

SENATE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

April 11, 2008  
Date

Committee on Appropriations.

After consideration on the merits, the Committee recommends the following:

SB08-184 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend the Agriculture, Natural Resources & Energy Committee Report,  
2 dated March 6, 2008, page 1, strike lines 1 and 2 and substitute the  
3 following:

4 "Amend printed bill, page 3, line 23, strike "ISSUED BY THE";

5 line 24, strike "PROGRAM ADMINISTRATOR" and substitute "ORIGINATED  
6 BY A PARTICIPATING PUBLIC LENDER OR A PARTICIPATING PRIVATE  
7 LENDER".

8 Page 4 of the printed bill, strike lines 6 through 12 and substitute the  
9 following:

10 "(8) "PROGRAM ADMINISTRATOR" OR "ADMINISTRATOR" MEANS  
11 ONE OR MORE ENTITIES SELECTED BY THE OFFICE TO:

12 (a) MARKET THE PROGRAM;

13 (b) RECRUIT, TRAIN, AND CERTIFY CONTRACTORS;

14 (c) MEASURE AND VERIFY ENERGY, EMISSIONS, AND GROSS AND  
15 NET COST SAVINGS RESULTING FROM CLEAN ENERGY IMPROVEMENTS  
16 FINANCED BY CLEAN ENERGY LOANS ORIGINATED AND SERVICED BY  
17 PARTICIPATING PUBLIC LENDERS AND PRIVATE LENDERS; AND

1 (d) PERFORM SUCH OTHER DUTIES AS MAY BE AUTHORIZED IN THIS  
2 ARTICLE OR REQUIRED BY THE OFFICE.";  
3 after line 14, insert the following:

4 "(10) "PUBLIC LENDER" MEANS A COUNTY, MUNICIPALITY,  
5 DISTRICT, AUTHORITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE  
6 AUTHORIZED TO MAKE ECONOMIC DEVELOPMENT, AFFORDABLE HOUSING,  
7 OR HOUSING REHABILITATION LOANS."

8 Renumber succeeding subsections accordingly.

9 Page 5 of the printed bill, line 7, strike "APPROVING,";

10 line 8, strike "ORIGINATING, AND SERVICING LOANS AND".";

11 strike line 3 of the committee report and substitute the following:

12 "Page 6 of the printed bill, line 5, strike "THERETO." and substitute  
13 "THERETO FROM THE CLEAN ENERGY FUND CREATED IN SECTION  
14 27-75-1201 (1) AND ANY GIFTS, GRANTS, OR DONATIONS THAT MAY BE  
15 MADE TO THE PROGRAM FUND. IN ACCORDANCE WITH SECTION";

16 line 11 of the committee report, strike "FUND." and substitute "FUND."";

17 after line 11 of the committee report, insert the following:

18 "line 7, strike "TO MAKE NEW CLEAN";

19 line 8, strike "ENERGY LOANS." and substitute "FOR THE LOAN BUY-DOWN  
20 ACCOUNT AND THE LOAN LOSS RESERVE ACCOUNT.";

21 line 13, strike "TO THE PROGRAM";

22 strike line 14 and substitute the following:

23 "TO PARTICIPATING PUBLIC LENDERS AND PRIVATE LENDERS TO  
24 COMPENSATE THE LENDERS FOR THE";

25 line 20, strike "ADMINISTRATOR" and substitute "LENDER";

- 1 line 24, strike the second "THE";
- 2 line 25, strike "PROGRAM ADMINISTRATOR" and substitute "PARTICIPATING  
3 PUBLIC LENDERS AND PRIVATE LENDERS";
- 4 line 26, strike "THE ADMINISTRATOR HAS" and substitute "ANY SUCH  
5 LENDERS HAVE".
- 6 Page 7 of the printed bill, line 1, strike "ADMINISTRATOR" and substitute  
7 "LENDER";
- 8 line 3, strike "ADMINISTRATOR" and substitute "LENDER";
- 9 line 9, strike "THE ADMINISTRATOR." and substitute "PARTICIPATING  
10 PUBLIC LENDERS AND PRIVATE LENDERS.";
- 11 line 10, strike "ITS";
- 12 line 11, after "LOANS", insert "ORIGINATED BY SUCH LENDERS";
- 13 after line 13, insert the following:
- 14 "(d) THE STATE TREASURER MAY INVEST UP TO A TOTAL AMOUNT  
15 OF THIRTY MILLION DOLLARS OF STATE MONEYS IN BONDS OR NOTES  
16 ISSUED BY PARTICIPATING PUBLIC LENDERS FOR THE PURPOSE OF FUNDING  
17 CLEAN ENERGY LOANS DURING THE 2008-09, 2009-10, AND 2010-11  
18 FISCAL YEARS SUBJECT TO THE LIMITATION THAT THE STATE TREASURER  
19 MAY INVEST NO MORE THAN TEN MILLION DOLLARS DURING THE 2008-09  
20 FISCAL YEAR AND NO MORE THAN A TOTAL AMOUNT OF TWENTY MILLION  
21 DOLLARS DURING THE 2008-09 AND 2009-10 FISCAL YEARS.";
- 22 line 15, strike "**issuance of securities and clean energy**";
- 23 line 16, strike "**loans -**";
- 24 strike lines 20 through 27.
- 25 Page 8 of the printed bill, strike lines 1 and 2.
- 26 Reletter succeeding paragraphs accordingly.

1 Page 8 of the printed bill, strike lines 26 and 27.

2 Reletter succeeding paragraph accordingly.";

3 strike lines 12 and 13 of the committee report and substitute the  
4 following:

5 "Page 9 of the printed bill, line 3, strike "(a)";

6 strike lines 6 through 8 and substitute the following:

7 "ADMINISTRATOR OR PARTICIPATING PUBLIC LENDERS AND PRIVATE  
8 LENDERS SHALL PRESCRIBE THE FORM OF THE LOAN APPLICATION AND  
9 SHALL DETERMINE, BASED ON THE";

10 Page 2 of the committee report, line 8, strike "BORROWERS." and  
11 substitute "BORROWERS."";

12 after line 8 of the committee report, insert the following:

13 "strike lines 23 through 26.

14 Page 10 of the printed bill, line 1, strike "THE ADMINISTRATOR" and  
15 substitute "A PARTICIPATING PUBLIC LENDER OR PRIVATE LENDER";

16 line 10, strike "ISSUED" and substitute "ORIGINATED";

17 line 11, strike "ISSUED" and substitute "ORIGINATED";

18 line 14, strike "TO THE ADMINISTRATOR";

19 line 19, strike "THE";

20 line 20, strike "ADMINISTRATOR" and substitute "PARTICIPATING PUBLIC  
21 LENDERS AND PRIVATE LENDERS";

22 line 23, strike "ISSUED BY";

23 line 24, strike "THE ADMINISTRATOR," and substitute "IN WHICH THE STATE  
24 TREASURER HAS INVESTED AS AUTHORIZED BY SECTION 24-38.5-103 (3)  
25 (d),".

1 Page 11 of the printed bill, after line 18, insert the following:

2 "SECTION 2. 24-36-113 (5), Colorado Revised Statutes, is  
3 amended to read:

4 **24-36-113. Investment of state moneys - limitations.** (5) The  
5 state treasurer may engage in reverse repurchase agreements and  
6 securities lending programs for any securities in the state treasurer's  
7 custody AND MAY PURCHASE LOANS, IF, IN THE STATE TREASURER'S  
8 DISCRETION, THE PURCHASE OF LOANS WILL YIELD A FAIR AND EQUITABLE  
9 RETURN TO THE STATE.

10 **SECTION 3.** Article 20 of title 30, Colorado Revised Statutes, is  
11 amended BY THE ADDITION OF A NEW PART to read:

12 PART 12  
13 RURAL CLEAN ENERGY  
14 PROJECT FINANCE PROGRAM

15 **30-20-1201. Short title.** THIS PART 12 SHALL BE KNOWN AND  
16 MAY BE CITED AS THE "RURAL CLEAN ENERGY PROJECT FINANCE  
17 PROGRAM ACT".

18 **30-20-1202. Definitions.** AS USED IN THIS PART 12, UNLESS THE  
19 CONTEXT OTHERWISE REQUIRES:

20 (1) "BOARD" MEANS THE BOARD OF COUNTY COMMISSIONERS OF  
21 A COUNTY OR A CITY AND COUNTY.

22 (2) "CLEAN ENERGY" MEANS ENERGY DERIVED FROM BIOMASS, AS  
23 DEFINED IN SECTION 40-2-124 (1) (a) (I), C.R.S., GEOTHERMAL ENERGY,  
24 SOLAR ENERGY, SMALL HYDROELECTRICITY, AND WIND ENERGY, AS WELL  
25 AS ANY HYDROGEN DERIVED FROM ANY OF THE FOREGOING.

26 (3) "COOPERATIVE ELECTRIC ASSOCIATION" SHALL HAVE THE  
27 SAME MEANING AS SET FORTH IN SECTION 40-9.5-102, C.R.S.

28 (4) "ELIGIBLE APPLICANT" MEANS AN INDIVIDUAL PROPERTY  
29 OWNER OR A GROUP OF PROPERTY OWNERS THAT DO NOT OWN THE  
30 ENTIRETY OF A COOPERATIVE ELECTRIC ASSOCIATION AND THAT SEEK TO  
31 CONSTRUCT, EXPAND, OR UPGRADE AN ELIGIBLE CLEAN ENERGY PROJECT

1 LOCATED OR TO BE LOCATED ON THE APPLICANT'S PROPERTY.

2 (5) "ELIGIBLE CLEAN ENERGY PROJECT" MEANS A PROJECT OWNED  
3 BY AN ELIGIBLE APPLICANT THAT PRODUCES OR TRANSMITS CLEAN  
4 ENERGY, HAS A NAMEPLATE RATING OF NO MORE THAN FIFTY MEGAWATTS  
5 AND IS NOT A PART OF A LARGER PROJECT WITH A NAMEPLATE RATING OF  
6 MORE THAN FIFTY MEGAWATTS, AND IS LOCATED WITHIN THE  
7 CERTIFICATED SERVICE AREA OF A COOPERATIVE ELECTRIC ASSOCIATION.  
8 "ELIGIBLE CLEAN ENERGY PROJECT" INCLUDES TRANSMISSION LINES TO  
9 THE POINT OF ENTRY TO THE POWER GRID OF A COOPERATIVE ELECTRIC  
10 ASSOCIATION, A GENERATION AND TRANSMISSION ELECTRIC CORPORATION  
11 OR ASSOCIATION, OR ANY FEDERAL AGENCY AND ANY OTHER EQUIPMENT  
12 OR FACILITY, INCLUDING, BUT NOT LIMITED TO, SUBSTATION UPGRADES  
13 NEEDED TO DELIVER THE CLEAN ENERGY PRODUCED BY AN ELIGIBLE  
14 CLEAN ENERGY PROJECT TO A MARKET.

15 **30-20-1203. Eligible clean energy project financing - county**  
16 **approval - private activity bond financing.** (1) AN ELIGIBLE  
17 APPLICANT MAY APPLY TO THE BOARD OF THE COUNTY OR CITY AND  
18 COUNTY IN WHICH IT PROPOSES TO CONSTRUCT, EXPAND, OR UPGRADE AN  
19 ELIGIBLE CLEAN ENERGY PROJECT FOR ASSISTANCE IN THE FINANCING OF  
20 THE PROJECT. SUBJECT TO THE REQUIREMENTS AND LIMITATIONS  
21 SPECIFIED IN FEDERAL LAW, THE "COLORADO PRIVATE ACTIVITY BOND  
22 CEILING ALLOCATION ACT", PART 17 OF ARTICLE 32 OF TITLE 24, C.R.S.,  
23 AND SUBSECTION (2) OF THIS SECTION, IF THE BOARD APPROVES THE  
24 APPLICATION, IT MAY PROVIDE FINANCING ASSISTANCE BY ISSUING  
25 TAX-EXEMPT PRIVATE ACTIVITY BONDS IN A MINIMUM AMOUNT OF ONE  
26 MILLION DOLLARS ON BEHALF OF THE ELIGIBLE APPLICANT.

27 (2) A BOARD SHALL ISSUE TAX-EXEMPT PRIVATE ACTIVITY BONDS  
28 ON BEHALF OF AN ELIGIBLE APPLICANT TO FINANCE AN ELIGIBLE CLEAN  
29 ENERGY PROJECT SUBJECT TO THE FOLLOWING REQUIREMENTS AND  
30 LIMITATIONS:

31 (a) THE BOARD SHALL ENTER INTO AGREEMENTS WITH THE  
32 ELIGIBLE APPLICANT UNDER WHICH:

33 (I) THE BOARD AGREES TO LOAN TO THE ELIGIBLE APPLICANT THE  
34 NET PROCEEDS OF THE BONDS ISSUED SO THAT THE ELIGIBLE APPLICANT  
35 CAN FINANCE ALL OR A PORTION OF THE ELIGIBLE CLEAN ENERGY PROJECT;  
36 AND

1 (II) THE ELIGIBLE APPLICANT AGREES THAT IT HAS THE SOLE  
2 RESPONSIBILITY TO PAY, EITHER DIRECTLY OR INDIRECTLY THROUGH THE  
3 BOARD OR A BOND TRUSTEE, ALL FINANCIAL OBLIGATIONS OWED TO  
4 BONDHOLDERS AND THAT IT SHALL PROVIDE AND MAINTAIN ANY RESERVE  
5 DEEMED NECESSARY BY THE BOARD TO ENSURE THAT THE FINANCIAL  
6 OBLIGATIONS ARE PAID;

7 (b) THE BONDS ISSUED SHALL SPECIFY THAT BONDHOLDERS MAY  
8 NOT LOOK TO ANY COUNTY OR CITY AND COUNTY REVENUES FOR  
9 REPAYMENT OF THE BONDS. THE BONDS SHALL FURTHER SPECIFY THAT  
10 THE ONLY SOURCES OF REPAYMENT FOR THE BONDS ARE REVENUES  
11 PROVIDED BY THE ELIGIBLE APPLICANT, PROPERTY OF THE ELIGIBLE  
12 APPLICANT, OR CREDIT ENHANCEMENT OBTAINED BY THE ELIGIBLE  
13 APPLICANT THAT MAY BE PLEDGED TO THE PAYMENT OF THE BONDS; AND

14 (c) THE REPAYMENT TERM FOR THE BONDS ISSUED SHALL NOT  
15 EXCEED TEN YEARS.

16 (3) BECAUSE PRIVATE ACTIVITY BONDS ARE PAYABLE ONLY FROM  
17 THE SOURCES SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (2) OF THIS  
18 SECTION, SUCH BONDS SHALL NOT BE DEEMED TO CREATE COUNTY OR CITY  
19 AND COUNTY INDEBTEDNESS OR A MULTIPLE-FISCAL YEAR OBLIGATION  
20 WITHIN THE MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR  
21 THE LAWS OF THIS STATE, AND A BOARD MAY ISSUE SUCH BONDS WITHOUT  
22 VOTER APPROVAL.

23 (4) THE RATES CHARGED BY AN ELIGIBLE APPLICANT FOR THE  
24 DELIVERY OF CLEAN ENERGY PRODUCED BY AN ELIGIBLE CLEAN ENERGY  
25 PROJECT SHALL BE SET TO ALLOW RECOVERY OF ALL COSTS NECESSARILY  
26 INCURRED TO DELIVER THE CLEAN ENERGY TO A MARKET, INCLUDING, BUT  
27 NOT LIMITED TO, THE COSTS OF SUBSTATION UPGRADES, TRANSMISSION  
28 LINES TO THE POINT OF ENTRY TO THE POWER GRID OF A COOPERATIVE  
29 ELECTRIC ASSOCIATION, AND ANY WHEELING CHARGES IMPOSED BY A  
30 COOPERATIVE ELECTRIC ASSOCIATION.

31 **SECTION 4. Appropriation.** In addition to any other  
32 appropriation, there is hereby appropriated, out of any moneys in the  
33 clean energy fund created in section 24-75-1201 (1), Colorado Revised  
34 Statutes, not otherwise appropriated, to the office of the governor, for  
35 allocation to the governor's energy office, to provide sub-market rate  
36 loans to homeowners and businesses to finance structural improvements

1 that will improve energy efficiency and increase the use of renewable  
2 energy, for the fiscal year beginning July 1, 2008, the sum of nine  
3 hundred eighty-one thousand seven hundred sixty-one dollars (\$981,761)  
4 and 1.0 FTE, or so much thereof as may be necessary, for the  
5 implementation of this act."

6 Renumber succeeding section accordingly.

7 Page 1 of the printed bill, line 101, strike "**THE COLORADO**";

8 strike line 102 and substitute "**FINANCE PROGRAMS, AND MAKING AN**  
9 **APPROPRIATION THEREFOR.**".

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