A BILL FOR AN ACT

CONCERNING MEASURES TO LIMIT THE DEMAND FOR ELECTRICITY,
AND, IN CONNECTION THERewith, DIRECTING THE PUBLIC
UTILITIES COMMISSION TO ADOPT ENERGY EFFICIENCY
PERFORMANCE STANDARDS FOR ELECTRIC UTILITIES.

Bill Summary

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

Requires large electric utilities to reduce their overall level of customer demand by a total of 0.3% in 2004, 0.65% in 2005, and 1% each year thereafter through 2020. Requires a utility to achieve at least 80% of these reductions through demand-side management (DSM) and allows the remainder to be achieved by the purchase of energy savings.
credits. Specifies that DSM programs must be cost-effective.

Directs the public utilities commission (PUC) to implement the system of demand reduction by adopting specific target figures, based on projected future electricity sales, at least every 5 years and by reviewing annual reports filed by utilities. Allows utilities to recover their costs through rates or, in the case of municipally owned and cooperatively owned utilities, through procedures determined by their board of directors or other governing body.

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

**SECTION 1.** Article 4 of title 40, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 2**  
**ENERGY EFFICIENCY**  
**PERFORMANCE STANDARDS**

**40-4-201. Purpose and scope.** This PART 2 IS INTENDED TO CONSERVE THE STATE'S NATURAL RESOURCES, REDUCE POLLUTION AND WATER CONSUMPTION, AND ENHANCE THE RELIABILITY OF ELECTRIC SUPPLY BY ACTIVELY PROMOTING THE USE OF AVAILABLE ENERGY EFFICIENCY MEASURES BY UTILITIES SERVING A MAJORITY OF COLORADO'S POPULATION. ELECTRIC UTILITIES OPERATING IN COLORADO THAT ARE NOT "QUALIFYING UTILITIES" COVERED BY THIS PART 2 ARE NEVERTHELESS ENCOURAGED, THOUGH NOT REQUIRED, TO IMPLEMENT COST-EFFECTIVE DEMAND-SIDE MANAGEMENT PROGRAMS AND TO MEET THE ENERGY SAVINGS TARGETS SET FORTH IN THIS PART 2.

**40-4-202. Definitions.** As used in this PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COST-EFFECTIVE" MEANS THAT THE ECONOMIC VALUE OF ALL BENEFITS EXCEEDS THE ECONOMIC VALUE OF ALL COSTS, ON A NET PRESENT VALUE BASIS.
"Demand-side management" means the management of customer demand through the implementation of energy efficiency and load management devices on and in the premises of residential, commercial, industrial, institutional, and government customers.

"Electric utility" means a corporation, company, association, partnership, cooperative, municipality or municipally-owned entity, or other person that provides retail electric service to consumers and businesses in Colorado.

"Energy efficiency" means the use of technologies, management practices, or other strategies that reduce electricity consumption by consumers or businesses.

"Energy efficiency performance standard" means an energy savings requirement that must be met by qualifying utilities through their demand-side management programs and purchase of energy savings credits.

"Energy savings credits" means electricity savings, expressed in kilowatt-hours per year, resulting from energy efficiency projects implemented by businesses or energy service companies.

"Energy service company" means a privately owned company or partnership that sells, installs, or finances energy efficiency and load management devices.

"Load management" means the use of technologies, management practices, or other strategies to shift electric load from periods of higher demand to periods of lower demand.

"Qualifying utility" means an electric utility that
PROVIDES AT LEAST FIVE BILLION KILOWATT-HOURS OF RETAIL ELECTRIC SERVICE TO CONSUMERS AND BUSINESSES IN COLORADO IN ANY CALENDAR YEAR.

(10) "TOTAL RESOURCE COST TEST" MEANS A DETERMINATION OF COST-EFFECTIVENESS, AS DEFINED IN RULES ADOPTED BY THE PUBLIC UTILITIES COMMISSION.

40-4-203. Energy efficiency performance standards. (1) The Commission shall establish energy efficiency performance standards for each qualifying utility that was operating in Colorado as of January 1, 2003. The performance standards shall take effect starting January 1, 2004, and shall represent a reduction in overall annual sales of electricity that is as close as is practicable to a total of three-tenths of one percent in 2004, a total of sixty-five one-hundredths of one percent in 2005, and a total of one percent in each of the years 2006 through 2020.

(2) (a) On or before December 31, 2003, the Commission shall set the performance standards for 2004 through 2010 based on projected future electricity sales of each qualifying utility at that time.

(b) On or before December 31, 2010, the Commission shall set the performance standards for 2011 through 2015 based on projected future electricity sales of each qualifying utility at that time.

(c) On or before December 31, 2015, the Commission shall set the performance standards for 2016 through 2020 based on projected future electricity sales of each qualifying utility at
THAT TIME.

(3) IN PROJECTING FUTURE ELECTRICITY SALES, THE COMMISSION SHALL CONSIDER PAST TRENDS IN ELECTRICITY SALES AND ANY FORECASTS OF FUTURE ELECTRICITY SALES.

40-4-204. Methods to meet standards - demand-side management - energy savings credits. (1) A QUALIFYING UTILITY SHALL MEET ITS ENERGY EFFICIENCY PERFORMANCE STANDARDS EACH YEAR IN ACCORDANCE WITH SUBSECTIONS (2) AND (3) OF THIS SECTION.

(2) (a) DEMAND-SIDE MANAGEMENT PROGRAMS SHALL BE MADE AVAILABLE TO ALL CLASSES OF CUSTOMERS.

(b) AT LEAST EIGHTY PERCENT OF THE ENERGY EFFICIENCY PERFORMANCE STANDARDS IN ANY PARTICULAR YEAR SHALL BE MET THROUGH SAVINGS FROM DEMAND-SIDE MANAGEMENT PROGRAMS IMPLEMENTED THAT YEAR BY A QUALIFYING UTILITY OR ITS CONTRACTORS.

(c) ELIGIBLE DEMAND-SIDE MANAGEMENT PROGRAMS INCLUDE FINANCIAL INCENTIVE, EDUCATION AND TRAINING, TECHNICAL ASSISTANCE, DIRECT INSTALLATION, AND OTHER TYPES OF PROGRAMS THAT ARE DESIGNED TO PROVIDE KILOWATT-HOUR SAVINGS BY CONSUMERS AND BUSINESSES.

(d) WHEN IMPLEMENTING DEMAND-SIDE MANAGEMENT PROGRAMS, A QUALIFYING UTILITY IS ENCOURAGED BUT NOT REQUIRED TO USE COMPETITIVE PROCUREMENT PROCESSES.

(e) A QUALIFYING UTILITY SHALL OPERATE DEMAND-SIDE MANAGEMENT PROGRAMS THAT, TAKEN IN COMBINATION, ARE COST-EFFECTIVE BASED ON THE TOTAL RESOURCE COST TEST.

(3) A QUALIFYING UTILITY SHALL BE ALLOWED TO MEET UP TO
TWENTY PERCENT OF ITS ENERGY EFFICIENCY PERFORMANCE STANDARDS
IN ANY PARTICULAR YEAR THROUGH THE PURCHASE OF ENERGY SAVINGS
CREDITS FROM ENERGY EFFICIENCY PROJECTS IMPLEMENTED BY
BUSINESSES OR ENERGY SERVICE COMPANIES OPERATING IN ITS SERVICE
AREA; EXCEPT THAT AN ENERGY EFFICIENCY PROJECT PROVIDING ENERGY
SAVINGS CREDITS MAY NOT ALSO BE COUNTED AS PROVIDING ENERGY
SAVINGS FROM A UTILITY-SPONSORED DEMAND-SIDE MANAGEMENT
PROGRAM.

(4) A QUALIFYING UTILITY THAT FAILS TO MEET ITS ENERGY
EFFICIENCY PERFORMANCE STANDARDS IN ANY PARTICULAR YEAR SHALL
BE REQUIRED TO ACHIEVE ADDITIONAL ENERGY SAVINGS, EQUAL TO THE
SHORTFALL, WITHIN THE FOLLOWING TWO YEARS. THE ADDITIONAL
ENERGY SAVINGS SHALL BE ADDED TO THE ENERGY EFFICIENCY
PERFORMANCE STANDARDS THAT APPLY IN THOSE YEARS.

(5) (a) The Commission may issue an order to a qualifying
utility that is investor-owned to carry out specified demand-side
management programs and other activities if the Commission
determines that the utility is not adequately carrying out its
responsibilities under this part 2.

(b) The board of directors or other governing body shall
have primary responsibility for implementation and oversight of
the energy efficiency performance standards for any qualifying
utility that is a cooperative or municipal utility.

40-4-205. Reports - oversight by commission. (1) (a) Each
qualifying utility shall annually prepare and file with the
Commission a report describing how the utility met its energy
efficiency performance standard in the previous year. The
REPORT SHALL INCLUDE, AS TO EACH PROGRAM OR POLICY UNDERTAKEN
BY THE UTILITY, THE ENERGY SAVINGS ACHIEVED, THE TECHNIQUES USED
TO EVALUATE SUCH SAVINGS, THE COST-EFFECTIVENESS OF THE PROGRAM
OR POLICY, AND AN EXPLANATION AND VERIFICATION OF ANY ENERGY
SAVINGS CREDITS THAT WERE PURCHASED.

(b) The Commission shall audit the annual reports filed by
qualifying utilities, verify that the information in such reports
is accurate, and make any adjustments to the reports that the
Commission deems are warranted.

(c) The Commission may recover its costs for audit and
verification functions from qualifying utilities. If such cost
recovery is implemented, each qualifying utility shall be
permitted to add the costs to its demand-side management
program costs in the following year.

(2) The procedures in the North American energy
measurement and verification protocol, as published by the
United States department of energy, shall be used by qualifying
utilities in evaluating energy savings from demand-side
management programs and by businesses and energy service
companies in determining energy savings from projects providing
energy savings credits.

40-4-206. Commission - rule-making authority. (1) The
commission shall by March 31, 2004, promulgate, and thereafter
periodically amend, any rules necessary to implement this part
2.

(2) In promulgating a total resource cost test, the
commission shall consider, and may in its discretion adopt
WITHOUT SUBSTANTIAL CHANGE, THE TOTAL RESOURCE COST TEST SET FORTH IN THE CALIFORNIA STANDARD PRACTICE MANUAL.

40-4-207. Costs of implementation - recovery by utilities.

1. A QUALIFYING UTILITY THAT IS INVESTOR-OWNED SHALL BE ALLOWED TO RECOVER THE COST OF ITS DEMAND-SIDE MANAGEMENT PROGRAMS AND ITS PURCHASES OF ENERGY SAVINGS CREDITS THROUGH THE DEMAND-SIDE MANAGEMENT COST ADJUSTMENT MECHANISM.

2. A QUALIFYING UTILITY THAT IS OWNED BY A MUNICIPALITY OR COOPERATIVE SHALL BE ALLOWED TO RECOVER THE COST OF ITS DEMAND-SIDE MANAGEMENT PROGRAMS BASED ON PROCEDURES DETERMINED BY ITS BOARD OF DIRECTORS OR OTHER GOVERNING BODY.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.