

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 09-0945.01 Thomas Morris

HOUSE BILL 09-1323

HOUSE SPONSORSHIP

Levy, Fischer, Green, Hullinghorst, Kerr A., Labuda, McFadyen, Merrifield, Pace, Pommer, Primavera, Scanlan, Solano

SENATE SPONSORSHIP

Veiga, Bacon, Heath, Romer, Shaffer B.

House Committees

Transportation & Energy
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ENERGY EFFICIENCY PROGRAMS IMPLEMENTED BY**
102 **COOPERATIVE ELECTRIC ASSOCIATIONS.**

Bill Summary

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

Directs cooperative electric associations serving 100,000 or more customers to engage in conservation and energy efficiency programs and to save an amount of electricity equal to 2% of 2008 sales by 2012, 5% of 2008 sales by 2015, and 10% of 2008 sales by 2020, which savings are a result of conservation and energy efficiency programs implemented starting in 2009. Requires periodic reports from the utilities to the governor's energy office. Specifies that the act does not extend the

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.*

1 COST OF FINANCIAL INCENTIVES PAID TO PARTICIPANTS.

2 (2) "COST-EFFECTIVE", WITH REFERENCE TO AN ENERGY
3 EFFICIENCY PROGRAM, MEANS HAVING A BENEFIT-TO-COST RATIO
4 GREATER THAN ONE USING THE BENEFIT COST TEST.

5 (3) "ENERGY EFFICIENCY PROGRAM" MEANS A COHERENT SET OF
6 ACTIVITIES UNDERTAKEN BY A UTILITY FOR THE PURPOSE OF INCREASING
7 THE EFFICIENCY OF ELECTRICITY USE BY CUSTOMERS OF THE UTILITY OR
8 CONSERVING ELECTRICITY. AN ENERGY EFFICIENCY PROGRAM MAY
9 INCLUDE EDUCATION, PROMOTION, TECHNICAL ASSISTANCE, AND
10 FINANCIAL INCENTIVES FOR CUSTOMERS.

11 (4) "GOVERNOR'S ENERGY OFFICE" MEANS THE OFFICE CREATED IN
12 SECTION 24-38.5-101, C.R.S.

13 (5) "PRIMARY ENERGY CONSUMPTION" MEANS ENERGY
14 CONSUMPTION, AS DETERMINED ON A SOURCE BASIS RATHER THAN A SITE
15 BASIS, AND INCLUDES ENERGY LOSSES IN GENERATION, TRANSMISSION,
16 AND DISTRIBUTION IN THE CASE OF ELECTRICITY.

17 (6) "UTILITY" MEANS A COOPERATIVE ELECTRIC ASSOCIATION
18 THAT, AS OF THE EFFECTIVE DATE OF THIS SECTION, PROVIDES RETAIL
19 ELECTRIC SERVICE TO ONE HUNDRED THOUSAND OR MORE METERS.

20 **40-9.5-403. Scope of article - jurisdiction of commission.**

21 (1) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THIS
22 PART 4 APPLIES TO ALL COOPERATIVE ELECTRIC ASSOCIATIONS THAT, AS
23 OF THE EFFECTIVE DATE OF THIS SECTION, PROVIDE RETAIL ELECTRIC
24 SERVICE TO ONE HUNDRED THOUSAND OR MORE METERS.

25 (2) NOTHING IN THIS PART 4 SHALL BE CONSTRUED TO EXTEND THE
26 PUBLIC UTILITIES COMMISSION'S AUTHORITY WITH REGARD TO:

27 (a) ANY UTILITY SUBJECT TO THIS PART 4, EXCEPT AS REQUIRED

1 FOR THE EXERCISE OF DUTIES PRESCRIBED BY THIS PART 4 OR
2 ENFORCEMENT OF THE COMMISSION'S RULES AND ORDERS AS AUTHORIZED
3 BY THIS PART 4; OR

4 (b) ANY NONREGULATED UTILITY BUSINESSES OR AFFILIATES OF A
5 UTILITY.

6 **40-9.5-404. Energy efficiency programs - requirements.**

7 (1) DURING CALENDAR YEARS 2012 TO 2014, EACH UTILITY COVERED
8 UNDER THIS ARTICLE SHALL, AT A MINIMUM, DEMONSTRATE SAVINGS OF
9 AN AMOUNT OF ELECTRICITY EQUIVALENT TO TWO PERCENT OF ITS RETAIL
10 ELECTRICITY SALES IN 2008, AS A RESULT OF ENERGY EFFICIENCY
11 PROGRAMS IMPLEMENTED STARTING IN 2009.

12 (2) DURING CALENDAR YEARS 2015 TO 2019, EACH UTILITY
13 COVERED UNDER THIS ARTICLE SHALL, AT A MINIMUM, DEMONSTRATE
14 SAVINGS OF AN AMOUNT OF ELECTRICITY EQUIVALENT TO FIVE PERCENT
15 OF ITS RETAIL ELECTRICITY SALES IN 2008, AS A RESULT OF ENERGY
16 EFFICIENCY PROGRAMS IMPLEMENTED STARTING IN 2009.

17 (3) DURING CALENDAR YEARS STARTING 2020 AND THEREAFTER,
18 EACH UTILITY COVERED UNDER THIS ARTICLE SHALL, AT A MINIMUM,
19 DEMONSTRATE SAVINGS OF AN AMOUNT OF ELECTRICITY EQUIVALENT TO
20 TEN PERCENT OF ITS RETAIL ELECTRICITY SALES IN 2008, AS A RESULT OF
21 ENERGY EFFICIENCY PROGRAMS IMPLEMENTED STARTING IN 2009.

22 (4) EACH UTILITY SHALL DETERMINE WHICH PROGRAMS IT
23 CHOOSES TO IMPLEMENT TO MEET ITS ENERGY EFFICIENCY PROGRAM
24 SAVINGS REQUIREMENTS; EXCEPT THAT AT LEAST TEN PERCENT OF
25 REVENUES SPENT ON SUCH PROGRAMS SHALL BE DEVOTED TO ENERGY
26 CONSERVATION AND EFFICIENCY PROGRAMS SERVING LOW-INCOME
27 CUSTOMERS. EACH UTILITY SHALL STRIVE TO IMPLEMENT A SET OF

1 PROGRAMS THAT, TAKEN TOGETHER, ARE COST-EFFECTIVE.

2 (5) IN COMPLYING WITH THE REQUIREMENTS OF SUBSECTIONS (1),
3 (2), AND (3) OF THIS SECTION, A UTILITY SHALL:

4 (a) ACHIEVE AT LEAST EIGHTY PERCENT OF ITS ENERGY SAVINGS
5 REQUIREMENT FROM EFFICIENCY PROGRAMS AND MEASURES THAT SAVE
6 ELECTRICITY ON CUSTOMERS' PREMISES. UP TO TWENTY PERCENT OF THE
7 ENERGY SAVINGS MAY COME FROM EFFICIENCY PROGRAMS AND MEASURES
8 THAT INCREASE ENERGY EFFICIENCY IN THE DISTRIBUTION SYSTEM OR
9 REDUCE PRIMARY ENERGY CONSUMPTION THROUGH FUEL SWITCHING.

10 (b) ENSURE THAT ITS ENERGY EFFICIENCY PROGRAM GIVES ALL
11 CLASSES OF CUSTOMERS AN OPPORTUNITY TO PARTICIPATE AND GIVE DUE
12 CONSIDERATION TO THE IMPACT OF ITS ENERGY EFFICIENCY PROGRAM ON
13 NONPARTICIPANTS AND ON LOW-INCOME CUSTOMERS.

14 (6) A UTILITY MAY CHOOSE TO IMPLEMENT ENERGY EFFICIENCY
15 PROGRAMS ON ITS OWN, IN PARTNERSHIP WITH OTHER AFFECTED UTILITIES,
16 OR BY PROVIDING FUNDING TO THE GOVERNOR'S ENERGY OFFICE TO
17 ADMINISTER ENERGY EFFICIENCY PROGRAMS ON BEHALF OF THE UTILITY.

18 (7) A UTILITY MAY USE REVENUES PROVIDED BY RATEPAYERS'
19 OTHER ENTITIES, INCLUDING WITHOUT LIMITATION A WHOLESALE
20 ELECTRIC POWER PROVIDER, STATE GOVERNMENT, OR LOCAL
21 GOVERNMENT, TOWARD MEETING ITS ENERGY EFFICIENCY PROGRAM
22 SAVINGS REQUIREMENTS SPECIFIED IN SUBSECTIONS (1), (2), AND (3) OF
23 THIS SECTION.

24 (8) THE GOVERNOR'S ENERGY OFFICE SHALL OVERSEE ONE OR
25 MORE QUALIFIED AND IMPARTIAL CONTRACTORS TO IMPLEMENT ENERGY
26 EFFICIENCY PROGRAMS FOR A UTILITY IF THAT UTILITY CHOOSES TO
27 PROVIDE FUNDING TO THE GOVERNOR'S ENERGY OFFICE FOR THIS PURPOSE.

1 THE GOVERNOR'S ENERGY OFFICE MAY CHARGE A UTILITY A REASONABLE
2 MANAGEMENT FEE, NOT TO EXCEED TEN PERCENT OF THE FUNDS IT
3 RECEIVES, IF THE UTILITY CHOOSES TO HAVE THE GOVERNOR'S ENERGY
4 OFFICE ADMINISTER ENERGY EFFICIENCY PROGRAMS ON ITS BEHALF.

5 **40-9.5-405. Reporting on energy efficiency programs.**

6 (1) EACH UTILITY COVERED UNDER THIS PART 4 SHALL TRACK PROGRAM
7 EXPENDITURES AND ENERGY SAVINGS ON AN ANNUAL BASIS.

8 (2) NO LATER THAN APRIL 30 OF EACH YEAR, EACH UTILITY
9 COVERED UNDER THIS PART 4 SHALL SUBMIT A REPORT FOR THE
10 PRECEDING YEAR TO THE GOVERNOR'S ENERGY OFFICE. ANNUAL REPORTS
11 SHALL CONTAIN INFORMATION ON THE ENERGY EFFICIENCY PROGRAMS
12 IMPLEMENTED, PROGRAM EXPENDITURES, PROGRAM EXPENDITURES AS A
13 FRACTION OF RETAIL SALES REVENUE, ENERGY SAVINGS ACHIEVED FROM
14 PROGRAMS IMPLEMENTED IN THE PRECEDING YEAR, ENERGY SAVINGS
15 ACHIEVED IN THE PRECEDING YEAR FROM ALL PROGRAMS IMPLEMENTED
16 SINCE 2009, ENERGY SAVINGS ACHIEVED AS A FRACTION OF 2008 SALES,
17 AND THE TECHNIQUES USED TO ESTIMATE ENERGY SAVINGS.

18 (3) THE GOVERNOR'S ENERGY OFFICE SHALL REVIEW EACH REPORT
19 SUBMITTED PURSUANT TO SUBSECTION (2) OF THIS SECTION AND MAY, IF
20 THE GOVERNOR'S ENERGY OFFICE DEEMS IT APPROPRIATE AND WITHIN THE
21 CAPABILITY OF THEN-EXISTING FULL-TIME EQUIVALENT EMPLOYEES,
22 PROVIDE COMMENTS TO UTILITIES TO HELP THEM IMPROVE THEIR ENERGY
23 EFFICIENCY PROGRAMS.

24 (4) THE GOVERNOR'S ENERGY OFFICE SHALL COMPILE
25 INFORMATION ON ENERGY EFFICIENCY PROGRAMS IMPLEMENTED BY
26 UTILITIES AND PROVIDE REPORTS WITH SUCH INFORMATION TO THE
27 GENERAL ASSEMBLY BY DECEMBER 31, 2013, DECEMBER 31, 2016, AND

1 DECEMBER 31, 2021. EACH REPORT SHALL INCLUDE A LIST OF WHICH
2 UTILITIES ARE IN COMPLIANCE WITH THE ENERGY EFFICIENCY PROGRAM
3 SAVINGS REQUIREMENTS SPECIFIED IN SECTION 40-9.5-404 (1), (2), AND
4 (3), AND WHICH UTILITIES, IF ANY, ARE NOT; INFORMATION ON OVERALL
5 ENERGY EFFICIENCY PROGRAM EXPENDITURES AND ENERGY SAVINGS; AND
6 ANY RECOMMENDATIONS TO THE GENERAL ASSEMBLY FOR LEGISLATIVE
7 CHANGES TO ENHANCE ENERGY EFFICIENCY AND CONSERVATION.

8 **40-9.5-406. Repeal.** SECTIONS 40-9.5-404 AND 40-9.5-405 ARE
9 REPEALED, EFFECTIVE JANUARY 1, 2022.

10 **SECTION 2.** 40-9.5-114.5, Colorado Revised Statutes, is
11 amended to read:

12 **40-9.5-114.5. Applicability.** (1) ~~The provisions of Sections~~
13 ~~40-9.5-108 to 40-9.5-112 shall be applicable~~ APPLY to all cooperative
14 electric associations with membership of more than twenty-five thousand
15 members, whether regulated under this part 1 or the "Public Utilities
16 Law", articles 1 to 7 of this title.

17 (2) PART 4 OF THIS ARTICLE APPLIES TO ALL COOPERATIVE
18 ELECTRIC ASSOCIATIONS THAT, AS OF THE EFFECTIVE DATE OF THIS
19 SUBSECTION (2), PROVIDE RETAIL ELECTRIC SERVICE TO ONE HUNDRED
20 THOUSAND OR MORE METERS, WHETHER REGULATED UNDER THIS PART
21 1 OR THE "PUBLIC UTILITIES LAW", ARTICLES 1 TO 7 OF THIS TITLE.

22 **SECTION 3. Act subject to petition - effective date.** This act
23 shall take effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly that is
25 allowed for submitting a referendum petition pursuant to article V,
26 section 1 (3) of the state constitution, (August 5, 2009, if adjournment
27 sine die is on May 6, 2009); except that, if a referendum petition is filed

1 against this act or an item, section, or part of this act within such period,
2 then the act, item, section, or part, if approved by the people, shall take
3 effect on the date of the official declaration of the vote thereon by
4 proclamation of the governor.