

First Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 05-0410.01 Kristen Forrester

SENATE BILL 05-001

SENATE SPONSORSHIP

Sandoval,

HOUSE SPONSORSHIP

(None),

Senate Committees

Business, Labor and Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING CREATION OF THE "LOW-INCOME ENERGY ASSISTANCE
102 ACT".

Bill Summary

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

Requires utilities to collect an energy assistance charge from each electric and gas customer beginning January 1, 2006, unless a customer opts not to pay the charge. Exempts state, county, and municipal agencies and departments from the energy assistance program. 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 pursuant to the sunset review process, effective July 1, 2011.

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. THE SYSTEM SHALL BE EASY AND AS TRANSPARENT AS
7 POSSIBLE SO AS NOT TO DECEIVE CUSTOMERS IN ANY WAY. THEREFORE,
8 THE GENERAL ASSEMBLY HEREBY CREATES A LOW-INCOME ENERGY
9 ASSISTANCE PROGRAM THAT PROVIDES FOR THE COLLECTION AND
10 DISBURSEMENT OF AN OPTIONAL ENERGY ASSISTANCE CHARGE IN
11 COLORADO THROUGH THE ENACTMENT OF THIS ARTICLE.

12 **40-8.7-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
13 CONTEXT OTHERWISE REQUIRES:

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

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

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

26 (4) "ENERGY ASSISTANCE PROGRAM" MEANS THE PROGRAM
27 CREATED BY SECTION 40-8.7-102 THAT IS DESIGNED TO PROVIDE

1 FINANCIAL ASSISTANCE, RESIDENTIAL ENERGY EFFICIENCY, AND ENERGY
2 CONSERVATION ASSISTANCE.

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

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

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

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

16 **40-8.7-104. Energy assistance program - energy assistance**
17 **charge - rules.** (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE,
18 EVERY UTILITY DOING BUSINESS IN COLORADO SHALL PARTICIPATE IN THE
19 ENERGY ASSISTANCE PROGRAM AND SHALL COLLECT AN ENERGY
20 ASSISTANCE CHARGE BEGINNING JULY 1, 2006. THE ENERGY ASSISTANCE
21 CHARGE SHALL NOT BE COLLECTED FROM CUSTOMERS WHO OPT OUT OF
22 THE ENERGY ASSISTANCE PROGRAM PURSUANT TO SECTION 40-8.7-105.
23 EACH UTILITY SHALL COLLECT THE ENERGY ASSISTANCE CHARGE
24 MONTHLY IN THE SAME MANNER AS ALL OTHER CHARGES AND FEES
25 COLLECTED BY THE UTILITY FROM ITS CUSTOMERS. THE AMOUNT OF THE
26 OPTIONAL CHARGE SHALL BE:

27 (a) FOR RESIDENTIAL CUSTOMERS, TWENTY-FIVE CENTS PER

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

2 (b) FOR AGRICULTURAL CUSTOMERS, TWENTY-FIVE CENTS PER
3 MONTH FOR EACH ACCOUNT FOR BOTH GAS AND ELECTRIC SERVICE; AND

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

6 (2) THE CHARGES COLLECTED PURSUANT TO SUBSECTION (1) OF
7 THIS SECTION SHALL NOT BE SUBJECT TO SALES TAX OR FRANCHISE FEES.

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

14 (4) IF A UTILITY THAT IS SUBJECT TO THE COMMISSION'S
15 JURISDICTION HAS A QUALITY OF SERVICE PLAN APPROVED BY THE
16 COMMISSION, THE COMMISSION SHALL EXCLUDE ANY IMPACTS STEMMING
17 FROM THE IMPLEMENTATION OF THE ENERGY ASSISTANCE PROGRAM FROM
18 THE CALCULATION OF RELEVANT QUALITY OF SERVICE PLAN
19 MEASUREMENTS. THE IMPACTS MAY INCLUDE, BUT SHALL NOT BE LIMITED
20 TO, DELAYS IN ANSWERING CUSTOMER TELEPHONE CALLS AND AN
21 INCREASE IN CUSTOMER COMPLAINTS.

22 (5) STATE, COUNTY, OR MUNICIPAL AGENCIES OR DEPARTMENTS
23 SHALL BE EXEMPT FROM THE ENERGY ASSISTANCE PROGRAM AND SHALL
24 NOT BE ASSESSED THE OPTIONAL CHARGE FOR LOW-INCOME ENERGY
25 ASSISTANCE.

26 **40-8.7-105. Customer opt-out provision.** (1) THE PUBLIC
27 UTILITIES COMMISSION SHALL DETERMINE THE MECHANISM FOR AN

1 OPT-OUT PROVISION WHEREBY THE ENERGY ASSISTANCE CHARGE
2 DESCRIBED IN SECTION 40-8.7-104 WILL NOT BE COLLECTED FROM THOSE
3 CUSTOMERS WHO GIVE NOTICE OF THEIR INTENT NOT TO PARTICIPATE IN
4 THE ENERGY ASSISTANCE PROGRAM.

5 (2) THE ENERGY ASSISTANCE CHARGE SHALL APPEAR AS A
6 SEPARATE LINE ITEM CHARGE IN EVERY BILL FOR ELECTRICITY OR GAS,
7 AND SHALL BE IDENTIFIED IN THE BILLING STATEMENT. THE LINE ITEM
8 SHALL IDENTIFY THE OPTIONAL LOW-INCOME CHARGE, STATE THE AMOUNT
9 OF THE CHARGE, AND PROVIDE AND IDENTIFY A TOLL-FREE NUMBER FOR
10 THE CUSTOMER TO CALL TO CHOOSE NOT TO PARTICIPATE IN THE PAYMENT
11 OF THE CHARGE, UNLESS THE GOVERNING BODY DETERMINES OTHERWISE.

12 (3) FOR SIX MONTHS PRIOR TO THE IMPLEMENTATION OF THE
13 OPTIONAL CHARGE, THE ORGANIZATION SHALL SET UP A CENTRALIZED,
14 STATEWIDE CALL CENTER IN ORDER TO ALLOW CUSTOMERS TO CALL AND
15 OPT OUT OF THE PROGRAM. THE ORGANIZATION SHALL ALSO MAINTAIN A
16 CENTRALIZED WEB SITE TO PROVIDE OPT-OUT INFORMATION FOR THE
17 SIX-MONTH PERIOD.

18 (4) THE PUBLIC UTILITIES COMMISSION SHALL BY RULE:

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

22 (b) IN ADDITION TO NOTIFICATION ON THE BILLING STATEMENT AS
23 REQUIRED BY SUBSECTION (2) OF THIS SECTION, ENSURE THAT UTILITIES
24 NOTIFY CUSTOMERS ABOUT THE OPT-OUT PROVISION AT LEAST FOUR TIMES
25 PRIOR TO JUNE 1, 2006, AND ENSURE THAT UTILITIES PROVIDE CLEAR,
26 PERIODIC NOTICE OF THE OPT-OUT PROVISION AT LEAST TWICE PER YEAR
27 AND, WHERE PRACTICAL ON A MONTHLY BASIS, IN A STATEMENT ON THE

1 BILL;

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

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

5 (5) THE NAMES OF CUSTOMERS OPTING OUT SHALL BE
6 CONFIDENTIAL. ONCE A CUSTOMER OPTS OUT, THE CHARGE SHALL NOT BE
7 COLLECTED FROM SUCH CUSTOMER. CHARGES COLLECTED PRIOR TO THE
8 DATE THE CUSTOMER OPTS OUT OF THE PROGRAM SHALL NOT BE
9 REFUNDED. CUSTOMERS SHALL HAVE THE OPTION TO RENEW THEIR
10 PARTICIPATION IN THE PROGRAM.

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

19 **40-8.7-106. Municipally owned gas, electric, and gas and**
20 **electric utilities and rural electric cooperatives.** (1) IF A MUNICIPALLY
21 OWNED GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY OR A RURAL
22 ELECTRIC COOPERATIVE OPERATES AN ALTERNATIVE ENERGY ASSISTANCE
23 PROGRAM TO SUPPORT ITS LOW-INCOME CUSTOMERS WITH THEIR HOME
24 ENERGY NEEDS, THEN THE GOVERNING BODY OF THE MUNICIPALLY OWNED
25 GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY OR RURAL ELECTRIC
26 COOPERATIVE MAY SELF-CERTIFY ITS ALTERNATIVE ENERGY ASSISTANCE
27 PROGRAM AND UPON SELF-CERTIFICATION WILL HAVE NO OBLIGATIONS

1 UNDER THIS ARTICLE. THE MUNICIPALLY OWNED UTILITY OR COOPERATIVE
2 SHALL SUBMIT A STATEMENT TO THE ORGANIZATION THAT STATES SUCH
3 UTILITY OR COOPERATIVE HAS AN ALTERNATIVE ENERGY ASSISTANCE
4 PROGRAM. IN ORDER FOR SUCH UTILITY OR COOPERATIVE TO
5 SELF-CERTIFY, SUCH ALTERNATIVE ENERGY ASSISTANCE PROGRAM SHALL
6 MEET THE FOLLOWING CRITERIA:

7 (a) THE AMOUNT AND METHOD FOR FUNDING OF THE PROGRAM
8 SHALL BE DETERMINED BY THE GOVERNING BODY;

9 (b) PROGRAM MONEYS SHALL BE COLLECTED AND DISTRIBUTED IN
10 A MANNER AND UNDER ELIGIBILITY CRITERIA DETERMINED BY THE
11 GOVERNING BODY FOR THE PURPOSE OF RESIDENTIAL ENERGY ASSISTANCE
12 TO CUSTOMERS THAT ARE CHALLENGED WITH PAYING ENERGY BILLS FOR
13 FINANCIAL REASONS, INCLUDING TO SENIORS ON FIXED INCOMES,
14 INDIVIDUALS WITH DISABILITIES, AND LOW-INCOME INDIVIDUALS;

15 (c) BEGINNING TWELVE MONTHS AFTER IMPLEMENTATION OF THE
16 PROGRAM, THE ORGANIZATION SHALL MAKE AVAILABLE TO ALL
17 CUSTOMERS ON AN ANNUAL BASIS INFORMATION ABOUT THE PROGRAM,
18 INCLUDING HOW MANY PEOPLE CONTRIBUTE TO THE PROGRAM, THE
19 AMOUNT OF MONEY CONTRIBUTED, THE NUMBER OF PEOPLE WHO WERE
20 HELPED BY THE PROGRAM, AND THE NUMBER OF PEOPLE WHO QUALIFIED
21 TO RECEIVE FUNDING. THIS INFORMATION MAY BE DISTRIBUTED BY
22 WRITTEN NOTICE OR BY PUBLICATION IN A NEWSPAPER OF GENERAL
23 CIRCULATION IN THE AUTHORIZED SERVICE AREA OF THE MUNICIPALLY
24 OWNED GAS, ELECTRIC, OR GAS AND ELECTRIC UTILITY OR RURAL
25 ELECTRIC COOPERATIVE.

26 (2) IF THE GOVERNING BODY OF A MUNICIPALLY OWNED GAS,
27 ELECTRIC, OR GAS AND ELECTRIC UTILITY OR A RURAL ELECTRIC

1 COOPERATIVE DETERMINES THAT THE SERVICE AREA OF SUCH UTILITY OR
2 COOPERATIVE HAS A LIMITED NUMBER OF PEOPLE WHO QUALIFY FOR
3 ENERGY ASSISTANCE, SUCH UTILITY OR COOPERATIVE MAY BE EXEMPT
4 FROM THE OBLIGATIONS OF THIS ARTICLE.

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

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

19 (b) IF THE GOVERNING BODY DOES NOT MAKE SUCH ELECTION
20 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), THEN:

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

25 (II) SUCH GOVERNING BODY SHALL DETERMINE WHETHER IT IS
26 APPROPRIATE TO PROVIDE AN OPT-OUT MECHANISM WHEREBY THE ENERGY
27 ASSISTANCE CHARGE, DESCRIBED IN SECTION 40-8.7-105, WILL NOT BE

1 COLLECTED FROM THOSE CUSTOMERS WHO GIVE NOTICE OF INTENT NOT TO
2 PARTICIPATE IN THE ENERGY ASSISTANCE PROGRAM. THE NAMES OF THE
3 CUSTOMERS UTILIZING THE OPT-OUT PROVISION SHALL BE CONFIDENTIAL.

4 (III) SUCH GOVERNING BODY SHALL REQUIRE THAT, IN CASES
5 WHERE A SINGLE CUSTOMER, INCLUDING AN AGRICULTURAL CUSTOMER, IS
6 BILLED FOR ELECTRICITY OR GAS DELIVERED THROUGH MULTIPLE METERS
7 AT A SINGLE ADDRESS, THE CUSTOMER SHALL BE CHARGED FOR A SINGLE
8 ACCOUNT; AND

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

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

17 (5) ANY REASONABLE COSTS THAT A MUNICIPALLY OWNED GAS,
18 ELECTRIC, OR GAS AND ELECTRIC UTILITY OR RURAL ELECTRIC
19 COOPERATIVE INCURS, INCLUDING THE INITIAL COSTS OF SETTING UP THE
20 COLLECTION MECHANISM AND ONGOING PROGRAM ADMINISTRATION, MAY
21 BE REIMBURSED, AT THE DISCRETION OF THE GOVERNING BODY, FROM THE
22 ENERGY ASSISTANCE MONEYS COLLECTED.

23 (6) FOR MUNICIPALLY OWNED GAS, ELECTRIC, AND GAS AND
24 ELECTRIC UTILITIES AND RURAL ELECTRIC COOPERATIVES, IF THE
25 ADMINISTRATIVE COSTS OF THE LOW-INCOME ENERGY ASSISTANCE
26 PROGRAM EXCEED THE REVENUE GENERATED FOR ANY CALENDAR YEAR,
27 THE REQUIREMENTS OF THIS ARTICLE SHALL TERMINATE AS TO THE UTILITY

1 OR COOPERATIVE, UPON THE MAKING OF SUCH DETERMINATION BY THE
2 GOVERNING BODY.

3 **40-8.7-107. Disposition of moneys.** (1) EVERY GAS AND
4 ELECTRIC UTILITY SHALL TRANSFER THE MONEYS FROM THE ENERGY
5 ASSISTANCE CHARGE TO THE ORGANIZATION ON THE FOLLOWING
6 SCHEDULE:

7 (a) FOR THE MONEYS COLLECTED DURING THE PERIOD OF JANUARY
8 1 TO MARCH 31 OF EACH YEAR, THE UTILITY SHALL TRANSFER THE
9 COLLECTED MONEYS TO THE ORGANIZATION BEFORE MAY 1 OF SUCH YEAR;

10 (b) FOR THE MONEYS COLLECTED DURING THE PERIOD OF APRIL 1
11 TO JUNE 30 OF EACH YEAR, THE UTILITY SHALL TRANSFER THE COLLECTED
12 MONEYS TO THE ORGANIZATION BEFORE AUGUST 1 OF SUCH YEAR;

13 (c) FOR MONEYS COLLECTED DURING THE PERIOD OF JULY 1 TO
14 SEPTEMBER 30 OF EACH YEAR, THE UTILITY SHALL TRANSFER THE
15 COLLECTED MONEYS TO THE ORGANIZATION BEFORE NOVEMBER 1 OF SUCH
16 YEAR; AND

17 (d) FOR MONEYS COLLECTED DURING THE PERIOD OF OCTOBER 1
18 TO DECEMBER 31 OF EACH YEAR, THE UTILITY SHALL TRANSFER THE
19 COLLECTED MONEYS TO THE ORGANIZATION BEFORE FEBRUARY 1 OF THE
20 NEXT YEAR.

21 (2) UTILITIES SHALL PROVIDE THE ORGANIZATION WITH A
22 SUMMATION OF HOW THE MONEYS COLLECTED WERE GENERATED,
23 INCLUDING THE NUMBER OF CUSTOMERS FOR RESIDENTIAL,
24 AGRICULTURAL, AND NONRESIDENTIAL ACCOUNTS PARTICIPATING.

25 (3) THE ORGANIZATION SHALL PAY THE PUBLIC UTILITIES
26 COMMISSION FROM THE MONEYS TRANSFERRED TO THE ORGANIZATION
27 PURSUANT TO SUBSECTION (1) OF THIS SECTION FOR ANY ADMINISTRATIVE

1 COSTS INCURRED PURSUANT TO THIS ARTICLE.

2 **40-8.7-108. Energy outreach Colorado - administration of the**
3 **energy assistance charge.** (1) THE ORGANIZATION SHALL HOLD AND
4 ADMINISTER ALL MONEYS DELIVERED TO IT BY THE UTILITIES PURSUANT TO
5 SECTION 40-8.7-107 IN A SEPARATELY IDENTIFIABLE ACCOUNT, WHICH
6 SHALL BE RESTRICTED TO THE PURPOSES SET FORTH IN THIS ARTICLE. THE
7 ORGANIZATION SHALL MAINTAIN ITS BOOKS AND RECORDS PERTAINING TO
8 THE ENERGY ASSISTANCE CHARGES IN ACCORDANCE WITH GENERALLY
9 ACCEPTED ACCOUNTING PRINCIPLES AND, IN ADDITION, SHALL MAINTAIN
10 RECORDS ADEQUATE TO IDENTIFY THE MONEYS COLLECTED BY EACH
11 UTILITY. IF THE ORGANIZATION COMMINGLES THE MONEYS COLLECTED
12 AND DELIVERED WITH OTHER ASSETS OF THE ORGANIZATION FOR
13 INVESTMENT PURPOSES, THE ORGANIZATION SHALL MAINTAIN ACCURATE
14 ACCOUNTS OF THE INVESTMENT MONEYS AND SHALL CREDIT OR CHARGE
15 A PRORATA PORTION OF ALL INVESTMENT EARNINGS, GAINS, OR LOSSES TO
16 THE ACCOUNT THAT HOLDS THE ENERGY ASSISTANCE CHARGES.

17 (2) THE ORGANIZATION SHALL USE THE ENERGY ASSISTANCE
18 CHARGES FOR THE PURPOSE OF LOW-INCOME ENERGY ASSISTANCE AND
19 IMPROVING ENERGY EFFICIENCY. ALL FINANCIAL ASSISTANCE MONEYS
20 SHALL BE PAID TO UTILITIES AS VENDOR PAYMENTS. THE MONEYS SHALL
21 NOT BE USED FOR PROPANE, GAS, OR ELECTRIC ASSISTANCE FOR
22 CUSTOMERS WHOSE PROPANE, GAS, ELECTRIC, OR GAS AND ELECTRIC
23 COMPANIES DO NOT PARTICIPATE IN THE ORGANIZATION'S PROGRAM. THE
24 ORGANIZATION MAY USE UP TO FIVE PERCENT OF THE MONEYS COLLECTED
25 FOR ADMINISTRATION OF THE ENERGY ASSISTANCE PROGRAM.
26 ADDITIONAL MONEYS MAY BE USED AS NECESSARY BY THE ORGANIZATION
27 FOR THE ADMINISTRATION OF AN OPT-OUT PROVISION PURSUANT TO

1 SECTION 40-8.7-105.

2 (3) THE ORGANIZATION SHALL, ON AN ANNUAL BASIS, DEVELOP A
3 BUDGET FOR THE ENERGY ASSISTANCE PROGRAM TO DETERMINE THE
4 ALLOCATION OF THE ENERGY ASSISTANCE CHARGES. ANY COSTS
5 ASSOCIATED WITH THE PROGRAM SHALL BE RECOVERED FROM THE ENERGY
6 ASSISTANCE CHARGES.

7 **40-8.7-109. Low-income energy assistance program.** (1) THE
8 ORGANIZATION SHALL PROVIDE ENERGY ASSISTANCE TO INDIVIDUALS AND
9 ORGANIZATIONS IN COLORADO. SUCH ASSISTANCE SHALL BE GIVEN
10 PRIORITY TO HOUSEHOLDS WHERE ONE OR MORE PERSONS ARE RECIPIENTS
11 OF:

12 (a) AN OLD AGE PENSION AS SET FORTH IN SECTION 26-2-111 (2),
13 C.R.S.;

14 (b) AID TO THE NEEDY DISABLED AS SET FORTH IN SECTION
15 26-2-111 (4), C.R.S.;

16 (c) AID TO THE BLIND AS SET FORTH IN SECTION 26-2-111 (5),
17 C.R.S.;

18 (d) SUPPLEMENTAL SOCIAL SECURITY DISABILITY BENEFITS UNDER
19 42 U.S.C. SEC. 1396 ET SEQ.;

20 (e) AID FROM THE TANF BLOCK GRANT PROGRAM AS DEFINED IN
21 SECTION 26-2-703, C.R.S.

22 **40-8.7-110. Reports.** (1) THE ORGANIZATION SHALL SUBMIT A
23 WRITTEN REPORT TO THE GENERAL ASSEMBLY, THE LEGISLATIVE AUDIT
24 COMMITTEE, AND THE OFFICE OF THE STATE AUDITOR ON OR BEFORE
25 MARCH 31 OF EACH YEAR, BEGINNING IN 2006, THAT COVERS THE
26 IMMEDIATELY PRECEDING CALENDAR YEAR. THE REPORT SHALL INCLUDE:

27 (a) AN ITEMIZED ACCOUNT OF MONEYS RECEIVED BY THE

1 ORGANIZATION FROM EACH UTILITY;

2 (b) THE AMOUNT OF MONEYS DISTRIBUTED, THE TYPE OF
3 ASSISTANCE PROVIDED, THE GEOGRAPHIC AREA OF THE STATE SERVED, AND
4 AN ITEMIZATION OF THE PROGRAMS THROUGH WHICH THE MONEYS ARE
5 EXPENDED;

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

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

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

12 **40-8.7-111. Jurisdiction of the public utilities commission.**

13 NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO EXPAND OR ALTER THE
14 JURISDICTION OF THE PUBLIC UTILITIES COMMISSION.

15 **40-8.7-112. Repeal of article.** (1) (a) THIS ARTICLE IS REPEALED,
16 EFFECTIVE JULY 1, 2011; EXCEPT THAT, IF, AT ANY POINT AFTER
17 SEPTEMBER 1, 2007, THE TOTAL COSTS OF THE LOW-INCOME ENERGY
18 ASSISTANCE PROGRAM EXCEED THE REVENUE GENERATED FROM THE
19 ENERGY ASSISTANCE CHARGES, THIS ARTICLE IS REPEALED IMMEDIATELY.

20 (b) PRIOR TO ITS REPEAL IN 2011, IF NOT PREVIOUSLY REPEALED
21 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), THIS ARTICLE
22 SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

23 (2) FOR MUNICIPALLY OWNED GAS, ELECTRIC, AND GAS AND
24 ELECTRIC UTILITIES AND RURAL ELECTRIC COOPERATIVES, IF THE
25 ADMINISTRATIVE COSTS OF THE LOW-INCOME ENERGY ASSISTANCE
26 PROGRAM EXCEED THE REVENUE GENERATED FROM THE ENERGY
27 ASSISTANCE CHARGES FOR ANY CALENDAR YEAR, THE REQUIREMENTS OF

1 THIS ARTICLE SHALL TERMINATE AS TO THE MUNICIPALLY OWNED GAS,
2 ELECTRIC, OR GAS AND ELECTRIC UTILITY AND RURAL ELECTRIC
3 COOPERATIVE UPON SELF-CERTIFICATION.

4 **SECTION 2.** 24-34-104 (42), Colorado Revised Statutes, is
5 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

6 **24-34-104. General assembly review of regulatory agencies and**
7 **functions for termination, continuation, or reestablishment.** (42) The
8 following agencies, functions, or both, shall terminate on July 1, 2011:

9 (i) THE "LOW-INCOME ENERGY ASSISTANCE ACT" AS CREATED IN
10 ARTICLE 8.7 OF TITLE 40, C.R.S.

11 **SECTION 3. Effective date.** This act shall take effect at 12:01
12 a.m. on the day following the expiration of the ninety-day period after
13 final adjournment of the general assembly that is allowed for submitting
14 a referendum petition pursuant to article V, section 1 (3) of the state
15 constitution (August 10, 2005, if adjournment sine die is on May 11,
16 2005); except that, if a referendum petition is filed against this act or an
17 item, section, or part of this act within such period, then the act, item,
18 section, or part, if approved by the people, shall take effect on the date of
19 the official declaration of the vote thereon by proclamation of the
20 governor.