

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

PREAMENDED

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

LLS NO. 21-0140.01 Duane Gall x4335

HOUSE BILL 21-1324

HOUSE SPONSORSHIP

Pelton and Roberts,

SENATE SPONSORSHIP

Rodriguez and Hisey,

House Committees
Energy & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO FACILITATE THE USE OF INNOVATIVE**
102 **ENERGY TECHNOLOGIES BY INVESTOR-OWNED UTILITIES IN**
103 **COLORADO, AND, IN CONNECTION THEREWITH, AUTHORIZING**
104 **THE PUBLIC UTILITIES COMMISSION TO REVIEW AND APPROVE**
105 **INVESTOR-OWNED UTILITIES' APPLICATIONS FOR LOW-EMISSION**
106 **INNOVATIVE ENERGY TECHNOLOGIES BASED ON MEETING**
107 **SPECIFIED CRITERIA.**

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>.)

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.

The bill replaces the integrated gasification combined cycle (IGCC) program, which was repealed in 2019, with a mechanism by which an investor-owned utility seeking to implement an innovative energy technology project may apply to the public utilities commission to acquire resources that demonstrate the use of low- and zero-emission resources and other innovative energy technologies such as advanced renewable energy and storage.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds, determines, and declares that:

4 (a) As part of just-transition, workforce planning, and
5 community-assistance efforts, investor-owned utilities, on their own or in
6 partnership with other energy developers, should pursue opportunities to
7 develop new energy technologies or modify existing generation resources
8 with new technologies as a catalyst for new investment and workforce
9 development in areas of Colorado impacted by accelerated retirements of
10 energy generation resources and other system changes;

11 (b) It is critical that Colorado's long tradition of leadership in
12 clean energy research and development continue to evolve while
13 simultaneously supporting Colorado's workforce;

14 (c) Market certainty for ■ zero-emission resources and other
15 innovative energy technologies has the potential to create economic
16 development opportunities in the state while simultaneously advancing
17 the state's emission reduction goals and furthering the transition to cleaner
18 energy resources;

19 (d) By creating market certainty, these projects can be a catalyst
20 for cutting-edge research, attracting and retaining new business,
21 workforce development, and economic growth;

1 (e) The development of zero-emission resources is imperative
2 in order to reach Colorado's greenhouse gas emission-reduction goals;

3 (f) The development of zero-emission resources will enable
4 large Colorado investor-owned utilities to continue to safely and reliably
5 integrate intermittent wind and solar generation without corresponding
6 increases in carbon dioxide emissions; and

7 (g) It is a matter of national importance that Colorado continue its
8 leadership by advancing the development of technologies that hold the
9 promise of delivering the next generation of clean, safe, affordable,
10 reliable, diverse, and resilient energy while meeting the state's
11 emission-reduction objectives and advancing just-transition, workforce
12 planning, and community-assistance efforts.

13 **SECTION 2.** In Colorado Revised Statutes, 40-2-123, **recreate**
14 **and reenact, with amendments,** (2) as follows:

15 **40-2-123. Energy technologies - consideration by commission**
16 **- incentives - demonstration projects - definitions - repeal.** (2) (a) THE
17 COMMISSION SHALL CONSIDER PROPOSALS BY COLORADO
18 INVESTOR-OWNED UTILITIES FOR THE FOLLOWING TYPES OF PROJECTS:

19 (I) TO CONSTRUCT, OWN, AND OPERATE ELECTRIC GENERATION OR
20 STORAGE FACILITIES UTILIZING INNOVATIVE ENERGY TECHNOLOGY; OR

21 (II) TO PARTNER WITH OTHER ENERGY DEVELOPERS OR
22 INDEPENDENT POWER PRODUCERS TO CONSTRUCT, ACQUIRE, OR CONTRACT
23 FOR ELECTRIC GENERATION OR STORAGE FACILITIES UTILIZING
24 INNOVATIVE ENERGY TECHNOLOGY.

25 (b) (I) AN INVESTOR-OWNED UTILITY MAY APPLY UNDER THIS
26 SUBSECTION (2) TO THE COMMISSION FOR APPROVAL OF INNOVATIVE
27 ENERGY TECHNOLOGY PROJECTS IN AREAS OF THE STATE THAT HAVE BEEN

1 ECONOMICALLY AFFECTED BY THE ACCELERATED RETIREMENTS OF
2 EXISTING GENERATION RESOURCES. ANY SUCH PROJECTS ARE ELIGIBLE
3 FOR CURRENT COST RECOVERY, AND NOTHING IN THIS SECTION PROHIBITS
4 OR DETERS COST-EFFECTIVE INNOVATIVE ENERGY TECHNOLOGY
5 DEPLOYMENT.

6 (II) AN INVESTOR-OWNED UTILITY SHALL PRESENT ANY
7 INNOVATIVE ENERGY TECHNOLOGY PROJECTS AS PART OF ITS ELECTRIC
8 RESOURCE PLANNING PROCESS SO THAT THE PROJECTS CAN BE EVALUATED
9 AS PART OF A COMPREHENSIVE PLAN TO MEET THE INVESTOR-OWNED
10 UTILITY'S ENERGY AND CAPACITY NEEDS. THE PRESENTATION FOR EACH
11 PROJECT MUST ADDRESS:

12 (A) HOW THE PROJECT WILL BE DEVELOPED;

13 (B) WHETHER THE PROJECT INVOLVES A CHANGE TO AN EXISTING
14 GENERATION RESOURCE TO MEET THE REQUIREMENTS AS AN INNOVATIVE
15 ENERGY TECHNOLOGY PROJECT OR WHETHER THE PROJECT IS A NEWLY
16 DEVELOPED INNOVATIVE ENERGY TECHNOLOGY PROJECT;

17 (C) HOW THE PROJECT MITIGATES THE IMPACTS OF THE
18 TRANSITION TO CLEANER GENERATION TECHNOLOGIES IN AFFECTED AREAS
19 OF COLORADO; AND

20 (D) AS APPLICABLE, HOW THE PROJECT FURTHERS THE EFFORTS OF
21 ANY WORKFORCE TRANSITION PLAN OR COMMUNITY ASSISTANCE PLAN
22 DEVELOPED PURSUANT TO SECTION 40-2-125.5 (4)(a)(VII) OR 40-2-133
23 ASSOCIATED WITH ANY ACCELERATED RETIREMENT OF AN ELECTRIC
24 GENERATING FACILITY AND HOW THE PROJECT COMPLIES WITH SECTION
25 40-2-129.

26 (III) ANY INNOVATIVE ENERGY TECHNOLOGY PROJECTS APPROVED
27 PURSUANT TO THIS SUBSECTION (2) PROPORTIONALLY COUNT TOWARD THE

1 TARGETS IN SECTION 40-2-125.5 (5)(b); EXCEPT THAT INNOVATIVE
2 ENERGY TECHNOLOGY PROJECTS DEVELOPED BY AN INVESTOR-OWNED
3 UTILITY PURSUANT TO THIS SUBSECTION (2) MUST NOT EXCEED, IN THE
4 AGGREGATE, A NAMEPLATE CAPACITY OF THREE HUNDRED MEGAWATTS.

5 (c) TO FACILITATE FINANCING OF AN INNOVATIVE ENERGY
6 TECHNOLOGY PROJECT, ONE OR MORE INVESTOR-OWNED UTILITIES MAY
7 DEVELOP, CONSTRUCT, OR OWN A PROJECT THROUGH A SPECIAL-PURPOSE
8 ENTITY OR OTHER AFFILIATED PARTNERSHIP OR CORPORATION, INCLUDING
9 A PUBLIC-PRIVATE PARTNERSHIP OR PARTNERSHIP FORMED WITH OTHER
10 ENERGY DEVELOPERS OR INDEPENDENT POWER PRODUCERS. FOR THIS
11 PURPOSE, AN INVESTOR-OWNED UTILITY IS ENTITLED TO STRUCTURE THE
12 PARTNERSHIP IN THE MANNER THAT IT DEEMS APPROPRIATE; TO
13 NEGOTIATE OWNERSHIP INTERESTS IN THE PROJECT; AND TO USE
14 APPROPRIATE MEANS TO SOLICIT POTENTIAL PARTNERSHIPS, INCLUDING
15 REQUESTS FOR INFORMATION, REQUESTS FOR PROPOSALS, OR BILATERAL
16 NEGOTIATIONS.

17 (d) (I) IN THE CONSTRUCTION OR EXPANSION OF AN INNOVATIVE
18 ENERGY TECHNOLOGY PROJECT APPROVED PURSUANT TO THIS SUBSECTION
19 (2), AN INVESTOR-OWNED UTILITY SHALL USE ITS OWN EMPLOYEES OR
20 QUALIFIED CONTRACTORS, OR BOTH, BUT SHALL NOT USE A CONTRACTOR
21 UNLESS THE CONTRACTOR'S EMPLOYEES HAVE ACCESS TO AN
22 APPRENTICESHIP PROGRAM REGISTERED WITH THE UNITED STATES
23 DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR BY A STATE
24 APPRENTICESHIP COUNCIL RECOGNIZED BY THAT OFFICE; EXCEPT THAT
25 THIS APPRENTICESHIP REQUIREMENT DOES NOT APPLY TO:

26 (A) THE DESIGN, PLANNING, OR ENGINEERING OF THE
27 TRANSMISSION FACILITIES;

1 (B) MANAGEMENT FUNCTIONS TO OPERATE THE TRANSMISSION
2 FACILITIES; OR

3 (C) ANY WORK INCLUDED IN A WARRANTY.

4 (II) THE COMMISSION SHALL NOT APPROVE ANY CONSTRUCTION OR
5 EXPANSION UNDER THIS SUBSECTION (2) UNTIL THE COMMISSION HAS
6 COMPLETED THE RULE-MAKING INITIATED BEFORE DECEMBER 31, 2020,
7 ADDRESSING IN PART SECTION 40-2-129.

8 (e) AS USED IN THIS SUBSECTION (2):

9 (I) "INNOVATIVE ENERGY TECHNOLOGY" MEANS A GENERATION
10 TECHNOLOGY OR STORAGE TECHNOLOGY THAT, ALONE OR IN
11 COMBINATION WITH OTHER TECHNOLOGIES USED IN A PROJECT:

12 (A) GENERATES OR STORES ELECTRICITY WITHOUT EMITTING
13 CARBON DIOXIDE INTO THE ATMOSPHERE;

14 (B) AT THE TIME OF ANY APPLICATION UNDER THIS SUBSECTION
15 (2), HAS NOT BEEN WIDELY DEPLOYED IN THE UNITED STATES. IN
16 EVALUATING WHETHER A TECHNOLOGY IS "WIDELY DEPLOYED" WITHIN
17 THE MEANING OF THIS SUBSECTION (2)(e)(I)(B), THE COMMISSION MAY
18 EVALUATE THE NUMBER OF COMMERCIAL PROJECTS IN WHICH THE
19 TECHNOLOGY IS INSTALLED IN THE UNITED STATES FOR PURPOSES OF
20 ELECTRIC GENERATION AND HOW LONG THOSE PROJECTS HAVE BEEN IN
21 COMMERCIAL OPERATION.

22 (C) DOES NOT INCLUDE STAND-ALONE WIND, SOLAR, OR
23 LITHIUM-ION BATTERY STORAGE RESOURCES OR WIND OR SOLAR
24 RESOURCES PAIRED WITH LITHIUM-ION BATTERY STORAGE.

25 (II) "INNOVATIVE ENERGY TECHNOLOGY PROJECT" OR "PROJECT"
26 MEANS AN ELECTRIC GENERATION OR ENERGY STORAGE FACILITY THAT
27 DEMONSTRATES THE USE OF INNOVATIVE ENERGY TECHNOLOGY IN

1 COLORADO AND FOR WHICH THE INVESTMENT IN THE INNOVATIVE
2 TECHNOLOGY PORTION OF THE PROJECT CONSTITUTES THE MAJORITY OF
3 THE TOTAL PROJECT INVESTMENT.

4 (f) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE DECEMBER 31,
5 2024.

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

16 (2) This act applies to conduct occurring on or after the applicable
17 effective date of this act.