

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 19-0429.01 Thomas Morris x4218

SENATE BILL 19-096

SENATE SPONSORSHIP

Donovan, Bridges, Court, Fenberg, Foote, Ginal, Lee, Pettersen, Story, Williams A., Winter

HOUSE SPONSORSHIP

Hansen,

Senate Committees

Transportation & Energy
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE COLLECTION OF GREENHOUSE GAS EMISSIONS DATA**
102 **TO FACILITATE THE IMPLEMENTATION OF MEASURES THAT**
103 **WOULD MOST COST-EFFECTIVELY ALLOW THE STATE TO MEET**
104 **ITS GREENHOUSE GAS EMISSIONS REDUCTION GOALS, AND, IN**
105 **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 requires the air quality control commission in the department of public health and environment to collect greenhouse gas

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

SENATE
3rd Reading Unamended
April 22, 2019

SENATE
Amended 2nd Reading
April 18, 2019

emissions data from greenhouse gas-emitting entities, report on the data, including a forecast of future emissions, and propose a draft rule to address the emissions by July 1, 2020.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add 25-7-140** as
3 follows:

4 **25-7-140. Greenhouse gas emissions - data collection -**
5 **legislative declaration - rules - reporting - forecasting - public**
6 **information - definitions. (1) Legislative declaration.** THE GENERAL
7 ASSEMBLY HEREBY:

8 (a) FINDS THAT:

9 (I) GREENHOUSE GAS EMISSIONS REPORTING REQUIREMENTS WERE
10 FIRST ESTABLISHED IN COLORADO IN 2008 WITH EXECUTIVE ORDER D
11 004-08. THE POLICIES ESTABLISHED BY THIS EXECUTIVE ORDER WERE
12 CONTINUED UNDER THE NEXT GOVERNOR AND REQUIRE THE DEPARTMENT
13 OF PUBLIC HEALTH AND ENVIRONMENT TO REPORT EVERY FIVE YEARS ON
14 ESTIMATES OF GREENHOUSE GAS EMISSIONS BY SECTOR. THE LAST REPORT
15 BY THE DEPARTMENT WAS ISSUED IN 2014 AND THE NEXT REPORT IS DUE
16 IN 2019.

17 (II) EXECUTIVE ORDER D 2017-015 DIRECTED THE DEPARTMENT
18 TO PROPOSE A STATE GREENHOUSE GAS REPORTING RULE THAT MIRRORS
19 THE CURRENT FEDERAL REPORTING RULE, 40 CFR 98, BY DECEMBER 30,
20 2018, AND ESTABLISHED THE FOLLOWING GOALS:

21 (A) REDUCING GREENHOUSE GAS EMISSIONS STATEWIDE BY MORE
22 THAN TWENTY-SIX PERCENT BELOW 2005 LEVELS BY 2025;

23 (B) REDUCING CARBON DIOXIDE EMISSIONS FROM THE
24 ELECTRICITY SECTOR BY TWENTY-FIVE PERCENT BELOW 2012 LEVELS BY

1 2025 AND THIRTY-FIVE PERCENT BELOW 2012 LEVELS BY 2030; AND
2 (C) REDUCING ELECTRICITY SALES BY TWO PERCENT BY 2020
3 THROUGH COST-EFFECTIVE ENERGY EFFICIENCY MEASURES;
4 (b) DETERMINES THAT:
5 (I) IT IS IN THE STATE'S INTEREST TO LEVERAGE DATA COLLECTED
6 AND ANALYSES CONDUCTED FOR ITS GREENHOUSE GAS EMISSIONS
7 INVENTORIES AND FORECASTS AND MAKE DATA SETS AVAILABLE TO LOCAL
8 GOVERNMENTS;
9 (II) WHILE OTHER STATES HAVE IDENTIFIED AND ADOPTED
10 GREENHOUSE GAS EMISSIONS REPORTING, INVENTORY, AND FORECAST
11 METHODOLOGIES THAT MORE EFFECTIVELY ACHIEVE THE FOLLOWING
12 PURPOSES, THE 2014 INVENTORY PERFORMED BY THE DEPARTMENT DID
13 NOT UTILIZE DATA THAT:
14 (A) MOST ACCURATELY ACCOUNTED FOR GREENHOUSE GAS
15 EMISSIONS IN CERTAIN SECTORS;
16 (B) EFFECTIVELY TRACKED PROGRESS ON REDUCING EMISSIONS;
17 OR
18 (C) ENABLED IDENTIFICATION OF EFFECTIVE STRATEGIES;
19 (III) WITH ONLY TWO MORE REPORTS ON GREENHOUSE GAS
20 EMISSIONS COMING DUE, IN 2019 AND 2024, BEFORE THE 2025 TARGET OF
21 EXECUTIVE ORDER D 2017-015, THERE IS INSUFFICIENT INFORMATION TO
22 ACCURATELY MEASURE PROGRESS AND IDENTIFY STEPS TO ACHIEVE THE
23 GOALS ESTABLISHED IN THE GOVERNOR'S 2017 ORDER;
24 (IV) BY COLLECTING AND DISSEMINATING BETTER INFORMATION
25 ON GREENHOUSE GAS EMISSIONS, COLORADO CAN MORE EFFECTIVELY
26 QUANTIFY EMISSIONS TRENDS, TRACK PROGRESS, AND IDENTIFY
27 POTENTIAL AREAS OF GREATEST IMPACT ON THE STATE'S GREENHOUSE GAS

1 EMISSIONS PROFILE TO FACILITATE THE IMPLEMENTATION OF MEASURES
2 THAT WOULD MOST COST-EFFECTIVELY ALLOW THE STATE TO MEET ITS
3 GREENHOUSE GAS EMISSIONS REDUCTION GOALS; AND

4 (V) DATA COLLECTION SHOULD:

5 (A) BE BOTH TIMELY AND ACCURATE, AND THE COLLECTED DATA
6 SHOULD BE MADE AVAILABLE TO THE PUBLIC; AND

7 (B) SUPPORT EMISSIONS TRACKING AND INFORM POTENTIAL
8 APPROACHES TO ACHIEVING THE STATE'S GREENHOUSE GAS EMISSIONS
9 REDUCTION GOALS; AND

10 (c) DECLARES THAT IT IS IN THE STATE'S INTEREST TO OBTAIN
11 ACCURATE MEASUREMENTS OF GREENHOUSE GAS EMISSIONS IN ORDER TO
12 TRACK PROGRESS AND IDENTIFY THE MOST EFFECTIVE STRATEGIES FOR
13 THE STATE TO ACHIEVE EXISTING AND FUTURE TARGETS FOR POLLUTION
14 REDUCTION.

15 (2) **Rules.** THE COMMISSION SHALL:

16 (a) BY DECEMBER 30, 2019, PROMULGATE RULES THAT MIRROR 40
17 CFR 98 TO REQUIRE THE SUBMISSION OF THE BEST INFORMATION
18 AVAILABLE FROM EMITTING ENTITIES WHILE ALSO USING DATA THAT IS
19 ALREADY BEING COLLECTED, INCLUDING PURSUANT TO FEDERAL LAW, AND
20 INFORMATION THAT IS ALREADY AVAILABLE TO MAKE THE DATA
21 COLLECTION AS EFFICIENT AS POSSIBLE. THE RULES MUST:

22 (I) DEFINE THE CLASS OF EMITTING ENTITIES THAT MUST REPORT
23 GREENHOUSE GAS EMISSIONS AND, FOR THIS PURPOSE, THE RULES MAY USE
24 THE ENTITIES THAT ARE SUBJECT TO REPORTING PURSUANT TO 40 CFR 98
25 OR MAY EXPAND THAT CLASS;

26 (II) IMPLEMENT MEASURES TO COLLECT AND REPORT STATEWIDE
27 AND ECONOMY-WIDE GREENHOUSE GAS EMISSIONS INFORMATION ON AN

1 ANNUAL BASIS; AND

2 (III) IMPLEMENT MEASURES TO COLLECT THE BEST INFORMATION
3 REASONABLY AVAILABLE FROM EMITTING ENTITIES IN ORDER TO
4 INVENTORY AND TRACK EMISSIONS WITH A HIGH DEGREE OF ACCURACY.

5 (b) BY JULY 1, 2020, PUBLISH A NOTICE OF PROPOSED
6 RULE-MAKING THAT PROPOSES RULES TO IMPLEMENT MEASURES THAT
7 WOULD MOST COST-EFFECTIVELY ALLOW THE STATE TO MEET ITS
8 GREENHOUSE GAS EMISSIONS REDUCTION GOALS.

9 (3) **Reporting.** IN CARRYING OUT ITS DUTIES PURSUANT TO THIS
10 SECTION, THE COMMISSION OR, IF APPROPRIATE, THE DIVISION:

11 (a) MAY REQUIRE EMITTING ENTITIES TO:

12 (I) REPORT THEIR GREENHOUSE GAS EMISSIONS AND OTHER
13 ASSOCIATED INFORMATION TO THE STATE ON A TIMELY, ANNUAL, AND
14 ECONOMY-WIDE BASIS THAT ALIGNS WITH THE TIMING OF REQUIRED
15 FEDERAL GREENHOUSE GAS REPORTING;

16 (II) REPORT THE BEST REASONABLY AVAILABLE DATA THAT IS
17 ALREADY BEING COLLECTED, INCLUDING PURSUANT TO FEDERAL LAW; AND

18 (III) REPORT, IN METRIC TONS, THE AMOUNT OF EMISSIONS OF
19 EACH OF THE SEVEN INDIVIDUAL COMPONENTS OF GREENHOUSE GASES AS
20 WELL AS THE CARBON DIOXIDE EQUIVALENT OF THOSE EMISSIONS.

21 (b) MAY ESTABLISH A REPORTING REQUIREMENT THRESHOLD THAT
22 IS APPROPRIATE FOR COLORADO; AND

23 (c) SHALL:

24 (I) CONDUCT AN ANNUAL, STATEWIDE AND ECONOMY-WIDE
25 INVENTORY OF GREENHOUSE GAS EMISSIONS BY SECTOR;

26 (II) IDENTIFY THE MOST COST-EFFECTIVE MECHANISMS FOR
27 TRACKING THE DATA COLLECTED WHILE ENSURING THE HIGHEST LEVEL OF

1 DATA ACCURACY THAT IS REASONABLE TO OBTAIN;

2 (III) PRODUCE THE FIRST COMPREHENSIVE INVENTORY ON OR
3 BEFORE DECEMBER 30, 2020, FOR EMISSIONS IN CALENDAR YEAR 2018
4 AND THEN ANNUALLY THEREAFTER;

5 (IV) WHEN ADOPTING AN INVENTORY REPORTING METHODOLOGY,
6 ATTEMPT TO:

7 (A) ACHIEVE HIGH ACCURACY IN THE MEASUREMENT OF
8 GREENHOUSE GAS EMISSIONS, EXCEPT WITH REGARD TO EMISSIONS THAT
9 ONLY SLIGHTLY EXCEED THE REPORTING THRESHOLD SO THAT HIGH
10 ACCURACY WOULD NOT PRODUCE MORE ACTIONABLE RESULTS;

11 (B) ENSURE SUFFICIENT GRANULARITY TO REFLECT CHANGES
12 RESULTING FROM ACTIONS TAKEN ON A STATEWIDE BASIS TO ADDRESS
13 CLIMATE CHANGE;

14 ==

15 (C) PRODUCE USEFUL AND ACTIONABLE RESULTS;

16 (D) CREATE DATA THAT IS COMPARABLE WITH INVENTORIES FROM
17 PREVIOUS YEARS;

18 (E) ENABLE GREENHOUSE GAS EMISSIONS FORECASTING; AND

19 (F) MAKE STATE-LEVEL FOUNDATIONAL DATA AVAILABLE TO
20 LOCAL JURISDICTIONS AND IN OTHER WAYS ENABLE THOSE JURISDICTIONS
21 TO IMPROVE THE QUALITY OF THEIR OWN LOCAL EMISSIONS INVENTORIES;

22 (V) RECALCULATE THE 2005 EMISSIONS INVENTORY TO THE
23 EXTENT POSSIBLE, USING THE INVENTORY REPORTING METHODOLOGY
24 ADOPTED PURSUANT TO SUBSECTION (3)(c)(IV) OF THIS SECTION; AND

25 (VI) PERFORM ADDITIONAL RECALCULATIONS IF THE COMMISSION
26 MAKES SUBSEQUENT CHANGES TO THE METHODOLOGY THAT WOULD
27 SIGNIFICANTLY AFFECT PREVIOUS INVENTORY RESULTS.

1 (4) **Forecasting.** (a) THE DIVISION SHALL FORECAST COLORADO'S
2 GREENHOUSE GAS EMISSIONS FOR EVERY FIVE YEARS THROUGH 2050
3 USING THE INVENTORY REPORTING METHODOLOGY ADOPTED PURSUANT TO
4 SUBSECTION (3)(c)(IV) OF THIS SECTION; EXCEPT THAT THE COMMISSION
5 CAN SPECIFY A DIFFERENT PERIOD IF IT DETERMINES THAT AN EARLIER
6 FORECAST IS NEEDED DUE TO THE OCCURRENCE OF AN EXTRAORDINARY
7 EVENT THAT WOULD SIGNIFICANTLY AFFECT THE FORECAST. THE
8 FORECAST MUST CONSIDER AT LEAST THREE SCENARIOS, INCLUDING NO
9 ADDITIONAL ACTION TAKEN ON A STATEWIDE BASIS TO ADDRESS CLIMATE
10 CHANGE, A LOW LEVEL OF ACTION TAKEN ON A STATEWIDE BASIS TO
11 ADDRESS CLIMATE CHANGE, AND A HIGH LEVEL OF ACTION TAKEN ON A
12 STATEWIDE BASIS TO ADDRESS CLIMATE CHANGE.

13 (b) IN SELECTING A METHODOLOGY TO CONDUCT THE FORECAST,
14 THE DIVISION SHALL:

15 (I) PROVIDE FORECASTS AT MULTIPLE MILESTONE YEARS,
16 INCLUDING 2030 AND 2050;

17 (II) USE LOCAL DATA TO FORECAST STATEWIDE TRENDS WHEN
18 POSSIBLE;

19 (III) INCLUDE CONSIDERATION OF FORECASTS FOR POPULATION
20 GROWTH AND CURRENT LOCAL AND STATE DATA ON HOUSING, MOBILITY,
21 AND OTHER DEMOGRAPHIC CRITERIA; AND

22 (IV) CHOOSE A METHODOLOGY THAT:

23 (A) CAN BE READILY USED TO MODEL MULTIPLE SCENARIOS; AND

24 (B) IS TRANSPARENT ABOUT WHICH FACTORS HAVE THE MOST
25 INFLUENCE OVER THE FORECAST RESULTS.

26 (5) **Public information.** THE DIVISION SHALL:

27 (a) PUBLICLY RELEASE THE FINDINGS OF THE ANNUAL INVENTORY

1 ON THE DIVISION'S WEBSITE AND MAINTAIN THE DATA THROUGH AT LEAST
2 2030; AND

3 (b) NOTWITHSTANDING 24-1-136 (11), REPORT THE FINDINGS TO
4 THE GOVERNOR, THE PUBLIC UTILITIES COMMISSION, AND THE GENERAL
5 ASSEMBLY.

6 (6) **Definition.** FOR THE PURPOSES OF THIS SECTION, "GREENHOUSE
7 GAS" MEANS CARBON DIOXIDE (CO₂), METHANE (CH₄), NITROUS OXIDE
8 (N₂O), HYDROFLUOROCARBONS (HFCs), PERFLUOROCARBONS (PFCs),
9 SULFUR HEXAFLUORIDE (SF₆), AND NITROGEN TRIFLUORIDE (NF₃).

10 **SECTION 2. Appropriation.** (1) For the 2019-20 state fiscal
11 year, \$1,680,600 is appropriated to the department of public health and
12 environment. This appropriation is from the general fund. To implement
13 this act, the department may use this appropriation as follows:

14 (a) \$331,720 for use by the air pollution control division for
15 program costs, which amount is based on an assumption that the division
16 will require an additional 3.8 FTE; and

17 (b) \$1,348,880 for the purchase of information technology
18 services.

19 (2) For the 2019-20 state fiscal year, \$1,348,880 is appropriated
20 to the office of the governor for use by the office of information
21 technology. This appropriation is from reappropriated funds received
22 from the department of public health and environment under subsection
23 (1)(b) of this section. To implement this act, the office may use this
24 appropriation to provide information technology services for the
25 department of public health and environment.

26 **SECTION 3. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly (August
2 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
3 referendum petition is filed pursuant to section 1 (3) of article V of the
4 state constitution against this act or an item, section, or part of this act
5 within such period, then the act, item, section, or part will not take effect
6 unless approved by the people at the general election to be held in
7 November 2020 and, in such case, will take effect on the date of the
8 official declaration of the vote thereon by the governor.