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2021 Legislative Session Bills that Have Direct Impact on Colorado's Electric Cooperatives

First Regular Session of the 73rd General Assembly Recap: The General Assembly adjourned the First Regular Session of the 73rd General Assembly on June 8, 2021. This was an especially busy session, and we appreciate the work of the CREA Legislative Committee (especially Chair Debbie Rose) as well as the entire CREA board of directors and our members for the collaborative effort to complete a successful legislative session.

Like last year, COVID-19 relief was the top priority for bi-partisan legislation with the General Assembly passing bills that allocated \$3.9 billion in federal stimulus money. Colorado's \$34.1 billion budget restores many of the funding cuts from last year after the state cut over \$4 billion from the fiscal year 2020-21 budget. Some budget highlights included restoring \$572 million to K-12 education, setting aside \$1.74 billion for the state's rainy-day fund, and \$800 million in one-time funding for pandemic recovery. Additionally, the General Assembly passed landmark legislation including a transportation package that will create new state enterprises to foot the bill for the \$5.3 billion package. The General Assembly passed legislation that aims to lower the cost of health insurance plans by 15% by 2025 and expands agricultural worker's rights to higher wages, overtime pay, and allows for unionization. Of the 623 bills that were introduced during a bifurcated session, CREA staff, at the direction of the CREA board, actively lobbied a total of 34 bills that would directly or indirectly impact Colorado's electric cooperatives including bills related to:

- Cooperative governance
- Wildfire mitigation plans
- Greenhouse gas emissions
- Net metering
- Beneficial electrification
- Creation of a regional transmission organization
- Community choice aggregation
- Building performance standards
- Broadband deployment
- Authority of the Colorado office of utility consumer advocate
- Expanded powers of the Colorado public utilities commission
- Other bills impacting co-op business operation.

HB21-1131-Cooperative Electric Association Governance Requirements: The bill makes modifications to the cooperative governance statutes to: authorize cooperatives to establish electronic voting procedures, clarify that members voting or participating in a meeting electronically are considered present to establish a quorum, remove the secrecy requirement for mail-in voting, and amend the deadlines and requirements for notice of an election to allow for more flexibility when setting an election date. Additionally, the bill creates a standard definition of the term "joint membership" which requires cooperatives to recognize that more than one individual may be treated as a single member of the co-op and each individual is considered a "joint member".

Under the bill, only one member of the joint membership is allowed to participate in the election. The bill increases transparency requirements for cooperatives by requiring cooperatives to post their rates, net meeting requirements, and election policies to the association's website. The bill further requires that cooperatives make financial audits available to members upon request. The bill directs cooperatives to adopt written policies concerning the compensation of directors and a conflict-of-interest policy. Lastly, the bill clarifies that a director serving on the boards of both a distribution cooperative and Tri-State owes equal fiduciary duty to both cooperatives. CREA worked closely to negotiate the provisions of the bill to ensure that there was no undue burden on Colorado's cooperatives.

HB21-1286- Energy Performance for Buildings: The bill requires building owners to perform energy efficiency updates based on the energy star portfolio manager. Under the bill, all utilities will be asked to provide energy usage data to owners of buildings over 50,000 square feet. However, there are enhanced reporting requirements for utilities over 5,000 commercial and industrial meters. The requirements are:

- Must provide easily accessible aggregated data to customers within 30-days of owners' requests through an easily navigable web portal or online request form with a single, one-time password of multi-factor digital authentication at least on an annual basis until the owner revokes the request.
- Must adopt an aggregation threshold that is no more than four and make this information public online. (The threshold refers to how many tenants are occupying a building that is over 50,000 sq feet).
- Aggregated data must be directly uploaded into the owners benchmarking tool account, delivered in a spreadsheet template specified by the benchmarking tool, or delivered in another format approved by the office.

CREA successfully lobbied for potential grant funding from the Colorado Energy Office to help offset the cost of implementing this mandate. CREA was able to extend the start date to June 2022 and allow for cooperatives to have up to 90 days to respond to a building owners request in the first year. The original start date of the program was scheduled for January 2022 and cooperatives would have needed to respond within 30 days to a building owners request.

HB21-1289- Funding for Broadband Deployment: The bill will codify the Colorado Broadband Office in statute and makes an appropriation of \$75 million across a variety of the broadband programs. The bill extends the deadline to distribute Connecting Colorado Grants to June 30, 2021. Connecting Colorado Grants are used to extend broadband for local education providers. The bill creates the Colorado Digital Inclusion Grant Fund. The fund will be used to advance the state's digital inclusion priorities, including access to devices, affordability, digital literacy, and increasing broadband reliability and speeds. Additionally, the funding will extend to health initiatives and the Southern Ute and Ute Mountain Indian Tribes for shovel-ready projects. The bill also appropriated funding for last-mile infrastructure projects that are shovel-ready, include extending broadband to low-income communities without overbuilding capacity. The bill encourages the Broadband Deployment Board to distribute funds for critically underserved areas and to connect anchor institutions. Lastly, the bill also includes funding for the Department of Local Affairs (DOLA) middle mile program and

requires that any grant from DOLA is reviewed by the Broadband Deployment Board and is reported yearly to the Office of Information Technology.

HB21-1266- Environmental Justice for Disproportionate Impacted Community: Originally, the bill creates environmental justice taskforce within the Colorado Department Public Health and Environment to ensure that disproportionately impacted communities were able to participate in the rulemaking process. However, the bill was heavily amended on the second to last day of the session to incorporate provisions of **SB21-200-Reduce Greenhouse Gases Increase Environmental Justice**, which Gov. Polis threatened to veto. The 25-page amendment overhauled the bill to codify emission reductions for the electric, industrial and manufacturing, and oil and natural gas sectors. The bill gives expanded rulemaking authority to Colorado's Air Quality Control Commission (AQCC) to explore a cap-and-trade system and to set APEN fees to fund the direct and indirect cost of the AQCC. Furthermore, the bill adds greenhouse gas emissions to the list of regulated pollutants subject to APEN fees under the rulemaking authority of the AQCC. The bill also included provisions that require all electric utilities over 50,000 meters that do not receive 80% percent of their energy through a contract to file a clean energy plan. Under this provision, Intermountain Rural Electric Association will be required to file a plan. CREA supported Tri-State's efforts to ensure that its electric resource plan will meet the requirements of the bill. The bill was controversial due to the lack of a stakeholder process and the amendment being released only hours before the bill was heard in Committee.

HB21-1290- Additional Funding for Just Transition: The bill makes an \$8 million appropriation to the Just Transition Cash Fund. The cash fund will support targeted economic development, infrastructure projects, and workforce development programs for communities impacted by a coal mine and plant closures. An additional \$7 million was appropriated to the Coal Transition Worker Assistance Grant Program. The program, operated by the Department of Labor and Employment, will fund apprenticeship programs, provide tuition reimbursement, job search assistance for workers that are directly impacted by coal mine or plant closures. The bill requires that at least 70% of the funds are distributed by the close of FY 2021-22 and the remaining funds are distributed in FY 2022-23. Lastly, the bill modifies the definition of coal transition facilities and provides statutory definitions for Tier One and Tier Two Transition Communities.

HB21-1312- Insurance Premium Property Sales Severance Tax: The bill makes changes to the insurance premium tax, property tax, and sales and use tax. However, these provisions will not have a direct impact on Colorado's cooperatives. Section 11 and 12 of the bill would phase out the quarterly exemption for the first 300,000 tons of coal produced in a quarter and the tax credit equal to 50% for coal and lignitic coal produced from underground mines. The phase-out would gradually remove the tax credit and exemption over time. Additional severance tax collected by removing the exemption and the tax credit would be credited to the Just Transition Cash Fund. It is estimated that the bill could generate roughly \$145 million a year in state revenue by removing these tax breaks.

SB21-072- Public Utilities Commission Modernize Electric Transmission Infrastructure: The bill modifies the Colorado Public Utilities Commission (PUC) certificate of public convenience and necessity (CPCN) approval

process for transmission facilities to factor in consideration of the possibility of future upgrades to the system to support participation in an organized wholesale market. Furthermore, the bill seeks to incentivize the adoption of an organized wholesale market in Colorado through a PUC investigatory docket. The bill defines an organized wholesale market as a regional transmission or an independent system operator. The bill directs the PUC to investigate what market structure is best suited to benefit Colorado's ratepayers and support in-state economic growth. Additionally, the regional market structure should promote grid reliability, energy affordability, harness competitive forces, and enables future innovation. The bill also creates the Colorado Electric Transmission Authority that has condemnation authority and the ability to issue bonds to foster the development of transmission infrastructure in Colorado. Lastly, the bill includes Tri-State in the easement provisions in SB19-107.

SB21-103- Sunset Office of Consumer Counsel: The bill started as a routine sunset bill, the bill was amended to change the name of the Office of Consumer Counsel to the Office of Utility Consumer Advocate and increased the staffing. Additionally, the amendments expanded the purview of the Office to included telecommunication, carbon reduction, and environmental justice. CREA was successful in lobbying against several amendments that would expand the Office's ability to engage in cooperative rate hearings at the board level. However, the Office will have the authority to subpoena cooperatives books and records, similar to the Colorado's Public Utilities Commission authority.

SB21-170-Wildfire Mitigation Cooperative Electric Association: This bill would have required electric cooperatives to submit comprehensive vegetation management plans to the Colorado Public Utilities Commission, in return the cooperative would have received limited liability protection. The vegetation management plans included provisions relating to procedures and standards for inspecting, operating, and performing vegetation management, plans for conducting community outreach, coordinating wildfire mitigation plans, and potential system upgrades to reduce the risk of wildfires. Furthermore, the bill would have granted authority for cooperatives to remove hazard vegetation outside of the right-of-way if the hazard vegetation presented an imminent threat to critical infrastructure. While the bill was postponed indefinitely, the bill was an opportunity for cooperatives to tell their stories about wildfire mitigation and the threat of wildfire in cooperative service territory. The sponsors of the bill have indicated they are interested in working on this topic during the next legislative session.

SB21-246- Electric Utility Promote Beneficial Electrification: The bill requires the PUC to establish energy savings targets and approve plans submitted by IOUs for beneficial electrification (BE) programs modeled after the existing DSM programs. The bill requires IOUs to submit a BE program to the Public Utilities Commission (PUC) every three years starting on April 1, 2022. The program must include a carve-out for low-income and disproportionately impacted communities. The bill changes the existing definition for beneficial electrification from changing a consumers energy source from nonelectric to electric if the changes reduce the system cost for consumers and reduces greenhouse gas emissions or provide more efficient utilization of grid resources to a metric including the social cost of carbon and life cycle reductions in GHG emissions. Additionally, the bill establishes labor standards for the construction, plumbing, and electrical work to be performed for the



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consumer to receive a rebate. CREA worked with the sponsors to ensure that cooperatives were not required to submit plans to the PUC; however, the bill encourages cooperatives to develop and submit BE plans.

SB21-261-Public Utilities Commission Encourage Renewable Energy Generation: The bill applies only to investor-owned utilities and eliminates the 120% of historical usage cap for net metered systems. It also eliminates some of the restrictions for DG to be located on the property served by the net metering facility. The bill adds storage facilities for the purpose of net metering. It allows master meter operators an exemption from utility regulation and the ability to sell electricity to consumers on the master meter. This bill requires IOUs to allow aggregation of meters for net metering regardless of the ownership of the individual account. There are concerns that the bill will create a new precedent that will later be applied to cooperatives. CREA was able to work with the sponsor before the bill was introduced to make sure that the master meter aggregation did not apply to cooperatives.

SB21-272- Measure to Modernize the Public Utilities Commission: This bill authorizes the PUC to expend up to \$250,000 a year for outside consultants. The bill requires the disclosure of financial relationships between intervenors in a commission matter; requires additional rulemaking for the retirement of renewable energy credits, for net metering credits for net metered solar gardens, and makes modifications for net present value calculations in resource planning. CREA was able to work with Tri-State to secure an amendment that removed provisions that would require utilities to pay for licensing software for the PUC.

A list of the bills that CREA tracked can be found [here](#).