

**First Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO**

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 07-0353.01 Thomas Morris

**HOUSE BILL 07-1169**

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**A BILL FOR AN ACT**

101 **CONCERNING NET METERING FOR CUSTOMER-GENERATORS OF**  
102 **COOPERATIVE ELECTRIC ASSOCIATIONS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Repeals and reenacts the statutes that govern net metering for customer-generators of cooperative electric associations.

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

2 **SECTION 1.** Part 3 of article 9.5 of title 40, Colorado Revised

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.*

HOUSE  
3rd Reading Unamended  
March 23, 2007

HOUSE  
Amended 2nd Reading  
March 22, 2007

1 Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS,  
2 to read:

3 PART 3  
4 NET METERING

5 **40-9.5-301. Legislative declaration.** (1) (a) THE GENERAL  
6 ASSEMBLY FINDS THAT IT IS IN THE BEST INTERESTS OF THE STATE TO  
7 EFFECTIVELY UTILIZE OUR DISTRIBUTED RENEWABLE ENERGY RESOURCES.  
8 ENERGY IS CRITICALLY IMPORTANT TO COLORADO'S WELFARE AND  
9 DEVELOPMENT, AND ITS USE HAS A PROFOUND IMPACT ON THE ECONOMY  
10 AND ENVIRONMENT. GROWTH OF THE STATE'S POPULATION AND  
11 ECONOMIC BASE WILL CONTINUE TO CREATE A NEED FOR NEW ENERGY  
12 RESOURCES, AND COLORADO'S RENEWABLE ENERGY RESOURCES ARE  
13 CURRENTLY UNDERUTILIZED.

14 (b) THEREFORE, IN ORDER TO SAVE CONSUMERS AND BUSINESSES  
15 MONEY, ATTRACT NEW BUSINESSES AND JOBS, PROMOTE THE  
16 DEVELOPMENT OF RURAL ECONOMIES, MINIMIZE WATER USE FOR  
17 ELECTRICITY GENERATION, DIVERSIFY COLORADO'S ENERGY RESOURCES,  
18 REDUCE THE IMPACT OF VOLATILE FUEL PRICES, AND IMPROVE THE  
19 NATURAL ENVIRONMENT OF THE STATE, IT IS IN THE BEST INTERESTS OF  
20 THE CITIZENS OF COLORADO TO DEVELOP AND UTILIZE DISTRIBUTED  
21 RENEWABLE ENERGY RESOURCES TO THE MAXIMUM PRACTICABLE EXTENT.

22 (2) SPECIFICALLY, THE STATE WILL:

23 (a) SIMPLIFY AND STANDARDIZE METERING, BILLING, AND  
24 INTERCONNECTION PROCEDURES FOR GRID-TIED RENEWABLE ELECTRICITY  
25 GENERATION THAT IS ON THE PREMISES OF AN END-USE ELECTRICITY  
26 CONSUMER IN COLORADO;

27 (b) ENCOURAGE CUSTOMER-SITED ELECTRICITY GENERATION FROM

1 RENEWABLE RESOURCES TO CAPTURE THE ASSOCIATED ENVIRONMENTAL,  
2 ECONOMIC, AND ENERGY SECURITY BENEFITS;

3 (c) ENCOURAGE DISTRIBUTED RENEWABLE GENERATION SYSTEMS  
4 SIZED TO GENERATE AN AMOUNT OF ELECTRICITY APPROXIMATELY EQUAL  
5 TO THE AMOUNT CONSUMED EACH YEAR BY THE HOST END-USE  
6 ELECTRICITY CUSTOMER;

7 (d) RECOGNIZE THAT NET METERING STRIKES A REASONABLE  
8 BALANCE BETWEEN THE ECONOMIC INTERESTS OF ELECTRICITY  
9 CONSUMERS AND ELECTRICITY PROVIDERS WITHIN THE STATE; AND

10 (e) STRIVE TO ELIMINATE ALL EXISTING BARRIERS TO THE RAPID  
11 ADOPTION OF DISTRIBUTED RENEWABLE ENERGY GENERATION.

12 **40-9.5-302. Definitions.** AS USED IN THIS PART 3, UNLESS THE  
13 CONTEXT OTHERWISE REQUIRES:

14 (1) "BIOMASS" MEANS:

15 (a) NONTOXIC PLANT MATTER CONSISTING OF AGRICULTURAL  
16 CROPS OR THEIR BYPRODUCTS, URBAN WOOD WASTE, MILL RESIDUE,  
17 SLASH, OR BRUSH;

18 (b) ANIMAL WASTES AND PRODUCTS OF ANIMAL WASTES; AND

19 (c) METHANE PRODUCED AT LANDFILLS OR AS A BY-PRODUCT OF  
20 THE TREATMENT OF WASTEWATER RESIDUALS.

21 (2) "COOPERATIVE ELECTRIC ASSOCIATION" MEANS A  
22 COOPERATIVE ELECTRIC ASSOCIATION, AS DEFINED IN SECTION 40-9.5-102,  
23 THAT SELLS ELECTRICITY TO RETAIL CUSTOMERS.

24 (3) "CUSTOMER" OR "CUSTOMER-GENERATOR" MEANS AN END-USE  
25 ELECTRICITY CUSTOMER THAT GENERATES ELECTRICITY ON THE  
26 CUSTOMER'S SIDE OF THE METER.

27 (4) (a) "ELIGIBLE RENEWABLE ENERGY RESOURCES" MEANS:

1 (I) FACILITIES THAT GENERATE ELECTRICITY BY MEANS OF SOLAR  
2 RADIATION, WIND, GEOTHERMAL, BIOMASS, OR HYDROPOWER; AND

3 (II) FUEL CELLS USING HYDROGEN DERIVED FROM THE SOURCES  
4 LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

5 (b) FOSSIL AND NUCLEAR FUELS AND THEIR DERIVATIVES ARE NOT  
6 ELIGIBLE RENEWABLE ENERGY RESOURCES.

7 (5) "NET METERING" MEANS A SYSTEM OF METERING ELECTRICITY  
8 IN WHICH A COOPERATIVE ELECTRIC ASSOCIATION:

9 (a) CREDITS A CUSTOMER-GENERATOR AT THE FULL RETAIL RATE  
10 FOR EACH KILOWATT-HOUR OF ELECTRICITY GENERATED FROM ELIGIBLE  
11 RENEWABLE ENERGY RESOURCES INSTALLED ON THE  
12 CUSTOMER-GENERATOR'S SIDE OF THE ELECTRIC REVENUE METER, UP TO  
13 THE TOTAL AMOUNT OF ELECTRICITY USED BY THAT CUSTOMER DURING AN  
14 ANNUAL PERIOD.

15 (b) COMPENSATES THE CUSTOMER-GENERATOR AT THE END OF AN  
16 ANNUAL PERIOD FOR NO MORE THAN TWENTY-FIVE PERCENT OF  
17 ADDITIONAL ELECTRICITY SO GENERATED OF THE  
18 CUSTOMER-GENERATOR'S GROSS ANNUAL CONSUMPTION FOR THE  
19 PREVIOUS YEAR. SUCH COMPENSATION SHALL BE AT THE COOPERATIVE  
20 ELECTRIC ASSOCIATION'S AVOIDED COST, WHICH SHALL BE THE AVERAGE  
21 COST OF POWER TO THE COOPERATIVE ELECTRIC ASSOCIATION FOR THE  
22 IMMEDIATELY PRECEDING CALENDAR YEAR.

23 (c) IF A CUSTOMER-GENERATOR TAKES SERVICE FROM A  
24 COOPERATIVE ELECTRIC ASSOCIATION ON A TIME-OF-USE OR OTHER  
25 TIME-BASED RATE, THE COOPERATIVE ELECTRIC ASSOCIATION MAY CREDIT  
26 THE CUSTOMER-GENERATOR FOR THE KILOWATT-HOURS OF ENERGY  
27 PRODUCED BY THE CUSTOMER-GENERATOR USING THE SAME TIME-BASED

1 RATE, USING APPROPRIATE TIME-DIFFERENTIATED METERING.

2 **40-9.5-303. Net metering.** (1) ALL COOPERATIVE ELECTRIC  
3 ASSOCIATIONS SHALL ALLOW A CUSTOMER'S RETAIL ELECTRICITY  
4 CONSUMPTION TO BE OFFSET BY THE ELECTRICITY GENERATED FROM  
5 ELIGIBLE RENEWABLE ENERGY RESOURCES ON THE CUSTOMER'S SIDE OF  
6 THE METER THAT ARE INTERCONNECTED WITH THE FACILITIES OF THE  
7 COOPERATIVE ELECTRIC ASSOCIATION IF THE GENERATING CAPACITY OF  
8 THE CUSTOMER'S FACILITY MEETS BOTH OF THE FOLLOWING CRITERIA:

9 (a) THE RATED CAPACITY OF THE GENERATOR DOES NOT EXCEED  
10 FIVE HUNDRED KILOWATTS OF ALTERNATING CURRENT FOR COOPERATIVE  
11 ELECTRIC ASSOCIATIONS THAT HAVE TEN THOUSAND RETAIL METERS OR  
12 LESS; ONE MEGAWATT OF ALTERNATING CURRENT FOR COOPERATIVE  
13 ELECTRIC ASSOCIATIONS THAT HAVE AT LEAST TEN THOUSAND ONE RETAIL  
14 METERS AND NO MORE THAN FORTY THOUSAND RETAIL METERS; AND TWO  
15 MEGAWATTS OF ALTERNATING CURRENT FOR COOPERATIVE ELECTRIC  
16 ASSOCIATIONS WITH MORE THAN FORTY THOUSAND RETAIL METERS; AND

17 (b) THE RATED CAPACITY OF THE GENERATOR DOES NOT EXCEED  
18 THE CUSTOMER'S SERVICE ENTRANCE CAPACITY.

19 (2) IF A CUSTOMER WITH AN ELIGIBLE RENEWABLE ENERGY  
20 RESOURCE GENERATES RENEWABLE ENERGY PURSUANT TO SUBSECTION (1)  
21 OF THIS SECTION IN EXCESS OF THE CUSTOMER'S CONSUMPTION, THE  
22 EXCESS KILOWATT-HOURS SHALL BE CARRIED FORWARD FROM MONTH TO  
23 MONTH AND CREDITED AT A RATIO OF ONE-TO-ONE AGAINST THE  
24 CUSTOMER'S RETAIL KILOWATT-HOUR CONSUMPTION IN SUBSEQUENT  
25 MONTHS. WITHIN SIXTY DAYS AFTER THE END OF EACH CALENDAR YEAR,  
26 OR WITHIN SIXTY DAYS AFTER THE CUSTOMER TERMINATES ITS RETAIL  
27 SERVICE, THE COOPERATIVE ELECTRIC ASSOCIATION SHALL COMPENSATE

1 THE CUSTOMER FOR ANY ACCRUED EXCESS KILOWATT-HOUR CREDITS, AT  
2 THE COOPERATIVE ELECTRIC ASSOCIATION'S AVERAGE HOURLY  
3 INCREMENTAL COST OF ELECTRICITY SUPPLY OVER THE MOST RECENT  
4 CALENDAR YEAR.

5 (3) THE COOPERATIVE ELECTRIC ASSOCIATION SHALL ADOPT  
6 PROCEDURES, TARIFFS, AND RATES THAT COMPLY WITH THIS PART 3 AND,  
7 WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3),  
8 SHALL ALLOW CUSTOMER-GENERATORS TO ENTER INTO NET METERING.

9 (4) A CUSTOMER'S FACILITY THAT GENERATES RENEWABLE  
10 ENERGY FROM AN ELIGIBLE RENEWABLE ENERGY RESOURCE SHALL BE  
11 EQUIPPED WITH METERING EQUIPMENT THAT CAN MEASURE THE FLOW OF  
12 ELECTRIC ENERGY IN BOTH DIRECTIONS. THE COOPERATIVE ELECTRIC  
13 ASSOCIATION SHALL USE A SINGLE, BI-DIRECTIONAL ELECTRIC REVENUE  
14 METER WITH A SINGLE REGISTER THAT DISPLAYS THE NET READING FOR  
15 BILLING PURPOSES. THE COOPERATIVE ELECTRIC ASSOCIATION MAY  
16 CHOOSE TO METER ADDITIONAL INFORMATION WITHIN THIS METER IF THE  
17 CUSTOMER CAN EASILY AND CLEARLY READ THE NET READING.

18 (5) IF THE CUSTOMER'S EXISTING ELECTRIC REVENUE METER DOES  
19 NOT MEET THE REQUIREMENTS OF THIS PART 3, THE COOPERATIVE  
20 ELECTRIC ASSOCIATION SHALL INSTALL AND MAINTAIN A LOWEST-COST  
21 NEW REVENUE METER THAT MEETS THE MINIMUM REQUIREMENTS OF THIS  
22 PART 3 FOR THE CUSTOMER, AT THE CUSTOMER'S EXPENSE. THE  
23 CUSTOMER SHALL ALSO PAY FOR ANY SUBSEQUENT REVENUE METER  
24 CHANGE NECESSITATED BY THE CUSTOMER. A METER FOR A WELL PUMP  
25 SHALL BE CAPABLE OF SUPPLYING THE STATE ENGINEER WITH A RECORD  
26 OF THE ENERGY USED TO PUMP GROUND WATER AS REQUIRED BY SECTION  
27 37-92-502 (5) (b), C.R.S.

1           (6) THE COOPERATIVE ELECTRIC ASSOCIATION SHALL NOT REQUIRE  
2 MORE THAN ONE METER PER CUSTOMER TO COMPLY WITH THIS PART 3.  
3 NOTHING IN THIS PART 3 SHALL PRECLUDE THE COOPERATIVE ELECTRIC  
4 ASSOCIATION FROM PLACING A SECOND METER TO GATHER OTHER  
5 INFORMATION AT ITS OWN EXPENSE UNLESS THE METER IS LOCATED ON  
6 THE CUSTOMER'S PROPERTY, IN WHICH CASE THE ASSOCIATION MAY DO SO  
7 ONLY IF THE CUSTOMER CONSENTS.

8           (7) (a) EXCEPT AS SPECIFIED IN PARAGRAPH (b) OF THIS  
9 SUBSECTION (7), A COOPERATIVE ELECTRIC ASSOCIATION SHALL PROVIDE  
10 NET METERING SERVICE AT NONDISCRIMINATORY RATES TO CUSTOMERS  
11 WITH ELIGIBLE RENEWABLE ENERGY RESOURCES. A CUSTOMER SHALL NOT  
12 BE REQUIRED TO CHANGE THE RATE UNDER WHICH THE CUSTOMER  
13 RECEIVED RETAIL SERVICE IN ORDER FOR THE CUSTOMER TO INSTALL AN  
14 ELIGIBLE RENEWABLE ENERGY RESOURCE. MINIMUM MONTHLY BILLING  
15 AMOUNTS MAY NOT BE APPLIED TO A NET METERED CUSTOMER IN EXCESS  
16 OF THE MONTHLY SERVICE AND FACILITIES CHARGE EMBEDDED IN THE  
17 RATE APPLICABLE TO THE CUSTOMER. NOTHING IN THIS PART 3 SHALL  
18 PROHIBIT A COOPERATIVE ELECTRIC ASSOCIATION FROM MAKING CHANGES  
19 IN RATES AT ANY TIME IF SUCH CHANGES DO NOT DISCRIMINATE AGAINST  
20 NET METERED CUSTOMERS.

21           (b) A COOPERATIVE ELECTRIC ASSOCIATION MAY REQUIRE THE USE  
22 OF A DEMAND-BASED RATE FOR CUSTOMER-GENERATORS THAT TAKE  
23 SERVICE ON A SEASONAL IRRIGATION RATE IF THE IRRIGATION PUMP  
24 SERVED BY THE METER IS LARGER THAN TWENTY-FIVE HORSEPOWER.

25           (8) A CUSTOMER-GENERATOR THAT IS ELIGIBLE FOR NET METERING  
26 OWNS THE RENEWABLE AND ENVIRONMENTAL ATTRIBUTES OF THE  
27 ELECTRICITY IT GENERATES, UNLESS THE CUSTOMER IS A PARTY TO A

1 CONTRACT CONTAINING AN EXPRESS PROVISION THAT ASSIGNS OWNERSHIP  
2 OF THOSE RENEWABLE AND ENVIRONMENTAL ATTRIBUTES. A  
3 CUSTOMER-GENERATOR MAY NOT BE REQUIRED TO ASSIGN RENEWABLE  
4 AND ENVIRONMENTAL ATTRIBUTES OF THE ELECTRICITY IT GENERATES IN  
5 ORDER TO RECEIVE NET METERING OR INTERCONNECTION.

6 (9) EACH COOPERATIVE ELECTRIC ASSOCIATION SHALL PROVIDE  
7 THE FOLLOWING, WHICH SHALL BE PUBLISHED ON THE COOPERATIVE  
8 ELECTRIC ASSOCIATION'S WEB SITE:

9 (a) AN ANNUAL NET METERING REPORT, WHICH SHALL INCLUDE  
10 THE FOLLOWING INFORMATION, AT A MINIMUM:

11 (I) THE TOTAL NUMBER OF CUSTOMER-GENERATOR FACILITIES;

12 (II) THE TOTAL ESTIMATED RATED GENERATING CAPACITY OF ITS  
13 NET METERING CUSTOMER-GENERATORS;

14 (III) THE TOTAL ESTIMATED NET KILOWATT-HOURS RECEIVED  
15 FROM CUSTOMER-GENERATORS; AND

16 (IV) THE TOTAL ESTIMATED AMOUNT OF ENERGY PRODUCED BY  
17 THE CUSTOMER-GENERATORS;

18 (b) THE COOPERATIVE ELECTRIC ASSOCIATION'S NET METERING  
19 POLICY AS IT APPLIES TO MEMBERS; AND

20 (c) THE COOPERATIVE ELECTRIC ASSOCIATION'S INTERCONNECTION  
21 STANDARDS AS THEY APPLY TO MEMBERS.

22 (10) A COOPERATIVE ELECTRIC ASSOCIATION SHALL NOT BE  
23 REQUIRED TO NET METER ANY ADDITIONAL GENERATING FACILITIES ONCE  
24 THE TOTAL GENERATING CAPACITY OF ALL CUSTOMER-GENERATORS USING  
25 NET METERING SYSTEMS IN THAT ASSOCIATION TOTALS ONE PERCENT OF  
26 THE ASSOCIATION'S MONTHLY PEAK DEMAND FOR CALENDAR YEARS 2007  
27 AND 2008, THREE PERCENT FOR CALENDAR YEARS 2009 AND 2010, AND

1 FIVE PERCENT THEREAFTER. NO SINGLE CUSTOMER-GENERATOR SYSTEM  
2 SHALL COMPRISE MORE THAN TWENTY PERCENT OF THE PERCENTAGE CAPS  
3 SPECIFIED IN THIS SUBSECTION (10).

4 **40-9.5-304. Interconnection - insurance.** (1) A COOPERATIVE  
5 ELECTRIC ASSOCIATION AND A CUSTOMER-GENERATOR SHALL COMPLY  
6 WITH THE INTERCONNECTION STANDARDS AND INSURANCE REQUIREMENTS  
7 ESTABLISHED IN THE RULES PROMULGATED BY THE PUBLIC UTILITIES  
8 COMMISSION PURSUANT TO SECTION 40-2-124; EXCEPT THAT SUBSECTION  
9 (2) OF THIS SECTION SHALL APPLY WITH REGARD TO INSURANCE  
10 REQUIREMENTS. ■ ■

11 (2) (a) A COOPERATIVE ELECTRIC ASSOCIATION MAY REDUCE OR  
12 WAIVE ANY OF THE INSURANCE REQUIREMENTS SPECIFIED IN SUBSECTION  
13 (1) OF THIS SECTION. ■

14 (b) AT THE COOPERATIVE ELECTRIC ASSOCIATION'S OPTION, FOR  
15 SYSTEMS LARGER THAN ONE HUNDRED KILOWATTS, THE COOPERATIVE  
16 ELECTRIC ASSOCIATION MAY BE NAMED AS AN ADDITIONAL INSURED BY  
17 ENDORSEMENT TO THE INSURANCE POLICY AND THE POLICY SHALL  
18 PROVIDE THAT WRITTEN NOTICE BE GIVEN TO THE COOPERATIVE ELECTRIC  
19 ASSOCIATION AT LEAST THIRTY DAYS PRIOR TO THE CANCELLATION OR  
20 REDUCTION OF ANY COVERAGE. SUCH LIABILITY INSURANCE SHALL  
21 PROVIDE, BY ENDORSEMENT TO THE POLICY, THAT THE COOPERATIVE  
22 ELECTRIC ASSOCIATION SHALL NOT BY REASON OF ITS INCLUSION AS AN  
23 ADDITIONAL INSURED INCUR LIABILITY TO THE INSURANCE CARRIER FOR  
24 THE PAYMENT OF ANY PREMIUM FOR SUCH INSURANCE. FOR ALL SOLAR  
25 SYSTEMS, THE LIABILITY INSURANCE SHALL NOT EXCLUDE COVERAGE FOR  
26 ANY INCIDENT RELATED TO THE SUBJECT GENERATOR OR ITS OPERATION.

27 (c) CERTIFICATES OF INSURANCE EVIDENCING THE REQUISITE

1 COVERAGE AND PROVISIONS, IF ANY, SHALL BE FURNISHED TO THE  
2 COOPERATIVE ELECTRIC ASSOCIATION PRIOR TO THE DATE OF  
3 INTERCONNECTION OF THE GENERATION SYSTEM. A COOPERATIVE  
4 ELECTRIC ASSOCIATION MAY PERIODICALLY OBTAIN PROOF OF CURRENT  
5 INSURANCE COVERAGE FROM THE CUSTOMER-GENERATOR IN ORDER TO  
6 VERIFY PROPER LIABILITY INSURANCE COVERAGE IF THE REQUESTS DO NOT  
7 BECOME BURDENSOME ON THE CUSTOMER-GENERATOR. A  
8 CUSTOMER-GENERATOR MAY NOT COMMENCE OR CONTINUE  
9 INTERCONNECTED OPERATIONS UNLESS EVIDENCE IS PROVIDED THAT  
10 SATISFACTORY INSURANCE COVERAGE IS IN EFFECT AT ALL TIMES.

11 **SECTION 2. Effective date.** This act shall take effect at 12:01  
12 a.m. on the day following the expiration of the ninety-day period after  
13 final adjournment of the general assembly that is allowed for submitting  
14 a referendum petition pursuant to article V, section 1 (3) of the state  
15 constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007);  
16 except that, if a referendum petition is filed against this act or an item,  
17 section, or part of this act within such period, then the act, item, section,  
18 or part, if approved by the people, shall take effect on the date of the  
19 official declaration of the vote thereon by proclamation of the governor.