A BILL FOR AN ACT

Concerning measures to further environmental protections, and, in connection therewith, adopting measures to reduce emissions of greenhouse gases and adopting protections for disproportionately impacted communities.

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.)

Current law requires the air quality control commission (AQCC) to adopt rules that will result in the statewide reduction of greenhouse gas
(GHG) emissions of 26% by 2025, 50% by 2030, and 90% by 2050, as compared to 2005 emissions. **Section 2** of the bill supplements these requirements by:

- Directing the AQCC to:
  - Consider the social cost of GHG emissions;
  - Require GHG reductions on a linear or more stringent path; and
  - Finalize its implementing rules by March 1, 2022, including specific net emission weight limits for various emission sectors, subject to modification by the AQCC, including through the use of a multi-sector program;

- Directing each wholesale generation and transmission electric cooperative to file with the public utilities commission a responsible energy plan that will achieve at least an 80% GHG reduction by 2030 as compared to 2005 levels and specifying that if a plan is not filed, the cooperative must achieve at least a 90% GHG reduction by 2030 as compared to 2005 levels; and

- Directing each retail, wholesale, and municipal electric utility and cooperative electric association to reduce its GHG emissions by at least 95% between 2035 and 2040 and by 100% by 2040.

**Section 3** adds GHG to the definition of "regulated pollutant", prohibits the AQCC from excluding GHG emissions from the requirement to pay annual emission fees that are based on emissions of regulated pollutants, gives the AQCC rule-making authority to set the GHG annual emission fee, and authorizes the use of these fees for outreach to and engagement of disproportionately impacted communities. **Section 4** requires the AQCC's GHG reporting rules to establish an assumed emission rate representing the average regional fossil fuel generation emission rate for electricity generated by a renewable energy resource for which the associated renewable energy credit is not retired in the year generated.

**Section 5** creates an environmental justice ombudsperson position and an environmental justice advisory board in the department of public health and environment. The ombudsperson and the advisory board will work collaboratively to promote environmental justice in Colorado. Sections 2 and 5 specify processes for soliciting and facilitating input from disproportionately impacted communities regarding proposed AQCC rule changes and departmental decision-making.

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1 *Be it enacted by the General Assembly of the State of Colorado:*
SECTION 1. In Colorado Revised Statutes, 25-7-102, add (3) as follows:

25-7-102. Legislative declaration. (3) (a) (I) IT IS DECLARED TO BE THE POLICY OF THIS STATE THAT THE COMMISSION SHALL ADOPT RULES, INCLUDING EMISSION CONTROL REGULATIONS, THAT ARE SUFFICIENT TO ACHIEVE QUANTIFIABLE AND ENFORCEABLE REDUCTIONS IN GREENHOUSE GAS EMISSIONS CONSISTENT WITH THE CLIMATE GOALS SET FORTH IN SUBSECTION (2)(g) OF THIS SECTION AS QUICKLY AS POSSIBLE, TAKING INTO ACCOUNT THE FEASIBILITY, COST-EFFECTIVENESS, AND EQUITY IMPLICATIONS OF MEASURES TO REDUCE THE STATE'S CONTRIBUTION TO CLIMATE CHANGE.

(II) THE GENERAL ASSEMBLY RECOGNIZES THAT PROMPT ACTION IS ESSENTIAL FOR COLORADO TO MEET ITS CLIMATE GOALS, GIVEN, AMONG OTHER THINGS, THE SLOW TURNOVER OF EQUIPMENT, VEHICLES, APPLIANCES, AND OTHER TECHNOLOGIES THAT BURN OR RELEASE FOSSIL FUELS. THE GENERAL ASSEMBLY FURTHER RECOGNIZES THAT CLIMATE CHANGE IS A CUMULATIVE EMISSIONS PROBLEM. THIS IS BECAUSE LONG-LIVED CLIMATE POLLUTANTS CAN PERSIST FOR CENTURIES IN THE ATMOSPHERE, THUS COMMITTING US TO WARMING FOR GENERATIONS TO COME. AS WE CONTINUE TO EMIT GREENHOUSE GASES INTO THE ATMOSPHERE OVER THE NEXT DECADE, AND EVEN OVER THE NEXT FEW YEARS, WE WILL CONTINUE TO EXACERBATE THE CLIMATE DAMAGES WE ARE ALREADY SEEING AND INCREASE THE RISK OF CATASTROPHIC DISRUPTION. THEREFORE, EARLY ACTION TO REDUCE THE POLLUTANTS THAT CONTRIBUTE TO CLIMATE CHANGE, THEREBY REDUCING OVERALL ATMOSPHERIC GREENHOUSE GAS CONCENTRATIONS, IS ESSENTIAL. COLORADO NEEDS TO SECURE STEADY, PERSISTENT REDUCTIONS IN
POLLUTION OVER TIME THAT ALIGN WITH THE ESTIMATED CARBON DIOXIDE
BUDGETS IDENTIFIED BY THE UNITED NATIONS' INTERGOVERNMENTAL
PANEL ON CLIMATE CHANGE (IPCC) CONSISTENT WITH LIMITING THE
AVERAGE GLOBAL WARMING, IN COMPARISON TO ACCEPTED HISTORICAL
AVERAGE TEMPERATURES, TO ONE AND ONE-HALF DEGREES CELSIUS.

(b) It is further declared that:

(I) Due to historical systems and practices that
intentionally targeted Black and Indigenous people,
communities of color, and low-income communities, there
continues to be a racial and socioeconomic inequity in regard to
the impacts of climate change and pollution. Disproportionately
impacted communities suffer from higher rates of air pollution
and damage due to changing and more severe weather, and have
been systematically excluded from governance and
decision-making. It is therefore the responsibility of the state to
include and engage these communities more fully in
policymaking at every level and to ensure that climate policy
works toward restorative justice and benefiting these
communities.

(II) The public should have a meaningful opportunity to
participate in rule-making proceedings before the commission.
This requires that members of the public be provided with timely
access to information needed to understand proposed rules and
to develop alternative proposals, and that they be afforded the
time necessary to do so.

(III) The commission should remove barriers to public
participation in rule-making proceedings to the extent possible.
THE COMMISSION IS ENCOURAGED TO USE LANGUAGE THAT IS UNDERSTANDABLE TO CITIZENS WHO DO NOT HAVE SPECIALIZED KNOWLEDGE OF THE MATTERS BEFORE THE COMMISSION.

SECTION 2. In Colorado Revised Statutes, 25-7-105, amend (1)(e)(I), (1)(e)(II), and (1)(e)(III); and add (1)(e)(VIII)(G), (1)(e)(VIII)(H), (1)(e)(VIII)(I), (1)(e)(VIII)(J), and (1)(e)(XI)(B.5) as follows:

25-7-105. Duties of commission - rules - legislative declaration - definitions - repeal. (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 7, including, but not limited to:

(e) (I) (A) Statewide greenhouse gas pollution abatement.

(B) The commission may consider the social cost of greenhouse gas emissions in any rule-making proceeding. In any rule-making proceeding that has the potential to materially affect greenhouse gas emissions, the division shall, and other parties are encouraged to, use the social cost of greenhouse gases in any economic impact analysis of the emission reductions or benefits of a proposal and in any cost-benefit analysis. The value of the social cost of carbon must be no less than the appropriate value in the 2016 technical support document of the federal interagency working group on the social cost of greenhouse gases, entitled "Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis - Under Executive Order 12866." The value of the social cost of methane

(II) (A) 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.

(B) THE COMMISSION'S IMPLEMENTING RULES PROMULGATED PURSUANT TO THIS SUBSECTION (1)(e)(II) MUST REQUIRE REDUCTIONS OF
STATEWIDE GREENHOUSE GAS POLLUTION ON A LINEAR OR MORE STRINGENT PATHWAY CORRESPONDING TO THE GOALS ESTABLISHED IN SECTION 25-7-102 (2)(g), TAKING INTO ACCOUNT EARLY REDUCTIONS OF EMISSIONS BELOW THAT PATHWAY.

(C) THE COMMISSION SHALL ADOPT FINAL IMPLEMENTING RULES NO LATER THAN MARCH 1, 2022. EXCEPT AS SPECIFIED IN SUBSECTIONS (1)(e)(II)(E) AND (1)(e)(II)(F) OF THIS SECTION, THE RULES MUST, AT A MINIMUM, ENSURE THAT: ANNUAL GREENHOUSE GAS EMISSIONS FROM THE POWER SECTOR, INCLUDING ALL EMISSIONS ASSOCIATED WITH POWER GENERATED IN COLORADO AND ALL IMPORTED POWER USED TO SERVE COLORADO CUSTOMERS, DO NOT EXCEED TWENTY-ONE MMT CO2E BY 2025 AND DO NOT EXCEED EIGHT MMT CO2E BY 2030; ANNUAL GREENHOUSE GAS EMISSIONS FROM THE COMBUSTION OF FOSSIL FUELS IN RESIDENTIAL AND COMMERCIAL BUILDINGS AND INDUSTRIAL PROCESSES DO NOT EXCEED TWENTY-SIX MMT CO2E BY 2025 AND DO NOT EXCEED TWENTY MMT CO2E BY 2030; ANNUAL GREENHOUSE GAS EMISSIONS FROM TRANSPORTATION AND MOBILE SOURCES DO NOT EXCEED TWENTY-THREE MMT CO2E BY 2025 AND DO NOT EXCEED EIGHTEEN MMT CO2E BY 2030; ANNUAL GREENHOUSE GAS EMISSIONS FROM OIL AND GAS EXPLORATION AND PRODUCTION, PROCESSING, TRANSMISSION, AND STORAGE DO NOT EXCEED THIRTEEN MMT CO2E BY 2025 AND DO NOT EXCEED EIGHT MMT CO2E BY 2030; AND ANNUAL GREENHOUSE GAS EMISSIONS FROM REMAINING SOURCES DO NOT EXCEED THE MAXIMUM AMOUNT ALLOWABLE TO MEET THE GOALS SET FORTH IN SECTION 25-7-102 (2)(g) BY 2025 AND BY 2030.

(D) THE COMMISSION SHALL DESIGNED THE IMPLEMENTING RULES FOR THE POWER SECTOR LIMITS IN SUBSECTION (1)(e)(II)(C) OF THIS
SECTION, REGARDLESS OF WHETHER THOSE LIMITS ARE MODIFIED PURSUANT TO SUBSECTION (1)(e)(II)(E) OF THIS SECTION OR LOWERED PURSUANT TO SUBSECTION (1)(e)(II)(F) OF THIS SECTION, TO ACCELERATE NEAR-TERM REDUCTIONS IN GREENHOUSE GAS EMISSIONS FROM THE POWER SECTOR SO AS TO ACHIEVE THE MAXIMUM PRACTICABLE CUMULATIVE REDUCTIONS IN GREENHOUSE GAS POLLUTION FROM THE POWER SECTOR BY 2030.

(E) THE COMMISSION MAY MODIFY THE SECTOR-SPECIFIC TARGETS SPECIFIED IN SUBSECTION (1)(e)(II)(C) OF THIS SECTION, BUT ONLY IF IT DETERMINES THAT THE MODIFICATION WILL: INCREASE THE COST-EFFECTIVENESS OF THE OVERALL REGULATORY STRUCTURE AND RESULT IN AN EQUIVALENT OR LOWER LEVEL OF CUMULATIVE GREENHOUSE GAS EMISSIONS BY 2025 AND BY 2030 THAN WOULD RESULT FROM THE SECTOR-SPECIFIC TARGETS IN SUBSECTION (1)(e)(II)(C) OF THIS SECTION; OR RESULT IN A LOWER LEVEL OF CUMULATIVE GREENHOUSE GAS EMISSIONS BY 2025 AND BY 2030 THAN WOULD RESULT FROM THE SECTOR-SPECIFIC TARGETS IN SUBSECTION (1)(e)(II)(C) OF THIS SECTION.

(F) THE COMMISSION SHALL LOWER THE MAXIMUM AMOUNTS OF GREENHOUSE GAS EMISSIONS ALLOWED BY 2025 AND BY 2030 PURSUANT TO SUBSECTION (1)(e)(II)(C) OR (1)(e)(II)(E) OF THIS SECTION TO REFLECT THE AGGREGATE VERIFIED GREENHOUSE GAS EMISSION REDUCTIONS FORECASTED IN CLEAN ENERGY PLANS AND RESPONSIBLE ENERGY PLANS APPROVED BY THE PUBLIC UTILITIES COMMISSION PURSUANT TO SUBSECTION (1)(e)(VIII) OF THIS SECTION IF THOSE PLANS RESULT IN LOWER OVERALL GREENHOUSE GAS EMISSIONS FROM THE POWER SECTOR BY 2025 AND BY 2030. IN NO EVENT SHALL THE COMMISSION INCREASE THE MAXIMUM AMOUNT OF GREENHOUSE GAS EMISSIONS ALLOWED BY
2025 OR BY 2030 PURSUANT TO SUBSECTION (1)(e)(II)(C) OF THIS
SECTION, AND IMPLEMENTING RULES ADOPTED PURSUANT TO SUBSECTION
(1)(e)(II)(C) OR (1)(e)(II)(G) OF THIS SECTION MUST GUARANTEE THAT
THE GREENHOUSE GAS EMISSION REDUCTIONS FORECASTED IN CLEAN
ENERGY PLANS AND RESPONSIBLE ENERGY PLANS ARE ACHIEVED.

(G) THE COMMISSION SHALL EVALUATE AND DETERMINE WHETHER
A MULTI-SECTOR PROGRAM WITH AN OVERALL LIMIT ON GREENHOUSE GAS
EMISSIONS WOULD ENABLE THE STATE TO ACHIEVE THE GOALS
ESTABLISHED IN SECTION 25-7-102 (2)(g) IN A MANNER CONSISTENT WITH
THE FACTORS SPECIFIED IN SUBSECTION (1)(e)(VI) OF THIS SECTION.

NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION (1)(e)(II)(C) OF
THIS SECTION, IF THE COMMISSION DETERMINES THAT SUCH A
MULTI-SECTOR PROGRAM CONTAINING STRATEGIES DESIGNED TO ACHIEVE
REDUCTIONS IN HARMFUL AIR POLLUTION AFFECTING
DISPROPORTIONATELY IMPACTED COMMUNITIES WOULD ENSURE THAT THE
STATE ACHIEVES THE GOALS ESTABLISHED IN SECTION 25-7-102 (2)(g) IN
A MANNER THAT IS CONSISTENT WITH THE FACTORS IN SUBSECTION
(1)(e)(VI) OF THIS SECTION, THE COMMISSION MAY ADOPT SUCH A
MULTI-SECTOR PROGRAM BY RULE IN LIEU OF THE SECTOR-SPECIFIC LIMITS
SET FORTH IN SUBSECTION (1)(e)(II)(C) OF THIS SECTION.

(III) (A) The commission shall identify disproportionately
impacted communities. In identifying these communities, the commission
will consider: Minority, low-income, tribal, or indigenous populations in
the state that potentially experience disproportionate environmental harms
and risks. This disproportionality can be a result of increased vulnerability
to environmental degradation, lack of opportunity for public participation,
or other factors. Increased vulnerability may be attributable to an
accumulation of negative or lack of positive environmental, health, economic, or social conditions within these populations. "Disproportionately impacted communities" describes situations where multiple factors, including both environmental and socioeconomic stressors, may act cumulatively to affect health and the environment and contribute to persistent environmental health disparities.

(B) The commission shall also notify, conduct outreach to, and engage with disproportionately impacted communities that may be affected by a proposed rule, allowing sufficient time for meaningful communication between the commission and disproportionately impacted communities.

(C) In determining whether a disproportionately impacted community may be affected by a proposed rule, the commission shall make an initial determination to accompany the notice of hearing. If the commission determines that no disproportionately impacted community is likely to be affected by a proposed rule, any member of the public may request reconsideration of that determination within fourteen calendar days after the determination. If the commission determines that the proposed rule will adversely affect any disproportionately impacted community, it shall plan outreach to and engagement of the disproportionately impacted community in coordination with the environmental justice ombudsperson and the environmental justice advisory board established in section 25-1-131.

(D) For each hearing on a proposed rule, the commission shall provide opportunities for public comment that meet the
FOLLOWING MINIMUM REQUIREMENTS: THE COMMISSION SHALL PROVIDE
AT LEAST TWO OPPORTUNITIES FOR PUBLIC COMMENT, ONE ON A WEEKDAY
AT A TIME BETWEEN THE HOURS OF 9 A.M. AND 5 P.M. AND ANOTHER ON A
WEEKDAY AT A TIME BETWEEN THE HOURS OF 5 P.M. AND 10 P.M.; THE
COMMISSION SHALL ENSURE THAT MEMBERS OF THE PUBLIC CAN PROVIDE
COMMENT REMOTELY THROUGH AN ONLINE SERVICE THAT IS AVAILABLE
FREE TO THE PUBLIC; AND THE COMMISSION SHALL ENSURE THAT SPANISH
LANGUAGE OUTREACH MATERIALS AND REAL-TIME TRANSLATION
SERVICES ARE AVAILABLE TO MEMBERS OF THE PUBLIC AND SHALL
REASONABLY ACCOMMODATE REQUESTS FOR MEMBERS OF THE PUBLIC TO
USE A TRANSLATOR IN A LANGUAGE OTHER THAN SPANISH.

(E) THE DIVISION SHALL DEVELOP BEST PRACTICES TO ENGAGE
DISPROPORTIONATELY IMPACTED COMMUNITIES IN THE RULE-MAKING
PROCESS AND PRESENT THOSE BEST PRACTICES FOR REVIEW BY THE
COMMISSION NO LATER THAN JULY 1, 2021, AND SHALL PROVIDE A REPORT
DESCRIBING THESE BEST PRACTICES TO THE GENERAL ASSEMBLY BY
SEPTEMBER 1, 2021. THIS SUBSECTION (1)(e)(III)(E) IS REPEALED,
eFFECTIVE SEPTEMBER 1, 2023.

(VIII) (G) EACH WHOLESALE GENERATION AND TRANSMISSION
ELECTRIC COOPERATIVE SHALL FILE WITH THE PUBLIC UTILITIES
COMMISSION A RESPONSIBLE ENERGY PLAN THAT WILL ACHIEVE AT LEAST
AN EIGHTY-PERCENT REDUCTION BY 2030, RELATIVE TO 2005 LEVELS, IN
GREENHOUSE GAS EMISSIONS CAUSED BY THE COOPERATIVE'S PROVISION
OF ELECTRICITY TO CUSTOMERS WITHIN THE STATE. THE RESPONSIBLE
ENERGY PLAN MAY BE INCLUDED AS PART OF ANY PENDING ELECTRIC
RESOURCE PLAN BEFORE THE PUBLIC UTILITIES COMMISSION. THE DIVISION
SHALL VERIFY WHETHER THE RESPONSIBLE ENERGY PLAN, AS APPROVED
BY THE PUBLIC UTILITIES COMMISSION, WILL ACHIEVE AT LEAST AN EIGHTY-PERCENT REDUCTION IN GREENHOUSE GAS EMISSIONS CAUSED BY THE COOPERATIVE’S PROVISION OF ELECTRICITY TO WHOLESALE CUSTOMERS WITHIN THE STATE, INCLUDING EMISSIONS ASSOCIATED WITH ELECTRICITY IMPORTED TO THE STATE, BY 2030 AS COMPARED TO 2005 LEVELS. THE CALCULATION OF EMISSIONS REDUCTIONS FROM THE PLAN MUST BE BASED ON AND REFLECT CHANGES IN THE UTILIZATION AND PROVISION OF RESOURCES THAT RESULT IN DEMONSTRATED REDUCTIONS IN ACTUAL GREENHOUSE GAS EMISSIONS TO THE ATMOSPHERE, RATHER THAN RESOURCE SHUFFLING, WHICH INCLUDES ANY PLAN, SCHEME, TRANSACTION, ARTIFICE, OR DESIGNATION THAT ATTEMPTS TO DEMONSTRATE REDUCTIONS IN GREENHOUSE GAS EMISSIONS BASED ON EMISSIONS REDUCTIONS THAT HAVE NOT ACTUALLY OCCURRED AND THAT INVOLVE OR AFFECT THE DELIVERY OF ELECTRICITY TO THE STATE. THE PUBLIC UTILITIES COMMISSION SHALL APPROVE A PLAN MEETING THE REQUIREMENTS OF THIS SUBSECTION (1)(e)(VIII)(G) NO LATER THAN DECEMBER 31, 2022.

(H) CLEAN ENERGY PLANS REQUIRED BY SUBSECTIONS (1)(e)(VIII)(C) AND (1)(e)(VIII)(F) OF THIS SECTION AND RESPONSIBLE ENERGY PLANS REQUIRED BY SUBSECTION (1)(e)(VIII)(G) OF THIS SECTION MUST MAXIMIZE NEAR-TERM GREENHOUSE GAS EMISSION REDUCTIONS TO THE GREATEST EXTENT PRACTICABLE AND SHALL BE SUBMITTED IN ACCORDANCE WITH DEADLINES AND PROCEDURES ESTABLISHED BY THE COMMISSION AND THE PUBLIC UTILITIES COMMISSION. FOR UTILITIES THAT ARE NOT INVESTOR-OWNED OR WHOLESALE GENERATION AND TRANSMISSION COOPERATIVE UTILITIES, THE DIVISION SHALL FULLY EVALUATE AND VERIFY ALL CLEAN ENERGY AND RESPONSIBLE ENERGY
PLANS NO LATER THAN JULY 1, 2022. CLEAN ENERGY PLANS SUBMITTED
PURSUANT TO SUBSECTION (1)(e)(VIII)(C) OF THIS SECTION AND
RESPONSIBLE ENERGY PLANS SUBMITTED PURSUANT TO SUBSECTION
(1)(e)(VIII)(G) OF THIS SECTION MUST ALSO BE APPROVED BY THE PUBLIC
UTILITIES COMMISSION. IN VERIFYING CLEAN ENERGY OR RESPONSIBLE
ENERGY PLANS, THE DIVISION SHALL PREVENT DOUBLE COUNTING OF
EMISSION REDUCTIONS AMONG UTILITIES AND SHALL CONSIDER
ELECTRICITY GENERATED BY RENEWABLE ENERGY RESOURCES AS HAVING
ZERO GREENHOUSE GAS EMISSIONS ONLY IF THE ELECTRICITY IS
ACCOMPANIED BY A RENEWABLE ENERGY CREDIT THAT IS RETIRED ON
BEHALF OF THE UTILITY’S CUSTOMERS IN THE YEAR GENERATED. ONCE
VERIFIED BY THE DIVISION, THE PROJECTED ANNUAL GREENHOUSE GAS
EMISSION LEVELS IN THE CLEAN ENERGY PLAN OR RESPONSIBLE ENERGY
PLAN ARE UTILITY-SPECIFIC EMISSION LIMITS ENFORCEABLE BY THE
DIVISION.

(I) A UTILITY INTENDING TO FILE A CLEAN ENERGY OR
RESPONSIBLE ENERGY PLAN MUST INFORM THE DIVISION NO LATER THAN
JULY 1, 2021. AN ELECTRIC UTILITY THAT DOES NOT INDICATE INTENT TO
FILE A CLEAN ENERGY OR RESPONSIBLE ENERGY PLAN OR THAT DOES NOT
SUBMIT A CLEAN ENERGY OR RESPONSIBLE ENERGY PLAN AFTER
EXPRESSING INTENT TO DO SO SHALL REDUCE GREENHOUSE GAS EMISSIONS
AT LEAST NINETY PERCENT BY 2030, AS COMPARED TO 2005 LEVELS,
INCLUDING EMISSIONS ASSOCIATED WITH IMPORTED ELECTRICITY. AN
ELECTRIC UTILITY THAT FAILS TO ACHIEVE THE EMISSION REDUCTIONS
FORECASTED IN A VERIFIED CLEAN ENERGY OR RESPONSIBLE ENERGY PLAN
IS SUBJECT TO ALTERNATIVE EMISSION LIMITS THAT SECURE GREATER
CUMULATIVE GREENHOUSE GAS EMISSION REDUCTIONS THAN ARE
FORECASTED IN A VERIFIED CLEAN ENERGY OR RESPONSIBLE ENERGY PLAN
AND THAT ARE ADOPTED DURING THE RULE-MAKING HELD PURSUANT TO
SUBSECTION (1)(e)(II)(C) OR (1)(e)(II)(G) OF THIS SECTION.

(J) NO LATER THAN DECEMBER 31, 2025, EACH RETAIL ELECTRIC
UTILITY AND WHOLESALE GENERATION AND TRANSMISSION COOPERATIVE
SHALL FILE WITH THE PUBLIC UTILITIES COMMISSION AN APPLICATION FOR
APPROVAL OF A PLAN TO ACHIEVE THE GREENHOUSE GAS EMISSION
REDUCTIONS SPECIFIED IN THIS SUBSECTION (1)(e)(VIII)(J) AND TO
MAXIMIZE NEAR-TERM EMISSIONS REDUCTIONS BY REDUCING
GREENHOUSE GAS EMISSIONS AS EARLY AS POSSIBLE CONSISTENT WITH
MAINTAINING RELIABLE ELECTRIC SERVICE. NO LATER THAN DECEMBER
31, 2025, EACH MUNICIPAL UTILITY AND COOPERATIVE ELECTRIC
ASSOCIATION THAT HAS VOTED TO EXEMPT ITSELF FROM REGULATION BY
THE PUBLIC UTILITIES COMMISSION PURSUANT TO SECTION 40-9.5-103
SHALL SUBMIT TO ITS RESPECTIVE GOVERNING BODY FOR APPROVAL A
PLAN TO ACHIEVE THE EMISSION REDUCTIONS SPECIFIED IN THIS
SUBSECTION (1)(e)(VIII)(J) AND TO MAXIMIZE NEAR-TERM GREENHOUSE
GAS EMISSION REDUCTIONS BY REDUCING GREENHOUSE GAS EMISSIONS AS
EARLY AS POSSIBLE CONSISTENT WITH MAINTAINING RELIABLE ELECTRIC
SERVICE. EACH RETAIL AND WHOLESALE ELECTRIC UTILITY SERVING
CUSTOMERS IN COLORADO SHALL REDUCE GREENHOUSE GAS EMISSIONS
CAUSED BY ITS PROVISION OF ELECTRICITY TO CUSTOMERS WITHIN THE
STATE BY AT LEAST NINETY-FIVE PERCENT BETWEEN 2035 AND 2040 AND
BY ONE HUNDRED PERCENT BY 2040, RELATIVE TO 2005 EMISSIONS
LEVELS.

(XI) As used in this subsection (1)(e):

(B.5) "MMTCO2e" means million metric tons of carbon
DIOXIDE EQUIVALENT.

SECTION 3. In Colorado Revised Statutes, 25-7-114.7, amend (2)(a)(I) introductory portion, (2)(a)(I)(A), and (2)(b)(III)(G); and add (1)(b)(I)(E), (2)(b)(III)(I), and (2)(b)(III)(J) as follows:

25-7-114.7. Emission fees - fund - rules - definition - repeal.

(1) As used in this section, unless the context otherwise requires:

(b) (I) "Regulated pollutant" means:

(E) A GREENHOUSE GAS, AS DEFINED IN SECTION 25-7-140 (6).

(2) (a) (I) The commission shall designate by rule those classes of sources of air pollution that are exempt from the requirement to pay an annual emission fee BUT SHALL NOT CATEGORICALLY EXEMPT ANY GREENHOUSE GAS EMISSIONS FROM THE REQUIREMENT TO PAY ANNUAL EMISSION FEES. Every owner or operator of an air pollution source not otherwise exempt in accordance with the rules shall pay an annual fee as follows:

(A) For state fiscal year 2020-21, the fee is thirty-two dollars per ton of regulated pollutant reported in the most recent air pollution emission notice on file with the division. For state fiscal year 2021-22, the fee is thirty-six dollars per ton of regulated pollutant reported in the most recent air pollution emission notice on file with the division; EXCEPT THAT THE COMMISSION SHALL ESTABLISH, BY RULE, A FEE PER TON OF GREENHOUSE GAS, AS DEFINED IN SECTION 25-7-140 (6), THAT WAS REPORTED IN THE MOST RECENT AIR POLLUTION EMISSION NOTICE ON FILE WITH THE DIVISION IN AN AMOUNT THAT IS SUFFICIENT TO COVER THE INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND ADMINISTER THE PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7 THAT PERTAIN TO EMISSIONS OF GREENHOUSE GASES. Thereafter, the commission may adjust
the fee, OTHER THAN THE FEE FOR GREENHOUSE GASES, by rule to cover
the indirect and direct costs required to develop and administer the
programs established pursuant to this article 7, AND MAY ADJUST THE FEE
FOR GREENHOUSE GASES BY RULE TO COVER THE INDIRECT AND DIRECT
COSTS REQUIRED TO DEVELOP AND ADMINISTER THE PROGRAMS
ESTABLISHED PURSUANT TO THIS ARTICLE 7 THAT PERTAIN TO EMISSIONS
OF GREENHOUSE GASES.

(b) (III) The division shall expend the portion of the fee revenue
collected pursuant to subsections (2)(a)(I)(A), (2)(a)(I)(B), and (2)(a)(III)
of this section and section 25-7-114.1 (6)(a) attributable to the increases
authorized in 2020 by Senate Bill 20-204 for the following purposes:

(G) Expanding the division's capacity to quickly respond to and
better understand public health issues that are related to exposure to air
toxics, such as benzene and other volatile organic compounds; and

(I) ENABLING OUTREACH TO AND ENGAGEMENT OF
DISPROPORTIONATELY IMPACTED COMMUNITIES; AND

(J) PAYING FOR THE ENVIRONMENTAL JUSTICE OMBUDSPERSON
AND THE ENVIRONMENTAL JUSTICE ADVISORY BOARD CREATED IN SECTION
25-1-131.

SECTION 4. In Colorado Revised Statutes, 25-7-140, amend
(2)(a)(I) as follows:

25-7-140. Greenhouse gas emissions - data collection -
legislative declaration - rules - reporting - forecasting - public
information - definitions. (2) Rules. (a) The commission shall:

(I) ByJune1, 2020; Adopt rules requiring
greenhouse-gas-emitting entities to monitor and publicly report their
emissions as the commission deems appropriate to support Colorado's
greenhouse gas emission inventory efforts and to facilitate implementation of rules that will timely achieve Colorado's greenhouse gas emission reduction goals. The commission shall consider what information is already being publicly reported by the federal environmental protection agency and tailor new reporting requirements to fill any gaps in data, as it determines is appropriate, to allow for maintaining and updating state inventories that are sufficiently comprehensive and robust. The rules must include requirements for providers of retail or wholesale electric service in the state of Colorado to track and report emissions from all generation sources within the state and elsewhere that electricity consumption by their customers in this state causes to be emitted AND MUST ESTABLISH AN ASSUMED EMISSION RATE REPRESENTING THE AVERAGE REGIONAL FOSSIL FUEL GENERATION EMISSION RATE FOR ELECTRICITY GENERATED BY A RENEWABLE ENERGY RESOURCE FOR WHICH THE ASSOCIATED RENEWABLE ENERGY CREDIT IS NOT RETIRED IN THE YEAR GENERATED. The commission may require emitting entities to report the amount of emissions of each of the seven individual components of greenhouse gases as well as the carbon dioxide equivalent of those emissions.

SECTION 5. In Colorado Revised Statutes, add 25-1-131 as follows:

FUNCTIONS INDEPENDENTLY IN EXERCISING ITS POWERS.

(b) The Executive Director shall appoint the Ombudsperson as soon as practicable but no later than February 1, 2022, and as necessary thereafter to fill a vacancy. Prior to an appointment, the Executive Director shall consult with, and may receive recommendations from, the Advisory Board, the General Assembly, representatives of disproportionately impacted communities, and other relevant stakeholders regarding the selection of the Ombudsperson.

c) The Ombudsperson must be qualified by training or experience in environmental justice, and should have been a resident of one or more disproportionately impacted communities or have worked to advance environmental justice within disproportionately impacted communities.

(d) The Ombudsperson shall:

(I) Work collaboratively with the Environmental Justice Advisory Board, established in subsection (2) of this section, for the purpose of promoting environmental justice for the people of Colorado;

(II) Serve as an advocate for disproportionately impacted communities and as a liaison between disproportionately impacted communities and the department;

(III) Address the relationships and interactions between disproportionately impacted communities and the department;

(IV) Increase the flow of information between the department and disproportionately impacted communities concerning the environment and departmental programs using
METHODS OF OUTREACH THAT INCLUDE, AT A MINIMUM:

(A) Disseminating information through local schools, social media, local social and activity clubs, libraries, or other local services; and

(B) Prioritizing in-person meetings in communities with populations that are predominantly Black, Indigenous, or People of Color, that have an average income below the state’s average, or that are in rural locations;

(V) Enable meaningful participation in the decision-making processes of the department;

(VI) Maintain a telephone number, website, and mailing address for the receipt of complaints and inquiries;

(VII) Establish procedures to resolve complaints to the extent practicable;

(VIII) Ensure that no community is disproportionately affected by environmental burdens to the extent practicable; and

(IX) Serve in an advisory capacity to other state agencies conducting outreach to and engagement of disproportionately impacted communities in light of a proposed agency action.

(2) Environmental justice advisory board. (a) There is hereby created in the department the environmental justice advisory board. The department shall provide administrative support for the advisory board. The advisory board otherwise functions independently in exercising its powers.

(b) The appointing authorities shall make their initial appointments as soon as practicable, but no later than three
MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION.

(c) The advisory board consists of the following members who, to the extent practicable, must reside in different geographic areas of the state, reflect the racial and ethnic diversity of the state, and have experience with a range of environmental issues, including air pollution, water contamination, and public health impacts:

(I) Five members appointed by the executive director, of whom four must have been residents of one or more disproportionately impacted communities and one must be from a nongovernmental organization that represents statewide interests to advance environmental justice; and

(II) Four members, one of whom is appointed by each of the following:

(A) The speaker of the house of representatives;

(B) The president of the senate;

(C) The minority leader of the house of representatives;

and

(D) The minority leader of the senate.

(d) Each member’s term of appointment is four years; except that the initial term of two members appointed by the executive director pursuant to subsection (2)(c)(I) of this section, as specified by the executive director, and each member appointed pursuant to subsections (2)(c)(II)(C) and (2)(c)(II)(D) of this section is two years. The appointing officials shall fill any vacancies on the advisory board, including for the remainder of any unexpired term.
(e) As authorized by section 25-7-114.7 (2)(b)(III)(J), each member of the advisory board is entitled to receive reimbursement for actual and necessary expenses.

(f) The advisory board shall elect a chairperson from among its members every year. The advisory board shall meet at least once every quarter. The chairperson may call such additional meetings as are necessary for the advisory board to complete its duties.

(g) The advisory board shall:

(I) Serve in an advisory capacity to the ombudsperson in addressing the relationship between the department and disproportionately impacted communities by increasing the flow of information, enabling meaningful participation in departmental decision-making, and working to ensure that no community is disproportionately impacted by environmental burdens;

(II) Hold a portion of advisory board meetings for the ombudsperson to jointly receive stakeholder input into the activities and priorities of the ombudsperson;

(III) Address any other matters relating to adverse environmental effects on disproportionately impacted communities as referred to the advisory board by the governor or the executive director; and

(IV) Study, research, and advise the department on matters that it deems appropriate to enable the department to interact with disproportionately impacted communities in the best manner possible.
(h) This subsection (2) is repealed, effective September 1, 2027. Before the repeal, the advisory board and its functions are scheduled for review in accordance with section 2-3-1203.

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

(a) "Advisory board" means the environmental justice advisory board created in subsection (2) of this section.

(b) "Executive director" means the executive director of the department.

(c) "Ombudsperson" means the environmental justice ombudsperson appointed pursuant to subsection (1) of this section.

**SECTION 6.** In Colorado Revised Statutes, 2-3-1203, add (18.5)(a)(II) as follows:

2-3-1203. Sunset review of advisory committees - legislative declaration - definition - repeal. (a) The following statutory authorizations for the designated advisory committees will repeal on September 1, 2027:

(II) The environmental justice advisory board created in section 25-1-131 (2).

**SECTION 7.** Applicability. This act applies to conduct occurring on or after the effective date of this act.

**SECTION 8.** Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.