

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0899.01 Thomas Morris

HOUSE BILL 10-1363

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HOUSE SPONSORSHIP

Scanlan, Liston, McFadyen

SENATE SPONSORSHIP

White, Boyd, Gibbs, Hodge, Johnston

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House Committees

Transportation & Energy

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING INCENTIVES FOR THE PRODUCTION OF BIOGENIC GAS  
102 THAT WAS CREATED AS A RESULT OF HUMAN INTERVENTION.

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

The renewable energy portfolio standard requires each qualifying retail utility to generate electricity from eligible energy resources in the following minimum amounts:

- ! 10% of its retail electricity sales in Colorado for the years 2011 through 2014;

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.

- ! 15% for the years 2015 through 2019; and
- ! 20% for the years 2020 and thereafter.

The renewable energy portfolio standard also requires each cooperative electric association and municipally owned utility that is a qualifying retail utility to generate electricity from eligible energy resources in the following minimum amounts:

- ! 3% of retail electricity sales in Colorado for the years 2011 through 2014;
- ! 6% for the years 2015 through 2019; and
- ! 10% for the years 2020 and thereafter.

**Section 1** of the bill specifies that, if any of these percentages is increased after February 1, 2010, then methane produced biogenically in geologic strata that was created as a result of human intervention is included as a type of biomass within the definition of renewable energy resources with regard to the affected entities. **Section 2** includes methane produced biogenically in geologic strata that was created as a result of human intervention and that does not involve additional land disturbance within the definition of "clean energy" for purposes of the Colorado clean energy development authority.

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

2 **SECTION 1.** 40-2-124 (1) (a) (I), Colorado Revised Statutes, is  
3 amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH to  
4 read:

5 **40-2-124. Renewable energy standard - definitions - net**  
6 **metering.** (1) Each provider of retail electric service in the state of  
7 Colorado, other than municipally owned utilities that serve forty thousand  
8 customers or less, shall be considered a qualifying retail utility. Each  
9 qualifying retail utility, with the exception of cooperative electric  
10 associations that have voted to exempt themselves from commission  
11 jurisdiction pursuant to section 40-9.5-104 and municipally owned  
12 utilities, shall be subject to the rules established under this article by the  
13 commission. No additional regulatory authority of the commission other  
14 than that specifically contained in this section is provided or implied. In

1 accordance with article 4 of title 24, C.R.S., on or before October 1, 2007,  
2 the 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. "Renewable energy resources" means  
7 solar, wind, geothermal, biomass, new hydroelectricity with a nameplate  
8 rating of ten megawatts or less, and hydroelectricity in existence on  
9 January 1, 2005, with a nameplate rating of thirty megawatts or less. The  
10 commission shall determine, following an evidentiary hearing, the extent  
11 to which such electric generation technologies utilized in an optional  
12 pricing program may be used to comply with this standard. A fuel cell  
13 using hydrogen derived from an eligible energy resource is also an  
14 eligible electric generation technology. Fossil and nuclear fuels and their  
15 derivatives are not eligible energy resources. For purposes of this section:

16 (I) "Biomass" means:

17 (D) METHANE PRODUCED BIOGENICALLY IN GEOLOGIC STRATA AS  
18 A RESULT OF HUMAN INTERVENTION, BUT ONLY IF ANY OF THE  
19 PERCENTAGES STATED IN SUBPARAGRAPH (I) OR (V) OF PARAGRAPH (C) OF  
20 THIS SUBSECTION (1) IS INCREASED AFTER FEBRUARY 1, 2010, AND ONLY  
21 WITH REGARD TO THE ENTITIES THAT ARE SUBJECT TO SUCH INCREASED  
22 PERCENTAGES.

23 **SECTION 2.** 40-9.7-103 (5) (b), Colorado Revised Statutes, is  
24 amended to read:

25 **40-9.7-103. Definitions.** As used in this article, unless the context  
26 otherwise requires:

27 (5) "Clean energy" means any of the following fuels that are

1 themselves manufactured or synthesized and energy derived from any of  
2 the following:

3 (b) Biomass resources such as biogas, INCLUDING METHANE THAT  
4 HAS BEEN PRODUCED BIOGENICALLY IN GEOLOGIC STRATA AS A RESULT OF  
5 HUMAN INTERVENTION AND THAT DOES NOT INVOLVE ADDITIONAL LAND  
6 DISTURBANCE, agricultural or animal waste, small diameter timber or any  
7 timber harvested pursuant to a watershed protection project or forest  
8 health project, salt cedar, other nonnative invasive phreatophyte  
9 vegetation removed from river basins or watersheds in Colorado, landfill  
10 gas, and anaerobically digested waste biomass; except that biomass  
11 resources do not include energy generated by use of fossil fuel;

12 **SECTION 3. Act subject to petition - effective date -**  
13 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day  
14 following the expiration of the ninety-day period after final adjournment  
15 of the general assembly (August 11, 2010, if adjournment sine die is on  
16 May 12, 2010); except that, if a referendum petition is filed pursuant to  
17 section 1 (3) of article V of the state constitution against this act or an  
18 item, section, or part of this act within such period, then the act, item,  
19 section, or part shall not take effect unless approved by the people at the  
20 general election to be held in November 2010 and shall take effect on the  
21 date of the official declaration of the vote thereon by the governor; and  
22 except that section 1 of this act shall take effect only if House Bill  
23 10-1001 is enacted and becomes law.

24 (2) The provisions of this act shall apply to conduct occurring on  
25 or after the applicable effective date of this act.