

## CHAPTER 303

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**GOVERNMENT - STATE**

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**HOUSE BILL 08-1387**

BY REPRESENTATIVE(S) Buescher, Gallegos, McFadyen, Pommer, Borodkin, Carroll M., Ferrandino, Fischer, Frangas, Green, Kefalas, Kerr A., Labuda, Madden, Merrifield, Solano, Stafford, Todd, Benefield, and Rice;  
also SENATOR(S) Veiga, Bacon, Boyd, Gibbs, Gordon, Groff, Isgar, Morse, Sandoval, Schwartz, Shaffer, Tapia, Tochtrop, Tupa, and Williams.

**AN ACT**

**CONCERNING ENERGY-RELATED ASSISTANCE TO LOW-INCOME HOUSEHOLDS FROM THE PROCEEDS OF THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

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

**SECTION 1.** The introductory portion to 39-29-109 (1) (a), Colorado Revised Statutes, is amended to read:

**39-29-109. Severance tax trust fund - created - administration - use of moneys - definitions - repeal.** (1) (a) There is hereby created in the office of the state treasurer the severance tax trust fund. The fund is to be perpetual and held in trust as a replacement for depleted natural resources, ~~and~~ for the development and conservation of the state's water resources pursuant to sections 37-60-106 (1) (j) and (1) (l), 37-60-119, and 37-60-122, C.R.S., ~~and~~ for the use in funding programs that promote and encourage sound natural resource planning, management, and development related to minerals, energy, geology, and ~~water~~ WATER, AND FOR THE USE IN FUNDING PROGRAMS TO REDUCE THE BURDEN OF INCREASING HOME ENERGY COSTS ON LOW-INCOME HOUSEHOLDS. State severance tax receipts shall be credited to the severance tax trust fund as provided in section 39-29-108. Except as otherwise set forth in section 39-29-109.5, all income derived from the deposit and investment of the moneys in the severance tax trust fund shall be credited to the severance tax trust fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. All moneys in the fund shall be subject to appropriation by the general assembly for the following purposes:

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**SECTION 2.** 39-29-109 (1.5), Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

**39-29-109. Severance tax trust fund - created - administration - use of moneys - definitions - repeal.** (1.5) THE STATE TREASURER SHALL TRANSFER THE FOLLOWING MONEYS FROM THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND TO PROVIDE ENERGY-RELATED ASSISTANCE TO LOW-INCOME HOUSEHOLDS AS SPECIFIED IN SECTION 40-8.7-112, C.R.S.:

(a) (I) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2008, THIRTEEN MILLION DOLLARS AS FOLLOWS:

(A) FIVE MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS TO THE DEPARTMENT OF HUMAN SERVICES LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (1), C.R.S.;

(B) ONE MILLION FIFTY THOUSAND DOLLARS TO THE ENERGY OUTREACH COLORADO LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (2) (a), C.R.S.; AND

(C) SIX MILLION DOLLARS TO THE GOVERNOR'S ENERGY OFFICE LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (3) (a), C.R.S.

(II) IF, BASED ON INFORMATION AVAILABLE ON SEPTEMBER 1, 2008, IT IS DETERMINED THAT THE AMOUNT EQUAL TO ONE-HALF OF THE OPERATIONAL ACCOUNT SURPLUS FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2007, WAS LESS THAN TWELVE MILLION DOLLARS, THEN THE TOTAL TRANSFER REQUIRED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL BE REDUCED BY THE DIFFERENCE BETWEEN TWELVE MILLION DOLLARS AND THE AMOUNT EQUAL TO ONE-HALF OF THE OPERATIONAL ACCOUNT SURPLUS FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2007, AND THE TRANSFERS REQUIRED PURSUANT TO SUB-SUBPARAGRAPHS (A), (B), AND (C) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL BE REDUCED PROPORTIONALLY.

(III) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JULY 1, 2010.

(b) (I) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2009, THIRTEEN MILLION DOLLARS AS FOLLOWS:

(A) TWENTY-FIVE PERCENT TO THE DEPARTMENT OF HUMAN SERVICES LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (1), C.R.S.;

(B) TWENTY-FIVE PERCENT TO THE ENERGY OUTREACH COLORADO LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (2) (a), C.R.S.; AND

(C) FIFTY PERCENT TO THE GOVERNOR'S ENERGY OFFICE LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (3) (a), C.R.S.

(II) IF, BASED ON INFORMATION AVAILABLE ON SEPTEMBER 1, 2009, IT IS DETERMINED THAT THE AMOUNT EQUAL TO ONE-HALF OF THE OPERATIONAL

ACCOUNT SURPLUS FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2008, WAS LESS THAN TWELVE MILLION DOLLARS, THEN THE TOTAL TRANSFER REQUIRED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL BE REDUCED BY THE DIFFERENCE BETWEEN TWELVE MILLION DOLLARS AND THE AMOUNT EQUAL TO ONE-HALF OF THE OPERATIONAL ACCOUNT SURPLUS FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2008, AND THE TRANSFERS REQUIRED PURSUANT TO SUB-SUBPARAGRAPHS (A), (B), AND (C) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL BE REDUCED PROPORTIONALLY.

(III) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2011.

(c) (I) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2010, THIRTEEN MILLION DOLLARS AS FOLLOWS:

(A) TWENTY-FIVE PERCENT TO THE DEPARTMENT OF HUMAN SERVICES LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (1), C.R.S.;

(B) TWENTY-FIVE PERCENT TO THE ENERGY OUTREACH COLORADO LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (2) (a), C.R.S.; AND

(C) FIFTY PERCENT TO THE GOVERNOR'S ENERGY OFFICE LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (3) (a), C.R.S.

(II) IF, BASED ON INFORMATION AVAILABLE ON SEPTEMBER 1, 2010, IT IS DETERMINED THAT THE AMOUNT EQUAL TO ONE-HALF OF THE OPERATIONAL ACCOUNT SURPLUS FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2009, WAS LESS THAN TWELVE MILLION DOLLARS, THEN THE TOTAL TRANSFER REQUIRED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) SHALL BE REDUCED BY THE DIFFERENCE BETWEEN TWELVE MILLION DOLLARS AND THE AMOUNT EQUAL TO ONE-HALF OF THE OPERATIONAL ACCOUNT SURPLUS FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2009, AND THE TRANSFERS REQUIRED PURSUANT TO SUB-SUBPARAGRAPHS (A), (B), AND (C) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) SHALL BE REDUCED PROPORTIONALLY.

(III) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JULY 1, 2012.

(d) (I) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2011, THIRTEEN MILLION DOLLARS AS FOLLOWS:

(A) TWENTY-FIVE PERCENT TO THE DEPARTMENT OF HUMAN SERVICES LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (1), C.R.S.;

(B) TWENTY-FIVE PERCENT TO THE ENERGY OUTREACH COLORADO LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (2) (a), C.R.S.; AND

(C) FIFTY PERCENT TO THE GOVERNOR'S ENERGY OFFICE LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (3) (a), C.R.S.

(II) IF, BASED ON INFORMATION AVAILABLE ON SEPTEMBER 1, 2011, IT IS

DETERMINED THAT THE AMOUNT EQUAL TO ONE-HALF OF THE OPERATIONAL ACCOUNT SURPLUS FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2010, WAS LESS THAN TWELVE MILLION DOLLARS, THEN THE TOTAL TRANSFER REQUIRED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) SHALL BE REDUCED BY THE DIFFERENCE BETWEEN TWELVE MILLION DOLLARS AND THE AMOUNT EQUAL TO ONE-HALF OF THE OPERATIONAL ACCOUNT SURPLUS FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2010, AND THE TRANSFERS REQUIRED PURSUANT TO SUB-SUBPARAGRAPHS (A), (B), AND (C) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) SHALL BE REDUCED PROPORTIONALLY.

(III) THIS PARAGRAPH (d) IS REPEALED, EFFECTIVE JULY 1, 2013.

(e) (I) IN ADDITION TO THE REQUIREMENTS OF SUBPARAGRAPH (III) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION, THE END BALANCE OF THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND SHALL BE AT LEAST THIRTEEN MILLION DOLLARS FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2007.

(II) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (e) SHALL ENSURE THAT THERE ARE ADEQUATE MONEYS IN THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND TO MAKE THE TRANSFERS REQUIRED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5).

(f) AS USED IN THIS SUBSECTION (1.5), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "OPERATIONAL ACCOUNT SURPLUS" MEANS AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE TOTAL REVENUES IN THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND FOR A GIVEN STATE FISCAL YEAR AND THE PROGRAM EXPENDITURES AND SAVINGS FOR THE SAME STATE FISCAL YEAR.

(II) "PROGRAM EXPENDITURES AND SAVINGS" MEANS THE SUM OF ALL APPROPRIATIONS AND TRANSFERS FROM THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND FOR A GIVEN STATE FISCAL YEAR THAT WERE AUTHORIZED PURSUANT TO A PROVISION OF LAW THAT WAS ENACTED PRIOR TO JANUARY 1, 2008, AND THE AMOUNT OF THE END BALANCE REQUIRED TO BE MAINTAINED PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION FOR THE SAME STATE FISCAL YEAR.

(III) "TOTAL REVENUES IN THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND" MEANS AN AMOUNT EQUAL TO THE SUM OF THE BEGINNING BALANCE OF THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND FOR A GIVEN STATE FISCAL YEAR AND THE AMOUNT OF TAX RECEIPTS THAT ARE CREDITED TO THE OPERATIONAL ACCOUNT OF THE SEVERANCE TAX TRUST FUND FOR THE SAME STATE FISCAL YEAR.

**SECTION 3.** 39-29-109.3 (2) (f), Colorado Revised Statutes, as enacted by House Bill 08-1398, enacted at the Second Regular Session of the Sixty-sixth General Assembly, is amended to read:

**39-29-109.3. Operational account of the severance tax trust fund - repeal.**

(2) Subject to the requirements of subsections (3) and (4) of this section, if the general assembly chooses not to spend up to one hundred percent of the moneys in the operational account as specified in subsection (1) of this section, the state treasurer shall transfer the following:

(f) For providing energy-related assistance to low-income households as specified in section 40-8.7-112, C.R.S.:

(I) (A) For the state fiscal year commencing July 1, 2008, thirteen million dollars as follows: Five million nine hundred fifty thousand dollars to the department of human services low-income energy assistance fund created in section 40-8.7-112 (1), C.R.S.; one million fifty thousand dollars to the energy outreach Colorado low-income energy assistance fund created in section 40-8.7-112 (2) (a), C.R.S.; and six million dollars to the governor's energy office low-income energy assistance fund created in section 40-8.7-112 (3) (a), C.R.S.

(B) In addition to the requirements of subsection (3) of this section, the end balance of the operational account shall be at least thirteen million dollars for the state fiscal year commencing July 1, 2007.

(C) It is the intent of the general assembly that the requirements of ~~sub-subparagraph (A)~~ SUB-SUBPARAGRAPH (B) of this ~~subparagraph (H)~~ SUBPARAGRAPH (I) shall ensure that there are adequate moneys in the operational account to make the transfer required in THIS subparagraph (I). ~~of this paragraph (f)~~.

(D) ~~Subparagraphs (f) and (H) of this paragraph (f) and This subparagraph (HH) are (I) IS~~ repealed, effective July 1, 2010.

(II) (A) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2009, THIRTEEN MILLION DOLLARS AS FOLLOWS: TWENTY-FIVE PERCENT TO THE DEPARTMENT OF HUMAN SERVICES LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (1), C.R.S.; TWENTY-FIVE PERCENT TO THE ENERGY OUTREACH COLORADO LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (2) (a), C.R.S.; AND FIFTY PERCENT TO THE GOVERNOR'S ENERGY OFFICE LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (3) (a), C.R.S.

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2011.

(III) (A) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2010, THIRTEEN MILLION DOLLARS AS FOLLOWS: TWENTY-FIVE PERCENT TO THE DEPARTMENT OF HUMAN SERVICES LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (1), C.R.S.; TWENTY-FIVE PERCENT TO THE ENERGY OUTREACH COLORADO LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (2) (a), C.R.S.; AND FIFTY PERCENT TO THE GOVERNOR'S ENERGY OFFICE LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (3) (a), C.R.S.

(B) THIS SUBPARAGRAPH (III) IS REPEALED, EFFECTIVE JULY 1, 2012.

(IV) (A) FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2011, THIRTEEN MILLION DOLLARS AS FOLLOWS: TWENTY-FIVE PERCENT TO THE DEPARTMENT OF HUMAN SERVICES LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (1), C.R.S.; TWENTY-FIVE PERCENT TO THE ENERGY OUTREACH COLORADO LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (2) (a), C.R.S.; AND FIFTY PERCENT TO THE GOVERNOR'S ENERGY OFFICE LOW-INCOME ENERGY ASSISTANCE FUND CREATED IN SECTION 40-8.7-112 (3) (a), C.R.S.

(B) THIS SUBPARAGRAPH (IV) IS REPEALED, EFFECTIVE JULY 1, 2013.

**SECTION 4.** Article 8.7 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**40-8.7-112. Department of human services low-income energy assistance fund - creation - energy outreach Colorado low-income energy assistance fund - creation - definitions.** (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE DEPARTMENT OF HUMAN SERVICES LOW-INCOME ENERGY ASSISTANCE FUND, WHICH SHALL BE ADMINISTERED BY THE DEPARTMENT OF HUMAN SERVICES AND SHALL CONSIST OF ALL MONEYS TRANSFERRED BY THE TREASURER AS SPECIFIED IN SECTION 39-29-109 (1.5), C.R.S. ALL MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT OF HUMAN SERVICES FOR THE PURPOSE OF INCREASING AVAILABLE FUNDS UNDER THE LOW-INCOME ENERGY ASSISTANCE PROGRAM SPECIFIED IN SECTION 26-1-109, C.R.S. ALL MONEYS IN THE FUND AT THE END OF EACH FISCAL YEAR SHALL BE RETAINED IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

(2) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE ENERGY OUTREACH COLORADO LOW-INCOME ENERGY ASSISTANCE FUND, WHICH SHALL BE ADMINISTERED BY THE GOVERNOR'S ENERGY OFFICE AND SHALL CONSIST OF ALL MONEYS TRANSFERRED BY THE TREASURER AS SPECIFIED IN SECTION 39-29-109 (1.5), C.R.S. ALL MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE GOVERNOR'S ENERGY OFFICE FOR DISTRIBUTION TO THE ORGANIZATION TO BE USED FOR THE PURPOSES SET FORTH IN THIS SUBSECTION (2). ALL MONEYS IN THE FUND AT THE END OF EACH FISCAL YEAR SHALL BE RETAINED IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

(b) THE ORGANIZATION SHALL USE THE MONEYS IT RECEIVES FROM THE GOVERNOR'S ENERGY OFFICE PURSUANT TO PARAGRAPH (A) OF THIS SUBSECTION (2) TO PROVIDE DIRECT BILL PAYMENT ASSISTANCE TO LOW-INCOME HOUSEHOLDS WHEN THE DEPARTMENT OF HUMAN SERVICES IS NOT ACCEPTING CLIENT APPLICATIONS FOR THE PROGRAM SPECIFIED IN SECTION 26-1-109, C.R.S. BILL PAYMENTS SHALL BE PAID TO EACH UTILITY AS VENDOR PAYMENTS. THE ORGANIZATION MAY USE UP TO FIVE PERCENT OF THE MONEYS COLLECTED FOR ADMINISTRATION OF THE DIRECT BILL PAYMENT ASSISTANCE PROGRAM IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

(c) THE ORGANIZATION SHALL HOLD AND ADMINISTER ALL MONEYS IT RECEIVES FROM THE GOVERNOR'S ENERGY OFFICE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) IN A SEPARATELY IDENTIFIABLE ACCOUNT, THE USE OF WHICH SHALL

BE RESTRICTED TO THE PURPOSES SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (2). THE ORGANIZATION SHALL MAINTAIN ITS BOOKS AND RECORDS PERTAINING TO ANY MONEYS RECEIVED FROM THE GOVERNOR'S ENERGY OFFICE IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. IF THE ORGANIZATION COMMINGLES THE MONEYS WITH OTHER ASSETS OF THE ORGANIZATION FOR INVESTMENT PURPOSES, THE ORGANIZATION SHALL MAINTAIN ACCURATE ACCOUNTS OF THE INVESTMENT MONEYS AND SHALL CREDIT OR CHARGE A PRO RATA PORTION OF ALL INVESTMENT EARNINGS, GAINS, OR LOSSES TO THE ACCOUNT THAT HOLDS THE MONEYS RECEIVED FROM THE GOVERNOR'S ENERGY OFFICE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2).

(d) THE ORGANIZATION SHALL, ON AN ANNUAL BASIS, DEVELOP A BUDGET FOR THE DIRECT BILL PAYMENT ASSISTANCE PROGRAM TO DETERMINE THE ALLOCATION OF THE MONEYS RECEIVED FROM THE GOVERNOR'S ENERGY OFFICE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2).

(e) THE ORGANIZATION SHALL INCLUDE INFORMATION RELATED TO ANY MONEYS RECEIVED FROM THE GOVERNOR'S ENERGY OFFICE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) IN THE REPORT IT PREPARES PURSUANT TO SECTION 40-8.7-110.

(3) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE GOVERNOR'S ENERGY OFFICE LOW-INCOME ENERGY ASSISTANCE FUND, WHICH SHALL BE ADMINISTERED BY THE GOVERNOR'S ENERGY OFFICE AND SHALL CONSIST OF ALL MONEYS TRANSFERRED BY THE TREASURER AS SPECIFIED IN SECTION 39-29-109 (1.5), C.R.S. ALL MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE GOVERNOR'S ENERGY OFFICE TO BE USED FOR THE PURPOSES SET FORTH IN THIS SUBSECTION (3). ALL MONEYS IN THE FUND AT THE END OF EACH FISCAL YEAR SHALL BE RETAINED IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

(b) THE GOVERNOR'S ENERGY OFFICE SHALL USE THE MONEYS IT RECEIVES PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) FOR A PROGRAM TO PROVIDE HOME ENERGY EFFICIENCY IMPROVEMENTS FOR LOW-INCOME HOUSEHOLDS, WHICH SHALL INCLUDE ANY OF THE FOLLOWING SERVICES:

(I) PROVIDING LOW-COST AND COST-EFFECTIVE ENERGY EFFICIENCY MEASURES AND ENERGY EDUCATION TO LOW-INCOME HOUSEHOLDS;

(II) RETROFITTING HOUSEHOLDS WITH LOW-COST AND COST-EFFECTIVE ENERGY EFFICIENCY MEASURES THROUGH THE STATE WEATHERIZATION ASSISTANCE PROGRAM;

(III) PROVIDING HEATING SYSTEM AND OTHER APPLIANCE REPLACEMENT;

(IV) PROVIDING COST-EFFECTIVE RENEWABLE ENERGY MEASURES;

(V) SUPPLEMENTING THE FUNDING OF ANY ENERGY EFFICIENCY MEASURES OR SERVICES OFFERED TO LOW-INCOME HOUSEHOLDS THROUGH ELECTRIC OR GAS UTILITY ENERGY EFFICIENCY OR RENEWABLE ENERGY PROGRAMS; OR

(VI) PAYING A PORTION OF THE COST FOR ENERGY EFFICIENCY UPGRADES TO NEW

## HOUSING BUILT FOR LOW-INCOME FAMILIES.

(c) HOUSEHOLDS ELIGIBLE FOR THE HOME ENERGY EFFICIENCY PROGRAM DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (3) SHALL BE AT OR BELOW ONE HUNDRED PERCENT OF THE AREA MEDIAN INCOME GUIDELINES ADJUSTED FOR FAMILY SIZE BASED ON THE MOST RECENTLY PUBLISHED AREA MEDIAN INCOME LIMITS ESTABLISHED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(d) IN CARRYING OUT THE HOME ENERGY EFFICIENCY PROGRAM DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (3), THE GOVERNOR'S ENERGY OFFICE SHALL:

(I) SERVE AS MANY LOW-INCOME HOUSEHOLDS THROUGHOUT THE STATE AS POSSIBLE;

(II) ACHIEVE THE MAXIMUM LIFETIME ENERGY SAVINGS PER DOLLAR EXPENDED;

(III) USE COMPETITIVE BIDDING PROCEDURES WHEN HIRING CONTRACTORS; AND

(IV) WHENEVER FEASIBLE, CONTRACT WITH ACCREDITED COLORADO YOUTH CORPS TO PROVIDE LABOR.

(e) THE GOVERNOR'S ENERGY OFFICE MAY USE UP TO FIVE PERCENT OF THE MONEYS TRANSFERRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) FOR PLANNING, OVERSEEING, AND EVALUATING THE HOME ENERGY EFFICIENCY PROGRAM DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (3). THE GOVERNOR'S ENERGY OFFICE SHALL NOT USE THESE MONEYS TO HIRE ADDITIONAL STATE EMPLOYEES TO IMPLEMENT THE PROGRAM, BUT MAY CONTRACT WITH NONPROFIT ORGANIZATIONS, FOR-PROFIT ORGANIZATIONS, AND GOVERNMENTAL ENTITIES AS IS NECESSARY TO CARRY OUT THE PROGRAM.

(f) FOR ANY STATE FISCAL YEAR IN WHICH MONEYS ARE EXPENDED AS PART OF THE HOME ENERGY EFFICIENCY PROGRAM DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (3), THE GOVERNOR'S ENERGY OFFICE SHALL PREPARE AND SUBMIT TO THE GENERAL ASSEMBLY AN ANNUAL REPORT THAT SPECIFIES:

(I) HOW THE MONEYS WERE EXPENDED;

(II) THE NUMBER OF HOUSEHOLDS SERVED;

(III) THE EXPECTED ENERGY SAVINGS AND OTHER NONENERGY BENEFITS; AND

(IV) RECOMMENDATIONS FOR ANY FUTURE PROGRAMS OF A SIMILAR NATURE.

(g) IF THE GOVERNOR'S ENERGY OFFICE CANNOT USE ALL OF THE MONEYS IT RECEIVES FOR THE STATE FISCAL YEAR COMMENCING JULY 1, 2008, PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) FOR THE HOME ENERGY EFFICIENCY PROGRAM DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (3), AT THE END OF THE 2008-09 STATE FISCAL YEAR THE STATE TREASURER SHALL TRANSFER THE MONEYS THAT THE GOVERNOR'S ENERGY OFFICE CANNOT USE TO THE CLEAN ENERGY FUND CREATED IN SECTION 24-75-1201 (1), C.R.S.



(4) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ACCREDITED COLORADO YOUTH CORPS" MEANS A YOUTH CORPS ORGANIZATION THAT IS ACCREDITED BY THE COLORADO YOUTH CORPS ASSOCIATION OR THE NATIONAL ASSOCIATION OF SERVICE AND CONSERVATION CORPS, OR ANY SUCCESSOR ORGANIZATION.

(b) "COST-EFFECTIVE" MEANS ENERGY EFFICIENCY MEASURES WHOSE MONETARY BENEFITS EXCEED COSTS OVER THE LIFETIME OF THE MEASURES.

(c) "ENERGY EFFICIENCY MEASURES" MEANS MEASURES THAT REDUCE CONSUMPTION OF FOSSIL FUELS OR ELECTRICITY.

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

**SECTION 5.** 40-8.5-103.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**40-8.5-103.5. Commission created - duties.** (4) (a) NO LATER THAN DECEMBER 15, 2008, THE COMMISSION SHALL MAKE RECOMMENDATIONS TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND THE PRESIDENT OF THE SENATE REGARDING ANY NECESSARY LEGISLATIVE CHANGES TO IMPROVE THE EFFECTIVENESS AND EFFICIENCY OF THE STATE'S LOW-INCOME ENERGY ASSISTANCE SERVICES PROVIDED PURSUANT TO ARTICLE 8.7 OF THIS TITLE AND SECTION 26-1-109, C.R.S. WITH ASSISTANCE AND CONSULTATION FROM REPRESENTATIVES FROM TWO COUNTIES CHOSEN BY THE EXECUTIVE DIRECTOR, OR HIS OR HER DESIGNEE, OF COLORADO COUNTIES, INCORPORATED, OR ITS SUCCESSOR ORGANIZATION, THE COMMISSION SHALL ASSESS THE STRENGTHS AND WEAKNESSES OF THE CURRENT SERVICE DELIVERY SYSTEMS WITHIN THE STATE AND SHALL REVIEW EFFECTIVE SERVICE DELIVERY SYSTEMS AND MODELS OF OTHER STATES THAT MAY BE APPROPRIATE FOR UTILIZATION IN THIS STATE. THE COMMISSION'S RECOMMENDATIONS SHALL BUILD UPON THE POSITIVE ASPECTS OF THE CURRENT SERVICE DELIVERY SYSTEM, INCLUDING, BUT NOT LIMITED TO, THE EFFECTIVE AND EFFICIENT MANAGEMENT OF CURRENT FUNDING TO MAXIMIZE ASSISTANCE TO THE STATE'S LOW-INCOME POPULATION, INFRASTRUCTURE THAT IS ALREADY IN PLACE TO EFFICIENTLY DISTRIBUTE BENEFITS TO ELIGIBLE CLIENTS IN A TIMELY MANNER, AND COORDINATION ALREADY ESTABLISHED BETWEEN ENERGY CONSERVATION MEASURES AND DIRECT ASSISTANCE. THE COMMISSION'S RECOMMENDATIONS SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO:

(I) HOW BEST TO TARGET THE STATE'S LOW-INCOME ENERGY ASSISTANCE RESOURCES TOWARD THE IDENTIFIED NEEDS;

(II) HOW BEST TO COORDINATE PUBLIC AND PRIVATE ENERGY ASSISTANCE ACTIVITIES WITH THE OBJECTIVE OF MINIMIZING THE FINANCIAL BURDEN OF ENERGY COSTS FOR THE STATE'S MOST NEEDY;

(III) HOW BEST TO STREAMLINE ADMINISTRATIVE PROCESSES; AND

(IV) SUGGESTED CHANGES TO STATE STATUTES, RULES, OR POLICIES RELATED TO

## LOW-INCOME ENERGY CONSUMERS IN THE STATE.

(b) THE COMMISSION MAY SEEK AND RECEIVE PUBLIC AND PRIVATE FUNDING TO ASSIST IN THE CONDUCT OF THE ASSESSMENT AND REVIEW REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (4), INCLUDING BUT NOT LIMITED TO ASSISTANCE FROM THE EXISTING RESOURCES OF THE DEPARTMENT OF HUMAN SERVICES CREATED IN SECTION 24-1-120, C.R.S., THE GOVERNOR'S ENERGY OFFICE CREATED IN SECTION 24-38.5-101, C.R.S., AND ENERGY OUTREACH COLORADO, A COLORADO NONPROFIT CORPORATION, AS DESCRIBED IN SECTION 40-8.7-103 (4).

**SECTION 6.** 24-75-1201 (1), Colorado Revised Statutes, is amended to read:

**24-75-1201. Clean energy fund - creation - use of fund.** (1) The clean energy fund is hereby created in the state treasury. The principal of the fund shall consist of moneys transferred to the fund at the end of the 2006-07 state fiscal year and at the end of each succeeding state fiscal year from the limited gaming fund created in section 12-47.1-701 (1), C.R.S., in accordance with section 12-47.1-701 (5), C.R.S., and from moneys received by the governor's energy office, or any successor office, pursuant to section 39-29-109 (1.5), C.R.S., in accordance with ~~section 39-29-109 (1.5) (h) (VII)~~ SECTION 40-8.7-112 (3) (g), C.R.S. Interest and income earned on the deposit and investment of moneys in the clean energy fund shall be credited to the fund. Moneys in the fund at the end of any state fiscal year shall remain in the fund and shall not be credited to the state general fund or any other fund.

**SECTION 7.** 39-29-109 (1) (l) (IV), (7) (a), (8) (a), and (8.5) (a), Colorado Revised Statutes, are amended to read:

**39-29-109. Severance tax trust fund - created - administration - use of moneys - definitions - repeal.** (1) (l) (IV) If the national science foundation has not awarded the DUSEL to the Henderson mine near Empire by the end of any fiscal year specified in subparagraph (III) of this paragraph (l), the state treasurer shall transfer the moneys that were appropriated pursuant to this paragraph (l) for such fiscal year by July 1 of the succeeding fiscal year to the species conservation trust fund created in section 24-33-111, C.R.S., and such moneys shall be subject to appropriation for purposes specified in section 24-33-111, C.R.S. In addition, the general assembly shall appropriate and the state treasurer shall transfer moneys pursuant to this paragraph (l) for a given state fiscal year only if, based on the preceding March revenue forecast from the legislative council, there will be sufficient revenue in the operational account of the severance tax trust fund after all the appropriations authorized or required by law as of the March revenue forecast to meet the year end balance for the given state fiscal year that is required pursuant to subparagraph (III) of paragraph (c) of THIS subsection (1) ~~of this section~~ and required pursuant to subparagraph (I) of ~~paragraph (f)~~ PARAGRAPH (e) of subsection (1.5) of this section.

(7) (a) ~~Subject to the maintenance of the end balance requirement of paragraph (f) of subsection (1.5) of this section and a two-year reserve pursuant to sub-subparagraph (A) of subparagraph (III) of paragraph (c) of subsection (1) of this section, five hundred thousand dollars from the operational account of the severance tax trust fund shall be appropriated for fiscal year 2006-07 and one hundred fifty~~

~~thousand dollars from the operational account of the severance tax trust fund shall be appropriated for fiscal year 2007-08 for purposes specified in article 35 of title 23, C.R.S.~~

(8) (a) Subject to the end balance requirement of ~~paragraph (f)~~ PARAGRAPH (e) of subsection (1.5) of this section and the maintenance of a two-year reserve pursuant to sub-subparagraph (A) of subparagraph (III) of paragraph (c) of subsection (1) of this section, for three state fiscal years beginning with the state fiscal year commencing on July 1, 2006, a portion of the operational account of the severance tax trust fund shall be appropriated to the governor's office of energy management and conservation, or analogous successor office, for distribution to the Colorado renewable energy authority created in section 24-47.5-101, C.R.S., for the purposes stated in section 24-47.5-102 (2), C.R.S. The amount appropriated shall be two million dollars per year, subject to the limitations stated in ~~section 24-47.5-102~~ SECTION 24-47.5-103, C.R.S., and in this paragraph (a). If there are insufficient moneys in the operational account to make all appropriations and transfers at the highest level authorized by law, the appropriations authorized by this subsection (8) and subsection (8.5) of this section shall be reduced pro rata as necessary to accommodate all appropriations and transfers at the highest level authorized by law other than this subsection (8) and subsection (8.5) of this section.

(8.5) (a) Subject to the end balance requirement of ~~paragraph (f)~~ PARAGRAPH (e) of subsection (1.5) of this section and the maintenance of a two-year reserve pursuant to sub-subparagraph (A) of subparagraph (III) of paragraph (c) of ~~subsection (1.5)~~ SUBSECTION (1) of this section, for three state fiscal years beginning with the state fiscal year commencing on July 1, 2006, the state treasurer shall transfer a portion of the operational account of the severance tax trust fund to the agriculture value-added cash fund created in section 35-75-205 (1), C.R.S., to promote agricultural energy-related projects and research. The amount appropriated shall be five hundred thousand dollars per year. If there are insufficient moneys in the operational account to make all appropriations and transfers at the highest level authorized by law, the transfers authorized by this subsection (8.5) and subsection (8) of this section shall be reduced pro rata as necessary to accommodate all appropriations and transfers at the highest level authorized by law other than this subsection (8.5) and subsection (8) of this section.

**SECTION 8.** 40-8.7-110 (1.5), Colorado Revised Statutes, is amended to read:

**40-8.7-110. Reports.** (1.5) To the extent applicable, the organization shall include in the report the information required by paragraphs (b) and (c) of subsection (1) of this section for moneys received from the GOVERNOR'S ENERGY office ~~of the governor pursuant to section 39-29-109 (1.5), C.R.S.~~ SECTION 40-8.7-112 (2) (a).

**SECTION 9.** 24-38.5-102 (1) (l), Colorado Revised Statutes, as enacted by House Bill 08-1025, enacted at the Second Regular Session of the Sixty-sixth General Assembly, is amended to read:

**24-38.5-102. Governor's energy office - duties and powers.** (1) The governor's energy office shall:

(l) Provide home energy efficiency improvements for low-income households as specified in ~~section 39-29-109 (1.5)~~ SECTION 40-8.7-112 (3) (b), C.R.S., and prepare and submit to the general assembly an annual report as specified in ~~section 39-29-109 (1.5) (h)~~ (v) SECTION 40-8.7-112 (3) (f), C.R.S.;

**SECTION 10.** The introductory portion to 39-29-109.3 (4) (a), Colorado Revised Statutes, as enacted by House Bill 08-1398, enacted at the Second Regular Session of the Sixty-sixth General Assembly, is amended, and the said 39-29-109.3 (4) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**39-29-109.3. Operational account of the severance tax trust fund - repeal.**

(4) (a) Except as provided in ~~paragraph~~ PARAGRAPHS (b) AND (c) of this subsection (4), all transfers specified in subsection (2) of this section shall be made by the state treasurer in three installments, as follows:

(c) (I) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), THE STATE TREASURER SHALL MAKE THE TRANSFERS SPECIFIED IN PARAGRAPH (f) OF SUBSECTION (2) OF THIS SECTION AS FOLLOWS:

(A) THE TRANSFERS TO THE GOVERNOR'S ENERGY OFFICE LOW-INCOME ENERGY ASSISTANCE FUND SHALL BE MADE ON JULY 1;

(B) THE TRANSFERS TO THE DEPARTMENT OF HUMAN SERVICES LOW-INCOME ENERGY ASSISTANCE FUND SHALL BE MADE ON JANUARY 4;

(C) THE TRANSFERS TO THE ENERGY OUTREACH COLORADO LOW-INCOME ENERGY ASSISTANCE FUND SHALL BE MADE ON APRIL 1.

(II) IF THERE ARE PROPORTIONAL REDUCTIONS MADE TO THE TRANSFERS SPECIFIED IN THIS PARAGRAPH (c) PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4), THE TREASURER SHALL TRANSFER ON JULY 1 OF THE FOLLOWING FISCAL YEAR THE AMOUNT OF THE PROPORTIONAL REDUCTION TO THE FUND THAT SHOULD HAVE RECEIVED THAT MONEY FROM THE FUNDING FOR THE FOLLOWING FISCAL YEAR AS SPECIFIED IN PARAGRAPH (f) OF SUBSECTION (2) OF THIS SECTION AND SHALL THEN DISTRIBUTE THE REMAINING FUNDING FOR THE FOLLOWING FISCAL YEAR PURSUANT TO THE PERCENTAGES SPECIFIED IN SAID PARAGRAPH (f).

**SECTION 11.** 39-29-109 (1), Colorado Revised Statutes, as amended by House Bill 08-1398, enacted at the Second Regular Session of the Sixty-sixth General Assembly, is amended as follows:

**39-29-109. Severance tax trust fund - created - administration - distribution of moneys.** (1) There is hereby created in the office of the state treasurer the severance tax trust fund, also referred to in this section as the "fund". The fund is to be perpetual and held in trust as a replacement for depleted natural resources, for the development and conservation of the state's water resources pursuant to sections 37-60-106 (1) (j) and (1) (l), 37-60-119, and 37-60-122, C.R.S., and for THE use in funding programs that promote and encourage sound natural resource planning, management, and development related to minerals, energy, geology, and water AND FOR THE USE IN FUNDING PROGRAMS TO REDUCE THE BURDEN OF INCREASING HOME ENERGY COSTS ON LOW-INCOME HOUSEHOLDS.

**SECTION 12.** 40-8.7-112 (3) (c), Colorado Revised Statutes, as amended by House Bill 08-1398, enacted at the Second Regular Session of the Sixty-sixth General Assembly, is amended as follows:

**40-8.7-112. Department of human services low-income energy assistance fund - creation - energy outreach Colorado low-income energy assistance fund - creation - governor's energy office low-income energy assistance fund - creation - definitions.** (3) (c) ~~Only persons eligible to receive assistance under the low-income energy assistance program administered by the department of human services shall be~~ HOUSEHOLDS eligible for the home energy efficiency program described in paragraph (b) of this subsection (3) SHALL BE AT OR BELOW ONE HUNDRED PERCENT OF THE AREA MEDIAN INCOME GUIDELINES ADJUSTED FOR FAMILY SIZE BASED ON THE MOST RECENTLY PUBLISHED AREA MEDIAN INCOME LIMITS ESTABLISHED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

**SECTION 13. Adjustments to the 2008 long bill.** For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2008, shall be adjusted as follows:

(1) The appropriation to the governor - lieutenant governor - state planing and budgeting, office of the governor, governor's energy office, for low-income energy assistance is decreased by seven million fifty thousand dollars (\$7,050,000) cash funds from the operational account of the severance tax trust fund created in section 39-29-109 (1) (a), Colorado Revised Statutes.

(2) The appropriation to the department of human services, office of self-sufficiency, special purpose welfare programs for the low-income energy assistance program is decreased by five million nine hundred fifty thousand dollars (\$5,950,000) cash funds from the operational account of the severance tax trust fund created in section 39-29-109 (1) (a), Colorado Revised Statutes.

**SECTION 14. Adjustments to the 2008 long bill.** For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2008, shall be adjusted as follows:

(1) The appropriation to the governor - lieutenant governor - state planing and budgeting, office of the governor, governor's energy office, for low-income energy assistance is decreased by seven million fifty thousand dollars (\$7,050,000) cash funds from the operational account of the severance tax trust fund created in section 39-29-109 (2) (b), Colorado Revised Statutes.

(2) The appropriation to the department of human services, office of self-sufficiency, special purpose welfare programs for the low-income energy assistance program is decreased by five million nine hundred fifty thousand dollars (\$5,950,000) cash funds from the operational account of the severance tax trust fund created in section 39-29-109 (2) (b), Colorado Revised Statutes.

**SECTION 15. Effective date.** (1) This act shall take effect upon passage; except that:

(a) Sections 1, 2, 4, 6, 7, 8, 9, and 13 of this act shall not take effect if House Bill 08-1398 is enacted at the Second Regular Session of the Sixty-sixth General Assembly and becomes law;

(b) Sections 3, 10, 11, 12, and 14 of this act shall take effect only if House Bill 08-1398 is enacted at the Second Regular Session of the Sixty-sixth General Assembly and becomes law.

**SECTION 16. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 27, 2008