

**Second Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 04-0135.01 Kristen Forrestal

HOUSE BILL 04-1225

HOUSE SPONSORSHIP

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

SENATE SPONSORSHIP

Sandoval, and Jones

House Committees

Transportation & Energy

Senate Committees

A BILL FOR AN ACT

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

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.

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

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

4 **ARTICLE 8.7**

5 **Low-income Energy Assistance**

6 **40-8.7-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
7 BE CITED AS THE "LOW-INCOME ENERGY ASSISTANCE ACT".

8 **40-8.7-102. Legislative declaration - energy assistance**
9 **program - creation.** THE GENERAL ASSEMBLY HEREBY FINDS,
10 DETERMINES, AND DECLARES THAT IN ORDER TO SERVE THE BEST
11 INTERESTS OF THE CITIZENS OF COLORADO, AND, IN PARTICULAR, TO AID
12 LOW-INCOME CITIZENS OF COLORADO, THERE IS A NEED FOR AN ENERGY
13 ASSISTANCE PROGRAM TO COLLECT A LOW-INCOME ENERGY ASSISTANCE
14 CHARGE FROM UTILITY CUSTOMERS IN COLORADO. THE GENERAL
15 ASSEMBLY FURTHER FINDS THAT THE MOST EFFICIENT WAY TO SUPPORT
16 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 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 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-OUT PROVISION FOR THE
15 ENERGY 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 FUNDS 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 FUNDS 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 FUNDS 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-OUT MECHANISM WHEREBY THE ENERGY
7 ASSISTANCE CHARGE, DESCRIBED IN SECTION 40-8.7-104, WILL NOT BE
8 COLLECTED FROM THOSE CUSTOMERS WHO GIVE NOTICE OF INTENT NOT TO
9 PARTICIPATE IN THE ENERGY ASSISTANCE PROGRAM. THE NAMES OF THE
10 CUSTOMERS UTILIZING THE OPT-OUT 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-out provision.** (1) THE PUBLIC
11 UTILITIES COMMISSION SHALL DETERMINE THE MECHANISM FOR AN
12 OPT-OUT PROVISION WHEREBY THE ENERGY ASSISTANCE CHARGE
13 DESCRIBED IN SECTION 40-8.7-104 WILL NOT BE COLLECTED FROM THOSE
14 CUSTOMERS WHO GIVE NOTICE OF THEIR INTENT NOT TO PARTICIPATE IN
15 THE ENERGY ASSISTANCE PROGRAM. THE PUBLIC UTILITIES COMMISSION
16 SHALL BY 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
21 OPT-OUT PROVISION PRIOR TO SEPTEMBER 1, 2005, AND ENSURE THAT
22 UTILITIES PROVIDE CLEAR, PERIODIC NOTICE OF THE OPT-OUT PROVISION
23 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-OUT PROVISION

1 SHALL BE CONFIDENTIAL. ONCE A CUSTOMER OPTS OUT, THE CHARGE
2 SHALL NO LONGER BE COLLECTED FROM SUCH CUSTOMER. CHARGES
3 COLLECTED PRIOR TO THE DATE THE CUSTOMER OPTS OUT OF THE
4 PROGRAM SHALL NOT BE REFUNDED. CUSTOMERS SHALL HAVE THE OPTION
5 TO RENEW THEIR PARTICIPATION IN THE PROGRAM ONCE THEY HAVE OPTED
6 OUT.

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

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

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

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

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

27 (d) FOR MONEYS COLLECTED DURING THE PERIOD OF OCTOBER 1

1 TO DECEMBER 31 OF EACH YEAR, THE UTILITY SHALL TRANSFER THE
2 COLLECTED MONEYS TO THE ORGANIZATION BY JANUARY 31 OF THE NEXT
3 YEAR.

4 (2) UTILITIES SHALL PROVIDE THE ORGANIZATION WITH A
5 SUMMATION OF HOW THE MONEYS COLLECTED WERE GENERATED,
6 INCLUDING THE NUMBER OF CUSTOMERS FOR RESIDENTIAL,
7 AGRICULTURAL, AND NONRESIDENTIAL ACCOUNTS PARTICIPATING AND, IF
8 THE UTILITY IS MANAGING THE ADMINISTRATION OF AN OPT-OUT
9 PROVISION, THE NUMBER OF CUSTOMERS WHO OPT OUT OF THE PAYMENT
10 OF THE ENERGY ASSISTANCE CHARGE.

11 (3) THE ORGANIZATION SHALL PAY THE PUBLIC UTILITIES
12 COMMISSION FROM THE MONEYS TRANSFERRED TO THE ORGANIZATION
13 PURSUANT TO SUBSECTION (1) OF THIS SECTION FOR ANY ADMINISTRATIVE
14 COSTS INCURRED PURSUANT TO THIS ARTICLE.

15 **40-8.7-109. Energy outreach Colorado - administration of the**
16 **energy assistance charge.** (1) THE ORGANIZATION SHALL HOLD AND
17 ADMINISTER ALL MONEYS DELIVERED TO IT BY THE UTILITIES PURSUANT TO
18 SECTION 40-8.7-108 IN A SEPARATELY IDENTIFIABLE ACCOUNT THAT SHALL
19 BE RESTRICTED TO THE PURPOSES SET FORTH IN THIS ARTICLE. THE
20 ORGANIZATION SHALL MAINTAIN ITS BOOKS AND RECORDS PERTAINING TO
21 THE ENERGY ASSISTANCE CHARGES IN ACCORDANCE WITH GENERALLY
22 ACCEPTED ACCOUNTING PRINCIPLES, AND, IN ADDITION, SHALL MAINTAIN
23 RECORDS ADEQUATE TO IDENTIFY THE MONEYS COLLECTED BY EACH
24 UTILITY. IF THE ORGANIZATION COMMINGLES THE MONEYS COLLECTED
25 AND DELIVERED WITH OTHER ASSETS OF THE ORGANIZATION FOR
26 INVESTMENT PURPOSES, THE ORGANIZATION SHALL MAINTAIN ACCURATE
27 ACCOUNTS OF THE INVESTMENT MONEYS, AND SHALL CREDIT OR CHARGE

1 A PRORATA PORTION OF ALL INVESTMENT EARNINGS, GAINS, OR LOSSES TO
2 THE ACCOUNT THAT HOLDS THE ENERGY ASSISTANCE CHARGES.

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

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

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

23 (a) ONE OR MORE PERSONS IS A RECIPIENT OF OLD AGE PENSION AS
24 SET FORTH IN SECTION 26-2-111 (2), C.R.S.;

25 (b) ONE OR MORE PERSONS IS A RECIPIENT OF AID TO THE NEEDY
26 DISABLED AS SET FORTH IN SECTION 26-2-111 (4), C.R.S.;

27 (c) ONE OR MORE PERSONS IS A RECIPIENT OF AID TO THE BLIND AS

1 SET FORTH IN SECTION 26-2-111 (5), C.R.S.;

2 (d) ONE OR MORE PERSONS IS A RECIPIENT OF SUPPLEMENTAL
3 SECURITY DISABILITY BENEFITS UNDER 42 U.S.C. SEC. 1396, ET SEQ.

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

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

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

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

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

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

21 **40-8.7-112. Jurisdiction of the public utilities commission.**
22 NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO EXPAND OR ALTER THE
23 JURISDICTION OF THE PUBLIC UTILITIES COMMISSION.

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

1 ENERGY ASSISTANCE CHARGES, THIS ARTICLE IS REPEALED IMMEDIATELY.

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

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

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

13 **24-34-104. General assembly review of regulatory agencies and**
14 **functions for termination, continuation, or reestablishment.** (41) The
15 following agencies, functions, or both, shall terminate on July 1, 2010:

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

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