

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

PREAMENDED

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

LLS NO. 22-0346.01 Ed DeCecco x4216

SENATE BILL 22-118

SENATE SPONSORSHIP

Woodward, Hisey, Lundeen, Priola, Rankin, Scott, Sonnenberg

HOUSE SPONSORSHIP

Holtorf and Valdez D., Lynch, McKean, Pelton, Pico, Rich, Van Beber, Van Winkle, Will

Senate Committees

State, Veterans, & Military Affairs
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ENCOURAGEMENT OF THE USE OF GEOTHERMAL**
102 **ENERGY BY PROVIDING SIMILAR TREATMENT TO SOLAR ENERGY,**
103 **AND, IN CONNECTION THEREWITH, 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>.)

The bill modifies the following statutory provisions that apply to solar energy so that they also apply to geothermal energy, which generally is using the heat of the earth to generate electricity or to heat or cool space or water:

- **Section 1** of the bill requires the Colorado energy office

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.

(office) to develop basic consumer education and guidance about leased or purchased geothermal installation, in consultation with industries that offer these options to consumers;

- **Sections 2, 6, and 8** limit the aggregate of all charges or other related or associated fees the state, a county, or a municipality may impose or assess to install a geothermal energy system;
- **Section 3** specifies that geothermal equipment is a type of pollution control equipment that the division of administration in the department of public health and environment may certify as pollution control equipment;
- **Section 4** specifies that a "project" for purposes of the "County and Municipality Development Revenue Bond Act" includes capital improvements to existing single-family residential, multi-family residential, commercial, or industrial structures, to retrofit such structures for installation of geothermal improvements;
- **Section 5** permits a county board of commissioners or a regional planning commission, and **section 9** requires a municipal development commission, to include methods for assuring access to appropriate conditions for geothermal energy sources in a master plan for development;
- **Section 7** specifies that the addition of a geothermal energy device to a building is not necessarily considered a structural alteration for purposes of continuing a nonconforming use of a building, structure, or land under a county zoning resolution;
- **Section 10** permits the Colorado agricultural value-added development board to use some of the money in the agriculture value-added cash fund for geothermal energy generation facilities that are colocated with agricultural uses;
- **Section 11** adds a geothermal energy device to the types of renewable energy generation devices that cannot be prohibited in legal instruments related to the transfer or sale of, or interest in, real property;
- **Section 13** includes an independently owned geothermal energy system, which is defined in **section 12**, in the property tax exemption for household furnishings;
- **Section 14** creates community geothermal gardens, which are analogous to community solar gardens; and
- **Sections 15 and 16** create conforming amendments to the definition of "qualified community location" to incorporate

community geothermal gardens for purposes of local improvement districts and municipal special improvement districts.

Section 1 requires the office to update the greenhouse gas pollution reduction roadmap to expressly include geothermal energy as a renewable energy resource that qualifying retail utilities may use to achieve the electric utility sector greenhouse gas pollution reduction goals set forth in the roadmap.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-38.5-102, **add**
3 **(1)(v) and** (4) as follows:

4 **24-38.5-102. Colorado energy office - duties and powers -**
5 **definitions.** (1) The Colorado energy office shall:

6 (v) IN CONSULTATION WITH THE APPROPRIATE INDUSTRIES,
7 DEVELOP BASIC CONSUMER EDUCATION OR GUIDANCE ABOUT PURCHASED
8 OR, IF AVAILABLE, LEASED INSTALLATION OF A SYSTEM THAT USES
9 GEOTHERMAL ENERGY FOR WATER HEATING OR SPACE HEATING OR
10 COOLING IN A SINGLE BUILDING OR FOR SPACE HEATING FOR MORE THAN
11 ONE BUILDING THROUGH A PIPELINE NETWORK.

12 (4) THE COLORADO ENERGY OFFICE MAY UPDATE THE
13 GREENHOUSE GAS POLLUTION REDUCTION ROADMAP, PUBLISHED BY THE
14 OFFICE AND DATED JANUARY 14, 2021, OR AS AMENDED THEREAFTER, TO
15 EXPRESSLY INCLUDE GEOTHERMAL ENERGY AS A RENEWABLE ENERGY
16 RESOURCE THAT QUALIFYING RETAIL UTILITIES MAY USE TO ACHIEVE THE
17 ELECTRIC UTILITY SECTOR GREENHOUSE GAS POLLUTION REDUCTION
18 GOALS SET FORTH IN THE GREENHOUSE GAS POLLUTION REDUCTION
19 ROADMAP.

20 **SECTION 2.** In Colorado Revised Statutes, 24-48.5-113, **amend**
21 (1)(a) introductory portion and (1)(e) as follows:

1 **24-48.5-113. Limit on fees - active solar energy systems -**
2 **geothermal systems - definitions - repeal.** (1) (a) Except as otherwise
3 provided in this section, the aggregate of all charges or other related or
4 associated fees the state or any agency, institution, authority, or political
5 subdivision of the state may impose or assess to install an active solar
6 energy system OR A GEOTHERMAL ENERGY SYSTEM shall not exceed:

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

8 (I) "Active solar energy system" means a single system that
9 contains electric generation, a thermal device, or is an energy storage
10 system as defined in section 40-2-202 (2).

11 (II) "GEOTHERMAL ENERGY SYSTEM" MEANS A SYSTEM THAT USES
12 GEOTHERMAL ENERGY FOR WATER HEATING OR SPACE HEATING OR
13 COOLING IN A SINGLE BUILDING, FOR SPACE HEATING FOR MORE THAN ONE
14 BUILDING THROUGH A PIPELINE NETWORK, OR FOR ELECTRICITY
15 GENERATION.

16 **SECTION 3.** In Colorado Revised Statutes, 25-6.5-201, **amend**
17 (2) as follows:

18 **25-6.5-201. Definitions.** As used in this part 2, unless the context
19 otherwise requires:

20 (2) "Pollution control equipment" means any personal property,
21 including, but not limited to, equipment, machinery, devices, systems,
22 buildings, or structures, that is installed, constructed, or used in or as a
23 part of a facility that creates a product in a manner that generates less
24 pollution by the utilization of an alternative manufacturing or generating
25 technology. "Pollution control equipment" includes, but is not limited to,
26 gas or wind turbines and associated compressors or equipment; ~~or~~ solar,
27 thermal, or photovoltaic equipment; OR EQUIPMENT USED AS PART

1 OF A SYSTEM THAT USES GEOTHERMAL ENERGY FOR WATER HEATING OR
2 SPACE HEATING OR COOLING IN A SINGLE BUILDING, FOR SPACE HEATING
3 FOR MORE THAN ONE BUILDING THROUGH A PIPELINE NETWORK, OR FOR
4 ELECTRICITY GENERATION.

5 **SECTION 4.** In Colorado Revised Statutes, 29-3-103, **amend** the
6 introductory portion and (10)(m) as follows:

7 **29-3-103. Definitions.** As used in this ~~article~~ ARTICLE 3, unless
8 the context otherwise requires:

9 (10) "Project" means any land, building, or other improvement
10 and all real or personal properties, and any undivided or other interest in
11 any of the foregoing, except inventories and raw materials, whether or not
12 in existence, suitable or used for or in connection with any of the
13 following:

14 (m) Capital improvements to existing single-family residential,
15 multi-family residential, commercial, or industrial structures, to retrofit
16 such structures for significant energy savings or installation of solar or
17 other alternative electrical energy-producing improvements to serve that
18 structure or other structures on contiguous property under common
19 ownership OR INSTALLATION OF A SYSTEM THAT USES GEOTHERMAL
20 ENERGY FOR WATER HEATING OR SPACE HEATING OR COOLING IN A SINGLE
21 STRUCTURE.

22 **SECTION 5.** In Colorado Revised Statutes, 30-28-106, **amend**
23 (3)(a)(VI) as follows:

24 **30-28-106. Adoption of master plan - contents.** (3) (a) The
25 master plan of a county or region, with the accompanying maps, plats,
26 charts, and descriptive and explanatory matter, must show the county or
27 regional planning commission's recommendations for the development of

1 the territory covered by the plan. The master plan of a county or region is
2 an advisory document to guide land development decisions; however, the
3 plan or any part thereof may be made binding by inclusion in the county's
4 or region's adopted subdivision, zoning, platting, planned unit
5 development, or other similar land development regulations after
6 satisfying notice, due process, and hearing requirements for legislative or
7 quasi-judicial processes as appropriate. After consideration of each of the
8 following, where applicable or appropriate, the master plan may include:

9 (VI) Methods for assuring access to appropriate conditions for
10 solar, wind, or other alternative energy sources, INCLUDING
11 GEOTHERMAL ENERGY USED FOR WATER HEATING OR SPACE HEATING OR
12 COOLING IN A SINGLE BUILDING, FOR SPACE HEATING FOR MORE THAN ONE
13 BUILDING THROUGH A PIPELINE NETWORK, OR FOR ELECTRICITY
14 GENERATION.

15 **SECTION 6.** In Colorado Revised Statutes, 30-28-113, **amend**
16 (1)(b)(II)(A) and (1)(b)(II)(C) as follows:

17 **30-28-113. Regulation of size and use - districts - definitions -**
18 **repeal.** (1) (b) (II) (A) Except as otherwise provided in this section, the
19 aggregate of all charges or other related or associated fees a county shall
20 impose or assess to install an active solar energy system OR GEOTHERMAL
21 ENERGY SYSTEM, shall not exceed the lesser of the county's actual costs
22 in issuing the permit or five hundred dollars for a residential application
23 or one thousand dollars for a nonresidential application if the device or
24 system produces fewer than two megawatts of direct current electricity or
25 an equivalent-sized thermal energy system, or that exceed the county's
26 actual costs in issuing the permit if the device or system produces at least
27 two megawatts of direct current electricity or an equivalent-sized thermal

1 energy system. A county may increase its fees or other charges as
2 authorized by this subsection (1)(b)(II) by no more than five percent on
3 an annual basis until the five hundred dollar limitation specified in this
4 subsection (1)(b)(II) is achieved. The county shall clearly and individually
5 identify all fees and taxes assessed on an application subject to this
6 subsection (1)(b)(II) on the invoice. The general assembly hereby finds
7 that there is a statewide need for certainty regarding the fees that can be
8 assessed for permitting such devices or systems, and therefore declares
9 that this subsection (1)(b)(II) is a matter of statewide concern. This
10 subsection (1)(b)(II) is repealed, effective December 31, 2029.

11 (C) As used in this subsection (1)(b)(II), "active solar energy
12 system" means a single system that contains electric generation, a thermal
13 device, or is an energy storage system as defined in section 40-2-202 (2),
14 AND "GEOHERMAL ENERGY SYSTEM" MEANS A SYSTEM THAT USES
15 GEOHERMAL ENERGY FOR WATER HEATING OR SPACE HEATING OR
16 COOLING IN A SINGLE BUILDING, FOR SPACE HEATING FOR MORE THAN ONE
17 BUILDING THROUGH A PIPELINE NETWORK, OR FOR ELECTRICITY
18 GENERATION.

19 **SECTION 7.** In Colorado Revised Statutes, 38-20-120, **amend**
20 (1) as follows:

21 **30-28-120. Existing structures - county property.** (1) The
22 lawful use of a building or structure or the lawful use of any land, as
23 existing and lawful at the time of the adoption of a zoning resolution or,
24 in the case of an amendment of a resolution, at the time of such
25 amendment, may be continued, although such use does not conform with
26 the provisions of such resolution or amendment, and such use may be
27 extended throughout the same building if no structural alteration of such

1 building is proposed or made for the purpose of such extension. The
2 addition of a solar energy device OR A DEVICE USED AS PART OF A SYSTEM
3 THAT USES GEOTHERMAL ENERGY FOR WATER HEATING OR SPACE HEATING
4 OR COOLING to such building shall not necessarily be considered a
5 structural alteration. The board of county commissioners may provide in
6 any zoning resolution for the restoration, reconstruction, extension, or
7 substitution of nonconforming uses upon such terms and conditions as
8 may be set forth in the zoning resolution.

9 **SECTION 8.** In Colorado Revised Statutes, 31-15-602, **amend**
10 (4)(b)(I)(A) and (4)(b)(I)(C) as follows:

11 **31-15-602. Energy efficient building codes - legislative**
12 **declaration - definitions - repeal.** (4) (b) (I) (A) Except as otherwise
13 provided in this section, the aggregate of all charges or other related or
14 associated fees a municipality shall impose or assess to install an active
15 solar electric or solar thermal device or system OR A GEOTHERMAL
16 ENERGY SYSTEM shall not exceed the lesser of the municipality's actual
17 costs in issuing the permit or five hundred dollars for a residential
18 application or one thousand dollars for a nonresidential application if the
19 device or system produces fewer than two megawatts of direct current
20 electricity or an equivalent-sized thermal energy system, or that exceed
21 the municipality's actual costs in issuing the permit if the device or system
22 produces at least two megawatts of direct current electricity or an
23 equivalent-sized thermal energy system. A municipality may increase its
24 fees or other charges as authorized by this subsection (4)(b)(I) by no more
25 than five percent on an annual basis until the five hundred dollar
26 limitation specified in this subsection (4)(b)(I) is achieved. The
27 municipality shall clearly and individually identify all fees and taxes

1 assessed on an application subject to this subsection (4)(b)(I) on the
2 invoice. The general assembly hereby finds that there is a statewide need
3 for certainty regarding the fees that can be assessed for permitting such
4 devices or systems, and therefore declares that this subsection (4)(b) is a
5 matter of statewide concern.

6 (C) As used in this subsection (4)(b)(I), "active solar energy
7 system" means a single system that contains electric generation, a thermal
8 device, or is an energy storage system as defined in section 40-2-202 (2),
9 AND "GEOTHERMAL ENERGY SYSTEM" MEANS A SYSTEM THAT USES
10 GEOTHERMAL ENERGY FOR WATER HEATING OR SPACE HEATING OR
11 COOLING IN A SINGLE BUILDING, FOR SPACE HEATING FOR MORE THAN ONE
12 BUILDING THROUGH A PIPELINE NETWORK, OR FOR ELECTRICITY
13 GENERATION.

14 **SECTION 9.** In Colorado Revised Statutes, 31-23-206, **amend**
15 (1)(f) as follows:

16 **31-23-206. Master plan.** (1) It is the duty of the commission to
17 make and adopt a master plan for the physical development of the
18 municipality, including any areas outside its boundaries, subject to the
19 approval of the governmental body having jurisdiction thereof, that in the
20 commission's judgment bear relation to the planning of the municipality.
21 The master plan of a municipality is an advisory document to guide land
22 development decisions; however, the plan or any part thereof may be
23 made binding by inclusion in the municipality's adopted subdivision,
24 zoning, platting, planned unit development, or other similar land
25 development regulations after satisfying notice, due process, and hearing
26 requirements for legislative or quasi-judicial processes as appropriate.
27 When a commission decides to adopt a master plan, the commission shall

1 conduct public hearings, after notice of such public hearings has been
2 published in a newspaper of general circulation in the municipality in a
3 manner sufficient to notify the public of the time, place, and nature of the
4 public hearing, prior to final adoption of a master plan in order to
5 encourage public participation in and awareness of the development of
6 such plan and shall accept and consider oral and written public comments
7 throughout the process of developing the plan. The plan, with the
8 accompanying maps, plats, charts, and descriptive matter, must, after
9 consideration of each of the following, where applicable or appropriate,
10 show the commission's recommendations for the development of the
11 municipality and outlying areas, including:

12 (f) A zoning plan for the control of the height, area, bulk, location,
13 and use of buildings and premises. Such a zoning plan may protect and
14 assure access to appropriate conditions for solar, wind, or other alternate
15 energy sources, INCLUDING GEOTHERMAL ENERGY USED FOR WATER
16 HEATING OR SPACE HEATING OR COOLING IN A SINGLE BUILDING, FOR
17 SPACE HEATING FOR MORE THAN ONE BUILDING THROUGH A PIPELINE
18 NETWORK, OR FOR ELECTRICITY GENERATION; however, regulations and
19 restrictions of the height, number of stories, size of buildings and other
20 structures, and the height and location of trees and other vegetation shall
21 not apply to existing buildings, structures, trees, or vegetation except for
22 new growth on such vegetation.

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24 **SECTION 10.** In Colorado Revised Statutes, 38-30-168, **amend**
25 (1)(b) as follows:

26 **38-30-168. Unreasonable restrictions on renewable energy**
27 **generation devices - definitions.** (1) (b) As used in this section,

1 "renewable energy generation device" means: ~~either:~~
2 (I) A solar energy device, as defined in section 38-32.5-100.3; ~~or~~
3 (II) A wind-electric generator that meets the interconnection
4 standards established in rules promulgated by the public utilities
5 commission pursuant to section 40-2-124; ~~C.R.S.~~ OR
6 (III) A GEOTHERMAL ENERGY DEVICE.

7 SECTION 11. In Colorado Revised Statutes, add
8 40-2-127.5 as follows:

9 40-2-127.5. Community energy funds - community geothermal
10 gardens - rules - legislative declaration - definitions - repeal.

11 (1) Legislative declaration. THE GENERAL ASSEMBLY HEREBY FINDS AND
12 DECLARES THAT:

13 (a) LOCAL COMMUNITIES CAN BENEFIT FROM THE FURTHER
14 DEVELOPMENT OF RENEWABLE ENERGY, ENERGY EFFICIENCY,
15 CONSERVATION, AND ENVIRONMENTAL IMPROVEMENT PROJECTS, AND THE
16 GENERAL ASSEMBLY HEREBY ENCOURAGES ELECTRIC UTILITIES TO
17 ESTABLISH COMMUNITY ENERGY FUNDS FOR THE DEVELOPMENT OF SUCH
18 PROJECTS;

19 (b) IT IS IN THE PUBLIC INTEREST THAT BROADER PARTICIPATION
20 IN GEOTHERMAL ELECTRIC GENERATION BY COLORADO RESIDENTS AND
21 COMMERCIAL ENTITIES BE ENCOURAGED BY THE DEVELOPMENT AND
22 DEPLOYMENT OF DISTRIBUTED GEOTHERMAL ELECTRIC GENERATING
23 FACILITIES KNOWN AS COMMUNITY GEOTHERMAL GARDENS, IN ORDER TO:

24 (I) PROVIDE COLORADO RESIDENTS AND COMMERCIAL ENTITIES
25 WITH THE OPPORTUNITY TO PARTICIPATE IN GEOTHERMAL ELECTRICITY
26 GENERATION;

27 (II) ALLOW RENTERS, LOW-INCOME UTILITY CUSTOMERS, AND

1 AGRICULTURAL PRODUCERS TO OWN INTERESTS IN SUCH GEOTHERMAL
2 GENERATION FACILITIES;

3 (III) ALLOW INTERESTS IN SUCH GEOTHERMAL GENERATION
4 FACILITIES TO BE PORTABLE AND TRANSFERRABLE; AND

5 (IV) LEVERAGE COLORADO'S GEOTHERMAL ELECTRICITY
6 GENERATING CAPACITY THROUGH ECONOMIES OF SCALE.

7 (2) Definitions. AS USED IN THIS SECTION, UNLESS THE CONTEXT
8 OTHERWISE REQUIRES, THE DEFINITIONS IN SECTION 40-2-124 APPLY, AND:

9 (a) (I) "COMMUNITY GEOTHERMAL GARDEN" MEANS A
10 GEOTHERMAL FACILITY THAT PRODUCES ELECTRICITY FROM THE EARTH'S
11 HEAT WITH A NAMEPLATE RATING WITHIN THE RANGE SPECIFIED UNDER
12 SUBSECTION (2)(b)(IV) OF THIS SECTION THAT IS LOCATED IN OR NEAR A
13 COMMUNITY SERVED BY A QUALIFYING RETAIL UTILITY WHERE THE
14 BENEFICIAL USE OF THE ELECTRICITY GENERATED BY THE FACILITY
15 BELONGS TO THE SUBSCRIBERS TO THE COMMUNITY GEOTHERMAL
16 GARDEN. THERE MUST BE AT LEAST TEN SUBSCRIBERS. THE OWNER OF THE
17 COMMUNITY GEOTHERMAL GARDEN MAY BE THE QUALIFYING RETAIL
18 UTILITY OR ANY OTHER FOR-PROFIT OR NONPROFIT ENTITY OR
19 ORGANIZATION, INCLUDING A SUBSCRIBER ORGANIZATION ORGANIZED
20 UNDER THIS SECTION, THAT CONTRACTS TO SELL THE OUTPUT FROM THE
21 COMMUNITY GEOTHERMAL GARDEN TO THE QUALIFYING RETAIL UTILITY.
22 A COMMUNITY GEOTHERMAL GARDEN IS DEEMED TO BE "LOCATED ON THE
23 SITE OF CUSTOMER FACILITIES".

24 (II) A COMMUNITY GEOTHERMAL GARDEN CONSTITUTES "RETAIL
25 DISTRIBUTED GENERATION" WITHIN THE MEANING OF SECTION 40-2-124.

26 (III) NOTWITHSTANDING ANY PROVISION OF THIS SECTION OR
27 SECTION 40-2-124 TO THE CONTRARY, A COMMUNITY GEOTHERMAL

1 GARDEN CONSTITUTES RETAIL DISTRIBUTED GENERATION FOR PURPOSES
2 OF A COOPERATIVE ELECTRIC ASSOCIATION'S COMPLIANCE WITH THE
3 APPLICABLE RENEWABLE ENERGY STANDARD UNDER SECTION 40-2-124.

4 (IV) A COMMUNITY GEOTHERMAL GARDEN MUST HAVE A
5 NAMEPLATE RATING OF FIVE MEGAWATTS OR LESS; EXCEPT THAT THE
6 COMMISSION MAY, IN RULES ADOPTED PURSUANT TO SUBSECTION (3)(b)
7 OF THIS SECTION, APPROVE THE FORMATION OF A COMMUNITY
8 GEOTHERMAL GARDEN WITH A NAMEPLATE RATING OF UP TO TEN
9 MEGAWATTS.

10 (b) "SUBSCRIBER" MEANS A RETAIL CUSTOMER OF A QUALIFYING
11 RETAIL UTILITY WHO OWNS A SUBSCRIPTION AND WHO HAS IDENTIFIED ONE
12 OR MORE PHYSICAL LOCATIONS TO WHICH THE SUBSCRIPTION IS
13 ATTRIBUTED. SUCH PHYSICAL LOCATIONS MUST BE WITHIN THE SERVICE
14 TERRITORY OF THE SAME QUALIFYING RETAIL UTILITY AS THE COMMUNITY
15 GEOTHERMAL GARDEN. THE SUBSCRIBER MAY CHANGE FROM TIME TO
16 TIME THE PREMISES TO WHICH THE COMMUNITY GEOTHERMAL GARDEN
17 ELECTRICITY GENERATION IS ATTRIBUTED, SO LONG AS THE PREMISES ARE
18 WITHIN THE SAME SERVICE TERRITORY.

19 (c) "SUBSCRIPTION" MEANS A PROPORTIONAL INTEREST IN
20 GEOTHERMAL ELECTRIC GENERATION FACILITIES INSTALLED AT A
21 COMMUNITY GEOTHERMAL GARDEN, TOGETHER WITH THE RENEWABLE
22 ENERGY CREDITS ASSOCIATED WITH OR ATTRIBUTABLE TO SUCH FACILITIES
23 UNDER SECTION 40-2-124. EACH SUBSCRIPTION MUST BE SIZED TO
24 REPRESENT AT LEAST ONE KILOWATT OF THE COMMUNITY GEOTHERMAL
25 GARDEN'S GENERATING CAPACITY AND TO SUPPLY NO MORE THAN ONE
26 HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF
27 ELECTRICITY BY EACH SUBSCRIBER AT THE PREMISES TO WHICH THE

1 SUBSCRIPTION IS ATTRIBUTED, WITH A DEDUCTION FOR THE AMOUNT OF
2 ANY EXISTING GEOTHERMAL FACILITIES AT SUCH PREMISES.
3 SUBSCRIPTIONS IN A COMMUNITY GEOTHERMAL GARDEN MAY BE
4 TRANSFERRED OR ASSIGNED TO A SUBSCRIBER ORGANIZATION OR TO ANY
5 PERSON OR ENTITY WHO QUALIFIES TO BE A SUBSCRIBER UNDER THIS
6 SECTION.

7 (3) **Subscriber organization - subscriber qualifications -**
8 **transferability of subscriptions.** (a) THE COMMUNITY GEOTHERMAL
9 GARDEN MAY BE OWNED BY A SUBSCRIBER ORGANIZATION, WHOSE SOLE
10 PURPOSE IS BENEFICIALLY OWNING AND OPERATING A COMMUNITY
11 GEOTHERMAL GARDEN. THE SUBSCRIBER ORGANIZATION MAY BE ANY
12 FOR-PROFIT OR NONPROFIT ENTITY PERMITTED BY COLORADO LAW. THE
13 COMMUNITY GEOTHERMAL GARDEN MAY ALSO BE BUILT, OWNED, AND
14 OPERATED BY A THIRD PARTY UNDER CONTRACT WITH THE SUBSCRIBER
15 ORGANIZATION.

16 (b) THE COMMISSION SHALL ADOPT RULES AS NECESSARY TO
17 IMPLEMENT THIS SECTION, INCLUDING RULES TO FACILITATE THE
18 FINANCING OF SUBSCRIBER-OWNED COMMUNITY GEOTHERMAL GARDENS.

19 THE RULES MUST INCLUDE:

20 (I) MINIMUM CAPITALIZATION;

21 (II) THE SHARE OF A COMMUNITY GEOTHERMAL GARDEN'S
22 GEOTHERMAL ELECTRIC GENERATION FACILITIES THAT A SUBSCRIBER
23 ORGANIZATION MAY AT ANY TIME OWN IN ITS OWN NAME; AND

24 (III) AUTHORIZING SUBSCRIBER ORGANIZATIONS TO ENTER INTO
25 LEASES, SALE-AND-LEASEBACK TRANSACTIONS, OPERATING AGREEMENTS,
26 AND OTHER OWNERSHIP ARRANGEMENTS WITH THIRD PARTIES.

27 (c) IF A SUBSCRIBER CEASES TO BE A CUSTOMER AT THE PREMISES

1 ON WHICH THE SUBSCRIPTION IS BASED BUT, WITHIN A REASONABLE
2 PERIOD AS DETERMINED BY THE COMMISSION, BECOMES A CUSTOMER AT
3 ANOTHER PREMISES IN THE SERVICE TERRITORY OF THE QUALIFYING
4 RETAIL UTILITY AND WITHIN THE GEOGRAPHIC AREA SERVED BY THE
5 COMMUNITY GEOTHERMAL GARDEN, THE SUBSCRIPTION CONTINUES IN
6 EFFECT BUT THE BILL CREDIT AND OTHER FEATURES OF THE SUBSCRIPTION
7 ARE ADJUSTED AS NECESSARY TO REFLECT ANY DIFFERENCES BETWEEN
8 THE NEW AND PREVIOUS PREMISES' CUSTOMER CLASSIFICATION AND
9 AVERAGE ANNUAL CONSUMPTION OF ELECTRICITY.

10 **(4) Standards for construction and operation.** THE FOLLOWING
11 REQUIREMENTS APPLY TO ANY COMMUNITY GEOTHERMAL GARDEN
12 EXCEEDING TWO MEGAWATTS:

13 (a) THE INITIAL INSTALLATION OF ANY ELECTRICAL EQUIPMENT
14 ASSOCIATED WITH THE COMMUNITY GEOTHERMAL GARDEN IS SUBJECT TO
15 FINAL INSPECTION AND APPROVAL IN ACCORDANCE WITH SECTION
16 12-115-120.

17 (b) FOLLOWING THE DEVELOPMENT OR ACQUISITION BY A
18 QUALIFYING RETAIL UTILITY OF A COMMUNITY GEOTHERMAL GARDEN IN
19 WHICH THE QUALIFYING RETAIL UTILITY RETAINS OWNERSHIP, THE
20 QUALIFYING RETAIL UTILITY SHALL EITHER USE ITS OWN EMPLOYEES TO
21 OPERATE AND MAINTAIN THE COMMUNITY GEOTHERMAL GARDEN OR
22 CONTRACT FOR OPERATION AND MAINTENANCE OF THE COMMUNITY
23 GEOTHERMAL GARDEN BY A CONTRACTOR WHOSE EMPLOYEES HAVE
24 ACCESS TO AN APPRENTICESHIP PROGRAM REGISTERED WITH THE UNITED
25 STATES DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR WITH A
26 STATE APPRENTICESHIP COUNCIL RECOGNIZED BY THAT OFFICE; EXCEPT
27 THAT THIS APPRENTICESHIP REQUIREMENT DOES NOT APPLY TO:

1 (I) THE DESIGN, PLANNING, OR ENGINEERING OF THE
2 INFRASTRUCTURE;

3 (II) MANAGEMENT FUNCTIONS TO OPERATE THE INFRASTRUCTURE;

4 OR

5 (III) ANY WORK INCLUDED IN A WARRANTY.

6 **(5) Community geothermal gardens not subject to regulation.**

7 NEITHER THE OWNERS OF NOR THE SUBSCRIBERS TO A COMMUNITY
8 GEOTHERMAL GARDEN ARE CONSIDERED PUBLIC UTILITIES SUBJECT TO
9 REGULATION BY THE COMMISSION SOLELY AS A RESULT OF THEIR INTEREST
10 IN THE COMMUNITY GEOTHERMAL GARDEN. PRICES PAID FOR
11 SUBSCRIPTIONS IN COMMUNITY GEOTHERMAL GARDENS SHALL NOT BE
12 SUBJECT TO REGULATION BY THE COMMISSION.

13 **(6) Purchases of the output from community geothermal**
14 **gardens. (a) (I) EACH QUALIFYING RETAIL UTILITY MAY SET FORTH IN ITS**
15 **PLAN FOR ACQUISITION OF RENEWABLE RESOURCES A PLAN TO PURCHASE**
16 **THE ELECTRICITY AND RENEWABLE ENERGY CREDITS GENERATED FROM**
17 **ONE OR MORE COMMUNITY GEOTHERMAL GARDENS OVER THE PERIOD**
18 **COVERED BY THE PLAN.**

19 (II) FOR EACH QUALIFYING RETAIL UTILITY'S COMPLIANCE YEARS
20 COMMENCING IN 2026 AND THEREAFTER, THE COMMISSION SHALL
21 DETERMINE THE MINIMUM AND MAXIMUM PURCHASES OF ELECTRICAL
22 OUTPUT FROM NEWLY INSTALLED COMMUNITY GEOTHERMAL GARDENS OF
23 DIFFERENT OUTPUT CAPACITY THAT THE QUALIFYING RETAIL UTILITY MAY
24 PLAN TO ACQUIRE. IN ADDITION, AS NECESSARY AND APPROPRIATE, THE
25 COMMISSION SHALL FORMULATE AND IMPLEMENT POLICIES CONSISTENT
26 WITH THIS SECTION THAT SIMULTANEOUSLY ENCOURAGE:

27 (A) THE OWNERSHIP BY CUSTOMERS OF SUBSCRIPTIONS IN

1 COMMUNITY GEOTHERMAL GARDENS AND OF OTHER FORMS OF
2 DISTRIBUTED GENERATION, TO THE EXTENT THE COMMISSION FINDS THERE
3 TO BE CUSTOMER DEMAND FOR SUCH OWNERSHIP;

4 (B) OWNERSHIP IN COMMUNITY GEOTHERMAL GARDENS BY
5 RESIDENTIAL RETAIL CUSTOMERS AND AGRICULTURAL PRODUCERS,
6 INCLUDING LOW-INCOME CUSTOMERS, TO THE EXTENT THE COMMISSION
7 FINDS THERE TO BE DEMAND FOR SUCH OWNERSHIP;

8 (C) THE DEVELOPMENT OF COMMUNITY GEOTHERMAL GARDENS
9 WITH ATTRIBUTES THAT THE COMMISSION FINDS RESULT IN LOWER
10 OVERALL TOTAL COSTS FOR THE QUALIFYING RETAIL UTILITY'S
11 CUSTOMERS;

12 (D) SUCCESSFUL FINANCING AND OPERATION OF COMMUNITY
13 GEOTHERMAL GARDENS OWNED BY SUBSCRIBER ORGANIZATIONS; AND

14 (E) THE ACHIEVEMENT OF THE GOALS AND OBJECTIVES OF SECTION
15 40-2-124.

16 (b) (I) (A) THE OUTPUT FROM A COMMUNITY GEOTHERMAL
17 GARDEN MUST BE SOLD ONLY TO THE QUALIFYING RETAIL UTILITY SERVING
18 THE GEOGRAPHIC AREA WHERE THE COMMUNITY GEOTHERMAL GARDEN
19 IS LOCATED.

20 (B) ONCE A COMMUNITY GEOTHERMAL GARDEN IS PART OF A
21 QUALIFYING RETAIL UTILITY'S PLAN FOR ACQUISITION OF RENEWABLE
22 RESOURCES, AS APPROVED BY THE COMMISSION, THE COMMISSION SHALL
23 INITIATE A PROCEEDING, OR CONSIDER IN AN ACTIVE PROCEEDING, TO
24 DETERMINE WHETHER THE QUALIFYING RETAIL UTILITY MUST PURCHASE
25 ALL OF THE ELECTRICITY AND RENEWABLE ENERGY CREDITS GENERATED
26 BY THE COMMUNITY GEOTHERMAL GARDEN OR WHETHER A SUBSCRIBER
27 MAY, UPON BECOMING A SUBSCRIBER, CHOOSE TO RETAIN OR SELL TO THE

1 QUALIFYING RETAIL UTILITY THE SUBSCRIBER'S RENEWABLE ENERGY
2 CREDITS.

3 (C) THE AMOUNT OF ELECTRICITY AND RENEWABLE ENERGY
4 CREDITS GENERATED BY EACH COMMUNITY GEOTHERMAL GARDEN IS
5 DETERMINED BY A PRODUCTION METER INSTALLED BY THE QUALIFYING
6 RETAIL UTILITY OR THIRD-PARTY SYSTEM OWNER AND PAID FOR BY THE
7 OWNER OF THE COMMUNITY GEOTHERMAL GARDEN.

8 (II) THE PURCHASE OF THE OUTPUT OF A COMMUNITY
9 GEOTHERMAL GARDEN BY A QUALIFYING RETAIL UTILITY TAKES THE FORM
10 OF A NET METERING CREDIT AGAINST THE QUALIFYING RETAIL UTILITY'S
11 ELECTRIC BILL TO EACH COMMUNITY GEOTHERMAL GARDEN SUBSCRIBER
12 AT THE PREMISES SET FORTH IN THE SUBSCRIBER'S SUBSCRIPTION. THE NET
13 METERING CREDIT IS CALCULATED BY MULTIPLYING THE SUBSCRIBER'S
14 SHARE OF THE ELECTRICITY PRODUCTION FROM THE COMMUNITY
15 GEOTHERMAL GARDEN BY THE QUALIFYING RETAIL UTILITY'S TOTAL
16 AGGREGATE RETAIL RATE AS CHARGED TO THE SUBSCRIBER, MINUS A
17 REASONABLE CHARGE AS DETERMINED BY THE COMMISSION TO COVER THE
18 UTILITY'S COSTS OF DELIVERING TO THE SUBSCRIBER'S PREMISES THE
19 ELECTRICITY GENERATED BY THE COMMUNITY GEOTHERMAL GARDEN,
20 INTEGRATING THE GEOTHERMAL GENERATION WITH THE UTILITY'S
21 SYSTEM, AND ADMINISTERING THE COMMUNITY GEOTHERMAL GARDEN'S
22 CONTRACTS AND NET METERING CREDITS. THE COMMISSION SHALL ENSURE
23 THAT THIS CHARGE DOES NOT REFLECT COSTS THAT ARE ALREADY
24 RECOVERED BY THE UTILITY FROM THE SUBSCRIBER THROUGH OTHER
25 CHARGES. IF, AND TO THE EXTENT THAT, A SUBSCRIBER'S NET METERING
26 CREDIT EXCEEDS THE SUBSCRIBER'S ELECTRIC BILL IN ANY BILLING PERIOD,
27 THE NET METERING CREDIT IS CARRIED FORWARD AND APPLIED AGAINST

1 FUTURE BILLS. THE QUALIFYING RETAIL UTILITY AND THE OWNER OF THE
2 COMMUNITY GEOTHERMAL GARDEN MUST AGREE ON WHETHER THE
3 PURCHASE OF THE RENEWABLE ENERGY CREDITS FROM SUBSCRIBERS WILL
4 BE ACCOMPLISHED THROUGH A CREDIT ON EACH SUBSCRIBER'S
5 ELECTRICITY BILL OR BY A PAYMENT TO THE OWNER OF THE COMMUNITY
6 GEOTHERMAL GARDEN.

7 (c) THE OWNER OF THE COMMUNITY GEOTHERMAL GARDEN MUST
8 PROVIDE REAL-TIME PRODUCTION DATA TO THE QUALIFYING RETAIL
9 UTILITY TO FACILITATE INCORPORATION OF THE COMMUNITY GEOTHERMAL
10 GARDEN INTO THE UTILITY'S OPERATION OF ITS ELECTRIC SYSTEM AND TO
11 FACILITATE THE PROVISION OF NET METERING CREDITS.

12 (d) THE OWNER OF THE COMMUNITY GEOTHERMAL GARDEN IS
13 RESPONSIBLE FOR PROVIDING TO THE QUALIFYING RETAIL UTILITY, ON A
14 MONTHLY BASIS AND WITHIN REASONABLE PERIODS SET BY THE
15 QUALIFYING RETAIL UTILITY, THE PERCENTAGE SHARES THAT SHOULD BE
16 USED TO DETERMINE THE NET METERING CREDIT TO EACH SUBSCRIBER. IF
17 THE ELECTRICITY OUTPUT OF THE COMMUNITY GEOTHERMAL GARDEN IS
18 NOT FULLY SUBSCRIBED, THE QUALIFYING RETAIL UTILITY SHALL
19 PURCHASE THE UNSUBSCRIBED RENEWABLE ENERGY AND THE RENEWABLE
20 ENERGY CREDITS AT A RATE EQUAL TO THE QUALIFYING RETAIL UTILITY'S
21 AVERAGE HOURLY INCREMENTAL COST OF ELECTRICITY SUPPLY OVER THE
22 IMMEDIATELY PRECEDING CALENDAR YEAR.

23 (e) IF A QUALIFYING RETAIL UTILITY INCLUDES A PLAN TO
24 PURCHASE THE ELECTRICITY AND RENEWABLE ENERGY CREDITS
25 GENERATED BY ONE OR MORE COMMUNITY GEOTHERMAL GARDENS, THEN
26 THE QUALIFYING RETAIL UTILITY SHALL SET FORTH IN ITS PLAN FOR
27 ACQUISITION OF RENEWABLE RESOURCES A PROPOSAL FOR INCLUDING

1 LOW-INCOME CUSTOMERS AS SUBSCRIBERS TO A COMMUNITY
2 GEOTHERMAL GARDEN, IF POSSIBLE. THE UTILITY MAY GIVE PREFERENCE
3 TO COMMUNITY GEOTHERMAL GARDENS THAT HAVE LOW-INCOME
4 SUBSCRIBERS.

5 (f) QUALIFYING RETAIL UTILITIES ARE ELIGIBLE FOR THE
6 INCENTIVES AND SUBJECT TO THE OWNERSHIP LIMITATIONS SET FORTH IN
7 SECTION 40-2-124 (1)(f) FOR UTILITY INVESTMENTS IN COMMUNITY
8 GEOTHERMAL GARDENS AND MAY RECOVER THROUGH RATES A MARGIN,
9 IN AN AMOUNT DETERMINED BY THE COMMISSION, ON ALL ENERGY AND
10 RENEWABLE ENERGY CREDITS PURCHASED FROM COMMUNITY
11 GEOTHERMAL GARDENS. SUCH INCENTIVE PAYMENTS ARE EXCLUDED
12 FROM THE COST ANALYSIS REQUIRED BY SECTION 40-2-124 (1)(g).

13 (6) NOTHING IN THIS SECTION WAIVES OR SUPERSEDES THE RETAIL
14 RATE IMPACT LIMITATIONS IN SECTION 40-2-124 (1)(g). UTILITY
15 EXPENDITURES FOR UNSUBSCRIBED ENERGY AND RENEWABLE ENERGY
16 CREDITS GENERATED BY COMMUNITY GEOTHERMAL GARDENS MUST BE
17 INCLUDED IN THE CALCULATIONS OF RETAIL RATE IMPACT REQUIRED BY
18 THAT SECTION.

19 (7) **Applicability to cooperative electric associations and**
20 **municipally owned utilities.** THIS SECTION SHALL NOT APPLY TO
21 COOPERATIVE ELECTRIC ASSOCIATIONS OR TO MUNICIPALLY OWNED
22 UTILITIES.

23 **SECTION 12.** In Colorado Revised Statutes, 25-7-105, **amend**
24 **(1)(e)(VIII)(H)** as follows:

25 **25-7-105. Duties of commission - rules - legislative declaration**
26 **- definitions.** (1) Except as provided in sections 25-7-130 and 25-7-131,
27 the commission shall promulgate rules that are consistent with the

1 legislative declaration set forth in section 25-7-102 and necessary for the
2 proper implementation and administration of this article 7, including:

3 (e) (VIII) (H) In verifying clean energy plans or a wholesale
4 generation and transmission cooperative electric resource plan submitted
5 in accordance with subsection (1)(e)(VIII)(I) of this section, the division
6 shall prevent double counting of emission reductions among utilities and
7 shall consider electricity generated by renewable energy resources as
8 having zero greenhouse gas emissions only if: The electricity is
9 accompanied by any associated renewable energy credit, and the
10 renewable energy credit is retired on behalf of the utility's customers in
11 the year generated; or the electricity is generated by retail distributed
12 generation, as defined in sections 40-2-124 (1)(a)(VIII), and 40-2-127
13 (2)(b)(I)(A) and (2)(b)(I)(B), AND 40-2-127.5 (2)(a)(I) AND (2)(a)(II), and
14 the retail customer retains the renewable energy credit as part of a
15 voluntary renewable energy program.

16 **SECTION 13.** In Colorado Revised Statutes, 30-20-602, **amend**
17 (4.3)(b) as follows:

18 **30-20-602. Definitions.** As used in this part 6, unless the context
19 otherwise requires:

20 (4.3) "Qualified community location" means:

21 (b) If the affected local electric utility is an investor-owned utility,
22 a community solar garden, as that term is defined in section 40-2-127 (2),
23 C.R.S. If House Bill 10-1342 does not take effect, there shall be no
24 qualified community locations in the service territories of investor-owned
25 utilities. OR A COMMUNITY GEOTHERMAL GARDEN AS THAT TERM IS
26 DEFINED IN SECTION 42-2-127.5 (2).

27 **SECTION 14.** In Colorado Revised Statutes, 31-25-501, **amend**

1 (3.5)(b) as follows:

2 **31-25-501. Definitions.** As used in this part 5, unless the context
3 otherwise requires:

4 (3.5) "Qualified community location" means:

5 (b) If the affected local electric utility is an investor-owned utility,
6 a community solar garden as that term is defined in section 40-2-127 (2),
7 C.R.S. If House Bill 10-1342 does not take effect, there shall be no
8 qualified community locations in the service territories of investor-owned
9 utilities. OR A COMMUNITY GEOTHERMAL GARDEN AS THAT TERM IS
10 DEFINED IN SECTION 42-2-127.5 (2).

11 **SECTION 15.** In Colorado Revised Statutes, 40-2-129, **amend**
12 **(3)** as follows:

13 **40-2-129. New resource acquisitions - factors in determination**
14 **- local employment - "best value" metrics - performance audit.**

15 **(3) The provisions of this section regarding "best value" employment**
16 **metrics do not apply to projects involving retail distributed generation, as**
17 **defined in section 40-2-124 (1)(a)(VIII), or 40-2-127 (2)(b)(I)(B), or**
18 **40-2-127.5 (2)(b)(II).**

19 **SECTION 16.** In Colorado Revised Statutes, 40-9.5-106, **amend**
20 **(2)** as follows:

21 **40-9.5-106. Prohibited acts.** (2) No cooperative electric
22 **association, as to rates, charges, service, or facilities or as to any other**
23 **matter, shall make or grant any preference or advantage to any**
24 **corporation or person or subject any corporation or person to any**
25 **prejudice or disadvantage. No cooperative electric association shall**
26 **establish or maintain any unreasonable difference as to rates, charges,**
27 **service, or facilities or as to any other matter, either between localities or**

1 between any class of service. Notwithstanding section 40-6-108 (1)(b),
2 any complaint arising out of this subsection (2) signed by one or more
3 customers of such association shall be resolved by the public utilities
4 commission in accordance with the hearing and enforcement procedures
5 established in articles 6 and 7 of this title. A cooperative electric
6 association may approve any reasonable rate, charge, service,
7 classification, or facility that establishes a graduated rate for increased
8 energy consumption, for energy conservation and energy efficiency
9 purposes, by residential customers that is revenue-neutral for the class,
10 where revenue includes margins, expenses, riders, or charges as approved
11 by the cooperative electric association. The implementation of such rate,
12 charge, service, classification, or facility by a cooperative electric
13 association shall not be deemed to subject any person or corporation to
14 any prejudice, disadvantage, or undue discrimination. In adopting such
15 rate, a cooperative electric association shall give due consideration to the
16 impact of such rates on low-income customers. A cooperative electric
17 association may utilize a community energy fund as contemplated by
18 section 40-2-127 SECTIONS 40-2-127 AND 40-2-127.5 for energy
19 efficiency, energy conservation, weatherization, and renewable energy
20 purposes. A cooperative electric association shall not apply such rate to
21 consumers that have single meters that record energy consumption for
22 combined residential and agricultural uses.

23 **SECTION 17. Appropriation.** For the 2022-23 state fiscal year,
24 \$15,000 is appropriated to the office of the governor for use by the
25 colorado energy office. This appropriation is from the general fund. To
26 implement this act, the office may use this appropriation for program
27 administration.

1 **SECTION 18. Act subject to petition - effective date.** This act
2 takes effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly; except
4 that, if a referendum petition is filed pursuant to section 1 (3) of article V
5 of the state constitution against this act or an item, section, or part of this
6 act within such period, then the act, item, section, or part will not take
7 effect unless approved by the people at the general election to be held in
8 November 2022 and, in such case, will take effect on the date of the
9 official declaration of the vote thereon by the governor.