

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

**PREAMENDED**

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

LLS NO. 21-0140.01 Duane Gall x4335

**HOUSE BILL 21-1324**

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**HOUSE SPONSORSHIP**

**Pelton and Roberts**, Bennett, Bird, Esgar, Froelich, Gonzales-Gutierrez, Kipp, Lontine, McCluskie, McCormick, Michaelson Jenet, Mullica, Ortiz, Ricks, Soper, Titone, Will

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**House Committees**  
Energy & Environment

**Senate Committees**  
State, Veterans, & Military Affairs

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**A BILL FOR AN ACT**

101      **CONCERNING MEASURES TO FACILITATE THE USE OF INNOVATIVE**  
102                    **ENERGY TECHNOLOGIES BY INVESTOR-OWNED UTILITIES IN**  
103                    **COLORADO, AND, IN CONNECTION THEREWITH, AUTHORIZING**  
104                    **THE PUBLIC UTILITIES COMMISSION TO REVIEW AND APPROVE**  
105                    **INVESTOR-OWNED UTILITIES' APPLICATIONS FOR LOW-EMISSION**  
106                    **INNOVATIVE ENERGY TECHNOLOGIES BASED ON MEETING**  
107                    **SPECIFIED CRITERIA.**

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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://leg.colorado.gov>.)*

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.*

HOUSE  
3rd Reading Unamended  
June 2, 2021

HOUSE  
Amended 2nd Reading  
June 1, 2021

The bill replaces the integrated gasification combined cycle (IGCC) program, which was repealed in 2019, with a mechanism by which an investor-owned utility seeking to implement an innovative energy technology project may apply to the public utilities commission to acquire resources that demonstrate the use of low- and zero-emission resources and other innovative energy technologies such as advanced renewable energy and storage.

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

2           **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds, determines, and declares that:

4           (a) As part of just-transition, workforce planning, and  
5 community-assistance efforts, investor-owned utilities, on their own or in  
6 partnership with other energy developers, should pursue opportunities to  
7 develop new energy technologies or modify existing generation resources  
8 with new technologies as a catalyst for new investment and workforce  
9 development in areas of Colorado impacted by accelerated retirements of  
10 energy generation resources and other system changes;

11           (b) It is critical that Colorado's long tradition of leadership in  
12 clean energy research and development continue to evolve while  
13 simultaneously supporting Colorado's workforce;

14           (c) Market certainty for ■ zero-emission resources and other  
15 innovative energy technologies has the potential to create economic  
16 development opportunities in the state while simultaneously advancing  
17 the state's emission reduction goals and furthering the transition to cleaner  
18 energy resources;

19           (d) By creating market certainty, these projects can be a catalyst  
20 for cutting-edge research, attracting and retaining new business,  
21 workforce development, and economic growth;

1 (e) The development of zero-emission resources is imperative  
2 in order to reach Colorado's greenhouse gas emission-reduction goals;

3 (f) The development of zero-emission resources will enable  
4 large Colorado investor-owned utilities to continue to safely and reliably  
5 integrate intermittent wind and solar generation without corresponding  
6 increases in carbon dioxide emissions; and

7 (g) It is a matter of national importance that Colorado continue its  
8 leadership by advancing the development of technologies that hold the  
9 promise of delivering the next generation of clean, safe, affordable,  
10 reliable, diverse, and resilient energy while meeting the state's  
11 emission-reduction objectives and advancing just-transition, workforce  
12 planning, and community-assistance efforts.

13 **SECTION 2.** In Colorado Revised Statutes, 40-2-123, **recreate**  
14 **and reenact, with amendments,** (2) as follows:

15 **40-2-123. Energy technologies - consideration by commission**  
16 **- incentives - demonstration projects - definitions - repeal.** (2) (a) THE  
17 COMMISSION SHALL CONSIDER PROPOSALS BY COLORADO  
18 INVESTOR-OWNED UTILITIES FOR THE FOLLOWING TYPES OF PROJECTS:

19 (I) TO CONSTRUCT, OWN, AND OPERATE ELECTRIC GENERATION OR  
20 STORAGE FACILITIES UTILIZING INNOVATIVE ENERGY TECHNOLOGY; OR

21 (II) TO PARTNER WITH OTHER ENERGY DEVELOPERS OR  
22 INDEPENDENT POWER PRODUCERS TO CONSTRUCT, ACQUIRE, OR CONTRACT  
23 FOR ELECTRIC GENERATION OR STORAGE FACILITIES UTILIZING  
24 INNOVATIVE ENERGY TECHNOLOGY.

25 (b) (I) AN INVESTOR-OWNED UTILITY MAY APPLY UNDER THIS  
26 SUBSECTION (2) TO THE COMMISSION FOR APPROVAL OF INNOVATIVE  
27 ENERGY TECHNOLOGY PROJECTS IN AREAS OF THE STATE THAT HAVE BEEN

1 ECONOMICALLY AFFECTED BY THE ACCELERATED RETIREMENTS OF  
2 EXISTING GENERATION RESOURCES. ANY SUCH PROJECTS ARE ELIGIBLE  
3 FOR CURRENT COST RECOVERY, SUBJECT TO THE RETAIL RATE STABILITY  
4 PROVISIONS OF SECTION 40-2-125.5 (5), AND NOTHING IN THIS SECTION  
5 PROHIBITS OR DETERS COST-EFFECTIVE INNOVATIVE ENERGY TECHNOLOGY  
6 DEPLOYMENT.

7 (II) AN INVESTOR-OWNED UTILITY SHALL PRESENT ANY  
8 INNOVATIVE ENERGY TECHNOLOGY PROJECTS AS PART OF ITS ELECTRIC  
9 RESOURCE PLANNING PROCESS SO THAT THE PROJECTS CAN BE EVALUATED  
10 AS PART OF A COMPREHENSIVE PLAN TO MEET THE INVESTOR-OWNED  
11 UTILITY'S ENERGY AND CAPACITY NEEDS. THE PRESENTATION FOR EACH  
12 PROJECT MUST ADDRESS:

13 (A) HOW THE PROJECT WILL BE DEVELOPED;

14 (B) WHETHER THE PROJECT INVOLVES A CHANGE TO AN EXISTING  
15 GENERATION RESOURCE TO MEET THE REQUIREMENTS AS AN INNOVATIVE  
16 ENERGY TECHNOLOGY PROJECT OR WHETHER THE PROJECT IS A NEWLY  
17 DEVELOPED INNOVATIVE ENERGY TECHNOLOGY PROJECT;

18 (C) HOW THE PROJECT MITIGATES THE IMPACTS OF THE  
19 TRANSITION TO CLEANER GENERATION TECHNOLOGIES IN AFFECTED AREAS  
20 OF COLORADO; AND

21 (D) AS APPLICABLE, HOW THE PROJECT FURTHERS THE EFFORTS OF  
22 ANY WORKFORCE TRANSITION PLAN OR COMMUNITY ASSISTANCE PLAN  
23 DEVELOPED PURSUANT TO SECTION 40-2-125.5 (4)(a)(VII) OR 40-2-133  
24 ASSOCIATED WITH ANY ACCELERATED RETIREMENT OF AN ELECTRIC  
25 GENERATING FACILITY AND HOW THE PROJECT COMPLIES WITH SECTION  
26 40-2-129.

27 (III) ANY INNOVATIVE ENERGY TECHNOLOGY PROJECTS APPROVED

1 PURSUANT TO THIS SUBSECTION (2) PROPORTIONALLY COUNT TOWARD THE  
2 TARGETS IN SECTION 40-2-125.5 (5)(b); EXCEPT THAT INNOVATIVE  
3 ENERGY TECHNOLOGY PROJECTS DEVELOPED BY AN INVESTOR-OWNED  
4 UTILITY PURSUANT TO THIS SUBSECTION (2) MUST NOT EXCEED, IN THE  
5 AGGREGATE, A NAMEPLATE CAPACITY OF THREE HUNDRED MEGAWATTS.

6 (c) TO FACILITATE FINANCING OF AN INNOVATIVE ENERGY  
7 TECHNOLOGY PROJECT, ONE OR MORE INVESTOR-OWNED UTILITIES MAY  
8 DEVELOP, CONSTRUCT, OR OWN A PROJECT THROUGH A SPECIAL-PURPOSE  
9 ENTITY OR OTHER AFFILIATED PARTNERSHIP OR CORPORATION, INCLUDING  
10 A PUBLIC-PRIVATE PARTNERSHIP OR PARTNERSHIP FORMED WITH OTHER  
11 ENERGY DEVELOPERS OR INDEPENDENT POWER PRODUCERS. FOR THIS  
12 PURPOSE, AN INVESTOR-OWNED UTILITY IS ENTITLED TO STRUCTURE THE  
13 PARTNERSHIP IN THE MANNER THAT IT DEEMS APPROPRIATE; TO  
14 NEGOTIATE OWNERSHIP INTERESTS IN THE PROJECT; AND TO USE  
15 APPROPRIATE MEANS TO SOLICIT POTENTIAL PARTNERSHIPS, INCLUDING  
16 REQUESTS FOR INFORMATION, REQUESTS FOR PROPOSALS, OR BILATERAL  
17 NEGOTIATIONS.

18 (d) (I) IN THE CONSTRUCTION OR EXPANSION OF AN INNOVATIVE  
19 ENERGY TECHNOLOGY PROJECT APPROVED PURSUANT TO THIS SUBSECTION  
20 (2), AN INVESTOR-OWNED UTILITY SHALL USE ITS OWN EMPLOYEES OR  
21 QUALIFIED CONTRACTORS, OR BOTH, BUT SHALL NOT USE A CONTRACTOR  
22 UNLESS THE CONTRACTOR'S EMPLOYEES HAVE ACCESS TO AN  
23 APPRENTICESHIP PROGRAM REGISTERED WITH THE UNITED STATES  
24 DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR BY A STATE  
25 APPRENTICESHIP COUNCIL RECOGNIZED BY THAT OFFICE; EXCEPT THAT  
26 THIS APPRENTICESHIP REQUIREMENT DOES NOT APPLY TO:

27 (A) THE DESIGN, PLANNING, OR ENGINEERING OF THE

1 TRANSMISSION FACILITIES;

2 (B) MANAGEMENT FUNCTIONS TO OPERATE THE TRANSMISSION  
3 FACILITIES; OR

4 (C) ANY WORK INCLUDED IN A WARRANTY.

5 (II) THE COMMISSION SHALL NOT APPROVE ANY CONSTRUCTION OR  
6 EXPANSION UNDER THIS SUBSECTION (2) UNTIL THE COMMISSION HAS  
7 COMPLETED THE RULE-MAKING INITIATED BEFORE DECEMBER 31, 2020,  
8 ADDRESSING IN PART SECTION 40-2-129.

9 (e) AS USED IN THIS SUBSECTION (2):

10 (I) "INNOVATIVE ENERGY TECHNOLOGY" MEANS A GENERATION  
11 TECHNOLOGY OR STORAGE TECHNOLOGY THAT, ALONE OR IN  
12 COMBINATION WITH OTHER TECHNOLOGIES USED IN A PROJECT:

13 (A) GENERATES OR STORES ELECTRICITY WITHOUT EMITTING  
14 CARBON DIOXIDE INTO THE ATMOSPHERE;

15 (B) AT THE TIME OF ANY APPLICATION UNDER THIS SUBSECTION  
16 (2), HAS NOT BEEN WIDELY DEPLOYED IN THE UNITED STATES. IN  
17 EVALUATING WHETHER A TECHNOLOGY IS "WIDELY DEPLOYED" WITHIN  
18 THE MEANING OF THIS SUBSECTION (2)(e)(I)(B), THE COMMISSION MAY  
19 EVALUATE THE NUMBER OF COMMERCIAL PROJECTS IN WHICH THE  
20 TECHNOLOGY IS INSTALLED IN THE UNITED STATES FOR PURPOSES OF  
21 ELECTRIC GENERATION AND HOW LONG THOSE PROJECTS HAVE BEEN IN  
22 COMMERCIAL OPERATION.

23 (C) DOES NOT INCLUDE STAND-ALONE WIND, SOLAR, OR  
24 LITHIUM-ION BATTERY STORAGE RESOURCES OR WIND OR SOLAR  
25 RESOURCES PAIRED WITH LITHIUM-ION BATTERY STORAGE.

26 (II) "INNOVATIVE ENERGY TECHNOLOGY PROJECT" OR "PROJECT"  
27 MEANS AN ELECTRIC GENERATION OR ENERGY STORAGE FACILITY THAT

1 DEMONSTRATES THE USE OF INNOVATIVE ENERGY TECHNOLOGY IN  
2 COLORADO AND FOR WHICH THE INVESTMENT IN THE INNOVATIVE  
3 TECHNOLOGY PORTION OF THE PROJECT CONSTITUTES THE MAJORITY OF  
4 THE TOTAL PROJECT INVESTMENT.

5 (f) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE DECEMBER 31,  
6 2024.

7 **SECTION 3. Act subject to petition - effective date -**  
8 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
9 the expiration of the ninety-day period after final adjournment of the  
10 general assembly; except that, if a referendum petition is filed pursuant  
11 to section 1 (3) of article V of the state constitution against this act or an  
12 item, section, or part of this act within such period, then the act, item,  
13 section, or part will not take effect unless approved by the people at the  
14 general election to be held in November 2022 and, in such case, will take  
15 effect on the date of the official declaration of the vote thereon by the  
16 governor.

17 (2) This act applies to conduct occurring on or after the applicable  
18 effective date of this act.