

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0346.01 Ed DeCecco x4216

SENATE BILL 22-118

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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

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Senate Committees

State, Veterans, & Military Affairs

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE ENCOURAGEMENT OF THE USE OF GEOTHERMAL  
102 ENERGY BY PROVIDING SIMILAR TREATMENT TO SOLAR ENERGY.

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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>.)*

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 (office) to develop basic consumer education and guidance

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.

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.

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

**SECTION 1.** In Colorado Revised Statutes, 24-38.5-102, **amend** (1)(u); and **add** (4) as follows:

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

(u) (I) Develop basic consumer education or guidance about leased solar OR GEOTHERMAL installation and purchased solar OR GEOTHERMAL installation in consultation with industries that offer these options to consumers.

(II) AS USED IN THIS SUBSECTION (1)(u), "GEOTHERMAL INSTALLATION" MEANS THE INSTALLATION OF ANY EQUIPMENT THAT USES THE HEAT OF THE EARTH TO GENERATE ELECTRICITY OR TO HEAT OR COOL SPACE OR WATER.

(4) THE COLORADO ENERGY OFFICE SHALL UPDATE THE GREENHOUSE GAS POLLUTION REDUCTION ROADMAP, PUBLISHED BY THE OFFICE AND DATED JANUARY 14, 2021, OR AS AMENDED THEREAFTER, 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 GREENHOUSE GAS POLLUTION REDUCTION ROADMAP.

**SECTION 2.** In Colorado Revised Statutes, 24-48.5-113, **amend**

1 (1)(a) introductory portion and (1)(e) as follows:

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

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

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

12 (II) "GEOTHERMAL ENERGY SYSTEM" MEANS A SINGLE SYSTEM  
13 THAT USES THE HEAT OF THE EARTH TO GENERATE ELECTRICITY OR TO  
14 HEAT OR COOL SPACE OR WATER.

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

17 **25-6.5-201. Definitions.** As used in this part 2, unless the context  
18 otherwise requires:

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

1 THE EARTH TO GENERATE ELECTRICITY OR TO HEAT OR COOL SPACE OR  
2 WATER.

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

5 **29-3-103. Definitions.** As used in this ~~article~~ ARTICLE 3, unless  
6 the context otherwise requires:

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

12 (m) Capital improvements to existing single-family residential,  
13 multi-family residential, commercial, or industrial structures, to retrofit  
14 such structures for significant energy savings or installation of  
15 GEOTHERMAL IMPROVEMENTS TO GENERATE ELECTRICITY OR TO HEAT OR  
16 COOL SPACE OR WATER OR solar or other alternative electrical  
17 energy-producing improvements to serve that structure or other structures  
18 on contiguous property under common ownership.

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

21 **30-28-106. Adoption of master plan - contents.** (3) (a) The  
22 master plan of a county or region, with the accompanying maps, plats,  
23 charts, and descriptive and explanatory matter, must show the county or  
24 regional planning commission's recommendations for the development of  
25 the territory covered by the plan. The master plan of a county or region is  
26 an advisory document to guide land development decisions; however, the  
27 plan or any part thereof may be made binding by inclusion in the county's

1 or region's adopted subdivision, zoning, platting, planned unit  
2 development, or other similar land development regulations after  
3 satisfying notice, due process, and hearing requirements for legislative or  
4 quasi-judicial processes as appropriate. After consideration of each of the  
5 following, where applicable or appropriate, the master plan may include:

6 (VI) Methods for assuring access to appropriate conditions for  
7 solar, wind, or other alternative energy sources OR FOR GEOTHERMAL  
8 ENERGY USED TO GENERATE ELECTRICITY OR TO HEAT OR COOL SPACE OR  
9 WATER;

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

12 **30-28-113. Regulation of size and use - districts - definitions -**  
13 **repeal.** (1) (b) (II) (A) Except as otherwise provided in this section, the  
14 aggregate of all charges or other related or associated fees a county shall  
15 impose or assess to install an active solar energy system OR GEOTHERMAL  
16 ENERGY SYSTEM, shall not exceed the lesser of the county's actual costs  
17 in issuing the permit or five hundred dollars for a residential application  
18 or one thousand dollars for a nonresidential application if the device or  
19 system produces fewer than two megawatts of direct current electricity or  
20 an equivalent-sized thermal energy system, or that exceed the county's  
21 actual costs in issuing the permit if the device or system produces at least  
22 two megawatts of direct current electricity or an equivalent-sized thermal  
23 energy system. A county may increase its fees or other charges as  
24 authorized by this subsection (1)(b)(II) by no more than five percent on  
25 an annual basis until the five hundred dollar limitation specified in this  
26 subsection (1)(b)(II) is achieved. The county shall clearly and individually  
27 identify all fees and taxes assessed on an application subject to this

1 subsection (1)(b)(II) on the invoice. The general assembly hereby finds  
2 that there is a statewide need for certainty regarding the fees that can be  
3 assessed for permitting such devices or systems, and therefore declares  
4 that this subsection (1)(b)(II) is a matter of statewide concern. This  
5 subsection (1)(b)(II) is repealed, effective December 31, 2029.

6 (C) As used in this subsection (1)(b)(II), "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 SINGLE SYSTEM THAT USES  
10 THE HEAT OF THE EARTH TO GENERATE ELECTRICITY OR TO HEAT OR COOL  
11 SPACE OR WATER.

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

14 **30-28-120. Existing structures - county property.** (1) The  
15 lawful use of a building or structure or the lawful use of any land, as  
16 existing and lawful at the time of the adoption of a zoning resolution or,  
17 in the case of an amendment of a resolution, at the time of such  
18 amendment, may be continued, although such use does not conform with  
19 the provisions of such resolution or amendment, and such use may be  
20 extended throughout the same building if no structural alteration of such  
21 building is proposed or made for the purpose of such extension. The  
22 addition of a solar energy device OR A GEOTHERMAL ENERGY DEVICE,  
23 WHICH INCLUDES ANY DEVICE THAT USES THE HEAT OF THE EARTH TO  
24 GENERATE ELECTRICITY OR TO HEAT OR COOL SPACE OR WATER, to such  
25 building shall not necessarily be considered a structural alteration. The  
26 board of county commissioners may provide in any zoning resolution for  
27 the restoration, reconstruction, extension, or substitution of

1 nonconforming uses upon such terms and conditions as may be set forth  
2 in the zoning resolution.

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

5 **31-15-602. Energy efficient building codes - legislative**  
6 **declaration - definitions - repeal.** (4) (b) (I) (A) Except as otherwise  
7 provided in this section, the aggregate of all charges or other related or  
8 associated fees a municipality shall impose or assess to install an active  
9 solar electric or solar thermal device or system OR A GEOTHERMAL  
10 ENERGY SYSTEM shall not exceed the lesser of the municipality's actual  
11 costs in issuing the permit or five hundred dollars for a residential  
12 application or one thousand dollars for a nonresidential application if the  
13 device or system produces fewer than two megawatts of direct current  
14 electricity or an equivalent-sized thermal energy system, or that exceed  
15 the municipality's actual costs in issuing the permit if the device or system  
16 produces at least two megawatts of direct current electricity or an  
17 equivalent-sized thermal energy system. A municipality may increase its  
18 fees or other charges as authorized by this subsection (4)(b)(I) by no more  
19 than five percent on an annual basis until the five hundred dollar  
20 limitation specified in this subsection (4)(b)(I) is achieved. The  
21 municipality shall clearly and individually identify all fees and taxes  
22 assessed on an application subject to this subsection (4)(b)(I) on the  
23 invoice. The general assembly hereby finds that there is a statewide need  
24 for certainty regarding the fees that can be assessed for permitting such  
25 devices or systems, and therefore declares that this subsection (4)(b) is a  
26 matter of statewide concern.

27 (C) As used in this subsection (4)(b)(I), "active solar energy



1 system" means a single system that contains electric generation, a thermal  
2 device, or is an energy storage system as defined in section 40-2-202 (2),  
3 AND "GEOHERMAL ENERGY SYSTEM" MEANS A SINGLE SYSTEM THAT USES  
4 THE HEAT OF THE EARTH TO GENERATE ELECTRICITY OR TO HEAT OR COOL  
5 SPACE OR WATER.

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

8 **31-23-206. Master plan.** (1) It is the duty of the commission to  
9 make and adopt a master plan for the physical development of the  
10 municipality, including any areas outside its boundaries, subject to the  
11 approval of the governmental body having jurisdiction thereof, that in the  
12 commission's judgment bear relation to the planning of the municipality.  
13 The master plan of a municipality is an advisory document to guide land  
14 development decisions; however, the plan or any part thereof may be  
15 made binding by inclusion in the municipality's adopted subdivision,  
16 zoning, platting, planned unit development, or other similar land  
17 development regulations after satisfying notice, due process, and hearing  
18 requirements for legislative or quasi-judicial processes as appropriate.  
19 When a commission decides to adopt a master plan, the commission shall  
20 conduct public hearings, after notice of such public hearings has been  
21 published in a newspaper of general circulation in the municipality in a  
22 manner sufficient to notify the public of the time, place, and nature of the  
23 public hearing, prior to final adoption of a master plan in order to  
24 encourage public participation in and awareness of the development of  
25 such plan and shall accept and consider oral and written public comments  
26 throughout the process of developing the plan. The plan, with the  
27 accompanying maps, plats, charts, and descriptive matter, must, after

1 consideration of each of the following, where applicable or appropriate,  
2 show the commission's recommendations for the development of the  
3 municipality and outlying areas, including:

4 (f) A zoning plan for the control of the height, area, bulk, location,  
5 and use of buildings and premises. Such a zoning plan may protect and  
6 assure access to appropriate conditions for solar, wind, or other  
7 alternative energy sources OR FOR GEOTHERMAL ENERGY USED TO  
8 GENERATE ELECTRICITY OR TO HEAT OR COOL SPACE OR WATER; however,  
9 regulations and restrictions of the height, number of stories, size of  
10 buildings and other structures, and the height and location of trees and  
11 other vegetation shall not apply to existing buildings, structures, trees, or  
12 vegetation except for new growth on such vegetation.

13 **SECTION 10.** In Colorado Revised Statutes, 35-75-205, **amend**  
14 (1) as follows:

15 **35-75-205. Grants, loans and loan guarantees, and equity**  
16 **investments - agriculture value-added cash fund - created - report -**  
17 **definition - repeal.** (1) (a) Money received by the board from public or  
18 private gifts, grants, or donations or from any other source shall be  
19 forwarded to the state treasurer and shall be credited to the agriculture  
20 value-added cash fund, which fund is hereby created. Money in the fund  
21 is continuously appropriated to the board and shall be used for the  
22 purpose of preparing criteria and reviewing applications as provided in  
23 section 35-75-204 and for financial or technical assistance to agricultural  
24 projects, project concepts, and research as approved by the board. All  
25 interest earned on the investment of money in the fund shall be credited  
26 to the fund. The board may provide or facilitate grants, loans and loan  
27 guarantees, and equity investments for agricultural projects, project

1 concepts, or research; except that such grants, loans and loan guarantees,  
2 and equity investments shall be limited to two million dollars per project  
3 and, of the money transferred to the fund pursuant to subsection (4)(a) of  
4 this section, the board shall allocate at least one hundred fifty thousand  
5 dollars to research, guidance, technical assistance, feasibility studies, and  
6 projects related to agrivoltaics OR GEOVOLTAICS. Grants, loans and loan  
7 guarantees, and equity investments may only be provided to feasible  
8 projects and for an amount that is the least amount necessary to cause the  
9 project to occur, as determined by the board. The board may structure the  
10 grants, loans and loan guarantees, and equity investments in a way that  
11 facilitates the project and also provides for a compensatory return on  
12 investment or loan payment to the board based on the risk of the project.  
13 Any money credited to the agriculture value-added cash fund and  
14 unexpended at the end of any given fiscal year shall remain in the fund  
15 and shall not revert to the general fund or any other fund.

16 (b) As used in this section:

17 (I) "Agrivoltaics" means one or more solar energy generation  
18 facilities colocated on the same parcel of land as agricultural production,  
19 including crop production, grazing, apiaries, or other production of  
20 agricultural commodities for sale in the retail or wholesale market.

21 (II) "GEOVOLTAICS" MEANS ONE OR MORE GEOTHERMAL ENERGY  
22 GENERATION FACILITIES COLOCATED ON THE SAME PARCEL OF LAND AS  
23 AGRICULTURAL PRODUCTION, INCLUDING CROP PRODUCTION, GRAZING  
24 APIARIES, OR OTHER PRODUCTION OF AGRICULTURAL COMMODITIES FOR  
25 SALE IN THE RETAIL OR WHOLESALE MARKET.

26 **SECTION 11.** In Colorado Revised Statutes, 38-30-168, **amend**  
27 (1)(b) as follows:

1           **38-30-168. Unreasonable restrictions on renewable energy**  
2 **generation devices - definitions.** (1) (b) As used in this section,  
3 "renewable energy generation device" means: ~~either:~~

4           (I) A solar energy device, as defined in section 38-32.5-100.3; ~~or~~

5           (II) A wind-electric generator that meets the interconnection  
6 standards established in rules promulgated by the public utilities  
7 commission pursuant to section 40-2-124; ~~C.R.S.~~ OR

8           (III) A GEOTHERMAL ENERGY DEVICE.

9           **SECTION 12.** In Colorado Revised Statutes, 39-1-102, **add** (6.7)  
10 as follows:

11           **39-1-102. Definitions.** As used in articles 1 to 13 of this title 39,  
12 unless the context otherwise requires:

13           (6.7) "INDEPENDENTLY OWNED RESIDENTIAL GEOTHERMAL  
14 SYSTEM" MEANS PERSONAL PROPERTY THAT:

15           (a) IS LOCATED ON RESIDENTIAL REAL PROPERTY;

16           (b) IS OWNED BY A PERSON OTHER THAN THE OWNER OF THE  
17 RESIDENTIAL REAL PROPERTY;

18           (c) IS USED ON THE RESIDENTIAL REAL PROPERTY;

19           (d) USES THE HEAT OF THE EARTH TO GENERATE ELECTRICITY OR  
20 TO HEAT OR COOL SPACE OR WATER; AND

21           (e) IF THE SYSTEM GENERATES ELECTRICITY:

22           (I) IS INSTALLED ON THE CUSTOMER'S SIDE OF THE METER; AND

23           (II) HAS A PRODUCTION CAPACITY OF NO MORE THAN ONE  
24 HUNDRED KILOWATTS.

25           **SECTION 13.** In Colorado Revised Statutes, 39-3-102, **amend**  
26 (1) as follows:

27           **39-3-102. Household furnishings - exemption.** (1) Household

1 furnishings, including free-standing household appliances, wall-to-wall  
2 carpeting, an independently owned residential solar electric generation  
3 facility, AN INDEPENDENTLY OWNED RESIDENTIAL GEOTHERMAL SYSTEM,  
4 and security devices and systems that are not used for the production of  
5 income at any time shall be exempt from the levy and collection of  
6 property tax. If any household furnishings are used for the production of  
7 income for any period of time during the taxable year, such household  
8 furnishings shall be taxable for the entire taxable year. An independently  
9 owned residential solar electric generation facility shall not be considered  
10 to be used for the production of income unless the facility produces  
11 income for the owner of the residential real property on which the facility  
12 is located. For property tax purposes only, rebates, offsets, credits, and  
13 reimbursements specified in section 40-2-124 C.R.S., shall not constitute  
14 the production of income. For purposes of this subsection (1), for  
15 property tax purposes only, security devices and systems shall include, but  
16 shall not be limited to, security doors, security bars, and alarm systems.

17 **SECTION 14.** In Colorado Revised Statutes, 40-2-127, **amend**  
18 (1), (2)(a), (2)(b)(II), (2)(b)(III), (3), (3.5) introductory portion, (3.5)(b)  
19 introductory portion, (4), (5)(a)(I), (5)(a)(IV), (5)(b), (5)(c), (5)(d), (5)(e),  
20 (5)(f), and (6); and **add** (2)(a.5) as follows:

21 **40-2-127. Community energy funds - community solar gardens**  
22 **- community geothermal gardens - definitions - rules - legislative**  
23 **declaration - repeal.** (1) **Legislative declaration.** The general assembly  
24 hereby finds and declares that:

25 (a) Local communities can benefit from the further development  
26 of renewable energy, energy efficiency, conservation, and environmental  
27 improvement projects, and the general assembly hereby encourages

1 electric utilities to establish community energy funds for the development  
2 of such projects;

3 (b) It is in the public interest that broader participation in solar OR  
4 GEOTHERMAL electric generation by Colorado residents and commercial  
5 entities be encouraged by the development and deployment of distributed  
6 solar electric generating facilities known as community solar gardens, in  
7 order to:

8 (I) Provide Colorado residents and commercial entities with the  
9 opportunity to participate in solar OR GEOTHERMAL generation in addition  
10 to the opportunities available for rooftop solar generation on homes and  
11 businesses;

12 (II) Allow renters, low-income utility customers, and agricultural  
13 producers to own interests in solar OR GEOTHERMAL generation facilities;

14 (III) Allow interests in solar AND GEOTHERMAL generation  
15 facilities to be portable and transferrable; and

16 (IV) Leverage Colorado's solar AND GEOTHERMAL generating  
17 capacity through economies of scale.

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

20 (a) The definitions in section 40-2-124 apply; ~~and~~

21 (a.5) (I) "COMMUNITY GEOTHERMAL GARDEN" MEANS A  
22 GEOTHERMAL FACILITY THAT PRODUCES ELECTRICITY FROM THE EARTH'S  
23 HEAT WITH A NAMEPLATE RATING WITHIN THE RANGE SPECIFIED UNDER  
24 SUBSECTION (2)(a.5)(IV) OF THIS SECTION THAT IS LOCATED IN OR NEAR  
25 A COMMUNITY SERVED BY A QUALIFYING RETAIL UTILITY WHERE THE  
26 BENEFICIAL USE OF THE ELECTRICITY GENERATED BY THE FACILITY  
27 BELONGS TO THE SUBSCRIBERS TO THE COMMUNITY GEOTHERMAL

1 GARDEN. THERE MUST BE AT LEAST TEN SUBSCRIBERS. THE OWNER OF THE  
2 COMMUNITY GEOTHERMAL GARDEN MAY BE THE QUALIFYING RETAIL  
3 UTILITY OR ANY OTHER FOR-PROFIT OR NONPROFIT ENTITY OR  
4 ORGANIZATION, INCLUDING A SUBSCRIBER ORGANIZATION ORGANIZED  
5 UNDER THIS SECTION, THAT CONTRACTS TO SELL THE OUTPUT FROM THE  
6 COMMUNITY GEOTHERMAL GARDEN TO THE QUALIFYING RETAIL UTILITY.  
7 A COMMUNITY GEOTHERMAL GARDEN IS DEEMED TO BE "LOCATED ON THE  
8 SITE OF CUSTOMER FACILITIES".

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

11 (III) NOTWITHSTANDING ANY PROVISION OF THIS SECTION OR  
12 SECTION 40-2-124 TO THE CONTRARY, A COMMUNITY GEOTHERMAL  
13 GARDEN CONSTITUTES RETAIL DISTRIBUTED GENERATION FOR PURPOSES  
14 OF A COOPERATIVE ELECTRIC ASSOCIATION'S COMPLIANCE WITH THE  
15 APPLICABLE RENEWABLE ENERGY STANDARD UNDER SECTION 40-2-124.

16 (IV) A COMMUNITY GEOTHERMAL GARDEN MUST HAVE A  
17 NAMEPLATE RATING OF FIVE MEGAWATTS OR LESS; EXCEPT THAT THE  
18 COMMISSION MAY, IN RULES ADOPTED PURSUANT TO SUBSECTION (3)(b)  
19 OF THIS SECTION, APPROVE THE FORMATION OF A COMMUNITY  
20 GEOTHERMAL GARDEN WITH A NAMEPLATE RATING OF UP TO TEN  
21 MEGAWATTS ON OR AFTER JULY 1, 2023; AND

22 (b) In addition:

23 (II) "Subscriber" means a retail customer of a qualifying retail  
24 utility who owns a subscription and who has identified one or more  
25 physical locations to which the subscription is attributed. Such physical  
26 locations must be within the service territory of the same qualifying retail  
27 utility as the community solar garden OR COMMUNITY GEOTHERMAL

1 GARDEN. The subscriber may change from time to time the premises to  
2 which the community solar garden OR COMMUNITY GEOTHERMAL GARDEN  
3 electricity generation ~~shall be~~ ARE attributed, so long as the premises are  
4 within the same service territory.

5 (III) "Subscription" means a proportional interest in solar electric  
6 generation facilities installed at a community solar garden OR  
7 GEOTHERMAL ELECTRIC GENERATION FACILITIES INSTALLED AT A  
8 COMMUNITY GEOTHERMAL GARDEN, together with the renewable energy  
9 credits associated with or attributable to such facilities under section  
10 40-2-124. Each subscription ~~shall~~ MUST be sized to represent at least one  
11 kilowatt of the community solar garden's OR COMMUNITY GEOTHERMAL  
12 GARDEN'S generating capacity and to supply no more than one hundred  
13 twenty percent of the average annual consumption of electricity by each  
14 subscriber at the premises to which the subscription is attributed, with a  
15 deduction for the amount of any existing solar OR GEOTHERMAL facilities  
16 at such premises. Subscriptions in a community solar garden OR  
17 GEOTHERMAL SOLAR GARDEN may be transferred or assigned to a  
18 subscriber organization or to any person or entity who qualifies to be a  
19 subscriber under this section.

20 (3) **Subscriber organization - subscriber qualifications -**  
21 **transferability of subscriptions.** (a) The community solar garden OR  
22 COMMUNITY GEOTHERMAL GARDEN may be owned by a subscriber  
23 organization, whose sole purpose ~~shall be~~ IS beneficially owning and  
24 operating a community solar garden OR COMMUNITY GEOTHERMAL  
25 GARDEN. The subscriber organization may be any for-profit or nonprofit  
26 entity permitted by Colorado law. The community solar garden OR  
27 COMMUNITY GEOTHERMAL GARDEN may also be built, owned, and



1 operated by a third party under contract with the subscriber organization.

2 (b) The commission shall adopt rules as necessary to implement  
3 this section, including rules to facilitate the financing of  
4 subscriber-owned community solar gardens OR COMMUNITY GEOTHERMAL  
5 GARDENS. The rules must include:

6 (I) Minimum capitalization;

7 (II) The share of a community solar garden's eligible solar electric  
8 generation facilities OR COMMUNITY GEOTHERMAL GARDEN'S  
9 GEOTHERMAL ELECTRIC GENERATION FACILITIES that a subscriber  
10 organization may at any time own in its own name; and

11 (III) Authorizing subscriber organizations to enter into leases,  
12 sale-and-leaseback transactions, operating agreements, and other  
13 ownership arrangements with third parties.

14 (c) If a subscriber ceases to be a customer at the premises on  
15 which the subscription is based but, within a reasonable period as  
16 determined by the commission, becomes a customer at another premises  
17 in the service territory of the qualifying retail utility and within the  
18 geographic area served by the community solar garden OR COMMUNITY  
19 GEOTHERMAL GARDEN, the subscription ~~shall continue~~ CONTINUES in  
20 effect but the bill credit and other features of the subscription ~~shall be~~ ARE  
21 adjusted as necessary to reflect any differences between the new and  
22 previous premises' customer classification and average annual  
23 consumption of electricity.

24 (3.5) **Standards for construction and operation.** The following  
25 requirements apply to any community solar garden OR COMMUNITY  
26 GEOTHERMAL GARDEN exceeding two megawatts:

27 (b) Following the development or acquisition by a qualifying retail

1 utility of a community solar garden OR COMMUNITY GEOTHERMAL  
2 GARDEN in which the qualifying retail utility retains ownership, the  
3 qualifying retail utility shall either use its own employees to operate and  
4 maintain the community solar garden OR COMMUNITY GEOTHERMAL  
5 GARDEN or contract for operation and maintenance of the community  
6 solar garden OR COMMUNITY GEOTHERMAL GARDEN by a contractor whose  
7 employees have access to an apprenticeship program registered with the  
8 United States department of labor's office of apprenticeship or with a  
9 state apprenticeship council recognized by that office; except that this  
10 apprenticeship requirement does not apply to:

11 (4) **Community solar gardens and community geothermal**  
12 **gardens not subject to regulation.** Neither the owners of nor the  
13 subscribers to a community solar garden ~~shall be~~ OR COMMUNITY  
14 GEOTHERMAL GARDEN ARE considered public utilities subject to  
15 regulation by the commission solely as a result of their interest in the  
16 community solar garden. Prices paid for subscriptions in community solar  
17 gardens OR COMMUNITY GEOTHERMAL GARDENS shall not be subject to  
18 regulation by the commission.

19 (5) **Purchases of the output from community solar gardens or**  
20 **community geothermal gardens.** (a) (I) Each qualifying retail utility  
21 shall set forth in its plan for acquisition of renewable resources a plan to  
22 purchase the electricity and renewable energy credits generated from one  
23 or more community solar gardens OR COMMUNITY GEOTHERMAL GARDENS  
24 over the period covered by the plan.

25 (IV) For each qualifying retail utility's compliance years  
26 commencing in 2014 and thereafter, the commission shall determine the  
27 minimum and maximum purchases of electrical output from newly

1 installed community solar gardens OR COMMUNITY GEOTHERMAL  
2 GARDENS of different output capacity that the qualifying retail utility shall  
3 plan to acquire, without regard to the six-megawatt ceiling of the first  
4 three compliance years. In addition, as necessary, the commission shall  
5 formulate and implement policies consistent with this section that  
6 simultaneously encourage:

7 (A) The ownership by customers of subscriptions in community  
8 solar gardens AND COMMUNITY GEOTHERMAL GARDENS and of other  
9 forms of distributed generation, to the extent the commission finds there  
10 to be customer demand for such ownership;

11 (B) Ownership in community solar gardens AND COMMUNITY  
12 GEOTHERMAL GARDENS by residential retail customers and agricultural  
13 producers, including low-income customers, to the extent the commission  
14 finds there to be demand for such ownership;

15 (C) The development of community solar gardens AND  
16 COMMUNITY GEOTHERMAL GARDENS with attributes that the commission  
17 finds result in lower overall total costs for the qualifying retail utility's  
18 customers;

19 (D) Successful financing and operation of community solar  
20 gardens AND COMMUNITY GEOTHERMAL GARDENS owned by subscriber  
21 organizations; and

22 (E) The achievement of the goals and objectives of section  
23 40-2-124.

24 (b) (I) (A) The output from a community solar garden ~~shall~~ OR  
25 COMMUNITY GEOTHERMAL GARDEN MUST be sold only to the qualifying  
26 retail utility serving the geographic area where the community solar  
27 garden is located.

1 (B) Once a community solar garden OR COMMUNITY GEOTHERMAL  
2 GARDEN is part of a qualifying retail utility's plan for acquisition of  
3 renewable resources, as approved by the commission, the commission  
4 shall, by January 30, 2020, initiate a proceeding, or consider in an active  
5 proceeding, to determine whether the qualifying retail utility ~~shall~~ MUST  
6 purchase all of the electricity and renewable energy credits generated by  
7 the community solar garden OR COMMUNITY GEOTHERMAL GARDEN or  
8 whether a subscriber may, upon becoming a subscriber, choose to retain  
9 or sell to the qualifying retail utility the subscriber's renewable energy  
10 credits.

11 (C) The amount of electricity and renewable energy credits  
12 generated by each community solar garden ~~shall be~~ OR COMMUNITY  
13 GEOTHERMAL GARDEN IS determined by a production meter installed by  
14 the qualifying retail utility or third-party system owner and paid for by the  
15 owner of the community solar garden OR COMMUNITY GEOTHERMAL  
16 GARDEN.

17 (II) The purchase of the output of a community solar garden OR  
18 COMMUNITY GEOTHERMAL GARDEN by a qualifying retail utility ~~shall take~~  
19 TAKES the form of a net metering credit against the qualifying retail  
20 utility's electric bill to each community solar garden OR COMMUNITY  
21 GEOTHERMAL GARDEN subscriber at the premises set forth in the  
22 subscriber's subscription. The net metering credit ~~shall be~~ IS calculated by  
23 multiplying the subscriber's share of the electricity production from the  
24 community solar garden OR COMMUNITY GEOTHERMAL GARDEN by the  
25 qualifying retail utility's total aggregate retail rate as charged to the  
26 subscriber, minus a reasonable charge as determined by the commission  
27 to cover the utility's costs of delivering to the subscriber's premises the

1 electricity generated by the community solar garden OR COMMUNITY  
2 GEOTHERMAL GARDEN, integrating the solar OR GEOTHERMAL generation  
3 with the utility's system, and administering the community solar garden's  
4 OR COMMUNITY GEOTHERMAL GARDEN'S contracts and net metering  
5 credits. The commission shall ensure that this charge does not reflect  
6 costs that are already recovered by the utility from the subscriber through  
7 other charges. If, and to the extent that, a subscriber's net metering credit  
8 exceeds the subscriber's electric bill in any billing period, the net metering  
9 credit ~~shall be~~ IS carried forward and applied against future bills. The  
10 qualifying retail utility and the owner of the community solar garden ~~shall~~  
11 OR COMMUNITY GEOTHERMAL GARDEN MUST agree on whether the  
12 purchase of the renewable energy credits from subscribers will be  
13 accomplished through a credit on each subscriber's electricity bill or by  
14 a payment to the owner of the community solar garden OR COMMUNITY  
15 GEOTHERMAL GARDEN.

16 (c) The owner of the community solar garden OR COMMUNITY  
17 GEOTHERMAL GARDEN shall provide real-time production data to the  
18 qualifying retail utility to facilitate incorporation of the community solar  
19 garden OR COMMUNITY GEOTHERMAL GARDEN into the utility's operation  
20 of its electric system and to facilitate the provision of net metering  
21 credits.

22 (d) The owner of the community solar garden ~~shall be~~ OR  
23 COMMUNITY GEOTHERMAL GARDEN IS responsible for providing to the  
24 qualifying retail utility, on a monthly basis and within reasonable periods  
25 set by the qualifying retail utility, the percentage shares that should be  
26 used to determine the net metering credit to each subscriber. If the  
27 electricity output of the community solar garden OR COMMUNITY

1 GEOTHERMAL GARDEN is not fully subscribed, the qualifying retail utility  
2 shall purchase the unsubscribed renewable energy and the renewable  
3 energy credits at a rate equal to the qualifying retail utility's average  
4 hourly incremental cost of electricity supply over the immediately  
5 preceding calendar year.

6 (e) Each qualifying retail utility shall set forth in its plan for  
7 acquisition of renewable resources a proposal for including low-income  
8 customers as subscribers to a community solar garden. The utility may  
9 give preference to community solar gardens OR COMMUNITY  
10 GEOTHERMAL GARDENS that have low-income subscribers.

11 (f) Qualifying retail utilities ~~shall be~~ ARE eligible for the  
12 incentives and subject to the ownership limitations set forth in section  
13 40-2-124 (1)(f) for utility investments in community solar gardens OR  
14 COMMUNITY GEOTHERMAL GARDENS and may recover through rates a  
15 margin, in an amount determined by the commission, on all energy and  
16 renewable energy credits purchased from community solar gardens. Such  
17 incentive payments ~~shall be~~ ARE excluded from the cost analysis required  
18 by section 40-2-124 (1)(g).

19 (6) Nothing in this section ~~shall be construed to waive or~~  
20 ~~supersede~~ WAIVES OR SUPERSEDES the retail rate impact limitations in  
21 section 40-2-124 (1)(g). Utility expenditures for unsubscribed energy and  
22 renewable energy credits generated by community solar gardens ~~shall~~ OR  
23 COMMUNITY GEOTHERMAL GARDENS MUST be included in the calculations  
24 of retail rate impact required by that section.

25 **SECTION 15.** In Colorado Revised Statutes, 30-20-602, **amend**  
26 (4.3)(b) as follows:

27 **30-20-602. Definitions.** As used in this part 6, unless the context

1 otherwise requires:

2 (4.3) "Qualified community location" means:

3 (b) If the affected local electric utility is an investor-owned utility,  
4 a community solar garden, OR COMMUNITY GEOTHERMAL GARDEN as ~~that~~  
5 ~~term is~~ THOSE TERMS ARE defined in section 40-2-127 (2). ~~C.R.S. If~~  
6 ~~House Bill 10-1342 does not take effect, there shall be no qualified~~  
7 ~~community locations in the service territories of investor-owned utilities.~~

8 **SECTION 16.** In Colorado Revised Statutes, 31-25-501, **amend**  
9 (3.5)(b) as follows:

10 **31-25-501. Definitions.** As used in this part 5, unless the context  
11 otherwise requires:

12 (3.5) "Qualified community location" means:

13 (b) If the affected local electric utility is an investor-owned utility,  
14 a community solar garden, OR COMMUNITY GEOTHERMAL GARDEN as ~~that~~  
15 ~~term is~~ THOSE TERMS ARE defined in section 40-2-127 (2). ~~C.R.S. If~~  
16 ~~House Bill 10-1342 does not take effect, there shall be no qualified~~  
17 ~~community locations in the service territories of investor-owned utilities.~~

18 **SECTION 17. Act subject to petition - effective date.** This act  
19 takes effect at 12:01 a.m. on the day following the expiration of the  
20 ninety-day period after final adjournment of the general assembly; except  
21 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
22 of the state constitution against this act or an item, section, or part of this  
23 act within such period, then the act, item, section, or part will not take  
24 effect unless approved by the people at the general election to be held in  
25 November 2022 and, in such case, will take effect on the date of the  
26 official declaration of the vote thereon by the governor.