

An Act

SENATE BILL 23-292

BY SENATOR(S) Hansen and Fenberg, Coleman, Danielson, Exum, Hinrichsen, Marchman, Mullica, Roberts, Rodriguez, Bridges, Buckner, Cutter, Fields, Gonzales, Jaquez Lewis, Kolker, Priola, Sullivan, Winter F.; also REPRESENTATIVE(S) Duran and Bird, Amabile, Bacon, Brown, deGruy Kennedy, Dickson, Epps, Froelich, Garcia, Gonzales-Gutierrez, Hamrick, Herod, Jodeh, Joseph, Lieder, Lindsay, Martinez, McCormick, McLachlan, Michaelson Jenet, Ricks, Sharbini, Sirota, Snyder, Titone, Vigil, Weissman, Woodrow, McCluskie.

CONCERNING LABOR REQUIREMENTS FOR ENERGY SECTOR CONSTRUCTION,
AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** part 3 to article 92 of title 24 as follows:

PART 3
ENERGY SECTOR PUBLIC WORKS PROJECTS
CRAFT LABOR REQUIREMENTS

24-92-301. Short title. THE SHORT TITLE OF THIS PART 3 IS THE "COLORADO ENERGY SECTOR PUBLIC WORKS PROJECT CRAFT LABOR

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

REQUIREMENTS ACT".

24-92-302. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE ENERGY INDUSTRY IN COLORADO IS UNDERGOING A HISTORIC TRANSFORMATION TO ADDRESS THREATS POSED BY CLIMATE CHANGE, WHICH INCLUDES EFFORTS TO DIVERSIFY CAPACITY, PROMOTE THE DEVELOPMENT OF RENEWABLE AND OTHER CLEAN, NON-CARBON GENERATION SOURCES, AND ELECTRIFY MAJOR SEGMENTS OF THE STATE'S ECONOMY;

(b) THESE DEVELOPMENTS WILL REQUIRE MASSIVE INVESTMENTS OF RESOURCES FROM THE STATE AND PUBLIC UTILITY COMPANIES, WHICH WILL ULTIMATELY BE PAID BY RESIDENTS THROUGH FUTURE TAXES AND UTILITY BILLS;

(c) THE SAFE AND COST-EFFECTIVE DELIVERY OF THESE PROJECTS IS VITAL TO THE PUBLIC HEALTH AND WELFARE OF RESIDENTS AND THE ECONOMIC SECURITY OF THE STATE, AND CRITICAL TO ENSURE THAT ADEQUATE POWER IS PROVIDED TO COLORADO HOMES AND BUSINESSES;

(d) DEFICIENT PLANNING OF THESE RESOURCES CAN RESULT IN ESCALATING UTILITY BILLS AND DANGEROUS POWER OUTAGES IF POWER SUPPLY IS NOT MAINTAINED IN SUFFICIENT CAPACITY TO MEET FUTURE, GROWING DEMAND. FOR THESE REASONS, APPROPRIATE MEASURES MUST BE TAKEN TO PROTECT FUTURE ENERGY INVESTMENTS, PROMOTE SUCCESSFUL CONSTRUCTION DELIVERY, AND PREVENT ERRORS IN THE PLANNING AND DELIVERY OF NEW FACILITIES.

(e) ONE OF THE MOST CHALLENGING ASPECTS OF ENERGY FACILITY CONSTRUCTION IS ENSURING THAT PROJECTS ARE SUPPORTED BY CAPABLE CRAFT LABOR RESOURCES. IT IS ESSENTIAL FOR THESE PROJECTS TO BE STAFFED BY A RELIABLE AND ADEQUATE SUPPLY OF PROPERLY TRAINED WORKERS IN ALL APPLICABLE TRADES AND CRAFTS REQUIRED FOR THESE FACILITIES.

(f) ENERGY SECTOR PUBLIC WORKS PROJECTS BUILT BY OR FOR THE USE OF REGULATED UTILITIES, LIKE TRADITIONAL PUBLIC PROJECTS, ARE OFTEN BUILT FOR THE COLLECTIVE BENEFIT OF ALL CITIZENS AND RESIDENTS

OF COLORADO. THESE PROJECTS ARE OFTEN FUNDED THROUGH PUBLIC TAX DOLLARS OR THROUGH THE COLLECTIVE RESOURCES ACQUIRED THROUGH COLORADO UTILITIES BILLING CUSTOMERS. LIKE TAX DOLLARS, THESE RESOURCES ACQUIRED THROUGH UTILITY RATES SHOULD DEMAND A HIGHER STANDARD OF PUBLIC BENEFIT BACK TO THE CONSUMERS AND COMMUNITIES FROM WHICH THE RESOURCES WERE COLLECTED.

(g) EXTENSIVE RESEARCH SHOWS THAT PREVAILING WAGE LAWS ARE EFFECTIVE IN ATTRACTING BETTER QUALIFIED WORKERS TO PROJECTS AND PROMOTING CRITICALLY NEEDED INVESTMENTS IN APPRENTICESHIP TRAINING REQUIRED TO ENSURE ADEQUATE CRAFT LABOR SKILL LEVELS AND PRODUCTIVITY. LIKEWISE, THE USE OF REGISTERED APPRENTICESHIP TRAINING PROGRAMS AND PROJECT LABOR AGREEMENTS HAS BEEN PROVEN TO BE THE MOST EFFECTIVE STRATEGY FOR PROVIDING HIGH-LEVEL SKILLS TRAINING AND ENSURING NEEDED QUALIFICATION CREDENTIALING FOR WORKERS IN THE CONSTRUCTION INDUSTRY.

(h) BY PROVIDING PROJECT OWNERS, DEVELOPERS, AND CONTRACTORS UNIQUE AND UNPARALLELED ACCESS TO AN ADEQUATE SUPPLY OF WELL-TRAINED, HIGHLY SKILLED CRAFT LABOR IN AFFECTED PROJECT AREAS, CRAFT LABOR STANDARDS PROMOTE SUCCESSFUL PROJECT DELIVERY GOALS, INCLUDING QUALITY, SAFETY, TIMELINESS, AND COST-EFFICIENCY, BY PROVIDING EFFECTIVE QUALITY CONTROL OVER CRAFT LABOR SUPPLY CAPABILITIES, AS WELL AS RISK AVOIDANCE TO PREVENT DISRUPTIONS AND OTHER LABOR PERFORMANCE PROBLEMS CAUSED BY INADEQUATE CRAFT LABOR CAPABILITIES;

(i) FOR THESE REASONS, INCORPORATING PREVAILING WAGE STANDARDS AND APPRENTICESHIP REQUIREMENTS AND ENCOURAGING PROJECT LABOR AGREEMENTS FOR PUBLIC UTILITIES AND OTHER ENERGY FACILITY PLANNING AND CONSTRUCTION IS NECESSARY TO PROTECT AND PROMOTE THE PUBLIC'S INTEREST IN THESE PROJECTS;

(j) BY INCORPORATING WELL ESTABLISHED QUALITY CONTRACTING PROCUREMENT TOOLS, SUCH AS PREVAILING WAGES, APPRENTICESHIP UTILIZATION REQUIREMENTS, AND PROJECT LABOR AGREEMENTS INTO OUR ENERGY RESOURCE PLANNING, THE STATE OF COLORADO WILL HAVE THE CAPABILITIES TO BETTER PROTECT ITS ENERGY INVESTMENTS, IMPROVE CONSTRUCTION PROJECT DELIVERY IN THE ENERGY SECTOR, FULLY DOCUMENT AND EVALUATE THE DIRECTIVES SET FORTH IN SECTION

40-2-129, AND CREATE A CLEAR SET OF STANDARDS FOR ENFORCEMENT TO ACHIEVE THE LAW'S INTENT FOR THE BENEFIT OF COLORADO WORKERS AND THE COMMUNITIES WHERE THEY LIVE;

(k) USE OF THESE QUALITY CONTRACTING TOOLS IS ALREADY INCORPORATED INTO COLORADO'S TRADITIONAL PUBLIC PROCUREMENT LAW AS PREVAILING WAGE AND APPRENTICESHIP POLICIES ADOPTED IN SECTIONS 24-92-115 (7) AND PART 2 OF THIS ARTICLE 92. IN ADDITION, PROJECT LABOR AGREEMENTS HAVE BEEN SUCCESSFULLY USED IN COLORADO IN THE PAST FOR PROJECTS IN THE ENERGY SECTOR AND THE BROADER PRIVATE SECTOR CONSTRUCTION INDUSTRY. THESE AGREEMENTS HAVE ALSO BEEN UPHELD BY THE COURTS, FOR EXAMPLE, IN *BLDG. & CONSTR. TRADES COUNCIL V. ASSOCIATED BUILDERS & CONTRACTORS OF MASS./R.I., INC.*, 507 U.S. 230, 231 (1993), DUE TO THEIR ABILITY TO HELP SECURE RELIABLE CRAFT LABOR STAFFING AND PROMOTE TIMELY PROJECT DELIVERY.

(l) DUE TO THEIR BENEFITS IN PROMOTING SUCCESSFUL PROJECT DELIVERY IN PROJECTS ASSISTED BY FEDERAL GRANTS AND TAX CREDITS, THE FEDERAL GOVERNMENT IS STRONGLY ENCOURAGING THE USE OF THESE QUALITY CONTRACTING TOOLS GENERALLY, AND ESPECIALLY IN THE ENERGY SECTOR, WHERE MAJOR FEDERAL ASSISTANCE PROGRAMS UNDER THE RECENT FEDERAL "INFLATION REDUCTION ACT OF 2022", PUB. L. 117-169, ARE PROVIDING APPROXIMATELY THREE HUNDRED SEVENTY BILLION DOLLARS IN FUNDING TO PROMOTE CLEAN ENERGY SOURCES ACROSS THE COUNTRY.

(m) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT BECAUSE COST-EFFECTIVE, SAFE, AND EFFICIENT GENERATION, TRANSMISSION, AND DISTRIBUTION SYSTEMS IN THE ENERGY SECTOR ARE VITAL TO THE STATE'S ECONOMY AND THE PUBLIC WELFARE AND SAFETY, QUALITY CONTROL AND RISK AVOIDANCE MEASURES ARE NECESSARY TO ENSURE THAT THE CONSTRUCTION OF PROJECTS NECESSARY FOR THESE SYSTEMS ARE ADEQUATELY STAFFED BY PROPERLY TRAINED AND QUALIFIED CRAFT LABOR PERSONNEL.

24-92-303. Definitions. AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CONSTRUCTION" MEANS THE CONSTRUCTION, ALTERATION, OR REPAIR OF AN ENERGY SECTOR PUBLIC WORKS PROJECT, CONSISTENT WITH

AND INCLUDING THE SAME LIMITATIONS AS THE DEFINITION OF CONSTRUCTION AS ESTABLISHED IN SECTION 45(b)(7)(a) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND AS DESCRIBED IN ALL RELATED OFFICIAL GUIDANCE FROM THE FEDERAL INTERNAL REVENUE SERVICE AND THE UNITED STATES DEPARTMENT OF LABOR IMPLEMENTING THE APPLICABLE SECTIONS OF THE FEDERAL "INFLATION REDUCTION ACT".

(2) "COOPERATIVE ELECTRIC ASSOCIATION" HAS THE SAME MEANING AS SET FORTH IN SECTION 40-9.5-102 (1).

(3) "CRAFT LABOR" MEANS EMPLOYEES WHO ARE ENGAGED IN THE CONSTRUCTION OF AN ENERGY SECTOR PUBLIC WORKS PROJECT, INCLUDING ALL TRADES, CRAFTS, AND OCCUPATIONS, AND WHO ARE PAID HOURLY.

(4) "CRAFT LABOR CERTIFICATION" MEANS ALL DOCUMENTATION AND CERTIFICATION OF PAYROLL REQUIRED FOR AN ENERGY SECTOR PUBLIC WORKS PROJECT IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 24-92-115 (7) AND PART 2 OF THIS ARTICLE 92.

(5) (a) "ENERGY SECTOR PUBLIC WORKS PROJECT" MEANS ANY PROJECT IN THE STATE THAT:

(I) HAS THE PURPOSE OF GENERATING, TRANSMITTING, OR DISTRIBUTING ELECTRICITY OR NATURAL GAS TO PROVIDE ENERGY TO COLORADO INDIVIDUAL CONSUMERS AND BUSINESSES, IS BUILT BY OR FOR A PUBLIC UTILITY, INCLUDING ANY PROJECT FOR WHICH ENERGY IS PURCHASED THROUGH A POWER PURCHASER OR SIMILAR AGREEMENT, AND IS FUNDED IN WHOLE OR IN PART BY:

(A) THE STATE, THROUGH DIRECT FUNDING, LOANS, LOAN GUARANTEES, LAND TRANSFERS, TAX ASSISTANCE, INCLUDING TAX CREDITS, DEDUCTIONS, OR INCENTIVES, OR OTHER ASSISTANCE ALLOCATED OR APPROPRIATED BY THE STATE; OR

(B) UTILITY CUSTOMER FUNDING AS APPROVED IN ANY PROCEEDING CONDUCTED BY THE PUBLIC UTILITIES COMMISSION AS PART OF AN ELECTRIC RESOURCE ACQUISITION OR REQUESTS FOR CERTIFICATES OF CONVENIENCE AND NECESSITY FOR CONSTRUCTION OR EXPANSION OF A PROJECT, INCLUDING BUT NOT LIMITED TO POLLUTION CONTROL OR FUEL CONVERSION UPGRADES AND CONVERSION OF EXISTING COAL-FIRED PLANTS TO NATURAL

GAS PLANTS; OR

(II) HAS THE PURPOSE OF GENERATING OR DISTRIBUTING ELECTRICITY OR NATURAL GAS FOR THE PURPOSES OF PROVIDING ENERGY TO COLORADO INDIVIDUAL CONSUMERS AND BUSINESSES FROM UTILITY CUSTOMER FUNDING AS APPROVED BY A COOPERATIVE ELECTRIC ASSOCIATION.

(b) "ENERGY SECTOR PUBLIC WORKS PROJECT" INCLUDES THE FOLLOWING PROJECT TYPES, SO LONG AS THEY SATISFY THE CRITERIA IN SUBSECTION (5)(a)(I) OR (5)(a)(II) OF THIS SECTION:

(I) POWER GENERATION WITH A NAMEPLATE GENERATION CAPACITY OF ONE MEGAWATT OR HIGHER, INCLUDING GENERATION SOURCED FROM WIND, SOLAR, GEOTHERMAL, HYDROGEN, NUCLEAR, OR BIOENERGY, OR ANY PROJECT THAT GENERATES ELECTRICITY FROM THE COMBUSTION OF OIL, GAS, OR OTHER FOSSIL FUELS OR AN ENERGY STORAGE SYSTEM AS DEFINED BY SECTION 40-2-202 WITH AN ENERGY RATING OF ONE MEGAWATT OF POWER CAPACITY OR FOUR MEGAWATT HOURS OF USEABLE ENERGY CAPACITY OR HIGHER; AND

(II) OTHER PROJECTS WITH A TOTAL PROJECT COST OF ONE MILLION DOLLARS OR MORE THAT INCLUDE:

(A) POLLUTION CONTROLS;

(B) UTILITY GAS DISTRIBUTION;

(C) ELECTRIC TRANSMISSION PROJECTS;

(D) GEOTHERMAL SYSTEMS THAT ARE USED TO PROVIDE HEAT OR HEATED WATER OR THAT OPERATE AS THERMAL SYSTEMS OR THERMAL NETWORKS AS DEFINED IN LAW;

(E) ELECTRIC VEHICLE CHARGING INFRASTRUCTURE INSTALLATIONS;

(F) HYDROGEN-RELATED INFRASTRUCTURE CONSTRUCTION PROJECTS;

(G) ANY PROJECT THAT TRANSPORTS OR STORES CARBON DIOXIDE

CAPTURED FROM POWER GENERATION; AND

(H) ANY OTHER CONSTRUCTION PROJECTS COVERED BY THIS PART 3.

(6) "FEDERAL PREVAILING WAGE AND APPRENTICESHIP REQUIREMENTS" MEANS THE REQUIREMENTS UNDER:

(a) SECTIONS 45(b)(7) AND (8) OF TITLE 26 OF THE UNITED STATES CODE, WHETHER APPLICABLE DIRECTLY OR UNDER A PROVISION OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, THAT APPLIES SUCH SECTIONS OF THE UNITED STATES CODE; OR

(b) SECTIONS 48(a)(10) AND (11) OF TITLE 26 OF THE UNITED STATES CODE, WHETHER APPLICABLE DIRECTLY OR UNDER A PROVISION OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED THAT APPLIES SUCH SECTIONS OF THE UNITED STATES CODE.

(7) "FEDERAL "INFLATION REDUCTION ACT"" MEANS THE FEDERAL "INFLATION REDUCTION ACT OF 2022", UNITED STATES CODE, TITLE 26, INCLUDING BUT NOT LIMITED TO SECTIONS 30C, 45, 45B, 45L, 45Q, 45U, 45V, 45X, 45Y, 45Z, 48, 48C, 48E, AND 179D, AND ASSOCIATED IMPLEMENTING RULES AND GUIDANCE PROMULGATED BY THE UNITED STATES DEPARTMENT OF THE TREASURY AND THE UNITED STATES INTERNAL REVENUE SERVICE, AS THE STATUTE AND IMPLEMENTING RULES AND GUIDANCE MAY BE AMENDED FROM TIME TO TIME.

(8) "LEAD CONTRACTOR" MEANS A GENERAL CONTRACTOR, CONSTRUCTION MANAGER, DEVELOPER, DESIGN BUILDER, OR OTHER PARTY THAT IS PRIMARILY RESPONSIBLE TO A PUBLIC UTILITY OR INDEPENDENT POWER PRODUCER FOR PERFORMING CONSTRUCTION UNDER A CONTRACT FOR AN ENERGY SECTOR PUBLIC WORKS PROJECT.

(9) "PROJECT LABOR AGREEMENT" MEANS A PREHIRE COLLECTIVE BARGAINING AGREEMENT BETWEEN A LEAD CONTRACTOR AND CONSTRUCTION LABOR ORGANIZATIONS, INCLUDING BUT NOT LIMITED TO THE COLORADO BUILDING AND CONSTRUCTION TRADES COUNCIL AND ITS AFFILIATES OR A GROUP OF LABOR UNIONS COVERING THE AFFECTED TRADES NECESSARY TO PERFORM WORK ON A PROJECT, THAT ESTABLISHES THE TERMS AND CONDITIONS OF EMPLOYMENT OF THE CONSTRUCTION WORKFORCE ON AN ENERGY SECTOR PUBLIC WORKS PROJECT. A PROJECT

LABOR AGREEMENT MUST INCLUDE PROVISIONS THAT:

(a) SET FORTH EFFECTIVE, IMMEDIATE, AND MUTUALLY BINDING PROCEDURES FOR RESOLVING JURISDICTIONAL LABOR DISPUTES AND GRIEVANCES ARISING BEFORE THE COMPLETION OF WORK;

(b) CONTAIN GUARANTEES AGAINST STRIKES, LOCKOUTS, OR SIMILAR ACTIONS;

(c) ENSURE A RELIABLE SOURCE OF TRAINED, SKILLED, AND EXPERIENCED CONSTRUCTION CRAFT LABOR;

(d) FURTHER PUBLIC POLICY OBJECTIVES REGARDING IMPROVED EMPLOYMENT OPPORTUNITIES FOR MINORITIES, WOMEN, OR OTHER ECONOMICALLY DISADVANTAGED POPULATIONS IN THE CONSTRUCTION INDUSTRY, INCLUDING PERSONS FROM DISPROPORTIONATELY IMPACTED COMMUNITIES, TO THE EXTENT PERMITTED BY STATE AND FEDERAL LAW;

(e) PERMIT THE SELECTION OF THE LOWEST QUALIFIED RESPONSIBLE BIDDER OR LOWEST QUALIFIED RESPONSIBLE OFFEROR WITHOUT REGARD TO UNION OR NON-UNION STATUS AT OTHER CONSTRUCTION SITES;

(f) BIND ALL CONTRACTORS AND SUBCONTRACTORS ON THE ENERGY SECTOR PUBLIC WORKS PROJECT TO THE PROJECT LABOR AGREEMENT THROUGH THE INCLUSION OF APPROPRIATE BID SPECIFICATIONS IN ALL RELEVANT CONTRACT DOCUMENTS; AND

(g) INCLUDE OTHER TERMS AS THE PARTIES DEEM APPROPRIATE.

(10) "PUBLIC UTILITY" HAS THE SAME MEANING AS SET FORTH IN SECTION 40-1-103.

24-92-304. Energy sector public works projects - craft labor employment - training - wage requirements. (1) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (1)(b) AND (1)(c) OF THIS SECTION, A CONTRACT BETWEEN PUBLIC UTILITIES, COOPERATIVE ELECTRIC ASSOCIATIONS, OR INDEPENDENT POWER PRODUCERS AND LEAD CONTRACTORS FOR AN ENERGY SECTOR PUBLIC WORKS PROJECT MUST INCLUDE PROVISIONS EXPRESSLY REQUIRING THAT ALL WORK PERFORMED UNDER THE CONTRACT COMPLY WITH THE REQUIREMENTS OF SECTION

24-92-115 (7) AND THE REQUIREMENTS OF PART 2 OF THIS ARTICLE 92 IF THE PROJECT IS AN ELECTRIC POWER GENERATION PROJECT WITH A NAMEPLATE GENERATION CAPACITY OF ONE MEGAWATT OR HIGHER OR IF THE PROJECT IS A PROJECT SPECIFIED IN SUBSECTION 24-92-303 (5)(b)(II) WITH A TOTAL PROJECT COST OF ONE MILLION DOLLARS OR MORE. THESE REQUIREMENTS CONSTITUTE MATERIAL TERMS OF SUCH CONTRACTS.

(b) (I) FOR ENERGY SECTOR PUBLIC WORKS PROJECTS FUNDED PURSUANT TO SECTION 24-92-303 (5)(a)(I)(A), THE REQUIREMENTS OF THIS PART 3 APPLY ONLY WHEN THE PROJECT IS A POWER GENERATION PROJECT WITH A NAMEPLATE GENERATION CAPACITY OF ONE MEGAWATT OR HIGHER OR AN ENERGY STORAGE SYSTEM AS DEFINED BY SECTION 40-2-202 WITH AN ENERGY RATING OF ONE MEGAWATT OF POWER CAPACITY OR FOUR MEGAWATT HOURS OF USEABLE ENERGY CAPACITY OR HIGHER AND THE AGGREGATED PUBLIC ASSISTANCE FROM THE STATE IS FIVE HUNDRED THOUSAND DOLLARS OR MORE.

(II) FOR ENERGY SECTOR PUBLIC WORKS PROJECTS UNDER 24-92-303(5)(b)(II), THE REQUIREMENTS OF THIS PART 3 APPLY ONLY WHEN THE TOTAL PROJECT COST IS ONE MILLION DOLLARS OR MORE, AND THE AGGREGATED PUBLIC ASSISTANCE FROM THE STATE, FUNDING FROM A PUBLIC UTILITY, OR FUNDING FROM A COOPERATIVE ELECTRIC ASSOCIATION IS FIVE HUNDRED THOUSAND DOLLARS OR MORE.

(c) THE REQUIREMENTS OF THIS PART 3 DO NOT APPLY TO:

(I) A PROJECT THAT IS COVERED BY A PROJECT LABOR AGREEMENT;

(II) WORK ON AN ENERGY SECTOR PUBLIC WORKS PROJECT PERFORMED BY THE EMPLOYEES OF A UTILITY COMPANY;

(III) SO LONG AS COMPLIANCE WITH ANY APPLICABLE FEDERAL "INFLATION REDUCTION ACT" QUALIFICATION REQUIREMENTS IS A MATERIAL TERM OF THE AGREEMENT WITH A PUBLIC UTILITY, COOPERATIVE ELECTRIC ASSOCIATION, INDEPENDENT POWER PRODUCER, OR THE STATE, WORK ON AN ENERGY SECTOR PUBLIC WORKS PROJECT PUT OUT TO BID ON OR AFTER JANUARY 1, 2024, THAT IS QUALIFIED FOR AND CLAIMS THE INCREASED FEDERAL PRODUCTION TAX CREDIT OR INVESTMENT TAX CREDIT AMOUNT, EXCLUDING ANY DOMESTIC CONTENT, ENERGY COMMUNITY, OR LOW-INCOME COMMUNITY BONUS CREDIT, AS A RESULT OF:

(A) SATISFYING THE PREVAILING WAGE AND APPRENTICESHIP REQUIREMENTS UNDER THE PROVISIONS OF THE FEDERAL "INFLATION REDUCTION ACT"; OR

(B) ACHIEVING THE START OF CONSTRUCTION PRIOR TO JANUARY 29, 2023, PURSUANT TO THE PRINCIPLES OUTLINED IN THE FEDERAL INTERNAL REVENUE SERVICE GUIDANCE AND THE UNITED STATES DEPARTMENT OF LABOR GUIDANCE RELATED TO THE FEDERAL "INFLATION REDUCTION ACT" AS AMENDED OR SUPPLEMENTED FROM TIME TO TIME;

(IV) A UTILITY-INCENTIVIZED DEMAND-SIDE MANAGEMENT OR ELECTRIFICATION PROGRAM PURSUANT TO SECTION 40-3.2-105.5 OR 40-3.2-105.6;

(V) UTILITY OR STATE-FUNDED BUILDING ENERGY EFFICIENCY PROGRAMS;

(VI) SERVICE AGREEMENTS THAT WERE ENTERED INTO BY A PUBLIC UTILITY, INDEPENDENT POWER PRODUCER, OR COOPERATIVE ELECTRIC ASSOCIATION ON OR BEFORE MARCH 1, 2023; EXCEPT THAT UPON RENEWAL OR ISSUANCE OF A NEW REQUEST FOR PROPOSALS, THE SERVICE AGREEMENT MUST COME INTO COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION;

(VII) PROJECTS THAT INVOLVE AN ELECTRIC DISTRIBUTION LINE WITH A CAPACITY OF 69KV OR LESS; AND

(VIII) PROJECTS THAT INVOLVE PIPELINES WITH A SPECIFIED MINIMUM YIELD STRENGTH LESS THAN THIRTY PERCENT.

(2) UNLESS THE CONTRACTUAL REQUIREMENTS SPECIFIED IN SUBSECTION (1) OF THIS SECTION ARE IN PLACE, AN AFFECTED PROJECT SHALL NOT BE ELIGIBLE TO:

(a) RECEIVE FUNDING FROM THE STATE THROUGH GENERAL FUND APPROPRIATIONS, TAX CREDITS, TAX DEDUCTIONS, LAND TRANSFERS, OR OTHER FUNDING OR ASSISTANCE PROVIDED BY THE GENERAL ASSEMBLY OR A GOVERNMENT AGENCY; OR

(b) RECEIVE ANY APPROVALS OR AUTHORIZATIONS FROM THE PUBLIC UTILITIES COMMISSION, INCLUDING APPROVALS FOR UTILITY FUNDING OR FOR

COMMENCEMENT OF THE PROJECT, INCLUDING A CERTIFICATE OF PUBLIC CONVENIENCE.

(3) THE LEAD CONTRACTOR ENGAGED TO PERFORM CONSTRUCTION SERVICES FOR AN ENERGY SECTOR PUBLIC WORKS PROJECT MUST REQUIRE ALL SUBCONTRACTORS USED ON THE PROJECT TO COMPLY WITH SECTION 24-92-115 (7) AND PART 2 OF THIS ARTICLE 92 BY ENSURING THAT SUCH REQUIREMENTS ARE STIPULATED IN ALL SUBCONTRACTS. LEAD CONTRACTORS MUST TAKE ALL REASONABLY NECESSARY STEPS TO ENSURE COMPLIANCE BY MONITORING SUBCONTRACTORS.

(4) THE PUBLIC UTILITIES COMMISSION SHALL NOT FIND AN ENERGY SECTOR PUBLIC WORKS PROJECT TO BE IN COMPLIANCE WITH SECTION 40-2-129 UNLESS THE CONSTRUCTION CONTRACT FOR THE PROJECT INCLUDES PROVISIONS EXPRESSLY REQUIRING THAT ALL WORK PERFORMED UNDER THE CONTRACT COMPLY WITH THE REQUIREMENTS OF SECTION 24-92-115 (7) AND PART 2 OF THIS ARTICLE 92. COMPLIANCE WITH THIS SUBSECTION (4) DOES NOT PREVENT THE COMMISSION FROM CONSIDERING ALL "BEST VALUE" EMPLOYMENT METRICS AS DEFINED IN SECTION 40-2-129, INCLUDING THOSE METRICS THAT ARE NOT DIRECTLY RELATED TO THE PROCUREMENT OF CRAFT LABOR AND APPRENTICESHIP TRAINING ON AN ENERGY SECTOR PUBLIC WORKS PROJECT.

(5) CONSISTENT WITH SECTION 24-92-203 (4), BIDDERS ON ENERGY SECTOR PUBLIC WORKS PROJECTS SHALL NOT ARTIFICIALLY DIVIDE THE OVERALL GENERATION CAPACITY OR OVERALL PROJECT COST OF AN ENERGY SECTOR PUBLIC WORKS PROJECT TO DELIBERATELY AVOID THE REQUIREMENTS TO COMPLY WITH SECTION 24-92-115 (7) AND PART 2 OF THIS ARTICLE 92. THE PUBLIC UTILITIES COMMISSION, THE STATE, A PUBLIC UTILITY, OR A COOPERATIVE ELECTRIC ASSOCIATION MAY STILL REQUIRE COMPLIANCE WITH PREVAILING WAGE AND APPRENTICESHIP UTILIZATION REQUIREMENTS IF THEY DETERMINE THAT A BIDDER HAS ARTIFICIALLY DIVIDED A PROJECT WITH THE INTENT OF AVOIDING THE REQUIREMENT TO COMPLY WITH THOSE SECTIONS.

24-92-305. Energy sector public works projects - record keeping - reporting - craft labor certification - sanctions - compliance with best value employment metrics. (1) THE LEAD CONTRACTOR FOR AN ENERGY SECTOR PUBLIC WORKS PROJECT SHALL PREPARE CERTIFIED PAYROLL RECORDS FOR CRAFT WORKERS DIRECTLY EMPLOYED BY THE CONTRACTOR,

OBTAIN CERTIFIED PAYROLL RECORDS FROM ALL CONTRACTORS AND SUBCONTRACTORS ON THE PROJECTS, AND SUBMIT THE RECORDS TO THE PUBLIC UTILITY OR OTHER OWNER OF THE ENERGY SECTOR PUBLIC WORKS PROJECT ON A WEEKLY BASIS. EACH LEAD CONTRACTOR AND SUBCONTRACTOR SHALL CERTIFY, UNDER THE PENALTY OF PERJURY, THAT THE RECORDS PROVIDE COMPLETE AND ACCURATE INFORMATION FOR ALL CRAFT WORKERS EMPLOYED ON THE PROJECT.

(2) THE LEAD CONTRACTOR FOR AN ENERGY SECTOR PUBLIC WORKS PROJECT SHALL PREPARE A CRAFT LABOR CERTIFICATION ON A QUARTERLY BASIS FOR WORK THAT IS BEING PERFORMED UNDER AFFECTED PROJECTS.

(3) A CRAFT LABOR CERTIFICATION MUST INCLUDE THE FOLLOWING:

(a) A SWORN ATTESTATION, UNDER THE PENALTY OF PERJURY, THAT THE LEAD CONTRACTOR IS FULLY COMPLIANT WITH ALL EMPLOYMENT, TRAINING, AND WAGE REQUIREMENTS OF SECTION 24-92-115 (7) AND PART 2 OF THIS ARTICLE 92; AND

(b) AN IDENTICAL, EQUIVALENT CRAFT LABOR CERTIFICATION EXECUTED IN THE SAME MANNER BY ALL SUBCONTRACTORS PARTICIPATING IN THE ENERGY SECTOR PUBLIC WORKS PROJECT.

(4) THE PUBLIC UTILITY, COOPERATIVE ELECTRIC ASSOCIATION, INDEPENDENT POWER PRODUCER, OR OTHER OWNER OF AN ENERGY SECTOR PUBLIC WORKS PROJECT IS RESPONSIBLE FOR MAINTENANCE OF RECORDS FOR ALL CRAFT LABOR CERTIFICATIONS. THE PUBLIC UTILITY, COOPERATIVE ELECTRIC ASSOCIATION, INDEPENDENT POWER PRODUCER, OR OTHER OWNER OF AN ENERGY SECTOR PUBLIC WORKS PROJECT SHALL EITHER PROVIDE COPIES QUARTERLY OR REQUIRE BY CONTRACT THAT THE LEAD CONTRACTOR PROVIDE COPIES QUARTERLY, TO THE DEPARTMENT OF LABOR AND EMPLOYMENT FOR REVIEW AND OVERSIGHT PURPOSES.

(5) NO LATER THAN JANUARY 1, 2029, AND AT LEAST FIVE YEARS THEREAFTER, THE STATE AUDITOR'S OFFICE SHALL CONDUCT AN AUDIT OF THE COMMISSION'S APPROVAL OF ENERGY SECTOR PUBLIC WORKS PROJECTS. THE PURPOSE OF THE AUDIT IS TO ESTABLISH OVERSIGHT AND ACCOUNTABILITY FOR COMPLIANCE WITH SECTION 40-2-129, AND TO DETERMINE WHETHER A SAMPLE OF PROJECTS THAT HAVE BEEN APPROVED BY THE COMMISSION ARE FULLY COMPLIANT WITH ALL EMPLOYMENT,

TRAINING, WAGE, AND APPRENTICESHIP REQUIREMENTS OF SECTION 24-92-115 (7) AND PART 2 OF THIS ARTICLE 92. THE AUDIT MUST CONSIDER INFORMATION AND RECORDS RELATED TO THE CRAFT LABOR CERTIFICATIONS THAT ARE COLLECTED AND MAINTAINED BY THE DEPARTMENT OF LABOR AND EMPLOYMENT. THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL PROVIDE ANY INFORMATION NEEDED TO PERFORM THE AUDIT AS REQUESTED BY THE STATE AUDITOR'S OFFICE.

(a) THE AUDIT PROCESS MUST SELECT A SAMPLE OF PROJECTS FOR REVIEW AND ENSURE THAT THE SCOPE OF THE AUDIT ENCOMPASSES THE BROAD TYPES OF ENERGY SECTOR PUBLIC WORKS PROJECTS.

(b) UPON RELEASE OF THE AUDIT REPORT BY THE LEGISLATIVE AUDIT COMMITTEE, THE STATE AUDITOR MUST MAKE THE RESULTS OF THE AUDIT AVAILABLE TO THE PUBLIC.

(c) AFTER CONDUCTING TWO AUDITS UNDER THIS SUBSECTION (5), THE STATE AUDITOR MAY CONDUCT ADDITIONAL AUDITS IN THE STATE AUDITOR'S DISCRETION.

(6) VIOLATIONS OF THE REQUIREMENTS SPECIFIED IN THIS SECTION, INCLUDING WAGE AND HOUR VIOLATIONS, VIOLATIONS OF APPRENTICESHIP REQUIREMENTS, FALSIFICATION OF RECORDS, OR WILLFUL NON-COMPLIANCE, ARE SUBJECT TO THE PENALTIES AND ENFORCEMENT RIGHTS AND REMEDIES DESCRIBED IN SECTIONS 24-92-115 (3), 24-92-209, 24-92-210, AND 24-109-105.

(7) IF AN ENERGY SECTOR PUBLIC WORKS PROJECT USES FEDERAL FUNDING THAT REQUIRES COMPLIANCE WITH THE FEDERAL "DAVIS-BACON ACT", 40 U.S.C. SEC. 3141 ET SEQ., OR RELATED STATUTES, THE OWNER OF THE ENERGY SECTOR PUBLIC WORKS PROJECT SHALL:

(a) NOTIFY THE PUBLIC UTILITIES COMMISSION OF THEIR INTENT TO USE FEDERAL FUNDING TO FUND, IN WHOLE OR IN PART, THE ENERGY SECTOR PUBLIC WORKS PROJECT; AND

(b) REQUIRE THE LEAD CONTRACTORS AND ALL OTHER CONTRACTORS AND SUBCONTRACTORS WORKING ON THE ENERGY SECTOR PUBLIC WORKS PROJECT TO PAY APPLICABLE FEDERALLY STIPULATED WAGE AND BENEFIT RATES AND PROVIDE CERTIFIED PAYROLL REPORTS TO THE

PUBLIC UTILITIES COMMISSION IN THE SAME MANNER REQUIRED BY SUBSECTION (1) OF THIS SECTION.

24-92-306. Energy sector public works projects - use of project labor agreements. (1) A PUBLIC UTILITY, COOPERATIVE ELECTRIC ASSOCIATION, OR INDEPENDENT POWER PRODUCER IS AUTHORIZED TO INCORPORATE A PROJECT LABOR AGREEMENT REQUIREMENT FOR AN ENERGY SECTOR PUBLIC WORKS PROJECT IF THE PROJECT LABOR AGREEMENT WILL PROMOTE SUCCESSFUL PROJECT DELIVERY BY SECURING A SKILLED LABOR FORCE FOR THE PROJECT AND IF IT WILL PROMOTE COST-EFFICIENCY, SAFETY, QUALITY, AND TIMELY COMPLETION OF THE PROJECT.

(2) IF ALL CONSTRUCTION WORK ON AN ENERGY SECTOR PUBLIC WORKS PROJECT IS COVERED BY A PROJECT LABOR AGREEMENT, THE REQUIREMENTS OF SECTIONS 24-92-304 AND 24-92-305 DO NOT APPLY TO THE PROJECT.

(3) THE PUBLIC UTILITIES COMMISSION SHALL NOT DENY APPROVAL OF AN ENERGY SECTOR PUBLIC WORKS PROJECT SOLELY BECAUSE THE PROJECT OWNER VOLUNTARILY ELECTS TO USE A PROJECT LABOR AGREEMENT FOR THE PROJECT. THE PUBLIC UTILITIES COMMISSION MUST STATE ITS REASONS FOR DENIAL IN WRITING WHEN IT ISSUES THE DECISION.

24-92-307. Energy sector public works projects - existing authority of the public utilities commission. NOTHING IN THIS SECTION CONTRAVENES THE STATUTORY AUTHORITY OF THE PUBLIC UTILITIES COMMISSION TO CONSIDER OVERALL PROJECT COSTS, THE IMPACT OF A PROJECT ON UTILITY CUSTOMERS, OR THE IMPACT OF PROJECT COST ON UTILITY RATES.

SECTION 2. In Colorado Revised Statutes, 24-38.5-118, **add** (11) as follows:

24-38.5-118. Geothermal energy grant program - creation - procedures - fund - report - definitions - repeal. (11) **Grants awarded to energy sector public works projects - requirements.** ANY PROJECT THAT IS FUNDED IN WHOLE OR IN PART BY A GRANT AWARDED PURSUANT TO THIS SECTION AND THAT IS AN ENERGY SECTOR PUBLIC WORKS PROJECT, AS DEFINED IN SECTION 24-92-303 (5), MUST COMPLY WITH THE APPLICABLE REQUIREMENTS OF THE "COLORADO ENERGY SECTOR PUBLIC WORKS

PROJECT CRAFT LABOR REQUIREMENTS ACT", PART 3 OF ARTICLE 92 OF THIS TITLE 24.

SECTION 3. In Colorado Revised Statutes, 24-92-115, **add** (7) as follows:

24-92-115. Apprenticeship utilization requirements - mechanical, electrical, and plumbing contracts - public projects - definition. (7) (a) FOR AN ENERGY SECTOR PUBLIC WORKS PROJECT, AS DEFINED IN SECTION 24-92-303 (5), THE GENERAL CONTRACTOR OR OTHER FIRM TO WHICH THE CONTRACT IS AWARDED SHALL:

(I) IDENTIFY, AT THE TIME THEY ARE PUT UNDER CONTRACT, ALL CONTRACTORS OR SUBCONTRACTORS REQUIRED FOR THE PROJECT, OTHER THAN THOSE USED FOR ALL MECHANICAL, SHEET METAL, FIRE SUPPRESSION, SPRINKLER FITTING, ELECTRICAL, PLUMBING WORK, AND CONSTRUCTION CRAFT LABOR; AND

(II) CERTIFY THAT ALL CONTRACTORS OR SUBCONTRACTORS IDENTIFIED PARTICIPATE IN APPRENTICESHIP TRAINING PROGRAMS REGISTERED WITH THE UNITED STATES DEPARTMENT OF LABOR'S EMPLOYMENT AND TRAINING ADMINISTRATION OR STATE APPRENTICESHIP AGENCIES RECOGNIZED BY THE UNITED STATES DEPARTMENT OF LABOR'S EMPLOYMENT AND TRAINING ADMINISTRATION AND HAVE A PROVEN RECORD OF GRADUATING APPRENTICES FOR AT LEAST THREE OF THE PAST FIVE YEARS.

(b) SUBSECTIONS (1)(a) TO (1)(c) OF THIS SECTION APPLY TO MECHANICAL, ELECTRICAL, AND PLUMBING CONTRACTORS AND SUBCONTRACTORS SUBJECT TO THIS SUBSECTION (7).

(c) CONTRACTORS AND SUBCONTRACTORS THAT ARE SUBJECT TO THE REQUIREMENTS OF THIS SUBSECTION (7) AND THAT PROVIDE CONSTRUCTION CRAFT LABOR MUST CERTIFY THAT ALL FIRMS IDENTIFIED PARTICIPATE IN APPRENTICESHIP TRAINING PROGRAMS THAT ARE REGISTERED WITH THE UNITED STATES DEPARTMENT OF LABOR'S EMPLOYMENT AND TRAINING ADMINISTRATION OR A STATE APPRENTICESHIP AGENCY RECOGNIZED BY THE UNITED STATES DEPARTMENT OF LABOR'S EMPLOYMENT AND TRAINING ADMINISTRATION AND THAT:

(I) SATISFY TO THE GRADUATION REQUIREMENTS OF SUBSECTIONS (1)(a)(II)(A) TO (1)(a)(II)(C) OF THIS SECTION AT THE TIME THE CONTRACT OR SUBCONTRACT WAS EXECUTED; AND

(II) PROVIDE DOCUMENTATION REQUIRED IN SUBSECTION (1)(a)(III) OF THIS SECTION.

(d) UPON EVALUATION OF THE SUBMITTED BIDS, A PUBLIC UTILITY, INDEPENDENT POWER PRODUCER, OR COOPERATIVE ELECTRIC ASSOCIATION MAY WAIVE THE REQUIREMENTS OF THIS SECTION IF IT DETERMINES THAT THERE IS SUBSTANTIAL EVIDENCE THAT THERE ARE NO RESPONSIVE ELIGIBLE CONTRACTORS OR SUBCONTRACTORS FOR ANY TRADES AVAILABLE TO FULFILL THE APPRENTICESHIP REQUIREMENTS FOR ONE OR MORE OF THE TRADES SUBJECT TO THIS SECTION. ANY PARTY EXERCISING A WAIVER PURSUANT TO THIS SUBSECTION (7)(d) SHALL DISCLOSE THE WAIVER ON A PUBLICLY ACCESSIBLE WEBSITE, INCLUDING THE CONTRACTOR OR SUBCONTRACTOR TO WHICH THE WAIVER APPLIES AND THE SPECIFIC RATIONALE FOR THE WAIVER.

(e) IN THE EVENT OF AN EXTREME WEATHER EVENT, A WILDFIRE, OR AN EMERGENCY DECLARED BY THE STATE OF COLORADO OR THE FEDERAL GOVERNMENT, A PUBLIC UTILITY OR COOPERATIVE ELECTRIC ASSOCIATION MAY WAIVE THE REQUIREMENTS OF THIS SUBSECTION (7) WHEN PERFORMING REPAIR WORK TO RESTORE ELECTRIC SERVICE TO CUSTOMERS OR ASSOCIATION MEMBERS WHEN IT CAN REASONABLY DEMONSTRATE THAT:

(I) THE CAPACITY NEEDED TO RESTORE POWER EXCEEDS THE PUBLIC UTILITY'S OR COOPERATIVE ELECTRIC ASSOCIATION'S AVAILABLE CAPACITY FOR EMERGENCY REPAIRS THROUGH ITS EMPLOYEES, STANDBY CONTRACTOR CAPACITY, OR APPLICABLE MUTUAL AID AGREEMENTS; AND

(II) A GOOD FAITH EFFORT TO IDENTIFY CONTRACTORS AND SUBCONTRACTORS THAT CAN COMPLY WITH THIS SUBSECTION (7) WAS MADE AND NO ELIGIBLE CONTRACTORS OR SUBCONTRACTORS WERE AVAILABLE FOR THE TIME FRAME FOR WHICH THE EMERGENCY CAPACITY WAS NEEDED.

SECTION 4. In Colorado Revised Statutes, 40-2-123, **add** (5) as follows:

40-2-123. Energy technologies - consideration by commission -

incentives - demonstration projects - definitions - repeal. (5) ANY PROJECT APPROVED PURSUANT TO THIS SECTION THAT IS AN ENERGY SECTOR PUBLIC WORKS PROJECT, AS DEFINED IN SECTION 24-92-303 (5), MUST COMPLY WITH THE APPLICABLE REQUIREMENTS OF THE "COLORADO ENERGY SECTOR PUBLIC WORKS PROJECT CRAFT LABOR REQUIREMENTS ACT", PART 3 OF ARTICLE 92 OF TITLE 24.

SECTION 5. In Colorado Revised Statutes, 40-2-127, **add** (3.7) as follows:

40-2-127. Community energy funds - community solar gardens - definitions - rules - legislative declaration - repeal. (3.7) **Energy sector public works projects.** IF THE DEVELOPMENT OF A COMMUNITY SOLAR GARDEN IS AN ENERGY SECTOR PUBLIC WORKS PROJECT, AS DEFINED IN SECTION 24-92-303 (5), THEN THE PROJECT MUST COMPLY WITH THE APPLICABLE REQUIREMENTS OF THE "COLORADO ENERGY SECTOR PUBLIC WORKS PROJECT CRAFT LABOR REQUIREMENTS ACT", PART 3 OF ARTICLE 92 OF TITLE 24.

SECTION 6. In Colorado Revised Statutes, 40-2-129, **amend** (1)(a); **repeal** (4); and **add** (5) and (6) as follows:

40-2-129. New resource acquisitions - factors in determination - local employment - "best value" employment metrics - performance audit. (1) (a) (I) When evaluating electric resource acquisitions and requests for a certificate of convenience and necessity for construction or expansion of generating facilities, including but not limited to pollution control or fuel conversion upgrades and conversion of existing coal-fired plants to natural gas plants, the commission shall consider, in all decisions involved in electric resource acquisition processes, best value regarding employment of Colorado labor, as defined in section 8-17-101 (2)(a), and positive impacts on the long-term economic viability of Colorado communities. To this end, the commission shall require utilities to obtain and provide to the commission the following information regarding "best value" employment metrics:

(A) The availability of training programs, including training through apprenticeship programs registered with the United States department of labor's office of apprenticeship or by state apprenticeship ~~councils~~ AGENCIES recognized by that office FOR ALL APPRENTICEABLE TRADES

REQUIRED TO EFFECTIVELY DELIVER THE PROJECT TO COMPLETION;

(B) Employment of Colorado labor as compared to importation of out-of-state workers;

(C) THE ABILITY OF THE PROJECT TO EMPLOY WORKERS FROM TRADITIONALLY UNDERSERVED COMMUNITIES OR DISPROPORTIONATELY IMPACTED COMMUNITIES AS DEFINED IN SECTION 24-4-109 (2)(b)(II);

(D) HOW THE PROJECT SUPPORTS DOMESTIC MANUFACTURING THROUGH THE UTILIZATION OF COLORADO AND DOMESTICALLY PRODUCED MATERIALS, INCLUDING CONSIDERATION OF THE POTENTIAL FOR DOMESTICALLY MANUFACTURED MATERIALS BEING UNAVAILABLE IN THE MARKETPLACE;

(E) Long-term career opportunities; and

(F) Industry-standard wages, health care, and pension benefits.

(II) When a utility proposes to construct new facilities of its own, the utility shall supply similar information to the commission.

~~(4) (a) The state auditor shall conduct or cause to be conducted a performance audit of the commission's implementation of the "best value" employment metrics requirements of this section, including review of:~~

~~(i) The projects subject to subsection (1)(a) of this section that have been approved in the previous ten years;~~

~~(ii) Whether the work done used contractors that met the criteria specified in this section;~~

~~(iii) Any shortfalls in enforcement capacity or implementation by the commission;~~

~~(iv) Current enforcement procedures for investor-owned utilities, independent power producers, and wholesale generation and transmission electric cooperatives; and~~

~~(v) Whether and how delayed rule-making proceedings have~~

~~prevented the "best value" employment metrics requirements of this section from being implemented.~~

~~(b) The governor's office, the commission, and commission staff shall cooperate with stakeholders and the state auditor in conducting the audit and making recommendations for reforms of, or potential alternatives to, the implementation and enforcement of "best value" employment metrics.~~

~~(c) Upon completion of a performance audit, the state auditor shall submit a written report to the legislative audit committee, together with any findings and recommendations.~~

(5) THE COMMISSION SHALL PROMULGATE RULES REQUIRING UTILITIES, WHEN SUBMITTING ANNUAL PROGRESS REPORTS FOR AN ELECTRIC RESOURCE ACQUISITION, TO COLLECT AND PROVIDE TO THE COMMISSION INFORMATION CONCERNING THE IMPLEMENTATION OF "BEST VALUE" EMPLOYMENT METRICS, AS DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION, WHICH METRICS WERE APPROVED BY THE COMMISSION DURING THE ACQUISITION PLANNING PROCESS AND WHICH ACQUISITIONS ARE UNDER CONSTRUCTION BY EITHER THE UTILITY OR BY OTHERS.

(6) (a) ON OR BEFORE DECEMBER 31, 2024, AND ON OR BEFORE DECEMBER 31 OF EACH YEAR THEREAFTER, THE COMMISSION SHALL SUBMIT A REPORT TO THE ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES. THE REPORT MUST SUMMARIZE THE INFORMATION CONCERNING "BEST VALUE" EMPLOYMENT METRICS THAT IS REPORTED TO THE COMMISSION BY UTILITIES PURSUANT TO SUBSECTIONS (1)(a) AND (5) OF THIS SECTION AND INDICATE THE MANNER IN WHICH THE COMMISSION CONSIDERED THE INFORMATION.

(b) NOTWITHSTANDING THE LIMITATION DESCRIBED IN SECTION 24-1-136 (11)(a)(I), THE REPORTING REQUIREMENT DESCRIBED IN SUBSECTION (6)(a) OF THIS SECTION CONTINUES IN PERPETUITY.

SECTION 7. In Colorado Revised Statutes, 40-3.2-105.5, **add** (5), (6), and (7) as follows:

40-3.2-105.5. Labor standards for gas DSM projects. (5) (a) FOR

A PLUMBING, MECHANICAL, OR ELECTRICAL PROJECT IN A NEW OR EXISTING INDUSTRIAL, COMMERCIAL, OR MULTIFAMILY RESIDENTIAL BUILDING THAT CONTAINS TWENTY THOUSAND SQUARE FEET OR MORE OF CONDITIONED FLOOR SPACE AND FOR WHICH A REBATE IS TO BE PROVIDED DIRECTLY TO THE BUILDING OWNER AS PART OF A GAS DSM PROGRAM, A UTILITY SHALL NOT ISSUE ANY REBATES OR INCENTIVES UNLESS THE LEAD GENERAL CONTRACTOR PERFORMING THE WORK FOR THE PROJECT SIGNS A NOTARIZED AFFIDAVIT UNDER PENALTY OF PERJURY STATING THAT ALL OF THE REQUIREMENTS OF THIS SECTION HAVE BEEN MET AND PROVIDES THE SIGNED AFFIDAVIT TO THE SPONSORING UTILITY. THE AFFIDAVIT MUST:

(I) IDENTIFY THE CONTRACTORS OR SUBCONTRACTORS THAT WILL BE USED FOR ALL MECHANICAL, SHEET METAL, FIRE SUPPRESSION, SPRINKLER FITTING, ELECTRICAL, AND PLUMBING WORK, REQUIRED ON THE PROJECT;

(II) CERTIFY THAT ALL FIRMS IDENTIFIED PARTICIPATE IN APPRENTICESHIP PROGRAMS REGISTERED WITH THE UNITED STATES DEPARTMENT OF LABOR'S EMPLOYMENT AND TRAINING ADMINISTRATION OR STATE APPRENTICESHIP AGENCIES RECOGNIZED BY THE UNITED STATES DEPARTMENT OF LABOR AND HAVE A PROVEN RECORD OF GRADUATING APPRENTICES AS FOLLOWS:

(A) BEGINNING JULY 1, 2021, THROUGH JUNE 30, 2026, A MINIMUM OF FIFTEEN PERCENT OF ITS APPRENTICES FOR AT LEAST THREE OF THE PAST FIVE YEARS;

(B) BEGINNING JULY 1, 2026, THROUGH JUNE 30, 2031, A MINIMUM OF TWENTY PERCENT OF APPRENTICES FOR AT LEAST THREE OF THE PAST FIVE YEARS; AND

(C) BEGINNING JULY 1, 2031, AND EACH YEAR THEREAFTER, A MINIMUM OF THIRTY PERCENT OF APPRENTICES FOR AT LEAST THREE OF THE PAST FIVE YEARS; AND

(III) SUPPLY SUPPORTING DOCUMENTATION FROM THE UNITED STATES DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR STATE APPRENTICESHIP AGENCY VERIFYING THE INFORMATION PROVIDED IN THE CERTIFICATION SPECIFIED IN SUBSECTION (1)(a)(II) OF THIS SECTION.

(b) THE UTILITY MUST MAINTAIN A DATABASE OF THE INFORMATION

CONTAINED IN THE AFFIDAVIT FOR EACH PROJECT AWARDED A REBATE OR INCENTIVE.

(c) THIS SUBSECTION (5) DOES NOT APPLY TO A GAS DSM PROGRAM THAT IS LIMITED TO IN-UNIT WORK IN A MULTIFAMILY BUILDING, AS UNDERTAKEN BY THE OWNER OR TENANT OF THE MULTIFAMILY BUILDING OR UNIT.

(6) (a) TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF SUBSECTION (5) OF THIS SECTION, THE GENERAL CONTRACTOR OR OTHER FIRM TO WHICH THE CONTRACT IS AWARDED MUST AGREE TO PROVIDE ADDITIONAL DOCUMENTATION TO THE PARTICIPATING UTILITY OFFERING THE REBATE OR INCENTIVE REGARDING THE REQUIREMENTS FOR AFFECTED APPRENTICESHIP TRAINING PROGRAMS SPECIFIED IN SUBSECTION (5)(a) OF THIS SECTION.

(b) IF THE UTILITY OFFERING THE REBATE OR INCENTIVE DETERMINES THAT A MECHANICAL, ELECTRICAL, OR PLUMBING SUBCONTRACTOR HAS WILLFULLY FALSIFIED DOCUMENTATION OR WILLFULLY MISREPRESENTED THEIR QUALIFICATIONS AS REQUIRED TO COMPLY WITH THIS SECTION IN THE CONTRACT, THE UTILITY SHALL DIRECT THE CONTRACTOR TO TERMINATE THE SUBCONTRACTOR CONTRACT IMMEDIATELY AND THE SUBCONTRACTOR SHALL IMMEDIATELY BE REMOVED FROM THE PUBLIC PROJECT. THE UTILITY MAY ALSO DEBAR THE OFFENDING SUBCONTRACTORS FOR FUTURE PARTICIPATION IN REBATES OR INCENTIVE PROGRAMS ESTABLISHED UNDER THIS SECTION.

(c) IF AFTER ISSUING A REBATE OR INCENTIVE PURSUANT TO THIS SECTION, A UTILITY DETERMINES THAT A CONTRACTOR OR SUBCONTRACTOR HAS WILLFULLY VIOLATED ANY REQUIREMENT OF THIS SECTION, THE UTILITY MAY DEMAND A FULL REFUND OF THE REBATE OR INCENTIVE WITH REASONABLE PENALTIES AND INTEREST AND MAY PURSUE ANY REMEDY PROVIDED BY LAW.

(d) A UTILITY MUST MAINTAIN A LIST OF CONTRACTORS AND SUBCONTRACTORS THAT HAVE WILLFULLY FALSIFIED DOCUMENTATION OR WILLFULLY MISREPRESENTED THEIR QUALIFICATIONS OR THAT ARE DEBARRED FROM RECEIVING FUTURE REBATES OR INCENTIVES AND MAKE THAT LIST AVAILABLE TO THEIR CUSTOMERS ON THEIR WEBSITE.

(7) (a) THE UTILITY THAT OFFERS THE REBATE OR INCENTIVE PURSUANT TO THIS SECTION MUST ESTABLISH PERIODIC AUDITS OF THE QUALIFYING REBATES THAT REPRESENT THE HIGHEST TWO PERCENT OF REBATES ISSUED BY DOLLAR AMOUNT AT LEAST EVERY THREE YEARS TO ENSURE THAT THE CONTRACTORS OR SUBCONTRACTORS MAINTAIN COMPLIANCE WITH THIS SECTION.

(b) IF THE AUDIT DETERMINES THAT THERE WERE WILLFUL VIOLATIONS OF THIS SECTION, THE UTILITY MAY DEMAND A FULL REFUND OF THE REBATE OR INCENTIVE WITH REASONABLE PENALTIES AND INTEREST AND MAY PURSUE ANY REMEDY PROVIDED BY LAW.

SECTION 8. In Colorado Revised Statutes, 40-3.2-105.6, **add** (5), (6), and (7) as follows:

40-3.2-105.6. Labor standards for beneficial electrification projects. (5) (a) FOR A BENEFICIAL ELECTRIFICATION PROJECT IN A NEW OR EXISTING INDUSTRIAL, COMMERCIAL, OR MULTIFAMILY RESIDENTIAL BUILDING THAT CONTAINS TWENTY THOUSAND SQUARE FEET OR MORE OF CONDITIONED FLOOR SPACE AND FOR WHICH A REBATE IS TO BE PROVIDED DIRECTLY TO THE BUILDING OWNER AS PART OF THE BENEFICIAL ELECTRIFICATION PROGRAM, A UTILITY SHALL NOT ISSUE ANY REBATES OR INCENTIVES UNLESS THE LEAD GENERAL CONTRACTOR PERFORMING THE WORK FOR THE PROJECT SIGNS A NOTARIZED AFFIDAVIT UNDER PENALTY OF PERJURY STATING THAT ALL OF THE REQUIREMENTS OF THIS SECTION HAVE BEEN MET AND PROVIDES THE SIGNED AFFIDAVIT TO THE SPONSORING UTILITY. THE AFFIDAVIT MUST:

(I) IDENTIFY THE CONTRACTORS OR SUBCONTRACTORS THAT WILL BE USED FOR ALL MECHANICAL, SHEET METAL, FIRE SUPPRESSION, SPRINKLER FITTING, ELECTRICAL, AND PLUMBING WORK REQUIRED ON THE PROJECT;

(II) CERTIFY THAT ALL FIRMS IDENTIFIED PARTICIPATE IN APPRENTICESHIP PROGRAMS REGISTERED WITH THE UNITED STATES DEPARTMENT OF LABOR'S EMPLOYMENT AND TRAINING ADMINISTRATION OR STATE APPRENTICESHIP AGENCIES RECOGNIZED BY THE UNITED STATES DEPARTMENT OF LABOR AND HAVE A PROVEN RECORD OF GRADUATING APPRENTICES AS FOLLOWS:

(A) BEGINNING JULY 1, 2021, THROUGH JUNE 30, 2026, A MINIMUM

OF FIFTEEN PERCENT OF ITS APPRENTICES FOR AT LEAST THREE OF THE PAST FIVE YEARS;

(B) BEGINNING JULY 1, 2026, THROUGH JUNE 30, 2031, A MINIMUM OF TWENTY PERCENT OF APPRENTICES FOR AT LEAST THREE OF THE PAST FIVE YEARS; AND

(C) BEGINNING JULY 1, 2031, AND EACH YEAR THEREAFTER, A MINIMUM OF THIRTY PERCENT OF APPRENTICES FOR AT LEAST THREE OF THE PAST FIVE YEARS; AND

(III) SUPPLY SUPPORTING DOCUMENTATION FROM THE UNITED STATES DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR STATE APPRENTICESHIP AGENCY VERIFYING THE INFORMATION PROVIDED IN THE CERTIFICATION SPECIFIED IN SUBSECTION (1)(a)(II) OF THIS SECTION.

(b) THE UTILITY MUST MAINTAIN A DATABASE OF THE INFORMATION CONTAINED IN THE AFFIDAVIT FOR EACH PROJECT AWARDED A REBATE OR INCENTIVE.

(c) THIS SUBSECTION (5) DOES NOT APPLY TO A BENEFICIAL ELECTRIFICATION PROJECT THAT IS LIMITED TO IN-UNIT WORK IN A MULTIFAMILY BUILDING, AS UNDERTAKEN BY THE OWNER OR TENANT OF THE MULTIFAMILY BUILDING OR UNIT.

(6) (a) TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF SUBSECTION (5) OF THIS SECTION, THE GENERAL CONTRACTOR OR OTHER FIRM TO WHICH THE CONTRACT IS AWARDED MUST AGREE TO PROVIDE ADDITIONAL DOCUMENTATION TO THE PARTICIPATING UTILITY OFFERING THE REBATE OR INCENTIVE REGARDING THE REQUIREMENTS FOR AFFECTED APPRENTICESHIP TRAINING PROGRAMS SPECIFIED IN SUBSECTION (5)(a) OF THIS SECTION.

(b) IF THE UTILITY OFFERING THE REBATE OR INCENTIVE DETERMINES THAT A MECHANICAL, ELECTRICAL, OR PLUMBING SUBCONTRACTOR HAS WILLFULLY FALSIFIED DOCUMENTATION OR WILLFULLY MISREPRESENTED THEIR QUALIFICATIONS AS REQUIRED TO COMPLY WITH THIS SECTION IN THE CONTRACT, THE UTILITY SHALL DIRECT THE CONTRACTOR TO TERMINATE THE SUBCONTRACTOR CONTRACT IMMEDIATELY AND THE SUBCONTRACTOR MUST IMMEDIATELY BE REMOVED FROM THE PUBLIC PROJECT. THE UTILITY

MAY DEBAR THE OFFENDING SUBCONTRACTORS FOR FUTURE PARTICIPATION IN REBATE OR INCENTIVE PROGRAMS ESTABLISHED UNDER THIS SECTION.

(c) IF AFTER ISSUING A REBATE OR INCENTIVE PURSUANT TO THIS SECTION, A UTILITY DETERMINES THAT A CONTRACTOR OR SUBCONTRACTOR HAS WILLFULLY VIOLATED ANY REQUIREMENT OF THIS SECTION, THE UTILITY MAY DEMAND A FULL REFUND OF THE REBATE OR INCENTIVE WITH REASONABLE PENALTIES AND INTEREST AND MAY PURSUE ANY REMEDY PROVIDED BY LAW.

(d) A UTILITY SHALL MAINTAIN A LIST OF CONTRACTORS AND SUBCONTRACTORS THAT HAVE WILLFULLY FALSIFIED DOCUMENTATION OR WILLFULLY MISREPRESENTED THEIR QUALIFICATIONS OR THAT ARE DEBARRED FROM RECEIVING FUTURE REBATES OR INCENTIVES AND MAKE THAT LIST AVAILABLE TO THEIR CUSTOMERS ON THEIR WEBSITE.

(7) (a) THE UTILITY THAT OFFERS THE REBATE OR INCENTIVE PURSUANT TO THIS SECTION MUST ESTABLISH PERIODIC AUDITS OF THE QUALIFYING REBATES THAT REPRESENT THE HIGHEST TWO PERCENT OF REBATES ISSUED BY DOLLAR AMOUNT AT LEAST EVERY THREE YEARS TO ENSURE THAT THE CONTRACTORS OR SUBCONTRACTORS MAINTAIN COMPLIANCE WITH THIS SECTION.

(b) IF THE AUDIT DETERMINES THAT THERE WERE WILLFUL VIOLATIONS OF THIS SECTION, THE UTILITY MAY DEMAND A FULL REFUND OF THE REBATE OR INCENTIVE WITH REASONABLE PENALTIES AND INTEREST AND MAY PURSUE ANY REMEDY PROVIDED BY LAW.

SECTION 9. In Colorado Revised Statutes, 40-3.2-108, **add** (8)(e) as follows:

40-3.2-108. Clean heat targets - legislative declaration - definitions - plans - rules - reports. (8) Employment and utility workforce. (e) IF A PROJECT IN CONNECTION WITH A CLEAN HEAT PLAN, IS AN ENERGY SECTOR PUBLIC WORKS PROJECT, AS DEFINED IN SECTION 24-92-303 (5), THE PROJECT MUST COMPLY WITH THE APPLICABLE REQUIREMENTS OF THE "COLORADO ENERGY SECTOR PUBLIC WORKS PROJECT CRAFT LABOR REQUIREMENTS ACT", PART 3 OF ARTICLE 92 OF TITLE 24.

SECTION 10. In Colorado Revised Statutes, 40-5-107, **add** (3)(c) as follows:

40-5-107. Electric vehicle programs - definitions - repeal.

(3) (c) AN ELECTRIC VEHICLE INFRASTRUCTURE PROJECT THAT IS AN ENERGY SECTOR PUBLIC WORKS PROJECT, AS DEFINED IN SECTION 24-92-303 (5), MUST COMPLY WITH THE APPLICABLE REQUIREMENTS OF THE "COLORADO ENERGY SECTOR PUBLIC WORKS PROJECT CRAFT LABOR REQUIREMENTS ACT", PART 3 OF ARTICLE 92 OF TITLE 24.

SECTION 11. In Colorado Revised Statutes, 40-42-107, **add** (4) as follows:

40-42-107. Labor standards - apprenticeship - supervision.

(4) ANY PROJECT FOR THE CONSTRUCTION, EXPANSION, OR MAINTENANCE OF FACILITIES UNDERTAKEN IN COLORADO PURSUANT TO THIS ARTICLE 42 THAT IS AN ENERGY SECTOR PUBLIC WORKS PROJECT, AS DEFINED IN SECTION 24-92-303 (5), MUST COMPLY WITH THE APPLICABLE REQUIREMENTS OF THE "COLORADO ENERGY SECTOR PUBLIC WORKS PROJECT CRAFT LABOR REQUIREMENTS ACT", PART 3 OF ARTICLE 92 OF TITLE 24.

SECTION 12. Appropriation. For the 2023-24 state fiscal year, \$108,401 is appropriated to the department of labor and employment for use by the division of labor standards and statistics. This appropriation is from the general fund and is based on an assumption that the division will require an additional 1.0 FTE. To implement this act, the division may use this appropriation for program costs related to labor standards.

SECTION 13. Act subject to petition - effective date - applicability. (1) This act takes effect January 1, 2024; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act only applies to any energy sector public works project

for which a public utility or cooperative electric association invitation for bids or proposals is issued on or after January 1, 2024.

Steve Fenberg
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO