

CHAPTER 301

GOVERNMENT - STATE

SENATE BILL 08-184

BY SENATOR(S) Romer, Bacon, Boyd, Gibbs, Groff, Schwartz, Shaffer, Tapia, Tupa, Veiga, Williams, and Windels;
also REPRESENTATIVE(S) Levy, Fischer, Green, Kefalas, Kerr A., Labuda, Madden, McGihon, Merrifield, Middleton, Peniston,
Pommer, Romanoff, Solano, and Todd.

AN ACT

**CONCERNING THE CREATION OF CLEAN ENERGY FINANCE PROGRAMS, AND MAKING AN
APPROPRIATION THEREFOR.**

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

SECTION 1. Title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 38.7
Colorado Clean Energy Finance Program

24-38.7-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO CLEAN ENERGY FINANCE PROGRAM ACT".

24-38.7-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AREA MEDIAN INCOME" MEANS THE MEDIAN INCOME OF THE COUNTY IN WHICH THE PRIMARY RESIDENCE OF A QUALIFIED BORROWER IS LOCATED IN RELATION TO FAMILY SIZE, AS PUBLISHED ANNUALLY BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(2) "CERTIFIED CONTRACTOR" MEANS A CONTRACTOR, INCLUDING BUT NOT LIMITED TO A GENERAL, HEATING, AIR CONDITIONING, OR LIGHTING CONTRACTOR, CERTIFIED BY THE PROGRAM ADMINISTRATOR TO MARKET THE PROGRAM TO POTENTIAL QUALIFIED BORROWERS AND MAKE CLEAN ENERGY IMPROVEMENTS THAT MAY BE FINANCED BY CLEAN ENERGY LOANS.

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

(3) "CLEAN ENERGY IMPROVEMENT" MEANS ANY REPAIR OF OR ADDITION OR IMPROVEMENT TO RESIDENTIAL REAL PROPERTY COMPLETED BY OR UNDER THE SUPERVISION OF A CERTIFIED CONTRACTOR THAT IMPROVES THE ENERGY EFFICIENCY OF THE PROPERTY OR REPLACES ALL OR A PORTION OF THE ENERGY FROM NONRENEWABLE SOURCES USED IN CONNECTION WITH THE PROPERTY WITH ENERGY FROM RENEWABLE SOURCES.

(4) "CLEAN ENERGY LOAN" MEANS A LOAN IN A MAXIMUM AMOUNT OF TWELVE THOUSAND FIVE HUNDRED DOLLARS ORIGINATED BY A PARTICIPATING PUBLIC LENDER OR A PARTICIPATING PRIVATE LENDER TO A QUALIFIED BORROWER FOR THE PURPOSE OF FINANCING ONE OR MORE CLEAN ENERGY IMPROVEMENTS TO THE BORROWER'S PRIMARY RESIDENCE; EXCEPT THAT, IF THE QUALIFIED BORROWER IS A NONPROFIT CORPORATION OR LOCAL GOVERNMENT HOUSING AUTHORITY THAT PROVIDES UNITS IN A MULTI-UNIT HOUSING PROJECT AS HOMES TO INDIVIDUALS OR FAMILIES WHO MEET THE INCOME QUALIFICATIONS OF FIRST TIER OR SECOND TIER QUALIFIED BORROWERS, THE MAXIMUM AMOUNT OF A LOAN SHALL BE TWELVE THOUSAND FIVE HUNDRED DOLLARS MULTIPLIED BY THE NUMBER OF UNITS IN THE MULTI-UNIT HOUSING PROJECT PROVIDED TO THE INDIVIDUALS OR FAMILIES.

(5) "FIRST TIER QUALIFIED BORROWER" MEANS A QUALIFIED BORROWER WHOSE INCOME IS LESS THAN EIGHTY PERCENT OF AREA MEDIAN INCOME.

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

(7) "PROGRAM" MEANS THE COLORADO CLEAN ENERGY FINANCE PROGRAM.

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

(a) MARKET THE PROGRAM;

(b) RECRUIT, TRAIN, AND CERTIFY CONTRACTORS;

(c) MEASURE AND VERIFY, IN ACCORDANCE WITH STANDARDS ESTABLISHED BY THE OFFICE, ENERGY, EMISSIONS, AND GROSS AND NET COST SAVINGS RESULTING FROM CLEAN ENERGY IMPROVEMENTS FINANCED BY CLEAN ENERGY LOANS ORIGINATED AND SERVICED BY PARTICIPATING PUBLIC LENDERS AND PRIVATE LENDERS;

(d) ENCOURAGE HOMEOWNERS TO PARTICIPATE IN UTILITY DEMAND SIDE MANAGEMENT PROGRAMS WHERE APPLICABLE; AND

(e) PERFORM SUCH OTHER DUTIES AS MAY BE AUTHORIZED IN THIS ARTICLE OR REQUIRED BY THE OFFICE.

(9) "PROGRAM FUND" MEANS THE CLEAN ENERGY PROGRAM FUND CREATED IN SECTION 24-38.7-103 (2) (a).

(10) "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.

(11) "QUALIFIED BORROWER" MEANS AN INDIVIDUAL OR FAMILY WHO OWNS HIS, HER, OR THEIR PRIMARY RESIDENCE AND SATISFIES LENDING GUIDELINES ESTABLISHED BY THE PROGRAM ADMINISTRATOR OR A COLORADO CHARITABLE NONPROFIT CORPORATION EXEMPT FROM TAXATION UNDER SECTION 501 (c) (3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, OR COUNTY OR MUNICIPAL HOUSING AUTHORITY THAT PROVIDES HOMES FOR OWNERSHIP OR RENTAL TO HOMEOWNERS OR RENTERS WHO MEET THE INCOME QUALIFICATIONS OF FIRST TIER OR SECOND TIER QUALIFIED BORROWERS.

(12) "SECOND TIER QUALIFIED BORROWER" MEANS A QUALIFIED BORROWER WHOSE INCOME IS EIGHTY PERCENT OR MORE, BUT LESS THAN ONE HUNDRED TWENTY PERCENT, OF AREA MEDIAN INCOME.

(13) "THIRD TIER QUALIFIED BORROWER" MEANS A QUALIFIED BORROWER WHOSE INCOME IS ONE HUNDRED TWENTY PERCENT OR MORE OF AREA MEDIAN INCOME.

24-38.7-103. Governor's energy office - powers and duties - funds created.

(1) THE COLORADO CLEAN ENERGY FINANCE PROGRAM IS HEREBY CREATED. THE OFFICE SHALL OVERSEE THE PROGRAM AND THE PROGRAM ADMINISTRATOR AND SHALL, IN ADDITION TO EXERCISING ANY OTHER POWERS AND PERFORMING ANY OTHER DUTIES SPECIFIED IN THIS ARTICLE:

(a) SELECT THE PROGRAM ADMINISTRATOR IN ACCORDANCE WITH THE PROVISIONS OF THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF THIS TITLE. IN SELECTING THE PROGRAM ADMINISTRATOR, THE OFFICE SHALL CONSIDER THE EXTENT TO WHICH A POTENTIAL PROGRAM ADMINISTRATOR HAS DEMONSTRATED EXPERIENCE IN RECRUITING, TRAINING, AND CERTIFYING CONTRACTORS OR CAN OTHERWISE ESTABLISH THAT IT WILL BE ABLE TO PERFORM SUCH FUNCTIONS.

(b) DIRECTLY MARKET THE PROGRAM TO THE GENERAL PUBLIC OR CONTRACT WITH THE PROGRAM ADMINISTRATOR FOR THE MARKETING OF THE PROGRAM TO THE GENERAL PUBLIC;

(c) DEVELOP AND OPERATE OR CONTRACT WITH THE PROGRAM ADMINISTRATOR FOR THE DEVELOPMENT AND OPERATION OF A QUALITY ASSURANCE, MEASUREMENT, AND VERIFICATION PROGRAM TO:

(I) MONITOR THE QUALITY OF CLEAN ENERGY IMPROVEMENT INSTALLATIONS; AND

(II) MEASURE AND REPORT ON ENERGY, EMISSIONS, AND GROSS AND NET COST SAVINGS RESULTING FROM CLEAN ENERGY IMPROVEMENTS FINANCED BY CLEAN ENERGY LOANS;

(d) DETERMINE, IN CONSULTATION WITH THE STATE TREASURER, WHEN THE ADMINISTRATIVE AND PROCEDURAL FRAMEWORK FOR THE PROGRAM AND THE AVAILABLE ADMINISTRATIVE AND FINANCIAL RESOURCES FOR THE PROGRAM ARE SUFFICIENTLY DEVELOPED TO ALLOW THE OFFICE TO EFFECTIVELY OVERSEE THE PROGRAM. NO CLEAN ENERGY LOAN SHALL BE MARKETED TO A POTENTIAL QUALIFIED BORROWER, APPLIED FOR BY A POTENTIAL QUALIFIED BORROWER, OR MADE TO A QUALIFIED BORROWER UNTIL THE OFFICE HAS DETERMINED THAT IT IS

READY TO EFFECTIVELY OVERSEE THE PROGRAM AND INSTRUCTED CERTIFIED CONTRACTORS TO BEGIN MARKETING CLEAN ENERGY LOANS.

(e) EXERCISE SUCH OTHER POWERS AND PERFORM SUCH OTHER DUTIES NECESSARY OR INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS AND DUTIES SPECIFIED IN THIS ARTICLE.

(2) (a) THE CLEAN ENERGY PROGRAM FUND IS HEREBY CREATED IN THE STATE TREASURY, AND THE FOLLOWING ACCOUNTS ARE HEREBY CREATED IN THE FUND:

(I) THE LOAN BUY-DOWN ACCOUNT; AND

(II) THE LOAN LOSS RESERVE ACCOUNT.

(b) THE PROGRAM FUND AND THE ACCOUNTS OF THE PROGRAM FUND SHALL CONSIST OF SUCH MONEYS AS THE GENERAL ASSEMBLY MAY APPROPRIATE THERETO FROM THE CLEAN ENERGY FUND CREATED IN SECTION 27-75-1201 (1) AND ANY GIFTS, GRANTS, OR DONATIONS THAT MAY BE MADE TO THE PROGRAM FUND. IN ACCORDANCE WITH SECTION 24-36-113 (1) (a), WHICH REQUIRES THE STATE TREASURER, IN MAKING INVESTMENTS, TO USE PRUDENCE AND CARE TO PRESERVE THE PRINCIPAL AND TO SECURE THE MAXIMUM RATE OF INTEREST CONSISTENT WITH SAFETY AND LIQUIDITY, IF THE GENERAL ASSEMBLY CHOOSES NOT TO APPROPRIATE MONEYS TO THE PROGRAM FUND OR TO THE ACCOUNTS OF THE PROGRAM FUND, NOTHING IN THIS ARTICLE SHALL BE DEEMED TO REQUIRE THE STATE TREASURER TO CREDIT ANY MONEYS TO THE PROGRAM FUND OR THE ACCOUNTS OF THE PROGRAM FUND. ALL INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN THE PROGRAM FUND AND THE ACCOUNTS OF THE PROGRAM FUND SHALL BE USED FOR THE LOAN BUY-DOWN ACCOUNT AND THE LOAN LOSS RESERVE ACCOUNT. MONEYS IN THE LOAN BUY-DOWN ACCOUNT AND LOAN LOSS RESERVE ACCOUNT OF THE PROGRAM FUND SHALL REMAIN IN THE ACCOUNTS AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR.

(3) (a) ALL MONEYS IN THE PROGRAM FUND ARE CONTINUOUSLY APPROPRIATED TO THE OFFICE, AND THE OFFICE SHALL MAKE PAYMENTS FROM THE LOAN BUY-DOWN ACCOUNT OF THE PROGRAM FUND TO PARTICIPATING PUBLIC LENDERS AND PRIVATE LENDERS TO COMPENSATE THE LENDERS FOR THE REDUCTION IN THE AMOUNT OF FUTURE INTEREST PAYMENTS RESULTING FROM THE PROVISION OF CLEAN ENERGY LOANS TO FIRST TIER AND SECOND TIER QUALIFIED BORROWERS AT THE BELOW-MARKET INTEREST RATES SPECIFIED IN SECTION 24-38.7-104 (2) (a) (I) AND (2) (a) (II). THE OFFICE SHALL PAY THE COMPENSATION FOR EACH CLEAN ENERGY LOAN BY PAYING TO THE LENDER A LUMP SUM EQUAL TO THE PRESENT VALUE OF THE REDUCTION IN FUTURE INTEREST PAYMENTS ON THE DATE THE LOAN CLOSES.

(b) THE OFFICE SHALL MAKE PAYMENTS FROM THE LOAN LOSS RESERVE ACCOUNT OF THE PROGRAM FUND TO COMPENSATE PARTICIPATING PUBLIC LENDERS AND PRIVATE LENDERS FOR THE UNCOLLECTIBLE AMOUNT OF CLEAN ENERGY LOANS ANY SUCH LENDERS HAVE WRITTEN OFF. THE OFFICE SHALL PAY THE COMPENSATION FOR EACH UNCOLLECTIBLE CLEAN ENERGY LOAN BY PAYING TO THE LENDER A LUMP SUM EQUAL TO THE PRESENT VALUE OF THE UNCOLLECTIBLE PORTION OF THE LOAN ON THE DATE THE LENDER WROTE IT OFF.

(c) THE STATE TREASURER SHALL PERIODICALLY TRANSFER MONEYS FROM THE LOAN BUY-DOWN ACCOUNT OF THE PROGRAM FUND TO THE LOAN LOSS RESERVE ACCOUNT OF THE PROGRAM FUND TO ENSURE THAT THE BALANCE OF THE LOAN LOSS RESERVE ACCOUNT IS AT LEAST FIVE PERCENT OF THE TOTAL PRINCIPAL AMOUNT OF OUTSTANDING CLEAN ENERGY LOANS MADE BY PARTICIPATING PUBLIC LENDERS AND PRIVATE LENDERS. THE ADMINISTRATOR SHALL UPDATE THE STATE TREASURER REGARDING OUTSTANDING CLEAN ENERGY LOANS ORIGINATED BY SUCH LENDERS AS REQUIRED BY THE STATE TREASURER SO THAT THE STATE TREASURER CAN ACCURATELY DETERMINE THE APPROPRIATE AMOUNT AND TIMING OF TRANSFERS.

(d) THE STATE TREASURER MAY INVEST UP TO A TOTAL AMOUNT OF THIRTY MILLION DOLLARS OF STATE MONEYS IN BONDS OR NOTES ISSUED BY PARTICIPATING PUBLIC OR PRIVATE LENDERS FOR THE PURPOSE OF FUNDING CLEAN ENERGY LOANS DURING THE 2008-09, 2009-10, AND 2010-11 FISCAL YEARS SUBJECT TO THE LIMITATION THAT THE STATE TREASURER MAY INVEST NO MORE THAN TEN MILLION DOLLARS DURING THE 2008-09 FISCAL YEAR AND NO MORE THAN A TOTAL AMOUNT OF TWENTY MILLION DOLLARS DURING THE 2008-09 AND 2009-10 FISCAL YEARS.

24-38.7-104. Program administrator - training and certification of contractors - reporting. (1) IN ACCORDANCE WITH TERMS CONTRACTUALLY AGREED TO BY THE PROGRAM ADMINISTRATOR AND THE OFFICE, ACTING ON BEHALF OF THE STATE, THE PROGRAM ADMINISTRATOR SHALL IMPLEMENT AND ADMINISTER THE PROGRAM BY:

(a) RECRUITING, SELECTING, SCREENING, TRAINING, AND CERTIFYING CONTRACTORS, INCLUDING BUT NOT LIMITED TO GENERAL, HEATING, AIR CONDITIONING, AND LIGHTING CONTRACTORS, TO BE CERTIFIED CONTRACTORS CAPABLE OF MARKETING THE PROGRAM AND COMPLETING CLEAN ENERGY IMPROVEMENTS. THE PROGRAM ADMINISTRATOR MAY CHARGE CONTRACTORS A REASONABLE FEE FOR TRAINING AND CERTIFICATION, AND THE RECRUITING, SELECTION, SCREENING, TRAINING, AND CERTIFICATION PROCESS SHALL INCLUDE, AT A MINIMUM:

(I) DIRECT MARKETING OF THE PROGRAM TO CONTRACTORS;

(II) FINANCIAL AND BUSINESS PRACTICES BACKGROUND CHECKS OF CONTRACTORS SEEKING TO BECOME CERTIFIED CONTRACTORS; AND

(III) INITIAL TRAINING THAT INCLUDES:

(A) EDUCATION REGARDING THE ELEMENTS OF THE PROGRAM, THE FINANCIAL AND ENVIRONMENTAL BENEFITS OF CLEAN ENERGY IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO SPECIFIC EDUCATION REGARDING PRODUCTS QUALIFIED TO BEAR THE FEDERAL ENERGY STAR LABEL, AND RECOMMENDED MEANS OF MARKETING THE PROGRAM TO POTENTIAL PROGRAM CUSTOMERS; AND

(B) THE PROVISION OF INFORMATION REGARDING ADDITIONAL REQUIRED TRAINING AND OTHER REQUIREMENTS FOR CONTRACTORS WHO MAY WISH TO BECOME PREFERRED CONTRACTORS UNDER THE FEDERAL HOME PERFORMANCE WITH ENERGY STAR PROGRAM.

(b) ISSUING ANNUAL REPORTS REGARDING THE ADMINISTRATION OF THE PROGRAM AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

(2) A POTENTIAL QUALIFIED BORROWER SHALL APPLY FOR A CLEAN ENERGY LOAN BY COMPLETING AN INITIAL LOAN APPLICATION. THE OFFICE OR, AT THE DISCRETION OF THE OFFICE, THE PROGRAM ADMINISTRATOR OR PARTICIPATING PUBLIC LENDERS AND PRIVATE LENDERS SHALL PRESCRIBE THE FORM OF THE LOAN APPLICATION AND SHALL DETERMINE, BASED ON THE APPLICATION AND SUCH OTHER INFORMATION AS THE ADMINISTRATOR MAY REASONABLY REQUIRE FROM THE APPLICANT, WHETHER THE APPLICANT IS A QUALIFIED BORROWER AND, IF SO, WHETHER THE QUALIFIED BORROWER IS A FIRST TIER, SECOND TIER, OR THIRD TIER QUALIFIED BORROWER. HOWEVER, A PARTICIPATING PUBLIC LENDER MAY ONLY ORIGINATE CLEAN ENERGY LOANS FOR FIRST TIER AND SECOND TIER QUALIFIED BORROWERS. A QUALIFIED BORROWER MAY CHOOSE A LOAN TERM OF UP TO TEN YEARS. THE STATE TREASURER SHALL, USING A FORMULA TIED TO A REGULARLY PUBLISHED INTEREST RATE INDEX SELECTED BY THE STATE TREASURER, DETERMINE A BASE ANNUAL RATE OF INTEREST TO BE CHARGED ON LOANS MADE TO THIRD TIER QUALIFIED BORROWERS. THE STATE TREASURER SHALL SET AN ANNUAL RATE OF INTEREST FOR LOANS TO SECOND TIER QUALIFIED BORROWERS BY SUBTRACTING A NUMBER OF BASIS POINTS SELECTED BY THE STATE TREASURER FROM THE BASE ANNUAL RATE AND SHALL SET AN ANNUAL RATE OF INTEREST FOR LOANS TO FIRST TIER QUALIFIED BORROWERS BY SUBTRACTING A NUMBER OF BASIS POINTS SELECTED BY THE STATE TREASURER FROM THE ANNUAL RATE OF INTEREST FOR LOANS TO SECOND TIER QUALIFIED BORROWERS. THE INTEREST RATE CHARGED TO A QUALIFIED BORROWER THAT IS A NONPROFIT CORPORATION OR A HOUSING AUTHORITY SHALL BE THE INTEREST RATE CHARGED TO SECOND TIER QUALIFIED BORROWERS; EXCEPT THAT THE INTEREST RATE CHARGED TO A NONPROFIT CORPORATION OR HOUSING AUTHORITY SHALL BE THE INTEREST RATE CHARGED TO FIRST TIER QUALIFIED BUYERS IF THE NONPROFIT CORPORATION OR HOUSING AUTHORITY ONLY PROVIDES THE HOUSING FOR WHICH THE LOAN WILL FINANCE CLEAN ENERGY IMPROVEMENTS TO INDIVIDUALS OR FAMILIES WHO ARE FIRST TIER QUALIFIED BORROWERS.

(3) (a) NO LATER THAN ONE YEAR FROM THE DATE OF ISSUANCE OF THE FIRST CLEAN ENERGY LOAN BY A PARTICIPATING PUBLIC LENDER OR PRIVATE LENDER PURSUANT TO THIS ARTICLE, AND NO LATER THAN THE SAME DATE EACH SUBSEQUENT YEAR, THE PROGRAM ADMINISTRATOR SHALL PROVIDE TO THE OFFICE A REPORT DETAILING ITS ADMINISTRATION OF THE PROGRAM SINCE ITS INCEPTION AND FOR THE PRIOR FISCAL YEAR. THE REPORT SHALL INCLUDE, AT A MINIMUM:

(I) A DETAILED ACCOUNTING OF THE FINANCIAL STATUS OF THE PROGRAM, INCLUDING STATEMENTS REGARDING:

(A) THE TOTAL NUMBER AND PRINCIPAL AMOUNT OF CLEAN ENERGY LOANS ORIGINATED AND THE NUMBER AND PRINCIPAL AMOUNT OF CLEAN ENERGY LOANS ORIGINATED TO FIRST TIER, SECOND TIER, AND THIRD TIER QUALIFIED BORROWERS;

(B) THE TOTAL AMOUNT OF OUTSTANDING PRINCIPAL AND INTEREST ON CLEAN ENERGY LOANS OWED BY QUALIFIED BORROWERS AND THE AMOUNT OF SUCH PRINCIPAL AND INTEREST OWED BY FIRST TIER, SECOND TIER, AND THIRD TIER QUALIFIED BORROWERS;

(C) THE TOTAL NUMBER AND PRINCIPAL AND INTEREST AMOUNTS OF ANY UNCOLLECTIBLE CLEAN ENERGY LOANS WRITTEN OFF BY PARTICIPATING PUBLIC LENDERS AND PRIVATE LENDERS AND THE NUMBER AND PRINCIPAL AMOUNTS OF SUCH LOANS ISSUED TO FIRST TIER, SECOND TIER, AND THIRD TIER QUALIFIED BORROWERS;

(D) THE TOTAL AMOUNT OF BONDS OR OTHER NOTES IN WHICH THE STATE TREASURER HAS INVESTED AS AUTHORIZED BY SECTION 24-38.7-103 (3) (d), THE PAYMENTS MADE ON SUCH BONDS OR OTHER NOTES, AND THE PAYMENTS TO BE MADE IN THE FUTURE ON SUCH BONDS OR OTHER NOTES; AND

(E) THE AMOUNTS PAID TO THE ADMINISTRATOR BY THE STATE PURSUANT TO SECTION 24-38.7-103 (3) (a) AND (3) (b) AND ANY CONTRACTS ENTERED INTO BY THE STATE AND THE ADMINISTRATOR AS AUTHORIZED BY THIS ARTICLE;

(II) ESTIMATES OF THE TOTAL ENERGY, EMISSIONS, AND GROSS AND NET COST SAVINGS RESULTING FROM CLEAN ENERGY IMPROVEMENTS FINANCED BY CLEAN ENERGY LOANS; AND

(III) ANY RECOMMENDED PROGRAM IMPROVEMENTS.

(b) SUBJECT TO THE LIMITATION SET FORTH IN SECTION 24-1-136 (11), NO LATER THAN JANUARY 30, 2010, AND NO LATER THAN EACH JANUARY 30 THEREAFTER, THE OFFICE SHALL REPORT TO THE TRANSPORTATION AND ENERGY COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, REGARDING THE PROGRAM. THE REPORT SHALL INCLUDE THE INFORMATION PROVIDED TO THE OFFICE IN THE PROGRAM ADMINISTRATOR'S ANNUAL REPORT AND WHATEVER ADDITIONAL INFORMATION THE OFFICE DEEMS RELEVANT TO FULLY APPRISE THE COMMITTEES REGARDING THE STATUS OF THE PROGRAM.

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

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

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

PART 12
RURAL CLEAN ENERGY
PROJECT FINANCE PROGRAM

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

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

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

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

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

(4) "ELIGIBLE APPLICANT" MEANS AN INDIVIDUAL PROPERTY OWNER OR A GROUP OF PROPERTY OWNERS THAT DO NOT OWN THE ENTIRETY OF A COOPERATIVE ELECTRIC ASSOCIATION AND THAT SEEK TO CONSTRUCT, EXPAND, OR UPGRADE AN ELIGIBLE CLEAN ENERGY PROJECT LOCATED OR TO BE LOCATED ON THE APPLICANT'S PROPERTY.

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

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

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

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

(I) THE BOARD AGREES TO LOAN TO THE ELIGIBLE APPLICANT THE NET PROCEEDS OF THE BONDS ISSUED SO THAT THE ELIGIBLE APPLICANT CAN FINANCE ALL OR A

PORTION OF THE ELIGIBLE CLEAN ENERGY PROJECT; AND

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

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

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

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

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

SECTION 4. Appropriation - adjustments to the 2008 long bill. For the implementation of this act, the appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 2008, to the office of the governor, for allocation to the governor's energy office, clean energy, is increased by 1.0 FTE. This 1.0 FTE shall be supported by moneys in the clean energy program fund created in section 24-38.7-103 (2) (a), Colorado Revised Statutes, and any gifts, grants, or donations made to the governor's energy office for the purposes of implementing this act. Moneys in the clean energy program fund are continuously appropriated pursuant to section 24-38.7-103 (3) (a), Colorado Revised Statutes.

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.

Approved: May 27, 2008