

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0353.02 Jennifer Berman x3286

SENATE BILL 19-236

SENATE SPONSORSHIP

Garcia and Fenberg, Foote, Winter, Fields, Ginal, Gonzales, Moreno, Pettersen,
Rodriguez

HOUSE SPONSORSHIP

Hansen and Becker,

Senate Committees

Transportation & Energy
Finance
Appropriations

House Committees

State, Veterans, & Military Affairs
Finance

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE PUBLIC UTILITIES**
102 **COMMISSION, AND, IN CONNECTION THEREWITH, IMPLEMENTING**
103 **THE RECOMMENDATIONS CONTAINED IN THE 2018 SUNSET**
104 **REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES AND**
105 **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/>.)

Sunset Process - Senate Transportation and Energy Committee. The bill implements the recommendations of the department

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

SENATE
3rd Reading Unamended
April 24, 2019

SENATE
Amended 2nd Reading
April 23, 2019

of regulatory agencies' sunset review and report on the public utilities commission (commission) by:

- ! Authorizing the commission to promulgate rules to delegate routine, administrative transportation matters to staff and clarifying that the commission provides initial review of each case submitted for adjudication and determines whether it wishes to retain the case or to assign it to an administrative law judge or to an individual commissioner (**section 14** of the bill);
- ! Providing for alternate forms of communication that a public utility may utilize to notify its customers of rate changes, including text message and e-mail, and requiring the public utility to post notice of the rate change on its public website (**section 11**);
- ! Transferring the administration of the legal services offset fund from the department of law to the department of regulatory agencies (**section 15**);
- ! Making technical changes regarding criminal history record checks and telecommunications (**sections 17 and 19 through 22**);
- ! Repealing a requirement that an electric utility, as part of the electric utility's plan for acquisition of renewable resources, purchase a certain amount of energy from community solar gardens in the years 2011 through 2013, but delaying the repeal until 2043 to keep the legislation in place until contracts entered into pursuant to the requirement have likely all expired (**section 9**);
- ! Repealing the requirement that the commission, in considering electric utilities' proposals for generation acquisition, give consideration to proposals to propose, fund, and construct integrated gasification combined cycle generation facilities (**section 8**); and
- ! Clarifying that the commission may impose a civil penalty for a violation of railroad crossing safety regulations (**section 13**).

The bill also:

- ! Creates the division of public utilities (division) as if it were transferred by a **type 2** transfer, as a separate entity from the commission (**sections 3 to 7**);
- ! Directs the commission to promulgate rules to require an investor-owned utility to file with the commission, for the commission's approval, a distribution system plan regarding the utility's anticipated distribution system investments (**section 10**);
- ! Requires an investor-owned utility, when submitting a

filing to the commission that includes a proposed retirement of an electric generating facility, to include in the filing a workforce transition plan that provides estimates of workforce transitions that will occur as a result of retiring the electric generating facility (**section 10**);

! Directs the commission to evaluate the cost of carbon dioxide emissions in any proceeding related to a public utility subject to the commission's jurisdiction and to promulgate rules to require those public utilities, when submitting filings related to planning processes, including electric resource plans, to include the cost of carbon dioxide emissions related to the activities proposed in the plan (**section 12**); and

! Authorizes the commission to regulate vehicle booting companies, which are private entities in the business of immobilizing motor vehicles through use of a boot, through issuance of permits and enforcement mechanisms including inspections, imposition of a civil penalty, and revocation of a permit (**sections 16 and 18**).

The bill continues the functions of the commission for and gives the division a life of 7 years, until 2026 (**sections 1 and 2**).

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-2-101, **amend**
3 (3)(b) as follows:

4 **40-2-101. Creation - appointment - term - subject to**
5 **termination - repeal of part.** (3) (b) (I) This part 1 is repealed, effective
6 September 1, ~~2019~~ 2026.

7 (II) ~~Prior to its~~ BEFORE THE repeal, the public utilities commission
8 ~~shall be reviewed as provided for in~~ IS SCHEDULED FOR REVIEW IN
9 ACCORDANCE WITH section 24-34-104. ~~C.R.S.~~

10 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **repeal**
11 (17)(a)(I); and **add** (27)(a)(VIII) as follows:

12 **24-34-104. General assembly review of regulatory agencies**
13 **and functions for repeal, continuation, or reestablishment - legislative**

1 **declaration - repeal.** (17) (a) The following agencies, functions, or both,
2 are scheduled for repeal on September 1, 2019:

3 (I) ~~The Colorado public utilities commission created in article 2~~
4 ~~of title 40, C.R.S.;~~

5 (27) (a) The following agencies, functions, or both, are scheduled
6 for repeal on September 1, 2026:

7 (VIII) THE COLORADO PUBLIC UTILITIES COMMISSION CREATED
8 IN ARTICLE 2 OF TITLE 40.

9

10 **SECTION 3.** In Colorado Revised Statutes, **repeal** 40-2-123 (2).

11 **SECTION 4.** In Colorado Revised Statutes, 40-2-127, **amend**
12 (3)(b) introductory portion; and **add** (5)(a)(III.5) as follows:

13 **40-2-127. Community energy funds - community solar**
14 **gardens - definitions - rules - legislative declaration - repeal.**

15 (3) **Subscriber organization - subscriber qualifications -**
16 **transferability of subscriptions.** (b) ~~On or before October 1, 2010,~~ The
17 commission shall ~~commence a rule-making proceeding to~~ adopt rules as
18 necessary to implement this section, including ~~but not limited to~~ rules to
19 facilitate the financing of subscriber-owned community solar gardens.
20 ~~Such~~ THE rules ~~shall~~ MUST include:

21 (5) **Purchases of the output from community solar gardens.**

22 (a) (III.5) SUBSECTIONS (5)(a)(II) AND (5)(a)(III) OF THIS SECTION AND
23 THIS SUBSECTION (5)(a)(III.5) ARE REPEALED, EFFECTIVE JULY 1, 2043.

24 **SECTION 5.** In Colorado Revised Statutes, **add** 40-2-132 and
25 40-2-133 as follows:

26 **40-2-132. Distribution system planning - definition - rules.**

27 (1) THE COMMISSION SHALL PROMULGATE RULES ESTABLISHING THE

1 FILING OF A DISTRIBUTION SYSTEM PLAN. THE COMMISSION'S RULES MUST:

2 (a) DEFINE THE FOLLOWING TERMS:

3 (I) DISTRIBUTED ENERGY RESOURCES THAT INCLUDE:

4 (A) DISTRIBUTED RENEWABLE ELECTRIC GENERATION;

5 (B) ENERGY STORAGE SYSTEMS CONNECTED TO THE DISTRIBUTION

6 GRID;

7 (C) MICROGRIDS;

8 (D) ENERGY EFFICIENCY MEASURES; AND

9 (E) DEMAND RESPONSE MEASURES; AND

10 (II) NON-WIRES ALTERNATIVES;

11 (b) DEVELOP A METHODOLOGY FOR EVALUATING THE COSTS AND

12 NET BENEFITS OF USING DISTRIBUTED ENERGY RESOURCES AS NON-WIRES

13 ALTERNATIVES;

14 (c) DETERMINE A THRESHOLD FOR THE SIZE OF A NEW

15 DISTRIBUTION PROJECT, WHETHER IN DOLLARS, METERS, OR ANOTHER

16 FACTOR, AS DETERMINED BY THE COMMISSION, FOR WHEN A QUALIFYING

17 RETAIL UTILITY MUST CONSIDER IMPLEMENTATION OR USE OF NON-WIRES

18 ALTERNATIVES, POTENTIALLY INCLUDING ENERGY EFFICIENCY MEASURES

19 UNDER UTILITY PROGRAMS FOR NEW ELECTRIC SERVICE TO ANY PLANNED

20 NEW NEIGHBORHOODS OR HOUSING DEVELOPMENTS;

21 (d) DIRECT EACH QUALIFYING RETAIL UTILITY TO FILE A

22 DISTRIBUTION SYSTEM PLAN;

23 (e) DETERMINE WHAT SHALL BE INCLUDED IN A DISTRIBUTION

24 SYSTEM PLAN, WHICH AT A MINIMUM MUST INCLUDE THE FOLLOWING:

25 (I) INFORMATION REGARDING:

26 (A) SYSTEM AND SUBSTATION HISTORICAL DATA;

27 (B) PEAK DEMAND;

1 (C) ADOPTION OF DISTRIBUTED ENERGY RESOURCES; AND

2 (D) DISTRIBUTION SYSTEM INVESTMENTS;

3 (II) TO PROVIDE NEW ELECTRIC SERVICE TO ANY PLANNED NEW
4 NEIGHBORHOODS OR HOUSING DEVELOPMENTS EXPECTED TO INCLUDE
5 MORE THAN TEN THOUSAND NEW RESIDENCES, A DESCRIPTION OF THE
6 QUALIFYING RETAIL UTILITY'S CONSIDERATION OF NON-WIRES
7 ALTERNATIVES, POTENTIALLY INCLUDING ENERGY EFFICIENCY MEASURES
8 UNDER UTILITY PROGRAMS;

9 (III) AN UPDATED LOAD FORECAST THAT INCLUDES ANY NEW LOAD
10 RESULTING FROM PROJECTED OR FORECASTED GROWTH FROM BENEFICIAL
11 ELECTRIFICATION PROGRAMS;

12 (IV) A FORECAST OF THE GROWTH OF DISTRIBUTED ENERGY
13 RESOURCES FOR THE YEARS COVERED BY THE PLAN;

14 (V) A HIGH-LEVEL SUMMARY OF ITS PLANNING PROCESS FOR
15 ADDRESSING CYBER AND PHYSICAL SECURITY RISKS. AS PART OF THE
16 SUMMARY, THE QUALIFYING RETAIL UTILITY NEED NOT REPORT ANY
17 CONFIDENTIAL, PROPRIETARY, OR OTHER INFORMATION IN THE PLAN THAT
18 COULD IN ANY WAY COMPROMISE OR DECREASE THE QUALIFYING RETAIL
19 UTILITY'S ABILITY TO PREVENT, MITIGATE, OR RECOVER FROM POTENTIAL
20 SYSTEM DISRUPTIONS CAUSED BY WEATHER EVENTS, PHYSICAL EVENTS,
21 OR CYBER ATTACKS.

22 (VI) A PROPOSED COST-RECOVERY METHOD OR MECHANISM FOR
23 ANY NON-WIRES INVESTMENTS FOUND TO BE OUTSIDE THE ORDINARY
24 COURSE OF BUSINESS;

25 (VII) A DESCRIPTION OF THE QUALIFYING RETAIL UTILITY'S
26 ANTICIPATED NEW DISTRIBUTION SYSTEM EXPANSION INVESTMENTS FOR
27 THE YEARS COVERED BY THE PLAN;

1 (VIII) A PROCESS TO EVALUATE THE PLAN'S FEASIBILITY AND THE
2 ECONOMIC IMPACTS OF USING NON-WIRES ALTERNATIVES FOR CERTAIN
3 PROJECTS;

4 (IX) AN ESTIMATE OF THE YEAR IN WHICH PEAK DEMAND GROWTH
5 OR DISTRIBUTED ENERGY RESOURCE GROWTH WOULD MERIT ANALYSIS OF
6 NEW NON-WIRES ALTERNATIVE PROJECTS; AND

7 (X) ANY OTHER INFORMATION THAT THE COMMISSION DEEMS
8 RELEVANT.

9 (2) THE COMMISSION SHALL APPROVE A QUALIFYING RETAIL
10 UTILITY'S INVESTMENT IN NON-WIRES ALTERNATIVES IF THE COMMISSION
11 FINDS THE INVESTMENT TO BE IN THE PUBLIC INTEREST.

12 (3) (a) THE COMMISSION SHALL DETERMINE WHETHER A
13 QUALIFYING RETAIL UTILITY'S RATEPAYERS WOULD REALIZE BENEFITS
14 FROM A NON-WIRES ALTERNATIVE INVESTMENT AND WHETHER THE
15 ASSOCIATED COSTS ARE JUST AND REASONABLE.

16 (b) TO EVALUATE THE SUCCESS OF ANY NON-WIRES ALTERNATIVE
17 INVESTMENT AUTHORIZED PURSUANT TO A QUALIFYING RETAIL UTILITY'S
18 DISTRIBUTION SYSTEM PLAN, THE COMMISSION MAY ADOPT CRITERIA,
19 BENCHMARKS, OR ACCOUNTABILITY MECHANISMS WITH WHICH THE
20 QUALIFYING RETAIL UTILITY MUST COMPLY.

21 (4) AS USED IN THIS SECTION, "QUALIFYING RETAIL UTILITY" HAS
22 THE MEANING DESCRIBED IN SECTION 40-2-124 (1); EXCEPT THAT THE
23 TERM DOES NOT MEAN A MUNICIPALLY OWNED UTILITY OR A COOPERATIVE
24 ELECTRIC ASSOCIATION. _____

25 **40-2-133. Workforce transition planning filing - definition.**

26 (1) A QUALIFYING RETAIL UTILITY REGULATED BY THE COMMISSION THAT
27 SUBMITS A FILING, INCLUDING A RESOURCE PLAN OR APPLICATION, THAT

1 INCLUDES A PROPOSED RETIREMENT OF AN ELECTRIC GENERATING
2 FACILITY SHALL ALSO INCLUDE A WORKFORCE TRANSITION PLAN AS PART
3 OF ITS FILING.

4 (2) TO THE EXTENT PRACTICABLE, A WORKFORCE TRANSITION
5 PLAN MUST INCLUDE ESTIMATES OF:

6 (a) THE NUMBER OF WORKERS EMPLOYED BY THE QUALIFYING
7 RETAIL UTILITY OR A CONTRACTOR OF THE QUALIFYING RETAIL UTILITY AT
8 THE ELECTRIC GENERATING FACILITY, WHICH NUMBER MUST INCLUDE ALL
9 WORKERS THAT DIRECTLY DELIVER FUEL TO THE ELECTRIC GENERATING
10 UTILITY;

11 (b) THE TOTAL NUMBER OF WORKERS WHOSE EXISTING JOBS, AS A
12 RESULT OF THE RETIREMENT OF THE ELECTRIC GENERATING FACILITY:

13 (I) WILL BE RETAINED; AND

14 (II) WILL BE ELIMINATED;

15 (c) WITH RESPECT TO THE WORKERS WHOSE EXISTING JOBS WILL
16 BE ELIMINATED DUE TO THE RETIREMENT OF THE ELECTRIC GENERATING
17 FACILITY, THE TOTAL NUMBER AND THE NUMBER BY JOB CLASSIFICATION
18 OF WORKERS:

19 (I) WHOSE EMPLOYMENT WILL END WITHOUT THEM BEING
20 OFFERED OTHER EMPLOYMENT;

21 (II) WHO WILL RETIRE AS PLANNED, BE OFFERED EARLY
22 RETIREMENT, OR LEAVE ON THEIR OWN;

23 (III) WHO WILL BE RETAINED BY BEING TRANSFERRED TO OTHER
24 ELECTRIC GENERATING FACILITIES OR OFFERED OTHER EMPLOYMENT BY
25 THE QUALIFYING RETAIL UTILITY; AND

26 (IV) WHO WILL BE RETAINED TO CONTINUE TO WORK FOR THE
27 QUALIFYING RETAIL UTILITY IN A NEW JOB CLASSIFICATION; AND

1 (d) IF THE QUALIFYING RETAIL UTILITY IS REPLACING THE ELECTRIC
2 GENERATING FACILITY BEING RETIRED WITH A NEW ELECTRIC GENERATING
3 FACILITY, THE NUMBER OF:

4 (I) WORKERS FROM THE RETIRED ELECTRIC GENERATING FACILITY
5 WHO WILL BE EMPLOYED AT THE NEW ELECTRIC GENERATING FACILITY;
6 AND

7 (II) JOBS AT THE NEW ELECTRIC GENERATING FACILITY THAT WILL
8 BE OUTSOURCED TO CONTRACTORS OR SUBCONTRACTORS.

9 (3) AS USED IN THIS SECTION, "QUALIFYING RETAIL UTILITY" HAS
10 THE MEANING DESCRIBED IN SECTION 40-2-124 (1); EXCEPT THAT THE
11 TERM DOES NOT MEAN A MUNICIPALLY OWNED UTILITY OR A COOPERATIVE
12 ELECTRIC ASSOCIATION.

13 **SECTION 6.** In Colorado Revised Statutes, **add** 40-2-134 as
14 follows:

15 **40-2-134. Retail distributed generation - customers' rights -**
16 **rules.** A RETAIL ELECTRIC UTILITY CUSTOMER IS ENTITLED TO GENERATE,
17 CONSUME, STORE, AND EXPORT ELECTRICITY PRODUCED FROM ELIGIBLE
18 ENERGY RESOURCES TO THE ELECTRIC GRID THROUGH THE USE OF
19 CUSTOMER-SITED RETAIL DISTRIBUTED GENERATION, AS DEFINED IN
20 SECTION 40-2-124 (1)(a)(VIII), SUBJECT TO RELIABILITY STANDARDS,
21 INTERCONNECTION RULES, AND PROCEDURES, AS DETERMINED BY THE
22 COMMISSION.

23 **SECTION 7.** In Colorado Revised Statutes, 40-3-104, **amend**
24 (1)(c)(I) introductory portion, (1)(c)(I)(C), and (1)(c)(I)(D); and **add**
25 (1)(c)(I)(E), (1)(c)(VI), and (1)(c)(VII) as follows:

26 **40-3-104. Changes in rates - notice.** (1) (c) (I) A public utility
27 shall provide the notice required under ~~paragraph (a) of this subsection~~

1 ~~(1)~~ SUBSECTION (1)(a) OF THIS SECTION by filing with the commission and
2 keeping open for public inspection new schedules stating plainly the
3 changes to be made in the schedules then in force and the time when the
4 changes will go into effect. AT THE TIME OF THE PUBLIC UTILITY'S FILING
5 WITH THE COMMISSION, THE PUBLIC UTILITY SHALL POST THE NOTICE ON
6 ITS PUBLIC WEBSITE, INCLUDING A REFERENCE TO THE DOCKET NUMBERS
7 OF RELEVANT RULES OR ADJUDICATORY MATTERS, WHICH POSTING MUST
8 BE CONSPICUOUSLY DISPLAYED ON THE WEBSITE FOR AT LEAST THIRTY
9 DAYS. The commission may require transportation and water utilities to
10 give additional notice in a manner set forth by order or rule. For public
11 utilities other than transportation and water utilities, the commission shall
12 require additional notice prior to an increase or other change in any rate,
13 fare, toll, rental, charge, classification, or service, which additional notice
14 may be made, at the option of the public utility, by any of the following
15 methods:

16 (C) Inclusion of an insert in, OR A CLEAR AND CONSPICUOUS
17 STATEMENT ON, the bill mailed to each affected customer of the public
18 utility during a regular billing cycle not later than the twentieth day of the
19 thirty-day period prior to the effective date of the increase or change; ~~or~~

20 (D) ~~At the request of the public utility, such other manner as the~~
21 ~~commission may prescribe.~~ SUBJECT TO SUBSECTION (1)(c)(VII) OF THIS
22 SECTION, NOT LATER THAN THE TWENTIETH DAY OF THE THIRTY-DAY
23 PERIOD BEFORE THE EFFECTIVE DATE OF THE INCREASE OR CHANGE,
24 SENDING AN E-MAIL OR TEXT MESSAGE TO EACH AFFECTED CUSTOMER OF
25 THE PUBLIC UTILITY FOR WHOM THE UTILITY HAS AN E-MAIL ADDRESS OR
26 A MOBILE TELEPHONE NUMBER; OR

27 (E) AT THE REQUEST OF THE PUBLIC UTILITY, SUCH OTHER MANNER

1 AS THE COMMISSION MAY PRESCRIBE.

2 (VI) A PUBLIC UTILITY THAT PROVIDES ADDITIONAL NOTICE
3 PURSUANT TO SUBSECTION (1)(c)(I) OF THIS SECTION MUST INCLUDE IN
4 THE ADDITIONAL NOTICE:

5 (A) THE PUBLIC UTILITY'S PUBLIC WEBSITE ADDRESS; AND

6 (B) A TOLL-FREE TELEPHONE NUMBER ASSOCIATED WITH THE
7 PUBLIC UTILITY THAT A CUSTOMER MAY CALL FOR ADDITIONAL
8 INFORMATION OR ASSISTANCE. IF A PUBLIC UTILITY SENDS ADDITIONAL
9 NOTICE BY E-MAIL OR TEXT MESSAGE PURSUANT TO SUBSECTION
10 (1)(c)(I)(D) OF THIS SECTION, THE E-MAIL OR TEXT MESSAGE NEED NOT
11 INCLUDE ALL INFORMATION REQUIRED BY THIS SUBSECTION (1)(c)(VI);
12 HOWEVER, THE E-MAIL OR TEXT MESSAGE MUST INCLUDE A LINK TO THE
13 PORTION OF THE PUBLIC UTILITY'S PUBLIC WEBSITE WHERE THAT
14 INFORMATION IS POSTED.

15 (VII) A PUBLIC UTILITY MAY PROVIDE ADDITIONAL NOTICE
16 PURSUANT TO SUBSECTION (1)(c)(I)(D) OF THIS SECTION ONLY IF THE
17 PUBLIC UTILITY PROVIDES ITS CUSTOMERS WITH A MECHANISM BY WHICH
18 A CUSTOMER MAY OPT OUT OF RECEIVING E-MAIL OR TEXT MESSAGE
19 NOTIFICATIONS. FOR ANY CUSTOMER THAT OPTS OUT, THE PUBLIC UTILITY
20 SHALL PROVIDE AN ALTERNATE METHOD OF ADDITIONAL NOTICE
21 AUTHORIZED UNDER SUBSECTION (1)(c)(I) OF THIS SECTION.

22 **SECTION 8. In Colorado Revised Statutes, add 40-3-116 and**
23 **40-3-117 as follows:**

24 **40-3-116. Performance-based rate-making - investigation -**
25 **report - repeal. (1) THE COMMISSION SHALL CONDUCT AN**
26 **INVESTIGATION OF FINANCIAL PERFORMANCE-BASED INCENTIVES AND**
27 **PERFORMANCE-BASED METRIC TRACKING TO IDENTIFY MECHANISMS THAT**

1 MAY SERVE TO ALIGN REGULATED UTILITY OPERATIONS, EXPENDITURES,
2 AND INVESTMENTS WITH PUBLIC BENEFIT GOALS INCLUDING SAFETY,
3 RELIABILITY, COST EFFICIENCY, EMISSIONS REDUCTIONS, AND EXPANSION
4 OF DISTRIBUTED ENERGY RESOURCES. THE INVESTIGATION, WHICH SHALL
5 BE CONDUCTED IN AN INVESTIGATORY PROCEEDING, MUST CONSIST OF A
6 REVIEW OF EXISTING AND POTENTIAL METRICS, INCLUDING FUTURE TEST
7 YEARS, AND CONSIDERATION OF NEW PERFORMANCE-BASED INCENTIVES.

8 (2) (a) WITHIN EIGHTEEN MONTHS AFTER THE EFFECTIVE DATE OF
9 THIS SECTION, THE COMMISSION SHALL REPORT ITS FINDINGS TO THE
10 SENATE TRANSPORTATION AND ENERGY COMMITTEE AND THE HOUSE OF
11 REPRESENTATIVES ENERGY AND ENVIRONMENT COMMITTEE, OR THEIR
12 SUCCESSOR COMMITTEES. THE REPORT MUST INCLUDE THE FOLLOWING:

13 (I) A GENERAL DETERMINATION AS TO WHETHER A TRANSITION TO
14 PERFORMANCE-BASED METRICS REGULATION OF A REGULATED UTILITY
15 WOULD BE NET BENEFICIAL TO THE STATE, IN TERMS OF MEETING STATED
16 OBJECTIVES OF THE COMMISSION AND OTHER RELATED STATUTORY
17 REQUIREMENTS;

18 (II) ACTIONS THAT THE COMMISSION MAY PURSUE TO GUIDE THE
19 CHANGE TO A PERFORMANCE-BASED METRICS REGULATION;

20 (III) DIRECTIVES TO BE GIVEN TO UTILITIES;

21 (IV) A LIST OF TYPES OF FUTURE LITIGATED PROCEEDINGS WITHIN
22 WHICH THE REPORT COULD BE IMPLEMENTED; AND

23 (V) A PROPOSED TIMELINE FOR TRANSITION TO
24 PERFORMANCE-BASED METRICS REGULATION.

25 (b) THE REPORT MAY INCLUDE ANY RECOMMENDATIONS OF
26 LEGISLATION NEEDED TO FULLY REALIZE THE BENEFITS OF
27 PERFORMANCE-BASED METRICS REGULATION, INCLUDING IDENTIFYING

1 ANY EXISTING STATUTE THAT WOULD SERVE AS AN IMPEDIMENT TO
2 REALIZING THE FULL BENEFITS OF A TRANSITION TO PERFORMANCE-BASED
3 METRICS REGULATION AND SUGGESTED RECOMMENDED CHANGES TO THE
4 EXISTING STATUTE.

5 (3) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.

6 **40-3-117. Utility retail rates survey - nonadjudicatory**

7 **proceeding - definition - report - repeal.** (1) (a) THE COMMISSION

8 SHALL OPEN A NONADJUDICATORY PROCEEDING TO CONDUCT A SURVEY OF

9 PUBLIC UTILITY RETAIL RATES AND SPECIFICALLY CONSIDER

10 RECOMMENDATIONS THAT WOULD RESULT IN RATE RELIEF IN

11 CERTIFICATED UTILITY TERRITORIES WITH RETAIL RATES MATERIALLY

12 GREATER THAN THE STATE AVERAGE. THE COMMISSION SHALL DETERMINE

13 THE MINIMUM PERCENTAGE BY WHICH A RETAIL RATE THAT EXCEEDS THE

14 STATE AVERAGE RATE QUALIFIES AS A MATERIALLY GREATER RATE.

15 (b) AS USED IN THIS SECTION, "PUBLIC UTILITY" DOES NOT INCLUDE

16 A COOPERATIVE ELECTRIC ASSOCIATION, AS DEFINED IN SECTION

17 40-9.5-102.

18 (2) THE COMMISSION SHALL HOLD A PUBLIC HEARING WITHIN ANY

19 CERTIFICATED UTILITY TERRITORY DETERMINED TO HAVE A MATERIALLY

20 GREATER RETAIL RATE THAN THE STATE AVERAGE RATE.

21 (3) ON OR BEFORE FEBRUARY 1, 2021, THE COMMISSION SHALL

22 FILE A REPORT WITH THE HOUSE ENERGY AND ENVIRONMENT COMMITTEE

23 AND THE SENATE TRANSPORTATION AND ENERGY COMMITTEE, OR THEIR

24 SUCCESSOR COMMITTEES, DESCRIBING THE SCOPE OF ANALYSIS

25 CONDUCTED, POTENTIAL SOLUTIONS CONSIDERED, AND ANY

26 RECOMMENDATIONS THAT COULD PROVIDE RATE RELIEF TO RATEPAYERS.

27 (4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.

1 **SECTION 9.** In Colorado Revised Statutes, **add** 40-3.2-106 as
2 follows:

3 **40-3.2-106. Costs of pollution in utility planning - definitions**

4 **- rules. (1) THE COMMISSION SHALL REQUIRE AN ELECTRIC PUBLIC**
5 **UTILITY SUBJECT TO COMMISSION JURISDICTION TO CONSIDER THE COST OF**
6 **CARBON DIOXIDE EMISSIONS, AS SET FORTH PURSUANT TO SUBSECTION (4)**
7 **OF THIS SECTION, WHEN DETERMINING THE COST, BENEFIT, OR NET**
8 **PRESENT VALUE OF ANY PLAN OR PROPOSAL SUBMITTED IN ONE OF THE**
9 **FOLLOWING PROCEEDINGS:**

10 **(a) ELECTRIC RESOURCE PLANS OR ANY UTILITY PLAN OR**
11 **APPLICATION THAT CONSIDERS OR PROPOSES THE ACQUISITION OF NEW**
12 **ELECTRIC GENERATING RESOURCES AND HEATING RESOURCES OR THE**
13 **RETIREMENT OF EXISTING UTILITY GENERATION;**

14 **(b) APPLICATIONS RELATED TO SECTION 40-2-124;**

15 **(c) APPLICATIONS RELATED TO SECTION 40-3.2-104; OR**

16 **(d) A PLAN OR APPLICATION FOR TRANSPORTATION**
17 **ELECTRIFICATION OR OTHER FORMS OF BENEFICIAL ELECTRIFICATION.**

18 **(2) IN A PROCEEDING LISTED IN SUBSECTION (1)(a) OF THIS**
19 **SECTION, A UTILITY SHALL:**

20 **(a) AT A MINIMUM, MODEL AN OPTIMIZATION OF A BASE CASE**
21 **PORTFOLIO OF RESOURCES USING THE COST OF CARBON DIOXIDE**
22 **EMISSIONS, AS SET FORTH PURSUANT TO SUBSECTION (4) OF THIS SECTION.**

23 **THE COST OF CARBON DIOXIDE EMISSIONS MUST APPLY TO THE**
24 **EVALUATION OF ALL EXISTING ELECTRIC GENERATION RESOURCES AND**
25 **HEATING RESOURCES AND TO ANY NEW RESOURCES EVALUATED OR**
26 **PROPOSED AS PART OF THE RESOURCE MODELING. THE COMMISSION MAY**
27 **REQUIRE A UTILITY TO FILE OR PROPOSE ADDITIONAL BASE CASES. FOR THE**

1 PURPOSE OF DEVELOPING ADDITIONAL OPTIMIZED PORTFOLIOS OR FOR
2 SCENARIO ANALYSIS, THE COMMISSION MAY AMEND ITS RULES TO ALLOW
3 A UTILITY TO USE OTHER COSTS FOR CARBON DIOXIDE EMISSIONS IN
4 ADDITION TO THE COST OF CARBON DIOXIDE EMISSIONS SET FORTH
5 PURSUANT TO SUBSECTION (4) OF THIS SECTION.

6 (b) (I) PRESENT A CALCULATION OF THE NET PRESENT VALUE OF
7 REVENUE REQUIREMENT FOR THE RESOURCES IN EACH OPTIMIZED
8 PORTFOLIO. TO SHOW THE NET PRESENT VALUE OF REVENUE REQUIREMENT
9 THAT WOULD BE INCURRED BY THE UTILITY FOR IMPLEMENTING THE
10 PORTFOLIO, IN ADDITION TO PRESENTING THE FULL NET PRESENT VALUE OF
11 REVENUE REQUIREMENT THROUGH A CALCULATION USING THE COST OF
12 CARBON DIOXIDE EMISSIONS SET FORTH PURSUANT TO SUBSECTION (4) OF
13 THIS SECTION, THE UTILITY SHALL ALSO PRESENT THE FULL NET PRESENT
14 VALUE OF REVENUE REQUIREMENT THROUGH A CALCULATION WITHOUT
15 USING THE COST OF CARBON DIOXIDE EMISSIONS SET FORTH PURSUANT TO
16 SUBSECTION (4) OF THIS SECTION.

17 (II) IN ADDITION TO THE NET PRESENT VALUE OF REVENUE
18 REQUIREMENT CALCULATIONS REQUIRED IN SUBSECTION (2)(b)(I) OF THIS
19 SECTION, FOR EACH OPTIMIZED MODEL RUN THE UTILITY MUST PROVIDE A
20 PRESENT VALUE CALCULATION SHOWING THE NET PRESENT VALUE OF THE
21 TOTAL COST OF CARBON DIOXIDE EMISSIONS OF EACH PORTFOLIO,
22 CALCULATED BY MULTIPLYING THE TOTAL EMISSIONS OF THAT PORTFOLIO
23 BY THE COST OF CARBON DIOXIDE SET FORTH PURSUANT TO SUBSECTION
24 (4) OF THIS SECTION.

25 (3) IN APPROVING A RESOURCE PLAN, THE COMMISSION SHALL
26 CONSIDER:

27 (a) THE NET PRESENT VALUE OF THE COST OF CARBON DIOXIDE

1 EMISSIONS:

2 (b) THE NET PRESENT VALUE OF REVENUE REQUIREMENTS THAT
3 WOULD BE INCURRED BY THE UTILITY FOR IMPLEMENTING THE PORTFOLIO:

4 AND

5 (c) OTHER RELEVANT FACTORS, AS DETERMINED BY THE
6 COMMISSION.

7 (4) THE COMMISSION SHALL BASE THE COST OF CARBON DIOXIDE
8 EMISSIONS ON THE MOST RECENT ASSESSMENT OF THE SOCIAL COST OF
9 CARBON DIOXIDE DEVELOPED BY THE FEDERAL GOVERNMENT. STARTING
10 IN 2020, THE COMMISSION SHALL USE A SOCIAL COST OF CARBON DIOXIDE
11 OF NOT LESS THAN FORTY-SIX DOLLARS PER SHORT TON. THE COMMISSION
12 SHALL MODIFY THE COST OF CARBON DIOXIDE EMISSIONS BASED ON
13 ESCALATION RATES OF THE 2020 BASE COST BY AN AMOUNT THAT IS
14 EQUAL TO OR GREATER THAN THE CENTRAL VALUE ESCALATION RATES
15 ESTABLISHED IN THE TECHNICAL SUPPORT DOCUMENT. WHEN
16 CALCULATING THE COST OF CARBON DIOXIDE EMISSIONS FOR ANY
17 PROCEEDING LISTED IN SUBSECTION (1) OF THIS SECTION, THE COMMISSION
18 SHALL USE THE SAME DISCOUNT RATE AS THAT USED TO DEVELOP THE
19 FEDERAL SOCIAL COST OF CARBON DIOXIDE, AS SET FORTH IN THE
20 TECHNICAL SUPPORT DOCUMENT.

21 (5) THE COMMISSION SHALL APPLY A COST OF CARBON DIOXIDE
22 EMISSIONS TO THE NONENERGY BENEFITS FOR PROGRAMS THAT ARE
23 DEFINED TO BE BENEFICIAL ELECTRIFICATION.

24 (6) AS USED IN THIS SECTION:

25 (a) "BENEFICIAL ELECTRIFICATION" MEANS A UTILITY'S CHANGE IN
26 THE ENERGY SOURCE POWERING AN END USE FROM A NONELECTRIC
27 SOURCE TO AN ELECTRIC SOURCE, INCLUDING TRANSPORTATION, WATER

1 HEATING, SPACE HEATING, OR INDUSTRIAL PROCESSES, IF THE CHANGE:
2 (I) REDUCES SYSTEM COSTS FOR THE UTILITY'S CUSTOMERS;
3 (II) REDUCES NET CARBON DIOXIDE EMISSIONS; OR
4 (III) PROVIDES FOR A MORE EFFICIENT UTILIZATION OF GRID
5 RESOURCES.

6 (b) "TECHNICAL SUPPORT DOCUMENT" MEANS THE 2016
7 TECHNICAL SUPPORT DOCUMENT OF THE FEDERAL INTERAGENCY WORKING
8 GROUP ON SOCIAL COST OF GREENHOUSE GASES, ENTITLED "TECHNICAL
9 UPDATE OF THE SOCIAL COST OF CARBON FOR REGULATORY IMPACT
10 ANALYSIS - UNDER EXECUTIVE ORDER 12866". _____

11 **SECTION 10.** In Colorado Revised Statutes, 40-4-106, **amend**
12 (1) as follows:

13 **40-4-106. Rules for public safety - crossings - civil fines -**
14 **allocation of expenses.** (1) (a) The commission ~~shall have power~~ MAY,
15 after hearing on its own motion or upon complaint, ~~to make general or~~
16 special orders, PROMULGATE rules, or ~~regulations or otherwise~~ ACT BY
17 OTHER MEANS to require each public utility to maintain and operate its
18 lines, plant, system, equipment, electrical wires, apparatus, tracks, and
19 premises in such A manner as to promote and safeguard the health and
20 safety of its employees, passengers, customers, subscribers, and the public
21 and to require the performance of any other act ~~which~~ THAT the health or
22 safety of its employees, passengers, customers, subscribers, or the public
23 may demand.

24 (b) IF, PURSUANT TO THIS SUBSECTION (1), THE COMMISSION
25 ISSUES AN ORDER OR PROMULGATES A RULE REQUIRING A RAILROAD
26 COMPANY TO COMPLY WITH RAILROAD CROSSING SAFETY REGULATIONS,
27 THE COMMISSION MAY IMPOSE A CIVIL PENALTY PURSUANT TO ARTICLE 7

1 OF THIS TITLE 40, IN AN AMOUNT NOT TO EXCEED THE MAXIMUM AMOUNT
2 SET FORTH IN SECTION 40-7-105 (1), AGAINST A RAILROAD COMPANY THAT
3 FAILS TO COMPLY WITH THE ORDER OR RULE.

4 **SECTION 11.** In Colorado Revised Statutes, 40-6-101, **amend**
5 (2); and **add** (5) as follows:

6 **40-6-101. Proceedings - delegation of duties - rules.**

7 (2) (a) ~~Except as otherwise provided in paragraph (b) of this subsection~~
8 ~~(2);~~ The commission may by order direct that any of its work, business,
9 or functions under any provision of law, except functions vested solely in
10 the commission under this ~~title~~ TITLE 40, be assigned or referred to an
11 individual commissioner or to an administrative law judge to be
12 designated by order for action. ~~thereon, and~~ The commission may by
13 order at any time amend, modify, supplement, or rescind any such
14 assignment or reference. When an individual commissioner or an
15 administrative law judge is unable to act upon any matter ~~so~~ assigned or
16 referred because of absence or other cause, the ~~chairman~~ CHAIR of the
17 commission may designate another commissioner or administrative law
18 judge, as the case may be, to serve temporarily until the commission
19 otherwise orders.

20 (b) Every case submitted to the commission for adjudication ~~shall~~
21 ~~MUST BE HEARD~~ in the first instance, ~~be heard by an administrative law~~
22 ~~judge~~ THE COMMISSION unless, BY RULE, MINUTE ORDER, OR WRITTEN
23 DECISION, the commission ~~by minute order,~~ assigns the case to ~~the~~
24 ~~commission~~ AN ADMINISTRATIVE LAW JUDGE or to an individual
25 commissioner for hearing.

26 (5) NOTWITHSTANDING SUBSECTIONS (2) TO (4) OF THIS SECTION,
27 THE COMMISSION MAY PROMULGATE RULES TO AUTHORIZE THE

1 DELEGATION OF ITS ROUTINE ADMINISTRATIVE TRANSPORTATION MATTERS
2 TO COMMISSION STAFF. IF THE COMMISSION PROMULGATES RULES
3 PURSUANT TO THIS SUBSECTION (5), THE COMMISSION SHALL DEFINE IN
4 RULE THE MEANING OF THE TERM "ROUTINE ADMINISTRATIVE
5 TRANSPORTATION MATTER".

6 **SECTION 12.** In Colorado Revised Statutes, 40-7-118, **amend**
7 (1)(a) as follows:

8 **40-7-118. Legal services offset fund - creation - exemption**
9 **from maximum reserve.** (1) (a) The legal services offset fund is hereby
10 created in the state treasury. The fund consists of the civil penalties that
11 are collected and credited to the fund pursuant to section 40-7-112 (1)(b)
12 for violations of article 10.1 of this title 40 or commission rules
13 promulgated pursuant to article 10.1 OF THIS TITLE 40. The money in the
14 fund is continuously appropriated to the department of law REGULATORY
15 AGENCIES for use to offset the costs of legal representation of the staff of
16 the commission in proceedings before the commission concerning the
17 enforcement of article 10.1 of this title 40. The department of law
18 REGULATORY AGENCIES shall use the money in the legal services offset
19 fund ~~only to supplement~~ SUPPORT appropriations made to the department
20 ~~of regulatory agencies~~ that are used for legal representation of the staff of
21 the commission in proceedings concerning the enforcement of article 10.1
22 of this title 40. ~~when the appropriations are insufficient to cover the costs~~
23 ~~of such representation.~~

24 **SECTION 13.** In Colorado Revised Statutes, 40-10.1-101, **add**
25 (22) as follows:

26 **40-10.1-101. Definitions.** As used in this article 10.1, unless the
27 context otherwise requires:

1 (22) "VEHICLE BOOTING COMPANY" MEANS A PRIVATE
2 CORPORATION, PARTNERSHIP, OR SOLE PROPRIETOR IN THE BUSINESS OF
3 IMMOBILIZING A MOTOR VEHICLE THROUGH USE OF A BOOT.

4 **SECTION 14.** In Colorado Revised Statutes, 40-10.1-110,
5 **amend** (1) and (2) as follows:

6 **40-10.1-110. Criminal history record check - rules.** (1) (a) An
7 individual who wishes to drive: A taxicab for a motor carrier that is the
8 holder of a certificate to provide taxicab service issued under part 2 of
9 this article 10.1; a motor vehicle for a motor carrier that is the holder of
10 a permit to operate as a charter bus, children's activity bus, luxury
11 limousine, medicaid client transport, or off-road scenic charter under part
12 3 of this article 10.1; or a motor vehicle for a motor carrier that is the
13 holder of a permit to operate as a large-market taxicab service under part
14 7 of this article 10.1 ~~shall submit a set of his or her~~ MUST HAVE THE
15 INDIVIDUAL'S fingerprints ~~to the commission. The commission shall~~
16 ~~forward the fingerprints to~~ TAKEN BY A LOCAL LAW ENFORCEMENT
17 AGENCY OR ANY THIRD PARTY APPROVED BY the Colorado bureau of
18 investigation for the purpose of obtaining a fingerprint-based criminal
19 history record check.

20 (b) IF AN APPROVED THIRD PARTY TAKES THE INDIVIDUAL'S
21 FINGERPRINTS, THE FINGERPRINTS MAY BE ELECTRONICALLY CAPTURED
22 USING COLORADO BUREAU OF INVESTIGATION-APPROVED LIVESCAN
23 EQUIPMENT. THIRD-PARTY VENDORS SHALL NOT KEEP THE INDIVIDUAL'S
24 INFORMATION FOR MORE THAN THIRTY DAYS UNLESS REQUESTED TO DO SO
25 BY THE INDIVIDUAL. THE INDIVIDUAL SHALL SUBMIT PAYMENT FOR THE
26 FINGERPRINTS AND FOR ACTUAL COSTS OF THE RECORD CHECK AT THE
27 TIME THE FINGERPRINTS ARE SUBMITTED TO THE COLORADO BUREAU OF

1 INVESTIGATION.

2 (c) Upon receipt of fingerprints and payment for the costs, the
3 Colorado bureau of investigation shall conduct a state and national
4 fingerprint-based criminal history record check using records of the
5 Colorado bureau of investigation and the federal bureau of investigation
6 ~~The commission is the authorized agency to receive information~~
7 ~~regarding the result of a national criminal history record check. The~~
8 ~~individual whose fingerprints are checked shall pay the actual costs of the~~
9 ~~state and national fingerprint-based criminal history record check AND~~
10 SHALL FORWARD THE RESULTS OF THE CRIMINAL HISTORY RECORD CHECK
11 TO THE COMMISSION.

12 (2) An individual whose fingerprints are checked in accordance
13 with subsection (1) of this section may, pending the results of the criminal
14 history record check, drive the motor vehicles for the motor carrier
15 described in subsection (1) of this section for up to ninety days after ~~the~~
16 ~~commission forwards~~ the fingerprints ARE FORWARDED to the Colorado
17 bureau of investigation or until the commission receives the results of the
18 check, whichever occurs first. The commission may temporarily extend
19 the ninety-day period, in accordance with section 24-33.5-412 (7), ~~C.R.S.~~,
20 based on a delay in processing criminal history record checks by the
21 Colorado bureau of investigation or on other exigent circumstances
22 beyond the commission's control. Upon the commission's receipt of the
23 results, the individual may resume driving motor vehicles for the motor
24 carrier described in subsection (1) of this section, so long as the driving
25 does not violate applicable law and does not occur while the individual
26 has a criminal conviction that disqualifies ~~him or her~~ THE INDIVIDUAL
27 from driving a motor vehicle in accordance with subsection (3) of this

1 section.

2 **SECTION 15.** In Colorado Revised Statutes, **add** part 8 to article
3 10.1 of title 40 as follows:

4 PART 8

5 VEHICLE BOOTING COMPANIES

6 **40-10.1-801. Permit requirements - rules.** (1) (a) EFFECTIVE
7 JANUARY 1, 2020, A PERSON SHALL NOT OPERATE OR OFFER TO OPERATE
8 AS A VEHICLE BOOTING COMPANY IN INTRASTATE COMMERCE WITHOUT
9 FIRST HAVING OBTAINED A PERMIT FROM THE COMMISSION IN
10 ACCORDANCE WITH THIS ARTICLE 10.1.

11 (b) A PERSON MAY APPLY FOR A PERMIT UNDER THIS PART 8 TO THE
12 COMMISSION IN THE FORM AND WITH THE INFORMATION AS THE
13 COMMISSION REQUIRES. PERMITS ARE VALID FOR ONE YEAR AFTER THE
14 DATE OF ISSUANCE.

15 (2) THE COMMISSION MAY DENY AN APPLICATION UNDER THIS
16 PART 8 OF A PERSON WHO HAS, WITHIN THE IMMEDIATELY PRECEDING FIVE
17 YEARS, BEEN CONVICTED OF, OR PLED GUILTY OR NOLO CONTENDERE TO,
18 A FELONY. THE COMMISSION MAY ALSO DENY AN APPLICATION UNDER THIS
19 PART 8 OR REFUSE TO RENEW THE PERMIT OF A VEHICLE BOOTING
20 COMPANY BASED UPON A DETERMINATION THAT THE VEHICLE BOOTING
21 COMPANY OR ANY OF ITS OWNERS, PRINCIPALS, OFFICERS, MEMBERS,
22 PARTNERS, OR DIRECTORS HAS NOT SATISFIED A CIVIL PENALTY ARISING
23 OUT OF ANY ADMINISTRATIVE OR ENFORCEMENT ACTION BROUGHT BY THE
24 COMMISSION.

25 (3) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF
26 THIS SECTION AND SECTION 40-10.1-112 (4), THE COMMISSION SHALL
27 ISSUE A PERMIT TO A VEHICLE BOOTING COMPANY UPON COMPLETION OF

1 THE APPLICATION AND THE FILING OF PROOF OF WORKERS' COMPENSATION
2 INSURANCE COVERAGE IN ACCORDANCE WITH THE "WORKERS'
3 COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, AND
4 WITH THE FINANCIAL RESPONSIBILITY REQUIREMENTS OF THIS TITLE 40
5 AND MAY ATTACH TO THE PERMIT AND TO THE EXERCISE OF THE RIGHTS
6 GRANTED BY THE PERMIT ANY RESTRICTIONS, TERMS, AND CONDITIONS,
7 INCLUDING ALTERING THE RATES AND CHARGES OF THE APPLICANT, AS ARE
8 REASONABLY DEEMED NECESSARY FOR THE PROTECTION OF THE PROPERTY
9 OF THE PUBLIC.

10 (b) IF A VEHICLE BOOTING COMPANY VIOLATES THIS ARTICLE 10.1,
11 ANY OTHER APPLICABLE PROVISION OF LAW, OR ANY RULE OR ORDER OF
12 THE COMMISSION ISSUED UNDER THIS ARTICLE 10.1 AND AS A RESULT IS
13 ORDERED BY A COURT OR BY THE COMMISSION TO PAY A FINE OR CIVIL
14 PENALTY THAT THE VEHICLE BOOTING COMPANY SUBSEQUENTLY FAILS TO
15 PAY IN FULL WITHIN THE TIME PRESCRIBED FOR PAYMENT, AND NOT
16 BEFORE THE DECISION IMPOSING THE FINE OR CIVIL PENALTY BECOMES A
17 FINAL DECISION BY THE COMMISSION, THEN:

18 (I) THE VEHICLE BOOTING COMPANY'S PERMIT IS REVOKED
19 IMMEDIATELY; AND

20 (II) THE VEHICLE BOOTING COMPANY, ITS OWNERS, PRINCIPALS,
21 OFFICERS, MEMBERS, PARTNERS, AND DIRECTORS, AND ANY OTHER ENTITY
22 OWNED OR OPERATED BY ONE OR MORE OF THOSE OWNERS, PRINCIPALS,
23 OFFICERS, MEMBERS, PARTNERS, OR DIRECTORS, MAY BE DISQUALIFIED
24 FROM OBTAINING OR RENEWING ANY OPERATING AUTHORITY UNDER THIS
25 TITLE 40 FOR A PERIOD OF FIVE YEARS AFTER THE DATE ON WHICH THE
26 FINE OR CIVIL PENALTY WAS DUE. THE PERIOD OF DISQUALIFICATION
27 PURSUANT TO THIS SUBSECTION (3)(b)(II) IS IN ADDITION TO, AND NOT IN

1 LIEU OF, AND DOES NOT AFFECT, ANY OTHER PENALTY OR PERIOD OF
2 DISQUALIFICATION, INCLUDING THE PERIOD OF DISQUALIFICATION
3 SPECIFIED IN SECTION 40-10.1-112 (4).

4 (c) A VEHICLE BOOTING COMPANY'S FACILITIES AND VEHICLES ARE
5 SUBJECT TO INSPECTION BY THE COMMISSION AND BY AUTHORIZED
6 PERSONNEL OF THE COLORADO STATE PATROL, WHICH AGENCY SHALL
7 PROMPTLY REPORT TO THE COMMISSION CONCERNING ANY VIOLATIONS
8 REVEALED BY AN INSPECTION.

9 (4) THE COMMISSION MAY PROMULGATE RULES AS NECESSARY
10 AND REASONABLE TO IMPLEMENT THIS PART 8, INCLUDING RULES
11 REGARDING SIGNAGE AND DROP FEES.

12 **SECTION 16.** In Colorado Revised Statutes, 40-15-302, **repeal**
13 (5) as follows:

14 **40-15-302. Manner of regulation - rules.** (5) ~~Consistent with~~
15 ~~section 40-15-301 (1), rates for nonoptional operator services must allow~~
16 ~~the provider of the services the opportunity to earn a just and reasonable~~
17 ~~return on the associated used and useful investment, including equipment~~
18 ~~costs incurred to originate the services. The rates shall be set at or below~~
19 ~~a single statewide benchmark rate as determined by the commission that~~
20 ~~is applicable to all providers, unless the commission approves a higher~~
21 ~~rate. The statewide benchmark rate must apply to all nonoptional operator~~
22 ~~services regardless of whether the services are provided in connection~~
23 ~~with a local exchange or interexchange telecommunications service. If the~~
24 ~~commission approves a rate higher than the benchmark rate, and the~~
25 ~~commission determines that disclosure of the rate to customers is in the~~
26 ~~public interest, the commission may require the nonoptional operator~~
27 ~~services provider to orally disclose, to the person responsible for payment~~

1 of the telephone call, the total charges for the call and that the charges are
2 higher than the benchmark rate. The nonoptional operator services
3 provider shall make the disclosure at no charge to the caller and before
4 the call is connected, allowing the caller to disconnect before incurring
5 any charges. If the commission finds, after notice and opportunity for a
6 hearing, that a nonoptional operator services provider has violated this
7 subsection (5), the commission may, in addition to other enforcement
8 powers as may be authorized in this title, order any regulated
9 telecommunications service provider to block access to the nonoptional
10 operator services provider for all intrastate operator-handled calls. A
11 regulated telecommunications provider that blocks the access of a
12 nonoptional operator services provider in compliance with an order of the
13 commission and incurs attorney fees or costs to defend the action is
14 entitled to recover its costs and attorney fees in each proceeding. The
15 commission shall promulgate rules necessary to implement this
16 subsection (5).

17 **SECTION 17.** In Colorado Revised Statutes, 40-15-401, **amend**
18 (1) introductory portion, (1)(s), and (1)(t); and **add** (1)(u) as follows:

19 **40-15-401. Services, products, and providers exempt from**
20 **regulation - definition.** (1) The following products, services, and
21 providers are exempt from regulation under this ~~article~~ ARTICLE 15 or
22 under the "Public Utilities Law" of the state of Colorado:

23 (s) InterLATA toll, except with respect to interexchange carrier
24 registration under section 40-15-302.5, complaints of unauthorized
25 charges on a subscriber's bill, or complaints of changing a subscriber's
26 service without ~~his or her~~ THE SUBSCRIBER'S consent; and

27 (t) IntraLATA toll, except with respect to interexchange carrier

1 registration under section 40-15-302.5, complaints of unauthorized
2 charges on a subscriber's bill, or complaints of changing a subscriber's
3 service without ~~his or her~~ THE SUBSCRIBER'S consent; AND

4 (u) NONOPTIONAL OPERATOR SERVICES.

5 **SECTION 18.** In Colorado Revised Statutes, 40-15-503, **amend**
6 (2)(h) as follows:

7 **40-15-503. Opening of competitive local exchange market -**
8 **process of negotiation and rule-making - issues to be considered by**
9 **commission - definition.** (2) (h) The commission shall require by rule
10 that any telecommunications service provider required to file temporary
11 interim tariffs pursuant to paragraph (g) of this subsection (2) and, to the
12 extent such a requirement is permissible under federal law, any basic
13 local exchange provider that serves only rural exchanges of ten thousand
14 or fewer access lines and that has received a bona fide request for
15 interconnection shall file advice letters with the commission to place into
16 effect temporary interim tariffs and commission tariffs for unbundled
17 facilities or functions, interconnection, services for resale, or local
18 number portability by such dates certain as the commission may
19 determine by rule.

20 **SECTION 19.** In Colorado Revised Statutes, 40-15-503.5,
21 **amend** (1)(c) as follows:

22 **40-15-503.5. Financial assurance.** (1) The commission may
23 require regulated telecommunications service providers to post a bond or
24 provide other security as a condition of obtaining a certificate,
25 registration, or operating authority, whichever instrument or instruments
26 apply. In setting the amount of the bond or security, the commission may
27 consider the following criteria:

1 (c) The history of the provider's statutory payment obligations,
2 including those to the Colorado high cost support mechanism, the
3 Colorado telephone relay system, and the Colorado ~~fixed~~
4 TELECOMMUNICATIONS utility fund.

5 **SECTION 20.** In Colorado Revised Statutes, 24-38.5-102,
6 **amend** (1)(n) as follows:

7 **24-38.5-102. Colorado energy office - duties and powers -**
8 **definitions.** (1) The Colorado energy office shall:

9 (n) (I) Provide public utilities with reasonable assistance, if
10 requested, in seeking and obtaining support and sponsorship for an IGCC
11 project ~~as defined in section 40-2-123 (2)(b)(I), C.R.S.,~~ and manage and
12 distribute to the utility some or all of any funds provided by the state or
13 by the United States government to the state for purposes of study or
14 development of an IGCC project. ~~as specified in section 40-2-123 (2)(j),~~
15 ~~C.R.S.;~~

16 (II) AS USED IN THIS SUBSECTION (1)(n), "IGCC PROJECT" MEANS
17 AN IGCC FACILITY THAT:

18 (A) DEMONSTRATES THE USE OF IGCC TECHNOLOGY TO
19 GENERATE ELECTRICITY USING COLORADO OR OTHER WESTERN COAL;

20 (B) DOES NOT EXCEED THREE HUNDRED FIFTY MEGAWATTS
21 NAMEPLATE CAPACITY; EXCEPT THAT IT MAY EXCEED THIS CAPACITY IF
22 THE COLORADO ENERGY OFFICE DETERMINES THAT A LARGER SIZE IS
23 NECESSARY TO OBTAIN THE BENEFITS OF FEDERAL COST-SHARING,
24 FINANCIAL GRANTS OR TAX BENEFITS, OR OTHER FINANCIAL
25 OPPORTUNITIES OR ARRANGEMENTS BENEFITTING THE PROJECT,
26 INCLUDING OPPORTUNITIES TO JOINTLY DEVELOP THE PROJECT WITH
27 OTHER ELECTRIC UTILITIES;

1 (C) DEMONSTRATES THE CAPTURE AND SEQUESTRATION OF A
2 PORTION OF THE PROJECT'S CARBON DIOXIDE EMISSIONS;

3 (D) INCLUDES METHODS AND PROCEDURES TO MONITOR THE FATE
4 OF THE CARBON DIOXIDE CAPTURED AND SEQUESTERED FROM THE
5 FACILITY; AND

6 (E) IS LOCATED IN COLORADO.

7 (III) AS USED IN THIS SUBSECTION (1)(n), "IGCC FACILITY" MEANS
8 AN INTEGRATED GASIFICATION COMBINED CYCLE GENERATION FACILITY
9 THAT CONVERTS COAL TO A GASEOUS FUEL FROM WHICH IMPURITIES ARE
10 REMOVED PRIOR TO COMBUSTION, USES THE GASEOUS FUEL IN A
11 COMBUSTION TURBINE TO PRODUCE ELECTRICITY, AND CAPTURES THE
12 WASTE HEAT FROM THE COMBUSTION TURBINE TO DRIVE A STEAM TURBINE
13 TO PRODUCE MORE ELECTRICITY. AN IGCC FACILITY MAY ALSO USE
14 NATURAL GAS, IN ADDITION TO GASIFIED COAL, AS A FUEL IN THE
15 COMBUSTION TURBINE.

16 **SECTION 21.** In Colorado Revised Statutes, 40-10.1-111,
17 **amend** (1)(c)(I) as follows:

18 **40-10.1-111. Filing, issuance, and annual fees.** (1) A motor
19 carrier shall pay the commission the following fees in amounts prescribed
20 in this section or, if not prescribed in this section, as set administratively
21 by the commission with approval of the executive director of the
22 department of regulatory agencies:

23 (c) (I) The filing fee for a permit to operate under part 4 OR PART
24 8 of this ~~article~~ ARTICLE 10.1 is one hundred fifty dollars.

25 **SECTION 22. Appropriation.** (1) For the 2019-20 state fiscal
26 year, \$467,034 is appropriated to the department of regulatory agencies.
27 This appropriation consists of \$369,433 from the public utilities

1 commission fixed utility fund created in section 40-2-114 (1)(b)(II),
2 C.R.S. and \$97,601 from the public utilities commission motor carrier
3 fund created in section 40-2-110.5 (6), C.R.S. To implement this act, the
4 department may use this appropriation as follows:

5 (a) \$332,502, which consists of \$243,381 from the public utilities
6 commission fixed utility fund and \$89,121 from the public utilities
7 commission motor carrier fund, for use by the public utilities commission
8 for personal services, which amount is based on an assumption that the
9 commission will require an additional 4.0 FTE;

10 (b) \$22,612, which consists of \$14,132 from the public utilities
11 commission fixed utility fund and \$8,480 from the public utilities
12 commission motor carrier fund, for use by the public utilities commission
13 for operating expenses; and

14 (c) \$111,920 from the public utilities commission fixed utility
15 fund for the purchase of legal services.

16 (2) For the 2019-20 state fiscal year, \$111,920 is appropriated to
17 the department of law. This appropriation is from reappropriated funds
18 received from the department of regulatory agencies under subsection
19 (1)(c) of this section and is based on an assumption that the department
20 of law will require an additional 0.6 FTE. To implement this act, the
21 department of law may use this appropriation to provide legal services for
22 the department of regulatory agencies.

23 **SECTION 23. Applicability.** This act applies to conduct
24 occurring, including contracts entered into, on or after the applicable
25 effective date of this act.

26 **SECTION 24. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.