

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

**PREAMENDED**

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

LLS NO. 23-0186.01 Sarah Lozano x3858

**HOUSE BILL 23-1039**

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**HOUSE SPONSORSHIP**

**Bird,**

**SENATE SPONSORSHIP**

**Rodriguez and Winter F.,**

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**House Committees**

Energy & Environment  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING A REQUIREMENT THAT ELECTRIC LOAD-SERVING**  
102                    **ENTITIES PERIODICALLY REPORT ABOUT THE ADEQUACY OF**  
103                    **THEIR ELECTRIC RESOURCES.**

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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>.)*

On or before April 1, 2024, and on or before April 1 of each year thereafter, an entity with an obligation to provide retail or wholesale electricity services in the state (load-serving entity) must file with the entity responsible for approving the resource plans or rates of the load-serving entity (regulatory oversight entity) an annual report detailing

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



1 ENTRY INTO AN OPTIMAL ORGANIZED WHOLESALE MARKET, AS DEFINED IN  
2 SECTION 40-5-108 (1)(a), THAT WILL INCREASE THE EFFICIENT AND  
3 COST-EFFECTIVE USE OF CAPACITY RESOURCES AND ENABLE RESOURCE  
4 ADEQUACY ACROSS A BROADER FOOTPRINT THROUGHOUT THE STATE;

5 (c) THE NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION  
6 HAS IDENTIFIED RESOURCE ADEQUACY AND ENERGY RISKS IN THE  
7 WESTERN INTERCONNECTION OF THE ELECTRIC POWER GRID; AND

8 (d) COLORADO CAN BEGIN TO ADDRESS THESE RISKS BY ADDING  
9 RESOURCE ADEQUACY REPORTING REQUIREMENTS FOR ALL LOAD-SERVING  
10 ENTITIES TO HELP MEASURE THE SUFFICIENCY OF RELIABLE AND RESILIENT  
11 ELECTRIC SERVICE TO ALL COLORADO ELECTRICITY CUSTOMERS.

12 (2) THE GENERAL ASSEMBLY DECLARES THAT ALL LOAD-SERVING  
13 ENTITIES IN THE STATE SHOULD BE REQUIRED TO PROVIDE RESOURCE  
14 ADEQUACY ANNUAL REPORTS TO THE APPLICABLE REGULATORY  
15 OVERSIGHT ENTITY.

16 **40-43-103. Definitions.** AS USED IN THIS ARTICLE 43, UNLESS THE  
17 CONTEXT OTHERWISE REQUIRES:

18 (1) "ACCREDITED CAPACITY" MEANS THE CAPACITY VALUE GIVEN  
19 TO A PARTICULAR RESOURCE BASED ON NAMEPLATE CAPACITY AND THE  
20 EFFECTIVE LOAD-CARRYING CAPABILITY THAT IS APPLICABLE TO THE  
21 RESOURCE, AS IDENTIFIED AND EXPLAINED BY THE LOAD-SERVING ENTITY  
22 IN ITS RESOURCE ADEQUACY ANNUAL REPORT.

23 (2) "COLORADO ENERGY OFFICE" MEANS THE COLORADO ENERGY  
24 OFFICE CREATED IN SECTION 24-38.5-101 (1).

25 (3) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION  
26 CREATED IN SECTION 40-2-101 (1).

27 (4) (a) "LOAD-SERVING ENTITY" MEANS AN ENTITY WITH A

1 LOAD-SERVING OBLIGATION.

2 (b) "LOAD-SERVING ENTITY" INCLUDES:

3 (I) A COOPERATIVE ELECTRIC ASSOCIATION, AS DEFINED IN  
4 SECTION 40-9.5-102 (1), THAT HAS VOTED TO EXEMPT ITSELF FROM  
5 COMMISSION JURISDICTION PURSUANT TO ARTICLE 9.5 OF THIS TITLE 40;

6 (II) A JOINT ACTION AGENCY ESTABLISHED PURSUANT TO LAW;  
7 AND

8 (III) A MUNICIPAL UTILITY.

9 (5) "LOAD-SERVING OBLIGATION" MEANS AN OBLIGATION TO:

10 (a) PROVIDE RETAIL ENERGY, CAPACITY, OR ANCILLARY SERVICES  
11 TO SERVE ELECTRIC CUSTOMER LOAD; OR

12 (b) PROVIDE WHOLESALE ELECTRICITY TO AN ENTITY OBLIGATED  
13 TO PROVIDE RETAIL ENERGY, CAPACITY, OR ANCILLARY SERVICES TO  
14 SERVE ELECTRIC CUSTOMER LOAD.

15 (6) (a) "PLANNING RESERVE MARGIN" MEANS THE PROJECTED  
16 AMOUNT OF ADDITIONAL GENERATING CAPACITY AVAILABLE ON AN  
17 ANNUAL BASIS, ABOVE FORECASTED WEATHER-NORMALIZED LOADS, TO  
18 COVER FUTURE UNCERTAINTIES SUCH AS TEMPERATURE VARIATIONS AND  
19 RESOURCE OUTAGES.

20 (b) "PLANNING RESERVE MARGIN" IS REFLECTED AS A FRACTION  
21 THAT IS CALCULATED BY SUBTRACTING FIRM PEAK DEMAND FROM THE  
22 SUM OF ACCREDITED CAPACITY AND DIVIDING THE RESULTING NUMBER BY  
23 THE FIRM PEAK DEMAND.

24 (7) (a) "REGULATORY OVERSIGHT ENTITY" MEANS THE ENTITY  
25 RESPONSIBLE FOR APPROVING THE ELECTRIC RESOURCE PLANS OR THE  
26 RETAIL OR WHOLESALE RATES OF A LOAD-SERVING ENTITY WITH RESPECT  
27 TO A LOAD LOCATED IN THE STATE.

1 (b) "REGULATORY OVERSIGHT ENTITY" INCLUDES:

2 (I) THE APPLICABLE CITY COUNCIL OR GOVERNING BOARD FOR A  
3 MUNICIPAL UTILITY OR A JOINT ACTION AGENCY ESTABLISHED PURSUANT  
4 TO LAW;

5 (II) THE GOVERNING BOARD FOR A COOPERATIVE ELECTRIC  
6 ASSOCIATION; AND

7 (III) THE COMMISSION FOR A PUBLIC UTILITY.

8 (c) IF A LOAD-SERVING ENTITY DOES NOT HAVE AN APPLICABLE  
9 REGULATORY OVERSIGHT ENTITY, THE LOAD-SERVING ENTITY'S  
10 REGULATORY OVERSIGHT ENTITY FOR THE PURPOSES OF THIS ARTICLE 43  
11 IS THE COMMISSION.

12 (8) "RESOURCE ADEQUACY ANNUAL REPORT" MEANS AN ANNUAL  
13 REPORT THAT A LOAD-SERVING ENTITY IS REQUIRED TO PROVIDE TO THE  
14 APPLICABLE REGULATORY OVERSIGHT ENTITY PURSUANT TO SECTION  
15 40-43-104.

16 (9) "RESOURCE ADEQUACY REPORTING PERIOD" MEANS A PERIOD  
17 OF AT LEAST FIVE CONSECUTIVE YEARS BEGINNING IN THE YEAR  
18 FOLLOWING THE YEAR IN WHICH A LOAD-SERVING ENTITY PROVIDES ITS  
19 RESOURCE ADEQUACY ANNUAL REPORT.

20 **40-43-104. Resource adequacy annual report - statewide**  
21 **resource adequacy aggregate annual report - categories of**  
22 **information in the resource adequacy annual report - termination of**  
23 **reporting requirement.** (1) (a) ON OR BEFORE APRIL 1, 2024, AND ON OR  
24 BEFORE APRIL 1 OF EACH YEAR THEREAFTER, EXCEPT AS PROVIDED IN  
25 SUBSECTION (2) OR (4) OF THIS SECTION, EACH LOAD-SERVING ENTITY IN  
26 THE STATE SHALL PROVIDE THE APPLICABLE REGULATORY OVERSIGHT  
27 ENTITY A RESOURCE ADEQUACY ANNUAL REPORT IN WHICH THE

1 LOAD-SERVING ENTITY IDENTIFIES THE GENERATING RESOURCES AND  
2 ACCREDITED CAPACITY USED TO SERVE ITS CUSTOMERS. A LOAD-SERVING  
3 ENTITY MAY DESIGNATE ITS WHOLESALE ELECTRIC SUPPLIER AS AN  
4 AUTHORIZED AGENT TO PROVIDE THE RESOURCE ADEQUACY ANNUAL  
5 REPORTS ON BEHALF OF THE LOAD-SERVING ENTITY, AND IF SO  
6 DESIGNATED BY THE LOAD-SERVING ENTITY, THE WHOLESALE ELECTRIC  
7 SUPPLIER SHALL BE SOLELY RESPONSIBLE FOR THE PREPARATION AND  
8 SUBMISSION OF THE RESOURCE ADEQUACY ANNUAL REPORTS ON BEHALF  
9 OF THE LOAD-SERVING ENTITY.

10 (b) ON OR BEFORE APRIL 30, 2024, AND ON OR BEFORE APRIL 30  
11 OF EACH YEAR THEREAFTER, EACH REGULATORY OVERSIGHT ENTITY  
12 SHALL SUBMIT THE RESOURCE ADEQUACY ANNUAL REPORTS RECEIVED  
13 FROM LOAD-SERVING ENTITIES PURSUANT TO SUBSECTION (1)(a) OF THIS  
14 SECTION TO THE COLORADO ENERGY OFFICE.

15 (c) ON OR BEFORE JULY 1, 2024, AND ON OR BEFORE JULY 1 OF  
16 EACH YEAR THEREAFTER, THE COLORADO ENERGY OFFICE SHALL  
17 AGGREGATE THE RESOURCE ADEQUACY ANNUAL REPORTS RECEIVED FROM  
18 REGULATORY OVERSIGHT ENTITIES PURSUANT TO SUBSECTION (1)(b) OF  
19 THIS SECTION TO CREATE AND MAKE PUBLICLY AVAILABLE A STATEWIDE  
20 RESOURCE ADEQUACY AGGREGATE ANNUAL REPORT.

21 (2) IF A LOAD-SERVING ENTITY HAS A WHOLESALE POWER  
22 ARRANGEMENT WITH A PUBLIC UTILITY, COOPERATIVE ELECTRIC  
23 ASSOCIATION, JOINT ACTION AGENCY ESTABLISHED PURSUANT TO LAW, OR  
24 POLITICAL SUBDIVISION THAT ITSELF DEMONSTRATES RESOURCE  
25 ADEQUACY THROUGH A RESOURCE PLANNING PROCESS BEFORE THE  
26 APPLICABLE REGULATORY OVERSIGHT ENTITY, THE PUBLIC UTILITY'S,  
27 COOPERATIVE ELECTRIC ASSOCIATION'S, JOINT ACTION AGENCY'S, OR

1 POLITICAL SUBDIVISION'S RESOURCE ADEQUACY ANNUAL REPORT  
2 PROVIDED TO THE APPLICABLE REGULATORY OVERSIGHT ENTITY COVERS  
3 THE LOAD-SERVING ENTITY FOR ANY LOAD COVERED BY THE  
4 DEMONSTRATION OF RESOURCE ADEQUACY BY THE PUBLIC UTILITY,  
5 COOPERATIVE ELECTRIC ASSOCIATION, JOINT ACTION AGENCY, OR  
6 POLITICAL SUBDIVISION.

7 (3) A RESOURCE ADEQUACY ANNUAL REPORT MUST BE MADE  
8 PUBLICLY AVAILABLE ON THE LOAD-SERVING ENTITY'S WEBSITE USING A  
9 COMMON UNIFORM RESOURCE LOCATOR CONVENTION, AS DETERMINED BY  
10 THE COLORADO ENERGY OFFICE, AND INCLUDE THE FOLLOWING  
11 CATEGORIES OF INFORMATION FOR EACH YEAR IN THE RESOURCE  
12 ADEQUACY REPORTING PERIOD:

13 (a) A NATIVE LOAD FORECAST;

14 (b) NAMEPLATE CAPACITY AND ACCREDITED CAPACITY BY  
15 INDIVIDUAL RESOURCE, INCLUDING RENEWABLE ENERGY RESOURCES AND  
16 STORAGE;

17 (c) IDENTIFICATION OF ANY ACCREDITED CAPACITY ATTRIBUTABLE  
18 TO DISTRIBUTED GENERATION RESOURCES, INCLUDING ENERGY STORAGE;

19 (d) IDENTIFICATION OF ANY DEMAND RESPONSE THAT THE  
20 LOAD-SERVING ENTITY RELIED UPON FOR RESOURCE PLANNING PURPOSES  
21 OR USES TO REDUCE PEAK LOAD;

22 (e) IDENTIFICATION OF THE TARGET PLANNING RESERVE MARGIN;

23 (f) IDENTIFICATION OF THE FORECASTED PLANNING RESERVE  
24 MARGIN;

25 (g) IDENTIFICATION OF THE TOTAL ACCREDITED CAPACITY AND  
26 ANY FORMULAS OR ASSUMPTIONS USED TO CALCULATE THE ACCREDITED  
27 CAPACITY; AND

1 (h) IDENTIFICATION OF ANY EXCESS CAPACITY OR RESOURCE  
2 NEEDS AND OF PLANS TO MITIGATE FORECASTED SHORTFALLS PRIOR TO  
3 EXPERIENCING PEAK LOAD SUPPLY CONDITIONS THAT WERE FORECASTED  
4 IN CALCULATING THE PLANNING RESERVE MARGIN.

5 (4) FOR EACH LOAD-SERVING ENTITY PARTICIPATING IN AN  
6 ORGANIZED WHOLESALE MARKET, AS DEFINED IN SECTION 40-5-108 (1)(a),  
7 OR A VOLUNTARY REGIONAL RESOURCE ADEQUACY REPORTING PROGRAM,  
8 THE LOAD-SERVING ENTITY'S OBLIGATION TO PROVIDE RESOURCE  
9 ADEQUACY ANNUAL REPORTS, INCLUDING ANY OBLIGATION OF ANOTHER  
10 LOAD-SERVING ENTITY TO PROVIDE RESOURCE ADEQUACY ANNUAL  
11 REPORTS IF THE LOAD-SERVING ENTITY HAS BEEN PROVIDING RESOURCE  
12 ADEQUACY ANNUAL REPORTS ON THE OTHER LOAD-SERVING ENTITY'S  
13 BEHALF PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION, TERMINATES  
14 ON THE DATE THAT THE LOAD-SERVING ENTITY BEGINS PARTICIPATING IN  
15 AN ORGANIZED WHOLESALE MARKET OR IN THE YEAR FOLLOWING THE  
16 LOAD-SERVING ENTITY'S SUBMISSION OF A COMPLIANCE REPORT REQUIRED  
17 BY A VOLUNTARY REGIONAL RESOURCE ADEQUACY REPORTING PROGRAM.

18 **SECTION 2. 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 2024 and, in such case, will take effect on the date of the  
26 official declaration of the vote thereon by the governor.