

CHAPTER 321

GOVERNMENT - STATE

SENATE BILL 07-246

BY SENATOR(S) Fitz-Gerald, Bacon, Boyd, Gordon, Groff, Keller, Morse, Romer, Sandoval, Schwartz, Shaffer, Tapia, Tochtrop, Tupa, Veiga, Williams, and Windels;
also REPRESENTATIVE(S) Buescher, Carroll T., Fischer, Frangas, Jahn, Labuda, Madden, McGihon, Merrifield, Pommer, and Rice.

AN ACT

CONCERNING THE CREATION OF A CLEAN ENERGY FUND FOR THE PURPOSE OF ADVANCING ENERGY EFFICIENCY AND RENEWABLE ENERGY THROUGHOUT THE STATE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION AND REQUIRING A POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THE ACT.

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

SECTION 1. Legislative declaration. The general assembly hereby finds and declares that, for the purpose of post-enactment review, the desired result and benefit of this act is the advancement of energy efficiency and renewable energy throughout the state through the efficient and effective use of moneys in the clean energy fund as permitted in section 24-75-1201 (2), Colorado Revised Statutes, enacted by section 2 of this act.

SECTION 2. Article 75 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 12
CLEAN ENERGY FUND

24-75-1201. Clean energy fund - creation - use of fund. (1) THE CLEAN ENERGY FUND IS HEREBY CREATED IN THE STATE TREASURY. THE PRINCIPAL OF THE FUND SHALL CONSIST OF MONEYS TRANSFERRED TO THE FUND AT THE END OF THE 2006-07 STATE FISCAL YEAR AND AT THE END OF EACH SUCCEEDING STATE FISCAL YEAR FROM THE LIMITED GAMING FUND CREATED IN SECTION 12-47.1-701 (1), C.R.S., IN ACCORDANCE WITH SECTION 12-47.1-701 (5), C.R.S., AND FROM MONEYS RECEIVED BY THE GOVERNOR'S ENERGY OFFICE, OR ANY SUCCESSOR OFFICE,

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

PURSUANT TO SECTION 39-29-109 (1.5), C.R.S., IN ACCORDANCE WITH SECTION 39-29-109 (1.5) (h) (VII), C.R.S. INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN THE CLEAN ENERGY FUND SHALL BE CREDITED TO THE FUND. MONEYS IN THE FUND AT THE END OF ANY STATE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED TO THE STATE GENERAL FUND OR ANY OTHER FUND.

(2) ALL MONEYS IN THE CLEAN ENERGY FUND ARE CONTINUOUSLY APPROPRIATED TO THE GOVERNOR'S ENERGY OFFICE, OR ANY SUCCESSOR OFFICE, FOR THE PURPOSES OF ADVANCING ENERGY EFFICIENCY AND RENEWABLE ENERGY THROUGHOUT THE STATE. THE OFFICE MAY EXPEND MONEYS FROM THE FUND:

- (a) TO ATTRACT RENEWABLE ENERGY INDUSTRY INVESTMENT IN THE STATE;
- (b) TO ASSIST IN TECHNOLOGY TRANSFER INTO THE MARKETPLACE FOR NEWLY DEVELOPED ENERGY EFFICIENCY AND RENEWABLE ENERGY TECHNOLOGIES;
- (c) TO PROVIDE MARKET INCENTIVES FOR THE PURCHASE AND DISTRIBUTION OF ENERGY EFFICIENT AND RENEWABLE ENERGY PRODUCTS;
- (d) TO ASSIST IN THE IMPLEMENTATION OF ENERGY EFFICIENCY PROJECTS THROUGHOUT THE STATE;
- (e) TO AID GOVERNMENTAL AGENCIES IN ENERGY EFFICIENCY GOVERNMENT INITIATIVES;
- (f) TO FACILITATE WIDESPREAD IMPLEMENTATION OF RENEWABLE ENERGY TECHNOLOGIES; AND
- (g) IN ANY OTHER MANNER THAT SERVES THE PURPOSES OF ADVANCING ENERGY EFFICIENCY AND RENEWABLE ENERGY THROUGHOUT THE STATE.

SECTION 3. The introductory portion to 12-47.1-701 (1) (c), Colorado Revised Statutes, is amended, and the said 12-47.1-701 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-47.1-701. Limited gaming fund. (1) There is hereby created in the office of the state treasurer the limited gaming fund. The fund shall be maintained and operated as follows:

(c) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5) OF THIS SECTION, at the end of each state fiscal year, the state treasurer shall distribute the balance remaining in the limited gaming fund, except for an amount equal to all expenses of the administration of this article for the preceding two-month period, according to the following guidelines:

(5) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (5), AT THE END OF THE 2006-07 STATE FISCAL YEAR, SEVEN MILLION DOLLARS OF MONEYS THAT WOULD OTHERWISE BE TRANSFERRED TO THE STATE GENERAL FUND PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION AND PARAGRAPH (c) OF SUBSECTION (4) OF THIS SECTION SHALL INSTEAD

BE TRANSFERRED TO THE CLEAN ENERGY FUND CREATED IN SECTION 24-75-1201 (1), C.R.S.

(b) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (5), AT THE END OF THE 2007-08 STATE FISCAL YEAR, AND AT THE END OF EACH STATE FISCAL YEAR THEREAFTER, ANY MONEYS THAT WOULD OTHERWISE BE TRANSFERRED TO THE STATE GENERAL FUND PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION AND PARAGRAPH (c) OF SUBSECTION (4) OF THIS SECTION SHALL INSTEAD BE TRANSFERRED TO THE CLEAN ENERGY FUND CREATED IN SECTION 24-75-1201 (1), C.R.S.

(c) IF, BASED ON THE REVENUE FORECAST PREPARED BY THE STAFF OF THE LEGISLATIVE COUNCIL IN JUNE OF ANY FISCAL YEAR, THE STATE TREASURER DETERMINES THAT THE AMOUNT OF GENERAL FUND REVENUES FOR THE FISCAL YEAR WILL BE INSUFFICIENT TO ALLOW THE MAXIMUM AMOUNT OF GENERAL FUND APPROPRIATIONS PERMITTED BY SECTION 24-75-201.1 (1) (a), C.R.S., TO BE MADE FOR THE FISCAL YEAR, THE STATE TREASURER SHALL TRANSFER TO THE GENERAL FUND FROM THE MONEYS THAT WOULD OTHERWISE BE TRANSFERRED TO THE CLEAN ENERGY FUND PURSUANT TO EITHER PARAGRAPH (a) OR PARAGRAPH (b) OF THIS SUBSECTION (5) AT THE END OF THE FISCAL YEAR AN AMOUNT EQUAL TO THE LESSER OF THE FULL AMOUNT THAT WOULD OTHERWISE BE TRANSFERRED TO THE CLEAN ENERGY FUND OR THE AMOUNT NECESSARY TO ALLOW THE MAXIMUM AMOUNT OF GENERAL FUND APPROPRIATIONS TO BE MADE FOR THE FISCAL YEAR.

SECTION 4. 39-29-109 (1.5) (h) (VI), Colorado Revised Statutes, is amended, and the said 39-29-109 (1.5) (h) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

39-29-109. Severance tax trust fund - created - administration - use of moneys - definitions - repeal. (1.5) (h) (VI) If in a given fiscal year THAT COMMENCES BEFORE JULY 1, 2006, the office of energy management and conservation determines that it cannot use all of the moneys it receives pursuant to this subsection (1.5), the office shall notify the governor and the joint budget committee of the general assembly of such fact. Upon notification, the general assembly may make a supplemental appropriation to reduce the amount appropriated to the office and increase the amount appropriated to the department of human services for the purpose of increasing available funds under the low-income energy assistance program.

(VII) IF IN A GIVEN FISCAL YEAR THAT COMMENCES ON OR AFTER JULY 1, 2006, THE GOVERNOR'S ENERGY OFFICE, OR ANY SUCCESSOR OFFICE, CANNOT USE ALL OF THE MONEYS IT RECEIVES PURSUANT TO THIS SUBSECTION (1.5) FOR THE PROGRAM DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (h), AT THE END OF THE FISCAL YEAR THE STATE TREASURER SHALL TRANSFER THE MONEYS THAT THE OFFICE CANNOT USE TO THE CLEAN ENERGY FUND CREATED IN SECTION 24-75-1201 (1), C.R.S.

SECTION 5. Appropriation - adjustments to the 2007 long bill. For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2007, shall be adjusted as follows: The appropriation to the office of the governor, for allocation to the governor's energy

office, for the purposes of advancing energy efficiency and renewable energy throughout the state, is increased by 4.0 FTE. These 4.0 FTE shall be supported by moneys in the clean energy fund, created in section 24-75-1201 (1), Colorado Revised Statutes. Moneys in the clean energy fund are continuously appropriated pursuant to section 24-75-1201 (2), Colorado Revised Statutes.

SECTION 6. Accountability. Five years after this act becomes law and in accordance with section 2-2-1201, Colorado Revised Statutes, the legislative service agencies of the Colorado General Assembly shall conduct a post-enactment review of the implementation of this act utilizing the information contained in the legislative declaration set forth in section 1 of this act.

SECTION 7. 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.

Approved: May 29, 2007