

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0158.01 Jennifer Berman x3286

SENATE BILL 12-180

SENATE SPONSORSHIP

Schwartz,

HOUSE SPONSORSHIP

Coram and Hamner,

Senate Committees

Agriculture, Natural Resources, and Energy

House Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO ENCOURAGE THE USE OF COLORADO
102 FOREST BIOMASS AS A SOURCE OF RENEWABLE ENERGY.

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://www.leg.state.co.us/billsummaries>.)

The bill develops a variety of legislative responses to address the risks caused by diseased and falling trees, pest epidemics, and fire to Colorado's forests and water systems, including:

- ! In **section 2**, encouraging the Colorado state forest service to further collaborate with the United States forest service

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- to address the risk of wildfire in our forest ecosystems;
- ! In **section 4**, encouraging the Colorado economic development commission, in collaboration with the Colorado department of agriculture, to promote forest products derived from Colorado forests;
 - ! In **section 5**, encouraging the air quality control commission to identify residential, commercial, and industrial equipment, specifically with respect to equipment fueled by woody biomass, that meets air emissions standards;
 - ! In **section 6**, encouraging the Colorado agricultural value-added development board to prioritize silviculture energy grant requests in applying the "advancing Colorado's renewable energy" (ACRE) program and extending funding for the program until fiscal year 2016-17 in **section 8**;
 - ! In **section 7**, expanding the definition of "conservation easement in gross" to include sustainable ecosystem management and reforestation;
 - ! In **section 9**, creating renewable energy enterprise areas to promote tax credits and incentives for investments made to businesses and facilities in the woody biomass industry and presenting geographic designations of the areas to an enterprise zone review task force for review, and in **section 3** authorizing the executive director of the department of revenue to promote the tax credits;
 - ! In **section 10**, amending Colorado's renewable energy standard to encourage the public utilities commission to give priority to biomass derived from insect-killed or insect-diseased timber and other forest products in providing credit multipliers; and
 - ! In **section 11**, creating a work group to evaluate renewable thermal and cogeneration technologies in Colorado, identify potential investment incentives for the technologies, and explore the development of a renewable energy credit market for these technologies.

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

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

4 (a) The state of Colorado is experiencing one of the most

1 significant droughts in recent history. Current data shows that
2 ninety-eight percent of Colorado has been designated in drought
3 condition.

4 (b) Forest health and protection of our watersheds is critical to
5 water quality and availability;

6 (c) Colorado has one of the most at-risk forest ecosystems in the
7 western United States due to four million acres of dead timber and
8 comparatively limited forest management efforts on federal, state, and
9 private lands;

10 (d) While forest health is often seen as a rural issue:

11 (I) More than two million people and nearly nine hundred
12 communities are located in areas of the ten counties along the Front
13 Range that are at risk of wildfires;

14 (II) The forests of the Front Range furnish drinking water to more
15 than two-thirds of the state's population; and

16 (III) Of the four million two hundred thousand acres of the Front
17 Range watershed that are part of the drinking water supply, sixty-five
18 percent are at high risk of post-fire erosion;

19 (e) The general assembly encourages Colorado's timber industry
20 to respond to the crisis with forest management contracts that prioritize
21 critical areas in order to:

22 (I) Bring greater value to wood resources from critical areas,
23 including the wildland-urban interface and watersheds, by utilizing
24 Colorado's emerging biomass energy industry; and

25 (II) Create jobs in forest restoration for rural communities and
26 under-utilized workforce populations such as veterans and the youth
27 corps;

1 (f) To the extent that Colorado's ecosystem and economy operate
2 on interrelated large and small scales to function effectively, state action
3 is needed to implement large-scale solutions; and

4 (g) As stated at the Front Range roundtable in August 2011:
5 "Wildfire and insect epidemics don't recognize political or ownership
6 boundaries. Restoration must occur at a scale large enough to influence
7 the behavior of these forces across the landscape."

8 (2) The general assembly further finds and declares that it
9 supports the work of recharge Colorado and encourages recharge
10 Colorado to:

11 (a) Create a philanthropic fund for the development of distributed
12 generation of biomass energy; and

13 (b) Accept donations into the fund for distribution of loans and
14 grants.

15 **SECTION 2.** In Colorado Revised Statutes, 23-31-301, **amend**
16 (2); and **add** (1) (k) as follows:

17 **23-31-301. Legislative declaration.** (1) The general assembly
18 hereby finds that:

19 (k) THE COORDINATION OF EFFORTS TO CREATE LANDSCAPE-LEVEL
20 SOLUTIONS TO RESTORE COLORADO FOREST ECOSYSTEMS, PRIMARILY AND,
21 SECONDARILY, TO PROMOTE THE USE OF CLEAN ENERGY GENERATED FROM
22 BIOMASS WILL IMPROVE THE EFFICIENCY OF EFFORTS TO REACH BOTH OF
23 THESE GOALS AND, IN THE PROCESS, CAN SERVE TO STIMULATE ECONOMIC
24 DEVELOPMENT IN RURAL COLORADO.

25 (2) (a) The general assembly hereby declares that it is the public
26 policy of this state to encourage the health of forest ecosystems through
27 responsible management of the forest land of the state and through

1 coordination with the United States secretary of the interior and the
2 United States secretary of agriculture to develop management plans for
3 federal lands within the state of Colorado pursuant to 16 U.S.C. sec. 530,
4 16 U.S.C. sec. 1604, and 43 U.S.C. sec. 1712, including the use of
5 prescribed and natural ignition fires and other pre-suppression activities,
6 such as the harvest of materials, in order to preserve forest and other
7 natural resources, enhance the growth and maintenance of forests,
8 conserve forest cover on watersheds, protect recreational, wildlife, and
9 other values, promote stability of forest-using industries, and prevent loss
10 of life and damage to property from wildfires and other conflagrations.

11 (b) IN ADDITION TO ANY OTHER POWERS AND DUTIES CONFERRED
12 UPON THE COLORADO STATE FOREST SERVICE BY LAW, THE COLORADO
13 STATE FOREST SERVICE SHALL:

14 (I) WORK WITH THE UNITED STATES FOREST SERVICE ON FOREST
15 STEWARDSHIP AGREEMENTS AND FACILITATE CONTRACTS AUTHORIZED BY
16 THE UNITED STATES DEPARTMENT OF AGRICULTURE;

17 (II) WORK WITH THE UNITED STATES FOREST SERVICE AND THE
18 UNITED STATES BUREAU OF LAND MANAGEMENT ON PROJECTS
19 AUTHORIZED UNDER THE GOOD NEIGHBOR AUTHORITY, AS DEFINED IN
20 SECTION 23-31-313 (3), AND FACILITATE FOREST PRODUCTS SALES
21 CONTRACTS;

22 (III) IDENTIFY AREAS AND PRIORITIZE CONTRACTS FOR FOREST
23 MANAGEMENT ON PUBLIC AND PRIVATE LANDS IN PRIORITY LANDSCAPES
24 AS IDENTIFIED IN THE COLORADO STATEWIDE FOREST RESOURCE
25 ASSESSMENT AND STRATEGY, INITIATED IN RESPONSE TO A MANDATE
26 FROM THE UNITED STATES FOREST SERVICE PURSUANT TO PUB.L. 110-234,
27 WITH EMPHASIS ON WATER SUPPLIES AND AREAS IN THE WILDLAND-URBAN

1 INTERFACE;

2 (IV) VALUE FOREST PRODUCTS ON STATE LANDS USING LOWEST
3 MARKET VALUE AS AN INCENTIVE TO MAXIMIZE THE UTILIZATION OF THESE
4 PRODUCTS FOR TIMBER MILL CONSTRUCTION OR BIOMASS ENERGY
5 GENERATION, AS APPROPRIATE;

6 (V) ENCOURAGE THE REMOVAL OF WOOD MATERIAL WITH THE
7 PRIMARY HARVEST IN ACCORDANCE WITH FOREST MANAGEMENT
8 PROTOCOLS PROMOTING HEALTHY FOREST ECOSYSTEMS. THIS
9 PRIORITIZATION DOES NOT CREATE A DISINCENTIVE FOR USING PRESCRIBED
10 FIRES.

11 (VI) CONTINUE TO ACTIVELY MANAGE FOREST STEWARDSHIP
12 PLANS FOR ALL STATE-OWNED LANDS, INCLUDING PLANS FOR LONG-TERM,
13 RELIABLE FEEDSTOCK SOURCES FOR WOODY BIOMASS;

14 (VII) COLLABORATE WITH THE UNITED STATES FOREST SERVICE
15 AND THE BUREAU OF LAND MANAGEMENT TO:

16 (A) DEVELOP A RELIABLE, STATEWIDE WOODY BIOMASS SUPPLY
17 ESTIMATE FOR THE NEXT TEN YEARS; AND

18 (B) MAKE THOSE ESTIMATES PUBLICLY AVAILABLE;

19 (VIII) SUPPORT PUBLIC EDUCATION PROGRAMS ON THE WHOLE
20 SPECTRUM OF FOREST MANAGEMENT ISSUES;

21 (IX) WORK WITH COLORADO'S WATER COMMUNITY, INCLUDING
22 THE BASIN ROUNDTABLES CREATED IN SECTION 37-75-104, C.R.S., TO
23 IDENTIFY SIGNIFICANT AREAS OF PRIORITY LANDSCAPES THAT POSE
24 POST-FIRE SOIL HAZARD RISK TO WATER SUPPLIES IN THE WATERSHED FOR
25 PREVENTATIVE RESTORATION AND FUEL MITIGATION; AND

26 (X) EXPLORE AND IDENTIFY POTENTIAL FUNDING SOURCES FOR
27 FOREST MANAGEMENT AND ENERGY PROJECTS IN COLORADO, INCLUDING

1 STATE AND FEDERAL TAX INCENTIVES, COST-SHARE AND GRANT
2 PROGRAMS, AND FINANCING TOOLS SUCH AS LOANS, BONDS, AND
3 CONTRACTS.

4 **SECTION 3.** In Colorado Revised Statutes, 24-35-103, **add** (5)
5 as follows:

6 **24-35-103. Powers of executive director - deputies.** (5) IN
7 ADDITION TO ANY OTHER POWERS AND DUTIES CONFERRED UPON THE
8 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE BY LAW, THE
9 EXECUTIVE DIRECTOR MAY:

10 (a) EVALUATE AND APPLY TO THE GREATEST EXTENT POSSIBLE THE
11 TAX CREDITS AND INCENTIVES AVAILABLE IN RENEWABLE ENERGY
12 ENTERPRISE AREAS, CREATED IN SECTION 39-30-113, C.R.S., TO THE
13 FORESTRY AND BIOMASS INDUSTRIES; AND

14 (b) MAKE INFORMATION ABOUT THE TAX CREDITS AND INCENTIVES
15 PUBLICLY AVAILABLE.

16 **SECTION 4.** In Colorado Revised Statutes, 24-46-104, **add** (3)
17 as follows:

18 **24-46-104. Powers and duties of commission.** (3) THE
19 COMMISSION SHALL PROMOTE FOREST PRODUCTS DERIVED FROM
20 COLORADO FORESTS.

21 **SECTION 5.** In Colorado Revised Statutes, 25-7-105, **add** (20)
22 as follows:

23 **25-7-105. Duties of commission - rules.** (20) THE COMMISSION
24 MAY, WITHIN EXISTING RESOURCES:

25 (a) ANALYZE A RANGE OF RESIDENTIAL, COMMERCIAL, AND
26 INDUSTRIAL EQUIPMENT FOR AIR EMISSIONS STANDARDS;

27 (b) IDENTIFY EQUIPMENT THAT MEETS THE EMISSIONS STANDARDS;

1 (c) PUBLICLY POST A STATEMENT OF THE PARAMETERS FOR
2 EQUIPMENT FUELED BY WOODY BIOMASS, AS DEFINED IN SECTION
3 39-30-113 (10) (b) (I), C.R.S., THAT IS SMALLER THAN ONE MILLION
4 BRITISH THERMAL UNITS, AS DEFINED IN SECTION 8-20-201 (1.3), C.R.S.,
5 PER HOUR AND INCLUDE A LIST OF WOODY BIOMASS EQUIPMENT THAT
6 MEETS THE EMISSIONS STANDARDS.

7 **SECTION 6.** In Colorado Revised Statutes, 35-75-205, **amend**
8 (1.5) as follows:

9 **35-75-205. Grants, loans and loan guarantees, and equity**
10 **investments - agriculture value-added cash fund - created - repeal.**

11 (1.5) (a) In state fiscal years 2009-10 through ~~2011-12~~ 2016-17, the
12 general assembly shall appropriate five hundred thousand dollars, or so
13 much thereof as has been transferred pursuant to section 39-29-109.3 (2)
14 (h), C.R.S., from the agriculture value-added cash fund to the department,
15 for allocation to the board to promote the feasibility and development of
16 agricultural energy-related projects.

17 (a.5) THE BOARD IS ENCOURAGED TO GIVE PRIORITY TO
18 SILVICULTURE ENERGY GRANT REQUESTS FROM RENEWABLE ENERGY
19 ENTERPRISE AREAS, CREATED IN SECTION 39-30-113, C.R.S., IN
20 PROMOTING THE FEASIBILITY AND DEVELOPMENT OF AGRICULTURE
21 ENERGY-RELATED PROJECTS.

22 (b) This subsection (1.5) is repealed, effective July 1, ~~2012~~ 2017.

23 **SECTION 7.** In Colorado Revised Statutes, **amend** 38-30.5-102
24 as follows:

25 **38-30.5-102. Conservation easement in gross.**

26 (1) "Conservation easement in gross", for the purposes of this article,
27 means:

1 (a) A right in the owner of the easement to prohibit or require a
2 limitation upon THE PROPERTY;

3 (b) ~~or~~ An obligation to perform acts on THE PROPERTY; or

4 (c) With respect to a land or water area, airspace above the land
5 or water, or water rights beneficially used upon that land or water area,
6 owned by the grantor, A USE OR CONDITION appropriate to ~~the retaining or~~
7 ~~maintaining of such~~ RETAIN OR MAINTAIN THE land, water, airspace, or
8 water rights, including ~~improvements~~, THE FOLLOWING USES OR
9 CONDITIONS:

10 (I) Improvements predominantly in a natural, scenic, or open
11 condition;

12 (II) ~~or for~~ Wildlife habitat;

13 (III) ~~or for~~ Agricultural;

14 (IV) Horticultural;

15 (V) Wetlands;

16 (VI) Recreational;

17 (VII) Forest, INCLUDING SUSTAINABLE ECOSYSTEM MANAGEMENT
18 AND RESTORATION;

19 (VIII) ~~or~~ ANY other use or condition consistent with the protection
20 of open land, environmental quality, or life-sustaining ecological
21 diversity; or

22 (IX) A USE appropriate to the conservation and preservation of
23 buildings, sites, or structures having historical, architectural, or cultural
24 interest or value.

25 **SECTION 8.** In Colorado Revised Statutes, 39-29-109.3, **amend**
26 (2) (h) as follows:

27 **39-29-109.3. Operational account of the severance tax trust**

1 **fund - repeal.** (2) Subject to the requirements of subsections (3) and (4)
2 of this section, if the general assembly chooses not to spend up to one
3 hundred percent of the moneys in the operational account as specified in
4 subsection (1) of this section, the state treasurer shall transfer the
5 following:

6 (h) (I) To the agriculture value-added cash fund created in section
7 35-75-205 (1), C.R.S., to promote agricultural energy-related projects and
8 research, for the state fiscal year commencing July 1, 2008, through the
9 state fiscal year commencing July 1, ~~2011~~ 2016, five hundred thousand
10 dollars.

11 (II) This paragraph (h) is repealed, effective July 1, ~~2013~~ 2018.

12 **SECTION 9.** In Colorado Revised Statutes, **add** 39-30-113,
13 39-30-114, and 39-30-115 as follows:

14 **39-30-113. Renewable energy enterprise areas - mapping -**
15 **consideration by task force - repeal.** (1) THE STATE FORESTER OR THE
16 STATE FORESTER'S DESIGNEE SHALL IDENTIFY THE PORTION OF ANY
17 MUNICIPALITY, COUNTY, GROUP OF CONTIGUOUS MUNICIPALITIES OR
18 COUNTIES, OR SPECIAL DISTRICT ESTABLISHED PURSUANT TO ARTICLE 1 OF
19 TITLE 32 AS A RENEWABLE ENERGY ENTERPRISE AREA IF THE AREA HAS A
20 POPULATION OF NO MORE THAN ONE HUNDRED FIFTY THOUSAND
21 INDIVIDUALS, AS CALCULATED PURSUANT TO SECTION 39-30-103 (1.3),
22 AND MEETS ONE OR MORE OF THE FOLLOWING ADDITIONAL CRITERIA:

23 (a) THE AREA IS AN AREA OF HIGH RISK OF WILDFIRE;

24 (b) THE AREA HAS A POST-FIRE EROSION THREAT TO ITS WATER
25 SUPPLIES;

26 (c) THE AREA HAS SIGNIFICANT AMOUNTS OF DEAD TIMBER OR
27 FALLING TREES; OR

1 (d) THE AREA HAS SUFFERED ADVERSE ECONOMIC IMPACTS AS A
2 RESULT OF WILDFIRE OR SIGNIFICANT AMOUNTS OF DEAD TIMBER.

3 (2) THE STATE FORESTER OR THE STATE FORESTER'S DESIGNEE
4 SHALL DESIGNATE AND MAP THE AREAS IN COLORADO EXPERIENCING A
5 HIGH RISK OF WILDFIRE OR SIGNIFICANT AMOUNTS OF DEAD TIMBER IN THE
6 WILDLAND-URBAN INTERFACE AND THE WATER SUPPLY AREAS, UTILIZING
7 DATA FROM THE COLORADO STATE FOREST SERVICE AND THE UNITED
8 STATES FOREST SERVICE. THE STATE FORESTER OR THE STATE FORESTER'S
9 DESIGNEE SHALL THEN IDENTIFY AND MAP AREAS THAT HAVE SUFFERED
10 ADVERSE ECONOMIC IMPACTS AS A RESULT OF WILDFIRE OR SIGNIFICANT
11 AMOUNTS OF DEAD TIMBER. THE STATE FORESTER OR THE STATE
12 FORESTER'S DESIGNEE SHALL UPDATE THE GEOGRAPHIC DESIGNATIONS
13 ANNUALLY.

14 (3)(a) THE STATE FORESTER, OR THE STATE FORESTER'S DESIGNEE,
15 SHALL PROVIDE THE GEOGRAPHIC DESIGNATIONS DEVELOPED IN
16 SUBSECTION (2) OF THIS SECTION TO THE ENTERPRISE ZONE REVIEW TASK
17 FORCE FORMED PURSUANT TO HOUSE BILL 12-1241, ENACTED IN 2012. THE
18 ENTERPRISE ZONE REVIEW TASK FORCE SHALL INCLUDE IN ITS REVIEW THE
19 RENEWABLE ENERGY ENTERPRISE AREAS CREATED IN SECTION 39-30-114,
20 THE APPLICATION OF CREDITS PURSUANT TO SECTION 39-30-115 (1), AND
21 THE IMPACT OF THE WOODY BIOMASS AND RENEWABLE ENERGY INDUSTRY
22 IN AREAS OF HIGH FIRE RISK.

23 (b) THIS SUBSECTION (3) IS REPEALED SEPTEMBER 1, 2012, IF
24 HOUSE BILL 12-1241 IS NOT ENACTED OR DOES NOT BECOME LAW.

25 **39-30-114. Renewable energy enterprise areas - criteria -**
26 **reporting - credits - termination.** (1) THE STATE FORESTER, OR THE
27 STATE FORESTER'S DESIGNEE, SHALL PROVIDE THE GEOGRAPHIC

1 DESIGNATIONS DEVELOPED IN SECTION 39-30-113 TO THE DIRECTOR OF
2 THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT, WHO SHALL
3 DETERMINE WHETHER TO RECOMMEND THAT AN AREA QUALIFIES AS A
4 RENEWABLE ENERGY ENTERPRISE AREA BASED ON THE GEOGRAPHIC
5 DESIGNATIONS AND ANY OTHER RELEVANT INFORMATION AVAILABLE. AN
6 AREA DOES NOT NEED TO BE LOCATED IN AN ENTERPRISE ZONE, AS
7 DESIGNATED PURSUANT TO SECTION 39-30-103, TO QUALIFY AS A
8 RENEWABLE ENERGY ENTERPRISE AREA. THE COLORADO ECONOMIC
9 DEVELOPMENT COMMISSION, CREATED IN SECTION 24-46-102 (2), C.R.S.,
10 SHALL MAKE ALL DECISIONS CONCERNING THE DESIGNATION OR
11 TERMINATION OF A RENEWABLE ENERGY ENTERPRISE AREA UPON THE
12 RECOMMENDATIONS OF THE DIRECTOR OF THE COLORADO OFFICE OF
13 ECONOMIC DEVELOPMENT.

14 (2) IN PROPOSING AN AREA FOR DESIGNATION AS A RENEWABLE
15 ENERGY ENTERPRISE AREA, A LOCAL GOVERNMENT SHALL SUBMIT A
16 DEVELOPMENT PLAN TO THE DIRECTOR OF THE COLORADO OFFICE OF
17 ECONOMIC DEVELOPMENT. THE LOCAL GOVERNMENT SHALL INCLUDE IN
18 THE DEVELOPMENT PLAN:

19 (a) THE BOUNDARIES OF THE PROPOSED AREA;

20 (b) THE PROPOSED AREA'S POTENTIAL FOR RENEWABLE ENERGY
21 BUSINESS DEVELOPMENT AND JOB CREATION;

22 (c) THE SPECIFIC ECONOMIC DEVELOPMENT OBJECTIVES THAT THE
23 PROPOSED AREA SEEKS TO ACHIEVE, INCLUDING:

24 (I) SPECIFIC OBJECTIVES THAT HAVE A MEASURABLE OUTCOME
25 AND, FOR THOSE MEASURABLE OUTCOMES:

26 (A) HOW THE OUTCOME WILL BE MEASURED; AND

27 (B) THE SPECIFIC, VERIFIABLE DATA THAT THE PROPOSED AREA

1 WILL USE TO MEASURE THE OUTCOME;

2 (II) THE MEASURES THAT THE LOCAL GOVERNMENT AND THE
3 PRIVATE SECTOR WILL UNDERTAKE TO SUPPORT THE OBJECTIVES;

4 (d) THE INDIVIDUAL OR AGENCY THAT THE PROPOSED AREA
5 DESIGNATES TO BE THE ADMINISTRATOR OF THE PROPOSED AREA; AND

6 (e) ANY OTHER PERTINENT INFORMATION THAT THE DIRECTOR OF
7 THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT MAY REQUIRE.

8 (3) THE COLORADO ECONOMIC DEVELOPMENT COMMISSION, AFTER
9 CONSULTATION WITH THE EXECUTIVE DIRECTORS OF THE DEPARTMENT OF
10 LABOR AND EMPLOYMENT AND THE DEPARTMENT OF REVENUE, MAY
11 APPROVE THE DESIGNATION OF UP TO FIFTEEN AREAS AS RENEWABLE
12 ENERGY ENTERPRISE AREAS.

13 (4) (a) IF A MUNICIPALITY, COUNTY, GROUP OF CONTIGUOUS
14 MUNICIPALITIES OR COUNTIES, OR SPECIAL DISTRICT CONTAINING A
15 PREVIOUSLY DESIGNATED RENEWABLE ENERGY ENTERPRISE AREA DOES
16 NOT APPEAR IN THE UPDATED GEOGRAPHIC AREA DESIGNATIONS
17 DETERMINED AND MAPPED BY THE STATE FORESTER PURSUANT TO SECTION
18 39-30-113 (2), THE COLORADO ECONOMIC DEVELOPMENT COMMISSION
19 SHALL TERMINATE THE RENEWABLE ENERGY ENTERPRISE AREA WITHIN
20 THE MUNICIPALITY, COUNTY, OR GROUP OF CONTIGUOUS MUNICIPALITIES
21 OR COUNTIES AS A RENEWABLE ENERGY ENTERPRISE AREA AS OF JANUARY
22 1 FOLLOWING THE ISSUANCE OF THE UPDATED GEOGRAPHIC AREA
23 DESIGNATIONS.

24 (b) THE TERMINATION OF A RENEWABLE ENERGY ENTERPRISE AREA
25 DOES NOT RESTRICT, CURTAIL, OR OTHERWISE TERMINATE ANY TAX
26 CREDITS THAT A TAXPAYER EARNED BASED ON TRANSACTIONS COMPLETED
27 WHILE THE MUNICIPALITY, COUNTY, OR GROUP OF CONTIGUOUS

1 MUNICIPALITIES OR COUNTIES WAS DESIGNATED A RENEWABLE ENERGY
2 ENTERPRISE AREA.

3 (5) THE DIRECTOR OF THE COLORADO OFFICE OF ECONOMIC
4 DEVELOPMENT SHALL REQUIRE A RENEWABLE ENERGY ENTERPRISE AREA
5 ADMINISTRATOR TO SUBMIT THE ANNUAL DOCUMENTATION, TO THE
6 EXTENT APPLICABLE, LISTED IN SECTION 39-30-103 (4) (b) AND (4) (b.5).

7 (6) THE DIRECTOR OF THE COLORADO OFFICE OF ECONOMIC
8 DEVELOPMENT, ON BEHALF OF THE COLORADO ECONOMIC DEVELOPMENT
9 COMMISSION, SHALL SUBMIT AN ANNUAL REPORT TO THE GENERAL
10 ASSEMBLY SUMMARIZING THE ANNUAL DOCUMENTATION SUBMITTED BY
11 RENEWABLE ENERGY ENTERPRISE AREA ADMINISTRATORS EACH YEAR
12 PURSUANT TO SUBSECTION (5) OF THIS SECTION. THE DIRECTOR OF THE
13 COLORADO OFFICE OF ECONOMIC DEVELOPMENT SHALL MAKE AN ANNUAL
14 PRESENTATION TO THE LEGISLATIVE AUDIT COMMITTEE, OR ITS SUCCESSOR
15 COMMITTEE, THAT REVIEWS AND SUMMARIZES THE INFORMATION IN THE
16 REPORT SUBMITTED TO THE GENERAL ASSEMBLY.

17 (7) (a) ON OR BEFORE SEPTEMBER 30 OF EACH CALENDAR YEAR,
18 THE DIRECTOR OF THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT
19 SHALL TRANSMIT TO THE DEPARTMENT OF REVENUE THE DATA REGARDING
20 INCOME TAX CREDITS ALLOWED PURSUANT TO THIS SECTION THAT ARE
21 CERTIFIED BY THE RENEWABLE ENERGY ENTERPRISE AREA
22 ADMINISTRATORS FROM JANUARY 1 THROUGH JUNE 30 OF THE SAME
23 CALENDAR YEAR.

24 (b) ON OR BEFORE MARCH 31 OF EACH CALENDAR YEAR, THE
25 DIRECTOR OF THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT SHALL
26 TRANSMIT TO THE DEPARTMENT OF REVENUE THE DATA REGARDING
27 INCOME TAX CREDITS ALLOWED PURSUANT TO THIS SECTION THAT ARE

1 CERTIFIED BY RENEWABLE ENERGY ENTERPRISE AREA ADMINISTRATORS
2 FROM JULY 1 THROUGH DECEMBER 31 OF THE PREVIOUS CALENDAR YEAR.

3 (8) ANY TAXPAYER LOCATED IN A RENEWABLE ENERGY
4 ENTERPRISE AREA, AS DETERMINED BY THE COLORADO ECONOMIC
5 DEVELOPMENT COMMISSION PURSUANT TO SUBSECTION (1) OF THIS
6 SECTION, IS ELIGIBLE TO CLAIM A CREDIT PURSUANT TO THIS ARTICLE IF:

7 (a) THE TAXPAYER MEETS THE QUALIFICATIONS FOR CLAIMING THE
8 CREDIT, AS SET FORTH IN THIS ARTICLE; AND

9 (b) THE TAXPAYER APPLIES THE CREDIT TO AN INVESTMENT MADE
10 TO:

11 (I) A BUSINESS IN THE WOODY BIOMASS INDUSTRY. FOR PURPOSES
12 OF THIS SECTION, "WOODY BIOMASS" MEANS URBAN WOOD WASTE, MILL
13 RESIDUE, SLASH, BRUSH, INSECT-KILLED TIMBER, INSECT-DISEASED
14 TIMBER, NATURALLY DEAD TIMBER, OR AGRICULTURAL WASTE.

15 (II) A FACILITY SERVING A BUSINESS IN THE WOODY BIOMASS
16 INDUSTRY;

17 (III) A BUSINESS IN THE FOREST PRODUCTS INDUSTRY; OR

18 (IV) A FACILITY SERVING A BUSINESS IN THE FOREST PRODUCTS
19 INDUSTRY.

20 (9) IF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS
21 SECTION EXCEEDS THE AMOUNT OF INCOME TAXES OTHERWISE DUE ON THE
22 INCOME OF THE TAXPAYER IN THE INCOME TAX YEAR FOR WHICH THE
23 CREDIT IS BEING CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN
24 OFFSET AGAINST INCOME TAXES IN SAID INCOME TAX YEAR MAY BE
25 CARRIED FORWARD AS A CREDIT AGAINST SUBSEQUENT YEARS' INCOME
26 TAX LIABILITY FOR A PERIOD NOT EXCEEDING TEN YEARS AND MUST BE
27 APPLIED FIRST TO THE EARLIEST INCOME TAX YEARS POSSIBLE. ANY

1 CREDIT REMAINING AFTER THE TEN-YEAR PERIOD IS NOT REFUNDABLE TO
2 THE TAXPAYER.

3 **39-30-115. Taxpayers located outside of a renewable energy**
4 **enterprise area.** (1) ANY TAXPAYER LOCATED OUTSIDE OF A RENEWABLE
5 ENERGY ENTERPRISE AREA ESTABLISHED IN SECTION 39-30-114 IS ELIGIBLE
6 TO CLAIM A CREDIT PURSUANT TO THIS ARTICLE IF:

7 (a) THE TAXPAYER MEETS THE QUALIFICATIONS ESTABLISHED IN
8 SECTION 39-30-114 (8) OTHER THAN THE LOCATION OF THE TAXPAYER;
9 AND

10 (b) THE TAXPAYER APPLIES THE CREDIT TO AN INVESTMENT MADE
11 TO A BUSINESS OR FACILITY THAT RECEIVES FEEDSTOCK FROM A
12 RENEWABLE ENERGY ENTERPRISE AREA, AS DETERMINED BY THE
13 COLORADO ECONOMIC DEVELOPMENT COMMISSION PURSUANT TO SECTION
14 39-30-114 (1).

15 (2) THIS SECTION TAKES EFFECT JULY 1, 2014.

16 **SECTION 10.** In Colorado Revised Statutes, 40-2-124, **amend**
17 (1) introductory portion and (1) (c) (IX); and **add** (1) (a) (II.5) as follows:

18 **40-2-124. Renewable energy standard - definitions - net**
19 **metering - legislative declaration.** (1) Each provider of retail electric
20 service in the state of Colorado, other than municipally owned utilities
21 that serve forty thousand customers or fewer, ~~shall be considered~~ IS a
22 qualifying retail utility. Each qualifying retail utility, with the exception
23 of cooperative electric associations that have voted to exempt themselves
24 from commission jurisdiction pursuant to section 40-9.5-104 and
25 municipally owned utilities, ~~shall be~~ IS subject to the rules established
26 under this article by the commission. No additional regulatory authority
27 of the commission other than that specifically contained in this section is

1 provided or implied. In accordance with article 4 of title 24, C.R.S., the
2 commission shall revise or clarify existing rules to establish the
3 following:

4 (a) Definitions of eligible energy resources that can be used to
5 meet the standards. "Eligible energy resources" means recycled energy
6 and renewable energy resources. The commission shall determine,
7 following an evidentiary hearing, the extent to which such electric
8 generation technologies utilized in an optional pricing program may be
9 used to comply with this standard. A fuel cell using hydrogen derived
10 from an eligible energy resource is also an eligible electric generation
11 technology. Fossil and nuclear fuels and their derivatives are not eligible
12 energy resources. For purposes of this section:

13 (II.5) "FOREST BIOMASS" MEANS BIOMASS FROM:

14 (A) TREES THAT ARE DEAD, DISEASED, OR FELLED AS A RESULT OF
15 BEETLE OR OTHER INSECT INFESTATION ON ANY PUBLIC OR PRIVATE LAND;
16 AND

17 (B) SLASH OR BRUSH PRODUCED FROM ANY PUBLIC OR PRIVATE
18 LAND.

19 (c) Electric resource standards:

20 (IX) (A) For purposes of stimulating rural economic development
21 and for projects up to thirty megawatts of nameplate capacity that have a
22 point of interconnection rated at sixty-nine kilovolts or less, each kilowatt
23 hour of electricity generated from renewable energy resources that
24 interconnects to electric transmission or distribution facilities owned by
25 a cooperative electric association or municipally owned utility may be
26 counted for the life of the project as two kilowatt hours for compliance
27 with the requirements of this paragraph (c) by qualifying retail utilities.

1 This multiplier shall not be claimed for interconnections that first occur
2 after December 31, 2014, and shall not be used in conjunction with
3 another compliance multiplier. For qualifying retail utilities other than
4 investor-owned utilities, the benefits described in this subparagraph (IX)
5 apply only to the aggregate first one hundred megawatts of nameplate
6 capacity of projects statewide that report having achieved commercial
7 operations to the commission pursuant to the procedure described in this
8 subparagraph (IX). To the extent that a qualifying retail utility claims the
9 benefit described in this subparagraph (IX), those kilowatt-hours of
10 electricity do not qualify for satisfaction of the distributed generation
11 requirement of subparagraph (I) of this paragraph (c). ~~The commission~~
12 ~~shall analyze the implementation of this subparagraph (IX) and submit a~~
13 ~~report to the senate local government and energy committee and the house~~
14 ~~of representatives committee on transportation, and energy, or their~~
15 ~~successor committees, by December 31, 2011, regarding implementation~~
16 ~~of this subparagraph (IX), including how many megawatts of electricity~~
17 ~~have been installed or are subject to a power purchase agreement pursuant~~
18 ~~to this subparagraph (IX) and whether the commission recommends that~~
19 ~~the multiplier established by this subparagraph (IX) should be changed~~
20 ~~either in magnitude or expiration date.~~ Any entity that owns or develops
21 a project that will take advantage of the benefits of this subparagraph (IX)
22 shall notify the commission within thirty days after signing a power
23 purchase agreement and within thirty days after beginning commercial
24 operations of an applicable project.

25 (B) THE COMMISSION AUTHORIZED TO ENCOURAGE UTILITIES TO
26 PRIORITIZE FOREST BIOMASS PROJECTS IN APPLYING THE MULTIPLIER
27 ESTABLISHED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (IX).

1 **SECTION 11.** In Colorado Revised Statutes, **add** 40-2-130 as
2 follows:

3 **40-2-130. Colorado thermal energy work group - legislative**
4 **declaration - repeal.** (1) BECAUSE THE BIOMASS BUSINESS MODEL
5 SUPPORTS RENEWABLE ELECTRICITY, RENEWABLE HEAT, AND RENEWABLE
6 COGENERATION OF ELECTRICITY AND HEAT, IT IS NECESSARY TO EVALUATE
7 THE LANDSCAPE OF RENEWABLE THERMAL TECHNOLOGIES AND
8 RENEWABLE COGENERATION TECHNOLOGIES IN COLORADO.

9 (2) THERE IS HEREBY CREATED THE COLORADO THERMAL ENERGY
10 WORK GROUP. THE WORK GROUP, WORKING WITHIN EXISTING RESOURCES,
11 CONSISTS OF:

12 (a) THE DIRECTOR OF THE GOVERNOR'S ENERGY OFFICE OR ITS
13 SUCCESSOR OFFICE, OR THE DIRECTOR'S DESIGNEE, WHO SHALL CONVENE
14 THE WORK GROUP NO LATER THAN JULY 1, 2012;

15 (b) A MEMBER OF THE COMMISSION;

16 (c) NO MORE THAN SEVEN MEMBERS APPOINTED BY THE MEMBERS
17 SPECIFIED IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (2) WHO HAVE
18 DEMONSTRATED EXPERTISE IN AT LEAST ONE OF THE FOLLOWING AREAS:

19 (I) GEOTHERMAL ENERGY;

20 (II) SOLAR THERMAL ENERGY;

21 (III) BIOMASS THERMAL ENERGY;

22 (IV) UTILITIES WITH A THERMAL DISTRIBUTION NETWORK; OR

23 (V) CONSERVATION.

24 (3) THE PURPOSE OF THE WORK GROUP INCLUDES, WITHOUT
25 LIMITATION:

26 (a) IDENTIFYING THE SCOPE OF INNOVATIVE OR RENEWABLE
27 THERMAL AND COGENERATION INCENTIVES TO BE CONSIDERED,

- 1 INCLUDING:
- 2 (I) SOLID AND GASEOUS BIOMASS;
- 3 (II) SOLAR THERMAL ENERGY;
- 4 (III) GROUND AND WATER SOURCE HEAT PUMPS;
- 5 (IV) ON-SITE BIOGAS;
- 6 (V) DEEP GEOTHERMAL ENERGY;
- 7 (VI) ENERGY FROM WASTE; AND
- 8 (VII) THERMAL GENERATION FROM OTHER RESOURCES;
- 9 (b) IDENTIFYING POTENTIAL RENEWABLE THERMAL AND
- 10 COGENERATION INCENTIVES NATIONALLY AND INTERNATIONALLY THAT
- 11 COULD SERVE AS MODELS FOR COLORADO;
- 12 (c) IDENTIFYING AND ASSESSING FINANCIAL INCENTIVES
- 13 AVAILABLE FOR RENEWABLE THERMAL AND COGENERATION
- 14 TECHNOLOGIES;
- 15 (d) DETERMINING THE BEST PRACTICES FOR A DISTRIBUTIVE
- 16 GENERATION STRUCTURE;
- 17 (e) WORKING WITH THE COMMISSION TO EXPLORE POTENTIAL TAX
- 18 CREDITS OR INCENTIVES THAT MAY BE OFFERED TO UTILITY COMPANIES
- 19 THAT PROVIDE REBATES FOR RENEWABLE THERMAL AND COGENERATION
- 20 INSTALLATIONS;
- 21 (f) EXPLORING THE DEVELOPMENT OF A THERMAL RENEWABLE
- 22 ENERGY CREDIT MARKET, INCLUDING:
- 23 (I) DETERMINING THE PARAMETERS FOR RENEWABLE THERMAL
- 24 FACILITIES, BOTH RESIDENTIAL AND COMMERCIAL, THAT WOULD QUALIFY
- 25 FOR CREDITS; AND
- 26 (II) EVALUATING THE ELIGIBILITY FOR COGENERATION FACILITIES
- 27 TO QUALIFY FOR THE CREDITS;

1 (g) (I) DEFINING A STANDARD FOR PREFERRED ENERGY EFFICIENCY
2 AND CONSERVATION GOALS.

3 (II) IN DETERMINING THE STANDARD, CONSIDERING THE CAPTURE
4 OF GREENHOUSE GASES.

5 (h) DEVELOPING A LIST OF POLICY RECOMMENDATIONS FOR
6 SUBMISSION TO THE SIXTY-NINTH GENERAL ASSEMBLY IN 2013;

7 (i) CREATING A VOLUNTARY DATABASE OF METERED,
8 PERFORMANCE DATA FROM ALL TYPES OF RENEWABLE THERMAL
9 TECHNOLOGIES, INCLUDING BOTH NEWLY OR RECENTLY INSTALLED
10 TECHNOLOGIES;

11 (j) EXPLORING THE APPLICABILITY OF THE MULTIPLIER CREATED
12 IN SECTION 40-2-124 (1) (c) (IX) TO PROJECTS UTILIZING ENERGY
13 GENERATED FROM WOODY BIOMASS AND DETERMINE WHETHER THE
14 MULTIPLIER SHOULD BE EXPANDED IN SCOPE OR DURATION; AND

15 (k) IDENTIFYING WAYS THAT THE COMMISSION CAN EXPAND
16 DEMAND-SIDE MANAGEMENT TO ENCOURAGE UTILITY CUSTOMERS TO
17 SWITCH TO A SOURCE OF RENEWABLE THERMAL HEAT.

18 (4) THE WORK GROUP SHALL CREATE AN INITIAL REPORT BY
19 NOVEMBER 1, 2012, AND SUBMIT A FINAL REPORT TO THE HOUSE OF
20 REPRESENTATIVES COMMITTEE ON AGRICULTURE, LIVESTOCK, AND
21 NATURAL RESOURCES AND THE SENATE COMMITTEE ON AGRICULTURE,
22 NATURAL RESOURCES, AND ENERGY, OR THEIR SUCCESSOR COMMITTEES,
23 BY JANUARY 1, 2013. THE REPORT MUST SUMMARIZE THE WORK AND
24 FINDINGS OF THE WORK GROUP AND INCLUDE SPECIFIC LEGISLATIVE
25 RECOMMENDATIONS REGARDING THE ISSUES IDENTIFIED IN SUBSECTION (3)
26 OF THIS SECTION.

27 (5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2013.

1 **SECTION 12. Effective date.** This act takes effect on passage;
2 except that section 39-30-115, Colorado Revised Statutes, as enacted in
3 section 9 of this act, takes effect July 1, 2014.

4 **SECTION 13. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.