

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0162.01 Duane Gall x4335

SENATE BILL 20-013

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SENATE SPONSORSHIP

Rodriguez,

HOUSE SPONSORSHIP

(None),

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Senate Committees

State, Veterans, & Military Affairs

House Committees

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A BILL FOR AN ACT

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

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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>.)*

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The bill replaces the integrated gasification combined cycle (IGCC) program, which was repealed in 2019, with a mechanism by which an investor-owned public utility seeking to implement an innovative energy technology project (project) may apply to the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

In determining whether to grant approval to a public utility seeking to implement a project, the PUC shall consider a number of factors regarding the project, including its economic and technical feasibility, its projected environmental and public safety impacts, and its carbon dioxide emissions rates. The PUC is required to provide an opportunity for public comment and an evidentiary hearing.

A public utility may fully recover, from its retail customers in the state, the costs it incurs in researching, testing, planning, developing, constructing, starting up, and operating the project. The public utility may also recover capital investments made in connection with the project over the useful life of the project. The department of public health and environment, the governor's office of economic development, and the Colorado energy office may assist public utilities in seeking and obtaining support for a project from other federal and state agencies and institutions.

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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) Colorado has a long tradition of leadership in clean energy  
5 research and development;

6 (b) Market certainty for low- and zero-emission dispatchable  
7 resources and other innovative energy technologies has the potential to  
8 create economic development opportunities in the state while  
9 simultaneously advancing the state's emission reduction goals and  
10 furthering the transition to cleaner energy resources;

11 (c) By creating market certainty, these projects can be a catalyst  
12 for cutting-edge research, the attraction and retention of new business,

1 workforce development, and economic growth; and

2 (d) It is a matter of national importance that Colorado continues  
3 its leadership by advancing technologies that hold the promise of  
4 delivering the next generation of clean, safe, affordable, reliable, diverse,  
5 and resilient energy while meeting the state's emission reduction  
6 objectives.

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

9 **40-2-123. Energy technologies - consideration by commission**  
10 **- incentives - demonstration projects - definitions - legislative**  
11 **declaration.** (2) (a) THE COMMISSION SHALL CONSIDER PROPOSALS BY  
12 COLORADO INVESTOR-OWNED PUBLIC UTILITIES TO PROPOSE, FUND,  
13 CONSTRUCT, OWN, AND OPERATE ELECTRIC GENERATION OR STORAGE  
14 FACILITIES TO DEMONSTRATE THE FEASIBILITY OF INNOVATIVE ENERGY  
15 TECHNOLOGY PROJECTS.

16 (b) AS USED IN THIS SUBSECTION (2):

17 (I) "INNOVATIVE ENERGY TECHNOLOGY" MEANS A GENERATION  
18 TECHNOLOGY OR STORAGE TECHNOLOGY THAT, ALONE OR IN  
19 COMBINATION WITH OTHER TECHNOLOGIES USED IN A PROJECT, HAS  
20 MINIMAL OR NO EMISSIONS OF CARBON DIOXIDE INTO THE ATMOSPHERE,  
21 AND IS DISPATCHABLE OR OTHERWISE CONTROLLABLE TO MEET SYSTEM  
22 ENERGY REQUIREMENTS. INNOVATIVE ENERGY TECHNOLOGY MAY  
23 INCLUDE:

24 (A) ADVANCED RENEWABLE ENERGY;

25 (B) LONG-DURATION ENERGY STORAGE, INCLUDING PUMPED  
26 HYDROELECTRIC STORAGE, STORAGE OF LOW- TO ZERO-CARBON FUELS,  
27 EMERGING BATTERY TECHNOLOGIES, AND OTHER FORMS OF ENERGY

1 STORAGE;

2 (C) RESOURCES POWERED BY RENEWABLE NATURAL GAS, CLEAN  
3 HYDROGEN, OR OTHER FUELS SYNTHESIZED THROUGH LOW- TO  
4 ZERO-CARBON PROCESSES;

5 (D) FOSSIL FUEL TECHNOLOGY WITH CARBON CAPTURE  
6 TECHNOLOGY, INCLUDING TECHNOLOGY THAT REMOVES CARBON DIOXIDE  
7 FROM THE ATMOSPHERE; OR

8 (E) ADVANCED NUCLEAR ENERGY.

9 (II) "INNOVATIVE ENERGY TECHNOLOGY PROJECT" OR "PROJECT"  
10 MEANS AN ELECTRIC GENERATION OR ENERGY STORAGE FACILITY THAT:

11 (A) DEMONSTRATES THE USE OF INNOVATIVE ENERGY  
12 TECHNOLOGY;

13 (B) IN THE CASE OF AN ELECTRIC GENERATION INNOVATIVE  
14 ENERGY TECHNOLOGY, GENERATES ELECTRICITY USING FUELS OR  
15 RESOURCES, INCLUDING RENEWABLE ENERGY RESOURCES, LOCATED IN  
16 COLORADO; AND

17 (C) IS LOCATED IN COLORADO.

18 (c) (I) A PUBLIC UTILITY MAY, FROM TIME TO TIME, APPLY UNDER  
19 THIS SUBSECTION (2) TO THE COMMISSION FOR A CERTIFICATE OF PUBLIC  
20 CONVENIENCE AND NECESSITY AND FOR COST RECOVERY FOR INNOVATIVE  
21 ENERGY TECHNOLOGY PROJECTS.

22 (II) A PROJECT DEVELOPED PURSUANT TO THIS SECTION IS EXEMPT  
23 FROM SECTION 40-2-125.5 (5)(b) AND ANY OTHER COMPETITIVE BIDDING  
24 REQUIREMENTS IMPOSED BY RULES OF THE COMMISSION; EXCEPT THAT A  
25 PUBLIC UTILITY SHALL PRESENT ANY SUCH PROJECT AS PART OF THE  
26 PUBLIC UTILITY'S ELECTRIC RESOURCE PLANNING PROCESS SO THAT THE  
27 PROJECT CAN BE EVALUATED AS PART OF A COMPREHENSIVE PLAN TO

1 MEET THE PUBLIC UTILITY'S ENERGY AND CAPACITY NEEDS. IN ADDITION,  
2 IN ITS APPLICATION, THE PUBLIC UTILITY SHALL SET FORTH INFORMATION  
3 CONCERNING:

4 (A) THE PROJECT'S OPERATING CHARACTERISTICS AND ITS  
5 ECONOMIC AND TECHNICAL FEASIBILITY;

6 (B) THE PROJECTED COST OF THE PROJECT AND THE FORM OF RATE  
7 RECOVERY REQUESTED BY THE PUBLIC UTILITY, CONSISTENT WITH  
8 SUBSECTION (2)(f) OF THIS SECTION; AND

9 (C) THE PROJECT'S VALUE TO COLORADO'S ECONOMY, INCLUDING  
10 POTENTIAL ECONOMIC DEVELOPMENT OPPORTUNITIES AND THE  
11 ENHANCEMENT OF COLORADO'S ROLE AS A NATIONAL LEADER IN CLEAN  
12 ENERGY, AND HOW THE PROJECT ADVANCES COLORADO'S EMISSION  
13 REDUCTION OBJECTIVES AND PROVIDES GENERATION RESOURCE  
14 DIVERSITY.

15 (d) IN ITS APPLICATION, A PUBLIC UTILITY SEEKING TO CONSTRUCT  
16 A PROJECT SHALL ALSO PROVIDE INFORMATION CONCERNING THE  
17 FOLLOWING ENVIRONMENTAL MATTERS:

18 (I) THE PROJECT'S PROJECTED WATER SAVINGS, IF ANY; EMISSION  
19 RATES; AND OTHER ENVIRONMENTAL BENEFITS;

20 (II) ANY ENVIRONMENTAL AND PUBLIC SAFETY IMPACTS OF THE  
21 PROJECT; AND

22 (III) THE DIRECT CARBON DIOXIDE EMISSIONS ASSOCIATED WITH  
23 THE OPERATION OF THE PROJECT.

24 (e) (I) THE COMMISSION SHALL PROVIDE AN OPPORTUNITY FOR  
25 PUBLIC COMMENT AND AN EVIDENTIARY HEARING ON THE PUBLIC  
26 UTILITY'S APPLICATION. IF THE COMMISSION GRANTS THE PUBLIC UTILITY  
27 A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE

1 PROPOSED PROJECT, THE COMMISSION SHALL ISSUE AN ORDER FOR COST  
2 RECOVERY IN ACCORDANCE WITH SUBSECTION (2)(f) OF THIS SECTION.

3 (II) IN EVALUATING A PROJECT UNDER THIS SECTION, IN ADDITION  
4 TO THE CONSIDERATIONS SET FORTH IN SUBSECTION (1) OF THIS SECTION,  
5 THE COMMISSION SHALL CONSIDER THE FACTORS SET FORTH IN  
6 SUBSECTION (2)(f) OF THIS SECTION AND THE AMOUNT OF FEDERAL, STATE,  
7 OR OTHER MONEY AVAILABLE FOR THE PROJECT. NOTHING IN THIS  
8 SUBSECTION (2) REQUIRES THE COMMISSION TO MONETIZE THE POTENTIAL  
9 ENVIRONMENTAL BENEFITS ASSOCIATED WITH A PROPOSED PROJECT.

10 (f) (I) A PUBLIC UTILITY IS ENTITLED TO COST RECOVERY  
11 TREATMENT AS PROVIDED FOR IN SECTION 40-2-124 (1)(f)(II) TO  
12 (1)(f)(IV) REGARDLESS OF WHETHER THE PROJECT IS AN ELIGIBLE ENERGY  
13 RESOURCE UNDER SECTION 40-2-124 (1)(a).

14 (II) THE PUBLIC UTILITY IS ENTITLED TO RECOVER ALL PRUDENTLY  
15 INCURRED RESEARCH, PLANNING, DEVELOPMENT, CONSTRUCTION,  
16 START-UP, AND OPERATING COSTS IF THE PROJECT IS ABANDONED OR  
17 CANCELLED, IN WHOLE OR IN PART, DUE TO THE RISKS ASSOCIATED WITH  
18 THE DEVELOPMENT OF INNOVATIVE ENERGY TECHNOLOGIES. THE  
19 COMMISSION SHALL ESTABLISH AN AMORTIZATION PERIOD OF NO LESS  
20 THAN FIVE YEARS FOR RECOVERY OF THE COSTS ASSOCIATED WITH AN  
21 ABANDONED OR CANCELLED PROJECT.

22 (g) IN ORDER TO REDUCE THE COST TO COLORADO CONSUMERS OF  
23 A PROJECT, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, THE  
24 COLORADO OFFICE OF ECONOMIC DEVELOPMENT CREATED IN SECTION  
25 24-48.5-101, AND THE COLORADO ENERGY OFFICE CREATED IN SECTION  
26 24-38.5-101 MAY PROVIDE PUBLIC UTILITIES WITH REASONABLE  
27 ASSISTANCE IN SEEKING AND OBTAINING FINANCIAL AND OTHER SUPPORT

1 AND SPONSORSHIP FOR A PROJECT FROM THE UNITED STATES CONGRESS,  
2 THE UNITED STATES DEPARTMENT OF ENERGY, AND OTHER APPROPRIATE  
3 FEDERAL AND STATE AGENCIES AND INSTITUTIONS. TO OBTAIN THIS  
4 ASSISTANCE, A PUBLIC UTILITY MAY PROVIDE TO THESE FEDERAL AND  
5 STATE AGENCIES AND INSTITUTIONS COPIES OF ITS PROJECT PROPOSAL. THE  
6 COLORADO ENERGY OFFICE, OR ITS DESIGNEE, MAY MANAGE AND  
7 DISTRIBUTE TO THE PUBLIC UTILITY SOME OR ALL OF ANY MONEY  
8 PROVIDED BY THE STATE OF COLORADO OR BY THE FEDERAL GOVERNMENT  
9 TO THE STATE OF COLORADO FOR PURPOSES OF THE STUDY OR  
10 DEVELOPMENT OF A PROJECT.

11 (h) IN ORDER TO ASSIST A PUBLIC UTILITY IN THE DEVELOPMENT  
12 AND IMPLEMENTATION OF A PROJECT, THE PUBLIC UTILITY MAY CONVENE  
13 A TECHNICAL ADVISORY GROUP INCLUDING REPRESENTATIVES OF STATE  
14 AND FEDERAL AGENCIES AND INSTITUTIONS, THE DEPARTMENT OF PUBLIC  
15 HEALTH AND ENVIRONMENT, THE COLORADO OFFICE OF ECONOMIC  
16 DEVELOPMENT, AND THE COLORADO ENERGY OFFICE TO REVIEW PROJECT  
17 DETAILS AND PROVIDE INPUT TO THE PUBLIC UTILITY ON THE RISKS AND  
18 OPPORTUNITIES ASSOCIATED WITH INNOVATIVE TECHNOLOGIES UNDER  
19 CONSIDERATION BY THE PUBLIC UTILITY AND A PROJECT'S POTENTIAL TO  
20 AVOID CARBON EMISSIONS, ENHANCE INTEGRATION OF CLEAN ENERGY, OR  
21 BOTH.

22 (i) TO FACILITATE FINANCING OF A PROJECT, ONE OR MORE PUBLIC  
23 UTILITIES MAY DEVELOP, CONSTRUCT, OR OWN A PROJECT THROUGH A  
24 SPECIAL PURPOSE ENTITY OR OTHER AFFILIATED PARTNERSHIP OR  
25 CORPORATION, INCLUDING A PUBLIC-PRIVATE PARTNERSHIP. THE PUBLIC  
26 UTILITY MAY ELECT TO PARTNER WITH ONE OR MORE ENTITIES TO CREATE  
27 AND DEVELOP AN INNOVATIVE ENERGY TECHNOLOGY PROJECT. A

1 PARTNERSHIP FORMED FOR THIS PURPOSE MAY BE STRUCTURED AS  
2 DEEMED APPROPRIATE BY THE PUBLIC UTILITY, AND THE PUBLIC UTILITY  
3 IS ENTITLED TO NEGOTIATE OWNERSHIP INTERESTS IN THE PROJECT.

4 (j) NOTHING IN THIS SUBSECTION (2):

5 (I) PROHIBITS A PUBLIC UTILITY FROM PROPOSING TO ACQUIRE,  
6 THROUGH THE COMMISSION-APPROVED RESOURCE PLANNING AND  
7 ACQUISITION PROCESSES, POWER AND ENERGY DERIVED FROM A PROJECT  
8 DEVELOPED BY THE PUBLIC UTILITY OR BY CONTRACT FROM AN AFFILIATE  
9 OF THE PUBLIC UTILITY OR FROM AN OWNER OF A PROJECT NOT AFFILIATED  
10 WITH THE PUBLIC UTILITY;

11 (II) PREVENTS A PUBLIC UTILITY FROM APPLYING FOR A  
12 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT  
13 MORE THAN ONE PROJECT; OR

14 (III) SUPERSEDES THE COMMISSION'S EXISTING INNOVATIVE CLEAN  
15 TECHNOLOGY PROGRAM OR ANY PROJECTS APPROVED UNDER THE  
16 PROGRAM.

17 **SECTION 3. Act subject to petition - effective date -**  
18 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
19 the expiration of the ninety-day period after final adjournment of the  
20 general assembly (August 5, 2020, if adjournment sine die is on May 6,  
21 2020); except that, if a referendum petition is filed pursuant to section 1  
22 (3) of article V of the state constitution against this act or an item, section,  
23 or part of this act within such period, then the act, item, section, or part  
24 will not take effect unless approved by the people at the general election  
25 to be held in November 2020 and, in such case, will take effect on the  
26 date of the official declaration of the vote thereon by the governor.



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