

**First Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 09-0301.01 Duane Gall

**SENATE BILL 09-051**

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**SENATE SPONSORSHIP**

**Carroll M.,**

**HOUSE SPONSORSHIP**

**Levy,**

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**Senate Committees**

Local Government and Energy  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING MEASURES TO FACILITATE THE FINANCING OF**  
102 **ENERGY-EFFICIENT STRUCTURES.**

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**Bill Summary**

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

Amends the "Colorado Clean Energy Finance Program Act" to:

- ! Specifically include credit unions among the lenders that may make loans under the program; and
- ! Specifically include renewable energy developers and installers of solar panels and other renewable energy generation equipment among the contractors that may be certified under the program.

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.*

Authorizes the governor's energy office, as administrator of the Colorado clean energy finance program, to develop and license the use of a "Clean & Green Colorado" logo and marketing materials for use by lenders and certified contractors under the program.

Clarifies that funding under the "Colorado Clean Energy Development Authority Act" is available for energy efficiency improvements to apartment buildings. Removes an existing cap on the amount of loans. Increases the cap on the amount of loans guaranteed by the state treasurer by \$10 million, from a maximum of \$30 million to a maximum of \$40 million.

Requires landlords to allow energy audits of rental properties if so requested by a tenant, at the tenant's expense.

Creates a "Renewable Energy Suppliers Act", substantially similar to the existing "Geothermal Heat Suppliers Act", to authorize and encourage the installation of renewable energy generation equipment on property owned by others, in exchange for future purchases of energy under power purchase agreements, assignments of utility rebates under the existing renewable energy standard statute, or both.

Directs the public utilities commission to require utilities to set aside a portion of their annual budget for rebates under the standard rebate offer program of "Amendment 37" for low-income utility customers.

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

2           **SECTION 1. Short title.** This act shall be known and may be  
3 cited as the "Renewable Energy Financing Act of 2009".

4           **SECTION 2. Legislative declaration.** (1) The general assembly  
5 finds, determines, and declares that:

6           (a) With the passage of "Amendment 37" in 2004, Colorado  
7 moved to the forefront among states committed to reducing carbon  
8 emissions and building a new energy economy;

9           (b) The heating and cooling of buildings accounts for a major  
10 portion of Colorado's energy usage;

11           (c) Solar electric, solar heating and cooling, and other distributed  
12 energy technologies offer the opportunity to greatly diversify Colorado's  
13 energy portfolio while reducing transmission costs;

1 (d) The installation of solar panels, insulation of existing  
2 buildings, and incorporation of "green" building technology in new  
3 buildings presents new opportunities for employment and business  
4 development; and

5 (e) Encouraging energy-wise investment by individuals and  
6 businesses statewide will have long-term beneficial effects on Colorado's  
7 economy and quality of life.

8 (2) The general assembly further finds, determines, and declares  
9 that:

10 (a) The industrial and commercial sectors of our economy  
11 represent an even greater potential for the expansion of customer-sited  
12 solar electric generation technology than does the residential sector;  
13 however, at present, the need to participate in a competitive bidding  
14 process acts as a barrier to development in these sectors.

15 (b) Therefore, the general assembly supports the adoption of a  
16 standard program offer by qualified retail utilities for customer-sited solar  
17 electric generation facilities between one hundred kilowatts and one  
18 megawatt to encourage the installation of more systems than would  
19 otherwise occur under the existing competitive bidding process.

20 **SECTION 3.** Article 38.7 of title 24, Colorado Revised Statutes,  
21 is amended BY THE ADDITION OF A NEW SECTION to read:

22 **24-38.7-101.5. Legislative declaration.** THE GENERAL ASSEMBLY  
23 FINDS, DETERMINES, AND DECLARES THAT ENERGY-EFFICIENCY  
24 IMPROVEMENTS FOR EXISTING BUILDINGS IS ONE OF THE WISEST  
25 INVESTMENTS THAT ANY INDIVIDUAL OR BUSINESS CAN MAKE. HOWEVER,  
26 MANY COLORADANS MAY BE UNDER THE MISTAKEN IMPRESSION THAT THE  
27 COST OF SUCH IMPROVEMENTS IS OUT OF REACH FOR THEM OR THAT

1 FINANCING WOULD BE DIFFICULT TO OBTAIN. THEREFORE, THE GENERAL  
2 ASSEMBLY ENCOURAGES ALL COLORADANS TO INVESTIGATE THE  
3 POSSIBILITY OF FINANCING ENERGY-EFFICIENCY IMPROVEMENTS BY  
4 CONTACTING THEIR CURRENT LENDERS, INCLUDING BANKS, MORTGAGE  
5 LENDERS, CREDIT UNIONS, AND OTHER FINANCIAL INSTITUTIONS.

6 **SECTION 4.** The introductory portion to 24-38.7-102 and  
7 24-38.7-102 (3), Colorado Revised Statutes, are amended to read:

8 **24-38.7-102. Definitions.** As used in this article PART 1, unless  
9 the context otherwise requires:

10 (3) "Clean energy improvement" means:

11 (a) Any repair of or addition or improvement to residential real  
12 property completed by or under the supervision of a certified contractor  
13 that improves the energy efficiency of the property or replaces all or a  
14 portion of the energy from nonrenewable sources used in connection with  
15 the property with energy from renewable sources; ~~and~~

16 (b) ANY INSTALLATION OF, OR CONNECTION WITH, EQUIPMENT  
17 THAT PRODUCES OR CONDUCTS RECYCLED ENERGY OR RENEWABLE  
18 ENERGY RESOURCES, AS DEFINED IN SECTION 40-2-124, C.R.S., OR SOLAR  
19 HEATING AND COOLING SYSTEMS, FOR USE ON RESIDENTIAL OR  
20 COMMERCIAL REAL PROPERTY IF SUCH INSTALLATION OR CONNECTION IS  
21 COMPLETED BY OR UNDER THE SUPERVISION OF A CERTIFIED CONTRACTOR.

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23 **SECTION 5.** 24-38.7-103 (1) (c), Colorado Revised Statutes, is  
24 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

25 **24-38.7-103. Governor's energy office - powers and duties -**  
26 **program - fund created.** (1) The Colorado clean energy finance  
27 program is hereby created. The office shall oversee the program and the

1 program administrator and shall, in addition to exercising any other  
2 powers and performing any other duties specified in this article:

3 (c) Develop and operate or contract with the program  
4 administrator for the development and operation of a quality assurance,  
5 measurement, and verification program to:

6 (III) AUTHORIZE PARTICIPATING LENDERS AND CERTIFIED  
7 CONTRACTORS TO USE THE "COLORADO CLEAN & GREEN" LOGO OR OTHER  
8 LOGO AND MARKETING MATERIALS PREPARED IN ACCORDANCE WITH  
9 SECTION 24-38.7-105.

10 **SECTION 6.** 24-38.7-103 (3) (d), Colorado Revised Statutes, is  
11 amended to read:

12 **24-38.7-103. Governor's energy office - powers and duties -**  
13 **program - fund created.** (3) (d) The state treasurer may invest up to a  
14 total amount of ~~thirty~~ FORTY million dollars of state moneys in bonds or  
15 notes issued by participating public or private lenders for the purpose of  
16 funding clean energy loans UNDER THIS PART 1 AND UNDER PART 2 OF THIS  
17 ARTICLE during the 2008-09, 2009-10, and 2010-11 fiscal years subject  
18 to the ~~limitation that~~ FOLLOWING CONDITIONS:

19 (I) The state treasurer may invest no more than ~~ten~~ FIFTEEN  
20 million dollars during the 2008-09 fiscal year and no more than a total  
21 amount of ~~twenty~~ TWENTY-FIVE million dollars during the 2008-09 and  
22 2009-10 fiscal years; AND

23 (II) OF THESE AMOUNTS, IN THE STATE TREASURER'S DISCRETION  
24 AND SUBJECT TO THE QUALIFICATIONS FOR STATE INVESTMENTS LISTED IN  
25 SECTION 24-36-113 AND THE AVAILABILITY OF PROJECTS IN WHICH TO  
26 INVEST, CLEAN ENERGY LOANS UNDER PART 2 OF THIS ARTICLE MAY  
27 COMPRISE UP TO TEN MILLION DOLLARS PER YEAR DURING THE 2008-09

1 FISCAL YEAR AND A TOTAL OF UP TO FIFTEEN MILLION DOLLARS DURING  
2 THE 2009-10 AND 2010-11 FISCAL YEARS.

3 **SECTION 7.** Article 38.7 of title 24, Colorado Revised Statutes,  
4 is amended BY THE ADDITION OF A NEW SECTION to read:

5 **24-38.7-105. Administration - "Colorado Clean & Green"**  
6 **designation - cash funding.** (1) THE OFFICE, OR THE ADMINISTRATOR  
7 UNDER THE DIRECTION OF THE OFFICE, MAY PRODUCE OR CAUSE TO BE  
8 PRODUCED A SUITABLE DESIGN OR DRAWING, REFERRED TO IN THIS  
9 SECTION AS THE "LOGO", TO BE USED IN THE MARKETING OF CLEAN  
10 ENERGY LOANS AND CLEAN ENERGY IMPROVEMENTS. THE LOGO MAY, BUT  
11 IS NOT REQUIRED TO, CONTAIN THE SLOGAN "COLORADO CLEAN &  
12 GREEN" OR OTHER WORDS OR SYMBOLS AS THE OFFICE IN ITS DISCRETION  
13 MAY DEEM APPROPRIATE.

14 (2) THE TITLE TO THE LOGO AND COPYRIGHTS FOR ALL MARKETING  
15 MATERIALS USING THE LOGO SHALL AT ALL TIMES REMAIN IN AND BE  
16 RESERVED TO THE OFFICE.

17 (3) THE LOGO, OR ANY REPRODUCTION, COPY, OR FACSIMILE  
18 THEREOF, MAY NOT BE USED IN ANY ADVERTISING, DISPLAY, LABELING, OR  
19 IDENTIFICATION WITHOUT PRIOR WRITTEN PERMISSION FROM THE OFFICE.

20 (4) A LENDER OR CERTIFIED CONTRACTOR THAT COMPLIES WITH  
21 THIS ARTICLE AND THE OFFICE'S QUALIFICATIONS FOR USE OF THE LOGO  
22 SHALL BE PERMITTED TO USE THE LOGO IN ADVERTISING, LABELING, OR  
23 MARKETING OF PRODUCTS AND SERVICES.

24 (5) THE COST OF THE DESIGN AND PRODUCTION OF THE LOGO  
25 SHALL BE RECOVERED THROUGH LICENSE FEES. THE OFFICE OR  
26 ADMINISTRATOR MAY CONDITION THE DESIGN AND PRODUCTION OF THE  
27 LOGO ON THE RECEIPT OF GIFTS, GRANTS, DONATIONS, OR ADVANCE

1 DEPOSITS IN AN AMOUNT SUFFICIENT TO DEFRAY THE COSTS OF DESIGN  
2 AND PRODUCTION.

3 **SECTION 8.** Article 38.7 of title 24, Colorado Revised Statutes,  
4 **is amended BY THE ADDITION OF A NEW PART to read:**

5 **PART 2**

6 **THIRD-PARTY COMMERCIAL**

7 **SOLAR ELECTRIC INSTALLATIONS**

8 **24-38.7-201. Legislative declaration.** THIS PART 2 IS INTENDED  
9 **TO COMPLEMENT PART 1 OF THIS ARTICLE BY FACILITATING CLEAN ENERGY**  
10 **LOANS FOR LARGER-SCALE COMMERCIAL, INDUSTRIAL, AND**  
11 **INSTITUTIONAL INSTALLATIONS OF SOLAR ELECTRIC GENERATION**  
12 **FACILITIES, WHICH HOLD GREAT POTENTIAL FOR CLEAN ENERGY**  
13 **DEVELOPMENT BUT IN WHICH THE SIZE LIMITATIONS, ECONOMIC**  
14 **INCENTIVES, AND INDUSTRY PRACTICES APPLICABLE TO SMALL**  
15 **RESIDENTIAL INSTALLATIONS EITHER CANNOT BE DUPLICATED OR ARE NOT**  
16 **ECONOMICALLY FEASIBLE.**

17 **24-38.7-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE  
18 **CONTEXT OTHERWISE REQUIRES:**

19 (1) **"CLEAN ENERGY IMPROVEMENT" MEANS AN INSTALLATION OF**  
20 **SOLAR ELECTRIC GENERATION EQUIPMENT AND ANY RELATED CONTROLS,**  
21 **METERS, WIRING, AND OTHER FACILITIES ON COMMERCIAL, INDUSTRIAL, OR**  
22 **GOVERNMENT-OWNED REAL PROPERTY.**

23 (2) **"CLEAN ENERGY LOAN" MEANS A LOAN ORIGINATED BY A**  
24 **PARTICIPATING PUBLIC LENDER OR A PARTICIPATING PRIVATE LENDER,**  
25 **INCLUDING BUT NOT LIMITED TO A BANK OR MORTGAGE LENDER, FOR THE**  
26 **PURPOSE OF FINANCING ONE OR MORE CLEAN ENERGY IMPROVEMENTS TO**  
27 **COMMERCIAL, INDUSTRIAL, OR GOVERNMENT-OWNED REAL PROPERTY.**

1 SUBJECT TO THE FOLLOWING CONDITIONS:

2 (a) THE LOAN MAY, BUT NEED NOT, BE TO AN INDEPENDENT THIRD  
3 PARTY RATHER THAN TO THE OWNER OF THE PROPERTY OR TO A PUBLIC  
4 UTILITY.

5 (b) THE LOAN MAY BE FOR A FIXED TERM OF TWENTY YEARS.

6 (c) THE LOAN MAY BE A FULLY ASSUMABLE, NONRECOURSE LOAN  
7 AND MAY NOT BE SUBJECT TO ANY PREPAYMENT PENALTY.

8 (d) THE AMOUNT OF THE LOAN MAY EXCEED THE AMOUNT STATED  
9 IN SECTION 24-38.7-102 (4).

10 (3) "OFFICE" MEANS THE GOVERNOR'S ENERGY OFFICE.

11 (4) "PUBLIC LENDER" MEANS A COUNTY, MUNICIPALITY, DISTRICT,  
12 AUTHORITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE AUTHORIZED  
13 TO MAKE ECONOMIC DEVELOPMENT, AFFORDABLE HOUSING, OR HOUSING  
14 REHABILITATION LOANS. "PUBLIC LENDER" INCLUDES, WITHOUT  
15 LIMITATION, THE COLORADO HOUSING AND FINANCE AUTHORITY.

16 **24-38.7-203. Governor's energy office - administrator - state**  
17 **treasurer - powers and duties - statement of intent. (1) THE OFFICE**  
18 **AND THE ADMINISTRATOR SHALL ADMINISTER THIS PART 2 SUBSTANTIALLY**  
19 **IN ACCORDANCE WITH PART 1 OF THIS ARTICLE, EXCEPT WITH REGARD TO:**

20 (a) THE DEFINITIONS OF TERMS COMMON TO BOTH PART 1 OF THIS  
21 ARTICLE AND THIS PART 2, AS SUCH DEFINITIONS ARE MODIFIED IN THIS  
22 PART 2; AND

23 (b) PROVISIONS THAT, IN THE JUDGMENT AND DISCRETION OF THE  
24 OFFICE, THE ADMINISTRATOR, AND THE STATE TREASURER, ARE  
25 APPROPRIATE ONLY IN THE CONTEXT OF SMALL RESIDENTIAL  
26 INSTALLATIONS UNDER PART 1 OF THIS ARTICLE..

27 (2) THE PROVISIONS OF PART 1 OF THIS ARTICLE AND OF ARTICLE



1 36 OF THIS TITLE CONCERNING THE TYPE AND QUALITY OF INVESTMENTS  
2 MADE BY THE STATE TREASURER SHALL CONTINUE TO APPLY. THE  
3 GENERAL ASSEMBLY INTENDS THAT THE EXTENSION OF THE PROGRAM  
4 UNDER THIS PART 2 BE ACCOMPLISHED AS SEAMLESSLY AS POSSIBLE,  
5 WITHIN EXISTING APPROPRIATIONS, AND WITH MINIMAL DISRUPTION TO  
6 THE CURRENT PRACTICES OF THE OFFICE, THE ADMINISTRATOR, AND THE  
7 STATE TREASURER.

8 **SECTION 9.** 29-3-103 (10) (m), Colorado Revised Statutes, is  
9 amended to read:

10 **29-3-103. Definitions.** As used in this article, unless the context  
11 otherwise requires:

12 (10) "Project" means any land, building, or other improvement  
13 and all real or personal properties, and any undivided or other interest in  
14 any of the foregoing, except inventories and raw materials, whether or not  
15 in existence, suitable or used for or in connection with any of the  
16 following:

17 (m) Capital improvements to existing SINGLE-FAMILY residential,  
18 MULTI-FAMILY RESIDENTIAL, commercial, or industrial structures, to  
19 retrofit such structures for significant energy savings or installation of  
20 solar or other alternative electrical energy-producing improvements to  
21 serve that structure or other structures on contiguous property under  
22 common ownership.

23 **SECTION 10.** 38-12-505, Colorado Revised Statutes, is amended  
24 BY THE ADDITION OF A NEW SUBSECTION to read:

25 **38-12-505. Uninhabitable residential premises.** (4) WITHIN  
26 ONE MONTH BEFORE OR AFTER THE TENANT'S INITIAL MOVE-IN DATE, AND  
27 AT LEAST ONCE PER YEAR THEREAFTER, AT THE TENANT'S REQUEST, THE

1 LANDLORD SHALL ALLOW AN ENERGY AUDIT TO BE PERFORMED ON THE  
2 DWELLING UNIT BY A PUBLIC UTILITY SERVING THE PROPERTY OR BY AN  
3 INDEPENDENT CONTRACTOR. THE COST, IF ANY, OF AN ENERGY AUDIT  
4 REQUESTED BY A TENANT UNDER THIS SUBSECTION (4) SHALL BE THE  
5 RESPONSIBILITY OF THE TENANT.

6  
7 SECTION 11. 40-1-103 (2), Colorado Revised Statutes, is  
8 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

9 40-1-103. Public utility defined. (2) (c) THE SUPPLY OF  
10 ELECTRICITY OR HEAT TO A CONSUMER OF THE ELECTRICITY OR HEAT  
11 FROM SOLAR GENERATING EQUIPMENT LOCATED ON THE SITE OF THE  
12 CONSUMER'S PROPERTY, WHICH EQUIPMENT IS OWNED OR OPERATED BY AN  
13 ENTITY OTHER THAN THE CONSUMER, SHALL NOT SUBJECT THE OWNER OR  
14 OPERATOR OF THE ON-SITE SOLAR GENERATING EQUIPMENT TO  
15 REGULATION AS A PUBLIC UTILITY BY THE COMMISSION IF THE SOLAR  
16 GENERATING EQUIPMENT IS SIZED TO SUPPLY NO MORE THAN ONE  
17 HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF  
18 ELECTRICITY BY THE CONSUMER AT THAT SITE. FOR PURPOSES OF THIS  
19 PARAGRAPH (c), THE CONSUMER'S SITE SHALL INCLUDE ALL CONTIGUOUS  
20 PROPERTY OWNED OR LEASED BY THE CONSUMER, WITHOUT REGARD TO  
21 INTERRUPTIONS IN CONTIGUITY CAUSED BY EASEMENTS, PUBLIC  
22 THOROUGHFARES, TRANSPORTATION RIGHTS-OF-WAY, OR UTILITY  
23 RIGHTS-OF-WAY.

24 SECTION 12. 40-2-124 (1) (c) (II), (1) (d), (1) (e), and (1) (f)  
25 (V), Colorado Revised Statutes, are amended, and the said 40-2-124 is  
26 further amended BY THE ADDITION OF A NEW SUBSECTION, to  
27 read:

1           **40-2-124. Renewable energy standard - definitions - net**  
2 **metering.** (1) Each provider of retail electric service in the state of  
3 Colorado, other than municipally owned utilities that serve forty thousand  
4 customers or less, shall be considered a qualifying retail utility. Each  
5 qualifying retail utility, with the exception of cooperative electric  
6 associations that have voted to exempt themselves from commission  
7 jurisdiction pursuant to section 40-9.5-104 and municipally owned  
8 utilities, shall be subject to the rules established under this article by the  
9 commission. No additional regulatory authority of the commission other  
10 than that specifically contained in this section is provided or implied. In  
11 accordance with article 4 of title 24, C.R.S., on or before October 1, 2007,  
12 the commission shall revise or clarify existing rules to establish the  
13 following:

14           (c) Electric resource standards:

15           (II) (A) Of the amounts in subparagraph (I) of THIS paragraph (c),  
16 of this subsection (1), at least four percent shall be derived from solar  
17 electric generation technologies. At least one-half of this four percent  
18 shall be derived from solar electric technologies located on-site at  
19 customers' facilities.

20           (B) SOLAR GENERATING EQUIPMENT LOCATED ON-SITE AT  
21 CUSTOMER'S FACILITIES SHALL BE SIZED TO SUPPLY NO MORE THAN ONE  
22 HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF  
23 ELECTRICITY BY THE CONSUMER AT THAT SITE. FOR PURPOSES OF THIS  
24 SUB-SUBPARAGRAPH (B), THE CONSUMER'S "SITE" SHALL INCLUDE ALL  
25 CONTIGUOUS PROPERTY OWNED OR LEASED BY THE CONSUMER, WITHOUT  
26 REGARD TO INTERRUPTIONS IN CONTIGUITY CAUSED BY EASEMENTS,  
27 PUBLIC THOROUGHFARES, TRANSPORTATION RIGHTS-OF-WAY, OR UTILITY

1 RIGHTS-OF-WAY.

2 (d) (I) A system of tradable renewable energy credits that may be  
3 used by a qualifying retail utility to comply with this standard. The  
4 commission shall also analyze the effectiveness of utilizing any regional  
5 system of renewable energy credits in existence at the time of its  
6 rule-making process and determine whether the system is governed by  
7 rules that are consistent with the rules established for this article. The  
8 commission shall not restrict the qualifying retail utility's ownership of  
9 renewable energy credits if the qualifying retail utility complies with the  
10 electric resource standard of paragraph (c) of this subsection (1) and does  
11 not exceed the retail rate impact established by paragraph (g) of this  
12 subsection (1).

13 (II) IN THE SYSTEM OF RENEWABLE ENERGY CREDITS, THE  
14 COMMISSION SHALL INCLUDE PROVISIONS FOR A STANDARD OFFER OF  
15 CREDITS FOR CUSTOMER-SITED GENERATION BETWEEN ONE HUNDRED  
16 KILOWATTS AND ONE MEGAWATT LOCATED IN COLORADO.

17 (III) WHEN ESTABLISHING INCENTIVES FOR THE STANDARD OFFER  
18 DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (d), THE  
19 COMMISSION SHALL TAKE INTO ACCOUNT THE FOLLOWING FACTORS:

20 (A) INCENTIVES SHOULD BE SET AT A COMPETITIVE LEVEL  
21 SUFFICIENT TO ENCOURAGE INCREASED CONSTRUCTION OF  
22 CUSTOMER-SITED GENERATION IN THIS SIZE RANGE; AND

23 (B) INCENTIVES SHOULD NOT BE SO HIGH AS TO COMPROMISE THE  
24 ABILITY OF A QUALIFYING RETAIL UTILITY TO COMPLY WITH THE  
25 PORTFOLIO STANDARD WITHOUT EXCEEDING THE RETAIL RATE IMPACT  
26 ESTABLISHED BY PARAGRAPH (g) OF THIS SUBSECTION (1).

27 (e) A standard rebate offer program, UNDER WHICH:

1           (I) Each qualifying retail utility, except for cooperative electric  
2           associations and municipally owned utilities, shall make available to its  
3           retail electricity customers a standard rebate offer of a minimum of two  
4           dollars per watt for the installation of eligible solar electric generation on  
5           customers' premises up to a maximum of one hundred kilowatts per  
6           installation. Such offer shall allow the customer's retail electricity  
7           consumption to be offset by the solar electricity generated. To the extent  
8           that solar electricity generation exceeds the customer's consumption  
9           during a billing month, such excess electricity shall be carried forward as  
10           a credit to the following month's consumption. To the extent that solar  
11           electricity generation exceeds the customer's consumption during a  
12           calendar year, the customer shall be reimbursed by the qualifying retail  
13           utility at its average hourly incremental cost of electricity supply over the  
14           prior twelve-month period UNLESS THE CUSTOMER MAKES A ONE-TIME  
15           ELECTION, IN WRITING, TO REQUEST THAT THE EXCESS ELECTRICITY BE  
16           CARRIED FORWARD AS A CREDIT FROM MONTH TO MONTH INDEFINITELY  
17           UNTIL THE CUSTOMER TERMINATES SERVICE WITH THE QUALIFYING RETAIL  
18           UTILITY, AT WHICH TIME NO PAYMENT SHALL BE REQUIRED FROM THE  
19           QUALIFYING RETAIL UTILITY FOR ANY REMAINING EXCESS ELECTRICITY  
20           SUPPLIED BY THE CUSTOMER. The qualifying retail utility shall not apply  
21           unreasonably burdensome interconnection requirements in connection  
22           with this standard rebate offer. Electricity generated under this program  
23           shall be eligible for the qualifying retail utility's compliance with this  
24           article.

25           (II) SALES OF ELECTRICITY TO A CONSUMER MAY BE MADE BY THE  
26           OWNER OR OPERATOR OF THE SOLAR ELECTRIC GENERATION FACILITIES  
27           LOCATED ON THE SITE OF THE CONSUMER'S PROPERTY IF THE SOLAR

1 GENERATING EQUIPMENT IS SIZED TO SUPPLY NO MORE THAN ONE  
2 HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF  
3 ELECTRICITY BY THE CONSUMER AT THAT SITE. FOR PURPOSES OF THIS  
4 SUBPARAGRAPH (II), THE CONSUMER'S SITE SHALL INCLUDE ALL  
5 CONTIGUOUS PROPERTY OWNED OR LEASED BY THE CONSUMER, WITHOUT  
6 REGARD TO INTERRUPTIONS IN CONTIGUITY CAUSED BY EASEMENTS,  
7 PUBLIC THOROUGHFARES, TRANSPORTATION RIGHTS-OF-WAY, OR UTILITY  
8 RIGHTS-OF-WAY. IF THE SOLAR ELECTRIC GENERATION FACILITY IS NOT  
9 OWNED BY THE CONSUMER, THEN THE QUALIFYING RETAIL UTILITY SHALL  
10 NOT BE REQUIRED BY THE COMMISSION TO PAY FOR THE RENEWABLE  
11 ENERGY CREDITS GENERATED BY THE FACILITY ON ANY BASIS OTHER THAN  
12 A METERED BASIS. THE OWNER OR OPERATOR OF THE SOLAR ELECTRIC  
13 GENERATION FACILITY SHALL PAY THE COST OF INSTALLING THE  
14 PRODUCTION METER.

15 (III) THE COMMISSION SHALL ENCOURAGE QUALIFYING RETAIL  
16 UTILITIES TO DESIGN SOLAR PROGRAMS THAT ALLOW CONSUMERS OF ALL  
17 INCOME LEVELS TO OBTAIN THE BENEFITS OFFERED BY SOLAR ELECTRICITY  
18 GENERATION AND SHALL ALLOW PROGRAMS THAT ARE DESIGNED TO  
19 EXTEND PARTICIPATION TO CUSTOMERS IN MARKET SEGMENTS THAT HAVE  
20 NOT BEEN RESPONDING TO THE STANDARD REBATE OFFER PROGRAM.

21 (1.5) NOTWITHSTANDING ANY PROVISION OF LAW TO THE  
22 CONTRARY, PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION SHALL  
23 NOT APPLY TO A MUNICIPALLY OWNED UTILITY OR TO A COOPERATIVE  
24 ELECTRIC ASSOCIATION.

25 (f) Policies for the recovery of costs incurred with respect to these  
26 standards for qualifying retail utilities that are subject to rate regulation  
27 by the commission. These policies shall provide incentives to qualifying

1 retail utilities to invest in eligible energy resources in the state of  
2 Colorado. Such policies shall include:

3 (V) If the commission approves the terms and conditions of an  
4 eligible energy resource contract between the qualifying retail utility and  
5 another party, the contract and its terms and conditions shall be deemed  
6 to be a prudent investment, and the commission shall approve retail rates  
7 sufficient to recover all just and reasonable costs associated with the  
8 contract. All contracts for acquisition of eligible energy resources shall  
9 have a minimum term of twenty years; except that the contract term may  
10 be shortened at the sole discretion of the seller. All contracts for the  
11 acquisition of renewable energy credits from solar electric technologies  
12 located on site at customer facilities shall also have a minimum term of  
13 twenty years; EXCEPT THAT SUCH CONTRACTS FOR SYSTEMS OF BETWEEN  
14 ONE HUNDRED KILOWATTS AND ONE MEGAWATT MAY HAVE A DIFFERENT  
15 TERM IF MUTUALLY AGREED TO BY THE PARTIES.

16 **SECTION 13. Act subject to petition - effective date -**  
17 **applicability.** (1) This act shall take effect September 1, 2009.

18 (2) However, if a referendum petition is filed against this act or  
19 an item, section, or part of this act during the 90-day period after final  
20 adjournment of the general assembly that is allowed for submitting a  
21 referendum petition pursuant to article V, section 1 (3) of the state  
22 constitution, then the act, item, section, or part, shall not take effect unless  
23 approved by the people at a biennial regular general election and shall  
24 take effect on the date specified in subsection (1) or on the date of the  
25 official declaration of the vote thereon by proclamation of the governor,  
26 whichever is later.

1           (3) The provisions of this act shall apply to agreements entered  
2   into on or after the applicable effective date of this act.