

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 06-1147

BY REPRESENTATIVE(S) Plant, Coleman, Curry, Larson, Pommer, White, Benefield, Borodkin, Boyd, Butcher, Carroll M., Frangas, Gallegos, Madden, Merrifield, Todd, and Vigil;
also SENATOR(S) Johnson, Gordon, Groff, Grossman, Tochtrop, Windels, Bacon, Hagedorn, Keller, Shaffer, Tupa, and Williams.

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

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

SECTION 1. 40-1-102, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

40-1-102. Definitions. As used in articles 1 to 7 of this title, unless the context otherwise requires:

(4.4) "COST-EFFECTIVE", WITH REFERENCE TO A NATURAL GAS ENERGY EFFICIENCY OR CONSERVATION PROGRAM OR RELATED MEASURE, MEANS HAVING A BENEFIT-COST RATIO GREATER THAN ONE USING THE TOTAL RESOURCE COST TEST.

(4.6) "EDUCATION PROGRAM" MEANS A PROGRAM, INCLUDING BUT

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

NOT LIMITED TO AN ENERGY AUDIT, THAT INDIRECTLY CONTRIBUTES TO COST-EFFECTIVE CONSERVATION AND ENERGY EFFICIENCY IMPROVEMENTS. EDUCATION PROGRAMS SHALL NOT BE SUBJECT TO COST-EFFECTIVENESS REQUIREMENTS.

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

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

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

40-3.2-101. Legislative declaration. The general assembly hereby finds, determines, and declares that providing a funding ~~mechanism~~ MECHANISMS to encourage Colorado's public utilities to reduce emissions or air pollutants ~~is a matter~~ AND TO INCREASE ENERGY EFFICIENCY ARE MATTERS of statewide concern. The general assembly further finds that the public interest is served by providing such funding ~~mechanism~~ MECHANISMS. Such ~~reduction~~ EFFORTS will result in an improvement in the quality of life and health of Colorado citizens and an increase in the attractiveness of Colorado as a place to live and conduct business. THE GENERAL ASSEMBLY FURTHER FINDS THAT COST-EFFECTIVE NATURAL GAS ENERGY EFFICIENCY PROGRAMS WILL BOTH SAVE MONEY FOR CONSUMERS AND PROTECT COLORADO'S ENVIRONMENT.

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

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

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

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

(b) ESTABLISH ENERGY EFFICIENCY PROGRAM SAVINGS TARGETS THAT ARE COMMENSURATE WITH PROGRAM EXPENDITURES AND EXPRESSED IN TERMS OF AN AMOUNT OF GAS SAVED PER UNIT OF PROGRAM EXPENDITURES;

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

(d) ADOPT A BONUS STRUCTURE TO REWARD GAS DISTRIBUTION UTILITIES FOR INVESTMENTS IN COST-EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION PROGRAMS AND MEASURES. THE BONUS SHALL BE STRUCTURED ON A SLIDING SCALE AND, FOR EACH YEAR OF OPERATION, SHALL BE CAPPED AT THIRTY PERCENT OF THE EXPENDITURES OR FIFTEEN

PERCENT OF THE NET ECONOMIC BENEFITS OF THE CONSERVATION AND ENERGY EFFICIENCY PROGRAMS, WHICHEVER AMOUNT IS HIGHER. THE BONUS SHALL BE RELATED TO ACHIEVING THE TARGETS ESTABLISHED BY THE COMMISSION IN ACCORDANCE WITH PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (2) AND SHALL REFLECT THE RAMP-UP PERIOD THAT MAY BE NECESSARY BEFORE A UTILITY IS ABLE TO ACHIEVE THE TARGETS. THE BONUS SHALL NOT COUNT AGAINST A UTILITY'S AUTHORIZED RATE OF RETURN OR BE CONSIDERED IN RATE PROCEEDINGS. A UTILITY SHALL NOT BE PENALIZED FINANCIALLY IF IT FAILS TO MEET THE TARGETS IN ANY PARTICULAR YEAR.

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

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

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

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

(5) (a) GAS DISTRIBUTION UTILITIES SHALL SUBMIT TO THE COMMISSION REPORTS ON THEIR ENERGY EFFICIENCY AND CONSERVATION PROGRAMS ANNUALLY, AS DETERMINED BY THE COMMISSION BY RULE. THE REPORTS SHALL DOCUMENT PROGRAM EXPENDITURES, ENERGY SAVINGS IMPACTS AND THE TECHNIQUES USED TO ESTIMATE THESE IMPACTS, THE

ESTIMATED COST-EFFECTIVENESS OF PROGRAM EXPENDITURES, AND ANY OTHER INFORMATION THE COMMISSION MAY REQUIRE.

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

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

(7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016. SUCH REPEAL SHALL NOT AFFECT THE VALIDITY OF ANY COST RECOVERY OR BONUS AWARDED TO A GAS UTILITY FOR PROGRAMS IMPLEMENTED ON OR BEFORE SAID DATE.

SECTION 4. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the public utilities commission fixed utility fund created in section 40-2-114, Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for allocation to the executive director's office, for the fiscal year beginning July 1, 2006, the sum of twelve thousand eight hundred ninety (\$12,890), or so much thereof as may be necessary, for the implementation of this act.

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

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

SECTION 5. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Joan Fitz-Gerald
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO