNING BODY. VOLUNTARY SUBMISSION OF A CLEAN ENERGY PLAN BY A COOPERATIVE ELECTRIC ASSOCIATION OR MUNICIPAL UTILITY DOES NOT ALTER THE ENTITY'S REGULATORY STATUS WITH RESPECT TO THE PUBLIC UTILITIES COMMISSION, INCLUDING UNDER ARTICLE 9.5 OF TITLE 40.

(VIII) NOTHING IN THIS SUBSECTION (1)(e) DIMINISHES THE EXISTING AUTHORITY OF THE COMMISSION OR THE DIVISION. NOTHING IN THIS SUBSECTION (1)(e) ALTERS THE REGULATORY EXEMPTIONS PROVIDED IN SECTION 25-7-109 (8)(a). NOTHING AUTHORIZED IN THIS SUBSECTION (1)(e), INCLUDING THE ASSIGNMENT OF EMISSION REDUCTION OBLIGATIONS OR EMISSION AUTHORIZATIONS AND EXCLUDING PROGRAM DEVELOPMENT AND ADMINISTRATIVE COSTS, IMPLICATES STATE FISCAL YEAR SPENDING AS DEFINED IN SECTION 24-77-102. NOTHING IN THIS SUBSECTION (1)(e) DIMINISHES THE AUTHORITY OF THE PUBLIC UTILITIES COMMISSION UNDER THE PUBLIC UTILITIES LAW, INCLUDING SECTIONS 40-3-101 AND 40-3-102.

(IX) AS USED IN THIS SUBSECTION (1)(e):

(A) "COST-EFFECTIVE" OR "COST-EFFECTIVENESS" MEANS THE COST PER UNIT OF REDUCED EMISSIONS OF GREENHOUSE GASES EXPRESSED AS CARBON DIOXIDE EQUIVALENT.

(B) "GREENHOUSE GAS" INCLUDES CARBON DIOXIDE, METHANE, NITROUS OXIDE, HYDROFLUOROCARBONS, PERFLUOROCARBONS, NITROGEN TRIFLUORIDE, AND SULFUR HEXAFLUORIDE, EXPRESSED AS CARBON DIOXIDE EQUIVALENT.

(C) "RETAIL ELECTRICITY SALES" MEANS ELECTRIC ENERGY SOLD
SECTION 4. Appropriation. (1) For the 2019-20 state fiscal year, $281,588 is appropriated to the department of public health and environment. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) $188,321 for use by the air pollution control division for program costs, which amount is based on an assumption that the division will require an additional 2.0 FTE; and

(b) $93,267 for the purchase of legal services.

(2) For the 2019-20 state fiscal year, $93,267 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of public health and environment under subsection (1)(b) of this section and is based on an assumption that the department of law will require an additional 0.5 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of public health and environment.

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