

Second Regular Session  
Sixty-fourth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 04-0135.01 Kristen Forrestal

HOUSE BILL 04-1225

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**HOUSE SPONSORSHIP**

**Berry**, Spradley, Romanoff, Boyd, Cloer, and Stafford

**SENATE SPONSORSHIP**

**Sandoval**, and Jones

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**House Committees**

Transportation & Energy

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE "LOW-INCOME ENERGY ASSISTANCE ACT".**

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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.)*

Declares that there is a need for, and creates, a low-income energy assistance program to serve needy populations in Colorado.

Requires utilities to collect an energy assistance charge from each electric and gas customer beginning January 1, 2005, unless a customer opts not to pay the charge. As an alternative, allows municipally owned gas, electric, and gas and electric utilities and rural electric cooperatives, through a self-certification process, to implement alternative energy assistance programs.

Requires the public utilities commission to provide an opt-out

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.*

mechanism whereby customers can choose not to contribute to the energy assistance program. Requires the energy assistance charge to appear on the monthly billing statement.

Requires utilities to transfer the moneys thus collected to energy outreach Colorado (the organization) on a specified schedule. Directs the organization to hold the moneys in a separate account and expend the moneys only for the purposes of low-income energy assistance in the form of payment to utilities on behalf of qualified individuals. Requires the organization to develop an annual budget and to submit an annual report to the general assembly, the legislative audit committee, and the office of the state auditor. Requires the report to be made available to the public.

Authorizes the organization to provide low-income energy assistance on a prioritized basis.

Repeals the low-income energy assistance program, effective January 1, 2010.

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

**SECTION 1.** Title 40, Colorado Revised Statutes, is amended  
BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 8.7**

**Low-income Energy Assistance**

**40-8.7-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY  
BE CITED AS THE "LOW-INCOME ENERGY ASSISTANCE ACT".

**40-8.7-102. Legislative declaration - energy assistance  
program - creation.** THE GENERAL ASSEMBLY HEREBY FINDS,  
DETERMINES, AND DECLARES THAT IN ORDER TO SERVE THE BEST  
INTERESTS OF THE CITIZENS OF COLORADO, AND, IN PARTICULAR, TO AID  
LOW-INCOME CITIZENS OF COLORADO, THERE IS A NEED FOR AN ENERGY  
ASSISTANCE PROGRAM TO COLLECT A LOW-INCOME ENERGY ASSISTANCE  
CHARGE FROM UTILITY CUSTOMERS IN COLORADO. THE GENERAL  
ASSEMBLY FURTHER FINDS THAT THE MOST EFFICIENT WAY TO SUPPORT  
SUCH A PROGRAM IS FOR GAS AND ELECTRIC UTILITIES TO COLLECT A

1 MONTHLY CHARGE FOR LOW-INCOME ENERGY ASSISTANCE, AND THAT THE  
2 MONEYS COLLECTED SHALL BE MOST ECONOMICALLY AND EQUITABLY  
3 DISBURSED THROUGH A SYSTEM IN WHICH CUSTOMERS MAY ELECT NOT TO  
4 PARTICIPATE IN THE PROGRAM AND THE CHARGES COLLECTED BY ELECTRIC  
5 UTILITIES AND GAS UTILITIES ARE TRANSMITTED TO ENERGY OUTREACH  
6 COLORADO. THEREFORE, THE GENERAL ASSEMBLY HEREBY CREATES A  
7 LOW-INCOME ENERGY ASSISTANCE PROGRAM THAT PROVIDES FOR THE  
8 COLLECTION AND DISBURSEMENT OF AN OPTIONAL ENERGY ASSISTANCE  
9 CHARGE IN COLORADO THROUGH THE ENACTMENT OF THIS ARTICLE.

10 **40-8.7-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
11 CONTEXT OTHERWISE REQUIRES:

12 (1) "AGRICULTURAL CUSTOMER" MEANS A CUSTOMER WHOSE  
13 ACCOUNT SERVES AN ESTABLISHMENT PRIMARILY ENGAGED IN THE  
14 PRODUCTION OF AGRICULTURAL COMMODITIES FOR PROFIT.

15 (2) "ALTERNATIVE ENERGY ASSISTANCE PROGRAM" MEANS A  
16 PROGRAM OPERATED BY A MUNICIPALLY OWNED ELECTRIC AND GAS  
17 UTILITY OR RURAL ELECTRIC COOPERATIVE THAT IS NOT PART OF THE  
18 ENERGY ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO THIS ARTICLE.

19 (3) "CUSTOMER" MEANS THE NAMED HOLDER OF AN INDIVIDUALLY  
20 METERED ACCOUNT UPON WHICH CHARGES FOR ELECTRICITY OR GAS ARE  
21 PAID TO A UTILITY. "CUSTOMER" SHALL NOT INCLUDE A CUSTOMER THAT  
22 RECEIVES ELECTRICITY OR GAS FOR THE SOLE PURPOSE OF RESELLING THE  
23 ELECTRICITY OR GAS TO OTHERS.

24 (4) "ENERGY ASSISTANCE PROGRAM" MEANS THE PROGRAM  
25 CREATED BY SECTION 40-8.7-102 THAT IS DESIGNED TO PROVIDE  
26 FINANCIAL ASSISTANCE, RESIDENTIAL ENERGY EFFICIENCY, AND ENERGY  
27 CONSERVATION ASSISTANCE.

1 (5) "INDIVIDUALLY METERED ACCOUNT" MEANS EVERY INDIVIDUAL  
2 STATEMENT OF CHARGES BETWEEN A CUSTOMER AND A UTILITY THAT ARE  
3 DETERMINED BY A SINGLE METER FOR GAS OR A SINGLE METER FOR  
4 ELECTRICITY.

5 (6) "METER" MEANS ANY DEVICE USED TO COMPUTE THE AMOUNT  
6 OF ELECTRICITY OR GAS PROVIDED TO A CUSTOMER.

7 (7) "ORGANIZATION" MEANS ENERGY OUTREACH COLORADO, A  
8 COLORADO NONPROFIT CORPORATION, FORMERLY KNOWN AS THE  
9 COLORADO ENERGY ASSISTANCE FOUNDATION.

10 (8) "UTILITY" MEANS A CORPORATION, ASSOCIATION,  
11 PARTNERSHIP, COOPERATIVE, OR MUNICIPALLY OWNED ENTITY THAT  
12 PROVIDES RETAIL ELECTRIC SERVICE OR RETAIL GAS SERVICE TO  
13 CUSTOMERS IN COLORADO.

14 **40-8.7-104. Energy assistance program - energy assistance**  
15 **charge - rules.** (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE,  
16 EVERY UTILITY DOING BUSINESS IN COLORADO SHALL PARTICIPATE IN THE  
17 ENERGY ASSISTANCE PROGRAM AND SHALL COLLECT AN ENERGY  
18 ASSISTANCE CHARGE BEGINNING JANUARY 1, 2005. THE ENERGY  
19 ASSISTANCE CHARGE SHALL NOT BE COLLECTED FROM CUSTOMERS WHO  
20 OPT OUT OF THE ENERGY ASSISTANCE PROGRAM PURSUANT TO SECTION  
21 40-8.7-106. EACH UTILITY SHALL COLLECT THE ENERGY ASSISTANCE  
22 CHARGE MONTHLY IN THE SAME MANNER AS ALL OTHER CHARGES AND  
23 FEES COLLECTED BY THE UTILITY FROM ITS CUSTOMERS. THE AMOUNT OF  
24 THE OPTIONAL CHARGE SHALL BE:

25 (a) FOR RESIDENTIAL CUSTOMERS, TWENTY-FIVE CENTS PER  
26 MONTH FOR EACH ACCOUNT FOR BOTH GAS AND ELECTRIC SERVICE;

27 (b) FOR AGRICULTURAL CUSTOMERS, TWENTY-FIVE CENTS PER

1 MONTH FOR EACH ACCOUNT FOR BOTH GAS AND ELECTRIC SERVICE; AND

2 (c) FOR OTHER NONRESIDENTIAL CUSTOMERS, ONE DOLLAR PER  
3 MONTH FOR EACH ACCOUNT FOR BOTH GAS AND ELECTRIC SERVICE.

4 (2) THE PUBLIC UTILITIES COMMISSION SHALL DETERMINE  
5 WHETHER A CUSTOMER SHALL BE CHARGED FOR A SINGLE ACCOUNT IN  
6 CASES WHERE THE CUSTOMER, INCLUDING AN AGRICULTURAL CUSTOMER,  
7 IS BILLED FOR ELECTRICITY OR GAS DELIVERED THROUGH MULTIPLE  
8 METERS AT A SINGLE ADDRESS. THE PUBLIC UTILITIES COMMISSION SHALL  
9 ESTABLISH RULES AS NECESSARY TO IMPLEMENT THIS SUBSECTION (2).

10 (3) ANY REASONABLE COSTS THAT A UTILITY INCURS, INCLUDING  
11 THE INITIAL COSTS OF SETTING UP THE COLLECTION MECHANISM AND FOR  
12 THE ONGOING ADMINISTRATION OF THE OPT-OUT PROVISION FOR THE  
13 ENERGY ASSISTANCE CHARGE, SHALL BE REIMBURSED FROM THE ENERGY  
14 ASSISTANCE PROGRAM MONEYS COLLECTED, AND THIS AMOUNT SHALL BE  
15 ESTABLISHED BY THE PUBLIC UTILITIES COMMISSION BY RULE.

16 **40-8.7-105. Municipally owned gas, electric, and gas and**  
17 **electric utilities and rural electric cooperatives.** (1) IF A MUNICIPALLY  
18 OWNED GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY OR A RURAL  
19 ELECTRIC COOPERATIVE OPERATES AN ALTERNATIVE ENERGY ASSISTANCE  
20 PROGRAM TO SUPPORT ITS LOW-INCOME CUSTOMERS WITH THEIR HOME  
21 ENERGY NEEDS, THEN THE GOVERNING BODY OF THE MUNICIPALLY OWNED  
22 GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY OR RURAL ELECTRIC  
23 COOPERATIVE MAY SELF-CERTIFY TO THE ORGANIZATION ITS ALTERNATIVE  
24 ENERGY ASSISTANCE PROGRAM AND UPON SELF-CERTIFICATION WILL HAVE  
25 NO OBLIGATIONS UNDER THIS ARTICLE. IN ORDER FOR SUCH UTILITY OR  
26 COOPERATIVE TO SELF-CERTIFY, SUCH ALTERNATIVE ENERGY ASSISTANCE  
27 PROGRAM SHALL MEET THE FOLLOWING CRITERIA:

1 (a) FUNDING OF THE PROGRAM SHALL BE DETERMINED BY THE  
2 GOVERNING BODY;

3 (b) PROGRAM FUNDS SHALL BE DISTRIBUTED IN A MANNER AND  
4 UNDER ELIGIBILITY CRITERIA DETERMINED BY THE GOVERNING BODY FOR  
5 THE PURPOSE OF RESIDENTIAL ENERGY ASSISTANCE TO CUSTOMERS THAT  
6 ARE CHALLENGED WITH PAYING ENERGY BILLS FOR FINANCIAL REASONS,  
7 INCLUDING TO SENIORS ON FIXED INCOMES, INDIVIDUALS WITH  
8 DISABILITIES, AND LOW-INCOME INDIVIDUALS;

9 (c) THE PROGRAM SHALL MAKE AVAILABLE TO ALL CUSTOMERS ON  
10 AN ANNUAL BASIS INFORMATION ABOUT THE PROGRAM, INCLUDING HOW  
11 MANY PEOPLE CONTRIBUTE TO THE PROGRAM, THE AMOUNT OF MONEY  
12 CONTRIBUTED, THE NUMBER OF PEOPLE WHO WERE HELPED BY THE  
13 PROGRAM, AND THE NUMBER OF PEOPLE WHO QUALIFIED TO RECEIVE  
14 FUNDING. THIS INFORMATION MAY BE DISTRIBUTED BY WRITTEN NOTICE  
15 OR BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE  
16 AUTHORIZED SERVICE AREA OF THE MUNICIPALLY OWNED GAS, ELECTRIC,  
17 OR GAS AND ELECTRIC UTILITY OR RURAL ELECTRIC COOPERATIVE.

18 (2) IF THE GOVERNING BODY OF A MUNICIPALLY OWNED GAS,  
19 ELECTRIC, OR GAS AND ELECTRIC UTILITY OR A RURAL ELECTRIC  
20 COOPERATIVE DETERMINES THAT THE SERVICE AREA OF SUCH UTILITY OR  
21 COOPERATIVE HAS A LIMITED NUMBER OF PEOPLE WHO QUALIFY FOR  
22 ENERGY ASSISTANCE, SUCH UTILITY OR COOPERATIVE MAY BE EXEMPT  
23 FROM THE OBLIGATIONS OF THIS ARTICLE.

24 (3) IF A MUNICIPALLY OWNED GAS, ELECTRIC, OR GAS AND  
25 ELECTRIC UTILITY OR RURAL ELECTRIC COOPERATIVE HAS NOT  
26 SELF-CERTIFIED AN ALTERNATIVE ENERGY ASSISTANCE PROGRAM  
27 PURSUANT TO SUBSECTION (1) OF THIS SECTION, OR HAS NOT EXEMPTED

1 ITSELF PURSUANT TO SUBSECTION (2) OF THIS SECTION, SUCH UTILITY OR  
2 COOPERATIVE SHALL COLLECT AN ENERGY ASSISTANCE CHARGE FROM ITS  
3 CUSTOMERS AS PROVIDED IN SECTION 40-8.7-104 (1) AND (2). IN SUCH  
4 CIRCUMSTANCES, THE GOVERNING BODY OF SUCH UTILITY OR  
5 COOPERATIVE SHALL DETERMINE THE DISPOSITION AND DELIVERY OF THE  
6 OPTIONAL ENERGY ASSISTANCE CHARGE THAT IT COLLECTS ON THE  
7 FOLLOWING BASIS:

8 (a) SUCH GOVERNING BODY MAY ELECT TO DELIVER THE OPTIONAL  
9 CHARGE THAT IT COLLECTS TO THE ORGANIZATION FOR DISTRIBUTION IN  
10 ACCORDANCE WITH THIS ARTICLE.

11 (b) IF THE ELECTION PURSUANT TO PARAGRAPH (a) OF THIS  
12 SUBSECTION (1) IS NOT MADE, THEN:

13 (I) THE ENERGY ASSISTANCE FUNDS COLLECTED SHALL BE  
14 DISTRIBUTED UNDER ELIGIBILITY CRITERIA DETERMINED BY THE  
15 GOVERNING BODY FOR THE PURPOSE SET FORTH IN PARAGRAPH (b) OF  
16 SUBSECTION (1) OF THIS SECTION;

17 (II) SUCH GOVERNING BODY SHALL DETERMINE WHETHER IT IS  
18 APPROPRIATE TO PROVIDE AN OPT-OUT MECHANISM WHEREBY THE ENERGY  
19 ASSISTANCE CHARGE, DESCRIBED IN SECTION 40-8.7-104, WILL NOT BE  
20 COLLECTED FROM THOSE CUSTOMERS WHO GIVE NOTICE OF INTENT NOT TO  
21 PARTICIPATE IN THE ENERGY ASSISTANCE PROGRAM. THE NAMES OF THE  
22 CUSTOMERS UTILIZING THE OPT-OUT PROVISION SHALL BE CONFIDENTIAL.

23 (III) SUCH GOVERNING BODY SHALL REQUIRE THAT, IN CASES  
24 WHERE A SINGLE CUSTOMER, INCLUDING AN AGRICULTURAL CUSTOMER, IS  
25 BILLED FOR ELECTRICITY OR GAS DELIVERED THROUGH MULTIPLE METERS  
26 AT A SINGLE ADDRESS, THE CUSTOMER SHALL BE CHARGED FOR A SINGLE  
27 ACCOUNT; AND

1 (IV) SUCH GOVERNING BODY SHALL REPORT ON THE COLLECTION  
2 AND DISTRIBUTION OF THE MONEYS IN THE SAME MANNER AS SET FORTH IN  
3 PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION.

4 (4) MUNICIPALLY OWNED GAS, ELECTRIC, AND GAS AND ELECTRIC  
5 UTILITIES AND RURAL ELECTRIC COOPERATIVES MAY PROVIDE FUNDING  
6 FOR ENERGY ASSISTANCE TO THE ORGANIZATION BY UTILIZING ANOTHER  
7 SOURCE OF FUNDING OTHER THAN AN OPTIONAL CHARGE ON CUSTOMERS'  
8 BILLS, IF THE AMOUNT IS SUBSTANTIALLY SIMILAR.

9 (5) ANY REASONABLE COSTS THAT A MUNICIPALLY OWNED GAS,  
10 ELECTRIC, OR GAS AND ELECTRIC UTILITY OR RURAL ELECTRIC  
11 COOPERATIVE INCURS, INCLUDING THE INITIAL COSTS OF SETTING UP THE  
12 COLLECTION MECHANISM AND ONGOING PROGRAM ADMINISTRATION, MAY  
13 BE REIMBURSED, AT THE DISCRETION OF THE GOVERNING BODY, FROM THE  
14 ENERGY ASSISTANCE MONEYS COLLECTED.

15 (6) FOR MUNICIPALLY OWNED GAS, ELECTRIC, AND GAS AND  
16 ELECTRIC UTILITIES AND RURAL ELECTRIC COOPERATIVES, IF THE  
17 ADMINISTRATION COSTS OF THE LOW-INCOME ENERGY ASSISTANCE  
18 PROGRAM EXCEED THE REVENUE GENERATED FOR ANY CALENDAR YEAR,  
19 THE REQUIREMENTS OF THIS ARTICLE SHALL TERMINATE AS TO THE UTILITY  
20 OR COOPERATIVE, UPON THE MAKING OF SUCH DETERMINATION BY THE  
21 GOVERNING BODY.

22 **40-8.7-106. Customer opt-out provision.** (1) THE PUBLIC  
23 UTILITIES COMMISSION SHALL DETERMINE THE MECHANISM FOR AN  
24 OPT-OUT PROVISION WHEREBY THE ENERGY ASSISTANCE CHARGE  
25 DESCRIBED IN SECTION 40-8.7-104 WILL NOT BE COLLECTED FROM THOSE  
26 CUSTOMERS WHO GIVE NOTICE OF THEIR INTENT NOT TO PARTICIPATE IN  
27 THE ENERGY ASSISTANCE PROGRAM. THE PUBLIC UTILITIES COMMISSION

1 SHALL BY RULE:

2 (a) MAKE THE MECHANISM SIMPLE AND COMPREHENSIVE BY WHICH  
3 CUSTOMERS CAN GIVE NOTICE THROUGH TELEPHONE, MAIL, ONLINE, OR  
4 ANY OTHER APPROPRIATE METHOD;

5 (b) ENSURE THAT UTILITIES NOTIFY CUSTOMERS ABOUT THE  
6 OPT-OUT PROVISION PRIOR TO JANUARY 1, 2005, AND ENSURE THAT  
7 UTILITIES PROVIDE CLEAR, PERIODIC NOTICE OF THE OPT-OUT PROVISION  
8 AT LEAST TWICE PER YEAR;

9 (c) CONSIDER THE MOST COST-EFFECTIVE METHOD POSSIBLE; AND

10 (d) ENSURE THAT ADEQUATE NOTICE OF THE PROVISION IS GIVEN  
11 TO ALL CUSTOMERS.

12 (2) THE NAMES OF CUSTOMERS UTILIZING THIS OPT-OUT PROVISION  
13 SHALL BE CONFIDENTIAL. ONCE A CUSTOMER OPTS OUT, THE CHARGE  
14 SHALL NO LONGER BE COLLECTED FROM SUCH CUSTOMER. CUSTOMERS  
15 SHALL HAVE THE OPTION TO RENEW THEIR PARTICIPATION IN THE PROGRAM  
16 ONCE THEY HAVE OPTED OUT.

17 **40-8.7-107. Identification of charge - billing statement.** THE  
18 ENERGY ASSISTANCE CHARGE SHALL APPEAR AS A SEPARATE LINE-ITEM  
19 CHARGE IN EVERY MONTHLY BILL FOR ELECTRICITY OR GAS AND SHALL BE  
20 IDENTIFIED IN THE BILLING STATEMENT AS "LOW-INCOME ENERGY  
21 ASSISTANCE CHARGE" UNLESS THE GOVERNING BODY DETERMINES  
22 OTHERWISE.

23 **40-8.7-108. Disposition of moneys.** (1) EVERY GAS AND  
24 ELECTRIC UTILITY SHALL TRANSFER THE MONEYS FROM THE ENERGY  
25 ASSISTANCE CHARGE TO THE ORGANIZATION ON THE FOLLOWING  
26 SCHEDULE:

27 (a) FOR THE MONEYS COLLECTED DURING THE PERIOD OF JANUARY

1 1 TO MARCH 31 OF EACH YEAR, THE UTILITY SHALL TRANSFER THE  
2 COLLECTED MONEYS TO THE ORGANIZATION BY APRIL 30 OF SUCH YEAR;

3 (b) FOR THE MONEYS COLLECTED DURING THE PERIOD OF APRIL 1  
4 TO JUNE 30 OF EACH YEAR, THE UTILITY SHALL TRANSFER THE COLLECTED  
5 MONEYS TO THE ORGANIZATION BY JULY 31 OF SUCH YEAR;

6 (c) FOR MONEYS COLLECTED DURING THE PERIOD OF JULY 1 TO  
7 SEPTEMBER 30 OF EACH YEAR, THE UTILITY SHALL TRANSFER THE  
8 COLLECTED MONEYS TO THE ORGANIZATION BY OCTOBER 31 OF SUCH  
9 YEAR; AND

10 (d) FOR MONEYS COLLECTED DURING THE PERIOD OF OCTOBER 1  
11 TO DECEMBER 31 OF EACH YEAR, THE UTILITY SHALL TRANSFER THE  
12 COLLECTED MONEYS TO THE ORGANIZATION BY JANUARY 31 OF THE NEXT  
13 YEAR.

14 (2) UTILITIES SHALL PROVIDE THE ORGANIZATION WITH A  
15 SUMMATION OF HOW THE MONEYS COLLECTED WERE GENERATED,  
16 INCLUDING THE NUMBER OF CUSTOMERS FOR RESIDENTIAL,  
17 AGRICULTURAL, AND NONRESIDENTIAL ACCOUNTS PARTICIPATING AND, IF  
18 THE UTILITY IS MANAGING THE ADMINISTRATION OF AN OPT-OUT  
19 PROVISION, THE NUMBER OF CUSTOMERS WHO OPT OUT OF THE PAYMENT  
20 OF THE ENERGY ASSISTANCE CHARGE.

21 (3) THE ORGANIZATION SHALL PAY THE PUBLIC UTILITIES  
22 COMMISSION FROM THE MONEYS TRANSFERRED TO THE ORGANIZATION  
23 PURSUANT TO SUBSECTION (1) OF THIS SECTION FOR ANY ADMINISTRATIVE  
24 COSTS INCURRED PURSUANT TO THIS ARTICLE.

25 **40-8.7-109. Energy outreach Colorado - administration of the**  
26 **energy assistance charge.** (1) THE ORGANIZATION SHALL HOLD AND  
27 ADMINISTER ALL MONEYS DELIVERED TO IT BY THE UTILITIES PURSUANT TO

1 SECTION 40-8.7-108 IN A SEPARATELY IDENTIFIABLE ACCOUNT THAT SHALL  
2 BE RESTRICTED TO THE PURPOSES SET FORTH IN THIS ARTICLE. THE  
3 ORGANIZATION SHALL MAINTAIN ITS BOOKS AND RECORDS PERTAINING TO  
4 THE ENERGY ASSISTANCE CHARGES IN ACCORDANCE WITH GENERALLY  
5 ACCEPTED ACCOUNTING PRINCIPLES, AND, IN ADDITION, SHALL MAINTAIN  
6 RECORDS ADEQUATE TO IDENTIFY THE MONEYS COLLECTED BY EACH  
7 UTILITY. IF THE ORGANIZATION COMMINGLES THE MONEYS COLLECTED  
8 AND DELIVERED WITH OTHER ASSETS OF THE ORGANIZATION FOR  
9 INVESTMENT PURPOSES, THE ORGANIZATION SHALL MAINTAIN ACCURATE  
10 ACCOUNTS OF THE INVESTMENT MONEYS, AND SHALL CREDIT OR CHARGE  
11 A PRORATA PORTION OF ALL INVESTMENT EARNINGS, GAINS, OR LOSSES TO  
12 THE ACCOUNT THAT HOLDS THE ENERGY ASSISTANCE CHARGES.

13 (2) THE ORGANIZATION SHALL USE THE ENERGY ASSISTANCE  
14 CHARGES FOR THE SOLE PURPOSE OF LOW-INCOME ENERGY ASSISTANCE.  
15 ALL FINANCIAL ASSISTANCE MONEYS SHALL BE PAID TO UTILITIES AS  
16 VENDOR PAYMENTS. THE MONEYS SHALL NOT BE USED FOR PROPANE  
17 ASSISTANCE FOR CUSTOMERS WHOSE PROPANE COMPANIES DO NOT PAY  
18 THE ENERGY ASSISTANCE CHARGE. THE ORGANIZATION MAY USE UP TO  
19 TEN PERCENT OF THE MONEYS COLLECTED FOR ADMINISTRATION OF THE  
20 ENERGY ASSISTANCE PROGRAM. ADDITIONAL MONEYS MAY BE USED AS  
21 NECESSARY BY THE ORGANIZATION FOR THE ADMINISTRATION OF AN  
22 OPT-OUT PROVISION PURSUANT TO SECTION 40-8.7-106.

23 (3) THE ORGANIZATION SHALL, ON AN ANNUAL BASIS, DEVELOP A  
24 BUDGET FOR THE ENERGY ASSISTANCE PROGRAM TO DETERMINE THE  
25 ALLOCATION OF THE ENERGY ASSISTANCE CHARGES. ANY COSTS  
26 ASSOCIATED WITH THE PROGRAM SHALL BE RECOVERED FROM THE ENERGY  
27 ASSISTANCE CHARGES.

1           **40-8.7-110. Low-income energy assistance program.** (1) THE  
2 ORGANIZATION SHALL PROVIDE ENERGY ASSISTANCE TO INDIVIDUALS AND  
3 ORGANIZATIONS IN COLORADO. SUCH ASSISTANCE SHALL BE GIVEN  
4 PRIORITY TO HOUSEHOLDS WHERE:

5           (a) ONE OR MORE PERSONS MEET THE CRITERIA FOR OLD AGE  
6 PENSION AS SET FORTH IN SECTION 26-2-111 (2), C.R.S.;

7           (b) ONE OR MORE PERSONS MEET THE CRITERIA FOR AID TO THE  
8 NEEDY DISABLED AS SET FORTH IN SECTION 26-2-111 (4), C.R.S.;

9           (c) ONE OR MORE PERSONS MEET THE CRITERIA FOR AID TO THE  
10 BLIND AS SET FORTH IN SECTION 26-2-111 (5), C.R.S.;

11           (d) ONE OR MORE PERSONS MEET THE CRITERIA FOR  
12 SUPPLEMENTAL SECURITY DISABILITY BENEFITS UNDER 42 U.S.C. SEC.  
13 1396, ET SEQ.

14           **40-8.7-111. Reports.** (1) THE ORGANIZATION SHALL SUBMIT A  
15 WRITTEN REPORT TO THE GENERAL ASSEMBLY, THE LEGISLATIVE AUDIT  
16 COMMITTEE, AND THE OFFICE OF THE STATE AUDITOR ON OR BEFORE  
17 MARCH 31 OF EACH YEAR, BEGINNING IN 2006, THAT COVERS THE  
18 IMMEDIATELY PRECEDING CALENDAR YEAR. THE REPORT SHALL INCLUDE:

19           (a) AN ITEMIZED ACCOUNT OF MONEYS RECEIVED BY THE  
20 ORGANIZATION FROM EACH UTILITY;

21           (b) THE AMOUNT OF MONEYS DISTRIBUTED, THE TYPE OF  
22 ASSISTANCE PROVIDED, THE GEOGRAPHIC AREA OF THE STATE SERVED, AND  
23 AN ITEMIZATION OF THE PROGRAMS THROUGH WHICH THE MONEYS ARE  
24 EXPENDED;

25           (c) THE NUMBER OF LOW-INCOME HOUSEHOLDS SERVED, BY  
26 UTILITY AND BY TYPE OF ASSISTANCE PROVIDED; AND

27           (d) AN AUDITED FINANCIAL STATEMENT FROM THE ORGANIZATION.

1 (2) THE REPORT SHALL BE MADE AVAILABLE TO THE PUBLIC FOR  
2 REVIEW. THE UTILITIES SHALL USE THEIR BEST EFFORTS TO PROVIDE  
3 REPORT INFORMATION TO THE ORGANIZATION IN A TIMELY MANNER.

4 **40-8.7-112. Jurisdiction of the public utilities commission.**  
5 NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO EXPAND OR ALTER THE  
6 JURISDICTION OF THE PUBLIC UTILITIES COMMISSION.

7 **40-8.7-113. Repeal.** (1) (a) THIS ARTICLE IS REPEALED,  
8 EFFECTIVE JANUARY 1, 2010; EXCEPT THAT, IF AT ANY POINT AFTER  
9 JANUARY 1, 2006, THE TOTAL COSTS OF THE LOW-INCOME ENERGY  
10 ASSISTANCE PROGRAM EXCEED THE REVENUE GENERATED FROM THE  
11 ENERGY ASSISTANCE CHARGES, THIS ARTICLE IS REPEALED IMMEDIATELY.

12 (b) PRIOR TO SUCH REPEAL, THIS ARTICLE SHALL BE REVIEWED AS  
13 PROVIDED FOR IN SECTION 24-34-104, C.R.S.

14 (2) FOR MUNICIPALLY OWNED ELECTRIC AND GAS UTILITIES AND  
15 RURAL ELECTRIC COOPERATIVES, IF THE ADMINISTRATION COSTS OF THE  
16 LOW-INCOME ENERGY ASSISTANCE PROGRAM EXCEED THE REVENUE  
17 GENERATED FROM THE ENERGY ASSISTANCE CHARGES FOR ANY CALENDAR  
18 YEAR, THE REQUIREMENTS OF THIS ARTICLE SHALL TERMINATE AS TO THE  
19 MUNICIPALLY OWNED GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY AND  
20 RURAL ELECTRIC COOPERATIVE UPON SELF-CERTIFICATION.

21 **SECTION 2.** 24-34-104 (41), Colorado Revised Statutes, is  
22 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

23 **24-34-104. General assembly review of regulatory agencies and**  
24 **functions for termination, continuation, or reestablishment.** (41) The  
25 following agencies, functions, or both, shall terminate on July 1, 2010:

26 (p) THE "LOW-INCOME ENERGY ASSISTANCE ACT" AS CREATED IN  
27 ARTICLE 8.7 OF TITLE 40, C.R.S.

1           **SECTION 3. Effective date.** (1) This act shall take effect  
2 January 1, 2005.

3           (2) However, if a referendum petition is filed against this act or  
4 an item, section, or part of this act during the 90-day period after final  
5 adjournment of the general assembly that is allowed for submitting a  
6 referendum petition pursuant to article V, section 1 (3) of the state  
7 constitution, then the act, item, section, or part, shall not take effect  
8 unless approved by the people at a biennial regular general election and  
9 shall take effect on the date specified in subsection (1) or on the date of  
10 the official declaration of the vote thereon by proclamation of the  
11 governor, whichever is later.