

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 08-0377.01 Duane Gall

**HOUSE BILL 08-1227**

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**HOUSE SPONSORSHIP**

**Madden,**

**SENATE SPONSORSHIP**

**Tapia,**

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**House Committees**

Transportation & Energy  
Appropriations

**Senate Committees**

Business, Labor and Technology  
Appropriations

SENATE  
Amended 3rd Reading  
May 2, 2008

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**A BILL FOR AN ACT**

101 **CONCERNING THE PUBLIC UTILITIES COMMISSION, AND, IN**  
102 **CONNECTION THEREWITH, CONTINUING THE PUBLIC UTILITIES**  
103 **COMMISSION UNDER THE SUNSET LAW, AND MAKING AN**  
104 **APPROPRIATION.**

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SENATE  
Amended 2nd Reading  
April 30, 2008

**Bill Summary**

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

HOUSE  
Amended 3rd Reading  
March 13, 2008

**Sunset Process - House Transportation Committee.** Continues the public utilities commission (PUC) for 11 years, until 2019.

Gives the PUC authority to impose administrative fines against fixed utilities in addition to its existing authority to impose administrative

HOUSE  
Amended 2nd Reading  
March 12, 2008

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

finer against motor carriers. Allows the PUC to control litigation by the attorney general seeking to recover civil penalties.

Exempts rule-making proceedings from requirements relating to ex parte discussion of pending matters with PUC commissioners and administrative law judges.

Eliminates obsolete references to telegraph operations and to regulatory issues as to which state action has been preempted by federal law, including railroad-railroad crossings and time limits for pickup and delivery by motor carriers of property.

Requires all municipally owned utilities and cooperative electric associations, in addition to investor-owned utilities, to comply with the net metering and customer-generation incentive provisions of "Amendment 37", the 2004 initiated statute.

Expressly authorizes the PUC to invite and directs the PUC to consider, when relevant, amicus briefs and other information provided by state agencies (including the department of public health and environment, the division of local government within the department of local affairs, the department of natural resources, and the governor's energy office) in both rule-making and adjudicatory proceedings, whether or not the PUC grants these agencies formal status as intervenors in the proceeding. Expands the statutory directive of the office of consumer counsel to include representation of the social and environmental interests, in addition to the economic interests, of residential, agricultural, and small business consumers of utility service.

Harmonizes eligibility requirements for the low-income energy assistance and low-income telephone assistance programs. Establishes that to qualify for either program, a utility customer must be a citizen or legal resident of the United States and a resident of Colorado and must have a household income at or below 185% of the federal poverty level.

Requires providers of interconnected voice-over-internet-protocol (VoIP) service to pay into the Colorado high-cost service mechanism.

Shifts the burden of proof in applications for taxicab certificates, from the applicant to those protesting the application, with regard to the question of whether the public convenience and necessity require the issuance of a new certificate within the proposed geographic area of operation.

Includes investor-owned water and sewer companies in the definition of a public utility subject to PUC oversight.

Makes conforming amendments and removes an obsolete reference.

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

2 **SECTION 1.** 40-2-101 (3) (b) (I), Colorado Revised Statutes, is

1 amended to read:

2 **40-2-101. Creation - appointment - term - subject to**  
3 **termination - repeal of article.** (3) (b) (I) This article is repealed,  
4 effective July 1, 2008 2019.

5 **SECTION 2. Repeal.** 24-34-104 (39) (b) (XVII), Colorado  
6 Revised Statutes, is repealed as follows:

7 **24-34-104. General assembly review of regulatory agencies**  
8 **and functions for termination, continuation, or reestablishment.**

9 (39) (b) The following agencies, functions, or both, shall terminate on  
10 July 1, 2008:

11 (XVII) ~~The Colorado public utilities commission, created by~~  
12 ~~article 2 of title 40, C.R.S.;~~

13 **SECTION 3.** 24-34-104, Colorado Revised Statutes, is amended  
14 BY THE ADDITION OF A NEW SUBSECTION to read:

15 **24-34-104. General assembly review of regulatory agencies**  
16 **and functions for termination, continuation, or reestablishment.**

17 (50) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE  
18 ON SEPTEMBER 1, 2019: THE COLORADO PUBLIC UTILITIES COMMISSION,  
19 CREATED BY ARTICLE 2 OF TITLE 40, C.R.S.

20 **SECTION 4.** 31-35-402 (1) (f), Colorado Revised Statutes, is  
21 amended to read:

22 **31-35-402. Powers.** (1) In addition to the powers which it may  
23 now have, any municipality, without any election of the qualified electors  
24 thereof, has power under this part 4:

25 (f) (I) To prescribe, revise, and collect in advance or otherwise,  
26 from any consumer or any owner or occupant of any real property  
27 connected therewith WITH or receiving service therefrom FROM THE

1 MUNICIPALITY, rates, fees, tolls, and charges or any combination thereof  
2 for the services furnished by, or the direct or indirect connection with, or  
3 the use of, or any commodity from such water facilities or sewerage  
4 facilities or both, including, without limiting the generality of the  
5 foregoing, minimum charges, charges for the availability of service, tap  
6 fees, disconnection fees, reconnection fees, and reasonable penalties for  
7 any delinquencies, including but not necessarily limited to interest on  
8 delinquencies from any date due at a rate of not exceeding one percent  
9 per month or fraction thereof, reasonable attorneys' ATTORNEY fees, and  
10 other costs of collection; without any modification, supervision, or  
11 regulation of any such rates, fees, tolls, or charges by any board, agency,  
12 bureau, commission, or official other than the governing body collecting  
13 them; and in anticipation of the collection of the revenues of such water  
14 facilities or sewerage facilities, or joint system, to issue revenue bonds to  
15 finance in whole or in part the cost of acquisition, construction,  
16 reconstruction, improvement, betterment, or extension of the water  
17 facilities or sewerage facilities, or both; and to issue temporary bonds  
18 until permanent bonds and any coupons appertaining thereto have been  
19 printed and exchanged for the temporary bonds.

20 (II) — RATES, FEES, TOLLS, AND CHARGES FOR SEWER SERVICE  
21 PROVIDED IN AN URBAN AREA, AS DEFINED IN SECTION 24-46-105.7,  
22 C.R.S., TO PERSONS OUTSIDE THE BOUNDARIES OF A MUNICIPALITY ARE  
23 EXPRESSLY DECLARED SUBJECT TO REGULATION BY THE PUBLIC UTILITIES  
24 COMMISSION PURSUANT TO SECTION 40-3.5-102, C.R.S. — —

25 **SECTION 5.** 40-1-103 (1) (a), Colorado Revised Statutes, is  
26 amended to read:

27 **40-1-103. Public utility defined.** (1) (a) (I) The term "public

1 utility", when used in articles 1 to 7 of this title, includes every common  
2 carrier, pipeline corporation, gas corporation, electrical corporation,  
3 telephone corporation, ~~telegraph corporation~~, water corporation, person,  
4 or municipality operating for the purpose of supplying the public for  
5 domestic, mechanical, or public uses and every corporation, or person  
6 declared by law to be affected with a public interest, and each of the  
7 preceding is hereby declared to be a public utility and to be subject to the  
8 jurisdiction, control, and regulation of the commission and to the  
9 provisions of articles 1 to 7 of this title.

10 (II) AS USED IN THIS PARAGRAPH (a), "WATER CORPORATION"  
11 INCLUDES A COMBINED WATER AND SEWER CORPORATION, WHETHER AS A  
12 SINGLE ENTITY OR AS DIFFERENT ENTITIES UNDER COMMON OWNERSHIP.

13 **SECTION 6.** 40-2-110.5 (1), Colorado Revised Statutes, is  
14 amended to read:

15 **40-2-110.5. Annual fees - motor carriers - public utilities**  
16 **commission motor carrier fund - created.** (1) Every motor vehicle  
17 carrier that has been issued a certificate pursuant to section 40-10-104,  
18 every contract carrier by motor vehicle that has been issued a permit  
19 pursuant to section 40-11-103, every motor vehicle carrier that has been  
20 registered with the commission pursuant to section 40-10-120, every  
21 contract carrier by motor vehicle that has been registered with the  
22 commission pursuant to section 40-11-115, every towing carrier that has  
23 been issued a permit pursuant to section 40-13-103, every mover that has  
24 registered pursuant to section 40-14-103, and every motor vehicle carrier  
25 exempt from regulation as a public utility shall pay an annual  
26 identification fee, ~~of five dollars to~~ SET ADMINISTRATIVELY BY the  
27 commission, for each motor vehicle such carrier owns, controls, operates,

1 or manages. FEES SHALL BE SET BASED UPON THE APPROPRIATION MADE  
2 FOR THE PURPOSES SPECIFIED IN SECTION 40-2-110 (2) (a) (I), SUBJECT TO  
3 THE APPROVAL OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF  
4 REGULATORY AGENCIES, SUCH THAT THE REVENUE GENERATED FROM ALL  
5 MOTOR VEHICLE CARRIER FEES APPROXIMATES THE DIRECT AND INDIRECT  
6 COSTS OF THE COMMISSION IN THE SUPERVISION AND REGULATION OF  
7 MOTOR CARRIERS. Such fees shall be valid from January 1 to December  
8 31 of each year and shall be valid only for those specific vehicles for  
9 which the fee has been paid.

10 **SECTION 7.** 40-3-106 (2), Colorado Revised Statutes, is  
11 amended to read:

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

14 (2) Nothing in articles 1 to 7 of this title shall be taken to prohibit a  
15 public utility engaged in the production, generation, transmission, or  
16 furnishing of heat, light, gas, water, power, or ~~telegraph~~ or telephone  
17 service from establishing a graduated scale of charges subject to the  
18 provisions of this title.

19 **SECTION 8.** 40-3-107, Colorado Revised Statutes, is amended  
20 to read:

21 **40-3-107. Transmission of business of other companies.** Every  
22 telephone and ~~telegraph~~ public utility operating in this state shall receive,  
23 transmit, and deliver, without discrimination or delay, the conversations  
24 and messages of every other telephone or ~~telegraph~~ public utility with  
25 whose line a physical connection may have been made.

26 **SECTION 9.** 40-3-108, Colorado Revised Statutes, is amended  
27 to read:

1           **40-3-108. Rates for long and short distances.** No telephone or  
2 telegraph public utility subject to the provisions of articles 1 to 7 of this  
3 title shall charge or receive any greater compensation in the aggregate for  
4 the transmission of any long distance message or conversation for a  
5 shorter than for a longer distance over the same line or route in the same  
6 direction within this state, the shorter being included within the longer  
7 distance, or charge any greater compensation for a through service than  
8 the aggregate of the intermediate rates or tolls subject to the provisions of  
9 articles 1 to 7 of this title. Upon application to the commission, a  
10 telephone or telegraph public utility may be authorized by the commission  
11 to charge less for a longer than a shorter distance service for the  
12 transmission of messages or conversations in special cases, after  
13 investigation; and the commission may from time to time prescribe the  
14 extent to which such telephone or telegraph public utility may be relieved  
15 from the operation and requirements of this section.

16           **SECTION 10.** 40-3-111 (2), Colorado Revised Statutes, is  
17 amended to read:

18           **40-3-111. Rates determined after hearing.** (2) (a) The  
19 commission has the power, after a hearing upon its own motion or upon  
20 complaint, to investigate a single rate, fare, toll, rental, charge,  
21 classification, rule, regulation, contract, or practice, or the entire schedule  
22 of rates, fares, tolls, rentals, charges, classifications, rules, regulations,  
23 contracts, and practices of any public utility; and to establish new rates,  
24 fares, tolls, rentals, charges, classifications, rules, regulations, contracts,  
25 practices, or schedules, in lieu thereof.

26           (b) AS PART OF ANY INQUIRY OR INVESTIGATION INTO RATE  
27 STRUCTURES OF REGULATED ELECTRIC UTILITIES UNDERTAKEN ON OR

1 BEFORE JULY 1, 2009, THE COMMISSION SHALL CONSIDER WHETHER TO  
2 ADOPT RETAIL RATE STRUCTURES THAT ENABLE THE USE OF SOLAR OR  
3 OTHER RENEWABLE ENERGY RESOURCES IN AGRICULTURAL APPLICATIONS,  
4 INCLUDING, BUT NOT LIMITED TO, IRRIGATION PUMPING.

5 **SECTION 11.** 40-3.4-105, Colorado Revised Statutes, is  
6 amended to read:

7 **40-3.4-105. Low-income telephone assistance - eligibility.**

8 (1) Individuals eligible for low-income telephone assistance shall be  
9 those persons WHO:

10 (a) ARE certified by the department of human services as qualified  
11 to receive financial assistance payments; ~~administered by the department~~  
12 ~~of human services under programs for old age pension, aid to the blind,~~  
13 ~~aid to the needy disabled, or low-income disabled persons who qualify to~~  
14 ~~receive supplemental security income under the federal "Social Security~~  
15 ~~Act", as amended.~~

16 (b) ARE CURRENT OR PROSPECTIVE SUBSCRIBERS TO BASIC LOCAL  
17 EXCHANGE SERVICE, AS DEFINED IN SECTION 40-15-102;

18 (c) ARE CITIZENS OR LEGAL RESIDENTS OF THE UNITED STATES  
19 AND RESIDENTS OF COLORADO; AND

20 (d) HAVE A MONTHLY HOUSEHOLD GROSS INCOME AT OR BELOW  
21 ONE HUNDRED EIGHTY-FIVE PERCENT OF THE FEDERAL POVERTY LEVEL.

22 (2) The department of human services shall periodically recertify  
23 an individual's eligibility to receive low-income telephone assistance.

24 (3) IN PROVIDING LOW-INCOME TELEPHONE ASSISTANCE, THE  
25 DEPARTMENT OF HUMAN SERVICES SHALL GIVE PRIORITY TO HOUSEHOLDS  
26 WHERE ONE OR MORE PERSONS ARE RECIPIENTS OF:

27 (a) AN OLD AGE PENSION AS SET FORTH IN SECTION 26-2-111 (2),

1 C.R.S.;

2 (b) AID TO THE NEEDY DISABLED AS SET FORTH IN SECTION  
3 26-2-111 (4), C.R.S.;

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

6 (d) SUPPLEMENTAL SOCIAL SECURITY DISABILITY BENEFITS UNDER  
7 42 U.S.C. SEC. 1396 ET SEQ.; OR

8 (e) COLORADO WORKS ASSISTANCE AS SET FORTH IN SECTIONS  
9 26-2-706 AND 26-2-707, C.R.S.

10 **SECTION 12.** 40-4-104, Colorado Revised Statutes, is amended  
11 to read:

12 **40-4-104. Connection of noncompetitive lines - costs and rates**  
13 **apportioned.** Whenever the commission, after a hearing upon its own  
14 motion or upon complaint, finds that a physical connection can  
15 reasonably be made between the lines of two or more noncompetitive  
16 ~~telegraph or~~ telephone public utilities whose lines can be made to form a  
17 continuous line of communication by the construction and maintenance  
18 of suitable connections for the transmission of messages or conversations  
19 and that the public convenience and necessity will be served ~~thereby or~~  
20 finds that two or more ~~telegraph or~~ telephone public utilities have failed  
21 to establish joint rates, tolls, or charges for service by or over said lines  
22 and that joint rates, tolls, or charges ought to be established, the  
23 commission may by its order require that such connections be made and  
24 that conversations be transmitted and messages transferred over such  
25 connection under such rules ~~and regulations~~ as the commission may  
26 establish and prescribe through lines and joint rates, tolls, and charges to  
27 be made and used, observed, and in force in the future. If such telephone

1 or telegraph public utilities do not agree upon the division between them  
2 of the joint cost of ~~such~~ THE physical connection or connections or the  
3 division of the joint rates, tolls, or charges established by the commission  
4 over such through lines, the commission has authority, after further  
5 hearing, to establish ~~such~~ THE division by supplemental order.

6 **SECTION 13.** 40-4-106 (2), Colorado Revised Statutes, is  
7 amended to read:

8 **40-4-106. Rules for public safety - crossings - allocation of**  
9 **expenses.** (2) (a) The commission has the power to determine, order,  
10 and prescribe, in accordance with the plans and specifications to be  
11 approved by it, the just and reasonable manner including the particular  
12 point of crossing at which the tracks or other facilities of any public utility  
13 may be constructed across the ~~tracks or other~~ facilities of any other public  
14 utility at grade, or above or below grade, or at the same or different  
15 levels, or at which the tracks or other facilities of any railroad corporation  
16 may be constructed across ~~the tracks or other facilities of any other~~  
17 ~~railroad corporation or across~~ any public highway at grade, or above or  
18 below grade, or at which any public highway may be constructed across  
19 the tracks or other facilities of any railroad corporation at grade, or above  
20 or below grade and to determine, order, and prescribe the terms and  
21 conditions of installation and operation, maintenance, and ~~protection of~~  
22 ~~WARNING AT~~ all such crossings ~~which~~ THAT may be constructed,  
23 including the ~~watchman thereat~~ ~~POSTING OF PERSONNEL~~ or the installation  
24 and regulation of lights, block, interlocking, or other system of signaling,  
25 safety appliance devices, or such other means or instrumentalities as may  
26 to the commission appear reasonable and necessary to the end, intent, and  
27 purpose that accidents may be prevented and the safety of the public

1 promoted.

2 (b) Whenever the commission orders in any proceeding before it,  
3 regardless of by whom or how such proceeding was commenced, that  
4 automatic or other safety appliance signals or devices be installed,  
5 reconstructed, or improved and operated at any crossing at grade of any  
6 public highway or road over the tracks of any railroad corporation, the  
7 commission shall also determine and order, after notice and hearing, how  
8 the cost of installing, reconstructing, or improving such signals or devices  
9 shall be divided between and paid by the interested railroad corporation  
10 whose tracks are located at ~~such~~ THE crossing on the one hand and the  
11 highway operations and maintenance division and the interested city, city  
12 and county, town, county, or other political subdivision of the state on the  
13 other hand. In determining how much of the cost shall be paid by the  
14 railroad corporation, consideration shall be given to the benefit, if any,  
15 that will accrue from ~~such~~ THE signals or devices to the railroad  
16 corporation, but in every case the part to be paid by the railroad  
17 corporation shall be not less than twenty percent of the total cost of ~~such~~  
18 THE signals or devices at any crossing, and ~~such~~ THE orders shall provide  
19 that every ~~such~~ signal or device ~~so~~ installed shall be maintained by such  
20 railroad corporation for the life of the crossing to be so ~~protected~~  
21 SIGNALIZED. In order to compensate for the use of ~~such~~ THE crossings by  
22 the public generally, the commission shall also order that such part of the  
23 cost of installing, reconstructing, or improving ~~such~~ THE signals or  
24 devices as will not be paid by the railroad corporation be divided between  
25 the ~~highway~~ HIGHWAY-RAIL crossing ~~protection~~ SIGNALIZATION fund and  
26 the city, town, city and county, county, or other political subdivision in  
27 which the crossing is located, and the commission shall fix in each case

1 the amount to be paid from the ~~highway~~ HIGHWAY-RAIL crossing  
2 ~~protection~~ SIGNALIZATION fund and the amount to be paid by the city,  
3 town, city and county, county, or other political subdivision. Any order  
4 of the commission under this section for the payment of any part of any  
5 such costs from the ~~highway~~ HIGHWAY-RAIL crossing ~~protection~~  
6 SIGNALIZATION fund shall be authority for the state treasurer to pay out of  
7 said fund to the person, firm, or corporation entitled thereto under the  
8 commission's order the amount so determined to be paid from said fund.  
9 The requirement of notice and hearing in this section is deemed to have  
10 been complied with by the commission's giving notice of and holding a  
11 hearing upon the question of whether any such signals or devices are  
12 required at any crossing; but in such cases the notice shall state that the  
13 question of how the costs will be borne and paid will be considered at and  
14 determined as a result of the hearing for which the notice is given. This  
15 paragraph (b) shall not apply to any grade crossing when all or any part  
16 of the cost of the installation, reconstruction, or improvement of ~~such~~ THE  
17 signals or devices at the crossing will be paid from funds available under  
18 any federal or federal-aid highway act.

19 **SECTION 14. Repeal.** 40-4-107, Colorado Revised Statutes, is  
20 repealed as follows:

21 **40-4-107. Time limit regulations.** ~~(1) The commission has the~~  
22 ~~power to prescribe the period of time within which express packages shall~~  
23 ~~be received, gathered, transported, and delivered at destination and the~~  
24 ~~area within which express packages shall be gathered and distributed and~~  
25 ~~telegraph messages delivered without extra charge.~~

26 ~~(2) The commission has the power to prescribe by proper rules~~  
27 ~~and regulations the time which consignors or persons ordering cars shall~~

1 ~~load the cars and the time within which consignees or persons to whom~~  
2 ~~freight may be consigned shall unload and discharge the same, and~~  
3 ~~receive the freight from the freight depots and to enforce the penalties for~~  
4 ~~any failure on the part of the consignors and consignees to conform to~~  
5 ~~such rules as provided in articles 1 to 7 of this title.~~

6 **SECTION 15.** 40-6-108 (2), Colorado Revised Statutes, is  
7 amended to read:

8 **40-6-108. Complaints - service - notice of hearing.**

9 (2) (a) Notice of all applications, petitions, and orders instituting  
10 investigations or inquiries shall be given to all persons, firms, or  
11 corporations who, in the opinion of the commission, are interested in, or  
12 who would be affected by, the granting or denial of any such application,  
13 petition, or other proceeding. Except for good cause shown, any person  
14 desiring to file an objection or intervene in or participate as a party in any  
15 such proceeding shall file his OR HER objection or petition for leave to  
16 intervene or, under such rules as the commission may prescribe, file other  
17 appropriate pleadings to become a party, within thirty days after the date  
18 of ~~such~~ THE notice, or such lesser time as the commission may prescribe.  
19 No final action shall be taken by the commission in any ~~such~~ proceeding  
20 during the time any such filing is permitted.

21 (b) ANY PUBLIC UTILITY GIVING NOTICE OF A PROPOSED GAS OR  
22 ELECTRIC TARIFF SHALL SERVE SUCH NOTICE UPON THE GOVERNOR'S  
23 ENERGY OFFICE OR ITS SUCCESSOR AGENCY. THE OFFICE SHALL BE  
24 GRANTED LEAVE TO INTERVENE AS A MATTER OF RIGHT, UPON A TIMELY  
25 FILING OF A PETITION OR OTHER PLEADING IN ACCORDANCE WITH THIS  
26 SECTION, IN ADJUDICATORY MATTERS AFFECTING GAS OR ELECTRIC  
27 UTILITIES; EXCEPT THAT THE OFFICE SHALL NOT BE A PARTY TO ANY

1 INDIVIDUAL COMPLAINT BETWEEN A UTILITY AND AN INDIVIDUAL.

2 **SECTION 16.** 40-6-109 (3), Colorado Revised Statutes, is  
3 amended to read:

4 **40-6-109. Hearings - orders - record - review - representation**  
5 **of entities in nonadjudicatory proceedings.** (3) After the conclusion  
6 of any hearing, investigation, or proceeding before the commission, the  
7 commission shall make and file its decision. The decision shall be a  
8 report in writing in which the commission shall state its findings of fact  
9 and conclusions thereon together with its order or requirement. The  
10 decision, under the seal of the commission, shall be served upon all  
11 parties AND MADE AVAILABLE to ALL PARTICIPANTS IN the proceeding.

12 **SECTION 17.** 40-6-122 (3), Colorado Revised Statutes, is  
13 amended, and the said 40-6-122 is further amended BY THE ADDITION  
14 OF A NEW SUBSECTION, to read:

15 **40-6-122. Ex parte communications - disclosure.** (3) Each  
16 memorandum filed pursuant to subsection (1) of this section shall set  
17 forth the time and place at which the communication was made, the  
18 persons who were present at that time and place, a statement of the  
19 subject matter of the communication, other than proprietary information,  
20 and a statement that the subject matter of the communication did not  
21 relate to any pending ADJUDICATORY proceeding before the commission.  
22 It shall not be necessary for the memorandum to be prepared by the  
23 commissioner or judge, but it shall be signed or otherwise authenticated  
24 by the commissioner or judge, whose signature or authentication shall  
25 constitute a certificate by such commissioner or judge that the  
26 memorandum is complete and accurate. All such memoranda shall be  
27 filed with the director of the commission, who shall keep them on file and

1 available for public inspection for a minimum of three years after their  
2 submission.

3 (5) AS USED IN THIS SECTION, AN "ADJUDICATORY PROCEEDING"  
4 DOES NOT INCLUDE A RULE-MAKING PROCEEDING OR DISCUSSIONS ON  
5 PENDING LEGISLATIVE PROPOSALS.

6 \_\_\_\_\_  
7 \_\_\_\_\_

8 **SECTION 18.** 40-6.5-106 (3), Colorado Revised Statutes, is  
9 amended to read:

10 **40-6.5-106. Powers of consumer counsel.** (3) (a) The consumer  
11 counsel and any member of his OR HER staff directly involved in a  
12 specific ADJUDICATORY proceeding before the commission shall refrain  
13 from ex parte communications with members of the commission. The  
14 counsel or his OR HER staff shall have all rights and be governed by the  
15 same ex parte rules as all other intervenors.

16 (b) AS USED IN THIS SUBSECTION (3), AN "ADJUDICATORY  
17 PROCEEDING" DOES NOT INCLUDE A RULE-MAKING PROCEEDING OR  
18 DISCUSSIONS ON PENDING LEGISLATIVE PROPOSALS.

19 **SECTION 19.** 40-7-109, Colorado Revised Statutes, is amended  
20 to read:

21 **40-7-109. Action to recover penalties - fines paid to general**  
22 **fund.** Actions to recover penalties under ~~articles 1 to 7~~ of this title shall  
23 MAY be brought in the name of the people of the state of Colorado in the  
24 district court in and for the county or city and county in which the cause  
25 or some part thereof arose, or in which the corporation complained of, if  
26 any, has its principal place of business, or in which the person, if any,  
27 complained of resides. Such action shall be commenced and prosecuted

1 to final judgment by the attorney general AS DIRECTED BY THE  
2 COMMISSION. In any such action, all penalties incurred up to the time of  
3 commencing the same may be sued for and recovered. In all such actions,  
4 the procedure and rules of evidence shall be the same as in ordinary civil  
5 actions, except as otherwise provided in this article. All fines and  
6 penalties recovered by the state in any such action, together with the costs  
7 thereof, shall be paid into the state treasury. Any such action may be  
8 compromised or discontinued on application of the commission upon  
9 such terms as the court shall approve and order.

10 **SECTION 20. Repeal.** 40-7-110 (1), Colorado Revised Statutes,  
11 is repealed as follows:

12 **40-7-110. Commission to represent people - when.** (1) All  
13 ~~orders, decisions, rules, or regulations heretofore made, issued, or~~  
14 ~~promulgated by the railroad commission shall continue in force and have~~  
15 ~~the same effect as though they had been lawfully made, issued, or~~  
16 ~~promulgated under the provisions of articles 1 to 7 of this title.~~

17 **SECTION 21.** Article 7 of title 40, Colorado Revised Statutes, is  
18 amended BY THE ADDITION OF A NEW SECTION to read:

19 **40-7-113.5. Civil penalties applicable to public utilities -**  
20 **exclusion from rate base.** (1) (a) IN ADDITION TO ANY OTHER PENALTY  
21 OTHERWISE AUTHORIZED BY LAW AND EXCEPT AS OTHERWISE PROVIDED  
22 IN SUBSECTIONS (3), (4), AND (5) OF THIS SECTION, A PUBLIC UTILITY  
23 FURNISHING ELECTRIC, GAS, WATER, WATER AND SEWER, OR  
24 TELECOMMUNICATIONS SERVICE THAT INTENTIONALLY VIOLATES ANY  
25 PROVISION OF ARTICLES 1 TO 7 OR 15 OF THIS TITLE OR OF ANY RULE OR  
26 ORDER OF THE COMMISSION PURSUANT TO SUCH ARTICLES, WHICH  
27 PROVISION IS APPLICABLE TO SUCH UTILITY, MAY BE ASSESSED A CIVIL

1 PENALTY OF NOT MORE THAN TWO THOUSAND DOLLARS; EXCEPT THAT  
2 NOTHING IN THIS SUBSECTION (1) SHALL BE CONSTRUED TO AUTHORIZE  
3 THE IMPOSITION OF CIVIL PENALTIES UPON:

4 (I) A COOPERATIVE ELECTRIC ASSOCIATION THAT HAS VOTED TO  
5 EXEMPT ITSELF FROM REGULATION PURSUANT TO SECTION 40-9.5-103;

6 (II) A COOPERATIVE TELEPHONE ASSOCIATION;       

7 (III) A MUNICIPALLY OWNED UTILITY;

8 (IV) A NONPROFIT GENERATION AND TRANSMISSION ELECTRIC  
9 CORPORATION OR ASSOCIATION; OR

10 (V) A RURAL PROVIDER OF BASIC LOCAL EXCHANGE SERVICE WITH  
11 LESS THAN TWENTY-FIVE THOUSAND ACCESS LINES.

12 (b) CIVIL PENALTIES ASSESSED PURSUANT TO THIS SECTION SHALL  
13 BE PAID AND CREDITED TO THE GENERAL FUND, IN ADDITION TO ANY  
14 OTHER SANCTIONS THAT MAY BE IMPOSED PURSUANT TO LAW. THE  
15 AMOUNT OF ANY SUCH PENALTIES PAID SHALL NOT BE AN ALLOWABLE  
16 EXPENSE FOR RATE-MAKING PURPOSES.

17 (2) (a) THE COMMISSION SHALL ADOPT RULES SPECIFYING THE  
18 PARTICULAR VIOLATIONS, AND THE AMOUNT OF THE CIVIL PENALTIES TO  
19 BE ASSESSED FOR EACH VIOLATION, PURSUANT TO SUBSECTION (1) OF THIS  
20 SECTION.

21 (b) NO PUBLIC UTILITY SHALL BE ASSESSED A CIVIL PENALTY IF THE  
22 UTILITY IS ALREADY SUBJECT TO AN EXISTING REPARATION DUE TO A  
23 COMMISSION ORDER, COMMISSION RULE, OR STATUTORY PROVISION FOR  
24 THE SAME VIOLATION.

25 (3) IF ANY PUBLIC UTILITY RECEIVES A SECOND CIVIL PENALTY  
26 ASSESSMENT FOR A VIOLATION OF THE SAME STATUTE, RULE, OR ORDER  
27 WITHIN ONE YEAR AFTER THE FIRST VIOLATION, THE CIVIL PENALTY

1 ASSESSED FOR THE SECOND VIOLATION SHALL BE NO GREATER THAN TWICE  
2 THE AMOUNT SPECIFIED BY RULE FOR SUCH VIOLATION.

3 (4) IF ANY PUBLIC UTILITY RECEIVES MORE THAN TWO CIVIL  
4 PENALTY ASSESSMENTS FOR VIOLATION OF THE SAME STATUTE, RULE, OR  
5 ORDER WITHIN ONE YEAR, THE CIVIL PENALTY ASSESSED FOR EACH SUCH  
6 SUBSEQUENT VIOLATION SHALL BE NO GREATER THAN THREE TIMES THE  
7 AMOUNT SPECIFIED BY RULE FOR SUCH VIOLATION.

8 (5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
9 CONTRARY, THE TOTAL AMOUNT OF CIVIL PENALTIES ASSESSED AGAINST  
10 ONE PUBLIC UTILITY UNDER THIS SECTION SHALL NOT EXCEED THE LESSER  
11 OF THE FOLLOWING:

12 (a) ONE HUNDRED FIFTY THOUSAND DOLLARS IN ANY SIX-MONTH  
13 PERIOD; OR

14 (b) IN ANY TWELVE-MONTH PERIOD, ONE PERCENT OF THE  
15 UTILITY'S GROSS ANNUAL REVENUES FROM SERVICES REGULATED BY THE  
16 COMMISSION, BASED ON THE MOST RECENT FISCAL YEAR FOR WHICH FINAL  
17 REVENUE FIGURES ARE AVAILABLE.

18 **SECTION 22.** 40-7-115, Colorado Revised Statutes, is amended  
19 to read:

20 **40-7-115. Each day a separate offense.** Each day in which a  
21 person violates any statute, rule, ~~or regulation~~ OR ORDER OF THE  
22 COMMISSION for which a civil penalty may be imposed under section  
23 ~~40-7-113 or 40-7-114~~ 40-7-113, 40-7-113.5, OR 40-7-114 may constitute  
24 a separate offense.

25 **SECTION 23.** Article 7 of title 40, Colorado Revised Statutes, is  
26 amended BY THE ADDITION OF A NEW SECTION to read:

27 **40-7-116.5. Enforcement of civil penalties against public**

1 **utilities.** (1) (a) THE DIRECTOR OF THE COMMISSION OR HIS OR HER  
2 DESIGNEE SHALL HAVE THE AUTHORITY TO ISSUE CIVIL PENALTY  
3 ASSESSMENTS FOR THE VIOLATIONS ENUMERATED IN SECTION 40-7-113.5,  
4 SUBJECT TO HEARING BEFORE THE COMMISSION AS SET FORTH IN THIS  
5 SECTION. WHEN A PUBLIC UTILITY IS CITED FOR A VIOLATION, THE PUBLIC  
6 UTILITY SHALL BE GIVEN NOTICE OF THE VIOLATION IN THE FORM OF A  
7 CIVIL PENALTY ASSESSMENT NOTICE.

8 (b) THE NOTICE SHALL BE TENDERED BY THE DIRECTOR OR HIS OR  
9 HER DESIGNEE, EITHER IN PERSON OR BY CERTIFIED MAIL, OR BY PERSONAL  
10 SERVICE BY ANY PERSON AUTHORIZED TO SERVE PROCESS UNDER RULE  
11 4(d) OF THE COLORADO RULES OF CIVIL PROCEDURE, AND SHALL CONTAIN:

12 (I) THE NAME AND ADDRESS OF THE PERSON CITED FOR THE  
13 VIOLATION;

14 (II) A CITATION TO THE SPECIFIC STATUTE OR RULE ALLEGED TO  
15 HAVE BEEN VIOLATED;

16 (III) A BRIEF DESCRIPTION OF THE ALLEGED VIOLATION;

17 (IV) THE DATE AND APPROXIMATE LOCATION OF THE ALLEGED  
18 VIOLATION;

19 (V) THE MAXIMUM PENALTY AMOUNTS PRESCRIBED FOR THE  
20 VIOLATION;

21 (VI) THE DATE OF THE NOTICE;

22 (VII) A PLACE FOR THE PUBLIC UTILITY TO EXECUTE A SIGNED  
23 ACKNOWLEDGMENT OF RECEIPT OF THE CIVIL PENALTY ASSESSMENT  
24 NOTICE;

25 (VIII) A PLACE FOR THE PUBLIC UTILITY TO EXECUTE A SIGNED  
26 ACKNOWLEDGMENT OF LIABILITY FOR THE VIOLATION; AND

27 (IX) ANY OTHER INFORMATION AS MAY BE REQUIRED BY LAW TO

1 CONSTITUTE NOTICE OF A COMPLAINT TO APPEAR FOR HEARING IF THE  
2 PRESCRIBED PENALTY IS NOT PAID WITHIN TEN DAYS.

3 (c) EVERY CITED PUBLIC UTILITY SHALL EXECUTE THE SIGNED  
4 ACKNOWLEDGMENT OF RECEIPT OF THE CIVIL PENALTY ASSESSMENT  
5 NOTICE. THE ACKNOWLEDGMENT OF LIABILITY SHALL BE EXECUTED AT  
6 THE TIME THE PUBLIC UTILITY CITED PAYS THE PRESCRIBED PENALTY. THE  
7 PUBLIC UTILITY CITED SHALL PAY THE CIVIL PENALTY SPECIFIED FOR THE  
8 VIOLATION INVOLVED AT THE OFFICE OF THE COMMISSION, EITHER IN  
9 PERSON OR BY DEPOSITING THE PAYMENT POSTPAID IN THE UNITED  
10 STATES MAIL WITHIN TEN DAYS AFTER THE ISSUANCE OF THE CITATION.

11 (d) IF THE PUBLIC UTILITY CITED DOES NOT PAY THE PRESCRIBED  
12 PENALTY WITHIN TEN DAYS AFTER THE ISSUANCE OF THE NOTICE, THE  
13 CIVIL PENALTY ASSESSMENT NOTICE SHALL CONSTITUTE A COMPLAINT TO  
14 APPEAR BEFORE THE COMMISSION. THE PUBLIC UTILITY CITED SHALL  
15 CONTACT THE COMMISSION ON OR BEFORE THE TIME AND DATE SPECIFIED  
16 IN THE NOTICE TO SET THE COMPLAINT FOR A HEARING ON THE MERITS IN  
17 ACCORDANCE WITH SECTION 40-6-109. IF THE PUBLIC UTILITY CITED FAILS  
18 TO CONTACT THE COMMISSION ON OR BEFORE THE TIME AND DATE  
19 SPECIFIED, THE COMMISSION SHALL SET THE COMPLAINT FOR HEARING. AT  
20 THE HEARING, THE COMMISSION SHALL HAVE THE BURDEN OF  
21 DEMONSTRATING A VIOLATION BY A PREPONDERANCE OF THE EVIDENCE.

22 (2) A CIVIL PENALTY ASSESSMENT NOTICE SHALL NOT BE  
23 CONSIDERED DEFECTIVE SO AS TO PROVIDE CAUSE FOR DISMISSAL SOLELY  
24 BECAUSE OF A DEFECT IN THE CONTENT OF THE CIVIL PENALTY  
25 ASSESSMENT NOTICE. ANY DEFECT IN THE CONTENT OF A CIVIL PENALTY  
26 ASSESSMENT NOTICE ISSUED AS DESCRIBED IN SUBSECTION (1) OF THIS  
27 SECTION MAY BE CURED BY A MOTION TO AMEND THE SAME FILED WITH

1 THE COMMISSION PRIOR TO HEARING ON THE MERITS; EXCEPT THAT NO  
2 SUCH AMENDMENT SHALL BE PERMITTED IF SUBSTANTIAL RIGHTS OF THE  
3 PUBLIC UTILITY CITED ARE PREJUDICED.

4 (3) IN THE CASE OF AN ALLEGED CONTINUING VIOLATION FOR  
5 WHICH DAILY PENALTIES WOULD ACCRUE UNDER SECTION 40-7-115, THE  
6 ISSUANCE OF A CIVIL PENALTY ASSESSMENT NOTICE SHALL TOLL THE  
7 ACCRUAL OF DAILY PENALTIES UNTIL THE LATER TO OCCUR OF THE  
8 EXPIRATION OF THE TEN-DAY PERIOD PROVIDED FOR PAYMENT PURSUANT  
9 TO SUBSECTION (1) OF THIS SECTION OR, IF THE MATTER IS SET FOR  
10 HEARING, UPON THE CONCLUSION OF THE PROCEEDINGS THROUGH  
11 ISSUANCE OF AN ORDER, DISMISSAL OF THE COMPLAINT, OR OTHER FINAL  
12 AGENCY ACTION, INCLUDING JUDICIAL REVIEW AND APPEAL, IF ANY.

13 (4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO  
14 AUTHORIZE THE ASSESSMENT OF A CIVIL PENALTY AGAINST AN INDIVIDUAL  
15 EMPLOYEE OF A PUBLIC UTILITY.

16 **SECTION 24.** 40-8.7-109, Colorado Revised Statutes, is  
17 amended to read:

18 **40-8.7-109. Low-income energy assistance program -**  
19 **eligibility.** (1) The organization shall provide energy assistance to  
20 individuals and organizations in Colorado. ~~Such assistance~~ INDIVIDUALS  
21 ELIGIBLE FOR LOW-INCOME ENERGY ASSISTANCE SHALL BE CURRENT OR  
22 PROSPECTIVE UTILITY CUSTOMERS WHO:

23 (a) ARE CERTIFIED BY THE DEPARTMENT OF HUMAN SERVICES AS  
24 QUALIFIED TO RECEIVE FINANCIAL ASSISTANCE PAYMENTS;

25 (b) ARE CITIZENS OR LEGAL RESIDENTS OF THE UNITED STATES  
26 AND RESIDENTS OF COLORADO; AND

27 (c) HAVE A MONTHLY HOUSEHOLD GROSS INCOME AT OR BELOW

1 ONE HUNDRED EIGHTY-FIVE PERCENT OF THE FEDERAL POVERTY LEVEL.

2 (2) THE DEPARTMENT OF HUMAN SERVICES SHALL PERIODICALLY  
3 RECERTIFY AN INDIVIDUAL'S ELIGIBILITY TO RECEIVE LOW-INCOME  
4 ENERGY ASSISTANCE.

5 (3) IN PROVIDING LOW-INCOME ENERGY ASSISTANCE, THE  
6 ORGANIZATION shall give priority to households where one or more  
7 persons are recipients of:

8 (a) An old age pension as set forth in section 26-2-111 (2), C.R.S.;

9 (b) Aid to the needy disabled as set forth in section 26-2-111 (4),  
10 C.R.S.;

11 (c) Aid to the blind as set forth in section 26-2-111 (5), C.R.S.;

12 (d) Supplemental social security disability benefits under 42  
13 U.S.C. sec. 1396 et seq.; OR

14 (e) Colorado works assistance as set forth in sections 26-2-706  
15 and 26-2-707, C.R.S.

16 **SECTION 25.** 40-10-105 (2) (a) and (2) (b), Colorado Revised  
17 Statutes, are amended to read:

18 \_\_\_\_\_

19 \_\_\_\_\_

20 \_\_\_\_\_

21 **40-10-105. Rules for issuance of certificates - standing to**  
22 **protest - judicial review.** (2) (a) The granting of ~~any~~ A certificate of  
23 public convenience and necessity to operate a motor vehicle for hire as a  
24 taxicab within and between counties with a population of ~~sixty~~ LESS THAN  
25 SEVENTY thousand, ~~or greater~~ based on the federal census conducted in  
26 1990 2000, shall not be deemed to be an exclusive grant or monopoly,  
27 and GOVERNED BY the doctrine of regulated competition shall prevail

1 MONOPOLY.

2 (b) (I) The commission has authority to grant more than one  
3 certificate of public convenience and necessity to operate motor vehicles  
4 as taxicabs within and between counties with a population of sixty  
5 thousand or greater based on the federal census conducted in 1990 if the  
6 commission finds that the present or future public convenience and  
7 necessity requires or will require such operation EXCEPT AS OTHERWISE  
8 PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), THE GRANTING  
9 OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE  
10 A MOTOR VEHICLE FOR HIRE AS A TAXICAB WITHIN AND BETWEEN  
11 COUNTIES WITH A POPULATION OF SEVENTY THOUSAND OR GREATER,  
12 BASED ON THE FEDERAL CENSUS CONDUCTED IN 2000, SHALL NOT BE  
13 DEEMED TO BE AN EXCLUSIVE GRANT OR MONOPOLY, AND THE DOCTRINE  
14 OF REGULATED COMPETITION SHALL PREVAIL.

15 (II) IN AN APPLICATION FOR A CERTIFICATE OF PUBLIC  
16 CONVENIENCE AND NECESSITY TO PROVIDE TAXICAB SERVICE WITHIN AND  
17 BETWEEN THE COUNTIES OF ADAMS, ARAPAHOE, BOULDER, BROOMFIELD,  
18 DENVER, DOUGLAS, EL PASO, AND JEFFERSON:

19 (A) THE APPLICANT SHALL HAVE THE INITIAL BURDEN OF PROVING  
20 THAT IT IS OPERATIONALLY AND FINANCIALLY FIT TO PROVIDE THE  
21 PROPOSED SERVICE. THE APPLICANT SHALL NOT BE REQUIRED TO PROVE  
22 THE INADEQUACY OF EXISTING TAXICAB SERVICE, IF ANY, WITHIN THE  
23 APPLICANT'S PROPOSED GEOGRAPHIC AREA OF OPERATION.

24 (B) IF THE APPLICANT SUSTAINS ITS INITIAL BURDEN OF PROOF AS  
25 SET FORTH IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II), THERE  
26 SHALL BE A REBUTTABLE PRESUMPTION OF PUBLIC NEED FOR THE SERVICE,  
27 AND THE PARTY OR PARTIES OPPOSING THE APPLICATION SHALL BEAR THE

1 BURDEN TO PROVE THAT THE PUBLIC CONVENIENCE AND NECESSITY DOES  
2 NOT REQUIRE GRANTING THE APPLICATION AND THAT THE ISSUANCE OF  
3 THE CERTIFICATE WOULD BE DETRIMENTAL TO THE PUBLIC INTEREST.

4 SECTION 26. 40-10-105.5 (3) and (4), Colorado Revised  
5 Statutes, are amended, and the said 40-10-105.5 is further amended BY  
6 THE ADDITION OF A NEW SUBSECTION, to read:

7 40-10-105.5. Criminal history record check - taxicab drivers  
8 - rules. (3) An individual whose fingerprints are checked pursuant to  
9 subsection (1) or (2) of this section may, pending the results of the  
10 criminal history record check, drive a taxicab in connection with his or  
11 her employment or contract with a holder of a certificate of public  
12 convenience and necessity described in subsection (1) of this section for  
13 up to sixty NINETY days after the commission forwards the fingerprints to  
14 the Colorado bureau of investigation or until the commission receives the  
15 results of the check, whichever occurs first. Upon the commission's  
16 receipt of the results, the individual may resume driving a taxicab for the  
17 holder of the certificate, so long as the driving does not violate applicable  
18 law and does not occur while the individual has a criminal conviction on  
19 his or her record that disqualifies and prohibits him or her from driving  
20 a taxicab pursuant to subsection (4) of this section.

21 (4) An individual whose criminal history record is checked  
22 pursuant to this section shall be disqualified and prohibited from driving  
23 a taxicab for a holder of a certificate of public convenience and necessity  
24 that contains authority to operate as a taxicab if the criminal history  
25 record check reflects that:

26 (a) ~~Within the ten-year period preceding the date the criminal~~  
27 ~~history record check is completed, the individual was:~~ THE INDIVIDUAL IS

1 NOT OF GOOD MORAL CHARACTER, AS DETERMINED BY THE COMMISSION  
2 BASED ON THE RESULTS OF THE CRIMINAL HISTORY RECORD CHECK  
3 REQUIRED BY THIS SECTION;

4 (F) Convicted in this state of a crime of violence, as defined in  
5 section 18-1.3-406 (2), C.R.S.; or

6 (H) Convicted of a comparable offense in any other state or in the  
7 United States; or

8 (b) (I) THE INDIVIDUAL HAS BEEN CONVICTED OF A FELONY OR  
9 MISDEMEANOR INVOLVING MORAL TURPITUDE.

10 (II) AS USED IN THIS PARAGRAPH (b), "MORAL TURPITUDE" SHALL  
11 INCLUDE ANY UNLAWFUL SEXUAL OFFENSE AGAINST A CHILD, AS DEFINED  
12 IN SECTION 18-3-411, C.R.S., OR A COMPARABLE OFFENSE IN ANY OTHER  
13 STATE OR IN THE UNITED STATES.

14 (b) (c) Within the two years preceding the date the criminal  
15 history record check is completed, the individual was:

16 (I) Convicted in this state of driving under the influence, as  
17 defined in section 42-4-1301 (1) (f), C.R.S.; driving with excessive  
18 alcoholic content, as described in section 42-4-1301 (2) (a), C.R.S.;  
19 driving while ability impaired, as defined in section 42-4-1301 (1) (g),  
20 C.R.S.; or driving while an habitual user of a controlled substance, as  
21 described in section 42-4-1301 (1) (c), C.R.S.; or

22 (II) Convicted of a comparable offense in any other state or in the  
23 United States.

24 (4.5) THE COMMISSION SHALL CONSIDER THE INFORMATION  
25 RESULTING FROM THE CRIMINAL HISTORY RECORD CHECK IN ITS  
26 DETERMINATION AS TO WHETHER THE INDIVIDUAL HAS MET THE  
27 STANDARDS SET FORTH IN SECTION 24-5-101 (2), C.R.S.

1           SECTION 27. 40-16-104.5 (1), (2), (3), and (4), Colorado  
2 Revised Statutes, are amended, and the said 40-16-104.5 is further  
3 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

4           40-16-104.5. Criminal history record check - passenger  
5 transport drivers - rules. (1) An individual who wishes to become  
6 employed by or who contracts with a person who offers services by  
7 charter or scenic bus, ~~fire crew transport~~, luxury limousine, off-road  
8 scenic charter, or children's activity bus to drive a motor vehicle in  
9 connection with the service shall submit a set of his or her fingerprints to  
10 the commission. The commission shall forward the fingerprints to the  
11 Colorado bureau of investigation for the purpose of obtaining a  
12 fingerprint-based criminal history record check. Upon receipt of  
13 fingerprints and payment for the costs, the Colorado bureau of  
14 investigation shall conduct a state and national fingerprint-based criminal  
15 history record check utilizing records of the Colorado bureau of  
16 investigation and the federal bureau of investigation. The commission  
17 shall be the authorized agency to receive information regarding the result  
18 of a national criminal history record check. The individual whose  
19 fingerprints are checked pursuant to this subsection (1) shall bear the  
20 actual costs of the state and national fingerprint-based criminal history  
21 record check.

22           (2) An individual who, prior to May 30, 2007, drives a motor  
23 vehicle as part of his or her employment or contract with a person who  
24 offers services by charter or scenic bus, ~~fire crew transport~~, luxury  
25 limousine, off-road scenic charter, or children's activity bus shall comply  
26 with the fingerprinting requirements of subsection (1) of this section  
27 within thirty days after May 30, 2007.

1           (3) An individual whose fingerprints are checked pursuant to  
2 subsection (1) or (2) of this section may, pending the results of the  
3 criminal history record check, drive a motor vehicle in connection with  
4 his or her employment or contract with a service described in subsection  
5 (1) of this section for up to sixty NINETY days after the commission  
6 forwards the fingerprints to the Colorado bureau of investigation or until  
7 the commission receives the results of the check, whichever occurs first.  
8 Upon the commission's receipt of the results, the individual may resume  
9 driving a motor vehicle for the service, so long as the driving does not  
10 violate applicable law and does not occur while the individual has a  
11 criminal conviction on his or her record that disqualifies and prohibits  
12 him or her from driving a motor vehicle for the service pursuant to  
13 subsection (4) of this section.

14           (4) An individual whose criminal history record is checked  
15 pursuant to this section shall be disqualified and prohibited from driving  
16 a motor vehicle for a service described in subsection (1) of this section if  
17 the criminal history record check reflects that:

18           (a) Within the ten-year period preceding the date the criminal  
19 history record check is completed, the individual was: THE INDIVIDUAL IS  
20 NOT OF GOOD MORAL CHARACTER, AS DETERMINED BY THE COMMISSION  
21 BASED ON THE RESULTS OF THE CRIMINAL HISTORY RECORD CHECK  
22 REQUIRED BY THIS SECTION;

23           (I) Convicted in this state of a crime of violence, as defined in  
24 section 18-1.3-406 (2), C.R.S.; or

25           (II) Convicted of a comparable offense in any other state or in the  
26 United States; or

27           (b) (I) THE INDIVIDUAL HAS BEEN CONVICTED OF A FELONY OR

1 MISDEMEANOR INVOLVING MORAL TURPITUDE.

2 (II) AS USED IN THIS PARAGRAPH (b), "MORAL TURPITUDE" SHALL  
3 INCLUDE ANY UNLAWFUL SEXUAL OFFENSE AGAINST A CHILD, AS DEFINED  
4 IN SECTION 18-3-411, C.R.S., OR A COMPARABLE OFFENSE IN ANY OTHER  
5 STATE OR IN THE UNITED STATES.

6 (b) (c) Within the two years preceding the date the criminal  
7 history record check is completed, the individual was:

8 (I) Convicted in this state of driving under the influence, as  
9 defined in section 42-4-1301 (1) (f), C.R.S.; driving with excessive  
10 alcoholic content, as described in section 42-4-1301 (2) (a), C.R.S.;  
11 driving while ability impaired, as defined in section 42-4-1301 (1) (g),  
12 C.R.S.; or driving while an habitual user of a controlled substance, as  
13 described in section 42-4-1301 (1) (c), C.R.S.; or

14 (II) Convicted of a comparable offense in any other state or in the  
15 United States.

16 (4.5) THE COMMISSION SHALL CONSIDER THE INFORMATION  
17 RESULTING FROM THE CRIMINAL HISTORY RECORD CHECK IN ITS  
18 DETERMINATION AS TO WHETHER THE INDIVIDUAL HAS MET THE  
19 STANDARDS SET FORTH IN SECTION 24-5-101 (2), C.R.S.

20 \_\_\_\_\_

21 **SECTION 28.** 40-15-502 (3) (b) (I), Colorado Revised Statutes,  
22 is amended, and the said 40-15-502 (3) (b) is further amended BY THE  
23 ADDITION OF A NEW SUBPARAGRAPH, to read:

24 **40-15-502. Expressions of state policy. (3) Universal basic**  
25 **service - affordability of basic service.** (b) (I) Consistent with the  
26 public interest goal of maintaining affordable and just and reasonably  
27 priced basic local telecommunications service for all citizens of the state,

1 the commission shall structure telecommunications regulation to achieve  
2 a transition to a fully competitive telecommunications market with the  
3 policy that prices for residential basic local exchange service, including  
4 zone charges, if any, do not rise above the levels in effect on May 24,  
5 1995, for comparable service; except that the price of such service may  
6 be adjusted by an amount equal to the change in the United States gross  
7 domestic product price index minus an index that represents  
8 telecommunications productivity changes as determined by the  
9 commission. This adjustment shall be granted only to the extent the  
10 commission determines an adjustment is required to cover reasonable  
11 costs and shall not exceed five percent in any one year. The commission  
12 shall not allow prices for residential basic service plus zone charges to  
13 increase outside base rate areas by an amount greater than any price  
14 increase within base rate areas.

15 (I.5) IN DETERMINING THE APPROPRIATE MAXIMUM PRICE FOR  
16 RESIDENTIAL BASIC SERVICE FOR EACH REGULATED PROVIDER, THE  
17 COMMISSION:

18 (A) SHALL CONSIDER THE CHANGES SINCE MAY 24, 1995, IN THE  
19 COSTS OF PROVIDING SUCH SERVICE;

20 (B) SHALL CONSIDER THE CHANGES SINCE MAY 24, 1995, IN THE  
21 NATIONWIDE AVERAGE PRICE FOR COMPARABLE SERVICE;

22 (C) SHALL CONSIDER FLEXIBLE-PRICING TARIFF OPTIONS; AND

23 (D) MAY, FOR ANY AFFECTED PROVIDER, CONSIDER THE NET  
24 REVENUES DERIVED FROM OTHER SERVICES REGULATED UNDER PART 2 OR  
25 3 OF THIS ARTICLE, WITH THE EXCEPTION OF SWITCHED ACCESS SERVICE,  
26 NOTWITHSTANDING ANY PROVISION OF SECTION 40-15-201 TO THE  
27 CONTRARY. NOTHING IN THIS SUB-SUBPARAGRAPH (D) SHALL PERMIT THE

1 COMMISSION TO LIMIT THE AFFECTED PROVIDER'S OVERALL RATE OF  
2 RETURN OR OVERALL REVENUES WHEN DETERMINING THE APPROPRIATE  
3 MAXIMUM PRICE FOR RESIDENTIAL BASIC SERVICE FOR THAT PROVIDER.

4 **SECTION 29.** 40-14-103 (2) (a), (3) (c), and (3) (d), Colorado  
5 Revised Statutes, are amended to read:

6 **40-14-103. Requirements for issuance of a mover registration.**

7 (2) (a) The commission shall issue a certificate of registration to a mover  
8 upon completion of the registration and insurance requirements of this  
9 article; submission of an annual filing fee to be set by the commission,  
10 not to exceed three hundred dollars, by the mover; ~~completion of all~~  
11 ~~fingerprint-based criminal history record checks required by section~~  
12 ~~40-14-103.5; and payment of the annual identification fee required by~~  
13 ~~section 40-2-110.5.~~

14 (3) The commission may deny or refuse to renew the registration  
15 of any mover based upon a determination that the mover, or any of its  
16 directors, officers, owners, or general partners:

17 (c) ~~Has not satisfied a final judgment arising out of any civil or~~  
18 ~~criminal action in a court of law, whether in Colorado or any other~~  
19 ~~jurisdiction, unless the judgment is the subject of a pending appeal; or~~

20 (d) ~~Is not of good moral character, as determined by the~~  
21 ~~commission based on the results of the criminal history record check~~  
22 ~~required by section 40-14-103.5 or for other documented reasons.~~

23 **SECTION 30. Repeal.** 40-14-103.5, Colorado Revised Statutes,  
24 is repealed as follows:

25 **40-14-103.5. Criminal history record check.** (1) ~~Prior to the~~  
26 ~~issuance of a mover registration pursuant to this article, each applicant for~~  
27 ~~a new registration and each director, officer, owner, and general partner~~

1 thereof shall submit a set of his or her fingerprints to the Colorado bureau  
2 of investigation for the purpose of conducting a state and national  
3 fingerprint-based criminal history record check utilizing records of the  
4 Colorado bureau of investigation and the federal bureau of investigation.  
5 Each such person shall pay the fee established by the Colorado bureau of  
6 investigation for conducting the fingerprint-based criminal history record  
7 check. Upon completion of the criminal history record check, the bureau  
8 shall forward the results to the commission.

9 (2) The commission shall consider the information resulting from  
10 the criminal history record checks in its determination as to whether the  
11 applicant has met the standards set forth in section 24-5-101 (2), C.R.S.

12 (3) Nothing in this section shall preclude the commission from  
13 making further inquiries into the background of the applicant.

14 **SECTION 31.** 40-14-106 (2) (a), Colorado Revised Statutes, is  
15 amended to read:

16 **40-14-106. Revocation of mover registration - rules.** (2) (a) In  
17 addition to taking any other action authorized by law, the commission  
18 may revoke the mover registration of any person who:

19 (I) Fails or refuses to operate in accordance with this article, an  
20 order of the commission, or any applicable rules of the commission  
21 adopted in furtherance of this article;

22 (II) Fails or refuses to abide by the terms of an arbitrator's award  
23 under section 40-14-114; OR

24 (III) No longer satisfies the requirements for a new or renewed  
25 registration under section 40-14-103. or

26 (IV) On or after January 1, 2008, has not submitted a set of  
27 fingerprints and all required fees for a fingerprint-based criminal history

1 record check, pursuant to section 40-14-103.5, for each director, officer,  
2 owner, and general partner of the mover.

3 **SECTION 32. Repeal.** 40-18-101 (1), Colorado Revised  
4 Statutes, is repealed as follows:

5 **40-18-101. Definitions.** As used in this article, unless the context  
6 otherwise requires:

7 (1) ~~"APTA guidelines" means the provisions contained in the~~  
8 ~~American public transit association's "Manual for the Development of~~  
9 ~~Rail Transit System Safety Plans", published on August 20, 1991, as~~  
10 ~~amended.~~

11 **SECTION 33.** 40-18-103 (1) (d), Colorado Revised Statutes, is  
12 amended to read:

13 **40-18-103. Commission to promulgate rules.** (1) The  
14 commission shall promulgate rules as are necessary to:

15 (d) Require that system safety program standards comply with ~~the~~  
16 ~~APTA guidelines~~ THE REQUIREMENTS OF 49 CFR 659, "RAIL FIXED  
17 GUIDEWAY SYSTEMS; STATE SAFETY OVERSIGHT", at a minimum, and  
18 also adequately address the issue of personal security.

19 **SECTION 34.** 40-23-101, Colorado Revised Statutes, is amended  
20 to read:

21 **40-23-101. Right to reorganize.** Whenever the railroads,  
22 ~~telegraph lines,~~ property, and franchises of any railroad company,  
23 organized and existing under the laws of this state, are sold and conveyed  
24 under or by virtue of any power contained in any trust deed or mortgage  
25 or pursuant to the judgment or decree of any court of competent  
26 jurisdiction, it is lawful to organize a railroad company under the laws of  
27 this state for the purpose of purchasing, maintaining, operating,

1 extending, or completing the railroads, PROPERTY, and telegraph lines  
2 FRANCHISES so sold and conveyed.

3 SECTION 35. 40-29-116, Colorado Revised Statutes, is amended  
4 to read:

5 **40-29-116. Highway-rail crossing signalization fund created**  
6 **- annual appropriation.** (1) The highway HIGHWAY-RAIL crossing  
7 protection SIGNALIZATION fund is hereby created in the state treasurer's  
8 office TREASURY, in order to promote the public safety and to provide for  
9 the payment of the costs of installing, reconstructing, and improving  
10 automatic and other safety appliance signals or devices at crossings at  
11 grade of public highways or roads over the tracks of any railroad or street  
12 railway corporation in this state. None of the moneys in the highway  
13 HIGHWAY-RAIL crossing protection SIGNALIZATION fund shall be used to  
14 pay any part of the cost of the installation, reconstruction, or improvement  
15 of any such signals or devices at any crossing when any part of such cost  
16 will be paid from moneys available under any federal or federal-aid  
17 highway act.

18 (2) Subject to annual appropriation by the general assembly, the  
19 sum of two hundred forty thousand dollars shall be paid from the general  
20 fund and credited to the highway HIGHWAY-RAIL crossing protection  
21 SIGNALIZATION fund. Notwithstanding ~~the provisions of~~ section  
22 24-36-114 (1), C.R.S., any interest earned on the deposit and investment  
23 of moneys in the highway HIGHWAY-RAIL crossing protection  
24 SIGNALIZATION fund shall remain in the fund and shall not be credited or  
25 transferred to the general fund or any other fund. Such earned interest  
26 moneys are hereby continuously appropriated to the public utilities  
27 commission for use for the purposes of the highway HIGHWAY-RAIL

1 ~~crossing protection~~ SIGNALIZATION fund.

2 **SECTION 36. Appropriation.** (1) In addition to any other  
3 appropriation, there is hereby appropriated, out of any moneys in the  
4 public utilities commission fixed utility fund created in section 40-2-114,  
5 Colorado Revised Statutes, not otherwise appropriated, to the department  
6 of regulatory agencies, for allocation to the executive director's office, for  
7 legal services, for the fiscal year beginning July 1, 2008, the sum of  
8 forty-three thousand two hundred eighteen dollars (\$43,218), or so much  
9 thereof as may be necessary, for the implementation of this act.

10 (2) In addition to any other appropriation, there is hereby  
11 appropriated, out of any moneys in the public utilities commission fixed  
12 utility fund created in section 40-2-114, Colorado Revised Statutes, not  
13 otherwise appropriated, to the department of regulatory agencies, for  
14 further allocation to the public utilities commission, for the fiscal year  
15 beginning July 1, 2008, the sum of three hundred fifty-four thousand two  
16 hundred fifty-five dollars (\$354,255) and 4.0 FTE, or so much thereof as  
17 may be necessary, for the implementation of this act.

18 (3) In addition to any other appropriation, there is hereby  
19 appropriated to the department of law, for the fiscal year beginning July  
20 1, 2008, the sum of forty-three thousand two hundred eighteen dollars  
21 (\$43,218) and 0.3 FTE, or so much thereof as may be necessary, for the  
22 provision of legal services to the department of regulatory agencies  
23 related to the implementation of this act. Said sum shall be from  
24 reappropriated funds received from the department of regulatory agencies  
25 out of the appropriation made in subsection (1) of this section.

26 (4) In addition to any other appropriation, there is hereby  
27 appropriated, out of any moneys in the low-income telephone assistance

1 fund created in section 40-3.4-108 (2) (a), Colorado Revised Statutes, not  
2 otherwise appropriated, to the department of human services, office of  
3 self sufficiency, special purpose welfare programs, low-income telephone  
4 assistance program, for the fiscal year beginning July 1, 2008, the sum of  
5 fifteen thousand five hundred seventy-eight (\$15,578) and 0.2 FTE, or so  
6 much thereof as may be necessary, for the implementation of this act.

7 **SECTION 37. Effective date.** This act shall take effect July 1,  
8 2008.

9 **SECTION 38. Safety clause.** The general assembly hereby finds,  
10 determines, and declares that this act is necessary for the immediate  
11 preservation of the public peace, health, and safety.