

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0599.01 Duane Gall

HOUSE BILL 11-1191

HOUSE SPONSORSHIP

Tyler, Fischer, Lee, Solano

SENATE SPONSORSHIP

(None),

House Committees
Transportation

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE SHARING OF AGGREGATED RESOURCE CONSUMPTION
102 DATA OBTAINED FROM COLORADO UTILITIES, AND, IN
103 CONNECTION THEREWITH, MAKING THE AGGREGATED DATA
104 AVAILABLE AND REQUIRING THE DATA TO BE PURGED OF
105 PERSONALLY IDENTIFIABLE INFORMATION.

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 directs the public utilities commission (PUC) to certify

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.

independent data aggregators (clearinghouses) to obtain customer resource consumption data from utilities furnishing electricity, natural gas, steam, water, thermal energy, or other resources and to provide the data to public and private entities in a manner suitable for measuring:

- ! Usage during specified periods of time;
- ! The efficiency of buildings in specified geographic areas;
- ! The effectiveness of resource efficiency programs, including existing demand-side management programs and emission control plans; and
- ! Other parameters.

The bill requires personally identifiable information to be removed before the data is shared, and requires geographic location information to be generalized at a level no smaller than the census block level.

The bill grants rule-making authority to the PUC and specifies the contents of nondisclosure agreements and other details of the relationship between a clearinghouse, a utility, and governmental entities. Utilities are granted limited immunity for any liability resulting from their participation in data sharing arrangements.

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 PART to read:

4 **PART 2**

5 **RESOURCE CONSUMPTION**

6 **DATA SHARING**

7 **40-2-201. Definitions.** AS USED IN THIS PART 2, UNLESS THE
8 CONTEXT OTHERWISE REQUIRES:

9 (1) "ACTIONABLE", AS APPLIED TO DATA, MEANS DATA THAT ARE
10 TIMELY AND DETAILED ENOUGH TO ENABLE THE EFFECTIVE PLANNING,
11 IMPLEMENTATION, AND EVALUATION OF EFFICIENCY PROGRAMS.

12 (2) "CLEARINGHOUSE" MEANS A THIRD-PARTY DATA AGGREGATOR
13 OR OTHER ENTITY CERTIFIED BY THE COMMISSION IN ACCORDANCE WITH
14 SECTION 40-2-202.

15 (3) "COLORADO GOVERNMENTAL ENTITY" MEANS ANY AGENCY OF

1 THE STATE OF COLORADO AND ANY MUNICIPAL OR COUNTY GOVERNMENT,
2 OR AGENCY THEREOF, IN COLORADO.

3 (4) "CUSTOMER" MEANS A CONSUMER OF A SERVICE OR RESOURCE
4 PROVIDED BY A PUBLIC UTILITY.

5 (5) "EFFICIENCY PROGRAM" MEANS ANY ORGANIZED EFFORT,
6 WHETHER PUBLIC OR PRIVATE, TO REDUCE THE CONSUMPTION OR
7 INCREASE THE EFFICIENCY OF USE OF ELECTRICITY, GAS, WATER, STEAM,
8 THERMAL ENERGY, OR OTHER RESOURCE FURNISHED BY A PUBLIC UTILITY.

9 "EFFICIENCY PROGRAM" INCLUDES DEMAND-SIDE MANAGEMENT
10 PROGRAMS AND EMISSION CONTROL PLANS UNDER ARTICLE 3.2 OF THIS
11 TITLE.

12 (6) "GIS DATA" MEANS DATA SUPPLIED BY OR TO A GEOGRAPHIC
13 INFORMATION SYSTEM.

14 (7) "PARTICIPATING UTILITY" MEANS A UTILITY THAT ELECTS TO
15 SHARE DATA WITH A CLEARINGHOUSE IN ACCORDANCE WITH THIS PART 2.

16 (8) "PERSONALLY IDENTIFIABLE INFORMATION" MEANS
17 INFORMATION THAT COULD BE USED TO CONNECT AN IDENTIFIABLE
18 CUSTOMER TO THE CUSTOMER'S RESOURCE CONSUMPTION DATA OR TO AN
19 IDENTIFIABLE ACCOUNT, CREDIT LINE, OR ASSET. THE TERM INCLUDES A
20 CUSTOMER'S NAME, ADDRESS, SOCIAL SECURITY NUMBER, UTILITY
21 ACCOUNT NUMBER, CREDIT CARD NUMBER, AND BANK ACCOUNT NUMBER.

22 (9) (a) "RESOURCE CONSUMPTION DATA" MEANS INFORMATION
23 USED TO GENERATE A CUSTOMER'S BILL. EXCEPT AS OTHERWISE PROVIDED
24 IN PARAGRAPH (b) OF THIS SUBSECTION (9), THE TERM INCLUDES:

25 (I) THE AMOUNT OF ELECTRICITY, NATURAL GAS, WATER, STEAM,
26 THERMAL ENERGY, OR OTHER RESOURCE CONSUMED DURING THE BILLING
27 PERIOD;

- 1 (II) THE BILLING PERIOD STARTING AND ENDING DATES AND THE
- 2 NUMBER OF DAYS IN THE BILLING PERIOD;
- 3 (III) THE ACCOUNT NUMBER;
- 4 (IV) THE SERVICE ADDRESS;
- 5 (V) THE METER NUMBER; AND
- 6 (VI) THE METER LOCATION.

7 (b) "RESOURCE CONSUMPTION DATA" DOES NOT INCLUDE DATA
8 ACQUIRED FROM ADVANCED METERING INFRASTRUCTURE ON A DAILY OR
9 MORE FREQUENT BASIS. SUCH DATA MUST BE AGGREGATED TO TOTAL
10 CONSUMPTION VALUES FOR THE ENTIRE BILLING PERIOD BEFORE DELIVERY
11 TO A CLEARINGHOUSE.

12 (10) "THIRD PARTY" MEANS A PRIVATE ENTITY THAT IS NOT A
13 UTILITY, A RETAIL CUSTOMER, OR A COLORADO GOVERNMENTAL ENTITY.

14 (11) "UTILITY" MEANS A PUBLIC UTILITY, AS DEFINED IN SECTION
15 40-1-103, THAT PROVIDES ELECTRICITY, NATURAL GAS, WATER, STEAM,
16 THERMAL ENERGY, OR OTHER RESOURCE TO COLORADO CUSTOMERS. THE
17 TERM INCLUDES INVESTOR-OWNED UTILITIES, MUNICIPAL UTILITIES, AND
18 COOPERATIVE ELECTRIC ASSOCIATIONS.

19 **40-2-202. Duties of commission - certification of clearinghouse**

20 **- rules.** (1) IN ADDITION TO ANY OTHER POWERS AND DUTIES CONFERRED
21 UPON IT BY LAW, THE COMMISSION IS AUTHORIZED AND DIRECTED TO:

- 22 (a) CERTIFY ONE OR MORE THIRD-PARTY ENTITIES TO ACT AS A
- 23 CLEARINGHOUSE FOR ACTIONABLE RESOURCE CONSUMPTION DATA OF
- 24 CUSTOMERS IN COLORADO. IN DETERMINING WHETHER TO CERTIFY AN
- 25 ENTITY, THE COMMISSION SHALL CONSIDER THE EXTENT TO WHICH THE
- 26 ENTITY HAS THE DEMONSTRATED TECHNICAL CAPABILITY AND
- 27 EXPERIENCE TO:

1 (I) COLLECT AND ANALYZE THE REQUIRED RESOURCE
2 CONSUMPTION DATA;

3 (II) SPATIALLY LINK THE RESOURCE CONSUMPTION DATA WITH TAX
4 ASSESSOR, DEMOGRAPHIC, AND GIS DATA AS APPROPRIATE;

5 (III) PROTECT CUSTOMER RESOURCE CONSUMPTION DATA,
6 PERSONALLY IDENTIFIABLE INFORMATION, AND CUSTOMER FINANCIAL
7 INFORMATION FROM UNAUTHORIZED RELEASE; AND

8 (IV) PROVIDE COLORADO GOVERNMENTAL ENTITIES, AND PRIVATE
9 ENTITIES, AS APPROPRIATE, WITH ACTIONABLE RESOURCE CONSUMPTION
10 DATA ANALYSES AT ADEQUATE AGGREGATION LEVELS TO PROTECT
11 CUSTOMER PRIVACY.

12 (b) DEVELOP THE STANDARD RESOURCE CONSUMPTION DATA
13 NONDISCLOSURE AND SECURITY AGREEMENTS TO BE SIGNED BY A
14 CLEARINGHOUSE AND PARTICIPATING UTILITIES;

15 (c) DEVELOP, IN CONSULTATION WITH A CLEARINGHOUSE, THE
16 MECHANISMS BY WHICH UTILITIES AND COLORADO GOVERNMENTAL
17 ENTITIES CAN PARTICIPATE IN THE SHARING OF DATA COLLECTED BY THE
18 CLEARINGHOUSE AND THE REQUIREMENTS FOR PARTICIPATION. THE
19 REQUIREMENTS INCLUDE:

20 (I) RESOURCE CONSUMPTION DATA FIELDS TO BE PROVIDED BY
21 UTILITIES;

22 (II) FORMATS AND PROTOCOLS FOR ELECTRONIC DATA TRANSFER
23 OF RESOURCE CONSUMPTION DATA;

24 (III) THE AMOUNT OF HISTORICAL RESOURCE CONSUMPTION DATA
25 TO BE PROVIDED;

26 (IV) THE FREQUENCY OF RESOURCE CONSUMPTION DATA UPDATES
27 TO BE PROVIDED BY UTILITIES; AND

1 (V) ACCEPTABLE FORMATS FOR INDIVIDUAL CUSTOMERS TO
2 ELECTRONICALLY SIGN RELEASES FOR THEIR RESOURCE CONSUMPTION
3 DATA WHEN PARTICIPATING IN RESOURCE EFFICIENCY OR CLIMATE
4 PLANNING PROGRAMS.

5 (d) ESTABLISH PRICING GUIDELINES FOR THE PROVISION OF DATA
6 TO AND BY A CLEARINGHOUSE;

7 (e) DETERMINE WHETHER, AND TO WHAT EXTENT, UTILITIES MAY:

8 (I) CREDIT THEIR PARTICIPATION IN DATA SHARING UNDER THIS
9 ARTICLE TOWARD THEIR RESOURCE EFFICIENCY PROGRAMS; AND

10 (II) FINANCE THEIR PARTICIPATION IN DATA SHARING UNDER THIS
11 PART 2 FROM THEIR PUBLIC BENEFIT FUNDS, EMISSION CONTROL FUNDS,
12 EFFICIENCY PROGRAM FUNDS, OR OTHER FUNDS.

13 (f) DETERMINE, IN CONSULTATION WITH A CLEARINGHOUSE AND
14 COLORADO GOVERNMENTAL ENTITIES, AND PRIVATE ENTITIES, AS
15 APPROPRIATE, ACCEPTABLE AGGREGATION LEVELS FOR RESOURCE
16 CONSUMPTION DATA ANALYSES THAT WILL PROVIDE ACTIONABLE
17 INFORMATION TO COLORADO GOVERNMENTAL ENTITIES AND PRIVATE
18 ENTITIES WHILE PROTECTING INDIVIDUAL CUSTOMER PRIVACY;

19 (g) EXERCISE SUCH OTHER POWERS AND PERFORM SUCH OTHER
20 DUTIES AS ARE NECESSARY OR INCIDENTAL TO, OR IMPLIED FROM, THE
21 SPECIFIC POWERS AND DUTIES SPECIFIED IN THIS PART 2.

22 (2) THE COMMISSION MAY ADOPT RULES TO IMPLEMENT THIS PART
23 2.

24 **40-2-203. Clearinghouse - data security - data analysis -**
25 **reporting.** (1) IN ACCORDANCE WITH RULES OF THE COMMISSION, A
26 CLEARINGHOUSE SHALL:

27 (a) COLLECT METER-LEVEL RESOURCE CONSUMPTION DATA FROM

1 UTILITIES;

2 (b) SPATIALLY LINK RESOURCE CONSUMPTION DATA TO TAX
3 ASSESSOR INFORMATION, DEMOGRAPHIC DATA, AND GIS DATA AS
4 APPROPRIATE;

5 (c) SIGN STANDARD RESOURCE CONSUMPTION DATA
6 NONDISCLOSURE AND SECURITY AGREEMENTS WITH PARTICIPATING
7 UTILITIES;

8 (d) PROVIDE ACTIONABLE RESOURCE CONSUMPTION DATA
9 ANALYSES TO COLORADO GOVERNMENTAL ENTITIES AND PRIVATE
10 ENTITIES IN A MANNER CONSISTENT WITH THE PROTECTION OF CUSTOMER
11 PRIVACY;

12 (e) PROVIDE ACCESS TO INDIVIDUAL CUSTOMER UTILITY DATA
13 ONLY IF A PROPER DISCLOSURE AGREEMENT HAS BEEN SIGNED BY A
14 CUSTOMER;

15 (f) PROVIDE CUSTOMER RESOURCE CONSUMPTION DATA TO
16 PRIVATE PARTIES ONLY IF:

17 (I) ALL PERSONALLY IDENTIFIABLE INFORMATION HAS BEEN
18 REMOVED; AND

19 (II) THE CUSTOMER RESOURCE CONSUMPTION DATA TRANSFERRED
20 CANNOT BE SPATIALLY IDENTIFIED AT A GEOGRAPHIC LEVEL FINER THAN
21 THE CENSUS BLOCK LEVEL; AND

22 (g) PERFORM SUCH OTHER DUTIES AS MAY BE AUTHORIZED IN THIS
23 PART 2 OR REQUIRED BY THE COMMISSION.

24 (2) A CLEARINGHOUSE SHALL NOT:

25 (a) SELL OR OTHERWISE PROVIDE INDIVIDUAL CUSTOMER
26 RESOURCE CONSUMPTION DATA OR PERSONALLY IDENTIFIABLE
27 INFORMATION TO ANY ENTITY, OTHER THAN THE UTILITY THAT

1 ORIGINALLY PROVIDED IT, IN ANY WAY THAT WOULD COMPROMISE
2 INDIVIDUAL CUSTOMER PRIVACY UNLESS THE CUSTOMER HAS SIGNED AN
3 AUTHORIZATION FOR THE RELEASE OF THE DATA OR INFORMATION TO THE
4 SPECIFIED ENTITY.

5 (b) USE CUSTOMER RESOURCE CONSUMPTION DATA:

6 (I) TO SOLICIT ANY BUSINESS WITH A CUSTOMER FOR WHOM THE
7 CLEARINGHOUSE HAS RECEIVED RESOURCE CONSUMPTION DATA; OR

8 (II) TO ENABLE ANOTHER PERSON OR ENTITY TO SOLICIT ANY
9 BUSINESS WITH A CUSTOMER; OR

10 (c) COLLECT OR STORE CUSTOMER FINANCIAL INFORMATION.

11 (3) IF A COLORADO GOVERNMENTAL ENTITY IS REQUIRED TO
12 PROVIDE CUSTOMER RESOURCE CONSUMPTION DATA TO A FEDERAL
13 GOVERNMENT AGENCY IN EXCHANGE FOR FUNDING, A CLEARINGHOUSE
14 MAY, WITH THE COMMISSION'S APPROVAL, PROVIDE THE REQUIRED DATA
15 ON BEHALF OF THE COLORADO GOVERNMENTAL ENTITY IF:

16 (a) ALL PERSONALLY IDENTIFIABLE INFORMATION HAS BEEN
17 REMOVED; AND

18 (b) THE CUSTOMER RESOURCE CONSUMPTION DATA TRANSFERRED
19 CANNOT BE SPATIALLY IDENTIFIED AT A GEOGRAPHIC LEVEL FINER THAN
20 THE CENSUS BLOCK LEVEL.

21 (4) TO FURTHER PROTECT CUSTOMER PRIVACY, A CLEARINGHOUSE
22 SHALL NOT COLLECT OR STORE RESOURCE CONSUMPTION DATA FROM A
23 PARTICIPATING UTILITY AT TIME INTERVALS SHORTER THAN THE NORMAL
24 BILLING PERIOD USED BY THE UTILITY TO BILL CUSTOMERS.

25 (5) NO LATER THAN ONE YEAR AFTER COMMENCING A CUSTOMER
26 RESOURCE CONSUMPTION DATA EXCHANGE, A CLEARINGHOUSE SHALL
27 PROVIDE TO THE COMMISSION A REPORT CONTAINING, AT A MINIMUM:

1 (a) A DETAILED DESCRIPTION OF THE DATA SHARING ACTIVITY,
2 INCLUDING:

3 (I) THE TOTAL NUMBER OF PARTICIPATING UTILITIES AND OTHER
4 PARTIES WITH ACCESS TO THE DATA;

5 (II) THE TYPES OF AGGREGATE ANALYSES PROVIDED TO
6 COLORADO GOVERNMENTAL ENTITIES AND PRIVATE ENTITIES, AS
7 APPROPRIATE, AND THE PURPOSES OF THOSE ANALYSES; AND

8 (b) ANY RECOMMENDED IMPROVEMENTS, INCLUDING
9 RECOMMENDATIONS FOR LEGISLATIVE CHANGES TO THIS PART 2.

10 **40-2-204. Participating utilities - rights and obligations.** (1) IN
11 ACCORDANCE WITH TERMS CONTRACTUALLY AGREED TO BY A
12 PARTICIPATING UTILITY AND A CLEARINGHOUSE, THE PARTICIPATING
13 UTILITY SHALL:

14 (a) PROVIDE METER-LEVEL RESOURCE CONSUMPTION DATA FOR ITS
15 COLORADO CUSTOMERS IN AN ACCEPTABLE ELECTRONIC FORMAT;

16 (b) PROVIDE HISTORICAL DATA AND DATA UPDATES AS PRESCRIBED
17 BY THE COMMISSION;

18 (c) COMPLETE DATA NONDISCLOSURE AND DATA SECURITY
19 AGREEMENTS WITH THE CLEARINGHOUSE;

20 (d) ESTABLISH AN ELECTRONIC MECHANISM FOR ITS CUSTOMERS
21 TO AUTHORIZE THE RELEASE OF THEIR RESOURCE CONSUMPTION DATA TO
22 COLORADO GOVERNMENTAL ENTITIES AND PRIVATE ENTITIES IF REQUIRED
23 FOR PARTICIPATION IN ANOTHER RESOURCE CONSUMPTION DATA SHARING
24 OR DATA EXCHANGE PROGRAM; AND

25 (e) PERMIT THE CLEARINGHOUSE TO PROVIDE AGGREGATE
26 ANALYSES OF CUSTOMER RESOURCE CONSUMPTION DATA TO COLORADO
27 GOVERNMENTAL ENTITIES AND PRIVATE ENTITIES, SUBJECT TO

1 APPROPRIATE CUSTOMER PRIVACY PROTECTION MEASURES.

2 (2) A PARTICIPATING UTILITY MAY RECEIVE ANALYSES FROM A
3 CLEARINGHOUSE THAT INCLUDE THE CUSTOMER RESOURCE CONSUMPTION
4 DATA AND ANY OTHER DATA SETS, INCLUDING PERSONALLY IDENTIFIABLE
5 INFORMATION OF CUSTOMERS; EXCEPT THAT:

6 (a) PERSONALLY IDENTIFIABLE INFORMATION OF CUSTOMERS MAY
7 BE INCLUDED ONLY IN AN ANALYSIS THAT IS LIMITED TO THE CUSTOMERS
8 OF THE PARTICIPATING UTILITY; AND

9 (b) PERSONALLY IDENTIFIABLE INFORMATION OR CUSTOMER
10 RESOURCE CONSUMPTION DATA SHALL NOT BE INCLUDED IN ANY ANALYSIS
11 IF THE INFORMATION OR DATA WAS NOT OBTAINED BY THE
12 CLEARINGHOUSE DIRECTLY FROM THE PARTICIPATING UTILITY.

13 (3) (a) A UTILITY THAT PROVIDES DATA TO A CLEARINGHOUSE
14 CERTIFIED BY THE COMMISSION IN ACCORDANCE WITH THIS PART 2, AND
15 IN COMPLIANCE WITH APPLICABLE RULES OF THE COMMISSION, IS IMMUNE
16 FROM ANY CIVIL OR CRIMINAL LIABILITY THAT WOULD OTHERWISE RESULT
17 FROM A RELEASE OF PERSONALLY IDENTIFIABLE INFORMATION OF A
18 CUSTOMER UNLESS THE UTILITY ACTED IN A WILLFUL, WANTON, OR
19 MALICIOUS MANNER.

20 (b) A UTILITY MAY ELECT TO CONTRACT SEPARATELY WITH A
21 THIRD PARTY THAT HAS NOT BEEN CERTIFIED BY THE COMMISSION TO
22 PERFORM THE FUNCTIONS OF A CLEARINGHOUSE IF THE CONTRACT WITH
23 THE THIRD PARTY CONTAINS SUBSTANTIALLY THE SAME DATA SHARING,
24 DATA ANALYSIS, AND CUSTOMER INFORMATION PRIVACY REQUIREMENTS
25 AS ARE CONTAINED IN THIS PART 2.

26 **40-2-205. Colorado governmental entities - requests for**
27 **aggregate data reports.** (1) IN ACCORDANCE WITH TERMS

1 CONTRACTUALLY AGREED TO BY A COLORADO GOVERNMENTAL ENTITY
2 AND A CLEARINGHOUSE, THE COLORADO GOVERNMENTAL ENTITY MAY:

3 (a) ELECT TO PARTICIPATE IN DATA SHARING UNDER THIS PART 2;

4 AND

5 (b) REQUEST AND RECEIVE AGGREGATE DATA ANALYSES OF
6 CUSTOMER RESOURCE CONSUMPTION DATA IN ACCORDANCE WITH THIS
7 PART 2 IF AT LEAST ONE UTILITY SERVING THE COLORADO GOVERNMENTAL
8 ENTITY'S TERRITORY IS PARTICIPATING IN THE PROGRAM.

9 **SECTION 2. Act subject to petition - effective date.** This act
10 shall take effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part shall not take effect
16 unless approved by the people at the general election to be held in
17 November 2012 and shall take effect on the date of the official
18 declaration of the vote thereon by the governor.