

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

BILLPAPER

LLS NO. 09-0765.01 Jason Gelender

HOUSE BILL

HOUSE SPONSORSHIP

Miklosi,

SENATE SPONSORSHIP

(None),

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A STATEWIDE RESIDENTIAL ENERGY**
102 **IMPROVEMENT LOAN PROGRAM FUNDED BY VOTER-APPROVED**
103 **SPECIAL ASSESSMENT BONDS PAYABLE FROM SPECIAL**
104 **ASSESSMENTS IMPOSED ONLY ON RESIDENTIAL BUILDINGS**
105 **OWNED BY PERSONS WHO VOLUNTARILY CONTRACT FOR**
106 **RESIDENTIAL ENERGY IMPROVEMENT LOANS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Creates a residential energy improvement loan program that will be implemented only if the voters of the state approve a specified ballot

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.

1 IMPROVEMENTS SOONER RATHER THAN LATER BECAUSE:

2 (I) RESIDENTIAL ENERGY IMPROVEMENTS HELP PROTECT OWNERS
3 OF RESIDENTIAL BUILDINGS FROM THE FINANCIAL IMPACT OF THE RISING
4 COST OF ELECTRICITY PRODUCED FROM NONRENEWABLE FUELS;

5 (II) REDUCTION IN THE AMOUNT OF EMISSIONS OF GREENHOUSE
6 GASES AND ENVIRONMENTAL POLLUTANTS RESULTING FROM DECREASED
7 USE OF TRADITIONAL NONRENEWABLE FUELS WILL IMPROVE AIR QUALITY
8 AND MAY HELP TO MITIGATE GLOBAL WARMING;

9 (III) RESIDENTIAL ENERGY IMPROVEMENTS INCREASE THE VALUE
10 OF THE RESIDENTIAL BUILDINGS IMPROVED; AND

11 (IV) INCREASED CONSTRUCTION OF RESIDENTIAL ENERGY
12 IMPROVEMENTS WILL CREATE JOBS AND STIMULATE THE STATE ECONOMY;

13 (b) IN MANY CASES, THE OWNER OF A RESIDENTIAL BUILDING IS
14 UNABLE TO PAY FOR OR FINANCE A RESIDENTIAL ENERGY IMPROVEMENT
15 BECAUSE THE RESIDENTIAL BUILDING IS HIGHLY LEVERAGED OR IS
16 RELUCTANT TO PAY FOR OR FINANCE A RESIDENTIAL ENERGY
17 IMPROVEMENT BECAUSE THE OWNER EXPECTS TO SELL THE RESIDENTIAL
18 BUILDING BEFORE RECOUPING THE FULL COSTS OF THE RESIDENTIAL
19 ENERGY IMPROVEMENT THROUGH ENERGY SAVINGS OR PRICE
20 APPRECIATION OF THE RESIDENTIAL BUILDING;

21 (c) ALLOWING THE OWNER OF A RESIDENTIAL BUILDING TO FINANCE
22 A RESIDENTIAL ENERGY IMPROVEMENT TO THE RESIDENTIAL BUILDING BY
23 VOLUNTARILY CONTRACTING FOR A LOAN TO BE PAID OVER A PERIOD OF UP
24 TO TWENTY YEARS THROUGH THE IMPOSITION OF A SPECIAL ASSESSMENT
25 ON THE RESIDENTIAL BUILDING THAT THE OWNER DOES NOT HAVE TO PAY
26 IN FULL UPON THE SALE OF THE RESIDENTIAL BUILDING, BUT INSTEAD
27 TRANSFERS WITH THE RESIDENTIAL BUILDING TO THE NEW OWNER,

1 ENSURES THAT THE OWNER PAYS FOR ONLY SO MUCH OF THE SPECIAL
2 BENEFIT OF A RESIDENTIAL ENERGY IMPROVEMENT AS THE OWNER
3 RECEIVES AND ELIMINATES A MAJOR DISINCENTIVE TO INVESTMENT IN
4 ENERGY EFFICIENCY AND RENEWABLE ENERGY IMPROVEMENTS.

5 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT,
6 ALTHOUGH A SPECIAL ASSESSMENT IS TYPICALLY IMPOSED BY A LOCAL OR
7 REGIONAL SPECIAL DISTRICT THAT IS FORMED PURSUANT TO AN ELECTION,
8 GOVERNED BY A BOARD OF DIRECTORS, AND GRANTED JURISDICTION TO
9 PERFORM A SINGLE GOVERNMENTAL OR BUSINESS FUNCTION OR LIMITED
10 GROUP OF SUCH FUNCTIONS IN ONLY A PORTION OF THE STATE, THERE IS NO
11 LEGAL IMPEDIMENT TO THE IMPOSITION OF SPECIAL ASSESSMENTS AND THE
12 ISSUANCE OF SPECIAL ASSESSMENT BONDS BY AN AGENCY OF STATE
13 GOVERNMENT THROUGH THE RESIDENTIAL ENERGY IMPROVEMENT LOAN
14 PROGRAM, AND IT IS NECESSARY, APPROPRIATE, AND REASONABLE TO
15 CREATE THE PROGRAM BECAUSE:

16 (a) THE AGENCY CHARGED WITH THE ADMINISTRATION OF THIS
17 PROGRAM, THE GOVERNOR'S ENERGY OFFICE, HAS CONSIDERABLE
18 EXPERTISE REGARDING RESIDENTIAL ENERGY IMPROVEMENTS, IS CHARGED
19 WITH THE MISSION OF PROMOTING AND ADVANCING ENERGY EFFICIENCY
20 AND RENEWABLE ENERGY THROUGHOUT THE STATE, AND IS THEREFORE
21 WELL QUALIFIED TO ADMINISTER THE PROGRAM;

22 (b) PARTICIPATION IN THE PROGRAM AND THE ATTENDANT
23 ASSUMPTION OF THE BURDEN OF A SPECIAL ASSESSMENT IS VOLUNTARY
24 SINCE:

25 (I) A SPECIAL ASSESSMENT MAY ONLY BE IMPOSED ON A
26 RESIDENTIAL BUILDING WHOSE OWNER HAS FREELY CONTRACTED WITH THE
27 STATE FOR RESIDENTIAL ENERGY IMPROVEMENT LOANS; AND

1 (II) A SUBSEQUENT PURCHASER OF A RESIDENTIAL BUILDING UPON
2 WHICH A SPECIAL ASSESSMENT HAS BEEN IMPOSED PURCHASES THE
3 RESIDENTIAL BUILDING WITH FULL KNOWLEDGE OF THE SPECIAL
4 ASSESSMENT;

5 (c) THE OWNER OF A RESIDENTIAL BUILDING WHO CONTRACTS WITH
6 THE STATE FOR A RESIDENTIAL ENERGY IMPROVEMENT LOAN AND ANY
7 SUBSEQUENT OWNER OF THE RESIDENTIAL BUILDING BOTH RECEIVE THE
8 SPECIAL BENEFIT OF THE RESIDENTIAL IMPROVEMENT FINANCED BY THE
9 LOAN IN PROPORTION TO THE AMOUNT OF THE SPECIAL ASSESSMENT THE
10 OWNER PAYS; AND

11 (d) AS REQUIRED BY SECTION 20 (4) (b) OF ARTICLE X OF THE
12 STATE CONSTITUTION, THE ISSUANCE OF SPECIAL ASSESSMENT BONDS TO
13 FINANCE THE PROGRAM IS AUTHORIZED ONLY IF THE VOTERS OF THE STATE
14 APPROVE THE ISSUANCE OF SUCH BONDS AT A STATEWIDE ELECTION.

15 **24-38.5-203. Definitions.** AS USED IN THIS PART 2, UNLESS THE
16 CONTEXT OTHERWISE REQUIRES:

17 (1) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE.

18 (2) "ENERGY EFFICIENCY IMPROVEMENT" MEANS ONE OR MORE
19 INSTALLATIONS OR MODIFICATIONS THAT ARE DESIGNED TO REDUCE
20 ENERGY CONSUMPTION IN A RESIDENTIAL BUILDING AND INCLUDES, BUT IS
21 NOT LIMITED TO, THE FOLLOWING:

22 (a) INSULATION IN WALLS, ROOFS, FLOORS, AND FOUNDATIONS AND
23 IN HEATING AND COOLING DISTRIBUTION SYSTEMS;

24 (b) STORM WINDOWS AND DOORS, MULTIGLAZED WINDOWS AND
25 DOORS, HEAT-ABSORBING OR HEAT-REFLECTIVE GLAZED AND COATED
26 WINDOW AND DOOR SYSTEMS, ADDITIONAL GLAZING, REDUCTIONS IN
27 GLASS AREA, AND OTHER WINDOW AND DOOR SYSTEM MODIFICATIONS

- 1 THAT REDUCE ENERGY CONSUMPTION;
- 2 (c) AUTOMATIC ENERGY CONTROL SYSTEMS;
- 3 (d) HEATING, VENTILATING, OR AIR CONDITIONING AND
4 DISTRIBUTION SYSTEM MODIFICATIONS OR REPLACEMENTS IN A BUILDING;
- 5 (e) CAULKING AND WEATHERSTRIPPING;
- 6 (f) REPLACEMENT OR MODIFICATION OF LIGHTING FIXTURES TO
7 INCREASE THE ENERGY EFFICIENCY OF THE SYSTEM WITHOUT INCREASING
8 THE OVERALL ILLUMINATION OF A RESIDENTIAL BUILDING UNLESS THE
9 INCREASE IN ILLUMINATION IS NECESSARY TO CONFORM TO THE
10 APPLICABLE BUILDING CODE FOR THE PROPOSED LIGHTING SYSTEM;
- 11 (g) ENERGY RECOVERY SYSTEMS;
- 12 (h) DAYLIGHTING SYSTEMS; AND
- 13 (i) ANY OTHER MODIFICATION, INSTALLATION, OR REMODELING
14 APPROVED AS A UTILITY COST-SAVINGS MEASURE BY THE OFFICE.
- 15 (3) "OFFICE" MEANS THE GOVERNOR'S ENERGY OFFICE CREATED IN
16 SECTION 24-38.5-101 (1).
- 17 (4) "PROGRAM" MEANS THE RESIDENTIAL ENERGY IMPROVEMENT
18 LOAN PROGRAM CREATED IN SECTION 24-38.5-204 (1).
- 19 (5) "PROGRAM ADMINISTRATOR" OR "ADMINISTRATOR" MEANS ONE
20 OR MORE ENTITIES HIRED BY THE OFFICE TO ADMINISTER THE PROGRAM ON
21 BEHALF OF THE OFFICE TO THE EXTENT SPECIFIED IN A CONTRACT BETWEEN
22 THE OFFICE AND THE ADMINISTRATOR.
- 23 (6) "QUALIFIED BORROWER" MEANS A PERSON WHO:
- 24 (a) OWNS A RESIDENTIAL BUILDING;
- 25 (b) TIMELY SUBMITS A COMPLETE APPLICATION, INCLUDING THE
26 REQUIRED ADMINISTRATIVE FEE, FOR A RESIDENTIAL ENERGY
27 IMPROVEMENT LOAN TO THE OFFICE OR, IF APPLICABLE, THE PROGRAM

1 ADMINISTRATOR; AND

2 (c) IF THE RESIDENTIAL ENERGY IMPROVEMENT LOAN APPLIED FOR
3 IS TO BE FUNDED WITH THE PROCEEDS OF SPECIAL ASSESSMENT BONDS
4 ISSUED ON A FEDERALLY TAX-EXEMPT BASIS, HAS INCOME, IN RELATION TO
5 FAMILY SIZE, OF NO MORE THAN ONE HUNDRED FIFTEEN PERCENT OF THE
6 GREATER OF THE MEDIAN INCOME STATEWIDE OR THE AREA MEDIAN
7 INCOME OF THE COUNTY IN WHICH THE RESIDENTIAL BUILDING TO BE
8 IMPROVED IS LOCATED, AS PUBLISHED ANNUALLY BY THE UNITED STATES
9 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, OR ANY OTHER
10 MAXIMUM INCOME AMOUNT THAT MAY BE FEDERALLY MANDATED FOR
11 SUCH BONDS.

12 (7) "RENEWABLE ENERGY IMPROVEMENT" MEANS ONE OR MORE
13 FIXTURES, PRODUCTS, SYSTEMS, OR DEVICES, OR AN INTERACTING GROUP
14 OF FIXTURES, PRODUCTS, SYSTEMS, OR DEVICES INSTALLED BEHIND THE
15 METER OF ANY RESIDENTIAL BUILDING THAT PRODUCES ENERGY FROM
16 RENEWABLE RESOURCES, INCLUDING, BUT NOT LIMITED TO,
17 PHOTOVOLTAIC, SOLAR THERMAL, SMALL WIND, BIOMASS, OR GEOTHERMAL
18 SYSTEMS, AS MAY BE APPROVED BY THE OFFICE; EXCEPT THAT NO
19 RENEWABLE ENERGY IMPROVEMENT SHALL BE AUTHORIZED THAT
20 INTERFERES WITH A RIGHT HELD BY A PUBLIC UTILITY UNDER A
21 CERTIFICATE ISSUED BY THE PUBLIC UTILITIES COMMISSION UNDER ARTICLE
22 5 OF TITLE 40, C.R.S, AND THE PUBLIC UTILITIES COMMISSION SHALL HAVE
23 PRIMARY JURISDICTION TO ADJUDICATE DISPUTES AS TO WHETHER A
24 RENEWABLE ENERGY IMPROVEMENT INTERFERES WITH SUCH A RIGHT.

25 (8) "RESIDENTIAL BUILDING" MEANS AN IMPROVEMENT TO REAL
26 PROPERTY THAT IS DESIGNED FOR USE PREDOMINANTLY AS A PLACE OF
27 RESIDENCY BY AN INDIVIDUAL, A FAMILY, OR FAMILIES. THE TERM

1 INCLUDES BUILDINGS, STRUCTURES, MOBILE HOMES, MANUFACTURED
2 HOMES, AS DEFINED IN SECTION 42-1-102 (106) (b), C.R.S., FIXTURES,
3 FENCES, AMENITIES, AND WATER RIGHTS THAT ARE AN INTEGRAL PART OF
4 THE RESIDENTIAL USE, AND CONNECTED LAND THAT IS BILLED WITH THE
5 IMPROVEMENT FOR PURPOSES OF AD VALOREM PROPERTY TAXATION.

6 (9) "RESIDENTIAL ENERGY IMPROVEMENT" MEANS ONE OR MORE
7 ENERGY EFFICIENCY IMPROVEMENTS OR RENEWABLE ENERGY
8 IMPROVEMENTS, OR BOTH, MADE TO A RESIDENTIAL BUILDING.

9 (10) "RESIDENTIAL ENERGY IMPROVEMENT LOAN" OR "LOAN"
10 MEANS A LOAN MADE BY THE STATE, ACTING BY AND THROUGH THE OFFICE
11 OR A PROGRAM ADMINISTRATOR, THAT:

12 (a) IS MADE TO A QUALIFIED BORROWER FOR THE PURPOSE OF
13 FINANCING A RESIDENTIAL ENERGY IMPROVEMENT;

14 (b) IS IN A MAXIMUM AMOUNT OF THE LESSER OF FIFTEEN
15 THOUSAND DOLLARS OR TWENTY PERCENT OF THE ACTUAL VALUE, AS
16 SPECIFIED IN THE RECORDS OF THE COUNTY ASSESSOR, OF THE RESIDENTIAL
17 BUILDING TO WHICH THE RESIDENTIAL ENERGY IMPROVEMENT BEING
18 FINANCED BY THE LOAN IS TO BE MADE; AND

19 (c) IS MADE PURSUANT TO A CONTRACT BETWEEN THE STATE AND
20 THE QUALIFIED BORROWER THAT SPECIFIES THAT THE LOAN IS TO BE
21 REPAYED THROUGH THE IMPOSITION AND COLLECTION OF A SPECIAL
22 ASSESSMENT IMPOSED ON THE RESIDENTIAL BUILDING FOR A PERIOD OF NO
23 MORE THAN THIRTY YEARS AND THAT THE OFFICE, OR ANY PROGRAM
24 ADMINISTRATOR ACTING ON BEHALF OF THE OFFICE, MAY OBTAIN SUCH
25 INFORMATION REGARDING THE ENERGY CONSUMPTION OF THE RESIDENTIAL
26 BUILDING AS IS NECESSARY TO HELP THE OFFICE MONITOR THE QUALITY OF
27 THE RESIDENTIAL ENERGY IMPROVEMENTS FINANCED BY RESIDENTIAL

1 ENERGY IMPROVEMENT LOANS AND MEASURE THE ENERGY SAVINGS
2 ACHIEVED BY THE PROGRAM.

3 (11) "SPECIAL ASSESSMENT" MEANS A CHARGE LEVIED BY THE
4 STATE, ACTING BY AND THROUGH THE OFFICE, AGAINST A RESIDENTIAL
5 BUILDING SPECIALLY BENEFITED BY A RESIDENTIAL ENERGY IMPROVEMENT
6 FINANCED BY A RESIDENTIAL ENERGY IMPROVEMENT LOAN THAT IS
7 PROPORTIONAL TO THE BENEFIT RECEIVED FROM THE RESIDENTIAL ENERGY
8 IMPROVEMENT AND DOES NOT EXCEED THE ESTIMATED AMOUNT OF
9 SPECIAL BENEFITS RECEIVED.

10 (12) "SPECIAL ASSESSMENT BOND" OR "BOND" MEANS ANY BOND,
11 NOTE, INTERIM CERTIFICATE, CONTRACT, OR OTHER EVIDENCE OF
12 INDEBTEDNESS OF THE STATE ISSUED BY THE STATE, ACTING BY AND
13 THROUGH THE OFFICE, PURSUANT TO THIS PART 2 THAT IS PAYABLE, IN
14 WHOLE OR IN PART, FROM REVENUES GENERATED BY SPECIAL
15 ASSESSMENTS IMPOSED AS AUTHORIZED IN THIS PART 2 AND, AT THE
16 DISCRETION OF THE STATE, ACTING BY AND THROUGH THE OFFICE, FROM
17 ANY OTHER LEGALLY AVAILABLE SOURCE OF MONEY LAWFULLY PLEDGED
18 FOR THEIR REPAYMENT.

19 **24-38.5-204. Residential energy improvement loan program -**
20 **creation - administration - powers and duties of governor's energy**
21 **office.** (1) THE RESIDENTIAL ENERGY IMPROVEMENT LOAN PROGRAM IS
22 HEREBY CREATED. THE OFFICE SHALL FINANCE, DEVELOP, OVERSEE, AND
23 ADMINISTER THE PROGRAM AND SHALL OVERSEE ANY PROGRAM
24 ADMINISTRATOR IT HIRES TO HELP ADMINISTER THE PROGRAM ON THE
25 OFFICE'S BEHALF.

26 (2) (a) THE OFFICE SHALL HAVE THE FOLLOWING POWERS AND
27 DUTIES RELATING TO THE FINANCING, DEVELOPMENT, IMPLEMENTATION,

1 AND ADMINISTRATION OF THE PROGRAM:

2 (I) PURSUANT TO SECTION 24-38.5-205, AND SUBJECT TO
3 APPROVAL OF THE BALLOT ISSUE SUBMITTED TO THE VOTERS OF THE STATE
4 PURSUANT TO SECTION 24-38.5-206, TO IMPOSE SPECIAL ASSESSMENTS AND
5 ISSUE SPECIAL ASSESSMENT BONDS, AND, IN CONNECTION WITH THIS
6 POWER:

7 (A) TO ESTABLISH RESERVE FUNDS;

8 (B) TO ENGAGE THE SERVICES OF CONSULTANTS, FINANCIAL
9 ADVISORS, UNDERWRITERS, BOND INSURERS, LETTER OF CREDIT BANKS,
10 RATING AGENCIES, AGENTS, OR OTHER PERSONS WHOSE SERVICES MAY BE
11 REQUIRED OR DEEMED ADVANTAGEOUS BY THE OFFICE IN CONNECTION
12 WITH SPECIAL ASSESSMENT BONDS. THE OFFICE SHALL CONTRACT FOR
13 SUCH SERVICES IN ACCORDANCE WITH THE "PROCUREMENT CODE",
14 ARTICLES 101 TO 112 OF THIS TITLE; EXCEPT THAT CONTRACTING FOR
15 SERVICES OF BOND INSURERS, LETTER OF CREDIT BANKS, AND RATING
16 AGENCIES SHALL NOT BE SUBJECT TO THE "PROCUREMENT CODE".

17 (C) TO COLLABORATE WITH THE DEPARTMENT OF LOCAL AFFAIRS,
18 COUNTY ASSESSORS, AND COUNTY TREASURERS TO ENSURE THAT SPECIAL
19 ASSESSMENTS ARE EFFICIENTLY AND TIMELY COLLECTED AND THAT
20 COUNTIES ARE APPROPRIATELY REIMBURSED FOR COSTS INCURRED IN
21 CONNECTION WITH THE COLLECTION OF SPECIAL ASSESSMENTS;

22 (II) TO MAKE RESIDENTIAL ENERGY IMPROVEMENT LOANS TO
23 QUALIFIED BORROWERS AND, IN CONNECTION WITH THIS POWER:

24 (A) TO ESTABLISH THE RESIDENTIAL ENERGY LOAN APPLICATION
25 PROCESS AND IMPOSE AN APPLICATION FEE IN AN AMOUNT THAT IS
26 REASONABLY CALCULATED TO DEFRAY THE COSTS OF ADMINISTERING THE
27 PROGRAM AND IS NOT MORE THAN SEVENTY-FIVE DOLLARS;

1 (B) TO ESTABLISH SUCH PROCEDURES AS ARE NECESSARY TO
2 ENSURE THAT ONLY QUALIFIED BORROWERS RECEIVE RESIDENTIAL ENERGY
3 IMPROVEMENT LOANS, TO VERIFY THAT MONEYS LOANED ARE USED ONLY
4 TO FINANCE THE CONSTRUCTION OR INSTALLATION OF RESIDENTIAL
5 ENERGY IMPROVEMENTS AT REASONABLE MARKET RATES, AND TO
6 OTHERWISE PREVENT FRAUD AND ABUSE;

7 (C) IF DEEMED NECESSARY BY THE DIRECTOR, TO CERTIFY
8 CONTRACTORS TO CONSTRUCT OR INSTALL RESIDENTIAL ENERGY
9 IMPROVEMENTS FINANCED BY RESIDENTIAL ENERGY IMPROVEMENT LOANS;
10 AND

11 (D) TO LIMIT THE NUMBER OF LOANS MADE SO AS TO ENSURE THE
12 LONG-TERM FINANCIAL STABILITY OF THE PROGRAM. THE OFFICE MAY
13 HAVE MORE THAN ONE HUNDRED THIRTY-THREE THOUSAND RESIDENTIAL
14 IMPROVEMENT LOANS OUTSTANDING AT ANY ONE TIME ONLY IF THE
15 DIRECTOR CONSULTS WITH THE STATE TREASURER AND THE STATE
16 TREASURER CONFIRMS THAT ADDITIONAL LOANS CAN BE MADE WITHOUT
17 THREATENING THE LONG-TERM FINANCIAL STABILITY OF THE PROGRAM.

18 (III) (A) TO HIRE A PROGRAM ADMINISTRATOR IN ACCORDANCE
19 WITH THE PROVISIONS OF THE "PROCUREMENT CODE", ARTICLES 101 TO
20 112 OF THIS TITLE.

21 (B) THE OFFICE MAY DELEGATE ANY OF ITS POWERS AND DUTIES
22 UNDER THIS PART 2 TO ANY PROGRAM ADMINISTRATOR IT HIRES; EXCEPT
23 THAT THE OFFICE SHALL NOT DELEGATE THE POWER TO DETERMINE THE
24 METHOD OF CALCULATING SPECIAL ASSESSMENTS OR THE POWER TO ISSUE
25 SPECIAL ASSESSMENT BONDS.

26 (IV) TO MONITOR THE QUALITY OF RESIDENTIAL ENERGY
27 IMPROVEMENTS FINANCED BY RESIDENTIAL ENERGY IMPROVEMENT LOANS

1 AND MEASURE THE TOTAL ENERGY SAVING ACHIEVED BY THE PROGRAM;
2 AND

3 (V) TO EXERCISE SUCH OTHER POWERS AND PERFORM SUCH OTHER
4 DUTIES AS ARE NECESSARY OR INCIDENTAL TO OR IMPLIED FROM THE
5 POWERS AND DUTIES SPECIFIED IN THIS PART 2.

6 **24-38.5-205. Special assessment bonds - legal investment -**
7 **exemption from taxation - special assessment lien.** (1) IF THE VOTERS
8 OF THE STATE APPROVE THE BALLOT QUESTION SUBMITTED PURSUANT TO
9 SECTION 24-38.5-206, THE STATE, ACTING BY AND THROUGH THE OFFICE,
10 MAY ISSUE SPECIAL ASSESSMENT BONDS FOR THE PURPOSE OF FUNDING
11 RESIDENTIAL IMPROVEMENT LOANS. THE BONDS SHALL BE ISSUED
12 PURSUANT TO A RESOLUTION OF THE OFFICE OR A TRUST INDENTURE, SHALL
13 NOT BE SECURED BY AN ENCUMBRANCE, MORTGAGE, OR OTHER PLEDGE OF
14 REAL OR PERSONAL PROPERTY OF THE STATE, AND SHALL BE PAYABLE
15 FROM SPECIAL ASSESSMENTS AND ANY OTHER LAWFULLY PLEDGED STATE
16 REVENUES UNLESS THE BOND RESOLUTION OR TRUST INDENTURE
17 SPECIFICALLY LIMITS THE SOURCE OF DISTRICT REVENUES FROM WHICH THE
18 BONDS ARE PAYABLE.

19 (2) BONDS MAY BE EXECUTED AND DELIVERED AT SUCH TIMES;
20 MAY BE IN SUCH FORM AND DENOMINATIONS AND INCLUDE SUCH TERMS
21 AND MATURITIES; MAY BE SUBJECT TO OPTIONAL OR MANDATORY
22 REDEMPTION PRIOR TO MATURITY WITH OR WITHOUT A PREMIUM; MAY BE
23 IN FULLY REGISTERED FORM OR BEARER FORM REGISTRABLE AS TO
24 PRINCIPAL OR INTEREST OR BOTH; MAY BEAR SUCH CONVERSION
25 PRIVILEGES; MAY BE PAYABLE IN SUCH INSTALLMENTS AND AT SUCH TIMES
26 NOT EXCEEDING THIRTY YEARS FROM THE DATE THEREOF; MAY BE
27 PAYABLE AT SUCH PLACE OR PLACES WHETHER WITHIN OR WITHOUT THE

1 STATE; MAY BEAR INTEREST AT SUCH RATE OR RATES PER ANNUM, WHICH
2 MAY BE FIXED OR VARY ACCORDING TO INDEX, PROCEDURE, OR FORMULA
3 OR AS DETERMINED BY THE STATE WITHOUT REGARD TO ANY INTEREST
4 RATE LIMITATION APPEARING IN ANY OTHER LAW OF THE STATE; MAY BE
5 SUBJECT TO PURCHASE AT THE OPTION OF THE HOLDER OR THE STATE; MAY
6 BE EVIDENCED IN SUCH MANNER; MAY BE EXECUTED BY SUCH OFFICERS OF
7 THE STATE, INCLUDING THE USE OF ONE OR MORE FACSIMILE SIGNATURES
8 SO LONG AS AT LEAST ONE MANUAL SIGNATURE APPEARS ON THE BONDS,
9 WHICH MAY BE EITHER OF THE DIRECTOR OR OF AN AGENT OF THE STATE OR
10 OF THE OFFICE AUTHENTICATING THE SAME; MAY BE IN THE FORM OF
11 COUPON BONDS THAT HAVE ATTACHED INTEREST COUPONS BEARING A
12 MANUAL OR FACSIMILE SIGNATURE OF THE DIRECTOR OR THE AGENT; AND
13 MAY CONTAIN SUCH PROVISIONS NOT INCONSISTENT WITH THIS PART 2, ALL
14 AS PROVIDED IN THE RESOLUTION OF THE OFFICE UNDER WHICH THE BONDS
15 ARE AUTHORIZED TO BE ISSUED OR AS PROVIDED IN A TRUST INDENTURE
16 BETWEEN THE STATE AND ANY BANK OR TRUST COMPANY HAVING FULL
17 TRUST POWERS.

18 (3) BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT SUCH
19 PRICE OR PRICES, IN SUCH MANNER, AND AT SUCH TIMES AS DETERMINED
20 BY THE STATE, ACTING BY AND THROUGH THE OFFICE, AND THE STATE MAY
21 PAY ALL FEES, EXPENSES, AND COMMISSIONS THAT IT DEEMS NECESSARY
22 OR ADVANTAGEOUS IN CONNECTION WITH THE SALE OF THE BONDS. THE
23 POWER TO FIX THE DATE OF SALE OF THE BONDS, TO RECEIVE BIDS OR
24 PROPOSALS, TO AWARD AND SELL BONDS, TO FIX INTEREST RATES, AND TO
25 TAKE ALL OTHER ACTION NECESSARY TO SELL AND DELIVER THE BONDS
26 MAY BE DELEGATED TO AN OFFICER OR AGENT OF THE STATE OR OF THE
27 OFFICE. ANY OUTSTANDING BONDS MAY BE REFUNDED BY THE STATE,

1 ACTING BY AND THROUGH THE OFFICE, PURSUANT TO ARTICLE 56 OF TITLE
2 11, C.R.S. ALL BONDS AND ANY INTEREST COUPONS APPLICABLE THERETO
3 ARE DECLARED TO BE NEGOTIABLE INSTRUMENTS.

4 (4) THE RESOLUTION OR A TRUST INDENTURE AUTHORIZING THE
5 ISSUANCE OF THE BONDS MAY PLEDGE ALL OR A PORTION OF ANY SPECIAL
6 FUND CREATED BY THE STATE, ACTING BY AND THROUGH THE OFFICE, MAY
7 CONTAIN SUCH PROVISIONS FOR PROTECTING AND ENFORCING THE RIGHTS
8 AND REMEDIES OF HOLDERS OF ANY OF THE BONDS AS THE STATE DEEMS
9 APPROPRIATE, MAY SET FORTH THE RIGHTS AND REMEDIES OF THE HOLDERS
10 OF ANY OF THE BONDS, AND MAY CONTAIN PROVISIONS THAT THE STATE
11 DEEMS APPROPRIATE FOR THE SECURITY OF THE HOLDERS OF THE BONDS,
12 INCLUDING, BUT NOT LIMITED TO, PROVISIONS FOR LETTERS OF CREDIT,
13 INSURANCE, STANDBY CREDIT AGREEMENTS, OR OTHER FORMS OF CREDIT
14 ENSURING TIMELY PAYMENT OF THE BONDS, INCLUDING THE REDEMPTION
15 PRICE OR THE PURCHASE PRICE.

16 (5) ANY PLEDGE OF MONEYS OR OTHER PROPERTY MADE BY THE
17 STATE OR BY ANY PERSON OR GOVERNMENTAL UNIT WITH WHICH THE
18 STATE CONTRACTS SHALL BE VALID AND BINDING FROM THE TIME THE
19 PLEDGE IS MADE. THE MONEYS OR OTHER PROPERTY SO PLEDGED SHALL
20 IMMEDIATELY BE SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY
21 PHYSICAL DELIVERY OR FURTHER ACT, AND THE LIEN OF THE PLEDGE SHALL
22 BE VALID AND BINDING AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND
23 IN TORT, CONTRACT, OR OTHERWISE AGAINST THE PLEDGING PARTY
24 REGARDLESS OF WHETHER THE CLAIMING PARTY HAS NOTICE OF THE LIEN.
25 THE INSTRUMENT BY WHICH THE PLEDGE IS CREATED NEED NOT BE
26 RECORDED OR FILED.

27 (6) NEITHER THE DIRECTOR, ANY EMPLOYEE, OFFICER, OR AGENT

1 OF THE STATE OR OF THE OFFICE, NOR ANY PERSON EXECUTING THE BONDS
2 SHALL BE LIABLE PERSONALLY ON THE BONDS OR SUBJECT TO ANY
3 PERSONAL LIABILITY BY REASON OF THE ISSUANCE THEREOF.

4 (7) THE STATE MAY PURCHASE ITS BONDS OUT OF ANY AVAILABLE
5 MONEYS AND MAY HOLD, PLEDGE, CANCEL, OR RESELL SUCH BONDS
6 SUBJECT TO AND IN ACCORDANCE WITH AGREEMENTS WITH THE HOLDERS
7 THEREOF.

8 (8) THE STATE HEREBY PLEDGES AND AGREES WITH THE HOLDERS
9 OF ANY BONDS AND WITH THOSE PARTIES WHO ENTER INTO CONTRACTS
10 WITH THE STATE PURSUANT TO THIS PART 2 THAT THE STATE WILL NOT
11 LIMIT, ALTER, RESTRICT, OR IMPAIR THE RIGHTS VESTED IN THE STATE OR
12 THE RIGHTS OR OBLIGATIONS OF ANY PERSON WITH WHICH THE STATE
13 CONTRACTS TO FULFILL THE TERMS OF ANY AGREEMENTS MADE PURSUANT
14 TO THIS PART 2. THE STATE FURTHER AGREES THAT IT WILL NOT IN ANY
15 WAY IMPAIR THE RIGHTS OR REMEDIES OF THE HOLDERS OF BONDS UNTIL
16 THE BONDS HAVE BEEN PAID OR UNTIL ADEQUATE PROVISION FOR PAYMENT
17 HAS BEEN MADE. THE STATE MAY INCLUDE THIS PROVISION AND
18 UNDERTAKING FOR THE STATE IN ITS BONDS.

19 (9) BANKS, TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS,
20 INSURANCE COMPANIES, EXECUTORS, ADMINISTRATORS, GUARDIANS,
21 TRUSTEES, AND OTHER FIDUCIARIES MAY LEGALLY INVEST ANY MONEYS
22 WITHIN THEIR CONTROL IN ANY BONDS ISSUED UNDER THIS PART 2. PUBLIC
23 ENTITIES, AS DEFINED IN SECTION 24-75-601 (1), MAY INVEST PUBLIC
24 FUNDS IN BONDS ONLY IF THE BONDS SATISFY THE INVESTMENT
25 REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF THIS TITLE.

26 (10) BONDS SHALL BE EXEMPT FROM ALL TAXATION AND
27 ASSESSMENTS IN THE STATE. IN THE RESOLUTION OR INDENTURE

1 AUTHORIZING BONDS, THE STATE MAY WAIVE THE EXEMPTION FROM
2 FEDERAL INCOME TAXATION FOR INTEREST ON THE BONDS. BONDS SHALL
3 BE EXEMPT FROM THE PROVISIONS OF ARTICLE 51 OF TITLE 11, C.R.S.

4 (11) A SPECIAL ASSESSMENT, TOGETHER WITH ALL INTEREST
5 THEREON AND PENALTIES FOR DEFAULT IN PAYMENT THEREOF, AND ALL
6 COSTS IN COLLECTING A SPECIAL ASSESSMENT SHALL CONSTITUTE, FROM
7 THE EFFECTIVE DATE OF THE IMPOSITION OF THE SPECIAL ASSESSMENT, A
8 PERPETUAL LIEN IN THE AMOUNT ASSESSED AGAINST EACH RESIDENTIAL
9 BUILDING AND SHALL HAVE PRIORITY OVER ANY OTHER LIENS EXCEPT A
10 GENERAL TAX LIEN.

11 **24-38.5-206. Submission of ballot question regarding issuance**
12 **of special assessment bonds.** (1) THE SECRETARY OF STATE SHALL
13 SUBMIT A BALLOT QUESTION TO A VOTE OF THE REGISTERED ELECTORS OF
14 THE STATE OF COLORADO AT THE STATEWIDE ELECTION TO BE HELD IN
15 NOVEMBER 2009 FOR THEIR APPROVAL OR REJECTION. EACH ELECTOR
16 VOTING AT SAID NOVEMBER ELECTION SHALL CAST A VOTE AS PROVIDED
17 BY LAW EITHER "YES" OR "NO" ON THE PROPOSITION: "SHALL STATE OF
18 COLORADO DEBT BE INCREASED \$2,000,000,000, WITH A REPAYMENT COST
19 OF \$_____, WITH NO INCREASE IN ANY TAXES, FOR THE PURPOSE OF
20 FINANCING THE COSTS OF ISSUING RESIDENTIAL ENERGY IMPROVEMENT
21 LOANS THAT OWNERS OF RESIDENTIAL BUILDINGS WHO VOLUNTARILY
22 CONTRACT FOR SUCH LOANS CAN USE TO FINANCE ENERGY EFFICIENCY
23 IMPROVEMENTS AND RENEWABLE ENERGY IMPROVEMENTS TO THEIR
24 RESIDENTIAL BUILDINGS, AND ANY COSTS NECESSARY OR INCIDENTAL
25 THERETO, BY THE ISSUANCE OF SPECIAL ASSESSMENT BONDS PAYABLE
26 FROM SPECIAL ASSESSMENTS IMPOSED AGAINST THE RESIDENTIAL
27 BUILDINGS AND FROM OTHER MONEYS THAT MAY LAWFULLY BE PLEDGED

1 TO THE PAYMENT OF THE BONDS, AND SHALL THE REVENUES FROM THE
2 SPECIAL ASSESSMENTS AND ANY MONEYS DERIVED FROM THE DEPOSIT AND
3 INVESTMENT OF THE REVENUES OR OF ASSESSMENT BOND PROCEEDS
4 CONSTITUTE A VOTER-APPROVED REVENUE CHANGE?"

5 (2) THE VOTES CAST FOR THE ADOPTION OR REJECTION OF THE
6 QUESTION SUBMITTED PURSUANT TO SUBSECTION (1) OF THIS SECTION
7 SHALL BE CANVASSED AND THE RESULT DETERMINED IN THE MANNER
8 PROVIDED BY LAW FOR THE CANVASSING OF VOTES FOR REPRESENTATIVES
9 IN CONGRESS.

10 **24-38.5-207. Repeal of part - repeal of section.** (1) IF THE
11 VOTERS OF THE STATE DO NOT APPROVE THE BALLOT QUESTION SUBMITTED
12 PURSUANT TO SECTION 24-38.5-206, THIS PART 2 IS REPEALED, EFFECTIVE
13 JANUARY 1, 2010.

14 (2) IF THE VOTERS OF THE STATE APPROVE THE BALLOT QUESTION
15 SUBMITTED PURSUANT TO SECTION 24-38.5-206, THIS SECTION IS
16 REPEALED, EFFECTIVE JANUARY 1, 2010.

17 **SECTION 2. Act subject to petition - effective date.** This act
18 shall take effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly that is
20 allowed for submitting a referendum petition pursuant to article V, section
21 1 (3) of the state constitution, (August 4, 2009, if adjournment sine die is
22 on May 6, 2009); except that, if a referendum petition is filed against this
23 act or an item, section, or part of this act within such period, then the act,
24 item, section, or part, if approved by the people, shall take effect on the
25 date of the official declaration of the vote thereon by proclamation of the
26 governor.

