

**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**

Transportation & Energy

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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.*

SENATE  
3rd Reading Unamended  
March 4, 2009

SENATE  
Amended 2nd Reading  
March 3, 2009

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. NOTHING  
6 IN THIS ARTICLE IS INTENDED TO AFFECT LENDING REQUIREMENTS OR  
7 LIMITATIONS, NOR TO ALTER THE SCOPE OF LENDING, AS CURRENTLY  
8 DEFINED BETWEEN BANKS AND CREDIT UNIONS OR OTHER LENDERS.

9 **SECTION 4.** The introductory portion to 24-38.7-102 and  
10 24-38.7-102 (2), (3), and (4), Colorado Revised Statutes, are amended to  
11 read:

12 **24-38.7-102. Definitions.** As used in this article PART 1, unless  
13 the context otherwise requires:

14 (2) "Certified contractor" means:

15 (a) A contractor, including but not limited to a general, heating,  
16 air conditioning, or lighting contractor, certified by the program  
17 administrator to market the program to potential qualified borrowers and  
18 make clean energy improvements that may be financed by clean energy  
19 loans; AND

20 (b) A MANUFACTURER OR DEALER OF MANUFACTURED HOMES, AS  
21 DEFINED IN SECTION 24-32-3302, WHO IS CERTIFIED BY THE PROGRAM  
22 ADMINISTRATOR TO MARKET THE PROGRAM TO POTENTIAL QUALIFIED  
23 BORROWERS AND MAKE CLEAN ENERGY IMPROVEMENTS THAT MAY BE  
24 FINANCED BY CLEAN ENERGY LOANS.

25 (3) "Clean energy improvement" means:

26 (a) Any repair of or addition or improvement to residential real  
27 property completed by or under the supervision of a certified contractor

1 that improves the energy efficiency of the property or replaces all or a  
2 portion of the energy from nonrenewable sources used in connection with  
3 the property with energy from renewable sources; ~~and~~

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

10

11 (4) "Clean energy loan" means a loan in a maximum amount of  
12 twelve thousand five hundred dollars originated by a participating public  
13 lender or a participating private lender, INCLUDING BUT NOT LIMITED TO  
14 A BANK OR MORTGAGE LENDER, to a qualified borrower for the purpose  
15 of financing one or more clean energy improvements to the borrower's  
16 primary residence, RENTAL PROPERTY, OR PLACE OF BUSINESS; except that,  
17 if the qualified borrower is a nonprofit corporation or local government  
18 housing authority that provides units in a multi-unit housing project as  
19 homes to individuals or families who meet the income qualifications of  
20 first tier or second tier qualified borrowers, the maximum amount of a  
21 loan shall be twelve thousand five hundred dollars multiplied by the  
22 number of units in the multi-unit housing project provided to the  
23 individuals or families.

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

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

1 program is hereby created. The office shall oversee the program and the  
2 program administrator and shall, in addition to exercising any other  
3 powers and performing any other duties specified in this article:

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

7 (III) AUTHORIZE PARTICIPATING LENDERS, CERTIFIED  
8 CONTRACTORS, AND QUALIFIED BORROWERS ON WHOSE PROPERTY CLEAN  
9 ENERGY IMPROVEMENTS ARE MADE TO USE THE "COLORADO CLEAN &  
10 GREEN" LOGO OR OTHER LOGO AND MARKETING MATERIALS PREPARED IN  
11 ACCORDANCE WITH SECTION 24-38.7-105.

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

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

21 (I) The state treasurer may invest no more than ~~ten~~ FIFTEEN  
22 million dollars during the 2008-09 fiscal year and no more than a total  
23 amount of ~~twenty~~ TWENTY-FIVE million dollars during the 2008-09 and  
24 2009-10 fiscal years; AND

25 (II) SUCH INVESTMENTS SHALL BE SUBJECT TO THE STATE  
26 TREASURER'S DISCRETION AND SHALL COMPLY WITH THE QUALIFICATIONS  
27 FOR STATE INVESTMENTS LISTED IN SECTION 24-36-113.

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

3           **24-38.7-105. Administration - "Colorado Clean & Green"**  
4 **designation - cash funding.** (1) THE OFFICE, OR THE ADMINISTRATOR  
5 UNDER THE DIRECTION OF THE OFFICE, MAY PRODUCE OR CAUSE TO BE  
6 PRODUCED A SUITABLE DESIGN OR DRAWING, REFERRED TO IN THIS  
7 SECTION AS THE "LOGO", TO BE USED IN THE MARKETING OF CLEAN  
8 ENERGY LOANS AND CLEAN ENERGY IMPROVEMENTS. THE LOGO MAY, BUT  
9 IS NOT REQUIRED TO, CONTAIN THE SLOGAN "COLORADO CLEAN &  
10 GREEN" OR OTHER WORDS OR SYMBOLS AS THE OFFICE IN ITS DISCRETION  
11 MAY DEEM APPROPRIATE.

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

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

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

22           (5) THE COST OF THE DESIGN AND PRODUCTION OF THE LOGO  
23 SHALL BE RECOVERED THROUGH LICENSE FEES. THE OFFICE OR  
24 ADMINISTRATOR MAY CONDITION THE DESIGN AND PRODUCTION OF THE  
25 LOGO ON THE RECEIPT OF GIFTS, GRANTS, DONATIONS, OR ADVANCE  
26 DEPOSITS IN AN AMOUNT SUFFICIENT TO DEFRAY THE COSTS OF DESIGN  
27 AND PRODUCTION.



1 PARTY RATHER THAN TO THE OWNER OF THE PROPERTY OR TO A PUBLIC  
2 UTILITY.

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

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

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

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

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

14 **24-38.7-203. Governor's energy office - administrator - state**  
15 **treasurer - powers and duties - statement of intent. (1) THE OFFICE**  
16 **AND THE ADMINISTRATOR SHALL ADMINISTER THIS PART 2 SUBSTANTIALLY**  
17 **IN ACCORDANCE WITH PART 1 OF THIS ARTICLE, EXCEPT WITH REGARD TO:**

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

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

25 (2) THE PROVISIONS OF PART 1 OF THIS ARTICLE AND OF ARTICLE  
26 36 OF THIS TITLE CONCERNING THE TYPE AND QUALITY OF INVESTMENTS  
27 MADE BY THE STATE TREASURER SHALL CONTINUE TO APPLY. THE

1 GENERAL ASSEMBLY INTENDS THAT THE EXTENSION OF THE PROGRAM  
2 UNDER THIS PART 2 BE ACCOMPLISHED AS SEAMLESSLY AS POSSIBLE,  
3 WITHIN EXISTING APPROPRIATIONS, AND WITH MINIMAL DISRUPTION TO  
4 THE CURRENT PRACTICES OF THE OFFICE, THE ADMINISTRATOR, AND THE  
5 STATE TREASURER.

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

8 **29-3-103. Definitions.** As used in this article, unless the context  
9 otherwise requires:

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

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

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22 == =====

23 **SECTION 10.** 40-1-103 (2), Colorado Revised Statutes, is  
24 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25 **40-1-103. Public utility defined.** (2) (c) THE SUPPLY OF  
26 ELECTRICITY OR HEAT TO A CONSUMER OF THE ELECTRICITY OR HEAT  
27 FROM SOLAR GENERATING EQUIPMENT LOCATED ON THE SITE OF THE

1 CONSUMER'S PROPERTY, WHICH EQUIPMENT IS OWNED OR OPERATED BY AN  
2 ENTITY OTHER THAN THE CONSUMER, SHALL NOT SUBJECT THE OWNER OR  
3 OPERATOR OF THE ON-SITE SOLAR GENERATING EQUIPMENT TO  
4 REGULATION AS A PUBLIC UTILITY BY THE COMMISSION IF THE SOLAR  
5 GENERATING EQUIPMENT IS SIZED TO SUPPLY NO MORE THAN ONE  
6 HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF  
7 ELECTRICITY BY THE CONSUMER AT THAT SITE. FOR PURPOSES OF THIS  
8 PARAGRAPH (c), THE CONSUMER'S SITE SHALL INCLUDE ALL CONTIGUOUS  
9 PROPERTY OWNED OR LEASED BY THE CONSUMER, WITHOUT REGARD TO  
10 INTERRUPTIONS IN CONTIGUITY CAUSED BY EASEMENTS, PUBLIC  
11 THOROUGHFARES, TRANSPORTATION RIGHTS-OF-WAY, OR UTILITY  
12 RIGHTS-OF-WAY.

13 SECTION 11. 40-2-124 (1) (c) (II), (1) (e), and (1) (f) (V),  
14 Colorado Revised Statutes, are amended, and the said 40-2-124 is further  
15 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

16 **40-2-124. Renewable energy standard - definitions - net**  
17 **metering.** (1) Each provider of retail electric service in the state of  
18 Colorado, other than municipally owned utilities that serve forty thousand  
19 customers or less, shall be considered a qualifying retail utility. Each  
20 qualifying retail utility, with the exception of cooperative electric  
21 associations that have voted to exempt themselves from commission  
22 jurisdiction pursuant to section 40-9.5-104 and municipally owned  
23 utilities, shall be subject to the rules established under this article by the  
24 commission. No additional regulatory authority of the commission other  
25 than that specifically contained in this section is provided or implied. In  
26 accordance with article 4 of title 24, C.R.S., on or before October 1, 2007,  
27 the commission shall revise or clarify existing rules to establish the

1 following:

2 (c) Electric resource standards:

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

8 (B) SOLAR GENERATING EQUIPMENT LOCATED ON-SITE AT  
9 CUSTOMER'S FACILITIES SHALL BE SIZED TO SUPPLY NO MORE THAN ONE  
10 HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF  
11 ELECTRICITY BY THE CONSUMER AT THAT SITE. FOR PURPOSES OF THIS  
12 SUB-SUBPARAGRAPH (B), THE CONSUMER'S "SITE" SHALL INCLUDE ALL  
13 CONTIGUOUS PROPERTY OWNED OR LEASED BY THE CONSUMER, WITHOUT  
14 REGARD TO INTERRUPTIONS IN CONTIGUITY CAUSED BY EASEMENTS,  
15 PUBLIC THOROUGHFARES, TRANSPORTATION RIGHTS-OF-WAY, OR UTILITY  
16 RIGHTS-OF-WAY.

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18

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

20 (I) Each qualifying retail utility, except for cooperative electric  
21 associations and municipally owned utilities, shall make available to its  
22 retail electricity customers a standard rebate offer of a minimum of two  
23 dollars per watt for the installation of eligible solar electric generation on  
24 customers' premises up to a maximum of one hundred kilowatts per  
25 installation. Such offer shall allow the customer's retail electricity  
26 consumption to be offset by the solar electricity generated. To the extent  
27 that solar electricity generation exceeds the customer's consumption

1 during a billing month, such excess electricity shall be carried forward as  
2 a credit to the following month's consumption. To the extent that solar  
3 electricity generation exceeds the customer's consumption during a  
4 calendar year, the customer shall be reimbursed by the qualifying retail  
5 utility at its average hourly incremental cost of electricity supply over the  
6 prior twelve-month period UNLESS THE CUSTOMER MAKES A ONE-TIME  
7 ELECTION, IN WRITING, TO REQUEST THAT THE EXCESS ELECTRICITY BE  
8 CARRIED FORWARD AS A CREDIT FROM MONTH TO MONTH INDEFINITELY  
9 UNTIL THE CUSTOMER TERMINATES SERVICE WITH THE QUALIFYING RETAIL  
10 UTILITY, AT WHICH TIME NO PAYMENT SHALL BE REQUIRED FROM THE  
11 QUALIFYING RETAIL UTILITY FOR ANY REMAINING EXCESS ELECTRICITY  
12 SUPPLIED BY THE CUSTOMER. The qualifying retail utility shall not apply  
13 unreasonably burdensome interconnection requirements in connection  
14 with this standard rebate offer. Electricity generated under this program  
15 shall be eligible for the qualifying retail utility's compliance with this  
16 article.

17 (II) SALES OF ELECTRICITY TO A CONSUMER MAY BE MADE BY THE  
18 OWNER OR OPERATOR OF THE SOLAR ELECTRIC GENERATION FACILITIES  
19 LOCATED ON THE SITE OF THE CONSUMER'S PROPERTY IF THE SOLAR  
20 GENERATING EQUIPMENT IS SIZED TO SUPPLY NO MORE THAN ONE  
21 HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF  
22 ELECTRICITY BY THE CONSUMER AT THAT SITE. FOR PURPOSES OF THIS  
23 SUBPARAGRAPH (II), THE CONSUMER'S SITE SHALL INCLUDE ALL  
24 CONTIGUOUS PROPERTY OWNED OR LEASED BY THE CONSUMER, WITHOUT  
25 REGARD TO INTERRUPTIONS IN CONTIGUITY CAUSED BY EASEMENTS,  
26 PUBLIC THOROUGHFARES, TRANSPORTATION RIGHTS-OF-WAY, OR UTILITY  
27 RIGHTS-OF-WAY. IF THE SOLAR ELECTRIC GENERATION FACILITY IS NOT

1 OWNED BY THE CONSUMER, THEN THE QUALIFYING RETAIL UTILITY SHALL  
2 NOT BE REQUIRED BY THE COMMISSION TO PAY FOR THE RENEWABLE  
3 ENERGY CREDITS GENERATED BY THE FACILITY ON ANY BASIS OTHER THAN  
4 A METERED BASIS. THE OWNER OR OPERATOR OF THE SOLAR ELECTRIC  
5 GENERATION FACILITY SHALL PAY THE COST OF INSTALLING THE  
6 PRODUCTION METER.

7 (III) THE QUALIFYING RETAIL UTILITY MAY ESTABLISH ONE OR  
8 MORE STANDARD OFFERS TO PURCHASE RENEWABLE ENERGY CREDITS  
9 GENERATED FROM THE ELIGIBLE SOLAR ELECTRIC GENERATION ON THE  
10 CUSTOMER'S PREMISES SO LONG AS THE GENERATION MEETS THE SIZE AND  
11 LOCATION REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) OF THIS  
12 PARAGRAPH (e) AND SO LONG AS THE GENERATION IS FIVE HUNDRED  
13 KILOWATTS OR LESS IN SIZE. WHEN ESTABLISHING THE STANDARD OFFERS,  
14 THE PRICES FOR RENEWABLE ENERGY CREDITS SHOULD BE SET AT LEVELS  
15 SUFFICIENT TO ENCOURAGE INCREASED CUSTOMER-SITED SOLAR  
16 GENERATION IN THE SIZE RANGES COVERED BY EACH STANDARD OFFER,  
17 BUT AT LEVELS THAT WILL STILL ALLOW THE QUALIFYING RETAIL UTILITY  
18 TO COMPLY WITH THE ELECTRIC RESOURCE STANDARDS SET FORTH IN  
19 PARAGRAPH (c) OF THIS SUBSECTION (1) WITHOUT EXCEEDING THE RETAIL  
20 RATE IMPACT LIMIT IN PARAGRAPH (g) OF THIS SUBSECTION (1). THE  
21 COMMISSION SHALL ENCOURAGE QUALIFYING RETAIL UTILITIES TO DESIGN  
22 SOLAR PROGRAMS THAT ALLOW CONSUMERS OF ALL INCOME LEVELS TO  
23 OBTAIN THE BENEFITS OFFERED BY SOLAR ELECTRICITY GENERATION AND  
24 SHALL ALLOW PROGRAMS THAT ARE DESIGNED TO EXTEND PARTICIPATION  
25 TO CUSTOMERS IN MARKET SEGMENTS THAT HAVE NOT BEEN RESPONDING  
26 TO THE STANDARD OFFER PROGRAM.

27 (1.5) NOTWITHSTANDING ANY PROVISION OF LAW TO THE

1 CONTRARY, PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION SHALL  
2 NOT APPLY TO A MUNICIPALLY OWNED UTILITY OR TO A COOPERATIVE  
3 ELECTRIC ASSOCIATION.

4 (f) Policies for the recovery of costs incurred with respect to these  
5 standards for qualifying retail utilities that are subject to rate regulation  
6 by the commission. These policies shall provide incentives to qualifying  
7 retail utilities to invest in eligible energy resources in the state of  
8 Colorado. Such policies shall include:

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

22 **SECTION 12. Act subject to petition - effective date -**  
23 **applicability.** (1) This act shall take effect September 1, 2009.

24 (2) However, if a referendum petition is filed against this act or  
25 an item, section, or part of this act during the 90-day period after final  
26 adjournment of the general assembly that is allowed for submitting a  
27 referendum petition pursuant to article V, section 1 (3) of the state

1 constitution, then the act, item, section, or part, shall not take effect unless  
2 approved by the people at a biennial regular general election and shall  
3 take effect on the date specified in subsection (1) or on the date of the  
4 official declaration of the vote thereon by proclamation of the governor,  
5 whichever is later.

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