

First Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 05-0469.01 Duane Gall

HOUSE BILL 05-1133

HOUSE SPONSORSHIP

Plant,

SENATE SPONSORSHIP

(None),

House Committees

Senate Committees

Transportation & Energy

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.** Article 12.5 of title 29, Colorado Revised Statutes,
3 is amended BY THE ADDITION OF THE FOLLOWING NEW
4 SECTIONS to read:

5 **29-12.5-105. Residential and commercial utility cost savings**
6 **measures - energy efficiency surcharge - authorization.** (1) THE
7 GOVERNING BODY OF A MUNICIPALITY OR COUNTY WHOSE CITIZENS ARE
8 SERVED IN FULL OR PART BY AN INVESTOR-OWNED PUBLIC UTILITY
9 FURNISHING ELECTRICITY OR NATURAL GAS MAY ELECT TO ADOPT A
10 UTILITY BILL SURCHARGE ON ELECTRICITY, NATURAL GAS, OR BOTH, IN
11 ACCORDANCE WITH THIS SECTION. THE UTILITY BILL SURCHARGE SHALL
12 BE USED TO FUND ENERGY EFFICIENCY OR LOAD MANAGEMENT PROGRAMS,
13 OR BOTH, IMPLEMENTED BY THE MUNICIPALITY OR COUNTY OR BY A
14 CONTRACTOR SELECTED BY THE MUNICIPALITY OR COUNTY. THE
15 SURCHARGE SHALL BE COLLECTED ON BEHALF OF THE MUNICIPALITY OR
16 COUNTY BY THE PUBLIC UTILITY OR UTILITIES IF SO REQUESTED.

17 (2) THE SURCHARGE SHALL BE IN AN AMOUNT DETERMINED BY THE
18 GOVERNING BODY, NOT TO EXCEED TWO-TENTHS OF ONE CENT PER
19 KILOWATT-HOUR OF ELECTRICITY OR TWENTY CENTS PER THOUSAND CUBIC
20 FEET OF NATURAL GAS.

21 (3) THE UTILITY SHALL COLLECT THE SURCHARGE ON A MONTHLY
22 BASIS, AS A LINE ITEM ON EACH CUSTOMER'S BILL, AND SHALL REMIT THE

1 NET PROCEEDS ON A MONTHLY BASIS TO THE TREASURER OF THE COUNTY
2 OR MUNICIPALITY OR TO THE ENTERPRISE OR NONPROFIT ENTITY
3 DESIGNATED BY THE GOVERNING BODY PURSUANT TO SUBSECTION (5) OF
4 THIS SECTION. AS USED IN THIS SUBSECTION (3), "NET PROCEEDS" MEANS
5 THE TOTAL AMOUNT COLLECTED MINUS THE UTILITY'S EXPENSES INCURRED
6 IN COLLECTING AND ACCOUNTING FOR THE SURCHARGE, WHICH EXPENSES
7 SHALL NOT EXCEED FIVE PERCENT OF THE TOTAL AMOUNT COLLECTED.

8 (4) THE COUNTY OR MUNICIPALITY SHALL ESTABLISH A PROGRAM
9 TO DISTRIBUTE THE PROCEEDS OF THE SURCHARGE IN THE FORM OF
10 GRANTS, REBATES, OR OTHER INCENTIVES TO SUBSIDIZE THE
11 INSTALLATION OF UTILITY COST-SAVINGS MEASURES OR ENERGY SAVING
12 MEASURES IN HOMES, BUSINESSES, OR BOTH, WITHIN THE BOUNDARIES OF
13 THE COUNTY OR MUNICIPALITY AND THE SERVICE AREA OF THE UTILITY.
14 SUCH GRANTS OR REBATES SHALL BE AWARDED TO APPLICANTS ON THE
15 BASIS OF FAIR AND OBJECTIVE CRITERIA ESTABLISHED BY THE GOVERNING
16 BODY. ADMINISTRATIVE COSTS OF THE PROGRAM, INCLUDING
17 ADVERTISING, SHALL NOT EXCEED TWENTY PERCENT OF THE NET
18 PROCEEDS.

19 (5) IF THE RECEIPT AND EXPENDITURE OF MONEYS UNDER THIS
20 SECTION WOULD OTHERWISE BE CONSTRAINED BY THE REQUIREMENTS OF
21 ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, THE
22 GOVERNING BODY MAY ESTABLISH AN ENTERPRISE, AS DEFINED IN SAID
23 CONSTITUTIONAL PROVISION, OR DESIGNATE A NONPROFIT ENTITY TO
24 RECEIVE AND EXPEND SUCH MONEYS ON THE BOARD'S BEHALF. THE
25 ACTIVITIES OF ANY SUCH ENTERPRISE OR NONPROFIT ENTITY SHALL BE
26 SPECIFIED IN A CONTRACT WITH THE BOARD AND SHALL BE SUBJECT TO AN
27 ANNUAL AUDIT, REVIEW, OR COMPILATION BY A CERTIFIED PUBLIC

1 ACCOUNTANT SELECTED BY THE GOVERNING BODY.

2 **29-12.5-106. Monitoring and reporting of energy and cost**
3 **savings.** THE GOVERNING BODY SHALL MONITOR THE REDUCTIONS IN
4 ENERGY CONSUMPTION AND COST SAVINGS ATTRIBUTABLE TO THE UTILITY
5 COST-SAVINGS MEASURES AND ENERGY SAVING MEASURES FINANCED
6 PURSUANT TO SECTION 29-12.5-105 AND SHALL ANNUALLY PREPARE AND
7 MAKE AVAILABLE TO THE PUBLIC A REPORT DOCUMENTING SUCH
8 REDUCTIONS AND SAVINGS. THE REPORT MAY BE BASED UPON AN
9 ANALYSIS OF THE UTILITY'S BILLING RECORDS BY CUSTOMER ADDRESS, OR
10 UPON CASE HISTORIES OR SURVEYS OF THE RECIPIENTS OF GRANTS OR
11 REBATES AND OTHER UTILITY CUSTOMERS.

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

14 **40-3.2-101. Legislative declaration.** The general assembly
15 hereby finds, determines, and declares that providing a funding
16 ~~mechanism~~ MECHANISMS to encourage Colorado's public utilities to
17 reduce emissions or air pollutants ~~is a matter~~ AND TO INCREASE ENERGY
18 EFFICIENCY ARE MATTERS of statewide concern. The general assembly
19 further finds that the public interest is served by providing such funding
20 ~~mechanism~~ MECHANISMS. Such ~~reduction~~ EFFORTS will result in an
21 improvement in the quality of life and health of Colorado citizens and an
22 increase in the attractiveness of Colorado as a place to live and conduct
23 business.

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

26 **40-3.2-103. Gas distribution utility energy efficiency programs**
27 **- recovery of costs.** (1) ON OR BEFORE SEPTEMBER 30, 2005, THE

1 COMMISSION SHALL COMMENCE A RULE-MAKING PROCEEDING TO DEVELOP
2 FUNDING AND COST RECOVERY MECHANISMS FOR ENERGY EFFICIENCY AND
3 CONSERVATION PROGRAMS IMPLEMENTED BY INVESTOR-OWNED GAS
4 DISTRIBUTION UTILITIES. THE RULE-MAKING SHALL ALSO IDENTIFY AND
5 REMOVE DISINCENTIVES OR BARRIERS THAT INHIBIT GAS DISTRIBUTION
6 UTILITIES FROM INVESTING IN COST-EFFECTIVE ENERGY EFFICIENCY AND
7 CONSERVATION PROGRAMS FOR THEIR CUSTOMERS.

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

10 (a) ADOPT A PROCEDURE FOR ALLOWING GAS UTILITIES TO
11 RECOVER THE COST OF ENERGY EFFICIENCY AND CONSERVATION
12 PROGRAMS THROUGH AN ANNUAL COST ADJUSTMENT MECHANISM SIMILAR
13 TO THAT USED BY PUBLIC SERVICE COMPANY OF COLORADO, OR ITS
14 SUCCESSORS AND AFFILIATES, FOR ITS ELECTRICITY DEMAND-SIDE
15 MANAGEMENT PROGRAMS AS OF JANUARY 1, 2005;

16 (b) ADOPT A PROCEDURE FOR DECOUPLING A GAS DISTRIBUTION
17 UTILITY'S SALES AND REVENUES; AND

18 (c) CONSIDER ADOPTING MECHANISMS FOR REWARDING GAS
19 DISTRIBUTION UTILITIES FOR INVESTMENTS IN COST-EFFECTIVE ENERGY
20 EFFICIENCY AND 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 CUSTOMERS, SUBJECT TO APPROVAL
26 BY THE COMMISSION PURSUANT TO SUBSECTION (4) OF THIS SECTION; AND

27 (b) IN IMPLEMENTING SUCH PROGRAMS, USE THEIR BEST EFFORTS

1 TO OFFER ENERGY EFFICIENCY AND CONSERVATION PROGRAMS TO ALL
2 CLASSES OF CUSTOMERS AND MAXIMIZE CUSTOMER PARTICIPATION.

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

7 (5) GAS DISTRIBUTION UTILITIES SHALL SUBMIT TO THE
8 COMMISSION REPORTS ON THEIR ENERGY EFFICIENCY AND CONSERVATION
9 PROGRAMS AT LEAST ONCE EVERY TWENTY-FOUR MONTHS. THE REPORTS
10 SHALL DOCUMENT PROGRAM EXPENDITURES, ENERGY SAVINGS IMPACTS
11 AND THE TECHNIQUES USED TO ESTIMATE THESE IMPACTS, THE
12 COST-EFFECTIVENESS OF PROGRAM EXPENDITURES, AND ANY OTHER
13 INFORMATION THE COMMISSION MAY REQUIRE PURSUANT TO ITS
14 RULE-MAKING AUTHORITY.

15 (6) AS USED IN THIS SECTION:

16 (a) "COST-EFFECTIVE", WITH REFERENCE TO AN ENERGY
17 EFFICIENCY OR CONSERVATION PROGRAM OR RELATED MEASURE, MEANS
18 HAVING A BENEFIT-COST RATIO GREATER THAN ONE USING THE TOTAL
19 RESOURCE COST TEST; AND

20 (b) "TOTAL RESOURCE COST TEST" MEANS A DETERMINATION OF
21 COST-EFFECTIVENESS THAT CONSIDERS COSTS PAID BY BOTH
22 PARTICIPATING CUSTOMERS AND THE UTILITY, AS WELL AS THE UTILITY'S
23 NET AVOIDED ENERGY SUPPLY COSTS.

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