

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 08-0563.02 Jason Gelender

SENATE BILL 08-184

SENATE SPONSORSHIP

Romer,

HOUSE SPONSORSHIP

(None),

Senate Committees

Agriculture, Natural Resources & Energy
Appropriations

House Committees

Transportation & Energy
Appropriations

A BILL FOR AN ACT

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

Bill Summary

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

Creates the Colorado clean energy finance program (program) to provide below market-rate clean energy loans in limited amounts to homeowners for the purpose of financing home repairs, additions, or improvements that will improve the energy efficiency of homes or allow homes to use more energy from renewable rather than nonrenewable sources (clean energy improvements). Requires the governor's energy office (office) to oversee the program, select a program administrator

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
April 21, 2008

SENATE
Amended 2nd Reading
April 18, 2008

(administrator) to issue clean energy loans, directly market the program to the general public, and develop and operate or contract with the administrator for the development and operation of a quality assurance, measurement, and verification program for the program.

Creates a clean energy program fund (program fund) and creates loan buy-down and loan loss reserve accounts within the program fund. Specifies that the program fund and accounts shall consist of moneys appropriated thereto by the general assembly. Requires interest and income earned on the deposit and investment of moneys in the program fund and accounts to be used to make new clean energy loans. Requires the office to expend moneys in the loan buy-down account to buy down the interest rate on clean energy loans issued to income-qualified borrowers and to expend moneys in the loan loss reserve account to compensate the administrator for losses from uncollectible clean energy loans written off by the administrator. Requires the state treasurer to periodically transfer moneys from the loan buy-down account to the loan loss reserve account to ensure that the balance of the loan loss reserve account is maintained at a specified level.

Requires the administrator to generate capital to issue clean energy loans by issuing bonds or other notes payable from clean energy loan payments, and authorizes the state treasurer to invest up to a specified amount of state moneys in the bonds or other notes. Requires the administrator to recruit, select, screen, train, and certify contractors, make clean energy loans to qualified borrowers, including clean energy loans at specified below-market interest rates to income-qualified borrowers, and issue annual reports regarding its administration of the program. Specifies an annual deadline for and information to be included in the annual reports, and also specifies an annual deadline for the office to report to specified committees of the general assembly regarding the program.

Defines terms.

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

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

4 **ARTICLE 38.5**

5 **Colorado Clean Energy Finance Program**

6 **24-38.5-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND
7 MAY BE CITED AS THE "COLORADO CLEAN ENERGY FINANCE PROGRAM

1 ACT".

2 **24-38.5-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
3 CONTEXT OTHERWISE REQUIRES:

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

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

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

22 (4) "CLEAN ENERGY LOAN" MEANS A LOAN IN A MAXIMUM
23 AMOUNT OF TWELVE THOUSAND FIVE HUNDRED DOLLARS ORIGINATED
24 BY A PARTICIPATING PUBLIC LENDER OR A PARTICIPATING PRIVATE LENDER
25 TO A QUALIFIED BORROWER FOR THE PURPOSE OF FINANCING ONE OR MORE
26 CLEAN ENERGY IMPROVEMENTS TO THE BORROWER'S PRIMARY RESIDENCE;
27 EXCEPT THAT, IF THE QUALIFIED BORROWER IS A CORPORATION OR LOCAL

1 GOVERNMENT HOUSING AUTHORITY THAT PROVIDES UNITS IN A
2 MULTI-UNIT HOUSING PROJECT AS HOMES TO INDIVIDUALS OR FAMILIES
3 WHO MEET THE INCOME QUALIFICATIONS OF FIRST TIER OR SECOND TIER
4 QUALIFIED BORROWERS, THE MAXIMUM AMOUNT OF A LOAN SHALL BE
5 TWELVE THOUSAND FIVE HUNDRED DOLLARS MULTIPLIED BY THE NUMBER
6 OF UNITS IN THE MULTI-UNIT HOUSING FACILITY PROVIDED TO THE
7 INDIVIDUALS OR FAMILIES.

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

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

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

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

16 (a) MARKET THE PROGRAM;

17 (b) RECRUIT, TRAIN, AND CERTIFY CONTRACTORS;

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

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

25 (9) "PROGRAM FUND" MEANS THE CLEAN ENERGY PROGRAM FUND
26 CREATED IN SECTION 24-38.5-103 (2) (a).

27 (10) "PUBLIC LENDER" MEANS A COUNTY, MUNICIPALITY,

1 DISTRICT, AUTHORITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE
2 AUTHORIZED TO MAKE ECONOMIC DEVELOPMENT, AFFORDABLE HOUSING,
3 OR HOUSING REHABILITATION LOANS.

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

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

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

19 **24-38.5-103. Governor's energy office - powers and duties -**
20 **funds created.** (1) THE COLORADO CLEAN ENERGY FINANCE PROGRAM
21 IS HEREBY CREATED. THE OFFICE SHALL OVERSEE THE PROGRAM AND THE
22 PROGRAM ADMINISTRATOR AND SHALL, IN ADDITION TO EXERCISING ANY
23 OTHER POWERS AND PERFORMING ANY OTHER DUTIES SPECIFIED IN THIS
24 ARTICLE:

25 (a) SELECT THE PROGRAM ADMINISTRATOR IN ACCORDANCE WITH
26 THE PROVISIONS OF THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF
27 THIS TITLE. IN SELECTING THE PROGRAM ADMINISTRATOR, THE OFFICE

1 SHALL CONSIDER THE EXTENT TO WHICH A POTENTIAL PROGRAM
2 ADMINISTRATOR HAS DEMONSTRATED EXPERIENCE IN RECRUITING,
3 TRAINING, AND CERTIFYING CONTRACTORS OR CAN OTHERWISE ESTABLISH
4 THAT IT WILL BE ABLE TO PERFORM SUCH FUNCTIONS.

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

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

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

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

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

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

22 (I) THE LOAN BUY-DOWN ACCOUNT; AND

23 (II) THE LOAN LOSS RESERVE ACCOUNT.

24 (b) THE PROGRAM FUND AND THE ACCOUNTS OF THE PROGRAM
25 FUND SHALL CONSIST OF SUCH MONEYS AS THE GENERAL ASSEMBLY MAY
26 APPROPRIATE THERETO FROM THE CLEAN ENERGY FUND CREATED IN
27 SECTION 27-75-1201 (1) AND ANY GIFTS, GRANTS, OR DONATIONS THAT

1 MAY BE MADE TO THE PROGRAM FUND. IN ACCORDANCE WITH SECTION
2 24-36-113 (1) (a), WHICH REQUIRES THE STATE TREASURER, IN MAKING
3 INVESTMENTS, TO USE PRUDENCE AND CARE TO PRESERVE THE PRINCIPAL
4 AND TO SECURE THE MAXIMUM RATE OF INTEREST CONSISTENT WITH
5 SAFETY AND LIQUIDITY, IF THE GENERAL ASSEMBLY CHOOSES NOT TO
6 APPROPRIATE MONEYS TO THE PROGRAM FUND OR TO THE ACCOUNTS OF
7 THE PROGRAM FUND, NOTHING IN THIS ARTICLE SHALL BE DEEMED TO
8 REQUIRE THE STATE TREASURER TO CREDIT ANY MONEYS TO THE
9 PROGRAM FUND OR THE ACCOUNTS OF THE PROGRAM FUND. ALL INTEREST
10 AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN
11 THE PROGRAM FUND AND THE ACCOUNTS OF THE PROGRAM FUND SHALL
12 BE USED FOR THE LOAN BUY-DOWN ACCOUNT AND THE LOAN LOSS
13 RESERVE ACCOUNT. MONEYS IN THE LOAN BUY-DOWN ACCOUNT AND
14 LOAN LOSS RESERVE ACCOUNT OF THE PROGRAM FUND SHALL REMAIN IN
15 THE ACCOUNTS AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND
16 OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR.

17 (3) (a) THE OFFICE SHALL MAKE PAYMENTS FROM THE LOAN
18 BUY-DOWN ACCOUNT OF THE PROGRAM FUND TO PARTICIPATING PUBLIC
19 LENDERS AND PRIVATE LENDERS TO COMPENSATE THE LENDERS FOR THE
20 REDUCTION IN THE AMOUNT OF FUTURE INTEREST PAYMENTS RESULTING
21 FROM THE PROVISION OF CLEAN ENERGY LOANS TO FIRST TIER AND SECOND
22 TIER QUALIFIED BORROWERS AT THE BELOW-MARKET INTEREST RATES
23 SPECIFIED IN SECTION 24-38.5-104 (2) (a) (I) AND (2) (a) (II). THE OFFICE
24 SHALL PAY THE COMPENSATION FOR EACH CLEAN ENERGY LOAN BY
25 PAYING TO THE LENDER A LUMP SUM EQUAL TO THE PRESENT VALUE OF
26 THE REDUCTION IN FUTURE INTEREST PAYMENTS ON THE DATE THE LOAN
27 CLOSES.

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

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

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

1 **24-38.5-104. Program administrator - training and**
2 **certification of contractors - reporting.** (1) IN ACCORDANCE
3 WITH TERMS CONTRACTUALLY AGREED TO BY THE PROGRAM
4 ADMINISTRATOR AND THE OFFICE, ACTING ON BEHALF OF THE STATE, THE
5 PROGRAM ADMINISTRATOR SHALL IMPLEMENT AND ADMINISTER THE
6 PROGRAM BY:

7 =====

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

- 17 (I) DIRECT MARKETING OF THE PROGRAM TO CONTRACTORS;
- 18 (II) FINANCIAL AND BUSINESS PRACTICES BACKGROUND CHECKS
19 OF CONTRACTORS SEEKING TO BECOME CERTIFIED CONTRACTORS; AND
- 20 (III) INITIAL TRAINING THAT INCLUDES:
 - 21 (A) EDUCATION REGARDING THE ELEMENTS OF THE PROGRAM, THE
22 FINANCIAL AND ENVIRONMENTAL BENEFITS OF CLEAN ENERGY
23 IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO SPECIFIC EDUCATION
24 REGARDING PRODUCTS QUALIFIED TO BEAR THE FEDERAL ENERGY STAR
25 LABEL, AND RECOMMENDED MEANS OF MARKETING THE PROGRAM TO
26 POTENTIAL PROGRAM CUSTOMERS; AND
 - 27 (B) THE PROVISION OF INFORMATION REGARDING ADDITIONAL

1 REQUIRED TRAINING AND OTHER REQUIREMENTS FOR CONTRACTORS WHO
2 MAY WISH TO BECOME PREFERRED CONTRACTORS UNDER THE FEDERAL
3 HOME PERFORMANCE WITH ENERGY STAR PROGRAM.

4
5 (b) ISSUING ANNUAL REPORTS REGARDING THE ADMINISTRATION
6 OF THE PROGRAM AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

7 (2) = A POTENTIAL QUALIFIED BORROWER SHALL APPLY FOR A
8 CLEAN ENERGY LOAN BY COMPLETING AN INITIAL LOAN APPLICATION. THE
9 OFFICE OR, AT THE DISCRETION OF THE OFFICE, THE PROGRAM
10 ADMINISTRATOR OR PARTICIPATING PUBLIC LENDERS AND PRIVATE
11 LENDERS SHALL PRESCRIBE THE FORM OF THE LOAN APPLICATION AND
12 SHALL DETERMINE, BASED ON THE APPLICATION AND SUCH OTHER
13 INFORMATION AS THE ADMINISTRATOR MAY REASONABLY REQUIRE FROM
14 THE APPLICANT, WHETHER THE APPLICANT IS A QUALIFIED BORROWER
15 AND, IF SO, WHETHER THE QUALIFIED BORROWER IS A FIRST TIER, SECOND
16 TIER, OR THIRD TIER QUALIFIED BORROWER. HOWEVER, A PARTICIPATING
17 PUBLIC LENDER MAY ONLY ORIGINATE CLEAN ENERGY LOANS FOR FIRST
18 TIER AND SECOND TIER QUALIFIED BORROWERS. A QUALIFIED BORROWER
19 MAY CHOOSE A LOAN TERM OF UP TO TEN YEARS. THE STATE TREASURER
20 SHALL, USING A FORMULA TIED TO A REGULARLY PUBLISHED INTEREST
21 RATE INDEX SELECTED BY THE STATE TREASURER, DETERMINE A BASE
22 ANNUAL RATE OF INTEREST TO BE CHARGED ON LOANS MADE TO THIRD
23 TIER QUALIFIED BORROWERS. THE STATE TREASURER SHALL SET AN
24 ANNUAL RATE OF INTEREST FOR LOANS TO SECOND TIER QUALIFIED
25 BORROWERS BY SUBTRACTING A NUMBER OF BASIS POINTS SELECTED BY
26 THE STATE TREASURER FROM THE BASE ANNUAL RATE AND SHALL SET AN
27 ANNUAL RATE OF INTEREST FOR LOANS TO FIRST TIER QUALIFIED

1 BORROWERS BY SUBTRACTING A NUMBER OF BASIS POINTS SELECTED BY
2 THE STATE TREASURER FROM THE ANNUAL RATE OF INTEREST FOR LOANS
3 TO SECOND TIER QUALIFIED BORROWERS. THE INTEREST RATE CHARGED
4 TO A QUALIFIED BORROWER THAT IS A CORPORATION OR A HOUSING
5 AUTHORITY SHALL BE THE INTEREST RATE CHARGED TO SECOND TIER
6 QUALIFIED BORROWERS; EXCEPT THAT THE INTEREST RATE CHARGED TO
7 A CORPORATION OR HOUSING AUTHORITY SHALL BE THE INTEREST RATE
8 CHARGED TO FIRST TIER QUALIFIED BUYERS IF THE CORPORATION OR
9 HOUSING AUTHORITY ONLY PROVIDES THE HOUSING FOR WHICH THE LOAN
10 WILL FINANCE CLEAN ENERGY IMPROVEMENTS TO INDIVIDUALS OR
11 FAMILIES WHO ARE FIRST TIER QUALIFIED BORROWERS.

12

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

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

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

26 (B) THE TOTAL AMOUNT OF OUTSTANDING PRINCIPAL AND
27 INTEREST ON CLEAN ENERGY LOANS OWED BY QUALIFIED BORROWERS

1 AND THE AMOUNT OF SUCH PRINCIPAL AND INTEREST OWED BY FIRST TIER,
2 SECOND TIER, AND THIRD TIER QUALIFIED BORROWERS;

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

8 (D) THE TOTAL AMOUNT OF BONDS OR OTHER NOTES IN WHICH
9 THE STATE TREASURER HAS INVESTED AS AUTHORIZED BY SECTION
10 24-38.5-103 (3) (d), THE PAYMENTS MADE ON SUCH BONDS OR OTHER
11 NOTES, AND THE PAYMENTS TO BE MADE IN THE FUTURE ON SUCH BONDS
12 OR OTHER NOTES; AND

13 (E) THE AMOUNTS PAID TO THE ADMINISTRATOR BY THE STATE
14 PURSUANT TO SECTION 24-38.5-103 (3) (a) AND (3) (b) AND ANY
15 CONTRACTS ENTERED INTO BY THE STATE AND THE ADMINISTRATOR AS
16 AUTHORIZED BY THIS ARTICLE;

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

20 (III) ANY RECOMMENDED PROGRAM IMPROVEMENTS.

21 (b) SUBJECT TO THE LIMITATION SET FORTH IN SECTION 24-1-136
22 (11), NO LATER THAN JANUARY 30, 2010, AND NO LATER THAN EACH
23 JANUARY 30 THEREAFTER, THE OFFICE SHALL REPORT TO THE
24 TRANSPORTATION AND ENERGY COMMITTEE OF THE HOUSE OF
25 REPRESENTATIVES AND THE AGRICULTURE, NATURAL RESOURCES, AND
26 ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES,
27 REGARDING THE PROGRAM. THE REPORT SHALL INCLUDE THE

1 INFORMATION PROVIDED TO THE OFFICE IN THE PROGRAM
2 ADMINISTRATOR'S ANNUAL REPORT AND WHATEVER ADDITIONAL
3 INFORMATION THE OFFICE DEEMS RELEVANT TO FULLY APPRISE THE
4 COMMITTEES REGARDING THE STATUS OF THE PROGRAM.

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

7 **24-36-113. Investment of state moneys - limitations.** (5) The
8 state treasurer may engage in reverse repurchase agreements and
9 securities lending programs for any securities in the state treasurer's
10 custody AND MAY PURCHASE LOANS, IF, IN THE STATE TREASURER'S
11 DISCRETION, THE PURCHASE OF LOANS WILL YIELD A FAIR AND EQUITABLE
12 RETURN TO THE STATE.

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

15 PART 12

16 RURAL CLEAN ENERGY

17 PROJECT FINANCE PROGRAM

18 **30-20-1201. Short title.** THIS PART 12 SHALL BE KNOWN AND
19 MAY BE CITED AS THE "RURAL CLEAN ENERGY PROJECT FINANCE
20 PROGRAM ACT".

21 **30-20-1202. Definitions.** AS USED IN THIS PART 12, UNLESS THE
22 CONTEXT OTHERWISE REQUIRES:

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

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

1 AS ANY HYDROGEN DERIVED FROM ANY OF THE FOREGOING.

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

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

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

22 **30-20-1203. Eligible clean energy project financing - county**
23 **approval - private activity bond financing.** (1) AN ELIGIBLE
24 APPLICANT MAY APPLY TO THE BOARD OF THE COUNTY OR CITY AND
25 COUNTY IN WHICH IT PROPOSES TO CONSTRUCT, EXPAND, OR UPGRADE AN
26 ELIGIBLE CLEAN ENERGY PROJECT FOR ASSISTANCE IN THE FINANCING OF
27 THE PROJECT. SUBJECT TO THE REQUIREMENTS AND LIMITATIONS

1 SPECIFIED IN FEDERAL LAW, THE "COLORADO PRIVATE ACTIVITY BOND
2 CEILING ALLOCATION ACT", PART 17 OF ARTICLE 32 OF TITLE 24, C.R.S.,
3 AND SUBSECTION (2) OF THIS SECTION, IF THE BOARD APPROVES THE
4 APPLICATION, IT MAY PROVIDE FINANCING ASSISTANCE BY ISSUING
5 TAX-EXEMPT PRIVATE ACTIVITY BONDS IN A MINIMUM AMOUNT OF ONE
6 MILLION DOLLARS ON BEHALF OF THE ELIGIBLE APPLICANT.

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

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

13 (I) THE BOARD AGREES TO LOAN TO THE ELIGIBLE APPLICANT THE
14 NET PROCEEDS OF THE BONDS ISSUED SO THAT THE ELIGIBLE APPLICANT
15 CAN FINANCE ALL OR A PORTION OF THE ELIGIBLE CLEAN ENERGY PROJECT;
16 AND

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

23 (b) THE BONDS ISSUED SHALL SPECIFY THAT BONDHOLDERS MAY
24 NOT LOOK TO ANY COUNTY OR CITY AND COUNTY REVENUES FOR
25 REPAYMENT OF THE BONDS. THE BONDS SHALL FURTHER SPECIFY THAT
26 THE ONLY SOURCES OF REPAYMENT FOR THE BONDS ARE REVENUES
27 PROVIDED BY THE ELIGIBLE APPLICANT, PROPERTY OF THE ELIGIBLE

1 APPLICANT, OR CREDIT ENHANCEMENT OBTAINED BY THE ELIGIBLE
2 APPLICANT THAT MAY BE PLEDGED TO THE PAYMENT OF THE BONDS; AND

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

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

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

20 **SECTION 4. Appropriation.** In addition to any other
21 appropriation, there is hereby appropriated, out of any moneys in the
22 clean energy fund created in section 24-75-1201 (1), Colorado Revised
23 Statutes, not otherwise appropriated, to the office of the governor, for
24 allocation to the governor's energy office, to provide sub-market rate
25 loans to homeowners and businesses to finance structural improvements
26 that will improve energy efficiency and increase the use of renewable
27 energy, for the fiscal year beginning July 1, 2008, the sum of nine

1 hundred eighty-one thousand seven hundred sixty-one dollars (\$981,761)
2 and 1.0 FTE, or so much thereof as may be necessary, for the
3 implementation of this act.

4 **SECTION 5. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.