

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

PREAMENDED

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

LLS NO. 05-0469.01 Duane Gall

HOUSE BILL 05-1133

HOUSE SPONSORSHIP

Plant,

SENATE SPONSORSHIP

(None),

House Committees

Transportation & Energy
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO PROMOTE ENERGY EFFICIENCY.**

Bill Summary

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

Authorizes local governments to require investor-owned electric and gas utilities to collect an energy efficiency surcharge from customers within the local governments' jurisdiction and to direct the revenue, less the utility's costs up to 5% of the total, into programs that promote the installation of cost-saving measures such as insulation, load management systems, and energy-efficient heating and cooling systems in homes and businesses. For local governments whose spending is constrained by the "TABOR amendment," article X of section 20 of the state constitution, allows the revenue to be sent directly to an exempt enterprise or nonprofit

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.*

organization under contract with the local government.

Directs the public utilities commission (PUC) to adopt rules establishing funding and cost-recovery mechanisms for distributors of natural gas to engage in conservation and energy efficiency programs. Requires periodic reports from the utilities and PUC review and approval of such programs.

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

2 **SECTION 1.** 40-1-102, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
4 read:

5 **40-1-102. Definitions.** As used in articles 1 to 7 of this title,
6 unless the context otherwise requires:

7 (4.4) "COST-EFFECTIVE", WITH REFERENCE TO A NATURAL GAS
8 ENERGY EFFICIENCY OR CONSERVATION PROGRAM OR RELATED MEASURE,
9 MEANS HAVING A BENEFIT-COST RATIO GREATER THAN ONE USING THE
10 TOTAL RESOURCE COST TEST.

11 (4.6) "EDUCATION PROGRAM" MEANS A PROGRAM, INCLUDING BUT
12 NOT LIMITED TO AN ENERGY AUDIT, THAT INDIRECTLY CONTRIBUTES TO
13 COST-EFFECTIVE CONSERVATION AND ENERGY EFFICIENCY
14 IMPROVEMENTS. EDUCATION PROGRAMS SHALL NOT BE SUBJECT TO
15 COST-EFFECTIVENESS REQUIREMENTS.

16 (7) "TOTAL RESOURCE COST TEST" MEANS A DETERMINATION OF
17 COST-EFFECTIVENESS THAT INCLUDES, AT A MINIMUM, COSTS PAID BY
18 BOTH PARTICIPATING CUSTOMERS AND A UTILITY, AS WELL AS THE
19 UTILITY'S NET AVOIDED ENERGY SUPPLY COSTS.

20 **SECTION 2.** 40-3.2-101, Colorado Revised Statutes, is amended
21 to read:

22 **40-3.2-101. Legislative declaration.** The general assembly

1 hereby finds, determines, and declares that providing a funding
2 ~~mechanism~~ MECHANISMS to encourage Colorado's public utilities to
3 reduce emissions or air pollutants ~~is a matter~~ AND TO INCREASE ENERGY
4 EFFICIENCY ARE MATTERS of statewide concern. The general assembly
5 further finds that the public interest is served by providing such funding
6 ~~mechanism~~ MECHANISMS. Such ~~reduction~~ EFFORTS will result in an
7 improvement in the quality of life and health of Colorado citizens and an
8 increase in the attractiveness of Colorado as a place to live and conduct
9 business. THE GENERAL ASSEMBLY FURTHER FINDS THAT COST-EFFECTIVE
10 NATURAL GAS ENERGY EFFICIENCY PROGRAMS WILL BOTH SAVE MONEY
11 FOR CONSUMERS AND PROTECT COLORADO'S ENVIRONMENT.

12 **SECTION 3.** Article 3.2 of title 40, Colorado Revised Statutes,
13 is amended BY THE ADDITION OF A NEW SECTION to read:

14 **40-3.2-103. Gas distribution utility energy efficiency programs**
15 **- recovery of costs.** (1) ON OR BEFORE SEPTEMBER 30, 2005, THE
16 COMMISSION SHALL COMMENCE A RULE-MAKING PROCEEDING TO DEVELOP
17 FUNDING AND COST RECOVERY MECHANISMS FOR RESIDENTIAL ENERGY
18 EFFICIENCY AND CONSERVATION PROGRAMS IMPLEMENTED BY
19 INVESTOR-OWNED GAS DISTRIBUTION UTILITIES. THE RULE-MAKING SHALL
20 ALSO IDENTIFY DISINCENTIVES AS WELL AS IDENTIFY AND ESTABLISH A
21 POSITIVE FINANCIAL INCENTIVE FOR INVESTMENTS IN COST-EFFECTIVE
22 ENERGY EFFICIENCY AND CONSERVATION PROGRAMS TO INDUCE GAS
23 DISTRIBUTION UTILITIES TO UNDERTAKE SUCH EFFORTS. THE POSITIVE
24 FINANCIAL INCENTIVE SHALL BE IN THE FORM OF A HIGHER ALLOWED
25 RETURN ON ENERGY EFFICIENCY PROGRAM INVESTMENTS, WHICH RETURN
26 SHALL BE AT LEAST TWO PERCENT HIGHER THAN THAT ALLOWED FOR
27 OTHER UTILITY INVESTMENTS. IF THE COMMISSION ALLOWS ANY

1 ADDITIONAL INCENTIVE BEYOND SUCH TWO-PERCENT DIFFERENTIAL, THE
2 ADDITIONAL INCENTIVE MAY BE COUPLED WITH, OR EXPRESSED AS A
3 FRACTION OF, THE NET ECONOMIC BENEFITS RESULTING FROM THE ENERGY
4 EFFICIENCY AND CONSERVATION PROGRAMS.

5 (2) AS PART OF THE RULE-MAKING PROCEEDING REQUIRED BY
6 SUBSECTION (1) OF THIS SECTION, THE COMMISSION SHALL:

7 (a) ADOPT A PROCEDURE FOR ALLOWING GAS UTILITIES TO
8 RECOVER THEIR PRUDENTLY INCURRED COSTS OF ENERGY EFFICIENCY AND
9 CONSERVATION PROGRAMS THROUGH AN ANNUAL COST ADJUSTMENT
10 MECHANISM SIMILAR TO THAT USED BY PUBLIC SERVICE COMPANY OF
11 COLORADO, OR ITS SUCCESSORS AND AFFILIATES, FOR ITS ELECTRICITY
12 DEMAND-SIDE MANAGEMENT PROGRAMS AS OF JANUARY 1, 2005; EXCEPT
13 THAT COMMERCIAL AND INDUSTRIAL CUSTOMERS SHALL BE EXEMPT FROM
14 ANY SUCH COST ADJUSTMENT MECHANISM;

15 (b) IDENTIFY BARRIERS THAT FINANCIALLY PENALIZE GAS
16 DISTRIBUTION UTILITIES IF THEY IMPLEMENT COST-EFFECTIVE ENERGY
17 EFFICIENCY PROGRAMS FOR THEIR CUSTOMERS; AND

18 (c) ADOPT MECHANISMS FOR REWARDING GAS DISTRIBUTION
19 UTILITIES FOR INVESTMENTS IN COST-EFFECTIVE ENERGY EFFICIENCY AND
20 CONSERVATION PROGRAMS AND MEASURES.

21 (3) WITHIN SIX MONTHS AFTER THE COMPLETION OF THE
22 RULE-MAKING REQUIRED BY SUBSECTION (1) OF THIS SECTION,
23 INVESTOR-OWNED GAS DISTRIBUTION UTILITIES SHALL:

24 (a) DEVELOP AND PROPOSE A SET OF ENERGY EFFICIENCY AND
25 CONSERVATION PROGRAMS FOR THEIR RESIDENTIAL CUSTOMERS, SUBJECT
26 TO APPROVAL BY THE COMMISSION PURSUANT TO SUBSECTION (4) OF THIS
27 SECTION; AND

1 (b) IN IMPLEMENTING ENERGY EFFICIENCY AND CONSERVATION
2 PROGRAMS, USE THEIR BEST EFFORTS TO OFFER ENERGY EFFICIENCY AND
3 CONSERVATION PROGRAMS TO RESIDENTIAL CUSTOMERS AND MAXIMIZE
4 CUSTOMER PARTICIPATION.

5 (4) THE COMMISSION SHALL EXPEDITIOUSLY REVIEW THE ENERGY
6 EFFICIENCY AND CONSERVATION PROGRAMS PROPOSED PURSUANT TO
7 SUBSECTION (3) OF THIS SECTION, AND SHALL APPROVE SUCH PROGRAMS
8 IF THEY APPEAR TO BE COST-EFFECTIVE.

9 (5) THE COMMISSION SHALL AUTHORIZE GAS DISTRIBUTION
10 UTILITIES TO SPEND AND RECOVER MONEYS FOR EDUCATION PROGRAMS,
11 IMPACT AND PROCESS EVALUATIONS, AND GAS EFFICIENCY PROGRAM
12 PLANNING.

13 (6) GAS DISTRIBUTION UTILITIES SHALL SUBMIT TO THE
14 COMMISSION REPORTS ON THEIR ENERGY EFFICIENCY AND CONSERVATION
15 PROGRAMS ANNUALLY. THE REPORTS SHALL DOCUMENT PROGRAM
16 EXPENDITURES, ENERGY SAVINGS IMPACTS AND THE TECHNIQUES USED TO
17 ESTIMATE THESE IMPACTS, THE ESTIMATED COST-EFFECTIVENESS OF
18 PROGRAM EXPENDITURES, AND ANY OTHER INFORMATION THE COMMISSION
19 MAY REQUIRE.

20 **SECTION 4. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.