

**Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 06-0566.01 Duane Gall

HOUSE BILL 06-1147

HOUSE SPONSORSHIP

Plant, Coleman, Curry, Larson, Pommer, and White

SENATE SPONSORSHIP

Johnson, Gordon, Groff, Grossman, Tochtrop, and Windels

House Committees

Transportation & Energy
Appropriations

Senate Committees

Agriculture, Natural Resources & Energy
Appropriations

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO PROMOTE ENERGY EFFICIENCY, AND**
102 **MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

Bill Summary

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

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. Directs distributors of natural gas to develop and implement cost-effective energy efficiency programs once such rules are adopted. Requires periodic reports from the utilities and PUC review and approval of such programs. Specifies that this act does not extend PUC authority

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.*

SENATE
3rd Reading Unamended
April 28, 2006

SENATE
Amended 2nd Reading
April 27, 2006

HOUSE
3rd Reading Unamended
February 23, 2006

HOUSE
Amended 2nd Reading
February 22, 2006

to nonregulated utility businesses or affiliates. Repeals the program in 2016.

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 (4.8) "FULL SERVICE CUSTOMER" MEANS A RESIDENTIAL OR
17 COMMERCIAL CUSTOMER THAT PURCHASES NATURAL GAS SUPPLY FROM
18 A GAS DISTRIBUTION UTILITY.

19 (7) "TOTAL RESOURCE COST TEST" MEANS A DETERMINATION OF
20 COST-EFFECTIVENESS THAT INCLUDES, AT A MINIMUM, COSTS PAID BY
21 BOTH PARTICIPATING CUSTOMERS AND A UTILITY FOR CONSERVATION
22 MEASURES, AS WELL AS THE UTILITY'S AVOIDED ENERGY SUPPLY COSTS.

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

25 **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 PROTECT COLORADO'S ENVIRONMENT.

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

14 **40-3.2-103. Gas distribution utility energy efficiency programs**
15 **- rules - recovery of costs - repeal.** (1) ON OR BEFORE SEPTEMBER 30,
16 2006, THE COMMISSION SHALL COMMENCE A RULE-MAKING PROCEEDING
17 TO DEVELOP EXPENDITURE AND NATURAL GAS SAVINGS TARGETS,
18 FUNDING AND COST RECOVERY MECHANISMS, AND A FINANCIAL BONUS
19 STRUCTURE FOR ENERGY EFFICIENCY AND CONSERVATION PROGRAMS
20 IMPLEMENTED BY INVESTOR-OWNED GAS DISTRIBUTION UTILITIES.

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

23 (a) ADOPT ENERGY EFFICIENCY PROGRAM EXPENDITURE TARGETS
24 EQUAL TO AT LEAST ONE HALF OF ONE PERCENT OF A UTILITY'S REVENUES
25 FROM ITS FULL SERVICE GAS CUSTOMERS IN THE YEAR PRIOR TO SETTING
26 SUCH TARGETS;

27 (b) ESTABLISH ENERGY EFFICIENCY PROGRAM SAVINGS TARGETS

1 THAT ARE COMMENSURATE WITH PROGRAM EXPENDITURES AND
2 EXPRESSED IN TERMS OF AN AMOUNT OF GAS SAVED PER UNIT OF PROGRAM
3 EXPENDITURES;

4 (c) ADOPT PROCEDURES FOR ALLOWING GAS UTILITIES TO RECOVER
5 THEIR PRUDENTLY INCURRED COSTS OF ENERGY EFFICIENCY AND
6 CONSERVATION PROGRAMS WITHOUT HAVING TO FILE A RATE CASE. SUCH
7 COSTS SHALL INCLUDE, BUT ARE NOT LIMITED TO, FACILITY INVESTMENTS;
8 REBATES; INTEREST RATE BUYDOWNS; INCREMENTAL LABOR COSTS,
9 EMPLOYEE BENEFITS, CARRYING COSTS, AND EMPLOYEE-RELATED
10 ADMINISTRATIVE COSTS; AND OTHER ADMINISTRATIVE COSTS. ALL SUCH
11 COSTS SHALL BE RECOVERED THROUGH A COST ADJUSTMENT MECHANISM
12 THAT IS SET ON AN ANNUAL BASIS, OR MORE FREQUENTLY IF DEEMED
13 APPROPRIATE, AND THAT IS SIMILAR TO COST ADJUSTMENT MECHANISMS
14 APPROVED BY THE COMMISSION FOR ELECTRICITY DEMAND-SIDE
15 MANAGEMENT PROGRAMS. COST ADJUSTMENT PROCEDURES SHALL GIVE
16 GAS UTILITIES THE OPTION OF OBTAINING COST RECOVERY EITHER
17 THROUGH EXPENSING ENERGY EFFICIENCY AND CONSERVATION PROGRAM
18 EXPENDITURES OR ADDING THEM TO BASE RATES, WITH AN AMORTIZATION
19 PERIOD TO BE DETERMINED BY THE COMMISSION. IN ADDITION, SUCH
20 PROCEDURES SHALL PROVIDE THAT COST RECOVERY FOR PROGRAMS
21 DIRECTED AT RESIDENTIAL CUSTOMERS SHALL BE COLLECTED FROM
22 RESIDENTIAL CUSTOMERS ONLY, AND THAT COST RECOVERY FOR
23 PROGRAMS DIRECTED AT NONRESIDENTIAL CUSTOMERS SHALL BE
24 COLLECTED FROM NONRESIDENTIAL CUSTOMERS ONLY.

25 (d) ADOPT A BONUS STRUCTURE TO REWARD GAS DISTRIBUTION
26 UTILITIES FOR INVESTMENTS IN COST-EFFECTIVE ENERGY EFFICIENCY AND
27 CONSERVATION PROGRAMS AND MEASURES. THE BONUS SHALL BE

1 STRUCTURED ON A SLIDING SCALE AND, FOR EACH YEAR OF OPERATION,
2 SHALL BE CAPPED AT THIRTY PERCENT OF THE EXPENDITURES OR FIFTEEN
3 PERCENT OF THE NET ECONOMIC BENEFITS OF THE CONSERVATION AND
4 ENERGY EFFICIENCY PROGRAMS, WHICHEVER AMOUNT IS HIGHER. THE
5 BONUS SHALL BE RELATED TO ACHIEVING THE TARGETS ESTABLISHED BY
6 THE COMMISSION IN ACCORDANCE WITH PARAGRAPHS (a) AND (b) OF THIS
7 SUBSECTION (2) AND SHALL REFLECT THE RAMP-UP PERIOD THAT MAY BE
8 NECESSARY BEFORE A UTILITY IS ABLE TO ACHIEVE THE TARGETS. THE
9 BONUS SHALL NOT COUNT AGAINST A UTILITY'S AUTHORIZED RATE OF
10 RETURN OR BE CONSIDERED IN RATE PROCEEDINGS. A UTILITY SHALL NOT
11 BE PENALIZED FINANCIALLY IF IT FAILS TO MEET THE TARGETS IN ANY
12 PARTICULAR YEAR.

13 (3) WITHIN TWELVE MONTHS AFTER THE COMPLETION OF THE
14 RULE-MAKING REQUIRED BY SUBSECTION (1) OF THIS SECTION, EACH
15 INVESTOR-OWNED GAS DISTRIBUTION UTILITY SHALL:

16 (a) DEVELOP AND BEGIN IMPLEMENTING A SET OF COST-EFFECTIVE
17 ENERGY EFFICIENCY AND CONSERVATION PROGRAMS FOR ITS RESIDENTIAL
18 AND COMMERCIAL CUSTOMERS. SUCH PROGRAMS SHALL BE OF THE
19 UTILITY'S CHOOSING, TAKING INTO ACCOUNT THE CHARACTERISTICS OF
20 THE UTILITY AND ITS CUSTOMERS.

21 (b) IN IMPLEMENTING ENERGY EFFICIENCY AND CONSERVATION
22 PROGRAMS, USE REASONABLE EFFORTS TO MAXIMIZE ENERGY SAVINGS
23 CONSISTENT WITH THE ANNUAL ENERGY EFFICIENCY BUDGET. THE
24 COMMISSION SHALL TAKE INTO ACCOUNT THE FACT THAT IMPLEMENTING
25 THE NEW EFFICIENCY AND CONSERVATION PROGRAMS MAY REQUIRE A
26 RAMP-UP PERIOD BEFORE THE FULL ONE-HALF OF ONE PERCENT FUNDING
27 LEVEL IS ACHIEVED.

1 (4) THE COMMISSION SHALL AUTHORIZE EACH GAS DISTRIBUTION
2 UTILITY TO RECOVER MONEYS SPENT FOR EDUCATION EFFORTS, IMPACT
3 AND PROCESS EVALUATIONS, AND PROGRAM PLANNING RELATED TO
4 NATURAL GAS ENERGY EFFICIENCY AND CONSERVATION PROGRAMS
5 OFFERED BY THE UTILITY.

6 (5) (a) GAS DISTRIBUTION UTILITIES SHALL SUBMIT TO THE
7 COMMISSION REPORTS ON THEIR ENERGY EFFICIENCY AND CONSERVATION
8 PROGRAMS ANNUALLY, AS DETERMINED BY THE COMMISSION BY RULE.
9 THE REPORTS SHALL DOCUMENT PROGRAM EXPENDITURES, ENERGY
10 SAVINGS IMPACTS AND THE TECHNIQUES USED TO ESTIMATE THESE
11 IMPACTS, THE ESTIMATED COST-EFFECTIVENESS OF PROGRAM
12 EXPENDITURES, AND ANY OTHER INFORMATION THE COMMISSION MAY
13 REQUIRE.

14 (b) THE COMMISSION SHALL REVIEW EACH REPORT SUBMITTED
15 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5) AND SHALL
16 DETERMINE THE LEVEL OF BONUS, IF ANY, THAT THE UTILITY IS ELIGIBLE
17 TO COLLECT ON THE BASIS OF THE INFORMATION INCLUDED IN THE REPORT.
18 THE COMMISSION'S DETERMINATION SHALL BE MADE WITHIN THREE
19 MONTHS AFTER RECEIVING THE REPORT. ANY SUCH BONUS SHALL BE
20 AUTHORIZED AS A SUPPLEMENT TO THE DEMAND-SIDE MANAGEMENT
21 ADJUSTMENT MECHANISM OR ALTERNATIVE MECHANISM APPROVED BY
22 THE COMMISSION, AND SHALL BE APPLIED OVER A TWELVE-MONTH PERIOD
23 AFTER APPROVAL OF THE BONUS.

24 (6) THIS SECTION SHALL NOT BE CONSTRUED TO EXTEND THE
25 COMMISSION'S AUTHORITY TO ANY NONREGULATED UTILITY BUSINESSES
26 OR AFFILIATES OF A GAS UTILITY.

27 (7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016. SUCH

1 REPEAL SHALL NOT AFFECT THE VALIDITY OF ANY COST RECOVERY OR
2 BONUS AWARDED TO A GAS UTILITY FOR PROGRAMS IMPLEMENTED ON OR
3 BEFORE SAID DATE.

4 **SECTION 4. 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, for
9 the fiscal year beginning July 1, 2006, the sum of twelve thousand eight
10 hundred ninety (\$12,890), or so much thereof as may be necessary, for the
11 implementation of this act.

12 (2) In addition to any other appropriation, there is hereby
13 appropriated, out of any moneys in the public utilities commission fixed
14 utility fund created in section 40-2-114, Colorado Revised Statutes, not
15 otherwise appropriated, to the department of regulatory agencies, for
16 allocation to the public utilities commission, for the fiscal year beginning
17 July 1, 2006, the sum of seventy-one thousand six hundred thirty-two
18 dollars (\$71,632) and 0.8 FTE, or so much thereof as may be necessary,
19 for the implementation of this act.

20 (3) In addition to any other appropriation, there is hereby
21 appropriated to the department of law, for the fiscal year beginning July
22 1, 2006, the sum of twelve thousand eight hundred ninety dollars
23 (\$12,890), or so much thereof as may be necessary, for the provision of
24 legal services to the department of regulatory agencies related to the
25 implementation of this act. Said sum shall be from cash funds exempt
26 received from the department of regulatory agencies out of the
27 appropriation made in subsection (1) of this section.

1 **SECTION 5. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.