

**The Southwestern Water Conservation District  
West Building, 841 E. 2<sup>nd</sup> Ave.  
Durango, CO 81301**

**NOTICE IS HEREBY GIVEN  
A Special Board Meeting of the  
Southwestern Water Conservation District  
will be held on**

**Thursday, March 11, 2021  
9:00 a.m. – 10:00 a.m.**

**Video: [Click here to join Zoom](#)  
Phone Number: (346) 248 7799  
Meeting ID: 852 4669 2513  
Participant ID: 931249**

Posted and Noticed Tuesday, March 9, 2021

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**Tentative Agenda**

*Please text 970-901-1388 if you have difficulty joining the meeting. Please raise your hand to be recognized by the chair. To raise your hand by phone, dial\*9. To raise your hand by computer, please use Alt+Y (Windows) or Option+Y (Mac). To mute and unmute by phone, dial \*6.*

*Except the time indicated for when the meeting is scheduled to begin, the times noted for each agenda item are estimates and subject to change. The Board may address and act on agenda items in any order to accommodate the needs of the Board and the audience. Agenda items can also be added during the meeting at the consensus of the Board.*

- 1.0 Call to Order - Roll Call and Verification of Quorum (9:00 a.m.)**
- 2.0 Review & Approve the Agenda (9:02 a.m.)**
- 3.0 Questions/Comments from Audience (9:03 a.m.)**
- 4.0 Executive Session (9:05 a.m.)**
  - 4.1 General Manager Hiring Process— Update on General Manager hiring process and continued deliberations regarding the same
- 5.0 Summary and Action Items from Executive Session (9:20 a.m.)**
- 6.0 Old Business (9:25 a.m.)**
  - 6.1 State Legislative Update & Position on Bills
  - 6.2 2021 SWCD Annual Water Seminar
  - 6.3 Office Update: SJRBRIP Water Development Committee, SWCD Personnel Policies and proposed Board Personnel Committee meeting date, WIP Steering Committee meeting coverage, Staff vacation
- 7.0 Adjournment (10:00 a.m.)**

**Upcoming Meetings**

Thursday, March 25, 2021

9:00 a.m.

Special Board Meeting

Thursday, April 1 - Friday, April 2, 2021

Time TBD

Regular Board Meeting

### JANUARY

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### MARCH

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### APRIL

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### JULY

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### AUGUST

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### SEPTEMBER

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### OCTOBER

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31						

### NOVEMBER

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### DECEMBER

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Holiday Closure

Regular Board Meeting

Other Meetings

### REVISED 2-24-21

FRI, JAN 1: NEW YEARS DAY

MON, JAN 18: MLK DAY

TUES, JAN 19: BOARD TELECONFERENCE

WED, FEB 3: BOARD TELECONFERENCE

FEB 10-11: REGULAR BOARD MEETING (GRANTS)

MON, FEB 15: PRESIDENTS DAY

WED, FEB 24: BOARD TELECONFERENCE

THURS, MARCH 11: BOARD TELECONFERENCE

THURS, MARCH 25: BOARD TELECONFERENCE

APRIL 1-2: REGULAR BOARD MEETING

THURS, APRIL 15: BOARD TELECONFERENCE

THURS, APRIL 29: BOARD TELECONFERENCE

WED, MAY 5: CHILDREN'S WATER FESTIVAL

MON, MAY 31: MEMORIAL DAY

JUNE 9-10: REGULAR BOARD MEETING

MON, JULY 5: INDEPENDENCE DAY (OBSERVED)

AUG 11-12: REGULAR BOARD MEETING (TOUR TBD)

MON, SEPT 6: LABOR DAY

WED, SEPT 8: BUDGET WORKSHOP

OCT 13-14: REGULAR BOARD MEETING

NOV 25-26: THANKSGIVING

DEC 8-9: REGULAR BOARD MEETING

DEC 23-24: CHRISTMAS

# SOUTHWESTERN WATER CONSERVATION DISTRICT TRAVEL EXPENSE FORM

Board Member (or Other) Name: \_\_\_\_\_

Date: From: \_\_\_\_\_ through \_\_\_\_\_

Purpose: \_\_\_\_\_

**COST**

Directors fees per diem \_\_\_\_\_ days X \$100 = \_\_\_\_\_

Mileage: \_\_\_\_\_ miles X \$0.56 per mile = \_\_\_\_\_

Air Fare: ..... \_\_\_\_\_

Car Rental: ..... \_\_\_\_\_

Parking: ..... \_\_\_\_\_

Hotel Expenses: ..... \_\_\_\_\_

Total Meals: ..... \_\_\_\_\_

Taxi/Shuttle Fares: ..... \_\_\_\_\_

Tips: ..... \_\_\_\_\_

Miscellaneous: ..... \_\_\_\_\_

Registration/Dues: ..... \_\_\_\_\_

**OTHER (Please describe)**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

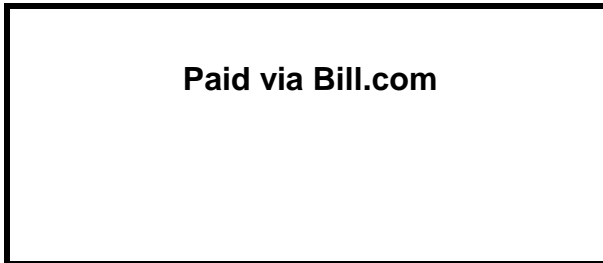
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**TOTAL**

\_\_\_\_\_

Board Member Signature \_\_\_\_\_

*Please attach receipts*





## THE SOUTHWESTERN WATER CONSERVATION DISTRICT

Developing and Conserving the Waters in the  
SAN JUAN AND DOLORES RIVERS AND THEIR TRIBUTARIES  
West Building – 841 East Second Avenue  
DURANGO, COLORADO 81301  
(970) 247-1302

### MEMORANDUM

March 8, 2021

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To: Southwestern Board of Directors

From: Chris Treese

RE: Colorado legislative report

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**\*Remember you moved your bi-weekly meetings to Thursdays starting this week.**

#### **Requested Action:**

There were just a couple of new water bills introduced in the past two weeks. In addition to action on these two bills, I will take advantage of the relatively free agenda to request the Board confirm its position of Monitor on Senate Bill 034, Senator Coram's Water Resources Projects Financing bill with additional information from local drinking water providers. I also request preliminary board input on a concept for a bill expanding Recreation In-Channel Diversions (RICD) that I have been approached with.

#### **SB21-164 Uniform Easement Relocation Act**

Gardner

**SUMMARY:** The bill would enact the "Uniform Easement Relocation Act," drafted by the Uniform Law Commission. The bill sets procedures to relocate most easements. Nearly half of this lengthy bill outlines what must not be done in order to relocate an easement.

**ANALYSIS:** This is a technical bill coming from the Uniform Law Commission. It is intended to codify case law from recent rulings, most notably the St. Jude's case, which was a water-related, access, ownership, water rights, and easement case. Nearly every ditch and canal in Colorado operates under an easement. This bill could significantly increase the cost, or at least the complexity, of ditch and canal ownership. There is significant opposition to this bill quickly forming due to its detailed legal nature and cost implications.

**RECOMMENDED POSITION: Oppose**

**HB21-1105 Low Income Utility Bill Assistance**

Kennedy

Hanson

**SUMMARY:** This 17-section bill has several water-related elements. Section 1 removes the low-income energy assistance program (LEAP) from the “tier 2” severance tax operational fund money, something the water community has advocated for years. Later sections provide for voluntary, opt-in charges that a water utility may offer its customers to help finance a water utility bill payment assistance program. Alternatively, HB 1105 allows a water utility to implement its own water utility bill payment assistance program.

**ANALYSIS:** HB 1105 does good things for the wrong reasons. The bill would remove LEAP funding from the otherwise water-related Tier 2 severance tax fund. It does so, however, because the Tier 2 fund is being eliminated. (It has not received funding for several years.)

Participation in a statewide water utility assistance fund or creation by a water utility of its own payment assistance fund is entirely voluntary.

**RECOMMENDED POSITION: SUPPORT** (water-related sections)

**SB21-034 Water Resource Financing Enterprise Act**

Coram

**SUMMARY:** The Board adopted a position of Monitor two weeks ago, requesting additional input from local drinking water providers who would be responsible for collecting the \$0.25/1000 gallon fee. With Laura’s help, I reached out to nearly a dozen potable water providers of various sizes within SWCD. As of this writing, I have heard from three providers with generally cautionary, but open-minded, concerns. None of the providers’ input prompts me to recommend a change to your current position. I shared your position, as well as the providers’ input, with Senator Coram. I also expressed the board’s appreciation for his leadership on the broader issue of water-related infrastructure financing.

As a reminder, SB 034 would create a new water resources financing enterprise. The board of the new enterprise would be the combined boards of the Colorado Water Resources and Power Development Authority and the Colorado Water Conservation Board. The enterprise would provide financing (including grants and low interest loans) to drinking water suppliers, wastewater treaters, and raw water suppliers. “Raw water suppliers” are limited to those providing raw water for treatment and use as drinking water.

The enterprise would be funded with a \$0.25/1000 gal. fee above 4,000 gal./mo. minimum on drinking water bills. The fee would be collected by drinking water utilities and remitted to the state.

**RECOMMENDED POSITION: MONITOR, Review and confirm**

**Recreational In-Channel Diversions (RICD)**

Several members of the conservation community are exploring amending the Recreational In-Channel Diversions (RICD) statute. This is not yet a bill but based on a webinar presented last month and discussions with advocates, I expect this issue could mature to legislation this year and would appreciate board input to guide any participation I may have to the advisability or development of legislation. Initial drafts include statutory changes allowing existing, natural stream features as qualifying for the physical control structures currently required to both define

the upper and lower terminus of an RICD and to “capture and control” the stream along the recreational course. There is no change proposed for which entities can file for and own an RICD. These currently include municipalities, counties, water and water & sanitation districts, conservancy and conservation districts.

I attended a webinar on this subject sponsored by the conservation community on this subject. They are building a coalition of local and regional economic development efforts to support their proposed expansion of RICDs. They correctly point out that such statutory changes would significantly lower the cost of RICD construction and allow communities to ensure some level of flow protection for river boating activities, which in many locations represents significant economic activity.

My initial reaction is such a bill would effectively allow entities currently eligible to hold RICD water rights to file on and hold de facto In-Stream Flow rights. I’m skeptical of the advisability and scope of such an expansion.

Representatives of the conservation community downplayed the imminence of their proposal today at a Water Congress meeting. Their comments included statements that legislation “is very far off” and that they are currently just in “the initial stakeholder process.” “It is TBD whether (or not) a bill will be introduced this year.”

#### **Legislative Commentary & Updates:**

The Colorado legislature is in full swing. The deadline for bills (non-late bills) to be introduced in either house was March 2. As of this writing, almost 400 bills have been introduced. Of course, late bills are common and have nearly doubled the number of regular deadline bills in past years. The budget bill (“Long Bill”) and other Joint Budget Committee (JBC) bills are exempt from these deadlines. We will, of course, continue to monitor all introduced bills.

In the spirit of full disclosure, I want to bullet the kind of bills that we’ve reviewed but are not bringing to the board for action. The board should provide input if it wishes us to bring any of these bills to the board or desires additional information on any of these subjects.

- Income tax check-offs programs,
- Reauthorization of the Forest Health Advisory Council,
- Wildfire preparedness and mitigation,
- Local government procurement processes (not applicable to SWCD).

We were successful in seeking corrective amendments to [HB21-1008](#), the Healthy Forest Projects Financing bill. Our requested amendment was adopted unanimously by the House Ag. Committee two weeks ago. The bill, as amended, then passed unanimously to the House Finance Committee, to which it was dual assigned. It has now passed both committees and is awaiting action on the House floor.

The Senate Agriculture & Natural Resources Committee last Thursday recommended confirmation of the three 2021 CWCB directors:

- Robert Sakata of Brighton, Colorado, to serve as a representative of the South Platte drainage basin and as a Republican, appointed;
- Curran A. Trick of Cowdrey, Colorado, to serve as a representative of the North Platte drainage basin and as a Republican, reappointed; and
- Steven A. Anderson of Olathe, Colorado, to serve as a representative of the Gunnison/Uncompahgre drainage basin and as a Republican, reappointed.

Full Senate confirmation is expected this week.

### **2021 Legislative Radar**

#### **HB21-1046** Use of Water Rights obtained through a Mutual Ditch Corporation

As discussed, two weeks ago, HB 1046 continues to be the subject of intense, well-attended Water Congress work sessions. The bill addresses legal/technical nuances of the Mutual Ditch Co. statute that have been subject of recent and pending Water Court rulings. Consensus is elusive but progress appears to be being made at the Water Congress working group. Accordingly, Beth and I agree that unless the many attorneys involved in the “stakeholder process” at Water Congress come to consensus, the bill will likely either die or become a directed agenda item for the Interim Water Committee this summer. An update from Wednesday’s work session will be offered at Thursday’s meeting. Whatever emerges from the working group, HB 1046 will certainly be rewritten by amendment (a “strike below”) before consideration next week in the House Agriculture, Livestock and Water Committee.

The Anti-Speculation Work Group arose from Senate Bill 20-048 sponsored by Senators Donovan and Coram and Representatives Roberts and Catlin and signed by Governor Polis on March 11, 2021. SB 20-048 requires the E.D. of DNR to convene a work group to explore ways to strengthen current anti-speculation laws and to report to the Water Resources Review Committee by August 15, 2021 regarding any recommended changes. This group met for the fourth time in February. Consensus among the group seems to be limited to the importance of the problem, the complexity of the issue and the difficulties in implementing any “strengthening recommendations.” Distinguishing between “predatory financial speculation” and “necessary investment” is at the core of the challenge. Given the difficulties, I do not expect any anti-speculation legislation in this session. Staff will continue to monitor the group’s progress. Adam Reeves has offered to address the board at your next regular meeting in April on this subject. Adam is an official member of the work group.

The Water & Power Authority Projects’ authorization bill, HJR21-1002, passed the House Ag. Committee unanimously and breezed through the full House. The Senate Ag. & Natural Resources Committee passed the joint resolution unanimously. It is on to the Senate floor. No opposition is expected.

Last week the 10<sup>th</sup> Circuit Court lifted the stay that was in effect withholding implementation of the Trump Administration’s new Waters of the U.S. (WOTUS) rule. That rule significantly limited the application of the Clean Water Act’s water quality protections. The state now has new incentive to consider legislation authorizing a state program addressing streams no longer “protected” by the federal Clean Water Act. Meetings this week should provide clearer direction of the Colorado Department of Public Health and Environment (CDPHE) regarding pursuit of legislation this year.





# SOUTHWESTERN WATER CONSERVATION DISTRICT

## 2021 State Legislative Update: [March 8, 2021](#)

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Below is a summary of 2021 water-related legislation under consideration by the Colorado General Assembly. These summaries generally apply to the bills as introduced.

Click on the bill number to view the most recent bill language and other information.

The Colorado Water Congress (CWC) State Affairs Committee met on March 1<sup>st</sup> and March 8<sup>th</sup>. **Positions taken on bills are in red text for CWC and green text for SWCD.**

### THE FOLLOWING BILLS HAVE NOT YET BEEN CONSIDERED BY SWCD.

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#### [SB21-164](#)

#### Uniform Easement Relocation Act

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**SWCD Position:** [Discussion](#)  
**CWC Position:** [Discussion](#)  
**Sponsors:** Senate (Gardner)  
**Committee of Reference:** Senate Agriculture & Natural Resources

**Bill Status:** Introduced on March 2<sup>nd</sup> and scheduled for consideration by Senate Agriculture & Natural Resources Committee on March 18<sup>th</sup>.

**Title:** Concerning the "Uniform Easement Relocation Act".

**Summary:** The bill would enact the "Uniform Easement Relocation Act," drafted by the Uniform Law Commission. The bill sets procedures to relocate most easements. Nearly half of this lengthy bill outlines what must not be done in order to relocate an easement.

**Comments:**

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#### [HB21-1105](#)

#### Low-Income Utility Payment Assistance Contributions

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**SWCD Position:** [Discussion](#)  
**CWC Position:** [Discussion](#)  
**Sponsors:** House (Kennedy), Senate (Hansen)  
**Committee of Reference:** House Finance

**Bill Status:** Introduced on February 16th and assigned to House Finance Committee.

**Title:** Concerning utility customers' financial contributions for low-income utility assistance.

**Summary:** This 17-section bill has several water-related elements. Section 1 removes the low-income energy assistance program (LEAP) from the "tier 2" severance tax operational fund money, something the water community has advocated for years. Later sections provide for voluntary, opt-in charges that a water utility may offer its customers to help finance a water utility bill payment assistance program. Alternatively, HB 1105 allows a water utility to implement its own water utility bill payment assistance program.

**Comments:**

**THE FOLLOWING BILLS HAVE ALREADY BEEN CONSIDERED BY SWCD.**

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<b><u>SB21-034</u></b>	<b>Water Resources Financing Enterprise</b>
<b>SWCD Position:</b>	Monitor
<b>CWC Position:</b>	No Position
<b>Sponsors:</b>	Senate (Coram)
<b>Committee of Reference:</b>	Senate Agriculture & Natural Resources
<b>Bill Status:</b>	Introduced on February 16 <sup>th</sup> and scheduled for consideration by the Senate Ag and Natural Resources Committee on March 11 <sup>th</sup> .
<b>Title:</b>	Concerning the creation of an enterprise that is exempt from the requirements of section 20 of article X of the state constitution to administer a fee-based water resources financing program.
<b>Summary:</b>	<p>This bill creates the water resources financing enterprise. The board of the enterprise would consist of the combined boards of the Colorado Water Resources and Power Development Authority and the Colorado Water Conservation Board. The enterprise will provide financing (including grants and low interest loans) to drinking water suppliers, wastewater treaters, and raw water suppliers. "Raw water suppliers" are limited to those providing raw water for treatment and use as drinking water.</p> <p>The enterprise would be funded with a \$0.25/1000 gal. fee above 4,000 gal./mo. minimum on drinking water bills. The fee would be collected by drinking water utilities and remitted to the state. As a fee-based enterprise, new revenues collected would not be included in any TABOR calculations for state budget caps. Fees may be adjusted annually for inflation and to address "certain equity concerns."</p> <p>Although clearly established as an enterprise fund, voters will be asked in November 2022 to authorize the creation of the enterprise.</p>
<b>Comments:</b>	

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<b><u>SB21-054</u></b>	<b>Transfers for Wildfire Mitigation and Response (PASSED)</b>
<b>SWCD Position:</b>	Support
<b>CWC Position:</b>	Support
<b>Sponsors:</b>	Senate (Hansen/Rankin) House (McCluskie)
<b>Committee of Reference:</b>	Senate Appropriations
<b>Bill Status:</b>	Passed and awaiting the governor's consideration.
<b>Title:</b>	Concerning transfers from the general fund to cash funds to be used to address wildland fires, and, in connection therewith, making an appropriation.
<b>Summary:</b>	<p>SB 54 transfers from the General Fund \$13 million to three cash funds for wildfire preparedness and post-fire mitigation.</p> <ul style="list-style-type: none"><li>• Section 1 transfers \$6 million to the forest restoration and wildfire risk mitigation grant program cash fund.</li><li>• Section 2 transfers \$3 million from the general fund to the wildfire preparedness fund. The division of homeland security and emergency management will use these funds as<ul style="list-style-type: none"><li>○ State match for federal hazard mitigation assistance grants to local governments that are used to mitigate wildland fire hazards; and</li></ul></li></ul>

- To provide local governments that are eligible to receive the federal grants with strategic planning assistance for wildland fire hazard mitigation.
- Section 3 transfers \$4 million to CWCB construction for the watershed restoration program.

**Comments:**

**HJR21-1002 Water Projects Eligibility Lists**

**SWCD Position:** Support

**CWC Position:** Support

**Sponsors:** House (Arndt), Senate (Donovan)

**Committee of Reference:** House Agriculture, Livestock & Water

**Bill Status:** Passed out of the House and passed unamended out of Senate Ag, Livestock and Water Committee on March 4<sup>th</sup>. Scheduled for Senate floor work on March 9<sup>th</sup>.

**Title:** Concerning approval of water project revolving fund eligibility lists administered by the Colorado water resources and power development authority.

**Summary:** See bill text for full fund eligibility lists.

**Comments:**

**HB21-1008 Forest Health Project Financing**

**SWCD Position:** Support as amended

**CWC Position:** Support

**Sponsors:** House (Arndt/Catlin), Senate (Cooke/Hansen)

**Committee of Reference:** House Agriculture, Livestock & Water, House Finance

**Bill Status:** Passed as amended out of House Committee on Agriculture, Livestock, & Water and House Finance Committee; scheduled for House Floor Work on March 8<sup>th</sup>.

**Title:** Concerning increased options for financing forest health projects, and, in connection therewith, financing wildfire mitigation treatments.

**Summary:** HB 1008 provides additional options for financing forest health projects by authorizing:

- Creation of special improvement districts by a combination of local governments,
- Special assessments on property specially benefited by the improvement district, including forest health projects,
- Specifically authorizing counties, municipalities, special districts, water conservancy districts, the Colorado River District, and the Southwestern Water Conservation District to participate in and finance forest health projects; and
- A forest improvement district to use sales tax revenue for forest health projects.

The bill also extends the statutory sunset of the Colorado Water Resources Power and Development Authority to issue bonds to fund watershed protection and forest health projects from July 1, 2023, to July 1, 2033.

**Comments:**

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**HB21-1043 Study Underground Water Storage Maximum Beneficial Use**

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**SWCD Position:** Monitor

**CWC Position:** Support

**Sponsors:** House (Holtorf), Senate (Sonnenberg)

**Committee of Reference:** House Agriculture, Livestock & Water

**Bill Status:** Passed as amended out of House Agriculture, Livestock and Water Committee on March 1<sup>st</sup> and scheduled for consideration by House Finance Committee on March 15<sup>th</sup>.

**Title:** Concerning a study of underground water storage to maximize the beneficial use of water within Colorado.

**Summary:** This bill directs the CWCB, in consultation with the state engineer, to sponsor a study of underground water storage for later recovery. The study must identify:

- Specific aquifers that are hydrologically and legally available to be used for underground storage and subsequent beneficial use;
- Sources of revenue that could be used to pay for underground storage projects;
- Planned, potential or existing underground storage projects that meet the objectives identified in the study; and
- Recommend legislative changes needed to implement underground storage projects.

The bill directs the study be submitted to the Water Resources Review Committee by August 1, 2022, including recommended legislation to implement the study's recommendations

**Comments:**

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**HB21-1046 Water Share Right Mutual Ditch Corporation**

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**SWCD Position:** Monitor

**CWC Position:** Consideration postponed until March 15<sup>th</sup>.

**Sponsors:** House (Arndt/Catlin), Senate (Fields/Sonnenberg)

**Committee of Reference:** House Agriculture, Livestock & Water

**Bill Status:** Introduced on February 16<sup>th</sup> and scheduled for House Agriculture, Livestock and Water on March 15<sup>th</sup>.

**Title:** Concerning the use of a water right obtained through a mutual ditch corporation.

**Summary:** For a mutual ditch corporation, the bill creates a presumption, which may be altered by the corporation's articles of incorporation or bylaws, that the shares of stock owned in the corporation represent:

- The right to use the water rights appropriated or purchased by the corporation; and
- Corresponding rights to divert and deliver the stockholder's water rights through a ditch, canal, reservoir, or other works.

The bill also authorizes these water rights be limited to a pro rata amount at times when shareholder demand exceeds available supply.

The bill clarifies that:

- When a shareholder is not using some of or all of the available water under the shareholder's rights, the right to use the water rights does not include the right to prevent other stockholders from using any portion of the corporation's water rights; and
- The statutes covering ditch and reservoir companies do not prevent a stockholder from changing the use of the stockholder's shares or change the standards for water court approval to change a water right.

**Comments:**

Monitoring legislation is integral to keeping a finger on the pulse of dynamic water policy in the state. On behalf of its diverse constituents in southwestern Colorado, the Southwestern Water Conservation District (SWCD) tracks state water legislation closely, specifically through participation in the Colorado Water Congress State Affairs Committee. Beth Van Vurst, SWCD General Counsel, and Chris Treese, lobbyist, participate in the State Affairs Committee meetings weekly during the legislative session and ensure the views and priorities of southwestern Colorado are considered as the State legislature enacts new laws affecting water resources.

SWCD staff provides this written summary of water-related legislation, updated throughout the session via email to interested stakeholders and public. To be added to the list, please contact [lauras@swwcd.org](mailto:lauras@swwcd.org). We hope that you find the updates beneficial and informative.

# Colorado Water Congress 2021 Bill Status Sheet

Bill No.	Short Title	CWC Position	Introduced	1st Committee	2nd Committee	2nd Reading	3rd Reading	Introduced	1st Committee	2nd Reading	3rd Reading	First House Repass	Conference Committee	Governor
HB21-1008	Forest Health Project Financing	8-Mar	16-Feb	22-Feb Ag	04-Mar F									
HB21-1043	Study Underground Water Storage Maximum Beneficial Use	1-Mar	16-Feb	01-Mar Ag	15-Mar F									
HB21-1046	Water Share Right Mutual Ditch Corporation		16-Feb	Ag										
HB21-1105	Low-income Utility Payment Assistance Contributions		16-Feb	F										
HB21-1168	Historically Underutilized Businesses Local Government Procurement		4-Mar											
SB21-028	Promulgation of Public Health Rules and Orders	1-Mar	16-Feb	02-Mar SVMA										
SB21-034	Water Resource Financing Enterprise		16-Feb	11-mar Ag										
SB21-054	Transfers for Wildfire Mitigation and Response	1-Mar	16-Feb	2/23 Ap		25-Feb	26-Feb	26-Feb	02-Mar Ap	4-Mar	5-Mar			
SB21-113	Firefighting Aircraft Wildfire Mgmt and Response		19-Feb	2/23 Ap		25-Feb	26-Feb	26-Feb	02-Mar Ap	4-Mar	5-Mar			

Bill No.	Short Title	CWC Position	Introduced	1st Committee	2nd Committee	2nd Reading	3rd Reading	Introduced	1st Committee	2nd Reading	3rd Reading	First House Repass	Conference Committee	Governor
SB21-136	Sunset Forest Health Advisory Council		1-Mar	Ag										
SB21-145	Extending Expiring Tax Check-offs		1-Mar	F										
SB21-164	Uniform Easement Relocation Act		2-Mar	Ag										
SB21-170	Wildland Fire Mitigation Cooperative Electric Association		2-Mar	T&E										
HJR21-1002	Water Projects Eligibility Lists	16-Feb	15-Jan	2/18 Ag			24-Feb	23-Feb	04-Mar Ag					

BILL STATUS	ABBREVIATIONS
Bill scheduled for action at next SA meeting (yellow)	RA = Rural Affairs Committee
Bill not calendared (no fill)	Ap = Appropriations Committee

Bill Passed, date of action (green)	BLEW = Business, Labor, Economic and Workforce Development Committee
Bill no longer active (gray)	CC = Conference Committee
Bill did not go to second committee or no action required (black)	F = Finance Committee
<b><u>CWC POSITION</u></b>	HIE= Health, Insurance, and Environment
Bill scheduled for activity in CWC State Affairs (yellow)	J = Judiciary
Support (green)	LG = Local Government Committee
Oppose (orange)	SVMA = State, Veterans, and Military Affairs Committee
Amend (blue)	TE = Transportation and Energy Committee
Monitor, Neutral, No Position	UA = Upon Adjournment
No Motions Made	UR = Upon Recess
	Ag = Agriculture and Natural Resources Committee
	EE = Energy & Environment
	CD = Capital Development



First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0194.01 Jery Payne x2157

SENATE BILL 21-164

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SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

(None),

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Senate Committees

Agriculture & Natural Resources

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE "UNIFORM EASEMENT RELOCATION ACT".

Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Colorado Commission on Uniform State Laws.** The bill enacts the "Uniform Easement Relocation Act", drafted by the Uniform Law Commission. The bill sets procedures to relocate an easement established by express grant, reservation, prescription, implication, necessity, estoppel, or other method, but the procedures may not be used to relocate a public utility easement, conservation easement, or negative easement.

To relocate an easement, the relocation must not:

- Encroach on an area of an estate burdened by a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

conservation easement or interfere with the use or enjoyment of a public utility easement or an easement appurtenant to a conservation easement;

- Lessen the utility of the easement;
- After the relocation, increase the burden in the reasonable use and enjoyment of the easement;
- Impair the purpose for which the easement was created;
- During or after the relocation, impair the safety of the use and enjoyment of the easement;
- During the relocation, disrupt the use and enjoyment of the easement, unless the servient estate owner substantially mitigates the duration and nature of the disruption;
- Impair the physical condition, use, or value of or improvements on the dominant estate; or
- Impair the value of the collateral of a security-interest holder in the servient estate or dominant estate, impair a real property interest of a lessee in the dominant estate, or impair a real property interest of any other person in the servient estate or dominant estate.

To obtain an order to relocate an easement, a servient estate owner must commence a civil action and serve a summons and petition on:

- The easement holder;
- A security-interest holder in the servient estate or dominant estate;
- A lessee of the dominant estate; and
- Any other owner of a real property interest if the relocation would encroach on an area of the servient estate or dominant estate burdened by the interest.

Service of a summons and petition is not required for the owner of real property interest in oil, gas, or minerals unless the interest includes an easement to facilitate oil, gas, or mineral development.

The petition must state:

- The intent of the servient estate owner to seek the relocation;
- The nature, extent, and anticipated dates of commencement and completion of the relocation;
- The current and proposed locations of the easement;
- The reason the easement is eligible for relocation under the bill;
- The reason the proposed relocation satisfies the conditions for relocation under the bill; and
- That the servient estate owner has made a reasonable attempt to notify the holders of any public utility easement, conservation easement, or negative easement on the servient estate or dominant estate of the proposed

relocation.

At any time before the court renders a final order in the action, a person who was served may file a document to waive its rights to contest or obtain relief in connection with the relocation or subordinate its interests to the relocation. On filing of the document, the court may order that the person need not answer or participate further in the action.

A court order approving relocation of an easement must:

- State that the order is issued in accordance with the bill;
- Identify the immediately preceding location of the easement;
- Describe the new location of the easement;
- Describe the mitigation required during relocation;
- Refer in detail to the plans and specifications of improvements necessary for the easement holder to enter, use, and enjoy the easement in the new location;
- Specify conditions to be satisfied to relocate the easement and construct improvements necessary for the easement holder to enter, use, and enjoy the easement in the new location;
- Include a provision for payment of expenses required by the bill;
- Include a provision requiring the parties to the civil action to act in good faith; and
- Instruct the servient estate owner to record an affidavit, if required by the bill, when the servient estate owner substantially completes relocation.

Before a servient estate owner proceeds with relocation of an easement, the owner must record, in the appropriate land records, a certified copy of the order.

The servient estate owner is responsible for reasonable expenses of relocation of an easement.

Each party to the civil action is obligated to act in good faith.

If an order requires building an improvement to relocate an easement, relocation is substantially complete, and the easement holder is able to use the moved easement, the servient estate owner is required to:

- Record, in the appropriate land records, an affidavit certifying that the easement has been relocated; and
- Send, by certified mail, a copy of the recorded affidavit to the easement holder and parties to the civil action.

Until the affidavit is recorded and sent to the parties, the easement holder may use the easement in the current location, subject to any court's order approving relocation. If a court order does not require building an improvement, recording of the order constitutes relocation.

The bill clarifies that relocation of an easement:

- Is not a new transfer or a new grant of a property interest;
- Is not a breach of a security instrument, except as otherwise determined by a court;
- Is not a breach of a lease, except as otherwise determined by a court;
- Is not a breach by the servient estate owner of a recorded document affected by the relocation, except as otherwise determined by a court;
- Does not affect the priority of the easement with respect to other recorded real property interests burdening the area of the servient estate; and
- Is not a fraudulent conveyance or voidable transaction under law.

A servient estate owner may not waive the right to relocate an easement. The bill should be interpreted in such a way as to promote uniformity among the states. The bill supersedes the federal "Electronic Signatures in Global and National Commerce Act" except for consumer disclosures. The changes apply to easements created before, on, or after the bill takes effect.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 30.3 to  
 3 title 38 as follows:

4 **ARTICLE 30.3**

5 **Uniform Easement Relocation Act**

6 **38-30.3-101. Short title.** THIS ARTICLE 30.3 MAY BE CITED AS THE  
 7 "UNIFORM EASEMENT RELOCATION ACT".

8 **38-30.3-102. Definitions.** IN THIS ARTICLE 30.3:

9 (1) "APPURTENANT EASEMENT" MEANS AN EASEMENT TIED TO OR  
 10 DEPENDENT ON OWNERSHIP OR OCCUPANCY OF A UNIT OR A PARCEL OF  
 11 REAL PROPERTY.

12 (2) "CONSERVATION EASEMENT" MEANS A NONPOSSESSORY  
 13 PROPERTY INTEREST CREATED FOR ONE OR MORE OF THE FOLLOWING  
 14 CONSERVATION PURPOSES:

1 (a) RETAINING OR PROTECTING THE NATURAL, SCENIC, WILDLIFE,  
2 WILDLIFE HABITAT, BIOLOGICAL, ECOLOGICAL, OR OPEN SPACE VALUES OF  
3 REAL PROPERTY;

4 (b) ENSURING THE AVAILABILITY OF REAL PROPERTY FOR  
5 AGRICULTURAL, FOREST, OUTDOOR RECREATIONAL, OR OPEN SPACE USES;

6 (c) PROTECTING NATURAL RESOURCES, INCLUDING WETLANDS,  
7 GRASSLANDS, AND RIPARIAN AREAS;

8 (d) MAINTAINING OR ENHANCING AIR OR WATER QUALITY;

9 (e) PRESERVING THE HISTORICAL, ARCHITECTURAL,  
10 ARCHAEOLOGICAL, PALEONTOLOGICAL, OR CULTURAL ASPECTS OF REAL  
11 PROPERTY; OR

12 (f) ANY OTHER PURPOSE UNDER ARTICLE 30.5 OF THIS TITLE 38.

13 (3) "DOMINANT ESTATE" MEANS AN ESTATE OR INTEREST IN REAL  
14 PROPERTY BENEFITED BY AN APPURTENANT EASEMENT.

15 (4) "EASEMENT" MEANS A NONPOSSESSORY PROPERTY INTEREST  
16 THAT:

17 (a) PROVIDES A RIGHT TO ENTER, USE, OR ENJOY REAL PROPERTY  
18 OWNED BY OR IN THE POSSESSION OF ANOTHER; AND

19 (b) IMPOSES ON THE OWNER OR POSSESSOR A DUTY NOT TO  
20 INTERFERE WITH THE ENTRY, USE, OR ENJOYMENT PERMITTED BY THE  
21 INSTRUMENT CREATING THE EASEMENT OR, IN THE CASE OF AN EASEMENT  
22 NOT ESTABLISHED BY EXPRESS GRANT OR RESERVATION, THE ENTRY, USE,  
23 OR ENJOYMENT AUTHORIZED BY LAW.

24 (5) "EASEMENT HOLDER" MEANS:

25 (a) IN THE CASE OF AN APPURTENANT EASEMENT, THE DOMINANT  
26 ESTATE OWNER; OR

27 (b) IN THE CASE OF AN EASEMENT IN GROSS, PUBLIC UTILITY

1 EASEMENT, CONSERVATION EASEMENT, OR NEGATIVE EASEMENT, THE  
2 GRANTEE OF THE EASEMENT OR A SUCCESSOR.

3 (6) "EASEMENT IN GROSS" MEANS AN EASEMENT NOT TIED TO OR  
4 DEPENDENT ON OWNERSHIP OR OCCUPANCY OF A UNIT OR A PARCEL OF  
5 REAL PROPERTY.

6 (7) "LESSEE OF RECORD" MEANS A PERSON HOLDING A LESSEE'S  
7 INTEREST UNDER A RECORDED LEASE OR MEMORANDUM OF LEASE.

8 (8) "NEGATIVE EASEMENT" MEANS A NONPOSSESSORY PROPERTY  
9 INTEREST WHOSE PRIMARY PURPOSE IS TO IMPOSE ON A SERVIENT ESTATE  
10 OWNER A DUTY NOT TO ENGAGE IN A SPECIFIED USE OF THE ESTATE.

11 (9) "PERSON" MEANS AN INDIVIDUAL, ESTATE, BUSINESS OR  
12 NONPROFIT ENTITY, PUBLIC CORPORATION, GOVERNMENT OR  
13 GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR OTHER  
14 LEGAL ENTITY.

15 (10) "PUBLIC UTILITY EASEMENT" MEANS A NONPOSSESSORY  
16 PROPERTY INTEREST IN WHICH THE EASEMENT HOLDER IS A PUBLICLY  
17 REGULATED OR PUBLICLY OWNED UTILITY UNDER FEDERAL LAW OR LAW  
18 OF THIS STATE OR A MUNICIPALITY. THE TERM INCLUDES AN EASEMENT  
19 BENEFITING AN INTRASTATE UTILITY, AN INTERSTATE UTILITY, OR A  
20 UTILITY COOPERATIVE.

21 (11) "REAL PROPERTY" MEANS AN ESTATE OR INTEREST IN, OVER,  
22 OR UNDER LAND, INCLUDING STRUCTURES, FIXTURES, AND OTHER THINGS  
23 THAT BY CUSTOM, USAGE, OR LAW PASS WITH A CONVEYANCE OF LAND  
24 WHETHER OR NOT DESCRIBED OR MENTIONED IN THE CONTRACT OF SALE  
25 OR INSTRUMENT OF CONVEYANCE. THE TERM INCLUDES THE INTEREST OF  
26 A LESSOR AND LESSEE AND, UNLESS THE INTEREST IS PERSONAL PROPERTY  
27 UNDER LAW OF THIS STATE OTHER THAN THIS ARTICLE 30.3, AN INTEREST

1 IN A COMMON INTEREST COMMUNITY.

2 (12) "RECORD", USED AS A NOUN, MEANS INFORMATION THAT IS  
3 INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC  
4 OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

5 (13) "SECURITY INSTRUMENT" MEANS A MORTGAGE, DEED OF  
6 TRUST, SECURITY DEED, CONTRACT FOR DEED, LEASE, OR OTHER RECORD  
7 THAT CREATES OR PROVIDES FOR AN INTEREST IN REAL PROPERTY TO  
8 SECURE PAYMENT OR PERFORMANCE OF AN OBLIGATION, WHETHER BY  
9 ACQUISITION OR RETENTION OF A LIEN, A LESSOR'S INTEREST UNDER A  
10 LEASE, OR TITLE TO THE REAL PROPERTY. THE TERM INCLUDES:

11 (a) A SECURITY INSTRUMENT THAT ALSO CREATES OR PROVIDES  
12 FOR A SECURITY INTEREST IN PERSONAL PROPERTY;

13 (b) A MODIFICATION OR AMENDMENT OF A SECURITY INSTRUMENT;  
14 AND

15 (c) A RECORD CREATING A LIEN ON REAL PROPERTY TO SECURE AN  
16 OBLIGATION UNDER A COVENANT RUNNING WITH THE REAL PROPERTY OR  
17 OWED BY A UNIT OWNER TO A COMMON INTEREST COMMUNITY  
18 ASSOCIATION.

19 (14) "SECURITY-INTEREST HOLDER OF RECORD" MEANS A PERSON  
20 HOLDING AN INTEREST IN REAL PROPERTY CREATED BY A RECORDED  
21 SECURITY INSTRUMENT.

22 (15) "SERVIENT ESTATE" MEANS AN ESTATE OR INTEREST IN REAL  
23 PROPERTY THAT IS BURDENED BY AN EASEMENT.

24 (16) "TITLE EVIDENCE" MEANS A TITLE INSURANCE POLICY,  
25 PRELIMINARY TITLE REPORT OR BINDER, TITLE INSURANCE COMMITMENT,  
26 ABSTRACT OF TITLE, ATTORNEY'S OPINION OF TITLE BASED ON  
27 EXAMINATION OF PUBLIC RECORDS OR AN ABSTRACT OF TITLE, OR ANY

1 OTHER MEANS OF REPORTING THE STATE OF TITLE TO REAL PROPERTY  
2 THAT IS CUSTOMARY IN THE LOCALITY.

3 (17) "UNIT" MEANS A PHYSICAL PORTION OF A COMMON INTEREST  
4 COMMUNITY DESIGNATED FOR SEPARATE OWNERSHIP OR OCCUPANCY WITH  
5 BOUNDARIES DESCRIBED IN A DECLARATION ESTABLISHING THE COMMON  
6 INTEREST COMMUNITY.

7 (18) "UTILITY COOPERATIVE" MEANS A NONPROFIT ENTITY WHOSE  
8 PURPOSE IS TO DELIVER A UTILITY SERVICE, SUCH AS ELECTRICITY, OIL,  
9 NATURAL GAS, WATER, SANITARY SEWER, STORM WATER, OR  
10 TELECOMMUNICATIONS, TO ITS CUSTOMERS OR MEMBERS AND INCLUDES  
11 AN ELECTRIC COOPERATIVE, RURAL ELECTRIC COOPERATIVE, RURAL  
12 WATER DISTRICT, AND RURAL WATER ASSOCIATION.

13 **38-30.3-103. Scope - exclusions.** (1) EXCEPT AS OTHERWISE  
14 PROVIDED IN SUBSECTION (2) OF THIS SECTION, THIS ARTICLE 30.3 APPLIES  
15 TO AN EASEMENT ESTABLISHED BY EXPRESS GRANT OR RESERVATION OR  
16 BY PRESCRIPTION, IMPLICATION, NECESSITY, ESTOPPEL, OR OTHER  
17 METHOD.

18 (2) THIS ARTICLE 30.3 MAY NOT BE USED TO RELOCATE:

19 (a) A PUBLIC UTILITY EASEMENT, CONSERVATION EASEMENT, OR  
20 NEGATIVE EASEMENT; OR

21 (b) AN EASEMENT IF THE PROPOSED LOCATION WOULD ENCROACH  
22 ON AN AREA OF AN ESTATE BURDENED BY A CONSERVATION EASEMENT OR  
23 WOULD INTERFERE WITH THE USE OR ENJOYMENT OF A PUBLIC UTILITY  
24 EASEMENT OR AN EASEMENT APPURTENANT TO A CONSERVATION  
25 EASEMENT.

26 (3) THIS ARTICLE 30.3 DOES NOT APPLY TO RELOCATION OF AN  
27 EASEMENT BY CONSENT.



1           **38-30.3-104. Right of servient estate owner to relocate**

2           **easement.** (1) A SERVIENT ESTATE OWNER MAY RELOCATE AN EASEMENT  
3 UNDER THIS ARTICLE 30.3 ONLY IF THE RELOCATION DOES NOT  
4 MATERIALLY:

5           (a) LESSEN THE UTILITY OF THE EASEMENT;

6           (b) AFTER THE RELOCATION, INCREASE THE BURDEN ON THE  
7 EASEMENT HOLDER IN ITS REASONABLE USE AND ENJOYMENT OF THE  
8 EASEMENT;

9           (c) IMPAIR AN AFFIRMATIVE, EASEMENT-RELATED PURPOSE FOR  
10 WHICH THE EASEMENT WAS CREATED;

11           (d) DURING OR AFTER THE RELOCATION, IMPAIR THE SAFETY OF  
12 THE EASEMENT HOLDER OR ANOTHER ENTITLED TO USE AND ENJOY THE  
13 EASEMENT;

14           (e) DURING THE RELOCATION, DISRUPT THE USE AND ENJOYMENT  
15 OF THE EASEMENT BY THE EASEMENT HOLDER OR ANOTHER ENTITLED TO  
16 USE AND ENJOY THE EASEMENT, UNLESS THE SERVIENT ESTATE OWNER  
17 SUBSTANTIALLY MITIGATES THE DURATION AND NATURE OF THE  
18 DISRUPTION;

19           (f) IMPAIR THE PHYSICAL CONDITION, USE, OR VALUE OF THE  
20 DOMINANT ESTATE OR IMPROVEMENTS ON THE DOMINANT ESTATE; OR

21           (g) IMPAIR THE VALUE OF THE COLLATERAL OF A  
22 SECURITY-INTEREST HOLDER OF RECORD IN THE SERVIENT ESTATE OR  
23 DOMINANT ESTATE, IMPAIR A REAL PROPERTY INTEREST OF A LESSEE OF  
24 RECORD IN THE DOMINANT ESTATE, OR IMPAIR A RECORDED REAL  
25 PROPERTY INTEREST OF ANY OTHER PERSON IN THE SERVIENT ESTATE OR  
26 DOMINANT ESTATE.

27           **38-30.3-105. Commencement of civil action.** (1) TO OBTAIN AN

1 ORDER TO RELOCATE AN EASEMENT UNDER THIS ARTICLE 30.3, A SERVIENT  
2 ESTATE OWNER MUST COMMENCE A CIVIL ACTION.

3 (2) A SERVIENT ESTATE OWNER THAT COMMENCES A CIVIL ACTION  
4 UNDER SUBSECTION (1) OF THIS SECTION:

5 (a) SHALL SERVE A SUMMONS AND PETITION ON:

6 (I) THE EASEMENT HOLDER WHOSE EASEMENT IS THE SUBJECT OF  
7 THE RELOCATION;

8 (II) A SECURITY-INTEREST HOLDER OF RECORD OF AN INTEREST IN  
9 THE SERVIENT ESTATE OR DOMINANT ESTATE;

10 (III) A LESSEE OF RECORD OF AN INTEREST IN THE DOMINANT  
11 ESTATE; AND

12 (IV) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2)(b) OF  
13 THIS SECTION, ANY OTHER OWNER OF A RECORDED REAL PROPERTY  
14 INTEREST IF THE RELOCATION WOULD ENCROACH ON AN AREA OF THE  
15 SERVIENT ESTATE OR DOMINANT ESTATE BURDENED BY THE INTEREST;  
16 AND

17 (b) IS NOT REQUIRED TO SERVE A SUMMONS AND PETITION ON THE  
18 OWNER OF A RECORDED REAL PROPERTY INTEREST IN OIL, GAS, OR  
19 MINERALS UNLESS THE INTEREST INCLUDES AN EASEMENT TO FACILITATE  
20 OIL, GAS, OR MINERAL DEVELOPMENT.

21 (3) A PETITION UNDER THIS SECTION MUST STATE:

22 (a) THE INTENT OF THE SERVIENT ESTATE OWNER TO SEEK THE  
23 RELOCATION;

24 (b) THE NATURE, EXTENT, AND ANTICIPATED DATES OF  
25 COMMENCEMENT AND COMPLETION OF THE PROPOSED RELOCATION;

26 (c) THE CURRENT AND PROPOSED LOCATIONS OF THE EASEMENT;

27 (d) THE REASON THE EASEMENT IS ELIGIBLE FOR RELOCATION

1 UNDER SECTION 38-30.3-103;

2 (e) THE REASON THE PROPOSED RELOCATION SATISFIES THE  
3 CONDITIONS FOR RELOCATION UNDER SECTION 38-30.3-104; AND

4 (f) THAT THE SERVIENT ESTATE OWNER HAS MADE A REASONABLE  
5 ATTEMPT TO NOTIFY THE HOLDERS OF ANY PUBLIC UTILITY EASEMENT,  
6 CONSERVATION EASEMENT, OR NEGATIVE EASEMENT ON THE SERVIENT  
7 ESTATE OR DOMINANT ESTATE OF THE PROPOSED RELOCATION.

8 (4) AT ANY TIME BEFORE THE COURT RENDERS A FINAL ORDER IN  
9 AN ACTION UNDER SUBSECTION (1) OF THIS SECTION, A PERSON SERVED  
10 UNDER SUBSECTION (2)(a)(II), (2)(a)(III), OR (2)(a)(IV) OF THIS SECTION  
11 MAY FILE A DOCUMENT, IN RECORDABLE FORM, THAT WAIVES ITS RIGHTS  
12 TO CONTEST OR OBTAIN RELIEF IN CONNECTION WITH THE RELOCATION OR  
13 SUBORDINATES ITS INTERESTS TO THE RELOCATION. ON FILING OF THE  
14 DOCUMENT, THE COURT MAY ORDER THAT THE PERSON IS NOT REQUIRED  
15 TO ANSWER OR PARTICIPATE FURTHER IN THE ACTION.

16 **38-30.3-106. Required findings - order.** (1) THE COURT MAY  
17 NOT APPROVE RELOCATION OF AN EASEMENT UNDER THIS ARTICLE 30.3  
18 UNLESS THE SERVIENT ESTATE OWNER:

19 (a) ESTABLISHES THAT THE EASEMENT IS ELIGIBLE FOR  
20 RELOCATION UNDER SECTION 38-30.3-103; AND

21 (b) SATISFIES THE CONDITIONS FOR RELOCATION UNDER SECTION  
22 38-30.3-104.

23 (2) AN ORDER UNDER THIS ARTICLE 30.3 APPROVING RELOCATION  
24 OF AN EASEMENT MUST:

25 (a) STATE THAT THE ORDER IS ISSUED IN ACCORDANCE WITH THIS  
26 ARTICLE 30.3;

27 (b) IDENTIFY THE IMMEDIATELY PRECEDING LOCATION OF THE

1 EASEMENT;

2 (c) DESCRIBE IN A LEGALLY SUFFICIENT MANNER THE NEW  
3 LOCATION OF THE EASEMENT;

4 (d) DESCRIBE MITIGATION REQUIRED OF THE SERVIENT ESTATE  
5 OWNER DURING RELOCATION;

6 (e) REFER IN DETAIL TO THE PLANS AND SPECIFICATIONS OF  
7 IMPROVEMENTS NECESSARY FOR THE EASEMENT HOLDER TO ENTER, USE,  
8 AND ENJOY THE EASEMENT IN THE NEW LOCATION;

9 (f) SPECIFY CONDITIONS TO BE SATISFIED BY THE SERVIENT ESTATE  
10 OWNER TO RELOCATE THE EASEMENT AND CONSTRUCT IMPROVEMENTS  
11 NECESSARY FOR THE EASEMENT HOLDER TO ENTER, USE, AND ENJOY THE  
12 EASEMENT IN THE NEW LOCATION;

13 (g) INCLUDE A PROVISION FOR PAYMENT BY THE SERVIENT ESTATE  
14 OWNER OF EXPENSES UNDER SECTION 38-30.3-107;

15 (h) INCLUDE A PROVISION FOR COMPLIANCE BY THE PARTIES WITH  
16 THE OBLIGATION OF GOOD FAITH UNDER SECTION 38-30.3-108; AND

17 (i) INSTRUCT THE SERVIENT ESTATE OWNER TO RECORD AN  
18 AFFIDAVIT, IF REQUIRED UNDER SECTION 38-30.3-109 (1), WHEN THE  
19 SERVIENT ESTATE OWNER SUBSTANTIALLY COMPLETES RELOCATION.

20 (3) AN ORDER UNDER SUBSECTION (2) OF THIS SECTION MAY  
21 INCLUDE ANY OTHER PROVISION CONSISTENT WITH THIS ARTICLE 30.3 FOR  
22 THE FAIR AND EQUITABLE RELOCATION OF THE EASEMENT.

23 (4) BEFORE A SERVIENT ESTATE OWNER PROCEEDS WITH  
24 RELOCATION OF AN EASEMENT UNDER THIS ARTICLE 30.3, THE OWNER  
25 MUST RECORD, IN THE LAND RECORDS OF EACH JURISDICTION WHERE THE  
26 SERVIENT ESTATE IS LOCATED, A CERTIFIED COPY OF THE ORDER UNDER  
27 SUBSECTION (2) OF THIS SECTION.

1           **38-30.3-107. Expenses of relocation.** (1) A SERVIENT ESTATE  
2 OWNER IS RESPONSIBLE FOR REASONABLE EXPENSES OF RELOCATION OF AN  
3 EASEMENT UNDER THIS ARTICLE 30.3, INCLUDING THE EXPENSE OF:

4           (a) CONSTRUCTING IMPROVEMENTS ON THE SERVIENT ESTATE OR  
5 DOMINANT ESTATE IN ACCORDANCE WITH AN ORDER UNDER SECTION  
6 38-30.3-106;

7           (b) DURING THE RELOCATION, MITIGATING DISRUPTION IN THE USE  
8 AND ENJOYMENT OF THE EASEMENT BY THE EASEMENT HOLDER OR  
9 ANOTHER PERSON ENTITLED TO USE AND ENJOY THE EASEMENT;

10          (c) OBTAINING A GOVERNMENTAL APPROVAL OR PERMIT TO  
11 RELOCATE THE EASEMENT AND CONSTRUCT NECESSARY IMPROVEMENTS;

12          (d) PREPARING AND RECORDING THE CERTIFIED COPY REQUIRED BY  
13 SECTION 38-30.3-106 (4) AND ANY OTHER DOCUMENT REQUIRED TO BE  
14 RECORDED;

15          (e) ANY TITLE WORK REQUIRED TO COMPLETE THE RELOCATION OR  
16 REQUIRED BY A PARTY TO THE CIVIL ACTION AS A RESULT OF THE  
17 RELOCATION;

18          (f) APPLICABLE PREMIUMS FOR TITLE INSURANCE RELATED TO THE  
19 RELOCATION;

20          (g) ANY EXPERT NECESSARY TO REVIEW PLANS AND  
21 SPECIFICATIONS FOR AN IMPROVEMENT TO BE CONSTRUCTED IN THE  
22 RELOCATED EASEMENT OR ON THE DOMINANT ESTATE AND TO CONFIRM  
23 COMPLIANCE WITH THE PLANS AND SPECIFICATIONS REFERRED TO IN THE  
24 ORDER UNDER SECTION 38-30.3-106 (2)(e);

25          (h) PAYMENT OF ANY MAINTENANCE COST ASSOCIATED WITH THE  
26 RELOCATED EASEMENT THAT IS GREATER THAN THE MAINTENANCE COST  
27 ASSOCIATED WITH THE EASEMENT BEFORE RELOCATION; AND

1 (i) OBTAINING ANY THIRD-PARTY CONSENT REQUIRED TO  
2 RELOCATE THE EASEMENT.

3 **38-30.3-108. Duty to act in good faith.** AFTER THE COURT,  
4 UNDER SECTION 38-30.3-106, APPROVES RELOCATION OF AN EASEMENT  
5 AND THE SERVIENT ESTATE OWNER COMMENCES THE RELOCATION, THE  
6 SERVIENT ESTATE OWNER, THE EASEMENT HOLDER, AND OTHER PARTIES  
7 IN THE CIVIL ACTION SHALL ACT IN GOOD FAITH TO FACILITATE THE  
8 RELOCATION IN COMPLIANCE WITH THIS ARTICLE 30.3.

9 **38-30.3-109. Relocation affidavit.** (1) IF AN ORDER UNDER  
10 SECTION 38-30.3-106 REQUIRES THE CONSTRUCTION OF AN IMPROVEMENT  
11 AS A CONDITION FOR RELOCATION OF AN EASEMENT, RELOCATION IS  
12 SUBSTANTIALLY COMPLETE, AND THE EASEMENT HOLDER IS ABLE TO  
13 ENTER, USE, AND ENJOY THE EASEMENT IN THE NEW LOCATION, THE  
14 SERVIENT ESTATE OWNER SHALL:

15 (a) RECORD, IN THE LAND RECORDS OF EACH JURISDICTION WHERE  
16 THE SERVIENT ESTATE IS LOCATED, AN AFFIDAVIT CERTIFYING THAT THE  
17 EASEMENT HAS BEEN RELOCATED; AND

18 (b) SEND, BY CERTIFIED MAIL, A COPY OF THE RECORDED  
19 AFFIDAVIT TO THE EASEMENT HOLDER AND PARTIES TO THE CIVIL ACTION.

20 (2) UNTIL AN AFFIDAVIT UNDER SUBSECTION (1) OF THIS SECTION  
21 IS RECORDED AND SENT, THE EASEMENT HOLDER MAY ENTER, USE, AND  
22 ENJOY THE EASEMENT IN THE CURRENT LOCATION, SUBJECT TO THE  
23 COURT'S ORDER UNDER SECTION 38-30.3-106 APPROVING RELOCATION.

24 (3) IF AN ORDER UNDER SECTION 38-30.3-106 DOES NOT REQUIRE  
25 AN IMPROVEMENT TO BE CONSTRUCTED AS A CONDITION OF THE  
26 RELOCATION, RECORDING THE ORDER UNDER SECTION 38-30.3-106 (4)  
27 CONSTITUTES RELOCATION.

1           **38-30.3-110. Limited effect of relocation.** (1) RELOCATION OF  
2 AN EASEMENT UNDER THIS ARTICLE 30.3:

3           (a) IS NOT A NEW TRANSFER OR A NEW GRANT OF AN INTEREST IN  
4 THE SERVIENT ESTATE OR THE DOMINANT ESTATE;

5           (b) IS NOT A BREACH OR DEFAULT OF, AND DOES NOT TRIGGER, A  
6 DUE-ON-SALE CLAUSE OR OTHER TRANSFER-RESTRICTION CLAUSE UNDER  
7 A SECURITY INSTRUMENT, EXCEPT AS OTHERWISE DETERMINED BY A  
8 COURT UNDER LAW OTHER THAN THIS ARTICLE 30.3;

9           (c) IS NOT A BREACH OR DEFAULT OF A LEASE, EXCEPT AS  
10 OTHERWISE DETERMINED BY A COURT UNDER LAW OTHER THAN THIS  
11 ARTICLE 30.3;

12           (d) IS NOT A BREACH OR DEFAULT BY THE SERVIENT ESTATE  
13 OWNER OF A RECORDED DOCUMENT AFFECTED BY THE RELOCATION,  
14 EXCEPT AS OTHERWISE DETERMINED BY A COURT UNDER LAW OTHER THAN  
15 THIS ARTICLE 30.3;

16           (e) DOES NOT AFFECT THE PRIORITY OF THE EASEMENT WITH  
17 RESPECT TO OTHER RECORDED REAL PROPERTY INTERESTS BURDENING THE  
18 AREA OF THE SERVIENT ESTATE WHERE THE EASEMENT WAS LOCATED  
19 BEFORE THE RELOCATION; AND

20           (f) IS NOT A FRAUDULENT CONVEYANCE OR VOIDABLE  
21 TRANSACTION UNDER LAW.

22           (2) THIS ARTICLE 30.3 DOES NOT AFFECT ANY OTHER METHOD OF  
23 RELOCATING AN EASEMENT PERMITTED UNDER LAW OF THIS STATE OTHER  
24 THAN THIS ARTICLE 30.3.

25           **38-30.3-111. Nonwaiver.** (1) THE RIGHT OF A SERVIENT ESTATE  
26 OWNER TO RELOCATE AN EASEMENT UNDER THIS ARTICLE 30.3 MAY NOT  
27 BE WAIVED, EXCLUDED, OR RESTRICTED BY AGREEMENT EVEN IF:

1 (a) THE INSTRUMENT CREATING THE EASEMENT PROHIBITS  
2 RELOCATION OR CONTAINS A WAIVER, EXCLUSION, OR RESTRICTION OF  
3 THIS ARTICLE 30.3;

4 (b) THE INSTRUMENT CREATING THE EASEMENT REQUIRES  
5 CONSENT OF THE EASEMENT HOLDER TO AMEND THE TERMS OF THE  
6 EASEMENT; OR

7 (c) THE LOCATION OF THE EASEMENT IS FIXED BY THE INSTRUMENT  
8 CREATING THE EASEMENT, ANOTHER AGREEMENT, PREVIOUS CONDUCT,  
9 ACQUIESCENCE, ESTOPPEL, OR IMPLICATION.

10 **38-30.3-112. Uniformity of application and construction.** IN  
11 APPLYING AND CONSTRUING THIS ARTICLE 30.3, CONSIDERATION MUST BE  
12 GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT  
13 TO ITS SUBJECT MATTER AMONG THE STATES THAT ENACT IT.

14 **38-30.3-113. Relation to electronic signatures in global and**  
15 **national commerce act.** THIS ARTICLE 30.3 MODIFIES, LIMITS, OR  
16 SUPERSEDES THE "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL  
17 COMMERCE ACT", 15 U.S.C. SEC. 7001 ET SEQ., BUT DOES NOT MODIFY,  
18 LIMIT, OR SUPERSEDE SECTION 101 (c) OF THAT ACT, 15 U.S.C. SEC. 7001  
19 (c), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES  
20 DESCRIBED IN SECTION 103 (b) OF THAT ACT, 15 U.S.C. SEC. 7003 (b).

21 **38-30.3-114. Transitional provision.** THIS ARTICLE 30.3 APPLIES  
22 TO AN EASEMENT CREATED BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF  
23 THIS ARTICLE 30.3.

24 **SECTION 2. Act subject to petition - effective date -**  
25 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
26 the expiration of the ninety-day period after final adjournment of the  
27 general assembly; except that, if a referendum petition is filed pursuant



1 to section 1 (3) of article V of the state constitution against this act or an  
2 item, section, or part of this act within such period, then the act, item,  
3 section, or part will not take effect unless approved by the people at the  
4 general election to be held in November 2022 and, in such case, will take  
5 effect on the date of the official declaration of the vote thereon by the  
6 governor.

7 (2) This act applies to civil actions commenced on or after the  
8 applicable effective date of this act.

**First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 21-0137.01 Jennifer Berman x3286

**HOUSE BILL 21-1105**

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**HOUSE SPONSORSHIP**

**Kennedy,**

**SENATE SPONSORSHIP**

**Hansen,**

---

**House Committees**  
Finance

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING UTILITY CUSTOMERS' FINANCIAL CONTRIBUTIONS FOR**  
102 **LOW-INCOME UTILITY ASSISTANCE.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

**Section 1** of the bill removes the low-income energy assistance program administered by Energy Outreach Colorado (EOC) from the grant program reserve funded by tier 2 severance tax operational fund money.

**Section 2** clarifies that the definition of a "low-income utility customer", with regard to the public utilities commission's (PUC)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

consideration of a preference or advantage that a gas or electric utility grants a low-income utility customer, means a utility customer who meets the Colorado department of human services' income eligibility criteria.

**Sections 3 and 4** make modifications to the legislative commission on low-income energy assistance, wherein section 3 expands the commission's scope to include water utility assistance and section 4 reduces the composition of the commission from 11 members to 7 members. Section 4 also requires the commission to:

- Advise the Colorado energy office (office) on grants awarded from the federal department of energy regarding the office's weatherization assistance program;
- Advise water utilities that provide their customers with utility assistance and efficiency programs; and
- Review EOC's annual budget that it submits to the PUC regarding the use of funding for utility bill payment assistance.

**Sections 5, 6, and 8 to 10** concern the creation of an energy assistance system benefit charge, which is a mandatory monthly charge that investor-owned electric and gas utilities are required to collect from their customers. The initial amount of the charge per customer is \$1 for electric service provided and \$1 for natural gas service provided, but the PUC may adopt rules to modify the amount of the charge, so long as the charge is at least \$1 per service provided. Investor-owned utilities are required to remit the charges collected to EOC to help finance the direct utility bill payment assistance and energy retrofit programs that EOC administers for low-income households.

**Sections 7 and 11** concern voluntary, opt-in charges that a water utility may offer its customers to help finance the water utility bill payment assistance program that EOC administers. Alternatively, a water utility may implement its own water utility bill payment assistance program.

**Section 12** requires EOC and the office, when installing energy retrofits for low-income households, to prioritize customer savings, emission reductions, and improving indoor air quality.

**Section 13** governs reporting requirements for EOC regarding the mandatory monthly energy assistance system benefit charge and voluntary, opt-in monthly water utility bill payment assistance collections.

**Sections 14 to 17** make conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-29-109.3, **amend**

3 (2)(f) as follows:

1           **39-29-109.3. Severance tax operational fund - core reserve -**  
2 **grant program reserve - definitions - repeal.** (2) Subject to the  
3 requirements of subsections (3) and (3.5) of this section, if the general  
4 assembly chooses not to spend up to one hundred percent of the money  
5 in the operational fund on core departmental programs, the state treasurer  
6 shall transfer the following amounts:

7           (f) For providing energy-related assistance to low-income  
8 households ~~as specified in section 40-8.7-112~~ PURSUANT TO SECTION  
9 40-8.7-112 (1) AND (3)(a):

10           **SECTION 2.** In Colorado Revised Statutes, 40-3-106, **amend**  
11 (1)(d)(II) as follows:

12           **40-3-106. Advantages prohibited - graduated schedules -**  
13 **consideration of household income and other factors - definitions.**

14 (1) (d) (II) As used in this ~~paragraph (d)~~ SUBSECTION (1)(d), a  
15 "low-income utility customer" means a utility customer who:

16           (A) Has a household income at or below one hundred eighty-five  
17 percent of the current federal poverty line; ~~and~~ OR

18           (B) Otherwise meets the INCOME eligibility criteria set forth in  
19 rules of the department of human services adopted pursuant to section  
20 40-8.5-105.

21           **SECTION 3.** In Colorado Revised Statutes, 40-8.5-103, **amend**  
22 the introductory portion and (1); and **add** (4.5) as follows:

23           **40-8.5-103. Definitions.** As used in this ~~article~~ ARTICLE 8.5,  
24 unless the context otherwise requires:

25           (1) "Commission" means the legislative commission on  
26 low-income energy AND WATER assistance, established in section  
27 40-8.5-103.5.

1 (4.5) "ORGANIZATION" HAS THE MEANING SET FORTH IN SECTION  
2 40-8.7-103 (4).

3 **SECTION 4.** In Colorado Revised Statutes, **amend** 40-8.5-103.5  
4 as follows:

5 **40-8.5-103.5. Commission created - duties - repeal.** (1) There  
6 is created the legislative commission on low-income energy AND WATER  
7 assistance.

8 (2) (a) THROUGH APRIL 30, 2022, the commission is composed of  
9 eleven members appointed by the governor, each to serve a term of two  
10 years; except that the governor shall select seven of the initially appointed  
11 members to serve for one-year terms. Of the eleven members, five  
12 members must be from private sector energy-related enterprises, one  
13 member must be the director of the low-income energy assistance  
14 program in the state department of human services, one member must be  
15 from the Colorado energy office, two members must be consumers who  
16 are low-income energy assistance recipients, and two members must be  
17 from the general public. Any interim appointment necessary to fill a  
18 vacancy that has occurred by any reason other than expiration of term is  
19 for the remainder of the term of the individual member whose office has  
20 become vacant.

21 (b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE MAY 1, 2022.

22 (3) (a) (I) BEGINNING MAY 1, 2022, THE COMMISSION IS COMPOSED  
23 OF SEVEN MEMBERS INCLUDING:

24 (A) A REPRESENTATIVE OF THE DEPARTMENT OF HUMAN SERVICES  
25 CREATED IN SECTION 26-1-105;

26 (B) A REPRESENTATIVE OF THE COLORADO ENERGY OFFICE  
27 CREATED IN SECTION 24-38.5-101;

1 (C) A REPRESENTATIVE OF THE ORGANIZATION; AND

2 (D) FOUR MEMBERS APPOINTED BY THE GOVERNOR, EACH TO  
3 SERVE A TERM OF FOUR YEARS; EXCEPT THAT THE GOVERNOR SHALL  
4 SELECT TWO OF THE INITIALLY APPOINTED MEMBERS TO SERVE A  
5 TWO-YEAR TERM.

6 (II) THE GOVERNOR SHALL MAKE INITIAL APPOINTMENTS TO THE  
7 COMMISSION PURSUANT TO THIS SUBSECTION (3)(a) ON OR BEFORE APRIL  
8 30, 2022, FOR TERMS STARTING ON MAY 1, 2022.

9 (b) OF THE FOUR MEMBERS APPOINTED BY THE GOVERNOR:

10 (I) ONE MEMBER MUST HAVE RECEIVED LOW-INCOME ENERGY  
11 ASSISTANCE OR REPRESENT AN ENTITY THAT SERVES A POPULATION  
12 ELIGIBLE FOR LOW-INCOME ENERGY ASSISTANCE;

13 (II) ONE MEMBER MUST REPRESENT AN ELECTRIC UTILITY OR A  
14 COMBINED ELECTRIC AND NATURAL GAS UTILITY;

15 (III) ONE MEMBER MUST REPRESENT A NATURAL GAS UTILITY OR  
16 A COMBINED ELECTRIC AND NATURAL GAS UTILITY; AND

17 (IV) ONE MEMBER MUST REPRESENT A WATER UTILITY.

18 (c) ANY INTERIM APPOINTMENT NECESSARY TO FILL A VACANCY  
19 THAT HAS OCCURRED BY ANY REASON OTHER THAN EXPIRATION OF TERM  
20 IS FOR THE REMAINDER OF THE TERM OF THE INDIVIDUAL MEMBER WHOSE  
21 OFFICE HAS BECOME VACANT.

22 (d) IN THE EVENT OF A TIE VOTE OF THE COMMISSION, THE MATTER  
23 BEING VOTED UPON FAILS.

24 ~~(2)~~ (4) The governor may remove any APPOINTED commission  
25 member for cause, ~~which shall include but need not be limited to~~  
26 INCLUDING FOR misconduct, incompetence, or neglect of duty.

27 ~~(3)~~ (5) ~~Any~~ A commission member ~~shall be~~ IS immune from

1 liability in any civil action brought against ~~such~~ THE member for acts  
2 occurring while acting in the capacity of a commission member if ~~such~~  
3 THE member was acting in good faith, made reasonable efforts to obtain  
4 the facts of the matter as to which action was taken, and acted in the  
5 reasonable belief that the action taken was warranted by the facts.

6 ~~(4) (a) No later than December 15, 2008, the commission shall~~  
7 ~~make recommendations to the governor, the speaker of the house of~~  
8 ~~representatives, and the president of the senate regarding any necessary~~  
9 ~~legislative changes to improve the effectiveness and efficiency of the~~  
10 ~~state's low-income energy assistance services provided pursuant to article~~  
11 ~~8.7 of this title and section 26-1-109, C.R.S. With assistance and~~  
12 ~~consultation from representatives from two counties chosen by the~~  
13 ~~executive director, or his or her designee, of Colorado counties,~~  
14 ~~incorporated, or its successor organization, the commission shall assess~~  
15 ~~the strengths and weaknesses of the current service delivery systems~~  
16 ~~within the state and shall review effective service delivery systems and~~  
17 ~~models of other states that may be appropriate for utilization in this state.~~  
18 ~~The commission's recommendations shall build upon the positive aspects~~  
19 ~~of the current service delivery system, including, but not limited to, the~~  
20 ~~effective and efficient management of current funding to maximize~~  
21 ~~assistance to the state's low-income population, infrastructure that is~~  
22 ~~already in place to efficiently distribute benefits to eligible clients in a~~  
23 ~~timely manner, and coordination already established between energy~~  
24 ~~conservation measures and direct assistance. The commission's~~  
25 ~~recommendations shall include, but shall not be limited to:~~

26 ~~(I) How best to target the state's low-income energy assistance~~  
27 ~~resources toward the identified needs;~~

1           ~~(II) How best to coordinate public and private energy assistance~~  
2 ~~activities with the objective of minimizing the financial burden of energy~~  
3 ~~costs for the state's most needy;~~

4           ~~(III) How best to streamline administrative processes; and~~

5           ~~(IV) Suggested changes to state statutes, rules, or policies related~~  
6 ~~to low-income energy consumers in the state.~~

7           ~~(b) The commission may seek and receive public and private~~  
8 ~~funding to assist in the conduct of the assessment and review required by~~  
9 ~~paragraph (a) of this subsection (4), including but not limited to assistance~~  
10 ~~from the existing resources of the department of human services created~~  
11 ~~in section 24-1-120, C.R.S., the Colorado energy office created in section~~  
12 ~~24-38.5-101, C.R.S., and energy outreach Colorado, a Colorado nonprofit~~  
13 ~~corporation, as described in section 40-8.7-103 (4).~~

14           (6) THE COMMISSION SHALL:

15           (a) WITH RESPECT TO ANY FEDERAL DEPARTMENT OF ENERGY  
16 GRANT AWARD FOR THE COLORADO ENERGY OFFICE WEATHERIZATION  
17 ASSISTANCE PROGRAM, SERVE AS THE POLICY ADVISORY COUNCIL TO THE  
18 COLORADO ENERGY OFFICE, IN ACCORDANCE WITH 10 CFR 440.17;

19           (b) SERVE AS AN ADVISORY COUNCIL TO ANY COLORADO WATER  
20 UTILITIES THAT PROVIDE OR SEEK TO PROVIDE WATER ASSISTANCE AND  
21 EFFICIENCY PROGRAMS TO THEIR CUSTOMERS; AND

22           (c) PURSUANT TO SECTION 40-8.7-108 (3), REVIEW THE ANNUAL  
23 BUDGET ALLOCATIONS THAT THE ORGANIZATION DEVELOPS AND SUBMITS  
24 TO THE COMMISSION FOR REVIEW REGARDING THE ORGANIZATION'S USE OF  
25 THE ENERGY ASSISTANCE SYSTEM BENEFIT CHARGE COLLECTED PURSUANT  
26 TO SECTION 40-8.7-104 (2.5). IF THE COMMISSION DOES NOT APPROVE THE  
27 ORGANIZATION'S ANNUAL BUDGET ALLOCATION, THE COMMISSION MAY



1 REQUIRE THE ORGANIZATION TO MODIFY THE ALLOCATION. UNTIL THE  
2 COMMISSION APPROVES A BUDGET ALLOCATION SUBMITTED BY THE  
3 ORGANIZATION, THE MOST RECENTLY APPROVED BUDGET ALLOCATION  
4 REMAINS IN EFFECT.

5 **SECTION 5.** In Colorado Revised Statutes, 40-8.7-103, **amend**  
6 the introductory portion and (2); and **add** (3.3), (4.7), and (7) as follows:

7 **40-8.7-103. Definitions.** As used in this ~~article~~ ARTICLE 8.7,  
8 unless the context otherwise requires:

9 (2) "Customer" means the named holder of an individually  
10 metered account upon which charges for electricity, ~~or~~ gas, OR WATER are  
11 paid to a utility OR WATER UTILITY. "Customer" ~~shall~~ DOES not include a  
12 customer that receives electricity or gas for the sole purpose of reselling  
13 the electricity or gas to others.

14 (3.3) "ENERGY ASSISTANCE SYSTEM BENEFIT CHARGE" OR  
15 "CHARGE" MEANS THE CHARGE THAT INVESTOR-OWNED UTILITIES DOING  
16 BUSINESS IN COLORADO COLLECT FROM THEIR CUSTOMERS ON A MONTHLY  
17 BASIS PURSUANT TO SECTION 40-8.7-104 (2.5).

18 (4.7) "PUBLIC UTILITIES COMMISSION" OR "COMMISSION" MEANS  
19 THE PUBLIC UTILITIES COMMISSION CREATED IN SECTION 40-2-101.

20 (7) "WATER UTILITY" MEANS A WATER CORPORATION OR  
21 MUNICIPAL WATER PROVIDER THAT PROVIDES RETAIL WATER SERVICE TO  
22 CUSTOMERS IN COLORADO.

23 **SECTION 6.** In Colorado Revised Statutes, **amend** 40-8.7-104  
24 as follows:

25 **40-8.7-104. Energy assistance program - creation - energy**  
26 **assistance contribution - energy assistance system benefit charge.**

27 (1) There is hereby created the low-income energy assistance program to

1 collect and disburse an optional energy assistance contribution AND AN  
2 ENERGY ASSISTANCE SYSTEM BENEFIT CHARGE in Colorado in accordance  
3 with this ~~article~~ ARTICLE 8.7.

4 (2) Except as otherwise provided in this ~~article~~ ARTICLE 8.7, every  
5 utility doing business in Colorado shall participate in the energy  
6 assistance program and ~~shall~~ provide the opportunity for utility customers  
7 to make an optional energy assistance contribution on the monthly  
8 remittance device on their utility billing statement. ~~beginning September~~  
9 ~~1, 2006~~. Each utility shall provide the opportunity for customers to donate  
10 the optional energy assistance contribution as provided in section  
11 40-8.7-105 (2).

12 (2.5) COMMENCING WITH A CUSTOMER'S BILLING STATEMENT  
13 COVERING ELECTRIC OR GAS USAGE IN THE MONTH OF OCTOBER 2021,  
14 EVERY INVESTOR-OWNED UTILITY DOING BUSINESS IN COLORADO SHALL  
15 COLLECT A MONTHLY ENERGY ASSISTANCE SYSTEM BENEFIT CHARGE FROM  
16 EACH OF ITS UTILITY CUSTOMERS PURSUANT TO SECTION 40-8.7-105.5 (1).

17 (3) Any reasonable costs that a utility incurs in connection with  
18 the program, including the initial costs of setting up the collection  
19 mechanism and reformatting its billing systems to solicit the optional  
20 contribution AND TO IMPOSE AND COLLECT THE CHARGE, shall be  
21 reimbursed from the ~~moneys collected by~~ MONEY COLLECTED FOR the  
22 program. ~~and this amount shall be approved for each utility by~~ THE  
23 UTILITY MUST SUBMIT A CALCULATION OF THE AMOUNT OF MONEY TO BE  
24 REIMBURSED TO the public utilities commission FOR ITS APPROVAL OF  
25 PRUDENTLY INCURRED COSTS. The reimbursed amounts ~~shall~~ MUST be  
26 transmitted to the utilities before the remaining ~~moneys are~~ MONEY IS  
27 distributed to the organization.

1           **SECTION 7.** In Colorado Revised Statutes, **add** 40-8.7-104.3 as  
2 follows:

3           **40-8.7-104.3. Water assistance program - creation - water**  
4 **assistance contribution.** (1) (a) ON AND AFTER THE EFFECTIVE DATE OF  
5 THIS SECTION, A WATER UTILITY DOING BUSINESS IN COLORADO MAY  
6 PARTICIPATE IN A WATER ASSISTANCE PROGRAM CREATED AND MANAGED  
7 BY THE ORGANIZATION TO PROVIDE WATER UTILITY BILL PAYMENT  
8 ASSISTANCE TO LOW-INCOME HOUSEHOLDS. A WATER UTILITY'S  
9 VOLUNTARY PARTICIPATION IN THE WATER ASSISTANCE PROGRAM WILL  
10 PROVIDE A WATER UTILITY CUSTOMER WITH AN OPPORTUNITY TO MAKE AN  
11 OPTIONAL CONTRIBUTION ON THE CUSTOMER'S MONTHLY OR QUARTERLY  
12 REMITTANCE DEVICE ON THE WATER UTILITY BILLING STATEMENT.

13           (b) (I) A WATER UTILITY PARTICIPATING IN THE WATER  
14 ASSISTANCE PROGRAM SHALL PROVIDE THE OPPORTUNITY FOR ITS  
15 CUSTOMERS TO DONATE THE CONTRIBUTION DESCRIBED IN SUBSECTION  
16 (1)(a) OF THIS SECTION IN ACCORDANCE WITH THE CHECK-OFF MECHANISM  
17 SET FORTH IN SECTION 40-8.7-105 (2).

18           (II) SECTION 40-8.7-105 (1), (3), (4), AND (5) DOES NOT APPLY TO  
19 A WATER UTILITY'S PARTICIPATION IN THE WATER ASSISTANCE PROGRAM.

20           (2) A WATER UTILITY MAY CREATE ITS OWN WATER ASSISTANCE  
21 PROGRAM. A WATER UTILITY THAT HAS CREATED ITS OWN WATER  
22 ASSISTANCE PROGRAM PURSUANT TO THIS SUBSECTION (2) SHALL USE BEST  
23 PRACTICES IN FINANCING ITS WATER ASSISTANCE PROGRAM AND IN  
24 MEETING ITS CUSTOMERS' WATER ASSISTANCE NEEDS.

25           (3) A WATER UTILITY PARTICIPATING IN THE ORGANIZATION'S  
26 WATER ASSISTANCE PROGRAM PURSUANT TO SUBSECTION (1) OF THIS  
27 SECTION OR CREATING ITS OWN WATER ASSISTANCE PROGRAM PURSUANT

1 TO SUBSECTION (2) OF THIS SECTION MAY SEEK REIMBURSEMENT FOR ANY  
2 REASONABLE COSTS THAT IT INCURS IN CONNECTION WITH THE PROGRAM,  
3 INCLUDING INITIAL COSTS OF SETTING UP THE COLLECTION MECHANISM  
4 AND REFORMATTING ITS BILLING SYSTEMS TO SOLICIT AN OPTIONAL  
5 CONTRIBUTION.

6 **SECTION 8.** In Colorado Revised Statutes, **add 40-8.7-105.5** as  
7 follows:

8 **40-8.7-105.5. Energy assistance system benefit charge - rules.**

9 (1)(a) ON AND AFTER OCTOBER 1, 2021, EACH INVESTOR-OWNED ENERGY  
10 UTILITY SHALL INCLUDE ON ITS CUSTOMERS' MONTHLY BILLS A FLAT  
11 ENERGY ASSISTANCE SYSTEM BENEFIT CHARGE THAT A CUSTOMER IS  
12 ASSESSED TO HELP FINANCE THE LOW-INCOME ENERGY ASSISTANCE  
13 PROGRAM.

14 (b) SUBJECT TO MODIFICATION BY THE PUBLIC UTILITIES  
15 COMMISSION BY RULE PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION,  
16 THE MONTHLY ENERGY ASSISTANCE SYSTEM BENEFIT CHARGE IS ONE  
17 DOLLAR FOR ELECTRIC SERVICE PROVIDED AND ONE DOLLAR FOR NATURAL  
18 GAS SERVICE PROVIDED.

19 (2) THE COMMISSION MAY INITIATE A RULE-MAKING PROCEEDING  
20 TO:

21 (a) MODIFY THE MONTHLY ENERGY ASSISTANCE SYSTEM BENEFIT  
22 CHARGE DESCRIBED IN SUBSECTION (1) OF THIS SECTION SO LONG AS THE  
23 CHARGE IS AT LEAST ONE DOLLAR FOR ELECTRIC SERVICE PROVIDED AND  
24 ONE DOLLAR FOR NATURAL GAS SERVICE PROVIDED; AND

25 (b) REQUIRE EACH INVESTOR-OWNED UTILITY TO CONSIDER USING  
26 THE MOST COST-EFFECTIVE METHOD FOR IMPLEMENTING THE PROGRAM.

27 (3) UPON APPLICATION BY AN INVESTOR-OWNED UTILITY, WHICH

1 APPLICATION SHALL BE FILED AND REVIEWED IN ACCORDANCE WITH  
2 ARTICLE 6 OF THIS TITLE 40 AND COMMISSION RULES, THE COMMISSION  
3 MAY AUTHORIZE AN INVESTOR-OWNED UTILITY TO IMPOSE AN ENERGY  
4 ASSISTANCE SYSTEM BENEFIT CHARGE FOR ITS CUSTOMERS THAT IS  
5 GREATER THAN THE AMOUNT SET FORTH IN SUBSECTION (1)(b) OF THIS  
6 SECTION OR SET BY RULE PURSUANT TO SUBSECTION (2)(a) OF THIS  
7 SECTION.

8 **SECTION 9.** In Colorado Revised Statutes, 40-8.7-107, **amend**  
9 (1) introductory portion; and **add** (1.5) as follows:

10 **40-8.7-107. Disposition of contributions and charges.** (1) Each  
11 ~~gas and electric~~ utility COLLECTING OPTIONAL ENERGY ASSISTANCE  
12 CONTRIBUTIONS PURSUANT TO SECTION 40-8.7-104 (2) AND EACH WATER  
13 UTILITY COLLECTING OPTIONAL CONTRIBUTIONS PURSUANT TO SECTION  
14 40-8.7-104.3 (1) shall transfer the ~~moneys from the energy assistance~~  
15 ~~contributions~~ MONEY collected ~~under this article~~ to the organization on  
16 the following schedule:

17 (1.5) (a) AN INVESTOR-OWNED UTILITY COLLECTING THE ENERGY  
18 ASSISTANCE SYSTEM BENEFIT CHARGE PURSUANT TO SECTION 40-8.7-104  
19 (2.5) SHALL TRANSFER THE MONEY COLLECTED IN ACCORDANCE WITH THE  
20 SCHEDULE ESTABLISHED IN SUBSECTION (1) OF THIS SECTION.

21 (b) THE ORGANIZATION SHALL USE THE MONEY COLLECTED FROM  
22 EACH INVESTOR-OWNED UTILITY PURSUANT TO SECTION 40-8.7-104 (2.5)  
23 TO HELP FINANCE DIRECT UTILITY BILL PAYMENT ASSISTANCE AND ENERGY  
24 RETROFITS PROVIDED TO LOW-INCOME HOUSEHOLDS WITHIN THAT  
25 INVESTOR-OWNED UTILITY'S SERVICE TERRITORY.

26 **SECTION 10.** In Colorado Revised Statutes, **amend** 40-8.7-108  
27 as follows:

1           **40-8.7-108. Energy outreach Colorado - administration of**  
2           **energy assistance contributions and the system benefit charge.**

3           (1) The organization shall hold and administer all ~~moneys~~ MONEY  
4           collected FOR ENERGY ASSISTANCE pursuant to this ~~article~~ ARTICLE 8.7  
5           delivered to it by the utilities pursuant to section 40-8.7-107 in a  
6           separately identifiable account, which shall be restricted to the purposes  
7           set forth in this ~~article~~ ARTICLE 8.7. The organization shall maintain its  
8           books and records pertaining to the energy assistance contributions AND  
9           THE ENERGY ASSISTANCE SYSTEM BENEFIT CHARGE in accordance with  
10          generally accepted accounting principles and, in addition, shall maintain  
11          records adequate to identify the ~~moneys~~ MONEY collected by each utility.  
12          If the organization commingles the ~~moneys~~ MONEY collected and  
13          delivered with other assets of the organization for investment purposes,  
14          the organization shall maintain accurate accounts of the investment  
15          ~~moneys~~ MONEY and shall credit or charge a pro rata portion of all  
16          investment earnings, gains, or losses to the account that holds the  
17          OPTIONAL energy assistance COLLECTIONS AND ENERGY ASSISTANCE  
18          SYSTEM BENEFIT charges.

19          (2) The organization shall use the MONEY COLLECTED FROM THE  
20          OPTIONAL energy assistance ~~contribution~~ CONTRIBUTIONS AND THE  
21          ENERGY ASSISTANCE SYSTEM BENEFIT CHARGE to provide low-income  
22          energy assistance and to improve energy efficiency. The ORGANIZATION  
23          SHALL PAY THE financial assistance ~~moneys shall be paid~~ MONEY to each  
24          utility as vendor payments. The ~~moneys~~ ORGANIZATION shall not ~~be used~~  
25          USE THE MONEY for propane, gas, or electric assistance for customers  
26          whose propane, gas, electric, or gas and electric companies or cooperative  
27          electric associations do not participate in the program. The organization

1 may use up to five percent of the ~~moneys~~ MONEY collected for  
2 administration of the energy assistance program in accordance with  
3 generally accepted accounting principles.

4 (3) The organization shall, on an annual basis, develop a budget  
5 for the energy assistance program to determine the allocation of THE  
6 MONEY COLLECTED FROM the OPTIONAL energy assistance contributions  
7 ~~collected under this article~~ AND THE ENERGY ASSISTANCE SYSTEM BENEFIT  
8 CHARGE, WITH NOT MORE THAN FIFTY PERCENT OF THE TOTAL AMOUNT  
9 ALLOCATED TO DIRECT UTILITY BILL PAYMENT ASSISTANCE. THE  
10 ORGANIZATION SHALL SUBMIT A COPY OF THE BUDGET TO THE COLORADO  
11 ENERGY OFFICE FOR ITS REVIEW.

12 **SECTION 11.** In Colorado Revised Statutes, **add** 40-8.7-108.5  
13 as follows:

14 **40-8.7-108.5. Energy outreach Colorado - administration of**  
15 **the water assistance contributions.** (1) THE ORGANIZATION SHALL HOLD  
16 AND ADMINISTER ALL MONEY COLLECTED FOR WATER ASSISTANCE  
17 PURSUANT TO THIS ARTICLE 8.7 DELIVERED TO IT BY WATER UTILITIES  
18 PURSUANT TO SECTION 40-8.7-107 IN A SEPARATELY IDENTIFIABLE  
19 ACCOUNT, WHICH SHALL BE RESTRICTED TO THE PURPOSES SET FORTH IN  
20 THIS ARTICLE 8.7. THE ORGANIZATION SHALL MAINTAIN ITS BOOKS AND  
21 RECORDS PERTAINING TO THE WATER ASSISTANCE CONTRIBUTIONS IN  
22 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND,  
23 IN ADDITION, SHALL MAINTAIN RECORDS ADEQUATE TO IDENTIFY THE  
24 MONEY COLLECTED BY EACH WATER UTILITY. IF THE ORGANIZATION  
25 COMMINGLES THE MONEY COLLECTED AND DELIVERED WITH OTHER  
26 ASSETS OF THE ORGANIZATION FOR INVESTMENT PURPOSES, THE  
27 ORGANIZATION SHALL MAINTAIN ACCURATE ACCOUNTS OF THE

1 INVESTMENT MONEY AND SHALL CREDIT OR CHARGE A PRO RATA PORTION  
2 OF ALL INVESTMENT EARNINGS, GAINS, OR LOSSES TO THE ACCOUNT THAT  
3 HOLDS THE WATER ASSISTANCE COLLECTIONS.

4 (2) THE ORGANIZATION SHALL USE THE WATER ASSISTANCE  
5 CONTRIBUTIONS TO PROVIDE LOW-INCOME WATER ASSISTANCE. THE  
6 ORGANIZATION SHALL PAY THE FINANCIAL ASSISTANCE MONEY TO EACH  
7 PARTICIPATING WATER UTILITY AS VENDOR PAYMENTS. THE  
8 ORGANIZATION SHALL NOT USE THE MONEY FOR WATER ASSISTANCE FOR  
9 CUSTOMERS WHOSE WATER UTILITY DOES NOT PARTICIPATE IN THE  
10 PROGRAM. THE ORGANIZATION MAY USE UP TO FIVE PERCENT OF THE  
11 MONEY COLLECTED FOR ADMINISTRATION OF THE WATER ASSISTANCE  
12 PROGRAM IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING  
13 PRINCIPLES.

14 (3) THE ORGANIZATION SHALL, ON AN ANNUAL BASIS, DEVELOP A  
15 BUDGET FOR THE WATER ASSISTANCE PROGRAM TO DETERMINE THE  
16 ALLOCATION OF THE WATER ASSISTANCE CONTRIBUTIONS COLLECTED  
17 UNDER THIS ARTICLE 8.7.

18 **SECTION 12.** In Colorado Revised Statutes, 40-8.7-109, **add** (4)  
19 as follows:

20 **40-8.7-109. Low-income energy assistance program -**  
21 **eligibility.** (4) WHEN INSTALLING ENERGY RETROFITS AS PART OF  
22 PROVIDING LOW-INCOME ENERGY ASSISTANCE, THE ORGANIZATION AND  
23 THE COLORADO ENERGY OFFICE SHALL PRIORITIZE MAXIMIZING CUSTOMER  
24 SAVINGS, REDUCING EMISSIONS, AND IMPROVING INDOOR AIR QUALITY.

25 **SECTION 13.** In Colorado Revised Statutes, 40-8.7-110, **amend**  
26 (1), (1.5), and (2) as follows:

27 **40-8.7-110. Reports - repeal.** (1) The organization shall submit



1 a written report to the general assembly, the legislative audit committee,  
2 and the office of the state auditor on or before March 31 of each year  
3 ~~beginning in 2007, that covers~~ COVERING the immediately preceding  
4 calendar year. The report ~~shall~~ MUST include:

5 (a) An itemized account of ~~moneys~~ THE MONEY received by the  
6 organization from each utility FOR THE LOW-INCOME ENERGY ASSISTANCE  
7 PROGRAM, INCLUDING:

8 (I) THE MONEY RECEIVED FROM CUSTOMERS' OPTIONAL ENERGY  
9 ASSISTANCE CONTRIBUTIONS PURSUANT TO SECTION 40-8.7-104 (2); AND

10 (II) THE MONEY RECEIVED FROM CUSTOMERS' MONTHLY ENERGY  
11 ASSISTANCE SYSTEM BENEFIT CHARGES PURSUANT TO SECTION 40-8.7-104  
12 (2.5), INCLUDING INFORMATION REGARDING THE MONEY RECEIVED FROM  
13 EACH INVESTOR-OWNED UTILITY AND THE MONEY THE ORGANIZATION HAS  
14 SPENT IN EACH INVESTOR-OWNED UTILITY'S SERVICE TERRITORY;

15 (a.5) AN ITEMIZED ACCOUNT OF THE MONEY RECEIVED BY THE  
16 ORGANIZATION FROM EACH PARTICIPATING WATER UTILITY FOR THE  
17 ORGANIZATION'S WATER ASSISTANCE PROGRAM PURSUANT TO SECTION  
18 40-8.7-104.3;

19 (b) FOR THE LOW-INCOME ENERGY ASSISTANCE PROGRAM AND THE  
20 WATER ASSISTANCE PROGRAM:

21 ~~(b)~~ (I) The amount of ~~moneys~~ MONEY distributed, the type of  
22 assistance provided, the geographic area of the state served, and an  
23 itemization of the programs through which the ~~moneys are~~ MONEY IS  
24 expended;

25 ~~(c)~~ (II) The number of low-income households served, by utility  
26 OR WATER UTILITY and by type of assistance provided;

27 ~~(d)~~ (III) An audited financial statement from the organization; and

1           ~~(e)~~ (IV) A summary of how the ~~moneys~~ MONEY collected ~~were~~  
2 WAS generated, including the number of customers participating in the  
3 program.

4           (1.5) To the extent applicable, the organization shall include in the  
5 report the information required by ~~paragraphs (b) and (c) of subsection~~  
6 ~~(†)~~ SUBSECTIONS (1)(b)(I) AND (1)(b)(II) of this section for ~~moneys~~  
7 MONEY received from the Colorado energy office pursuant to section  
8 40-8.7-112 (2)(a).

9           (2) The ORGANIZATION SHALL POST THE report ~~shall be made~~ ON  
10 ITS PUBLIC WEBSITE SO THAT IT IS available to the public for review.

11           **SECTION 14.** In Colorado Revised Statutes, 40-1-103.5, **amend**  
12 (2) as follows:

13           **40-1-103.5. Limited exemption of master meter operators -**  
14 **conditions - rules.** (2) In passing on refunds, rebates, rate reductions, or  
15 similar adjustments to end users, the MMO shall notify its current end  
16 users, either by first-class mail with a certificate of mailing or by  
17 inclusion in any monthly or more frequent regular written  
18 communication, of ~~such~~ THE adjustments and inform the end users that  
19 they may claim the adjustments within ninety days after receipt of the  
20 notice. The MMO may retain any portion of ~~such~~ THE adjustments ~~which~~  
21 THAT rightfully belongs to the MMO. Upon the expiration of the  
22 ninety-day claims period, the MMO shall identify any such adjustments  
23 ~~which~~ THAT are unclaimed and, if the aggregate amount unclaimed  
24 exceeds one hundred dollars, the MMO shall contribute ~~such~~ THE  
25 unclaimed amount to the fund established by the LEGISLATIVE  
26 commission on low-income energy AND WATER assistance pursuant to  
27 section 40-8.5-104.

1           **SECTION 15.** In Colorado Revised Statutes, 40-8-101, **amend**  
2 (2) as follows:

3           **40-8-101. Undistributed overcharges turned over to**  
4 **municipality.** (2) For gas, electric, and steam utilities, the public utilities  
5 commission may order that all or part of the undistributed balance of a  
6 refund be paid by the utility in an equitable manner to the general body  
7 of utility customers and the public utilities commission may order a gas  
8 or electric utility to pay up to ninety percent of the undistributed balance  
9 of a refund into the fund established by the ~~Colorado~~ LEGISLATIVE  
10 commission on low-income energy AND WATER assistance pursuant to  
11 section 40-8.5-104.

12           **SECTION 16.** In Colorado Revised Statutes, **amend** 40-8.5-101  
13 as follows:

14           **40-8.5-101. Legislative declaration.** In enacting this ~~article~~  
15 ARTICLE 8.5, the general assembly finds and declares that there is a need  
16 to make distributions of ~~moneys~~ MONEY to provide aid and assistance to  
17 the indigent, the elderly, and persons with disabilities, who do not  
18 otherwise have the financial resources to meet their heating and other  
19 energy needs. The general assembly further finds and declares that the  
20 low-income energy assistance program of the department of human  
21 services is the most appropriate entity to determine those most in need of  
22 such aid and assistance. Therefore, this ~~article shall authorize~~ ARTICLE 8.5  
23 AUTHORIZES the LEGISLATIVE commission on low-income energy AND  
24 WATER assistance to establish a fund from which to collect and distribute  
25 ~~moneys~~ MONEY to accomplish the goals set forth in this section. The  
26 ~~moneys~~ MONEY for ~~such~~ THE fund ~~shall~~ MUST be ~~based~~ FUNDED in part ~~on~~  
27 BY unclaimed utility deposits.

1           **SECTION 17.** In Colorado Revised Statutes, 40-8.7-112, **amend**  
2 (2)(a)(I) as follows:

3           **40-8.7-112. Department of human services low-income energy**  
4 **assistance fund - creation - energy outreach Colorado low-income**  
5 **energy assistance fund - creation - Colorado energy office low-income**  
6 **energy assistance fund - creation - definitions - repeal.**

7 (2) (a) (I) There is hereby created in the state treasury the energy  
8 outreach Colorado low-income energy assistance fund, administered by  
9 the Colorado energy office. The fund consists of all money ~~transferred by~~  
10 ~~the state treasurer as specified in section 39-29-109.3 (2)(f) and any other~~  
11 ~~money~~ that the general assembly appropriates or transfers to the fund for  
12 the purposes set forth in this subsection (2). All money in the fund is  
13 continuously appropriated to the Colorado energy office for distribution  
14 to the organization to be used for the purposes set forth in this subsection  
15 (2). Except as provided in subsection (2)(a)(II) of this section, all money  
16 in the fund at the end of each fiscal year remains in the fund and does not  
17 revert to the general fund or any other fund.

18           **SECTION 18. Act subject to petition - effective date.** This act  
19 takes effect at 12:01 a.m. on the day following the expiration of the  
20 ninety-day period after final adjournment of the general assembly; except  
21 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
22 of the state constitution against this act or an item, section, or part of this  
23 act within such period, then the act, item, section, or part will not take  
24 effect unless approved by the people at the general election to be held in  
25 November 2022 and, in such case, will take effect on the date of the  
26 official declaration of the vote thereon by the governor.