A BILL FOR AN ACT

CONCERNING PLANS TO REDUCE CARBON DIOXIDE EMISSIONS BY QUALIFYING RETAIL UTILITIES, AND, IN CONNECTION THEREWITH, ENCOURAGING THE ACHIEVEMENT OF ZERO CARBON DIOXIDE EMISSIONS BY 2050.

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 repeals laws that allow an electric utility to own, as rate-based property, new eligible energy resources without competitive bidding if certain conditions are satisfied.
Section 2 supplements the existing renewable energy standards statute by establishing targets for the reduction of carbon dioxide emissions from electricity generation by utilities serving more than 500,000 customers, with the opportunity for other utilities to opt in. The targets are:

- By 2030, an 80% reduction in carbon dioxide emission levels compared to 2005 levels; and
- For 2050 and thereafter, a goal of a 100% reduction in carbon dioxide emission levels.

Section 2 also directs qualifying retail utilities to submit plans to the public utilities commission (PUC) as part of their ongoing resource acquisition planning process to address the clean energy targets. A clean energy plan must detail the actions and investments the utility intends to undertake, including specifying the new resources and infrastructure proposed to be used; the anticipated effects of the plan on the safety, reliability, and resilience of the overall electric system; the methods proposed for measuring carbon dioxide reductions; and the costs of implementation, which must be reasonable.

The approval process also includes participation by the division of administration within the department of public health and environment regarding the measurement of carbon dioxide emission reductions and predictions as to whether the clean energy plan will achieve the desired reductions.

A utility implementing a clean energy plan may recover its costs of implementation through rates, as approved by the PUC, and own any generating resources and infrastructure necessary to effectuate the plan. The utility is required to use a competitive bidding process to fill the cumulative resource need identified in its next electric resource plan that includes a clean energy plan filed after January 1, 2020.

Each utility that receives approval of a clean energy plan is required to report to the governor, the PUC, and the air quality control commission on a list of matters, including its progress in implementing the plan and in reducing carbon dioxide emissions.

The bill strengthens an existing provision requiring electric resource acquisition decisions to be made with consideration of "best value" employment metrics and the use of Colorado labor by requiring a utility to obtain and provide to the PUC relevant documentation on these topics, including the availability of apprenticeship programs registered with the United States department of labor.

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

SECTION 1. In Colorado Revised Statutes, 40-2-124, amend (1)
introductory portion; and **repeal** (1)(f)(I) as follows:

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

(1) Each provider of retail electric service in the state of Colorado, other than municipally owned utilities that serve forty thousand customers or fewer, is a qualifying retail utility. Each qualifying retail utility, with the exception of cooperative electric associations that have voted to exempt themselves from commission jurisdiction pursuant to section 40-9.5-104 and municipally owned utilities, is subject to the rules established under this **article** ARTICLE 2 by the commission. No additional regulatory authority is provided to the commission other than that specifically contained in this section. In accordance with article 4 of title 24, C.R.S., the commission shall revise or clarify existing rules to establish the following:

(f) Policies for the recovery of costs incurred with respect to these standards for qualifying retail utilities that are subject to rate regulation by the commission. These policies must provide incentives to qualifying retail utilities to invest in eligible energy resources and must include:

(I) **Allowing** a qualifying retail utility to develop and own as utility rate-based property up to twenty-five percent of the total new eligible energy resources the utility acquires from entering into power purchase agreements and from developing and owning resources after March 27, 2007, if the new eligible energy resources proposed to be developed and owned by the utility can be constructed at reasonable cost compared to the cost of similar eligible energy resources available in the market. The qualifying retail utility shall be allowed to develop and own as utility rate-based property more than twenty-five percent but not more
than fifty percent of total new eligible energy resources acquired after March 27, 2007, if the qualifying retail utility shows that its proposal
would provide significant economic development, employment, energy
security, or other benefits to the state of Colorado. The qualifying retail
utility may develop and own these resources either by itself or jointly with
other owners, and, if owned jointly, the entire jointly owned resource
shall count toward the percentage limitations in this subparagraph (I). For
the resources addressed in this subparagraph (I), the qualifying retail
utility shall not be required to comply with the competitive bidding
requirements of the commission's rules; except that nothing in this
subparagraph (I) shall preclude the qualifying retail utility from bidding
to own a greater percentage of new eligible energy resources than
permitted by this subparagraph (I). In addition, nothing in this
subparagraph (I) shall prevent the commission from waiving, repealing,
or revising any commission rule in a manner otherwise consistent with
applicable law.

SECTION 2. In Colorado Revised Statutes, add 40-2-125.5 as
follows:

40-2-125.5. Carbon dioxide emission reductions - goal to
eliminate by 2050 - legislative declaration - interim targets -
submission and approval of plans - definitions - cost recovery -
reports. (1) Legislative declaration. The general assembly finds
and declares that:

(a) It is a matter of statewide importance to promote the
development of cost-effective clean energy and new
technologies and reduce the carbon dioxide emissions from the
Colorado electric generating system;
(b) The creation of a low-cost, reliable, and clean electricity system is critical to achieving the level of greenhouse gas emissions necessary to avoid the worst impacts of climate change and advancing a robust and efficient low-carbon economy for the state of Colorado and the nation;

(c) Technology advancement has already allowed Colorado to achieve reductions in carbon dioxide emissions from the electric utility sector, and continued technology development is key to extend progress toward a reliable, low-cost, clean energy future; and

(d) A bold clean energy policy will support this progress and allow Coloradans to enjoy the benefits of reliable clean energy at an affordable cost.

(2) Definitions. As used in this section, unless the context otherwise requires:

(a) "Clean energy resource" means any electricity-generating technology that generates or stores electricity without emitting carbon dioxide into the atmosphere. Clean energy resources include, without limitation, eligible energy resources as defined in section 40-2-124 (1)(a).

(b) "Qualifying retail utility" means a retail utility providing electric service to more than five hundred thousand customers in this state or any other electric utility that opts in pursuant to subsection (3)(b) of this section.

(3) Clean energy targets. (a) In addition to the other requirements of this section, a qualifying retail utility shall meet the following clean energy targets:
(I) By 2030, the qualifying retail utility shall reduce the carbon dioxide emissions associated with electricity sales to the qualifying retail utility’s retail electricity customers by eighty percent from 2005 levels.

(II) For the years 2050 and thereafter, or sooner if practicable, the qualifying retail utility shall seek to achieve the goal of providing its retail customers with energy generated from one-hundred-percent clean energy resources so long as doing so is technically and economically feasible, in the public interest, and consistent with the requirements of this section.

(III) The qualifying retail utility shall retire renewable energy credits established under section 40-2-124 (1)(d), in the year generated, by any eligible energy resources used to comply with the requirements of this section.

(b) Any other electric public utility may opt into the full terms of this entire section upon notification to the commission.

(4) Submission and approval of plans. (a) The first electric resource plan that a qualifying retail utility files with the commission after January 1, 2020, must include a clean energy plan that will achieve the clean energy target set forth in subsection (3)(a)(I) of this section and make progress toward the one-hundred-percent clean energy goal set forth in subsection (3)(a)(II) of this section in accordance with the following:

(I) The electric resource plan containing the clean energy plan must utilize a resource acquisition period that extends through 2030.
(II) The clean energy plan submitted to the Commission must set forth a plan of actions and investments by the qualifying retail utility projected to achieve compliance with the clean energy targets in subsections (3)(a)(I) and (3)(a)(II) of this section and that result in an affordable, reliable, and clean electric system.

(III) In the electric resource plan that includes the clean energy plan, the qualifying retail utility shall clearly distinguish between the set of resources necessary to meet customer demands in the resource acquisition period and the additional clean energy plan activities that may be undertaken to meet the clean energy target in subsection (3)(a)(I) of this section, which may create an additional resource need for the clean energy plan. These activities may include retirement of existing generating facilities, changes in system operation, or any other necessary actions.

(IV) After conducting any procurement process pursuant to subsection (5)(b) of this section or otherwise, the qualifying retail utility shall set forth the actions and investments required to fill the additional resource need identified for the clean energy plan to satisfy the clean energy target in subsection (3)(a)(I) of this section. These actions and investments may include development of new clean energy resources, development of new transmission and other supporting infrastructure, and clean energy resource acquisitions.

(V) The clean energy plan must describe the effect of the actions and investments included in the clean energy plan on
THE SAFETY, RELIABILITY, RENEWABLE ENERGY INTEGRATION, AND
RESILIENCE OF ELECTRIC SERVICE IN THE STATE OF COLORADO.

(VI) THE CLEAN ENERGY PLAN MUST SET FORTH THE PROJECTED
COST OF ITS IMPLEMENTATION AND ANTICIPATED REDUCTIONS IN CARBON
DIOXIDE AND OTHER EMISSIONS.

(VII) IF THE CLEAN ENERGY PLAN INCLUDES ACCELERATED
RETIREMENT OF ANY EXISTING GENERATING FACILITIES, THE CLEAN
ENERGY PLAN MUST INCLUDE A WORKFORCE TRANSITION PLAN FOR
UTILITY WORKERS IMPACTED BY ANY CLEAN ENERGY PLAN, AND THE
QUALIFYING RETAIL UTILITY MAY PROPOSE A COST-RECOVERY MECHANISM
TO RECOVER THE PRUDENTLY INCURRED COSTS OF ANY WORKFORCE
TRANSITION PLAN. THE WORKFORCE TRANSITION PLAN MUST INCLUDE, TO
THE EXTENT FEASIBLE, ESTIMATES OF:

(A) THE NUMBER OF WORKERS EMPLOYED BY THE UTILITY OR A
CONTRACTOR OF THE UTILITY AT THE ELECTRIC GENERATING FACILITY;

(B) THE TOTAL NUMBER OF EXISTING WORKERS WITH JOBS THAT
WILL BE RETAINED AND THE TOTAL NUMBER OF EXISTING WORKERS WITH
JOBS THAT WILL BE ELIMINATED DUE TO THE RETIREMENT OF THE
ELECTRIC GENERATING FACILITY;

(C) WITH RESPECT TO THE EXISTING WORKERS WITH JOBS THAT
WILL BE ELIMINATED DUE TO THE RETIREMENT OF THE ELECTRIC
GENERATING FACILITY, THE TOTAL NUMBER AND NUMBER BY JOB
CLASSIFICATION OF WORKERS FOR WHOM: EMPLOYMENT WILL END
WITHOUT BEING OFFERED OTHER EMPLOYMENT BY THE UTILITY; THE
WORKERS WILL RETIRE AS PLANNED, BE OFFERED EARLY RETIREMENT, OR
LEAVE VOLUNTARILY; THE WORKERS WILL BE RETAINED BY BEING
TRANSFERRED TO OTHER ELECTRIC GENERATING FACILITIES OR OFFERED

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OTHER EMPLOYMENT BY THE UTILITY; AND THE WORKERS WILL BE RETRAINED TO CONTINUE TO WORK FOR THE UTILITY IN A NEW JOB CLASSIFICATION;

(D) If the utility is replacing the electric generating facility being retired with a new electric generating facility: The number of workers from the retired electric generating facility that will be offered employment at the new electric generating facility; and the number of jobs at the new electric generating facility that will be outsourced to subcontractors. The utility shall develop a training or apprenticeship program, under the terms of an applicable collective bargaining agreement, if any, for the maintenance and operation of any new combination generation and storage facility owned by the utility that does not emit carbon dioxide, to which facility displaced workers may transfer as appropriate.

(VIII) If the minimum amounts of electricity from eligible energy resources set forth in section 40-2-124 (1)(c) are satisfied, a qualifying retail utility may use up to one-half of the funds collected annually under section 40-2-124 (1)(g), as well as any accrued funds, to recover the incremental cost of clean energy resources and their directly related interconnection facilities. The utility may account for these funds in calculating the cost of the plan.

(b) The division of administration in the department of public health and environment shall participate in any proceeding seeking approval of a clean energy plan developed by a qualifying retail utility pursuant to this section.
DIVISION SHALL DESCRIBE THE METHODS OF MEASURING CARBON DIOXIDE EMISSIONS AND SHALL VERIFY THE PROJECTED CARBON DIOXIDE EMISSION REDUCTIONS AS A RESULT OF THE CLEAN ENERGY PLAN.

(c) After consulting with the air quality control commission, the division of administration shall determine whether a clean energy plan as filed under this section will result in an eighty-percent reduction, relative to 2005 levels, in carbon dioxide emissions from the qualifying retail utility's Colorado electricity sales by 2030 and is otherwise consistent with any greenhouse gas emission reduction goals established by the state of Colorado. The division shall publish, and shall report to the public utilities commission, the division's calculation of carbon dioxide emission reductions attributable to any approved clean energy plan. Nothing in the division's engagement in this process shall be construed to diminish or override the commission's authority under this title 40.

(d) The commission shall approve the clean energy plan if the commission finds it to be in the public interest and consistent with the clean energy target in subsection (3)(a)(I) of this section, and the commission may modify the plan if the modification is necessary to ensure that the plan is in the public interest. In evaluating whether a clean energy plan submitted to the commission is in the public interest, the commission shall consider, among other relevant factors:

(I) Reductions in carbon dioxide and other emissions that will be achieved through the clean energy plan and the environmental and health benefits of those reductions;
(II) The feasibility of the clean energy plan and the clean energy plan’s impact on the reliability and resilience of the electric system. The commission shall not approve any plan that does not protect system reliability.

(III) Whether the clean energy plan will result in a reasonable cost to customers, as evaluated on a net present value basis. In evaluating the cost impacts of the clean energy plan, the commission shall consider the effect on customers of the projected costs associated with the plan as set forth in subsection (4)(a)(VI) of this section as well as any projected savings associated with the plan, including projected avoided fuel costs.

(e) If the commission finds that approval of the clean energy plan is not in the public interest, or if the commission modifies the plan, the utility may choose to submit an amended plan to the commission for approval in lieu of having no plan or implementing the modified plan. No clean energy plan is effective without commission approval, and a qualifying retail utility shall not be required to submit more than one plan for commission approval.

(5) Regulatory matters. (a) The commission shall allow a qualifying retail utility to fully recover, through a separate rate adjustment clause, the costs that it prudently incurs implementing any clean energy plan approved by the commission under this section. The commission may terminate the rate adjustment clause if all the costs associated with the clean energy plan have been included in the qualifying retail utility’s
BASE RATES AS A RESULT OF A RATE CASE FILED AFTER THE CLEAN ENERGY PLAN HAS BEEN FULLY IMPLEMENTED.

(b) The qualifying retail utility shall utilize a competitive bidding process to procure any energy resources to fill the cumulative resource need derived from the electric resource plan and the clean energy plan in subsection (4)(a)(III) of this section. The commission shall allow the qualifying retail utility, inclusive of any ownership by its affiliates, to own a target of fifty percent of the energy and capacity associated with the clean energy resources and any other energy resources developed or acquired to meet the resource need, as well as all associated infrastructure, if the cost of utility or affiliate ownership of the generation assets is reasonable. Utility ownership may come from utility or affiliate self-builds, build-transfers from independent power producers, or sales of existing assets from independent power producers or similar commercial arrangements. The cost of energy resources owned by the utility are presumed reasonable if the utility has procured the energy resources through a competitive bidding process.

(c) Any actions, including transmission development, taken by the qualifying retail utility shall be presumed prudent to the extent those actions are consistent with the implementation of an approved clean energy plan.

(d) For the purposes of this section, the clean energy target evaluation will be based upon the qualifying retail utility's retail sales within its electric service territory as it
EXISTED ON JANUARY 1, 2019. IN THE EVENT OF A SIGNIFICANT ACQUISITION, THE QUALIFYING RETAIL UTILITY MAY FILE WITHIN ONE YEAR AFTER THE ACQUISITION AN ADDITIONAL CLEAN ENERGY PLAN TO ADDRESS THAT ACQUISITION, AND THE COMMISSION SHALL CONSIDER THE ADDITIONAL CLEAN ENERGY PLAN CONSISTENT WITH THE GOALS OF THIS SECTION.

(e) THE COMMISSION MAY, ON ITS OWN MOTION OR UPON APPLICATION BY A QUALIFYING RETAIL UTILITY, AMEND AN APPROVED CLEAN ENERGY PLAN IF AMENDMENT IS NECESSARY TO ENSURE THE RELIABILITY AND RESILIENCE OF THE ELECTRIC SYSTEM.

(6) Reports. One year after approval of any electric resource plan that incorporates a clean energy plan, the qualifying retail utility shall prepare a report to the governor, the general assembly, the public utilities commission, and the air quality control commission outlining progress toward the clean energy targets set forth in this section. The report must set forth the clean energy resources developed under any clean energy plan, the cost and customer impact of those clean energy resources, the effect of any approved clean energy plan on system reliability, and any other relevant information. The report must also identify the need for new or additional technology development necessary to achieve the clean energy targets of this section.

(7) Future electric resource plans. Any electric resource plan submitted to the commission after approval of the clean energy plan must include an update on the progress made toward the approved clean energy plan, as well as actions and
INVESTMENTS BY THE QUALIFYING RETAIL UTILITY PROJECTED TO ACHIEVE COMPLIANCE WITH THE EMISSION REDUCTION TARGET IDENTIFIED IN SUBSECTION (3)(a)(I) OF THIS SECTION AND MAKE PROGRESS TOWARD THE ONE-HUNDRED-PERCENT CLEAN ENERGY GOAL SET FORTH IN SUBSECTION (3)(a)(II) OF THIS SECTION. THE COMMISSION MAY SOLICIT INPUT FROM THE DIVISION OF ADMINISTRATION FOR ASSISTANCE IN EVALUATING THE EMISSION REDUCTIONS ASSOCIATED WITH ANY FUTURE ELECTRIC RESOURCE PLAN AND CONSISTENT WITH THE CLEAN ENERGY TARGETS OF THIS SECTION. THE COMMISSION SHALL REVIEW THE QUALIFYING RETAIL UTILITY’S ACTIONS AND INVESTMENTS IN ACCORDANCE WITH THE STANDARDS SET FORTH IN SUBSECTION (4)(d) OF THIS SECTION.

SECTION 3. In Colorado Revised Statutes, amend 40-2-129 as follows:

40-2-129. New resource acquisitions - factors in determination - local employment - "best value" metrics. (1) (a) When evaluating electric resource acquisitions and requests for a certificate of convenience and necessity for construction or expansion of generating facilities, including but not limited to pollution control or fuel conversion upgrades and conversion of existing coal-fired plants to natural gas plants, the commission shall consider, on a qualitative basis, factors that affect employment and in all decisions involved in electric resource acquisition processes, best value regarding employment of Colorado labor, as defined in section 8-17-101 (2)(a), and positive impacts on the long-term economic viability of Colorado communities. To this end, the commission shall require utilities to request, obtain and provide to the commission the following information regarding "best value" employment metrics: The availability of training programs,
including training through apprenticeship programs registered with the United States department of labor; labor's office of apprenticeship and training or by state apprenticeship councils recognized by that office; employment of Colorado workers labor as compared to importation of out-of-state workers; long-term career opportunities; and industry-standard wages, health care, and pension benefits. When a utility proposes to construct new facilities of its own, the utility shall supply similar information to the commission.

(b) Any electric resource acquisition decision must be based in part on review of the best value employment metrics criteria set forth in any solicitation document. The commission shall not approve any electric resource plan, acquisition, or power purchase agreement that fails to either:

(I) Provide the best value employment metrics documentation specified in the solicitation document; or

(II) In the alternative, certify compliance with objective best value employment metrics performance standards set forth in the solicitation document.

(c) The commission may waive the requirements of this section if a utility agrees to use a project labor agreement for construction or expansion of a generating facility.

(2) Following development or acquisition of a generating facility by a utility, for all generating facilities owned by the utility that do not emit carbon dioxide, the utility shall use utility employees or qualified contractors if the contractors' employees have access to an apprenticeship program registered with the United States department of labor's office of
APPRENTICESHIP AND TRAINING OR BY A STATE APPRENTICESHIP COUNCIL RECOGNIZED BY THAT OFFICE; EXCEPT THAT THIS APPRENTICESHIP REQUIREMENT DOES NOT APPLY TO:

(a) THE DESIGN, PLANNING, OR ENGINEERING OF THE INFRASTRUCTURE;

(b) MANAGEMENT FUNCTIONS TO OPERATE THE INFRASTRUCTURE;

OR

(c) ANY WORK INCLUDED IN A WARRANTY.


SECTION 4. In Colorado Revised Statutes, add 40-2-132 as follows:


SECTION 5. Applicability. This act applies to conduct, including power purchase agreements entered into and utility rate-based property development, occurring on or after the effective date of this act.

SECTION 6. 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.