

Second Regular Session  
Sixty-fourth General Assembly  
STATE OF COLORADO

**ENGROSSED**

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

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.*

HOUSE  
Amended 2nd Reading  
February 18, 2004

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 SEPTEMBER 1, 2005. THE ENERGY  
19 ASSISTANCE CHARGE SHALL NOT BE COLLECTED FROM CUSTOMERS WHO  
20 CHOOSE NOT TO PARTICIPATE IN THE ENERGY ASSISTANCE PROGRAM  
21 PURSUANT TO SECTION 40-8.7-106. EACH UTILITY SHALL COLLECT THE  
22 ENERGY ASSISTANCE CHARGE MONTHLY IN THE SAME MANNER AS ALL  
23 OTHER CHARGES AND FEES COLLECTED BY THE UTILITY FROM ITS  
24 CUSTOMERS. THE AMOUNT OF 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 CHARGES COLLECTED PURSUANT TO SUBSECTION (1) OF  
5 THIS SECTION SHALL NOT BE SUBJECT TO SALES TAX OR FRANCHISE FEES.

6 (3) THE PUBLIC UTILITIES COMMISSION SHALL DETERMINE  
7 WHETHER A CUSTOMER SHALL BE CHARGED FOR A SINGLE ACCOUNT IN  
8 CASES WHERE THE CUSTOMER, INCLUDING AN AGRICULTURAL CUSTOMER,  
9 IS BILLED FOR ELECTRICITY OR GAS DELIVERED THROUGH MULTIPLE  
10 METERS AT A SINGLE ADDRESS. THE PUBLIC UTILITIES COMMISSION SHALL  
11 ESTABLISH RULES AS NECESSARY TO IMPLEMENT THIS SUBSECTION (3).

12 (4) ANY REASONABLE COSTS THAT A UTILITY INCURS, INCLUDING  
13 THE INITIAL COSTS OF SETTING UP THE COLLECTION MECHANISM AND FOR  
14 THE ONGOING ADMINISTRATION OF THE OPT-IN PROVISION FOR THE ENERGY  
15 ASSISTANCE CHARGE, SHALL BE REIMBURSED FROM THE ENERGY  
16 ASSISTANCE PROGRAM MONEYS COLLECTED, AND THIS AMOUNT SHALL BE  
17 ESTABLISHED BY THE PUBLIC UTILITIES COMMISSION BY RULE. THE  
18 REIMBURSED AMOUNTS SHALL BE MADE TO THE UTILITIES BEFORE THE  
19 MONEYS ARE DISTRIBUTED TO THE ORGANIZATION.

20 (5) IF A UTILITY THAT IS SUBJECT TO THE COMMISSION'S  
21 JURISDICTION HAS A QUALITY OF SERVICE PLAN APPROVED BY THE  
22 COMMISSION, THE COMMISSION SHALL EXCLUDE ANY IMPACTS STEMMING  
23 FROM THE IMPLEMENTATION OF THE ENERGY ASSISTANCE PROGRAM FROM  
24 THE CALCULATION OF RELEVANT QUALITY OF SERVICE PLAN  
25 MEASUREMENTS. THE IMPACTS MAY INCLUDE, BUT SHALL NOT BE LIMITED  
26 TO, DELAYS IN ANSWERING CUSTOMER TELEPHONE CALLS AND AN  
27 INCREASE IN CUSTOMER COMPLAINTS.

1           **40-8.7-105. Municipally owned gas, electric, and gas and**  
2 **electric utilities and rural electric cooperatives.** (1) IF A MUNICIPALLY  
3 OWNED GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY OR A RURAL  
4 ELECTRIC COOPERATIVE OPERATES AN ALTERNATIVE ENERGY ASSISTANCE  
5 PROGRAM TO SUPPORT ITS LOW-INCOME CUSTOMERS WITH THEIR HOME  
6 ENERGY NEEDS, THEN THE GOVERNING BODY OF THE MUNICIPALLY OWNED  
7 GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY OR RURAL ELECTRIC  
8 COOPERATIVE MAY SELF-CERTIFY [REDACTED] ITS ALTERNATIVE ENERGY  
9 ASSISTANCE PROGRAM AND UPON SELF-CERTIFICATION WILL HAVE NO  
10 OBLIGATIONS UNDER THIS ARTICLE. THE MUNICIPALLY OWNED UTILITY OR  
11 COOPERATIVE SHALL SUBMIT A STATEMENT TO THE ORGANIZATION THAT  
12 STATES SUCH UTILITY OR COOPERATIVE HAS AN ALTERNATIVE ENERGY  
13 ASSISTANCE PROGRAM. IN ORDER FOR SUCH UTILITY OR COOPERATIVE TO  
14 SELF-CERTIFY, SUCH ALTERNATIVE ENERGY ASSISTANCE PROGRAM SHALL  
15 MEET THE FOLLOWING CRITERIA:

16           (a) FUNDING OF THE PROGRAM SHALL BE DETERMINED BY THE  
17 GOVERNING BODY;

18           (b) PROGRAM MONEYS SHALL BE DISTRIBUTED IN A MANNER AND  
19 UNDER ELIGIBILITY CRITERIA DETERMINED BY THE GOVERNING BODY FOR  
20 THE PURPOSE OF RESIDENTIAL ENERGY ASSISTANCE TO CUSTOMERS THAT  
21 ARE CHALLENGED WITH PAYING ENERGY BILLS FOR FINANCIAL REASONS,  
22 INCLUDING TO SENIORS ON FIXED INCOMES, INDIVIDUALS WITH  
23 DISABILITIES, AND LOW-INCOME INDIVIDUALS;

24           (c) THE PROGRAM SHALL MAKE AVAILABLE TO ALL CUSTOMERS ON  
25 AN ANNUAL BASIS INFORMATION ABOUT THE PROGRAM, INCLUDING HOW  
26 MANY PEOPLE CONTRIBUTE TO THE PROGRAM, THE AMOUNT OF MONEY  
27 CONTRIBUTED, THE NUMBER OF PEOPLE WHO WERE HELPED BY THE

1 PROGRAM, AND THE NUMBER OF PEOPLE WHO QUALIFIED TO RECEIVE  
2 FUNDING. THIS INFORMATION MAY BE DISTRIBUTED BY WRITTEN NOTICE  
3 OR BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE  
4 AUTHORIZED SERVICE AREA OF THE MUNICIPALLY OWNED GAS, ELECTRIC,  
5 OR GAS AND ELECTRIC UTILITY OR RURAL ELECTRIC COOPERATIVE.

6 (2) IF THE GOVERNING BODY OF A MUNICIPALLY OWNED GAS,  
7 ELECTRIC, OR GAS AND ELECTRIC UTILITY OR A RURAL ELECTRIC  
8 COOPERATIVE DETERMINES THAT THE SERVICE AREA OF SUCH UTILITY OR  
9 COOPERATIVE HAS A LIMITED NUMBER OF PEOPLE WHO QUALIFY FOR  
10 ENERGY ASSISTANCE, SUCH UTILITY OR COOPERATIVE MAY BE EXEMPT  
11 FROM THE OBLIGATIONS OF THIS ARTICLE.

12 (3) IF A MUNICIPALLY OWNED GAS, ELECTRIC, OR GAS AND  
13 ELECTRIC UTILITY OR RURAL ELECTRIC COOPERATIVE HAS NOT  
14 SELF-CERTIFIED AN ALTERNATIVE ENERGY ASSISTANCE PROGRAM  
15 PURSUANT TO SUBSECTION (1) OF THIS SECTION, OR HAS NOT EXEMPTED  
16 ITSELF PURSUANT TO SUBSECTION (2) OF THIS SECTION, SUCH UTILITY OR  
17 COOPERATIVE SHALL COLLECT AN ENERGY ASSISTANCE CHARGE FROM ITS  
18 CUSTOMERS AS PROVIDED IN SECTION 40-8.7-104 (1) AND (2). IN SUCH  
19 CIRCUMSTANCES, THE GOVERNING BODY OF SUCH UTILITY OR  
20 COOPERATIVE SHALL DETERMINE THE DISPOSITION AND DELIVERY OF THE  
21 OPTIONAL ENERGY ASSISTANCE CHARGE THAT IT COLLECTS ON THE  
22 FOLLOWING BASIS:

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

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

1 (I) THE ENERGY ASSISTANCE MONEYS COLLECTED SHALL BE  
2 DISTRIBUTED UNDER ELIGIBILITY CRITERIA DETERMINED BY THE  
3 GOVERNING BODY FOR THE PURPOSE SET FORTH IN PARAGRAPH (b) OF  
4 SUBSECTION (1) OF THIS SECTION;

5 (II) SUCH GOVERNING BODY SHALL DETERMINE WHETHER IT IS  
6 APPROPRIATE TO PROVIDE AN OPT-IN MECHANISM WHEREBY THE ENERGY  
7 ASSISTANCE CHARGE, DESCRIBED IN SECTION 40-8.7-104, WILL BE  
8 COLLECTED FROM THOSE CUSTOMERS WHO GIVE NOTICE OF INTENT TO  
9 PARTICIPATE IN THE ENERGY ASSISTANCE PROGRAM. THE NAMES OF THE  
10 CUSTOMERS UTILIZING THE OPT-IN PROVISION SHALL BE CONFIDENTIAL.

11 (III) SUCH GOVERNING BODY SHALL REQUIRE THAT, IN CASES  
12 WHERE A SINGLE CUSTOMER, INCLUDING AN AGRICULTURAL CUSTOMER, IS  
13 BILLED FOR ELECTRICITY OR GAS DELIVERED THROUGH MULTIPLE METERS  
14 AT A SINGLE ADDRESS, THE CUSTOMER SHALL BE CHARGED FOR A SINGLE  
15 ACCOUNT; AND

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

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

24 (5) ANY REASONABLE COSTS THAT A MUNICIPALLY OWNED GAS,  
25 ELECTRIC, OR GAS AND ELECTRIC UTILITY OR RURAL ELECTRIC  
26 COOPERATIVE INCURS, INCLUDING THE INITIAL COSTS OF SETTING UP THE  
27 COLLECTION MECHANISM AND ONGOING PROGRAM ADMINISTRATION, MAY

1 BE REIMBURSED, AT THE DISCRETION OF THE GOVERNING BODY, FROM THE  
2 ENERGY ASSISTANCE MONEYS COLLECTED.

3 (6) FOR MUNICIPALLY OWNED GAS, ELECTRIC, AND GAS AND  
4 ELECTRIC UTILITIES AND RURAL ELECTRIC COOPERATIVES, IF THE  
5 ADMINISTRATION COSTS OF THE LOW-INCOME ENERGY ASSISTANCE  
6 PROGRAM EXCEED THE REVENUE GENERATED FOR ANY CALENDAR YEAR,  
7 THE REQUIREMENTS OF THIS ARTICLE SHALL TERMINATE AS TO THE UTILITY  
8 OR COOPERATIVE, UPON THE MAKING OF SUCH DETERMINATION BY THE  
9 GOVERNING BODY.

10 **40-8.7-106. Customer opt-in provision.** (1) THE PUBLIC  
11 UTILITIES COMMISSION SHALL DETERMINE THE MECHANISM FOR AN OPT-IN  
12 PROVISION WHEREBY THE ENERGY ASSISTANCE CHARGE DESCRIBED IN  
13 SECTION 40-8.7-104 WILL BE COLLECTED FROM THOSE CUSTOMERS WHO  
14 GIVE NOTICE OF THEIR INTENT TO PARTICIPATE IN THE ENERGY  
15 ASSISTANCE PROGRAM. THE PUBLIC UTILITIES COMMISSION SHALL BY  
16 RULE:

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

20 (b) ENSURE THAT UTILITIES NOTIFY CUSTOMERS ABOUT THE OPT-IN  
21 PROVISION AT LEAST FOUR TIMES PRIOR TO SEPTEMBER 1, 2005, AND  
22 ENSURE THAT UTILITIES PROVIDE CLEAR, PERIODIC NOTICE OF THE OPT-OUT  
23 PROVISION AT LEAST TWICE PER YEAR;

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

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

27 (2) THE NAMES OF CUSTOMERS UTILIZING THIS OPT-IN PROVISION

1 SHALL BE CONFIDENTIAL. ONCE A CUSTOMER OPTS IN, THE CHARGE SHALL  
2 BE COLLECTED FROM SUCH CUSTOMER. CHARGES COLLECTED PRIOR  
3 TO THE DATE THE CUSTOMER OPTS OUT OF THE PROGRAM SHALL NOT BE  
4 REFUNDED. CUSTOMERS SHALL HAVE THE OPTION TO RENEW THEIR  
5 PARTICIPATION IN THE PROGRAM.

6 **40-8.7-107. Identification of charge - billing statement.** THE  
7 ENERGY ASSISTANCE CHARGE SHALL APPEAR AS A SEPARATE LINE-ITEM  
8 CHARGE IN EVERY MONTHLY BILL FOR ELECTRICITY OR GAS AND SHALL BE  
9 IDENTIFIED IN THE BILLING STATEMENT AS "OPTIONAL LOW-INCOME  
10 CHARGE, AS PROVIDED BY SECTION 40-8.7-104, C.R.S." UNLESS THE  
11 GOVERNING BODY DETERMINES OTHERWISE.

12 **40-8.7-108. Disposition of moneys.** (1) EVERY GAS AND  
13 ELECTRIC UTILITY SHALL TRANSFER THE MONEYS FROM THE ENERGY  
14 ASSISTANCE CHARGE TO THE ORGANIZATION ON THE FOLLOWING  
15 SCHEDULE:

16 (a) FOR THE MONEYS COLLECTED DURING THE PERIOD OF JANUARY  
17 1 TO MARCH 31 OF EACH YEAR, THE UTILITY SHALL TRANSFER THE  
18 COLLECTED MONEYS TO THE ORGANIZATION BY APRIL 30 OF SUCH YEAR;

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

22 (c) FOR MONEYS COLLECTED DURING THE PERIOD OF JULY 1 TO  
23 SEPTEMBER 30 OF EACH YEAR, THE UTILITY SHALL TRANSFER THE  
24 COLLECTED MONEYS TO THE ORGANIZATION BY OCTOBER 31 OF SUCH  
25 YEAR; AND

26 (d) FOR MONEYS COLLECTED DURING THE PERIOD OF OCTOBER 1  
27 TO DECEMBER 31 OF EACH YEAR, THE UTILITY SHALL TRANSFER THE

1 COLLECTED MONEYS TO THE ORGANIZATION BY JANUARY 31 OF THE NEXT  
2 YEAR.

3 (2) UTILITIES SHALL PROVIDE THE ORGANIZATION WITH A  
4 SUMMATION OF HOW THE MONEYS COLLECTED WERE GENERATED,  
5 INCLUDING THE NUMBER OF CUSTOMERS FOR RESIDENTIAL,  
6 AGRICULTURAL, AND NONRESIDENTIAL ACCOUNTS PARTICIPATING. █

7 (3) THE ORGANIZATION SHALL PAY THE PUBLIC UTILITIES  
8 COMMISSION FROM THE MONEYS TRANSFERRED TO THE ORGANIZATION  
9 PURSUANT TO SUBSECTION (1) OF THIS SECTION FOR ANY ADMINISTRATIVE  
10 COSTS INCURRED PURSUANT TO THIS ARTICLE.

11 **40-8.7-109. Energy outreach Colorado - administration of the**

12 **energy assistance charge.** (1) THE ORGANIZATION SHALL HOLD AND  
13 ADMINISTER ALL MONEYS DELIVERED TO IT BY THE UTILITIES PURSUANT TO  
14 SECTION 40-8.7-108 IN A SEPARATELY IDENTIFIABLE ACCOUNT THAT SHALL  
15 BE RESTRICTED TO THE PURPOSES SET FORTH IN THIS ARTICLE. THE  
16 ORGANIZATION SHALL MAINTAIN ITS BOOKS AND RECORDS PERTAINING TO  
17 THE ENERGY ASSISTANCE CHARGES IN ACCORDANCE WITH GENERALLY  
18 ACCEPTED ACCOUNTING PRINCIPLES, AND, IN ADDITION, SHALL MAINTAIN  
19 RECORDS ADEQUATE TO IDENTIFY THE MONEYS COLLECTED BY EACH  
20 UTILITY. IF THE ORGANIZATION COMMINGLES THE MONEYS COLLECTED  
21 AND DELIVERED WITH OTHER ASSETS OF THE ORGANIZATION FOR  
22 INVESTMENT PURPOSES, THE ORGANIZATION SHALL MAINTAIN ACCURATE  
23 ACCOUNTS OF THE INVESTMENT MONEYS, AND SHALL CREDIT OR CHARGE  
24 A PRORATA PORTION OF ALL INVESTMENT EARNINGS, GAINS, OR LOSSES TO  
25 THE ACCOUNT THAT HOLDS THE ENERGY ASSISTANCE CHARGES.

26 (2) THE ORGANIZATION SHALL USE THE ENERGY ASSISTANCE  
27 CHARGES FOR THE █ PURPOSE OF LOW-INCOME ENERGY ASSISTANCE AND

1 IMPROVING ENERGY EFFICIENCY. ALL FINANCIAL ASSISTANCE MONEYS  
2 SHALL BE PAID TO UTILITIES AS VENDOR PAYMENTS. THE MONEYS SHALL  
3 NOT BE USED FOR PROPANE, GAS, OR ELECTRIC ASSISTANCE FOR  
4 CUSTOMERS WHOSE PROPANE, GAS, ELECTRIC, OR GAS AND ELECTRIC  
5 COMPANIES DO NOT PARTICIPATE IN THE ORGANIZATION'S PROGRAM. THE  
6 ORGANIZATION MAY USE UP TO TEN PERCENT OF THE MONEYS COLLECTED  
7 FOR ADMINISTRATION OF THE ENERGY ASSISTANCE PROGRAM.  
8 ADDITIONAL MONEYS MAY BE USED AS NECESSARY BY THE ORGANIZATION  
9 FOR THE ADMINISTRATION OF AN OPT-OUT PROVISION PURSUANT TO  
10 SECTION 40-8.7-106.

11 (3) THE ORGANIZATION SHALL, ON AN ANNUAL BASIS, DEVELOP A  
12 BUDGET FOR THE ENERGY ASSISTANCE PROGRAM TO DETERMINE THE  
13 ALLOCATION OF THE ENERGY ASSISTANCE CHARGES. ANY COSTS  
14 ASSOCIATED WITH THE PROGRAM SHALL BE RECOVERED FROM THE ENERGY  
15 ASSISTANCE CHARGES.

16 **40-8.7-110. Low-income energy assistance program.** (1) THE  
17 ORGANIZATION SHALL PROVIDE ENERGY ASSISTANCE TO INDIVIDUALS AND  
18 ORGANIZATIONS IN COLORADO. SUCH ASSISTANCE SHALL BE GIVEN  
19 PRIORITY TO HOUSEHOLDS WHERE:

20 (a) ONE OR MORE PERSONS ARE RECIPIENTS OF OLD AGE PENSION  
21 AS SET FORTH IN SECTION 26-2-111 (2), C.R.S.;

22 (b) ONE OR MORE PERSONS ARE RECIPIENTS OF AID TO THE NEEDY  
23 DISABLED AS SET FORTH IN SECTION 26-2-111 (4), C.R.S.;

24 (c) ONE OR MORE PERSONS ARE RECIPIENTS OF AID TO THE BLIND  
25 AS SET FORTH IN SECTION 26-2-111 (5), C.R.S.;

26 (d) ONE OR MORE PERSONS ARE RECIPIENTS OF SUPPLEMENTAL  
27 SECURITY DISABILITY BENEFITS UNDER 42 U.S.C. SEC. 1396, ET SEQ.

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

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

8           (b) THE AMOUNT OF MONEYS DISTRIBUTED, THE TYPE OF  
9 ASSISTANCE PROVIDED, THE GEOGRAPHIC AREA OF THE STATE SERVED, AND  
10 AN ITEMIZATION OF THE PROGRAMS THROUGH WHICH THE MONEYS ARE  
11 EXPENDED;

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

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

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

18           **40-8.7-112. Jurisdiction of the public utilities commission.**  
19 NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO EXPAND OR ALTER THE  
20 JURISDICTION OF THE PUBLIC UTILITIES COMMISSION.

21           **40-8.7-113. Repeal.** (1) (a) THIS ARTICLE IS REPEALED,  
22 EFFECTIVE JULY 1, 2010; EXCEPT THAT, IF AT ANY POINT AFTER  
23 SEPTEMBER 1, 2006, THE TOTAL COSTS OF THE LOW-INCOME ENERGY  
24 ASSISTANCE PROGRAM EXCEED THE REVENUE GENERATED FROM THE  
25 ENERGY ASSISTANCE CHARGES, THIS ARTICLE IS REPEALED IMMEDIATELY.

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

1 (2) FOR MUNICIPALLY OWNED ELECTRIC AND GAS UTILITIES AND  
2 RURAL ELECTRIC COOPERATIVES, IF THE ADMINISTRATION COSTS OF THE  
3 LOW-INCOME ENERGY ASSISTANCE PROGRAM EXCEED THE REVENUE  
4 GENERATED FROM THE ENERGY ASSISTANCE CHARGES FOR ANY CALENDAR  
5 YEAR, THE REQUIREMENTS OF THIS ARTICLE SHALL TERMINATE AS TO THE  
6 MUNICIPALLY OWNED GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY AND  
7 RURAL ELECTRIC COOPERATIVE UPON SELF-CERTIFICATION.

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

10 **24-34-104. General assembly review of regulatory agencies and**  
11 **functions for termination, continuation, or reestablishment.** (41) The  
12 following agencies, functions, or both, shall terminate on July 1, 2010:

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

15 **SECTION 3. Effective date.** This act shall take effect at 12:01  
16 a.m. on the day following the expiration of the ninety-day period after  
17 final adjournment of the general assembly that is allowed for submitting  
18 a referendum petition pursuant to article V, section 1 (3) of the state  
19 constitution (August 4, 2004, if adjournment sine die is on May 5, 2004);  
20 except that, if a referendum petition is filed against this act or an item,  
21 section, or part of this act within such period, then the act, item, section,  
22 or part, if approved by the people, shall take effect on the date of the  
23 official declaration of the vote thereon by proclamation of the governor.