

First Regular Session  
Sixty-fifth General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 05-0469.01 Duane Gall

**HOUSE BILL 05-1133**

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**HOUSE SPONSORSHIP**

**Plant,**

**SENATE SPONSORSHIP**

**Gordon,**

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**House Committees**

Transportation & Energy  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

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

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**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.*

HOUSE  
3rd Reading Unamended  
March 14, 2005

HOUSE  
Amended 2nd Reading  
March 11, 2005

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.

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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 BUSINESSES AND PROTECT COLORADO'S  
12 ENVIRONMENT.

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

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

1 ALLOWED FOR OTHER UTILITY INVESTMENTS. IF THE COMMISSION ALLOWS  
2 ANY ADDITIONAL INCENTIVE BEYOND SUCH TWO-PERCENT DIFFERENTIAL,  
3 THE ADDITIONAL INCENTIVE MAY BE COUPLED WITH, OR EXPRESSED AS A  
4 FRACTION OF, THE NET ECONOMIC BENEFITS RESULTING FROM THE ENERGY  
5 EFFICIENCY AND CONSERVATION PROGRAMS.

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

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

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

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

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

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

1 SUBSECTION (4) OF THIS SECTION; AND

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

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

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

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

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