

**HOUSE JOURNAL**  
**SIXTY-FOURTH GENERAL ASSEMBLY**  
**STATE OF COLORADO**  
**Second Regular Session**

Ninety-third Legislative Day

Thursday, April 8, 2004

1 Prayer by the Reverend Bill Calhoun, Montview Presbyterian Church,  
2 Denver.

3  
4 The Speaker called the House to order at 9:00 a.m.

5  
6 Pledge of Allegiance led by Speaker Spradley.

7  
8 The roll was called with the following result:

9  
10 Present--60.

11 Excused--Representatives McGihon, Rose, Sinclair--3.

12 Absent--Representatives Smith, Williams T.--2.

13 Present after roll call--Representatives McGihon, Rose, Smith,  
14 Williams T.

15  
16 The Speaker declared a quorum present.

17  
18  
19 On motion of Representative Borodkin, the reading of the journal of  
20 April 8, 2004, was declared dispensed with and approved as corrected by  
21 the Chief Clerk.

22  
23  
24  
25  
26 **CONSIDERATION OF RESOLUTIONS**

27  
28 **HJR04-1049** by Representative(s) Paccione, Berry, Butcher, Cadman,  
29 Carroll, Cloer, Coleman, Crane, Garcia, Harvey, Hefley,  
30 Hodge, Hoppe, Jahn, King, Lee, Lundberg, Marshall,  
31 McFadyen, Merrifield, Miller, Ragsdale, Rhodes, Rose,  
32 Salazar, Schultheis, Smith, Spradley, Stafford, Weddig,  
33 Welker, Williams S., Williams T.; also Senator(s) Johnson  
34 S., Kester, Andrews, Arnold, Cairns, Evans, Groff,  
35 Hillman, Jones, Lamborn, May R., McElhany, Sandoval,  
36 Teck, Tupa--Concerning the 50th anniversary of the  
37 Fellowship of Christian Athletes.

38  
39 (Printed and placed in member's file.)

40  
41 Representative Paccione moved that the resolution be adopted and  
42 requested that it be read at length.

43

1 Amendment No. 1, moved by Representative Paccione.

2  
3 Amend printed joint resolution, page 2, line 19, strike "anniversary" and  
4 substitute "anniversary.";

5  
6 strike line 20;

7  
8 line 22, strike "Colorado Springs," and substitute "the Denver Tech  
9 Center, Greenwood Village, Colorado,".

10

11 The amendment was declared **passed** by **viva voce** vote.

12

13 On motion of Representative Paccione, the resolution as amended was  
14 **adopted** by **viva voce** vote.

15

16 Co-sponsors added: Representatives Boyd, Briggs, Brophy, Clapp, Decker,  
17 Fairbank, Frangas, Hall, Johnson, Larson, May, McCluskey, Mitchell, Rippy,  
18 Spence, Stengel, Tochtrop, Vigil, White, Wiens, Witwer.

19

20 **HJR04-1048** by Representative(s) Weissmann, Johnson R.; also  
21 Senator(s) Johnson S.--Concerning honoring the life of  
22 portrait artist Lawrence Williams.

23

24 (Printed and placed in member's file.)

25

26 On motion of Representative Weissmann, the resolution was read at  
27 length and **adopted** by **viva voce** vote.

28

29 Co-sponsors added: Roll Call of the House.

30

31

32 On motion of Representative King, at 9:43 a.m. **HB04-1123, 1136, 1144,**  
33 **1405, 1425** were added to the Special Orders Calendar on Thursday,  
34 April 8, 2004.

35

36

37 On motion of Representative Hall, the House resolved itself into  
38 Committee of the Whole for consideration of Special Orders and he was  
39 called to the Chair to act as Chairman.

40

41

## 42 **SPECIAL ORDERS--SECOND READING OF BILLS**

43

44 The Committee of the Whole having risen, the Chairman reported the  
45 titles of the following bills had been read (reading at length had been  
46 dispensed with by unanimous consent), the bills considered and action  
47 taken thereon as follows:

48

49 (Amendments to the committee amendment are to the printed committee  
50 report which was printed and placed in the members' bill file.)

51

52 **HB04-1138** by Representative(s) Lundberg, Brophy, Schultheis,  
53 Cadman, Crane, Fairbank, Harvey, May M., Mitchell,  
54 Welker; also Senator(s) Lamborn, Cairns--Concerning the  
55 creation of a revenue shortfall relief fund, and, in  
56 connection therewith, requiring the general assembly to

1 annually appropriate general fund moneys to the revenue  
2 shortfall relief fund unless total state general fund  
3 appropriations fall below a specified level and authorizing  
4 transfers from the revenue shortfall relief fund to the  
5 general fund if total state general fund appropriations fall  
6 below that level.

7  
8 Amendment No. 1, Finance Report, dated January 29, 2004, and placed  
9 in member's bill file; Report also printed in House Journal, January 30,  
10 page 244.

11  
12 As amended, declared **lost** on Second Reading.

13  
14 **HB04-1284** by Representative(s) White, Rippey, Boyd, Cloer, Larson,  
15 Tochtrop; also Senator(s) Dyer--Concerning audit  
16 procedures related to providers under the "Colorado  
17 Medical Assistance Act".

18  
19 Amendment No. 1, Health, Environment, Welfare, & Institutions Report,  
20 dated March 10, 2004, and placed in member's bill file; Report also  
21 printed in House Journal, March 12, pages 843-844.

22  
23 Amendment No. 2, Appropriations Report, dated March 26, 2004, and  
24 placed in member's bill file; Report also printed in House Journal, March  
25 26, page 1100.

26  
27 As amended, ordered engrossed and placed on the Calendar for Third  
28 Reading and Final Passage.

29  
30 **HB04-1260** by Representative(s) Wiens, Harvey; also Senator(s)  
31 Kester--Concerning an age requirement for the funding of  
32 kindergarten pupils.

33  
34 Amendment No. 1, Education Report, dated March 2, 2004, and placed  
35 in member's bill file; Report also printed in House Journal, March 2,  
36 pages 711-712.

37  
38 As amended, ordered engrossed and placed on the Calendar for Third  
39 Reading and Final Passage.

40  
41 **HB04-1414** by Representative(s) Witwer, Plant, Young; also  
42 Senator(s) Reeves, Owen, Teck--Concerning the  
43 distribution of the excess of the amount set aside from  
44 federal revenues earned by the state pursuant to Title IV-E  
45 of the federal "Social Security Act", as amended, and  
46 making an appropriation therefor.

47  
48 Amendment No. 1, Appropriations Report, dated April 2, 2004, and  
49 placed in member's bill file; Report also printed in House Journal, April  
50 2, page 1201.

51  
52 As amended, ordered engrossed and placed on the Calendar for Third  
53 Reading and Final Passage.

54  
55 **HB04-1423** by Representative(s) Witwer, Plant, Young; also  
56 Senator(s) Teck, Owen, Reeves--Concerning the indirect

costs of programs administered by the state of Colorado, which are funded by moneys other than state general fund moneys appropriated by the general assembly.

Ordered engrossed and placed on the Calendar for Third Reading and Final Passage.

On motion of Representative King, the remainder of the Special Orders Calendar (**HB04-1254, 1293, 1123, 1136, 1144, 1405, 1425**) was laid over until April 12, retaining place on Calendar.

### ADOPTION OF COMMITTEE OF THE WHOLE REPORT

Passed Second Reading: **HB04-1284 amended, 1260 amended, 1414 amended, 1423.**

Lost on Second Reading: **HB04-1138 amended.**

Laid over until date indicated retaining place on Calendar: **HB04-1254, 1293, 1123, 1136, 1144, 1405, 1425--April 12, 2004.**

The Chairman moved the adoption of the Committee of the Whole Report. As shown by the following roll call vote, a majority of those elected to the House voted in the affirmative, and the Report was **adopted.**

YES	63	NO	00	EXCUSED	02	ABSENT	00
Berry	Y	Garcia	Y	McCluskey	Y	Sinclair	E
Borodkin	Y	Hall	Y	McFadyen	Y	Smith	Y
Boyd	Y	Harvey	Y	McGihon	Y	Spence	Y
Briggs	Y	Hefley	Y	Merrifield	Y	Stafford	Y
Brophy	Y	Hodge	Y	Miller	Y	Stengel	Y
Butcher	Y	Hoppe	Y	Mitchell	Y	Tochtrop	Y
Cadman	Y	Jahn	Y	Paccione	Y	Vigil	Y
Carroll	Y	Johnson	Y	Plant	Y	Weddig	Y
Cerbo	Y	Judd	Y	Pommer	Y	Weissmann	Y
Clapp	Y	King	Y	Ragsdale	Y	Welker	Y
Cloer	Y	Larson	Y	Rhodes	Y	White	Y
Coleman	Y	Lee	Y	Rippy	E	Wiens	Y
Crane	Y	Lundberg	Y	Romanoff	Y	Williams S.	Y
Decker	Y	Madden	Y	Rose	Y	Williams T.	Y
Fairbank	Y	Marshall	Y	Salazar	Y	Witwer	Y
Frangas	Y	May	Y	Schultheis	Y	Young	Y
						Speaker	Y

### REPORTS OF COMMITTEES OF REFERENCE

#### AGRICULTURE, LIVESTOCK, & NATURAL RESOURCES

After consideration on the merits, the Committee recommends the following:

**HB04-1426** be referred to the Committee of the Whole with favorable recommendation.

1 **HB04-1431** be referred to the Committee of the Whole with favorable  
2 recommendation.  
3

4  
5 **SB04-205** be referred to the Committee of the Whole with favorable  
6 recommendation.  
7

8  
9  
10 **BUSINESS AFFAIRS & LABOR**

11 After consideration on the merits, the Committee recommends the  
12 following:  
13

14 **HJR04-1042** be referred out for final action.  
15

16  
17 **SB04-132** be referred to the Committee of the Whole with favorable  
18 recommendation.  
19

20  
21  
22 **EDUCATION**

23 After consideration on the merits, the Committee recommends the  
24 following:  
25

26 **HB04-1409** be amended as follows, and as so amended, be referred to  
27 the Committee of the Whole with favorable  
28 recommendation:  
29

30 Amend printed bill, page 2, line 5, strike "FOR SCHOOL DISTRICTS WITH  
31 STUDENT";  
32

33 line 6, strike "POPULATIONS OF MORE THAN THREE THOUSAND STUDENTS,  
34 A" and substitute "A".  
35

36  
37  
38 **HB04-1427** be amended as follows, and as so amended, be referred to  
39 the Committee of the Whole with favorable  
40 recommendation:  
41

42 Amend printed bill, page 2, line 3, strike "A" and substitute "ON AND  
43 AFTER THE EFFECTIVE DATE OF HOUSE BILL 04-1427, A".  
44

45  
46  
47 **HJR04-1003** be postponed indefinitely.  
48

49  
50  
51  
52 **FINANCE**

53 After consideration on the merits, the Committee recommends the  
54 following:  
55

56 **SB04-097** be referred favorably to the Committee on Appropriations.

1 **SB04-198** be referred to the Committee of the Whole with favorable  
2 recommendation.  
3  
4  
5  
6

7 **HEALTH, ENVIRONMENT, WELFARE, & INSTITUTIONS**

8 After consideration on the merits, the Committee recommends the  
9 following:  
10

11 **SB04-178** be referred favorably to the Committee on Appropriations.  
12  
13  
14  
15

16 **JUDICIARY**

17 After consideration on the merits, the Committee recommends the  
18 following:  
19

20 **SB04-177** be amended as follows, and as so amended, be referred to  
21 the Committee on Appropriations with favorable  
22 recommendation:  
23

24 Amend reengrossed bill, page 6, strike lines 5 through 7 and substitute the  
25 following:  
26

27 "COMPRISED OF MONEYS ALLOCATED PURSUANT TO SECTION 24-75-1104  
28 (1) (d), C.R.S. MONEYS IN THE FUND SHALL BE";  
29

30 strike lines 26 and 27.  
31

32 Strike page 7.  
33

34 Page 8, strike lines 1 through 25 and substitute the following:  
35

36 "SECTION 3. 24-75-1104 (1) (d), Colorado Revised Statutes, is  
37 amended to read:  
38

39 **24-75-1104. Use of settlement moneys - programs.** (1) For the  
40 2000-01 fiscal year and for each fiscal year thereafter, the following  
41 programs shall receive appropriations in the specified amounts from the  
42 settlement moneys annually received by the state:  
43

44 (d) The tobacco education, prevention, and cessation grant  
45 program created in part 8 of article 3.5 of title 25, C.R.S., shall receive  
46 fifteen percent of the total amount of settlement moneys annually  
47 received by the state LESS ANY AMOUNT NEEDED TO PAY THE STATE'S  
48 SHARE OF THE ANNUAL FUNDING REQUIRED BY THE "HOME- AND  
49 COMMUNITY-BASED SERVICES FOR CHILDREN WITH AUTISM ACT",  
50 SUBPART 7 OF PART 6 OF ARTICLE 4 OF TITLE 26, C.R.S., BEGINNING IN  
51 STATEFISCAL YEAR 2005-06; except that the amount received in any fiscal  
52 year FOR BOTH PROGRAMS shall not exceed fifteen million dollars;".  
53

54 Renumber succeeding section accordingly.  
55  
56

1 **LOCAL GOVERNMENT**

2 After consideration on the merits, the Committee recommends the  
3 following:

4  
5 **HB04-1424** be amended as follows, and as so amended, be referred to  
6 the Committee on Appropriations with favorable  
7 recommendation:

8  
9 Amend printed bill, page 3, line 12, strike "AND" and substitute "OR".  
10

11  
12  
13  
14 **TRANSPORTATION & ENERGY**

15 After consideration on the merits, the Committee recommends the  
16 following:

17  
18 **HB04--1199** be amended as follows, and as so amended, be rereferred  
19 to the Committee on Appropriations with favorable  
20 recommendation:

21  
22 Strike the Transportation & Energy Committee Report, dated February 4,  
23 2004.

24  
25 Amend printed bill, page 2, strike lines 2 through 22.

26  
27 Page 3, strike lines 1 through 11.

28  
29 Renumber succeeding sections accordingly.

30  
31 Page 3, line 16, strike "**minor.**" and substitute "**minor under the age of**  
32 **eighteen years.**";

33  
34 line 18, after "MINOR", insert "UNDER THE AGE OF EIGHTEEN YEARS".

35  
36 Page 5, line 1, after "HEALTH,", insert "OR";

37  
38 strike lines 2 and 3 and substitute the following:

39  
40 "COMPLIANCE WITH THE REQUIREMENTS OF PROBATION. SUCH A";

41  
42 strike lines 8 through 10 and substitute the following:

43  
44 "RESTRICTIONS; AND".

45  
46 Page 9, strike lines 24 and 25 and substitute the following:

47  
48 "OF EIGHTEEN YEARS SHALL ALSO CONTAIN OR BE ACCOMPANIED BY A  
49 DOCUMENT CONTAINING AN ADVISEMENT TO THE MINOR THAT THE  
50 MINOR'S";

51  
52 line 26, strike "GUARDIAN" and substitute "GUARDIAN, IF KNOWN,";

53  
54 line 27, strike "ISSUED, SERVED A COPY OF THE SUMMONS AND" and  
55 substitute "ISSUED".  
56

1 Page 10, line 1, strike "COMPLAINT,";  
2  
3 line 2, strike "HEARINGS; AND" and substitute "HEARINGS.";  
4  
5 strike lines 3 through 5;  
6  
7 line 13, strike "CONTAIN:" and substitute "CONTAIN OR BE ACCOMPANIED  
8 BY A DOCUMENT CONTAINING:".  
9

10 Page 11, line 7, strike "42-4-1710 (1)" and substitute "42-4-1710 (1) (b),  
11 42-4-1710 (1.5),";  
12

13 line 15, strike "CONTAIN:" and substitute "CONTAIN OR BE ACCOMPANIED  
14 BY A DOCUMENT CONTAINING:".  
15

16 Page 12, line 9, strike "42-4-1710 (1)" and substitute "42-4-1710 (1) (b),  
17 42-4-1710 (1.5),".  
18

19 Page 13, strike lines 3 through 10 and substitute the following:  
20

21 "THE MINOR SHALL SO INFORM HIS OR HER PARENT OR LEGAL GUARDIAN,  
22 AND THE PARENT OR LEGAL GUARDIAN SHALL ALSO BE REQUIRED TO  
23 APPEAR AT THE HEARING."  
24

25 Page 14, line 3, strike "(a) A" and substitute "(a) (I) EXCEPT AS  
26 OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), A";  
27

28 line 6, strike "42-4-1707 (1) (b) OR" and substitute "42-4-1706 (2) (b),  
29 42-4-1707 (1) (b), OR";  
30

31 after line 9, insert the following:  
32

33 "(II) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH  
34 (a) CONCERNING THE APPEARANCE OF A PARENT OR LEGAL GUARDIAN  
35 SHALL NOT APPLY IN A CASE WHERE THE MINOR UNDER THE AGE OF  
36 EIGHTEEN YEARS OR THE PARENT OF THE MINOR DEMONSTRATES TO THE  
37 COURT BY CLEAR AND CONVINCING EVIDENCE THAT THE MINOR IS AN  
38 EMANCIPATED MINOR.  
39

40 "(III) FOR PURPOSES OF THIS SUBSECTION (4), "EMANCIPATED  
41 MINOR" MEANS A MINOR UNDER THE AGE OF EIGHTEEN YEARS WHO HAS NO  
42 LEGAL GUARDIAN AND WHOSE PARENTS HAVE ENTIRELY SURRENDERED  
43 THE RIGHT TO THE CARE, CUSTODY, AND EARNINGS OF THE MINOR, NO  
44 LONGER ARE UNDER ANY DUTY TO SUPPORT OR MAINTAIN THE MINOR, AND  
45 HAVE MADE NO PROVISION FOR THE SUPPORT OF THE MINOR.";  
46

47 line 10, after "OF", insert "SUBPARAGRAPH (I) OF";  
48

49 line 17, strike "**minor.**" and substitute "**minor under the age of eighteen**  
50 **years.**";  
51

52 line 18, after "MINOR", insert "UNDER THE AGE OF EIGHTEEN YEARS".  
53

54 Page 15, line 5, strike "2004," and substitute "2005,".  
55  
56

1 **SB04-168** be amended as follows, and as so amended, be referred to  
2 the Committee of the Whole with favorable  
3 recommendation:  
4

5 Amend reengrossed bill, page 2, after line 1, insert the following:  
6

7 **"SECTION 1. Legislative declaration.** (1) The general  
8 assembly finds that energy is critically important to the overall welfare  
9 and development of our society, and its use has a profound impact on the  
10 society, economy, and environment of the state. Growth of the state's  
11 population and economic base will continue to create a need for new  
12 energy resources. The general assembly further finds that Colorado has  
13 potential renewable energy resources that are currently underutilized.  
14

15 (2) Therefore, in order to continue to be successful in attracting  
16 new businesses and jobs, in promoting development of rural economies,  
17 in minimizing water use for electricity generation, in diversifying  
18 Colorado's energy resources to reduce the impact of volatile fuel prices,  
19 and in improving the natural environment of the state, the general  
20 assembly hereby declares that it is in the best interests of the citizens of  
21 Colorado to develop and utilize renewable energy resources to the  
22 maximum practicable extent."  
23

24 Renumber succeeding sections accordingly.  
25

26 Page 6, after line 10, insert the following:  
27

28 **"SECTION 6.** Title 40, Colorado Revised Statutes, is amended  
29 BY THE ADDITION OF A NEW ARTICLE to read:  
30

31 **ARTICLE 3.3**  
32 **Electric Resource Standard**  
33 **for Renewable Energy**

34 **40-3.3-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
35 CONTEXT OTHERWISE REQUIRES:  
36

37 (1) (a) "BIOMASS" MEANS:  
38

39 (I) ORGANIC MATTER FROM A PLANT OR TREE THAT IS PLANTED FOR  
40 THE PURPOSE OF BEING USED TO PRODUCE ENERGY;  
41

42 (II) NONTOXIC, LIGNOCELLULOSIC OR HEMICELLULOSIC MATTER  
43 THAT REGENERATES, OR THE USE OF WHICH WILL NOT RESULT IN A  
44 DEPLETION OF RESOURCES, AND THAT IS THE BYPRODUCT OF:  
45

46 (A) FOREST RESTORATION OR FIRE MITIGATION TRIMMINGS;  
47

48 (B) MILL RESIDUE;  
49

50 (C) SLASH; OR  
51

52 (D) BRUSH;  
53

54 (III) BIOSOURCE FUELS;  
55

56 (IV) ANIMAL WASTES AND PRODUCTS OF ANIMAL WASTES;

1 (V) URBAN WOOD WASTE;

2  
3 (VI) INVASIVE SPECIES;

4  
5 (VII) METHANE PRODUCED AT LANDFILLS OR AS A BY-PRODUCT OF  
6 THE TREATMENT OF WASTEWATER RESIDUALS; AND

7  
8 (VIII) AQUATIC PLANTS.  
9

10 (b) "BIOMASS" DOES NOT INCLUDE BLACK LIQUOR, TREATED  
11 WOODS, OR BIOMASS FROM MUNICIPAL SOLID WASTE OTHER THAN  
12 METHANE PRODUCED AT LANDFILLS OR AS A BY-PRODUCT OF THE  
13 TREATMENT OF WASTEWATER RESIDUALS.

14  
15 (2) "ELECTRIC RESOURCE STANDARD" OR "STANDARD" MEANS A  
16 STANDARD FOR RENEWABLE ENERGY CONTENT ESTABLISHED BY THE  
17 COMMISSION PURSUANT TO SECTION 40-3.3-102.

18  
19 (3) "PEAKING POWER RENEWABLE ENERGY SYSTEM" MEANS A  
20 RENEWABLE ENERGY SYSTEM THAT DELIVERS ENERGY DURING TIME  
21 PERIODS THAT GENERALLY COINCIDE WITH PEAK ELECTRIC UTILITY LOADS.

22  
23 (4) "PROVIDER OF ELECTRIC SERVICE" OR "PROVIDER" MEANS ANY  
24 PERSON OR ENTITY THAT IS IN THE BUSINESS OF SELLING ELECTRICITY TO  
25 RETAIL CUSTOMERS IN THE STATE. THE TERM DOES NOT INCLUDE  
26 MUNICIPAL UTILITIES, RURAL ELECTRIC ASSOCIATIONS, A LANDLORD OF A  
27 MOBILE HOME PARK, OR AN OWNER OF A COMPANY TOWN OR SIMILAR  
28 FACILITY THAT IS CENTRALLY METERED.

29  
30 (5) "QUALIFIED ENERGY RECOVERY SYSTEM" MEANS A SYSTEM  
31 WITH A NAMEPLATE CAPACITY OF NOT MORE THAN FIFTEEN MEGAWATTS  
32 THAT CONVERTS THE OTHERWISE LOST ENERGY FROM THE HEAT FROM  
33 EXHAUST STACKS OR PIPES USED FOR ENGINES, MANUFACTURING, OR  
34 INDUSTRIAL PROCESSES TO GENERATE ELECTRICITY AND THAT DOES NOT  
35 USE ADDITIONAL FOSSIL FUEL OR REQUIRE A COMBUSTION PROCESS TO  
36 GENERATE THE ELECTRICITY. "QUALIFIED ENERGY RECOVERY SYSTEM"  
37 DOES NOT INCLUDE ANY SYSTEM THAT USES ENERGY, LOST OR OTHERWISE,  
38 FROM A PROCESS WHOSE PRIMARY PURPOSE IS THE GENERATION OF  
39 ELECTRICITY, INCLUDING, WITHOUT LIMITATION, ANY PROCESS INVOLVING  
40 ENGINE-DRIVEN GENERATION OR PUMPED HYDROGENERATION.

41  
42 (6) (a) "RENEWABLE ENERGY" MEANS, NOTWITHSTANDING  
43 SECTION 40-1-102 (6):

44  
45 (I) BIOMASS, GEOTHERMAL ENERGY, SOLAR ENERGY, SMALL  
46 HYDROELECTRICITY, AND WIND ENERGY; AND

47  
48 (II) HYDROGEN DERIVED FROM A SOURCE LISTED IN  
49 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

50  
51 (b) "RENEWABLE ENERGY" DOES NOT INCLUDE:

52  
53 (I) PUMPED STORAGE FACILITIES; HYDROELECTRICITY OTHER THAN  
54 SMALL HYDROELECTRICITY; COAL, NATURAL GAS, OIL, PROPANE, OR ANY  
55 OTHER FOSSIL FUEL; OR NUCLEAR ENERGY; OR

56

1 (II) HYDROGEN DERIVED FROM A SOURCE LISTED IN  
2 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b).  
3

4 (7) "RENEWABLE ENERGY CONTRACT" MEANS A CONTRACT TO  
5 ACQUIRE ELECTRICITY, TOGETHER WITH ANY ASSOCIATED RENEWABLE  
6 ENERGY CREDITS, FROM ONE OR MORE RENEWABLE ENERGY SYSTEMS  
7 OWNED, OPERATED, OR CONTROLLED BY OTHER PARTIES.  
8

9 (8) "RENEWABLE ENERGY SYSTEM" MEANS A FACILITY OR ENERGY  
10 SYSTEM, INCLUDING FUEL CELLS, THAT:  
11

12 (a) USES RENEWABLE ENERGY TO GENERATE ELECTRICITY AND  
13 TRANSMITS OR DISTRIBUTES THE ELECTRICITY THAT IT GENERATES TO A  
14 PROVIDER OF ELECTRIC SERVICE;  
15

16 (b) GENERATES AND TRANSMITS ELECTRICITY TO A PROVIDER OF  
17 ELECTRIC SERVICE USING RENEWABLE ENERGY AND FOSSIL FUELS IN  
18 HYBRID COMBINATION TO BALANCE INTERMITTENT AVAILABILITY, OR TO  
19 ENHANCE DISPATCHABILITY, IF, ON AN ANNUAL BASIS, THE AMOUNT OF  
20 THERMAL ENERGY TRANSMITTED TO THE SYSTEM DERIVED FROM FOSSIL  
21 FUELS DOES NOT EXCEED THE AMOUNT OF THERMAL ENERGY TRANSMITTED  
22 TO THE SYSTEM DERIVED FROM RENEWABLE ENERGY. FOR THE PURPOSES  
23 OF THIS ARTICLE, THE NAMEPLATE RATING OF A FACILITY AS DESCRIBED IN  
24 THIS PARAGRAPH (b) SHALL NOT EXCEED THAT OF THE RENEWABLE  
25 ENERGY CAPABILITY ALONE.  
26

27 (c) ACTIVELY REDUCES THE CONSUMPTION OF GRID-SUPPLIED  
28 ELECTRICITY BY USING RENEWABLE ENERGY AS A RESOURCE.  
29

30 (9) "RETAIL CUSTOMER" MEANS A CUSTOMER LOCATED IN THE  
31 STATE OF COLORADO WHO PURCHASES ELECTRICITY FOR THE CUSTOMER'S  
32 OWN USE AND NOT FOR RESALE, INCLUDING, WITHOUT LIMITATION:  
33

34 (a) THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR AN  
35 AGENCY OR INSTRUMENTALITY OF THE STATE OR POLITICAL SUBDIVISION  
36 OF THE STATE WHEN IT PURCHASES ELECTRICITY AT RETAIL; AND  
37

38 (b) A LANDLORD OF A MOBILE HOME PARK OR OWNER OF A  
39 COMPANY TOWN OR SIMILAR FACILITY THAT IS CENTRALLY METERED.  
40

41 (10) "SMALL HYDROELECTRICITY" MEANS:  
42

43 (a) A HYDROELECTRIC PROJECT WITH A NAMEPLATE RATING OF  
44 TWENTY MEGAWATTS OR LESS IN EXISTENCE ON OR BEFORE THE EFFECTIVE  
45 DATE OF THIS ARTICLE; OR  
46

47 (b) UP TO THE FIRST TWENTY MEGAWATTS OF ANY  
48 HYDROELECTRIC PROJECT NOT IN EXISTENCE ON OR BEFORE THE EFFECTIVE  
49 DATE OF THIS ARTICLE.  
50

51 **40-3.3-102. Electric resource standard - rules.** (1) FOR EACH  
52 PROVIDER OF ELECTRIC SERVICE, THE COMMISSION SHALL ESTABLISH AN  
53 ELECTRIC RESOURCE STANDARD FOR RENEWABLE ENERGY. THE ELECTRIC  
54 RESOURCE STANDARD SHALL REQUIRE EACH PROVIDER TO GENERATE,  
55 DISPLACE, OR ACQUIRE ELECTRICITY FROM RENEWABLE ENERGY SYSTEMS  
56 OR QUALIFIED ENERGY RECOVERY SYSTEMS IN AMOUNTS PRORATED UPON

1 RETAIL ENERGY SALES WITHIN COLORADO AS REPORTED IN EACH  
2 PROVIDER'S FORM 1 SUBMITTED ANNUALLY TO THE FEDERAL ENERGY  
3 REGULATORY COMMISSION, THAT TOTAL FOR THE STATE:

4  
5 (a) BY DECEMBER 31, 2006, FIVE HUNDRED MEGAWATTS BASED  
6 UPON THE NAMEPLATE RATINGS OF THE RENEWABLE ENERGY GENERATION  
7 EQUIPMENT;

8  
9 (b) BY DECEMBER 31, 2010, NINE HUNDRED MEGAWATTS BASED  
10 UPON THE NAMEPLATE RATINGS OF THE RENEWABLE ENERGY GENERATION  
11 EQUIPMENT; AND

12  
13 (c) BY DECEMBER 31, 2020, ONE THOUSAND EIGHT HUNDRED  
14 MEGAWATTS BASED UPON THE NAMEPLATE RATINGS OF THE RENEWABLE  
15 ENERGY GENERATION EQUIPMENT.

16  
17 (2) (a) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT A  
18 COMPETITIVE ACQUISITION PROCESS WILL GENERALLY BE USED TO  
19 ACQUIRE RENEWABLE RESOURCES REQUIRED BY THIS ARTICLE. THIS  
20 PROCESS IS INTENDED TO RESULT IN A RENEWABLE RESOURCE PORTFOLIO  
21 THAT BALANCES COST, BENEFIT, AND RISK FACTORS.

22  
23 (b) IN A RESOURCE PLANNING PROCESS PRIOR TO THE YEAR 2010,  
24 THE COMMISSION SHALL REVIEW THE UTILIZATION OF PEAKING POWER  
25 RENEWABLE ENERGY SYSTEMS PURSUANT TO PARAGRAPH (a) OF THIS  
26 SUBSECTION (2) FOR EACH PROVIDER, IF ANY SUCH PEAKING POWER  
27 RENEWABLE ENERGY SYSTEM IS PROPOSED BY A PARTY TO BE INCLUDED  
28 IN THE ENERGY PROVIDER'S RESOURCE PORTFOLIO. IF THE COMMISSION  
29 FINDS PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) THAT SUCH  
30 SYSTEMS ARE ADVANTAGEOUS, CONSIDERING COSTS, BENEFITS, AND RISKS,  
31 IT MAY ORDER THE PROVIDER TO ACQUIRE PEAKING POWER RENEWABLE  
32 ENERGY SYSTEMS TOTALING UP TO TEN PERCENT OF ITS 2010 OBLIGATION  
33 UNDER THIS ARTICLE.

34  
35 (3) EACH KILOWATT OF RENEWABLE ELECTRIC RESOURCES  
36 INSTALLED IN AN AREA OF COLORADO DESIGNATED AS AN ENTERPRISE  
37 ZONE PURSUANT TO SECTION 39-30-103, C.R.S., SHALL COUNT AS ONE AND  
38 ONE-HALF KILOWATTS TOWARD COMPLIANCE WITH THIS STANDARD.

39  
40 (4) EACH KILOWATT OF RENEWABLE ELECTRIC GENERATING  
41 RESOURCES IN COLORADO GENERATED BY A FACILITY, THE NAMEPLATE  
42 RATING OF WHICH IS FIVE MEGAWATTS OR SMALLER, THAT UTILIZES  
43 NONTOXIC PLANT MATTER THAT IS THE BYPRODUCT OF FIRE MITIGATION  
44 TRIMMINGS ON PRIVATE LANDS SHALL COUNT AS TWO KILOWATTS TOWARD  
45 COMPLIANCE WITH THIS STANDARD.

46  
47 (5) EACH KILOWATT OF CUSTOMER-SITED SOLAR ELECTRIC  
48 RENEWABLE RESOURCES SHALL COUNT AS THREE KILOWATTS TOWARD  
49 COMPLIANCE WITH THIS STANDARD.

50  
51 (6) IN APPLYING THE ELECTRIC RESOURCE STANDARD, THE  
52 COMMISSION SHALL FULLY CREDIT THE PROVIDER OF ELECTRIC SERVICE  
53 WITH THE RENEWABLE ENERGY KILOWATTS THAT THE PROVIDER OF  
54 ELECTRIC SERVICE HAS INSTALLED OR PURCHASED NOTWITHSTANDING  
55 WHETHER THE COST OF THE RENEWABLE ENERGY HAS BEEN OR WILL BE  
56 RECOVERED THROUGH AN OPTIONAL RENEWABLE ENERGY PRICING

1 PROGRAM OR THROUGH STANDARD UTILITY RATES. PROVIDERS ARE  
2 AUTHORIZED AND ENCOURAGED TO DEVELOP AND EXPAND OPTIONAL  
3 RENEWABLE ENERGY PRICING PROGRAMS OR GREEN TAG PROGRAMS THAT  
4 PROMOTE RENEWABLE ENERGY.  
5

6 (7) IF, FOR THE BENEFIT OF ONE OR MORE OF ITS RETAIL  
7 CUSTOMERS IN THIS STATE, THE PROVIDER HAS SUBSIDIZED MORE THAN  
8 FIFTY PERCENT OF THE COST OF A CUSTOMER-SITED WIND OR SOLAR  
9 ENERGY SYSTEM WITH A NAMEPLATE RATING OF TEN KILOWATTS OR LESS  
10 THAT REDUCES THE CONSUMPTION OF GRID-SUPPLIED ELECTRICITY, THE  
11 TOTAL INSTALLED NAMEPLATE CAPACITY OF THE WIND OR SOLAR ENERGY  
12 SYSTEM SHALL BE DEEMED TO PRODUCE ENERGY THAT THE PROVIDER  
13 GENERATED OR ACQUIRED FROM A RENEWABLE ENERGY SYSTEM.  
14

15 (8) FOR THE PURPOSES OF COMPLYING WITH ITS ELECTRIC  
16 RESOURCE STANDARD, PROVIDERS OF ELECTRIC SERVICE MAY FILE WITH  
17 THE COMMISSION FOR ITS APPROVAL A STANDARD FORM OF CONTRACT FOR  
18 CUSTOMER-SITED RENEWABLE ENERGY SYSTEMS WITH NAMEPLATE  
19 RATINGS GREATER THAN TEN KILOWATTS AND NOT GREATER THAN FIVE  
20 MEGAWATTS.  
21

22 (9) ELECTRIC ENERGY PRODUCED BY A PROVIDER OF ELECTRIC  
23 SERVICE THROUGH CO-FIRING RENEWABLE FUELS DESCRIBED IN SECTION  
24 40-3.3-101 (1) AND (6) (a) (II) SHALL COUNT TOWARD COMPLIANCE WITH  
25 THIS STANDARD PRORATED ON THE HEAT CONTENT OF THE RENEWABLE  
26 FUELS AS A PERCENTAGE OF ALL FUELS USED TO PRODUCE SUCH ENERGY.  
27 ANY FACILITY UTILIZED FOR CO-FIRING RENEWABLE FUELS SHALL MEET  
28 CURRENT EMISSION REQUIREMENTS.  
29

30 (10) THE COMMISSION MAY PROMULGATE RULES TO ESTABLISH A  
31 SYSTEM OF RENEWABLE ENERGY CREDITS THAT MAY BE USED BY A  
32 PROVIDER TO COMPLY WITH ITS ELECTRIC RESOURCE STANDARD. SUCH  
33 RULES SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE  
34 24, C.R.S.  
35

36 (11) IF A PROVIDER BELIEVES IT WILL BE UNABLE TO COMPLY WITH  
37 ITS ELECTRIC RESOURCE STANDARD REQUIREMENTS THROUGH THE  
38 GENERATION OF ELECTRICITY FROM ITS OWN RENEWABLE ENERGY  
39 SYSTEMS, THROUGH RENEWABLE ENERGY SUPPLY CONTRACTS, THROUGH  
40 QUALIFIED ENERGY RECOVERY SYSTEMS, OR, IF APPLICABLE, THROUGH THE  
41 SALE AND PURCHASE OF RENEWABLE ENERGY CREDITS, THE PROVIDER  
42 SHALL SO NOTIFY THE COMMISSION. IF THE COMMISSION DETERMINES  
43 THERE IS NOT OR WILL NOT BE A SUFFICIENT SUPPLY OF ELIGIBLE  
44 ELECTRICITY AVAILABLE TO THE PROVIDER, OR THAT THE PROVIDER WILL  
45 NOT BE ABLE TO OBTAIN OR BUILD, AT REASONABLE COST, THE  
46 TRANSMISSION NEEDED TO DELIVER THE ELIGIBLE ENERGY TO THE  
47 PROVIDER'S SYSTEM, THE COMMISSION MAY EXEMPT THE PROVIDER FROM  
48 THE REMAINING REQUIREMENTS OF ITS ELECTRIC RESOURCE STANDARD OR  
49 FROM ANY APPROPRIATE PORTION THEREOF, AS DETERMINED BY THE  
50 COMMISSION. IF THE COMMISSION REASONABLY DETERMINES, BASED UPON  
51 AN EVIDENTIARY HEARING, INCLUDING A REVIEW OF MITIGATION  
52 MEASURES, THAT ADDING RENEWABLE RESOURCES PURSUANT TO THE  
53 STANDARD IN SECTION 40-3.3-102 (1) COMPROMISES SYSTEM RELIABILITY  
54 OR CONFLICTS WITH RELIABILITY STANDARDS OF THE NORTH AMERICAN  
55 ELECTRIC RELIABILITY COUNCIL, THE WESTERN ELECTRIC COORDINATING  
56 COUNCIL, OR THE FEDERAL ENERGY REGULATORY COMMISSION, THE

1 COMMISSION SHALL DEFER THAT PORTION OF THE RENEWABLE ENERGY  
2 RESOURCES THAT CAUSES THE RELIABILITY PROBLEM UNTIL SUCH TIME  
3 THAT THE PROBLEM IS RESOLVED.

4  
5 (12) A PROVIDER SHALL NOT HAVE THE AUTHORITY TO CONDEMN  
6 OR EXERCISE THE POWER OF EMINENT DOMAIN OVER ANY REAL ESTATE,  
7 RIGHT-OF-WAY, EASEMENT, OR OTHER RIGHT PURSUANT TO SECTION  
8 38-2-101, C.R.S., TO SITE THE GENERATION FACILITIES OF A RENEWABLE  
9 ENERGY SYSTEM USED IN WHOLE OR IN PART TO MEET AN ELECTRIC  
10 RESOURCE STANDARD ESTABLISHED PURSUANT TO THIS ARTICLE. A  
11 PROVIDER SHALL CONTINUE TO HAVE THE AUTHORITY TO CONDEMN OR  
12 EXERCISE THE POWER OF EMINENT DOMAIN OVER ANY REAL ESTATE,  
13 RIGHT-OF-WAY, EASEMENT, OR OTHER RIGHT PURSUANT TO SECTION  
14 38-2-101, C.R.S., TO TRANSMIT ENERGY USED IN WHOLE OR IN PART TO  
15 MEET AN ELECTRIC RESOURCE STANDARD ESTABLISHED PURSUANT TO THIS  
16 ARTICLE.

17  
18 (13) ELIGIBLE CAPACITY USED TO MEET THE STANDARD SHALL  
19 EITHER BE PRODUCED IN COLORADO OR WITHIN FIFTEEN MILES OF  
20 COLORADO'S BORDERS. RESOURCES THAT, BEFORE THE EFFECTIVE DATE  
21 OF THIS ACT, ARE OWNED BY, UNDER CONTRACT TO, OR THE SUBJECT OF  
22 NEGOTIATIONS WITH, A PROVIDER OR AVAILABLE TO A PROVIDER BUT FOR  
23 A LACK OF TRANSMISSION CAPACITY SHALL NOT BE SUBJECT TO THIS  
24 SUBSECTION (13).

25  
26 (14) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PREVENT  
27 A PROVIDER OF ELECTRIC SERVICE FROM USING THE SAME RENEWABLE  
28 ENERGY RESOURCES TO MEET THE REQUIREMENTS OF THIS ARTICLE AND  
29 ANY EXISTING OR FUTURE FEDERAL ELECTRIC RESOURCE STANDARD FOR  
30 RENEWABLE ENERGY.

31  
32 (15) (a) A PROVIDER OF ELECTRIC SERVICE SHALL PLAN FOR THE  
33 ACQUISITION OF RENEWABLE RESOURCES SUFFICIENT TO MEET THE  
34 REQUIREMENTS OF THIS ARTICLE OVER THE PLANNING PERIOD OF ITS  
35 LEAST-COST RESOURCE PLAN OR ANY SUCCESSOR PLAN. IN CONSIDERING  
36 SUCH PLAN, THE COMMISSION SHALL CONSIDER THE STATUS OF FEDERAL  
37 SUBSIDIES FOR RENEWABLE ENERGY. HOWEVER, IF THE LEAST COST PLAN  
38 APPROVED BY THE COMMISSION OR ANY SUCCESSOR PLAN INDICATES THAT  
39 ADDITIONAL CAPACITY, REGARDLESS OF SOURCE, IS NOT NEEDED FOR  
40 CERTAIN YEARS DURING THE PLANNING PERIOD, THE COMMISSION MAY  
41 AUTHORIZE THE PROVIDER OF ELECTRIC SERVICE TO DEFER THE  
42 ACQUISITION OF RENEWABLE RESOURCES REQUIRED UNDER THIS ARTICLE  
43 FOR THOSE YEARS UNTIL SUCH TIME AS ADDITIONAL CAPACITY IS NEEDED.

44  
45 (b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (15),  
46 IF THE COMMISSION DETERMINES THAT THE COST OF ELECTRICITY,  
47 INCLUDING ANCILLARY COSTS, FROM PROPOSED OR EXISTING RENEWABLE  
48 RESOURCE FACILITIES IS COST EFFECTIVE COMPARED TO THE COST OF  
49 OPERATING EXISTING GENERATION RESOURCES OR PURCHASING ENERGY  
50 UNDER EXISTING POWER SUPPLY CONTRACTS, THE COMMISSION MAY  
51 ORDER THE ACQUISITION OF SUCH RESOURCES.

52  
53 (16) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE  
54 BUT SUBJECT TO OTHER APPLICABLE REQUIREMENTS OF THIS TITLE, IF THE  
55 COMMISSION DETERMINES, FOLLOWING AN EVIDENTIARY HEARING, THAT  
56 THE TOTAL COST OF ELECTRICITY OF A PORTFOLIO OF NEW RENEWABLE

1 RESOURCES EXCEEDS THE TOTAL COST OF ANY OTHER PORTFOLIO OF NEW  
2 ELECTRIC RESOURCES REASONABLY AVAILABLE TO THE PROVIDER OF  
3 ELECTRIC SERVICE AS PART OF ITS LEAST-COST RESOURCE PLAN, THE  
4 COMMISSION SHALL REQUIRE THE PROVIDER TO DEFER THE ACQUISITION OF  
5 THE RENEWABLE ELECTRIC RESOURCE UNTIL SUCH TIME AS THE TOTAL  
6 COST DOES NOT EXCEED THAT OF OTHER AVAILABLE RESOURCES. FOR  
7 PURPOSES OF THIS SUBSECTION (16), THE TOTAL COST OF ELECTRICITY  
8 SHALL INCLUDE ALL REASONABLY KNOWN AND QUANTIFIABLE COSTS OVER  
9 THE RESOURCE PLANNING HORIZON, INCLUDING ANCILLARY SERVICE  
10 COSTS, THE COSTS OF LEGALLY REQUIRED AVAILABLE CONTROL  
11 TECHNOLOGY FOR NEW RESOURCES, AND THE COSTS ASSOCIATED WITH  
12 TRANSMISSION.

13

14 **40-3.3-103. Renewable energy cost recovery - acquisition plan.**

15 (1) IF THE COMMISSION APPROVES THE TERMS AND CONDITIONS OF A  
16 RENEWABLE ENERGY CONTRACT OR QUALIFIED ENERGY RECOVERY  
17 SYSTEM CONTRACT BETWEEN THE PROVIDER OF ELECTRIC SERVICE AND  
18 ANOTHER PARTY, THE RENEWABLE ENERGY CONTRACT OR QUALIFIED  
19 ENERGY RECOVERY SYSTEM CONTRACT AND ITS TERMS AND CONDITIONS  
20 SHALL BE DEEMED TO BE A PRUDENT INVESTMENT, AND THE COMMISSION  
21 SHALL APPROVE RETAIL RATES SUFFICIENT TO RECOVER ALL JUST AND  
22 REASONABLE COSTS ASSOCIATED WITH THE CONTRACT. IF A PROVIDER OF  
23 ELECTRIC SERVICE SUBMITS A FORM OF CONTRACT TO THE COMMISSION  
24 FOR ITS APPROVAL, AND THE COMMISSION APPROVES THE TERMS AND  
25 CONDITIONS OF THE FORM OF CONTRACT, ANY CONTRACT ENTERED INTO  
26 BETWEEN THE PROVIDER OF ELECTRIC SERVICE AND ANOTHER PARTY THAT  
27 IS MATERIALLY CONSISTENT WITH THE TERMS AND CONDITIONS OF THE  
28 APPROVED FORM OF CONTRACT SHALL BE DEEMED TO BE A PRUDENT  
29 INVESTMENT, AND THE COMMISSION SHALL APPROVE RETAIL RATES  
30 SUFFICIENT TO RECOVER ALL JUST AND REASONABLE COSTS ASSOCIATED  
31 WITH THE CONTRACT. THE PROVIDER OF ELECTRIC SERVICE SHALL BE  
32 ENTITLED TO FULL RECOVERY OF ITS PRUDENTLY INCURRED COSTS OF  
33 CONSTRUCTING AND OPERATING ITS OWN RENEWABLE ENERGY SYSTEMS  
34 OR QUALIFIED ENERGY RECOVERY SYSTEMS AS DETERMINED BY THE  
35 COMMISSION.

36

37 (2) EACH PROVIDER SHALL FILE WITH THE COMMISSION FOR ITS  
38 APPROVAL THE PROVIDER'S PLAN FOR ACQUIRING THE RESOURCES  
39 NECESSARY TO MEET THE REQUIREMENTS OF THIS ARTICLE. THE PROVIDER  
40 SHALL UPDATE ITS PLAN AS NECESSARY. THE PLAN SHALL SPECIFY THE  
41 PORTION OF THE RENEWABLE RESOURCE OBLIGATION UNDER THIS ARTICLE  
42 THAT THE PROVIDER INTENDS TO ACQUIRE THROUGH:

43

44 (a) A STAND-ALONE RENEWABLE ENERGY TARIFF;

45

46 (b) A COMPETITIVE ACQUISITION PROCESS; AND

47

48 (c) AN ALTERNATIVE METHOD OF ACQUISITION, SUCH AS BY  
49 SELF-BUILDING OR THE USE OF RENEWABLE ENERGY CREDITS.

50

51 (3) A PROVIDER OF ELECTRIC SERVICE THAT IS ALSO A WHOLESALE  
52 ELECTRICITY SUPPLIER SHALL NOT RECOVER COSTS OF RENEWABLE  
53 RESOURCES PURSUANT TO THIS ARTICLE, EITHER IN PART OR IN TOTAL,  
54 FROM ANY WHOLESALE CUSTOMER UNLESS THE WHOLESALE CUSTOMER  
55 AGREES, BY CONTRACT, TO ACCEPT RESPONSIBILITY FOR THE RENEWABLE  
56 RESOURCE COSTS. A PROVIDER OF ELECTRIC SERVICE SHALL RECOVER

1 FROM RETAIL CUSTOMERS THE COSTS NOT RECOVERED BY CONTRACT FROM  
2 WHOLESALE CUSTOMERS. EACH PROVIDER OF ELECTRIC SERVICE SHALL  
3 SUBMIT TO THE COMMISSION, IN AN INFORMATIONAL FILING, EACH  
4 WHOLESALE CONTRACT THAT INCLUDES RENEWABLE RESOURCE  
5 PROVISIONS MADE BY A WHOLESALE CUSTOMER WITH THE PROVIDER OF  
6 ELECTRIC SERVICE, AND EVERY AMENDMENT TO SUCH CONTRACT.

7  
8 **40-3.3-104. Annual report.** (1) EACH PROVIDER OF ELECTRIC  
9 SERVICE SHALL SUBMIT TO THE COMMISSION AN ANNUAL REPORT THAT  
10 PROVIDES INFORMATION RELATING TO THE ACTIONS TAKEN BY THE  
11 PROVIDER TO COMPLY WITH ITS ELECTRIC RESOURCE STANDARD.

12  
13 (2) EACH PROVIDER SHALL SUBMIT THE ANNUAL REPORT TO THE  
14 COMMISSION AFTER THE END OF EACH CALENDAR YEAR AND WITHIN THE  
15 TIME PRESCRIBED BY THE COMMISSION. THE REPORT SHALL BE SUBMITTED  
16 IN A FORMAT APPROVED BY THE COMMISSION.

17  
18 (3) EACH ANNUAL REPORT SHALL INCLUDE CLEAR AND CONCISE  
19 INFORMATION THAT SETS FORTH:

20  
21 (a) THE AMOUNT OF ELECTRICITY THAT THE PROVIDER GENERATED  
22 OR ACQUIRED FROM RENEWABLE ENERGY SYSTEMS OR QUALIFIED ENERGY  
23 RECOVERY SYSTEMS DURING THE REPORTING PERIOD AND, IF APPLICABLE,  
24 THE AMOUNT OF RENEWABLE ENERGY CREDITS THAT THE PROVIDER  
25 ACQUIRED, SOLD, OR TRADED DURING THE REPORTING PERIOD TO COMPLY  
26 WITH ITS ELECTRIC RESOURCE STANDARD;

27  
28 (b) THE CAPACITY OF EACH RENEWABLE ENERGY SYSTEM OR  
29 QUALIFIED ENERGY RECOVERY SYSTEM OWNED, OPERATED, OR  
30 CONTROLLED BY THE PROVIDER, THE TOTAL AMOUNT OF ELECTRICITY  
31 GENERATED BY EACH SUCH SYSTEM DURING THE REPORTING PERIOD, AND  
32 THE PERCENTAGE OF THAT TOTAL AMOUNT THAT WAS GENERATED  
33 DIRECTLY FROM RENEWABLE ENERGY;

34  
35 (c) WHETHER, DURING THE REPORTING PERIOD, THE PROVIDER  
36 BEGAN CONSTRUCTION ON, ACQUIRED, OR PLACED INTO OPERATION ANY  
37 RENEWABLE ENERGY SYSTEM OR QUALIFIED ENERGY RECOVERY SYSTEM  
38 AND, IF SO, THE DATE OF ANY SUCH EVENT;

39  
40 (d) INFORMATION ON THE COST AND TIMING OF TRANSMISSION  
41 FACILITIES AND SERVICES NECESSARY FOR THE UTILIZATION OF ENERGY  
42 FROM RENEWABLE ENERGY FACILITIES THAT ARE UTILIZED TO COMPLY  
43 WITH THE STANDARD; AND

44  
45 (e) ANY OTHER INFORMATION THAT THE COMMISSION BY RULE  
46 DEEMS RELEVANT.

47  
48 **40-3.3-105. Rules - fines - renewable energy account.** (1) THE  
49 COMMISSION SHALL PROMULGATE RULES NECESSARY FOR THE  
50 ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE. THE RULES  
51 PROMULGATED BY THE COMMISSION SHALL INCLUDE:

52  
53 (a) ENFORCEMENT MECHANISMS THAT ARE NECESSARY AND  
54 REASONABLE TO ENSURE THAT EACH PROVIDER OF ELECTRIC SERVICE  
55 COMPLIES WITH ITS ELECTRIC RESOURCE STANDARD; AND

(b) PROVISIONS GOVERNING THE IMPOSITION OF ADMINISTRATIVE PENALTIES ASSESSED AFTER A HEARING HELD BY THE COMMISSION PURSUANT TO SECTION 40-6-109. THE PROVIDER SHALL NOT BE PENALIZED IF THE PROVIDER FAILS TO COMPLY WITH THE ELECTRIC RESOURCE STANDARD DUE TO THE NONPERFORMANCE OF A PARTY OTHER THAN THE PROVIDER UNDER A RENEWABLE ENERGY CONTRACT, AND THE PROVIDER EXERCISES REASONABLE DILIGENCE TO COME INTO COMPLIANCE WITH THE ELECTRIC RESOURCE STANDARD. UNDER NO CIRCUMSTANCES SHALL THE COSTS OF ADMINISTRATIVE PENALTIES BE RECOVERED FROM COLORADO RETAIL CUSTOMERS.

(c) PROVISIONS REQUIRING THAT MONEYS COLLECTED FOR PENALTIES THAT RESULT FROM NONCOMPLIANCE WITH THE STANDARD SHALL BE:

(I) TRANSMITTED TO THE STATE TREASURER, WHO SHALL DEPOSIT THEM IN A SPECIAL RENEWABLE ENERGY ACCOUNT IN THE PUBLIC UTILITIES COMMISSION FIXED UTILITY FUND CREATED IN SECTION 40-2-114, WHICH SPECIAL ACCOUNT IS HEREBY CREATED;

(II) USED TO THE FULLEST EXTENT PRACTICABLE TO ENCOURAGE THE DEVELOPMENT OF ADDITIONAL RENEWABLE ENERGY FACILITIES AS DETERMINED BY THE COMMISSION.

(2) ANY RULES PROMULGATED PURSUANT TO THIS ARTICLE SHALL BE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S."

**SB04-196** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

Amend reengrossed bill, page 3, line 21, strike "UNSUPERVISED", and strike "YEARS." and substitute "YEARS FOR THE PURPOSE OF MONITORING COMPLIANCE WITH COURT ORDERS."

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## **SIGNING OF BILLS - RESOLUTIONS - MEMORIALS**

The Speaker has signed: **HJR04-1027**.

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## **MESSAGE FROM THE SENATE**

Madam Speaker:

The Senate has adopted and returns herewith: HJR04-1044.

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## INTRODUCTION OF BILLS

### First Reading

The following bills were read by title and referred to the committees indicated:

**SB04-204** by Senator(s) Anderson; also Representative(s) Coleman--  
Concerning the administration of the state-supervised  
lottery program.  
Committee on Business Affairs & Labor

**SB04-216** by Senator(s) Lamborn; also Representative(s) Cloer--  
Concerning limitations on the use of credit information for  
the purposes of personal lines of property and casualty  
insurance rating, and, in connection therewith,  
substantially adopting the provisions of the National  
Conference of Insurance Legislators model for uses of  
credit information for personal lines of property and  
casualty insurance.  
Committee on Business Affairs & Labor

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## INTRODUCTION OF RESOLUTIONS

The following resolutions were read by title and laid over one day under the rules:

**HJR04-1053** by Representative(s) Borodkin, Johnson R., Berry, Cloer,  
Garcia, Hoppe, Madden, McFadyen, Paccione, Plant,  
Ragsdale, Rippey, Romanoff, Salazar, Stafford, Weddig;  
also Senator(s) Grossman--Concerning the declaration of  
Holocaust Awareness Week.

**HR04-1010** by Representative(s) Merrifield--Concerning the 35th  
anniversary of the Performing Arts for Youth  
Organization.

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## APPOINTMENTS TO CONFERENCE COMMITTEE

The Speaker appointed House conferees to the First Conference Committee as follows:

**SB04-131**--Representatives Marshall, Chairman, McCluskey and  
Williams T.

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**LAY OVER OF CALENDAR ITEMS**

On motion of Representative King, the following items on the Calendar were laid over until April 12, retaining place on Calendar:

Consideration of General Orders--**SB04-185, HB04-1003, 1287, 1300, 1411, 1075, 1362.**

Consideration of Resolutions--**HJR04-1012, 1013, SJR04-015, HJR04-1010, SJR04-023, 024, 027, HJR04-1038, 1040, HR04-1008, 1009, HJR04-1047, SJR04-025, 030, HJR04-1050, 1051, 1052.**

Consideration of Memorial--**SJM04-001.**

Consideration of Senate Amendments--**HB04-1127, 1357, 1263, 1292, 1251, 1150, 1234, 1187, 1348, 1311, 1121, 1376, 1393, 1387, 1399.**

On motion of Representative King, the House adjourned until 10:00 a.m., April 12, 2004.

Approved:

LOLA SPRADLEY,  
Speaker

Attest:

JUDITH RODRIGUE,  
Chief Clerk