

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

**PREAMENDED**

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

LLS NO. 11-0436.02 Jason Gelender

**SENATE BILL 11-032**

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**SENATE SPONSORSHIP**

**Johnston,**

**HOUSE SPONSORSHIP**

**(None),**

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**Senate Committees**

Agriculture, Natural Resources, and Energy  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING A REQUIREMENT THAT THE PUBLIC UTILITIES**  
102             **COMMISSION PROMULGATE RULES TO ESTABLISH AN ON-BILL**  
103             **FINANCING PROGRAM FOR ENERGY EFFICIENCY OR RENEWABLE**  
104             **ENERGY IMPROVEMENTS TO REAL PROPERTY, AND MAKING AN**  
105             **APPROPRIATION THEREFOR.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill:

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.*

- ! Requires the public utilities commission (PUC) to promulgate rules no later than January 1, 2012, to establish an on-bill clean energy improvement financing program under which a retail customer of a PUC-regulated public utility that sells electricity or natural gas may enter into an on-bill financing arrangement with the public utility under which the public utility finances the costs of completing a clean energy improvement to the customer's real property and the customer agrees to repay the costs by paying a temporary surcharge or a temporary increased rate for electricity or natural gas, as applicable, on the customer's utility bill; and
- ! Specifies minimum provisions that the rules must include relating to:
  - ! The imposition of temporary surcharges or temporary increased rates;
  - ! The application of energy savings from the program to a public utility's demand-side management targets or goals; and
  - ! The exemption of a public utility from participation in the program if participation will not reduce the public utility's future present value revenue requirements.

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

2 SECTION 1. Article 2 of title 40, Colorado Revised Statutes, is  
 3 amended BY THE ADDITION OF A NEW SECTION to read:

4 40-2-130. Program for on-bill financing of energy efficiency  
 5 or renewable energy improvements - rules - definition. (1) AS USED  
 6 IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "ENERGY  
 7 EFFICIENCY OR RENEWABLE ENERGY IMPROVEMENT" MEANS:

8 (a) ANY REPAIR OF, OR ADDITION OR IMPROVEMENT TO, REAL  
 9 PROPERTY THAT IMPROVES THE ENERGY EFFICIENCY OF THE PROPERTY OR  
 10 REPLACES ALL OR A PORTION OF THE ENERGY FROM NONRENEWABLE  
 11 SOURCES USED IN CONNECTION WITH THE PROPERTY WITH ENERGY FROM  
 12 RENEWABLE SOURCES; OR

1           (b) ANY INSTALLATION OF, OR CONNECTION WITH, EQUIPMENT  
2           THAT PRODUCES OR CONDUCTS RECYCLED ENERGY OR RENEWABLE  
3           ENERGY RESOURCES, AS DEFINED IN SECTION 40-2-124 (1) (a), OR SOLAR  
4           HEATING AND COOLING SYSTEMS, FOR USE ON REAL PROPERTY.

5           (2) NO LATER THAN JANUARY 1, 2012, THE COMMISSION SHALL  
6           PROMULGATE RULES, IN ACCORDANCE WITH SECTION 40-2-108, THAT  
7           ESTABLISH A PROGRAM FOR FINANCING ENERGY EFFICIENCY OR  
8           RENEWABLE ENERGY IMPROVEMENTS TO REAL PROPERTY UNDER WHICH  
9           EITHER:

10           (a) A FULL SERVICE CUSTOMER OF A PUBLIC UTILITY THAT SELLS  
11           ELECTRICITY OR NATURAL GAS SHALL ENTER INTO AN ON-BILL FINANCING  
12           ARRANGEMENT WITH THE PUBLIC UTILITY FOR THE PURPOSE OF FINANCING  
13           SUCH IMPROVEMENTS; OR

14           (b) A PUBLIC UTILITY SHALL PARTNER WITH A LENDER TO PROVIDE  
15           CREDIT ENHANCEMENTS FOR THE PURPOSE OF REDUCING THE COST TO ITS  
16           FULL SERVICE CUSTOMERS OF FINANCING SUCH IMPROVEMENTS.

17           (3) THE PROGRAM ESTABLISHED BY THE COMMISSION PURSUANT  
18           TO SUBSECTION (2) OF THIS SECTION SHALL BE CONSIDERED A DSM  
19           PROGRAM FOR PURPOSES OF PART 1 OF ARTICLE 3.2 OF THIS TITLE, AND  
20           ANY EXPENDITURES UP TO TWO MILLION DOLLARS MADE BY A PUBLIC  
21           UTILITY IN PARTICIPATING IN FUNDING, IMPLEMENTING, OR ADMINISTERING  
22           THE PROGRAM SHALL BE CONSIDERED DSM PROGRAM EXPENDITURES  
23           THAT MAY BE DIVERTED FROM OTHER DSM PROGRAMS FOR THE PURPOSES  
24           OF SAID PART 1. THE PROGRAM SHALL COMPLY WITH ALL OTHER RULES OR  
25           POLICIES ESTABLISHED BY THE COMMISSION FOR DSM PROGRAMS.

26           (4) IN ESTABLISHING THE PROGRAM PURSUANT TO SUBSECTION (2)  
27           OF THIS SECTION, THE COMMISSION SHALL ENSURE THAT IT ALLOWS

1 SUFFICIENT FINANCING CHARGES TO ENSURE THAT THE PROGRAM CAN BE  
2 PERMANENTLY SELF-SUSTAINING AFTER THE INITIAL START-UP  
3 INVESTMENT HAS BEEN MADE.

4 **SECTION 2. Appropriation.** (1) In addition to any other  
5 appropriation, there is hereby appropriated, out of any moneys in the  
6 public utilities commission fixed utility fund created in section 40-2-114,  
7 Colorado Revised Statutes, not otherwise appropriated, to the department  
8 of regulatory agencies, for allocation to the executive director's office and  
9 administrative services, for legal services, for the fiscal year beginning  
10 July 1, 2011, the sum of thirty-eight thousand one hundred fifty-two  
11 dollars (\$38,152) cash funds, or so much thereof as may be necessary, for  
12 the implementation of this act.

13 (2) In addition to any other appropriation, there is hereby  
14 appropriated, out of any moneys in the public utilities commission fixed  
15 utility fund created in section 40-2-114, Colorado Revised Statutes, not  
16 otherwise appropriated, to the department of regulatory agencies, for  
17 allocation to the public utilities commission, for personal services and  
18 operating expenses, for the fiscal year beginning July 1, 2011, the sum of  
19 one hundred ten thousand nine hundred seventeen dollars (\$110,917) cash  
20 funds and 0.5 FTE, or so much thereof as may be necessary, for the  
21 implementation of this act.

22 (3) In addition to any other appropriation, there is hereby  
23 appropriated to the department of law, for the fiscal year beginning July  
24 1, 2011, the sum of thirty-eight thousand one hundred fifty-two dollars  
25 (\$38,152) and 0.3 FTE, or so much thereof as may be necessary, for the  
26 provision of legal services to the department of regulatory agencies  
27 related to the implementation of this act. Said sum shall be from

1 reappropriated funds received from the department of regulatory agencies  
2 out of the appropriation made in subsection (1) of this section.

3 **SECTION 3. Act subject to petition - effective date.** This act  
4 shall take effect at 12:01 a.m. on the day following the expiration of the  
5 ninety-day period after final adjournment of the general assembly (August  
6 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a  
7 referendum petition is filed pursuant to section 1 (3) of article V of the  
8 state constitution against this act or an item, section, or part of this act  
9 within such period, then the act, item, section, or part shall not take effect  
10 unless approved by the people at the general election to be held in  
11 November 2012 and shall take effect on the date of the official  
12 declaration of the vote thereon by the governor.

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