

SENATE JOURNAL
Sixty-seventh General Assembly
STATE OF COLORADO
First Regular Session

36th Legislative Day

Wednesday, February 11, 2009

- Prayer By the chaplain, Rev. Arlyn Tolzmann, Holy Cross Lutheran Church, Wheat Ridge. 12
- Pledge By Senator Cadman. 14
- Call to Order By the President at 9:00 a.m. 16
- Roll Call Present--34 19
Excused--1, Romer. 20
- Quorum The President announced a quorum present. 23
- Reading of Journal On motion of Senator White, reading of the Journal of Tuesday, February 10, 2009, was dispensed with and the Journal was approved as corrected by the Secretary. 25

COMMITTEE OF REFERENCE REPORTS

- Finance After consideration on the merits, the Committee recommends that **SB09-085** be referred to the Committee on Appropriations with favorable recommendation. 32
- State, Veterans, & Military Affairs After consideration on the merits, the Committee recommends that **SB09-037** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation. 37
 - Amend printed bill, strike everything below the enacting clause and substitute the following: 41
 - "**SECTION 1.** 8-46-102 (2) (a) (I) and (3) (a), Colorado Revised Statutes, are amended to read: 44
 - 8-46-102. Funding for subsequent injury fund and major medical insurance fund.** (2) (a) (I) Notwithstanding the provisions of sections 10-3-209 (1) (c) and 10-6-128 (3), C.R.S., for the purpose of funding the financial liabilities of the subsequent injury fund pursuant to this section and of the major medical insurance fund pursuant to section 8-46-202, every person, partnership, association, and corporation, whether organized under the laws of this state or of any other state or country, every mutual company or association, every captive insurance company, and every other insurance carrier, including Pinnacol Assurance, insuring employers in this state against liability for personal injury to their employees or death caused thereby under the provisions of articles 40 to 47 of this title shall, as provided in this subsection (2), be levied a tax upon the premiums received in this state, whether or not in cash, or on account of business done in this state for such insurance in this state at a rate ~~not to exceed three and one-quarter percent~~ DETERMINED BY THE DIRECTOR until the balance in either or both funds exceeds the estimated ~~actuarial present~~ value of future claim payments THAT ARE ANTICIPATED TO BE SUBMITTED IN THE FOLLOWING STATE FISCAL YEAR for which such fund is liable. ~~after which time said surcharge shall be reduced or eliminated, as the case may be, as determined by the director in accordance with subsection (3) of this~~ 47

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~~section.~~ Such insurance carriers shall be credited with all cancelled or returned premiums actually refunded during the year of such insurance.

(3) (a) As determined by the director, a portion of the revenue received each year pursuant to subsection (2) of this section shall be deposited into the subsequent injury fund, established in section 8-46-101 (1) (b), based upon the direct and indirect costs of administration of such fund and projections of benefit payments and settlements of benefit claims. The remaining revenue shall be deposited into the major medical insurance fund, established in section 8-46-202 (1), until the balance in such fund exceeds the estimated ~~actuarial present~~ value of future claim payments THAT ARE ANTICIPATED TO BE SUBMITTED IN THE FOLLOWING STATE FISCAL YEAR plus the amount necessary to pay the direct and indirect costs of administration of the fund, at which time such revenue shall be deposited into the subsequent injury fund. ~~Revenue shall continue to be deposited into the subsequent injury fund until the balance in such fund exceeds the estimated actuarial present value of future claim payments, at which time the surcharge rate established in paragraph (a) of subsection (2) of this section shall be reduced to zero.~~

SECTION 2. Act subject to petition - effective date - applicability. (1) 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, (August 4, 2009, if adjournment sine die is on May 6, 2009); 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.

(2) The provisions of this act shall apply to acts occurring on or after the applicable effective date of this act."

State, Veterans, & Military Affairs

After consideration on the merits, the Committee recommends that **SB09-095** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 4, line 5, strike "AND" and substitute "OR".

Page 10, line 11, after the period, add "A SUBCONTRACTOR WHO RECEIVES A PROGRESS PAYMENT FOR A SUB-SUBCONTRACTOR'S WORK SHALL PAY THE SUB-SUBCONTRACTOR WITHIN FIVE DAYS AFTER RECEIPT OF THE PAYMENT FROM THE CONTRACTOR."

Page 21, line 5, strike "AND" and substitute "OR".

Page 25, line 5, after "between", insert "PUBLIC ENTITIES AND CONTRACTORS OR".

State, Veterans, & Military Affairs

After consideration on the merits, the Committee recommends that **SB09-099** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 3, line 9, strike "SYSTEM. THE REVENUE FROM THE FEES" and substitute "SYSTEM. IN ADDITION, THE EXECUTIVE DIRECTOR MAY COLLECT MONEYS FROM COOPERATIVE PURCHASING ORGANIZATIONS FOR PROCUREMENT SUPPORT. THE REVENUE FROM THE FEES AND ANY MONEYS RECEIVED FROM COOPERATIVE PURCHASING ORGANIZATIONS".

State, Veterans, & Military Affairs

After consideration on the merits, the Committee recommends that **SB09-102** be postponed indefinitely.

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State,
Veterans, &
Military
Affairs

After consideration on the merits, the Committee recommends that **SB09-145** be postponed indefinitely.

State,
Veterans, &
Military
Affairs

After consideration on the merits, the Committee recommends that **SB09-111** be referred to the Committee of the Whole with favorable recommendation.

INTRODUCTION AND CONSIDERATION OF RESOLUTIONS

SR09-011 by Senator(s) Tapia; --Concerning 2-1-1 Day in Colorado.

On motion of Senator Tapia, the resolution was read at length and **adopted** by the following roll call vote:

YES	34	NO	0	EXCUSED	1	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Shaffer B.	Y
Boyd	Y	Hudak	Y	Newell	Y	Spence	Y
Brophy	Y	Isgar	Y	Penry	Y	Tapia	Y
Cadman	Y	Keller	Y	Renfroe	Y	Tochtrop	Y
Carroll M.	Y	Kester	Y	Romer	E	Veiga	Y
Foster	Y	King K.	Y	Sandoval	Y	White	Y
Gibbs	Y	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	Y	Schultheis	Y	President	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

Co-sponsors added: Bacon, Boyd, Brophy, Cadman, Carroll M., Foster, Gibbs, Groff, Harvey, Heath, Hodge, Hudak, Isgar, Keller, Kester, King K., Kopp, Lundberg, Mitchell, Morse, Newell, Penry, Renfroe, Sandoval, Scheffel, Schultheis, Schwartz, Shaffer B., Spence, Tochtrop, Veiga, White and Williams.

**THIRD READING OF BILLS -- FINAL PASSAGE --
CONSENT CALENDAR**

On Third Reading, the titles of the following bill was publicly read, the reading at length having been dispensed with by unanimous consent:

SB09-097 by Senator(s) Cadman; also Representative(s) Pace--Concerning clarifying changes to provisions pertaining to institutional peace officers.

The question being "Shall the bill pass?", the roll call was taken with the following result:

YES	34	NO	0	EXCUSED	1	ABSENT	0
Bacon	Y	Hodge	Y	Morse	Y	Shaffer B.	Y
Boyd	Y	Hudak	Y	Newell	Y	Spence	Y
Brophy	Y	Isgar	Y	Penry	Y	Tapia	Y
Cadman	Y	Keller	Y	Renfroe	Y	Tochtrop	Y
Carroll M.	Y	Kester	Y	Romer	E	Veiga	Y
Foster	Y	King K.	Y	Sandoval	Y	White	Y
Gibbs	Y	Kopp	Y	Scheffel	Y	Williams	Y
Harvey	Y	Lundberg	Y	Schultheis	Y	President	Y
Heath	Y	Mitchell	Y	Schwartz	Y		

A majority of all members elected to the Senate having voted in the affirmative, the bill was declared **passed**.

Co-sponsors added: Newell and Williams.

**GENERAL ORDERS -- SECOND READING OF BILLS --
CONSENT CALENDAR**

SB09-150 by Senator(s) Heath; also Representative(s) Levy--Concerning the priority of a purchase-money lien for a motor vehicle.

Laid over until Thursday, February 12, retaining its place on the calendar.

SB09-139 by Senator(s) Shaffer B.; also Representative(s) McGihon--Concerning the adoption of recent changes to the "Uniform Principal and Income Act" proposed by the national conference of commissioners on uniform state laws.

Laid over until Thursday, February 12, retaining its place on the calendar.

SB09-115 by Senator(s) Brophy, Hodge, Isgar; also Representative(s) Curry--Concerning the continuation of the regulation of public livestock markets.

Laid over until Thursday, February 12, retaining its place on the calendar.

GENERAL ORDERS -- SECOND READING OF BILLS

SB09-035 by Senator(s) Renfroe; also Representative(s) Sonnenberg--Concerning a penalty for a violation of certain proscribed acts for government officials.

Laid over until Thursday, February 12, retaining its place on the calendar.

SB09-064 by Senator(s) King K., Romer, Bacon, Groff, Heath, Hudak, Kopp, Spence, Williams; also Representative(s) Massey, Merrifield, Baumgardner, Benefield, Gardner B., Middleton, Murray, Peniston, Priola, Scanlan, Schafer S., Solano, Summers, Todd--Concerning building inspections relating to utilities.

Laid over until Thursday, February 12, retaining its place on the calendar.

SB09-057 by Senator(s) Harvey, Kopp; also Representative(s) Stephens--Concerning searchable budget database web sites containing public education financial information, and, in connection therewith, enacting the "Public School Financial Transparency Act".

Laid over until Thursday, February 12, retaining its place on the calendar.

SB09-126 by Senator(s) Newell, Hodge, Spence, Tochtrop; also Representative(s) Apuan, Gagliardi, Swalm--Concerning the voluntary contribution designation benefiting the multiple sclerosis fund that appears on the state individual income tax return forms, and, in connection therewith, extending the period for the contribution designation.

Laid over until Thursday, February 12, retaining its place on the calendar.

SB09-092 by Senator(s) Kopp, Romer, Brophy, White, King K., Penry, Renfroe; also Representative(s) Marostica, King S., Sonnenberg, Stephens, Waller--Concerning the requirement that state-owned motor vehicles operate on compressed natural gas.

Laid over until Thursday, February 12, retaining its place on the calendar.

SB09-104 by Senator(s) Sandoval; also Representative(s) Gagliardi--Concerning the provision of verifiable documents to youth leaving foster care.

Laid over until Thursday, February 12, retaining its place on the calendar.

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- SB09-100** by Senator(s) Newell, Mitchell, Carroll M., Foster, Heath, Hodge, Morse; also Representative(s) Frangas, Primavera, Rice--Concerning amending the definition of "noncustodial parent" in the "Colorado Works Program Act" to enable a noncustodial parent to receive employment assistance regardless of whether the noncustodial parent's child is receiving assistance under the Colorado works program. 1
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Laid over until Thursday, February 12, retaining its place on the calendar. 7
- SB09-030** by Senator(s) Keller; also Representative(s) Schafer S.--Concerning the "Child Mental Health Treatment Act". 8
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Laid over until Thursday, February 12, retaining its place on the calendar. 11
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- SB09-114** by Senator(s) Kester, Hodge, Isgar; also Representative(s) Sonnenberg--Concerning the continuation of the authority of the department of agriculture to regulate the sale of agricultural products, and, in connection therewith, regulating farm products and commodity warehouses. 13
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Laid over until Thursday, February 12, retaining its place on the calendar. 17
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- SB09-151** by Senator(s) Isgar, Hodge; also Representative(s) Curry--Concerning the regulation of slaughterers of livestock through the department of agriculture, and, in connection therewith, allowing such function to expire on schedule and reassigning certain regulatory functions to the state board of stock inspection commissioners. 20
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Laid over until Thursday, February 12, retaining its place on the calendar. 25
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- SB09-127** by Senator(s) Schwartz, Hodge, Isgar; also Representative(s) Fischer--Concerning the continuation of the regulation of egg quality. 27
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Laid over until Thursday, February 12, retaining its place on the calendar. 30
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- SB09-113** by Senator(s) Brophy, Hodge, Isgar; also Representative(s) Sonnenberg--Concerning the continuation of the authority of the department of agriculture to regulate measurement standards. 32
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Laid over until Thursday, February 12, retaining its place on the calendar. 36
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CONSIDERATION OF RESOLUTIONS

- HJR09-1009** by Representative(s) Weissmann, May; also Senator(s) Shaffer B.--Concerning authorization for adjournment for more than three days during the 2009 regular session of the general assembly. 43
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The resolution was declared **lost** on the following roll call vote: 46
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YES	10	NO	24	EXCUSED	1	ABSENT	0
Bacon		Y Hodge		Y Morse		Y Shaffer B.	Y
Boyd		N Hudak		N Newell		N Spence	N
Brophy		N Isgar		N Penry		N Tapia	Y
Cadman		N Keller		N Renfroe		N Tochtrop	N
Carroll M.		N Kester		N Romer		E Veiga	Y
Foster		N King K.		N Sandoval		Y White	N
Gibbs		Y Kopp		N Scheffel		N Williams	N
Harvey		N Lundberg		N Schultheis		N President	Y
Heath		Y Mitchell		N Schwartz		N	

- SJR09-012** by Senator(s) Scheffel, Penry, Kopp, Cadman, King K., White, Harvey, Schultheis, Groff, Brophy, Kester, Lundberg, Renfroe; also Representative(s) McNulty--Concerning the 200th anniversary of the birth of former President Abraham Lincoln. 61
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Laid over until Thursday, February 12, retaining its place on the calendar. 64
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SENATE SERVICES REPORT

Correctly Printed: SB09-178, 179 and 180; SJR09-012.
Correctly Engrossed: SR09-010.
Correctly Reengrossed: SB09-034, 036, 054, 070, 078 and 140.

Senate in recess. Senate reconvened.

COMMITTEE OF REFERENCE REPORTS

Trans-
portation

After consideration on the merits, the Committee recommends that **SB09-148** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 6, strike line 13 and substitute the following:

"CLASS 2 MISDEMEANOR TRAFFIC OFFENSE.";

strike lines 16 and 17 and substitute the following:

"DANGEROUS MANNER TOWARD OR NEAR A BICYCLIST OR THROWS AN OBJECT FROM A MOVING VEHICLE AT OR IN THE DIRECTION OF A BICYCLIST COMMITS RECKLESS DRIVING, A CLASS 2 MISDEMEANOR TRAFFIC OFFENSE. IF THE PERSON'S ACTIONS ARE THE PROXIMATE CAUSE OF BODILY INJURY OR DEATH TO ANOTHER, SUCH PERSON COMMITS A CLASS 1 MISDEMEANOR TRAFFIC OFFENSE.".

Trans-
portation

After consideration on the merits, the Committee recommends that **SB09-075** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 3, strike lines 25 through 27.

Page 4, strike line 1.

Reletter succeeding paragraphs accordingly.

Page 6, after line 5, insert the following:

SECTION 7. Part 1 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-109.6. Class B low-speed electric vehicles - effective date - rules. (1) A CLASS B LOW-SPEED ELECTRIC VEHICLE MAY BE OPERATED ONLY ON A ROADWAY THAT HAS A SPEED LIMIT EQUAL TO OR LESS THAN FORTY-FIVE MILES PER HOUR; EXCEPT THAT IT MAY BE OPERATED TO DIRECTLY CROSS A ROADWAY THAT HAS A SPEED LIMIT GREATER THAN THIRTY-FIVE MILES PER HOUR AT AN AT-GRADE CROSSING TO CONTINUE TRAVELING ALONG A ROADWAY WITH A SPEED LIMIT EQUAL TO OR LESS THAN THIRTY-FIVE MILES PER HOUR.

(2) NO PERSON SHALL OPERATE A CLASS B LOW-SPEED ELECTRIC VEHICLE ON A LIMITED-ACCESS HIGHWAY.

(3) ANY PERSON WHO VIOLATES SUBSECTION (1) OR (2) OF THIS SECTION COMMITS A CLASS B TRAFFIC INFRACTION.

(4) FOR THE PURPOSES OF THIS SECTION, "CLASS B LOW-SPEED ELECTRIC VEHICLE" MEANS A LOW-SPEED ELECTRIC VEHICLE THAT IS CAPABLE OF TRAVELING AT GREATER THAN TWENTY-FIVE MILES PER HOUR BUT LESS THAN FORTY-FIVE MILES PER HOUR.

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(5) (a) THE DEPARTMENT OF REVENUE SHALL NOT REGISTER OR ISSUE A TITLE FOR A CLASS B LOW-SPEED ELECTRIC VEHICLE UNTIL AFTER THE UNITED STATES DEPARTMENT OF TRANSPORTATION, THROUGH THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, HAS ADOPTED A FEDERAL MOTOR VEHICLE SAFETY STANDARD FOR LOW-SPEED ELECTRIC VEHICLES THAT AUTHORIZES OPERATION AT GREATER THAN TWENTY-FIVE MILES PER HOUR BUT LESS THAN FORTY-FIVE MILES PER HOUR.

(b) AFTER THE UNITED STATES DEPARTMENT OF TRANSPORTATION, THROUGH THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, HAS ADOPTED A FEDERAL MOTOR VEHICLE SAFETY STANDARD FOR LOW-SPEED ELECTRIC VEHICLES THAT AUTHORIZES OPERATION AT GREATER THAN TWENTY-FIVE MILES PER HOUR BUT LESS THAN FORTY-FIVE MILES PER HOUR, THE DEPARTMENT OF REVENUE SHALL PROMULGATE RULES AUTHORIZING THE OPERATION OF CLASS B LOW-SPEED ELECTRIC VEHICLES IN COMPLIANCE WITH THIS SECTION AND SHALL NOTIFY THE REVISER OF STATUTES IN WRITING. UPON THE PROMULGATION OF RULES AUTHORIZING THE OPERATION OF SUCH VEHICLES, SUBSECTIONS (1) TO (3) OF THIS SECTION SHALL TAKE EFFECT."

Renumber succeeding sections accordingly.

Page 9, line 13, strike "TO 49 CFR 571.500." and substitute "WITH APPLICABLE FEDERAL MANUFACTURING EQUIPMENT STANDARDS."

Trans-
portation

After consideration on the merits, the Committee recommends that **SB09-107** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill page 2, after line 1, insert the following:

"**SECTION 1.** 42-6-110, Colorado Revised Statutes, is amended to read:

42-6-110. Certificate of title - transfer. (1) Upon the sale or transfer of a motor vehicle for which a certificate of title has been issued or filed, the person in whose name the certificate of title is registered, if such person is other than a dealer, shall execute a formal transfer of the vehicle described in the certificate. Such transfer shall be affirmed by a statement signed by the person in whose name the certificate of title is registered or by such person's authorized agent or attorney and shall contain or be accompanied by a written declaration that it is made under the penalties of perjury in the second degree, as defined in section 18-8-503, C.R.S. The purchaser or transferee, within sixty days thereafter, shall present such certificate, together with an application for a new certificate of title, to the director or one of the authorized agents, accompanied by the fee required in section 42-6-137 to be paid for the filing of a new certificate of title; EXCEPT THAT, IF NO TITLE CAN BE FOUND AND THE MOTOR VEHICLE IS NOT ROADWORTHY, THE PURCHASER OR TRANSFEREE MAY WAIT UNTIL TWELVE MONTHS AFTER THE MOTOR VEHICLE WAS PURCHASED TO APPLY FOR A CERTIFICATE OF TITLE."

Renumber succeeding sections accordingly.

Trans-
portation

After consideration on the merits, the Committee recommends that **SB09-094** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 4, line 17, strike "ENTITY." and substitute "ENTITY OR TO USURP THE EXISTING REGULATORY AUTHORITY OVER RAILROADS OF THE FEDERAL RAILROAD ADMINISTRATION, THE FEDERAL SURFACE TRANSPORTATION BOARD, OR THE PUBLIC UTILITIES COMMISSION."

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Agriculture and Natural Resources

After consideration on the merits, the Committee recommends that **SB09-124** be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation.

Amend printed bill, page 2, line 11, after "promote" insert "THE FEASIBILITY AND DEVELOPMENT OF" and, strike "projects and" and substitute "projects. and";

line 12, strike "research." and substitute "~~research.~~".

Local Government and Energy

The Committee on Local Government and Energy has had under consideration and has had a hearing on the following appointments and recommends that the appointments be confirmed:

MEMBERS OF THE BOARD OF ASSESSMENT APPEALS

effective July 2, 2008 for terms expiring July 1, 2009:

James R. Meurer of Golden, Colorado, reappointed;

MaryKay Kelley of Silverthorne, Colorado, reappointed;

Diane M. DeVries of Wheat Ridge, Colorado, reappointed;

Lyle D. Hansen of Denver, Colorado, reappointed.

Local Government and Energy

After consideration on the merits, the Committee recommends that **SB09-051** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 3, after line 7, insert the following:

"(2) The general assembly further finds, determines, and declares that:

(a) The industrial and commercial sectors of our economy represent an even greater potential for the expansion of customer-sited solar electric generation technology than does the residential sector; however, at present, the need to participate in a competitive bidding process acts as a barrier to development in these sectors.

(b) Therefore, the general assembly supports the adoption of a standard program offer by qualified retail utilities for customer-sited solar electric generation facilities between one hundred kilowatts and one megawatt to encourage the installation of more systems than would otherwise occur under the existing competitive bidding process.

SECTION 3. Article 38.7 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-38.7-101.5. Legislative declaration. THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT ENERGY-EFFICIENCY IMPROVEMENTS FOR EXISTING BUILDINGS IS ONE OF THE WISEST INVESTMENTS THAT ANY INDIVIDUAL OR BUSINESS CAN MAKE. HOWEVER, MANY COLORADANS MAY BE UNDER THE MISTAKEN IMPRESSION THAT THE COST OF SUCH IMPROVEMENTS IS OUT OF REACH FOR THEM OR THAT FINANCING WOULD BE DIFFICULT TO OBTAIN. THEREFORE, THE GENERAL ASSEMBLY ENCOURAGES ALL COLORADANS TO INVESTIGATE THE POSSIBILITY OF FINANCING ENERGY-EFFICIENCY IMPROVEMENTS BY CONTACTING THEIR CURRENT LENDERS, INCLUDING BANKS, MORTGAGE LENDERS, CREDIT UNIONS, AND OTHER FINANCIAL INSTITUTIONS."

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Renumber succeeding sections accordingly. 1
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 Page 3, line 8, strike "24-38.7-102 (3) and (4)," and substitute "The 3
 introductory portion to 24-38.7-102 and 24-38.7-102 (3),"; 4
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 strike lines 9 and 10 and substitute the following: 6
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 "are amended to read:"; 8
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 line 11, strike "article," and substitute "~~article~~ PART 1,"; 10
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 line 21, strike "INCLUDING" and substitute "OR"; 12
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 strike lines 25 through 27. 14
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 Page 4, strike lines 1 through 15; 16
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 line 27, strike "'CLEAN & GREEN COLORADO'" and substitute 18
 "'COLORADO CLEAN & GREEN' LOGO OR OTHER". 19
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 Page 5, strike lines 9 through 13 and substitute the following: 21
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 "funding clean energy loans UNDER THIS PART 1 AND UNDER PART 2 OF 23
 THIS ARTICLE during the 2008-09, 2009-10, and 2010-11 fiscal years 24
 subject to the ~~limitation that~~ FOLLOWING CONDITIONS: 25
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 (I) The state treasurer may invest no more than ~~ten~~ FIFTEEN 27
 million dollars during the 2008-09 fiscal year and no more than a total 28
 amount of ~~twenty~~ TWENTY-FIVE million dollars during the 2008-09 and 29
 2009-10 fiscal years; AND 30
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 (II) OF THESE AMOUNTS, IN THE STATE TREASURER'S DISCRETION 32
 AND SUBJECT TO THE QUALIFICATIONS FOR STATE INVESTMENTS LISTED IN 33
 SECTION 24-36-113 AND THE AVAILABILITY OF PROJECTS IN WHICH TO 34
 INVEST, CLEAN ENERGY LOANS UNDER PART 2 OF THIS ARTICLE MAY 35
 COMPRISE UP TO TEN MILLION DOLLARS PER YEAR DURING THE 2008-09 36
 FISCAL YEAR AND A TOTAL OF UP TO FIFTEEN MILLION DOLLARS DURING 37
 THE 2009-10 AND 2010-11 FISCAL YEARS."; 38
 39
 strike lines 19 through 22 and substitute the following: 40
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 "PRODUCED A SUITABLE DESIGN OR DRAWING, REFERRED TO IN THIS 42
 SECTION AS THE "LOGO", TO BE USED IN THE MARKETING OF CLEAN 43
 ENERGY LOANS AND CLEAN ENERGY IMPROVEMENTS. THE LOGO MAY, BUT 44
 IS NOT REQUIRED TO, CONTAIN THE SLOGAN "COLORADO CLEAN & 45
 GREEN" OR OTHER WORDS OR SYMBOLS AS THE OFFICE IN ITS DISCRETION 46
 MAY DEEM APPROPRIATE.". 47
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 Page 6, after line 11, insert the following: 49
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 "SECTION 8. Article 38.7 of title 24, Colorado Revised Statutes, 51
 is amended BY THE ADDITION OF A NEW PART to read: 52
 53
 PART 2 54
 THIRD-PARTY COMMERCIAL 55
 SOLAR ELECTRIC INSTALLATIONS 56
 57
24-38.7-201. Legislative declaration. THIS PART 2 IS INTENDED 58
 TO COMPLEMENT PART 1 OF THIS ARTICLE BY FACILITATING CLEAN ENERGY 59
 LOANS FOR LARGER-SCALE COMMERCIAL, INDUSTRIAL, AND 60
 INSTITUTIONAL INSTALLATIONS OF SOLAR ELECTRIC GENERATION 61
 FACILITIES, WHICH HOLD GREAT POTENTIAL FOR CLEAN ENERGY 62
 DEVELOPMENT BUT IN WHICH THE SIZE LIMITATIONS, ECONOMIC 63
 INCENTIVES, AND INDUSTRY PRACTICES APPLICABLE TO SMALL 64
 RESIDENTIAL INSTALLATIONS EITHER CANNOT BE DUPLICATED OR ARE NOT 65
 ECONOMICALLY FEASIBLE. 66
 67

24-38.7-202. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CLEAN ENERGY IMPROVEMENT" MEANS AN INSTALLATION OF SOLAR ELECTRIC GENERATION EQUIPMENT AND ANY RELATED CONTROLS, METERS, WIRING, AND OTHER FACILITIES ON COMMERCIAL, INDUSTRIAL, OR GOVERNMENT-OWNED REAL PROPERTY.

(2) "CLEAN ENERGY LOAN" MEANS A LOAN ORIGINATED BY A PARTICIPATING PUBLIC LENDER OR A PARTICIPATING PRIVATE LENDER, INCLUDING BUT NOT LIMITED TO A BANK OR MORTGAGE LENDER, FOR THE PURPOSE OF FINANCING ONE OR MORE CLEAN ENERGY IMPROVEMENTS TO COMMERCIAL, INDUSTRIAL, OR GOVERNMENT-OWNED REAL PROPERTY, SUBJECT TO THE FOLLOWING CONDITIONS:

(a) THE LOAN MAY, BUT NEED NOT, BE TO AN INDEPENDENT THIRD PARTY RATHER THAN TO THE OWNER OF THE PROPERTY OR TO A PUBLIC UTILITY.

(b) THE LOAN MAY BE FOR A FIXED TERM OF TWENTY YEARS.

(c) THE LOAN MAY BE A FULLY ASSUMABLE, NONRECOURSE LOAN AND MAY NOT BE SUBJECT TO ANY PREPAYMENT PENALTY.

(d) THE AMOUNT OF THE LOAN MAY EXCEED THE AMOUNT STATED IN SECTION 24-38.7-102 (4).

(3) "OFFICE" MEANS THE GOVERNOR'S ENERGY OFFICE.

(4) "PUBLIC LENDER" MEANS A COUNTY, MUNICIPALITY, DISTRICT, AUTHORITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE AUTHORIZED TO MAKE ECONOMIC DEVELOPMENT, AFFORDABLE HOUSING, OR HOUSING REHABILITATION LOANS. "PUBLIC LENDER" INCLUDES, WITHOUT LIMITATION, THE COLORADO HOUSING AND FINANCE AUTHORITY.

24-38.7-203. Governor's energy office - administrator - state treasurer - powers and duties - statement of intent. (1) THE OFFICE AND THE ADMINISTRATOR SHALL ADMINISTER THIS PART 2 SUBSTANTIALLY IN ACCORDANCE WITH PART 1 OF THIS ARTICLE, EXCEPT WITH REGARD TO:

(a) THE DEFINITIONS OF TERMS COMMON TO BOTH PART 1 OF THIS ARTICLE AND THIS PART 2, AS SUCH DEFINITIONS ARE MODIFIED IN THIS PART 2; AND

(b) PROVISIONS THAT, IN THE JUDGMENT AND DISCRETION OF THE OFFICE, THE ADMINISTRATOR, AND THE STATE TREASURER, ARE APPROPRIATE ONLY IN THE CONTEXT OF SMALL RESIDENTIAL INSTALLATIONS UNDER PART 1 OF THIS ARTICLE..

(2) THE PROVISIONS OF PART 1 OF THIS ARTICLE AND OF ARTICLE 36 OF THIS TITLE CONCERNING THE TYPE AND QUALITY OF INVESTMENTS MADE BY THE STATE TREASURER SHALL CONTINUE TO APPLY. THE GENERAL ASSEMBLY INTENDS THAT THE EXTENSION OF THE PROGRAM UNDER THIS PART 2 BE ACCOMPLISHED AS SEAMLESSLY AS POSSIBLE, WITHIN EXISTING APPROPRIATIONS, AND WITH MINIMAL DISRUPTION TO THE CURRENT PRACTICES OF THE OFFICE, THE ADMINISTRATOR, AND THE STATE TREASURER."

Renumber succeeding sections accordingly.

Page 7, strike lines 10 through 27.

Strike pages 8 through 12.

Page 13, strike lines 1 through 16 and substitute the following:

"SECTION 11. 40-1-103 (2), Colorado Revised Statutes, is

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amended BY THE ADDITION OF A NEW PARAGRAPH to read:

40-1-103. Public utility defined. (2) (c) THE SUPPLY OF ELECTRICITY OR HEAT TO A CONSUMER OF THE ELECTRICITY OR HEAT FROM SOLAR GENERATING EQUIPMENT LOCATED ON THE SITE OF THE CONSUMER'S PROPERTY, WHICH EQUIPMENT IS OWNED OR OPERATED BY AN ENTITY OTHER THAN THE CONSUMER, SHALL NOT SUBJECT THE OWNER OR OPERATOR OF THE ON-SITE SOLAR GENERATING EQUIPMENT TO REGULATION AS A PUBLIC UTILITY BY THE COMMISSION IF THE SOLAR GENERATING EQUIPMENT IS SIZED TO SUPPLY NO MORE THAN ONE HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF ELECTRICITY BY THE CONSUMER AT THAT SITE. FOR PURPOSES OF THIS PARAGRAPH (c), THE CONSUMER'S SITE SHALL INCLUDE ALL CONTIGUOUS PROPERTY OWNED OR LEASED BY THE CONSUMER, WITHOUT REGARD TO INTERRUPTIONS IN CONTIGUITY CAUSED BY EASEMENTS, PUBLIC THOROUGHFARES, TRANSPORTATION RIGHTS-OF-WAY, OR UTILITY RIGHTS-OF-WAY.

SECTION 12. 40-2-124 (1) (c) (II), (1) (d), (1) (e), and (1) (f) (V), Colorado Revised Statutes, are amended, and the said 40-2-124 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

40-2-124. Renewable energy standard - definitions - net metering. (1) Each provider of retail electric service in the state of Colorado, other than municipally owned utilities that serve forty thousand customers or less, shall be considered a qualifying retail utility. Each qualifying retail utility, with the exception of cooperative electric associations that have voted to exempt themselves from commission jurisdiction pursuant to section 40-9.5-104 and municipally owned utilities, shall be subject to the rules established under this article by the commission. No additional regulatory authority of the commission other than that specifically contained in this section is provided or implied. In accordance with article 4 of title 24, C.R.S., on or before October 1, 2007, the commission shall revise or clarify existing rules to establish the following:

(c) Electric resource standards:

(II) (A) Of the amounts in subparagraph (I) of THIS paragraph (c), ~~of this subsection (1)~~; at least four percent shall be derived from solar electric generation technologies. At least one-half of this four percent shall be derived from solar electric technologies located on-site at customers' facilities.

(B) SOLAR GENERATING EQUIPMENT LOCATED ON-SITE AT CUSTOMER'S FACILITIES SHALL BE SIZED TO SUPPLY NO MORE THAN ONE HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF ELECTRICITY BY THE CONSUMER AT THAT SITE. FOR PURPOSES OF THIS SUB-SUBPARAGRAPH (B), THE CONSUMER'S "SITE" SHALL INCLUDE ALL CONTIGUOUS PROPERTY OWNED OR LEASED BY THE CONSUMER, WITHOUT REGARD TO INTERRUPTIONS IN CONTIGUITY CAUSED BY EASEMENTS, PUBLIC THOROUGHFARES, TRANSPORTATION RIGHTS-OF-WAY, OR UTILITY RIGHTS-OF-WAY.

(d) (I) A system of tradable renewable energy credits that may be used by a qualifying retail utility to comply with this standard. The commission shall also analyze the effectiveness of utilizing any regional system of renewable energy credits in existence at the time of its rule-making process and determine whether the system is governed by rules that are consistent with the rules established for this article. The commission shall not restrict the qualifying retail utility's ownership of renewable energy credits if the qualifying retail utility complies with the electric resource standard of paragraph (c) of this subsection (1) and does not exceed the retail rate impact established by paragraph (g) of this subsection (1).

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(II) IN THE SYSTEM OF RENEWABLE ENERGY CREDITS, THE COMMISSION SHALL INCLUDE PROVISIONS FOR A STANDARD OFFER OF CREDITS FOR CUSTOMER-SITED GENERATION BETWEEN ONE HUNDRED KILOWATTS AND ONE MEGAWATT LOCATED IN COLORADO.

(III) WHEN ESTABLISHING INCENTIVES FOR THE STANDARD OFFER DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (d), THE COMMISSION SHALL TAKE INTO ACCOUNT THE FOLLOWING FACTORS:

(A) INCENTIVES SHOULD BE SET AT A COMPETITIVE LEVEL SUFFICIENT TO ENCOURAGE INCREASED CONSTRUCTION OF CUSTOMER-SITED GENERATION IN THIS SIZE RANGE; AND

(B) INCENTIVES SHOULD NOT BE SO HIGH AS TO COMPROMISE THE ABILITY OF A QUALIFYING RETAIL UTILITY TO COMPLY WITH THE PORTFOLIO STANDARD WITHOUT EXCEEDING THE RETAIL RATE IMPACT ESTABLISHED BY PARAGRAPH (g) OF THIS SUBSECTION (1).

(e) A standard rebate offer program, UNDER WHICH:

(I) Each qualifying retail utility, except for cooperative electric associations and municipally owned utilities, shall make available to its retail electricity customers a standard rebate offer of a minimum of two dollars per watt for the installation of eligible solar electric generation on customers' premises up to a maximum of one hundred kilowatts per installation. Such offer shall allow the customer's retail electricity consumption to be offset by the solar electricity generated. To the extent that solar electricity generation exceeds the customer's consumption during a billing month, such excess electricity shall be carried forward as a credit to the following month's consumption. To the extent that solar electricity generation exceeds the customer's consumption during a calendar year, the customer shall be reimbursed by the qualifying retail utility at its average hourly incremental cost of electricity supply over the prior twelve-month period UNLESS THE CUSTOMER MAKES A ONE-TIME ELECTION, IN WRITING, TO REQUEST THAT THE EXCESS ELECTRICITY BE CARRIED FORWARD AS A CREDIT FROM MONTH TO MONTH INDEFINITELY UNTIL THE CUSTOMER TERMINATES SERVICE WITH THE QUALIFYING RETAIL UTILITY, AT WHICH TIME NO PAYMENT SHALL BE REQUIRED FROM THE QUALIFYING RETAIL UTILITY FOR ANY REMAINING EXCESS ELECTRICITY SUPPLIED BY THE CUSTOMER. The qualifying retail utility shall not apply unreasonably burdensome interconnection requirements in connection with this standard rebate offer. Electricity generated under this program shall be eligible for the qualifying retail utility's compliance with this article.

(II) SALES OF ELECTRICITY TO A CONSUMER MAY BE MADE BY THE OWNER OR OPERATOR OF THE SOLAR ELECTRIC GENERATION FACILITIES LOCATED ON THE SITE OF THE CONSUMER'S PROPERTY IF THE SOLAR GENERATING EQUIPMENT IS SIZED TO SUPPLY NO MORE THAN ONE HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF ELECTRICITY BY THE CONSUMER AT THAT SITE. FOR PURPOSES OF THIS SUBPARAGRAPH (II), THE CONSUMER'S SITE SHALL INCLUDE ALL CONTIGUOUS PROPERTY OWNED OR LEASED BY THE CONSUMER, WITHOUT REGARD TO INTERRUPTIONS IN CONTIGUITY CAUSED BY EASEMENTS, PUBLIC THOROUGHFARES, TRANSPORTATION RIGHTS-OF-WAY, OR UTILITY RIGHTS-OF-WAY. IF THE SOLAR ELECTRIC GENERATION FACILITY IS NOT OWNED BY THE CONSUMER, THEN THE QUALIFYING RETAIL UTILITY SHALL NOT BE REQUIRED BY THE COMMISSION TO PAY FOR THE RENEWABLE ENERGY CREDITS GENERATED BY THE FACILITY ON ANY BASIS OTHER THAN A METERED BASIS. THE OWNER OR OPERATOR OF THE SOLAR ELECTRIC GENERATION FACILITY SHALL PAY THE COST OF INSTALLING THE PRODUCTION METER.

(III) THE COMMISSION SHALL ENCOURAGE QUALIFYING RETAIL UTILITIES TO DESIGN SOLAR PROGRAMS THAT ALLOW CONSUMERS OF ALL INCOME LEVELS TO OBTAIN THE BENEFITS OFFERED BY SOLAR ELECTRICITY GENERATION AND SHALL ALLOW PROGRAMS THAT ARE DESIGNED TO

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EXTEND PARTICIPATION TO CUSTOMERS IN MARKET SEGMENTS THAT HAVE NOT BEEN RESPONDING TO THE STANDARD REBATE OFFER PROGRAM.

(1.5) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION SHALL NOT APPLY TO A MUNICIPALLY OWNED UTILITY OR TO A COOPERATIVE ELECTRIC ASSOCIATION.

(f) Policies for the recovery of costs incurred with respect to these standards for qualifying retail utilities that are subject to rate regulation by the commission. These policies shall provide incentives to qualifying retail utilities to invest in eligible energy resources in the state of Colorado. Such policies shall include:

(V) If the commission approves the terms and conditions of an eligible energy resource contract between the qualifying retail utility and another party, the contract and its terms and conditions shall be deemed to be a prudent investment, and the commission shall approve retail rates sufficient to recover all just and reasonable costs associated with the contract. All contracts for acquisition of eligible energy resources shall have a minimum term of twenty years; except that the contract term may be shortened at the sole discretion of the seller. All contracts for the acquisition of renewable energy credits from solar electric technologies located on site at customer facilities shall also have a minimum term of twenty years; EXCEPT THAT SUCH CONTRACTS FOR SYSTEMS OF BETWEEN ONE HUNDRED KILOWATTS AND ONE MEGAWATT MAY HAVE A DIFFERENT TERM IF MUTUALLY AGREED TO BY THE PARTIES."

Renumber succeeding section accordingly.

Local Government and Energy

After consideration on the merits, the Committee recommends that **SB09-142** be postponed indefinitely.

Local Government and Energy

After consideration on the merits, the Committee recommends that **SB09-155** be postponed indefinitely.

Local Government and Energy

After consideration on the merits, the Committee recommends that **SB09-101** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 3, after line 13, insert the following:

"(1) "BOARD" MEANS THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH A CITY IS LOCATED."

Renumber succeeding subsections accordingly.

Page 3, line 26, strike "GOVERNING BODY" and substitute "BOARD".

Page 4, line 12, strike "DIRECTLY" and substitute "FROM NOMINEES SUBMITTED";

line 14, strike "GOVERNING BODY OF THE CITY" and substitute "BOARD";

line 22, strike "GOVERNING BODY OF THE CITY" and substitute "BOARD";

strike lines 24 through 26 and substitute the following:

"SUBSECTION (1) OF THIS SECTION. THE BOARD SHALL MAKE THE".

Page 5, line 2, strike "GOVERNING BODY OF" and substitute "BOARD";

line 3, strike "THE CITY";

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- line 5, strike "GOVERNING BODY" and substitute "BOARD";
- line 6, strike "GOVERNING BODY" and substitute "BOARD";
- line 10, strike "GOVERNING BODY OF THE CITY." and substitute "BOARD.";
- line 15, strike "GOVERNING BODY" and substitute "BOARD".

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INTRODUCTION OF BILLS -- FIRST READING

The following bills were read by title and referred to the committees indicated:

- HB09-1109** by Representative(s) Priola; also Senator(s) Veiga--Concerning the extension of foreclosure protection to owners of residential properties as to which formal foreclosure proceedings have not yet been commenced.
Business, Labor and Technology
- HB09-1141** by Representative(s) Ferrandino; also Senator(s) White--Concerning laws enforced by the administrator of the "Uniform Consumer Credit Code".
Business, Labor and Technology
- HB09-1159** by Representative(s) Priola, Baumgardner, Lambert, Looper, Schafer S.; also Senator(s) Isgar, Hodge, Mitchell--Concerning the ability of a nonresident to serve on the board of directors of ground water management water districts.
Agriculture and Natural Resources

On motion of Senator Shaffer, the Senate adjourned until 9:00 a.m., Thursday, February 12, 2009.

Approved:

Peter C. Groff
President of the Senate

Attest:

Karen Goldman
Secretary of the Senate

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