

Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0474.01 Esther van Mourik x4215

SENATE BILL 14-186

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SENATE SPONSORSHIP

Schwartz and Kerr,

HOUSE SPONSORSHIP

Tyler,

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Senate Committees  
Local Government

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE AGGREGATION OF EFFICIENCY PROJECTS IN SMALL  
102 COMMUNITIES IN ORDER TO ATTRACT PRIVATE SECTOR  
103 INVESTMENT THROUGH PERFORMANCE CONTRACTING.

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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 specifies that the Colorado energy office may, within existing resources and without creating a financial obligation to the state, ascertain efficiency projects that can be aggregated to create a larger portfolio of diverse efficiency projects with costs totaling an amount that

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.*

in a favorable financial market will attract the investment of private sector banks or investors. The bill then specifies that if such a larger portfolio of diverse efficiency projects is financed, the financing documents must include a cost of issuance fee payable to the department of local affairs of a percentage of the issuance, not to exceed 1%, that must be credited to the efficient schools and communities performance contracting fund.

The bill defines "efficiency projects" as including one or more projects in a small or rural community in the state of a school district, special district, or county or municipality (community entity), such as:

- ! Installing equipment and related infrastructure that will help defray energy costs;
- ! Improving the energy efficiency of a building;
- ! Reducing water usage or consumption;
- ! Re-engineering or improving water or wastewater treatment facilities; or
- ! Improving the energy usage of motor vehicle fleets or community entity-owned fueling stations for such motor vehicle fleets.

The bill then specifies that once there is sufficient money in the efficient schools and communities performance contracting fund from the cost of issuance fee, in the event a community entity's efficiency project is not financed, the department of local affairs in consultation with the Colorado energy office may award a grant to such community entity for a reimbursement of a portion of the technical energy audit completed by the community entity. The bill also specifies that a prequalified energy service company may also seek a grant for a portion of the energy service company's costs if an efficiency project is not financed. The bill further specifies that all grants awarded by the department of local affairs must be prioritized by need and may not exceed the available cost of issuance fees.

The bill creates the efficient schools and communities performance contracting fund.

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

2           **SECTION 1.** In Colorado Revised Statutes, **add** 24-38.5-108 as  
3 follows:

4           **24-38.5-108. Aggregation of efficiency projects in small or**  
5 **rural schools and small or rural communities in order to attract**  
6 **private sector investment through performance contracting -**  
7 **legislative declaration - definitions.** (1) THE GENERAL ASSEMBLY

1       HEREBY FINDS AND DECLARES THAT:

2               (a) PERFORMANCE CONTRACTING IS AN IMPORTANT TOOL THAT  
3       HAS BEEN UTILIZED BY THE STATE FOR OVER FIFTEEN YEARS. THE STATE  
4       HAS ESTABLISHED POWERFUL WORKING RELATIONSHIPS WITH PRIVATE  
5       SECTOR ENERGY PERFORMANCE CONTRACTING PROFESSIONALS, KNOWN  
6       AS ENERGY SERVICE COMPANIES, TO FINANCE ENERGY SAVINGS UPGRADES  
7       FOR STATE AGENCIES, SCHOOL DISTRICTS, SPECIAL DISTRICTS, COUNTIES  
8       AND MUNICIPALITIES, AND EVEN AT THE STATE CAPITOL BUILDING.

9               (b) SOME SMALL OR RURAL COMMUNITIES LACK THE OPPORTUNITY  
10       FOR THE BENEFITS OF PERFORMANCE CONTRACTING, SO ENGAGING SUCH  
11       COMMUNITIES THROUGH EDUCATION AND EXISTING RESOURCES IS SOUND  
12       POLICY;

13              (c) SUCH SMALL OR RURAL COMMUNITIES OFTEN LACK ASSETS OR  
14       BUILDING INVENTORY TO ATTRACT PERFORMANCE CONTRACTING CAPITAL;

15              (d) SINCE MUCH OF THE INFRASTRUCTURE IN SMALL OR RURAL  
16       COMMUNITIES IS OUTDATED, COSTLY TO MAINTAIN, AND ENERGY  
17       INTENSIVE, EFFICIENCY UPGRADES ARE NEEDED FOR BUILDINGS,  
18       MECHANICAL EQUIPMENT, ELECTRICAL SYSTEMS, LIGHTING, WATER,  
19       MOTOR VEHICLE FLEETS, AND COMMUNITY ENTITY-OWNED FUELING  
20       STATIONS FOR SUCH MOTOR VEHICLE FLEETS;

21              (e) REGIONAL IDENTIFICATION OF EFFICIENCY PROJECTS IN SMALL  
22       OR RURAL COMMUNITIES IS IMPORTANT;

23              (f) AGGREGATING EFFICIENCY PROJECTS IN SMALL OR RURAL  
24       COMMUNITIES INTO A DYNAMIC MULTIDIMENSIONAL PORTFOLIO OF AN  
25       ACCEPTABLE SIZE TO ATTRACT PRIVATE SECTOR FINANCING TO SUCH  
26       COMMUNITIES WITHOUT CREATING AN OBLIGATION OF THE STATE WILL  
27       OPEN UP THE FINANCIAL MARKET FOR PERFORMANCE CONTRACTING IN

1 SUCH COMMUNITIES, WILL ENGAGE THE USE OF LOCAL CONTRACTORS, AND  
2 WILL CREATE LOCAL JOBS; AND

3 (g) AS A RESULT OF SUCH AGGREGATION, SMALL OR RURAL  
4 COMMUNITY LEADERS WILL BE SUPPORTED IN THEIR PURSUIT TO MAKE  
5 COLORADO MORE ENERGY EFFICIENT, EQUIP SUCH COMMUNITIES WITH  
6 MUCH NEEDED MODERNIZED INFRASTRUCTURE, AND REDUCE LIFE-CYCLE  
7 COSTS FOR TAXPAYER-SUPPORTED ENTITIES.

8 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
9 REQUIRES:

10 (a) "COMMUNITY ENTITY" MEANS A SCHOOL DISTRICT, SPECIAL  
11 DISTRICT, OR COUNTY OR MUNICIPALITY IN A SMALL OR RURAL  
12 COMMUNITY IN THE STATE.

13 (b) "DIVERSE" MEANS A RANGE OF EFFICIENCY PROJECTS BASED ON  
14 GEOGRAPHY, SIZE, LONG-TERM AND SHORT-TERM PAYBACK PERIODS,  
15 OVERALL COST, AND TYPES OF EFFICIENCY PROJECTS.

16 (c) "EFFICIENCY PROJECTS" MEANS ONE OR MORE PROJECTS OF A  
17 COMMUNITY ENTITY THAT RESULTS IN THE MORE EFFICIENT USE OF  
18 ENERGY OR RESOURCES, SUCH AS:

19 (I) INSTALLING EQUIPMENT AND RELATED INFRASTRUCTURE THAT  
20 WILL HELP DEFRAID ENERGY COSTS, WHICH INSTALLATIONS COULD  
21 INCLUDE RENEWABLE ENERGY INSTALLATIONS, INCLUDING BUT NOT  
22 LIMITED TO GEOTHERMAL, WIND ENERGY, SOLAR ENERGY, OR BIOMASS  
23 INSTALLATIONS;

24 (II) IMPROVING THE ENERGY EFFICIENCY OF A BUILDING  
25 INCLUDING BUT NOT LIMITED TO ADDRESSING LIGHTING ISSUES,  
26 IMPROVING MECHANICAL SYSTEMS AND EQUIPMENT, IMPROVING THE  
27 BUILDING ENVELOPE, OR IMPROVING OPERATIONS MANAGEMENT;

1 (III) REDUCING WATER USAGE OR CONSUMPTION;

2 (IV) RE-ENGINEERING OR IMPROVING WATER OR WASTEWATER  
3 TREATMENT FACILITIES; OR

4 (V) IMPROVING THE ENERGY USAGE OF MOTOR VEHICLE FLEETS OR  
5 COMMUNITY ENTITY-OWNED FUELING STATIONS FOR SUCH MOTOR VEHICLE  
6 FLEETS, INCLUDING BUT NOT LIMITED TO INCREASING THE USE OF  
7 ALTERNATIVE FUEL VEHICLES IN SUCH MOTOR VEHICLE FLEETS.

8 (d) "OFFICE" MEANS THE COLORADO ENERGY OFFICE CREATED IN  
9 SECTION 24-38.5-101.

10 (e) "PERFORMANCE CONTRACT" MEANS A CONTRACT SIMILAR TO  
11 THE CONTRACTS DESCRIBED IN SECTION 24-30-2001 OR 24-38.5-106,  
12 EXCEPT THAT A PERFORMANCE CONTRACT ALLOWED PURSUANT TO THIS  
13 SECTION MAY NOT CREATE A FINANCIAL OBLIGATION TO THE STATE.

14 (3) IN AN EFFORT TO SIMPLIFY THE PROCESS FOR SMALL AND  
15 RURAL COMMUNITIES, THE OFFICE SHALL CONSULT WITH THE ENERGY  
16 SERVICE COMPANIES ON ITS LIST OF PREQUALIFIED ENERGY SERVICE  
17 COMPANIES AND HAVE A LIST AVAILABLE OF THOSE PREQUALIFIED ENERGY  
18 SERVICE COMPANIES THAT ARE INTERESTED AND PREPARED TO WORK IN  
19 EACH REGION WHERE THE DEPARTMENT OF LOCAL AFFAIRS MAINTAINS A  
20 REGIONAL OFFICE AND FIELD STAFF.

21 (4) (a) WITHOUT CREATING A FINANCIAL OBLIGATION TO THE  
22 STATE, THE OFFICE MAY, WITHIN EXISTING RESOURCES, WORK TOGETHER  
23 WITH ITS PREQUALIFIED ENERGY SERVICE COMPANIES TO ASCERTAIN  
24 EFFICIENCY PROJECTS THAT CAN BE AGGREGATED TO CREATE A LARGER  
25 PORTFOLIO OF DIVERSE EFFICIENCY PROJECTS WITH COSTS TOTALING AN  
26 AMOUNT THAT IN A FAVORABLE FINANCIAL MARKET WILL ATTRACT THE  
27 INVESTMENT OF PRIVATE SECTOR BANKS OR INVESTORS THROUGH

1 PERFORMANCE CONTRACTS. IN THE EVENT SUCH A LARGER PORTFOLIO OF  
2 DIVERSE EFFICIENCY PROJECTS IS ESTABLISHED PURSUANT TO THIS  
3 SUBSECTION (4) AND FINANCED, THE FINANCING DOCUMENTS MUST  
4 INCLUDE A COST OF ISSUANCE FEE PAYABLE TO THE DEPARTMENT OF  
5 LOCAL AFFAIRS OF A PERCENTAGE OF THE ISSUANCE, NOT TO EXCEED ONE  
6 PERCENT, THAT MUST BE CREDITED TO THE EFFICIENT SCHOOLS AND  
7 COMMUNITIES PERFORMANCE CONTRACTING FUND.

8 (b) ONCE THERE IS SUFFICIENT MONEY IN THE EFFICIENT SCHOOLS  
9 AND COMMUNITIES PERFORMANCE CONTRACTING FUND FROM THE COST OF  
10 ISSUANCE FEE DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (4), IN  
11 THE EVENT A COMMUNITY ENTITY'S EFFICIENCY PROJECT IS NOT FINANCED,  
12 THE DEPARTMENT OF LOCAL AFFAIRS SHALL CONSULT WITH THE OFFICE IN  
13 COOPERATION WITH THE PREQUALIFIED ENERGY SERVICE COMPANIES  
14 DETERMINED TO WORK WITHIN THAT COMMUNITY ENTITY'S REGION AS  
15 DESCRIBED IN SUBSECTION (3) OF THIS SECTION TO REVIEW THE  
16 COMMUNITY ENTITY'S NEED AND, IF APPROVED, AWARD A GRANT TO SUCH  
17 COMMUNITY ENTITY FOR A REIMBURSEMENT OF A PORTION OF THE  
18 TECHNICAL ENERGY AUDIT COMPLETED BY THE COMMUNITY ENTITY FROM  
19 THE COST OF ISSUANCE FEES CREDITED TO THE FUND PURSUANT TO  
20 PARAGRAPH (a) OF THIS SUBSECTION (4). A PREQUALIFIED ENERGY  
21 SERVICE COMPANY MAY ALSO SEEK AND THE DEPARTMENT OF LOCAL  
22 AFFAIRS, IN CONSULTATION WITH THE OFFICE, MAY AWARD A GRANT FROM  
23 THE COST OF ISSUANCE FEES CREDITED TO THE FUND FOR A PORTION OF  
24 THE ENERGY SERVICE COMPANY'S COSTS IF AN EFFICIENCY PROJECT IS NOT  
25 FINANCED. ALL GRANTS AWARDED BY THE DEPARTMENT OF LOCAL  
26 AFFAIRS PURSUANT TO THIS PARAGRAPH (b) MUST BE PRIORITIZED BY  
27 NEED AND MAY NOT EXCEED THE AVAILABLE COST OF ISSUANCE FEES.

1           (5) THE OFFICE SHALL PROVIDE FACILITATION AND TECHNICAL  
2 SUPPORT FOR COMMUNITY ENTITIES THAT HAVE BEEN AGGREGATED AS  
3 DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION, AND  
4 SHALL CREATE AND PROVIDE STANDARDIZED DOCUMENTS TO SUPPORT  
5 LOCAL PERFORMANCE CONTRACTS.

6           (6) THE OFFICE MAY CONSULT WITH NONPROFIT ORGANIZATIONS  
7 AND THE DEPARTMENT OF LOCAL AFFAIRS TO PROVIDE EDUCATION AND  
8 OUTREACH TO COMMUNITY ENTITIES REGARDING THE ADVANTAGES OF  
9 PERFORMANCE CONTRACTING FOR PURPOSES OF COMPLETING EFFICIENCY  
10 PROJECTS IN SUCH COMMUNITY ENTITIES.

11           (7) NOTWITHSTANDING THE REQUIREMENTS OF SECTION  
12 24-75-402, THERE IS HEREBY CREATED IN THE STATE TREASURY THE  
13 EFFICIENT SCHOOLS AND COMMUNITIES PERFORMANCE CONTRACTING  
14 FUND, REFERRED TO IN THIS SECTION AS THE "FUND", CONSISTING OF THE  
15 COST OF ISSUANCE FEES CREDITED TO THE DEPARTMENT OF LOCAL AFFAIRS  
16 PURSUANT TO PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION. THE  
17 MONEYS IN THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE  
18 GENERAL ASSEMBLY TO THE DEPARTMENT OF LOCAL AFFAIRS FOR  
19 AWARDED GRANTS AS SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (4) OF  
20 THIS SECTION. THE DEPARTMENT OF LOCAL AFFAIRS SHALL ADMINISTER  
21 SUCH GRANT PROGRAM WITHIN EXISTING RESOURCES; EXCEPT THAT THE  
22 DEPARTMENT OF LOCAL AFFAIRS MAY EXPEND UP TO FIVE PERCENT  
23 ANNUALLY OF THE MONEYS IN THE FUND TO OFFSET THE COSTS INCURRED  
24 IN IMPLEMENTING THE GRANT PROGRAM. THE STATE TREASURER MAY  
25 INVEST ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF  
26 THIS SECTION AS PROVIDED BY LAW. THE STATE TREASURER SHALL CREDIT  
27 ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT

1 OF MONEYS IN THE FUND TO THE FUND. ANY UNEXPENDED AND  
2 UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A  
3 FISCAL YEAR REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR  
4 TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

5 **SECTION 2.** In Colorado Revised Statutes, 24-75-402, **add** (5)  
6 (bb) as follows:

7 **24-75-402. Cash funds - limit on uncommitted reserves -**  
8 **reduction in amount of fees - exclusions - repeal.** (5) Notwithstanding  
9 any provision of this section to the contrary, the following cash funds are  
10 excluded from the limitations specified in this section:

11 (bb) THE EFFICIENT SCHOOLS AND COMMUNITIES PERFORMANCE  
12 CONTRACTING FUND CREATED IN SECTION 24-38.5-108 (7).

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