

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

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

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 (5) "FIRST TIER QUALIFIED BORROWER" MEANS A QUALIFIED

1 BORROWER WHOSE INCOME IS LESS THAN EIGHTY PERCENT OF AREA
2 MEDIAN INCOME.

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

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

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

8 (a) MARKET THE PROGRAM;

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

10 (c) MEASURE AND VERIFY ENERGY, EMISSIONS, AND GROSS AND
11 NET COST SAVINGS RESULTING FROM CLEAN ENERGY IMPROVEMENTS
12 FINANCED BY CLEAN ENERGY LOANS ORIGINATED AND SERVICED BY
13 PARTICIPATING PUBLIC LENDERS AND PRIVATE LENDERS; AND

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

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

18 (10) "PUBLIC LENDER" MEANS A COUNTY, MUNICIPALITY,
19 DISTRICT, AUTHORITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE
20 AUTHORIZED TO MAKE ECONOMIC DEVELOPMENT, AFFORDABLE HOUSING,
21 OR HOUSING REHABILITATION LOANS.

22 (11) "QUALIFIED BORROWER" MEANS AN INDIVIDUAL OR FAMILY
23 WHO OWNS HIS, HER, OR THEIR PRIMARY RESIDENCE AND SATISFIES
24 LENDING GUIDELINES ESTABLISHED BY THE PROGRAM ADMINISTRATOR.

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

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

4 **24-38.5-103. Governor's energy office - powers and duties -**
5 **funds created.** (1) THE COLORADO CLEAN ENERGY FINANCE PROGRAM
6 IS HEREBY CREATED. THE OFFICE SHALL OVERSEE THE PROGRAM AND THE
7 PROGRAM ADMINISTRATOR AND SHALL, IN ADDITION TO EXERCISING ANY
8 OTHER POWERS AND PERFORMING ANY OTHER DUTIES SPECIFIED IN THIS
9 ARTICLE:

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

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

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

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

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

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

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

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

8 (II) THE LOAN LOSS RESERVE ACCOUNT.

9 (b) THE PROGRAM FUND AND THE ACCOUNTS OF THE PROGRAM
10 FUND SHALL CONSIST OF SUCH MONEYS AS THE GENERAL ASSEMBLY MAY
11 APPROPRIATE THERETO FROM THE CLEAN ENERGY FUND CREATED IN
12 SECTION 27-75-1201 (1) AND ANY GIFTS, GRANTS, OR DONATIONS THAT
13 MAY BE MADE TO THE PROGRAM FUND. IN ACCORDANCE WITH SECTION
14 24-36-113 (1) (a), WHICH REQUIRES THE STATE TREASURER, IN MAKING
15 INVESTMENTS, TO USE PRUDENCE AND CARE TO PRESERVE THE PRINCIPAL
16 AND TO SECURE THE MAXIMUM RATE OF INTEREST CONSISTENT WITH
17 SAFETY AND LIQUIDITY, IF THE GENERAL ASSEMBLY CHOOSES NOT TO
18 APPROPRIATE MONEYS TO THE PROGRAM FUND OR TO THE ACCOUNTS OF
19 THE PROGRAM FUND, NOTHING IN THIS ARTICLE SHALL BE DEEMED TO
20 REQUIRE THE STATE TREASURER TO CREDIT ANY MONEYS TO THE
21 PROGRAM FUND OR THE ACCOUNTS OF THE PROGRAM FUND. ALL INTEREST
22 AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN
23 THE PROGRAM FUND AND THE ACCOUNTS OF THE PROGRAM FUND SHALL
24 BE USED FOR THE LOAN BUY-DOWN ACCOUNT AND THE LOAN LOSS
25 RESERVE ACCOUNT. MONEYS IN THE LOAN BUY-DOWN ACCOUNT AND
26 LOAN LOSS RESERVE ACCOUNT OF THE PROGRAM FUND SHALL REMAIN IN
27 THE ACCOUNTS AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND

1 OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR.

2 (3) (a) THE OFFICE SHALL MAKE PAYMENTS FROM THE LOAN
3 BUY-DOWN ACCOUNT OF THE PROGRAM FUND TO PARTICIPATING PUBLIC
4 LENDERS AND PRIVATE LENDERS TO COMPENSATE THE LENDERS FOR THE
5 REDUCTION IN THE AMOUNT OF FUTURE INTEREST PAYMENTS RESULTING
6 FROM THE PROVISION OF CLEAN ENERGY LOANS TO FIRST TIER AND SECOND
7 TIER QUALIFIED BORROWERS AT THE BELOW-MARKET INTEREST RATES
8 SPECIFIED IN SECTION 24-38.5-104 (2) (a) (I) AND (2) (a) (II). THE OFFICE
9 SHALL PAY THE COMPENSATION FOR EACH CLEAN ENERGY LOAN BY
10 PAYING TO THE LENDER A LUMP SUM EQUAL TO THE PRESENT VALUE OF
11 THE REDUCTION IN FUTURE INTEREST PAYMENTS ON THE DATE THE LOAN
12 CLOSES.

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

21 (c) THE STATE TREASURER SHALL PERIODICALLY TRANSFER
22 MONEYS FROM THE LOAN BUY-DOWN ACCOUNT OF THE PROGRAM FUND TO
23 THE LOAN LOSS RESERVE ACCOUNT OF THE PROGRAM FUND TO ENSURE
24 THAT THE BALANCE OF THE LOAN LOSS RESERVE ACCOUNT IS AT LEAST
25 FIVE PERCENT OF THE TOTAL PRINCIPAL AMOUNT OF OUTSTANDING CLEAN
26 ENERGY LOANS MADE BY PARTICIPATING PUBLIC LENDERS AND PRIVATE
27 LENDERS. THE ADMINISTRATOR SHALL UPDATE THE STATE TREASURER

1 REGARDING OUTSTANDING CLEAN ENERGY LOANS ORIGINATED BY
2 SUCH LENDERS AS REQUIRED BY THE STATE TREASURER SO THAT THE
3 STATE TREASURER CAN ACCURATELY DETERMINE THE APPROPRIATE
4 AMOUNT AND TIMING OF TRANSFERS.

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

13 **24-38.5-104. Program administrator - training and**
14 **certification of contractors - reporting.** (1) IN ACCORDANCE
15 WITH TERMS CONTRACTUALLY AGREED TO BY THE PROGRAM
16 ADMINISTRATOR AND THE OFFICE, ACTING ON BEHALF OF THE STATE, THE
17 PROGRAM ADMINISTRATOR SHALL IMPLEMENT AND ADMINISTER THE
18 PROGRAM BY:

19
20 (a) RECRUITING, SELECTING, SCREENING, TRAINING, AND
21 CERTIFYING CONTRACTORS, INCLUDING BUT NOT LIMITED TO GENERAL,
22 HEATING, AIR CONDITIONING, AND LIGHTING CONTRACTORS, TO BE
23 CERTIFIED CONTRACTORS CAPABLE OF MARKETING THE PROGRAM AND
24 COMPLETING CLEAN ENERGY IMPROVEMENTS. THE PROGRAM
25 ADMINISTRATOR MAY CHARGE CONTRACTORS A REASONABLE FEE FOR
26 TRAINING AND CERTIFICATION, AND THE RECRUITING, SELECTION,
27 SCREENING, TRAINING, AND CERTIFICATION PROCESS SHALL INCLUDE, AT

1 A MINIMUM:

2 (I) DIRECT MARKETING OF THE PROGRAM TO CONTRACTORS;

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

5 (III) INITIAL TRAINING THAT INCLUDES:

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

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

16 ==

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

19 (2) = A POTENTIAL QUALIFIED BORROWER SHALL APPLY FOR A
20 CLEAN ENERGY LOAN BY COMPLETING AN INITIAL LOAN APPLICATION. THE
21 OFFICE OR, AT THE DISCRETION OF THE OFFICE, THE PROGRAM
22 ADMINISTRATOR OR PARTICIPATING PUBLIC LENDERS AND PRIVATE
23 LENDERS SHALL PRESCRIBE THE FORM OF THE LOAN APPLICATION AND
24 SHALL DETERMINE, BASED ON THE APPLICATION AND SUCH OTHER
25 INFORMATION AS THE ADMINISTRATOR MAY REASONABLY REQUIRE FROM
26 THE APPLICANT, WHETHER THE APPLICANT IS A QUALIFIED BORROWER
27 AND, IF SO, WHETHER THE QUALIFIED BORROWER IS A FIRST TIER, SECOND

1 TIER, OR THIRD TIER QUALIFIED BORROWER. HOWEVER, A PARTICIPATING
2 PUBLIC LENDER MAY ONLY ORIGINATE CLEAN ENERGY LOANS FOR FIRST
3 TIER AND SECOND TIER QUALIFIED BORROWERS. A QUALIFIED BORROWER
4 MAY CHOOSE A LOAN TERM OF UP TO TEN YEARS. THE STATE TREASURER
5 SHALL, USING A FORMULA TIED TO A REGULARLY PUBLISHED INTEREST
6 RATE INDEX SELECTED BY THE STATE TREASURER, DETERMINE A BASE
7 ANNUAL RATE OF INTEREST TO BE CHARGED ON LOANS MADE TO THIRD
8 TIER QUALIFIED BORROWERS. THE STATE TREASURER SHALL SET AN
9 ANNUAL RATE OF INTEREST FOR LOANS TO SECOND TIER QUALIFIED
10 BORROWERS BY SUBTRACTING A NUMBER OF BASIS POINTS SELECTED BY
11 THE STATE TREASURER FROM THE BASE ANNUAL RATE AND SHALL SET AN
12 ANNUAL RATE OF INTEREST FOR LOANS TO FIRST TIER QUALIFIED
13 BORROWERS BY SUBTRACTING A NUMBER OF BASIS POINTS SELECTED BY
14 THE STATE TREASURER FROM THE ANNUAL RATE OF INTEREST FOR LOANS
15 TO SECOND TIER QUALIFIED BORROWERS.

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

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

26 (A) THE TOTAL NUMBER AND PRINCIPAL AMOUNT OF CLEAN
27 ENERGY LOANS ORIGINATED AND THE NUMBER AND PRINCIPAL AMOUNT OF

1 CLEAN ENERGY LOANS ORIGINATED TO FIRST TIER, SECOND TIER, AND
2 THIRD TIER QUALIFIED BORROWERS;

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

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

12 (D) THE TOTAL AMOUNT OF BONDS OR OTHER NOTES IN WHICH
13 THE STATE TREASURER HAS INVESTED AS AUTHORIZED BY SECTION
14 24-38.5-103 (3) (d), THE PAYMENTS MADE ON SUCH BONDS OR OTHER
15 NOTES, AND THE PAYMENTS TO BE MADE IN THE FUTURE ON SUCH BONDS
16 OR OTHER NOTES; AND

17 (E) THE AMOUNTS PAID TO THE ADMINISTRATOR BY THE STATE
18 PURSUANT TO SECTION 24-38.5-103 (3) (a) AND (3) (b) AND ANY
19 CONTRACTS ENTERED INTO BY THE STATE AND THE ADMINISTRATOR AS
20 AUTHORIZED BY THIS ARTICLE;

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

24 (III) ANY RECOMMENDED PROGRAM IMPROVEMENTS.

25 (b) SUBJECT TO THE LIMITATION SET FORTH IN SECTION 24-1-136
26 (11), NO LATER THAN JANUARY 30, 2010, AND NO LATER THAN EACH
27 JANUARY 30 THEREAFTER, THE OFFICE SHALL REPORT TO THE

1 TRANSPORTATION AND ENERGY COMMITTEE OF THE HOUSE OF
2 REPRESENTATIVES AND THE AGRICULTURE, NATURAL RESOURCES, AND
3 ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES,
4 REGARDING THE PROGRAM. THE REPORT SHALL INCLUDE THE
5 INFORMATION PROVIDED TO THE OFFICE IN THE PROGRAM
6 ADMINISTRATOR'S ANNUAL REPORT AND WHATEVER ADDITIONAL
7 INFORMATION THE OFFICE DEEMS RELEVANT TO FULLY APPRISE THE
8 COMMITTEES REGARDING THE STATUS OF THE PROGRAM.

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

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

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

19 PART 12

20 RURAL CLEAN ENERGY

21 PROJECT FINANCE PROGRAM

22 30-20-1201. Short title. THIS PART 12 SHALL BE KNOWN AND
23 MAY BE CITED AS THE "RURAL CLEAN ENERGY PROJECT FINANCE
24 PROGRAM ACT".

25 30-20-1202. Definitions. AS USED IN THIS PART 12, UNLESS THE
26 CONTEXT OTHERWISE REQUIRES:

27 (1) "BOARD" MEANS THE BOARD OF COUNTY COMMISSIONERS OF

1 A COUNTY OR A CITY AND COUNTY.

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

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

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

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

26 **30-20-1203. Eligible clean energy project financing - county**
27 **approval - private activity bond financing. (1) AN ELIGIBLE**

1 APPLICANT MAY APPLY TO THE BOARD OF THE COUNTY OR CITY AND
2 COUNTY IN WHICH IT PROPOSES TO CONSTRUCT, EXPAND, OR UPGRADE AN
3 ELIGIBLE CLEAN ENERGY PROJECT FOR ASSISTANCE IN THE FINANCING OF
4 THE PROJECT. SUBJECT TO THE REQUIREMENTS AND LIMITATIONS
5 SPECIFIED IN FEDERAL LAW, THE "COLORADO PRIVATE ACTIVITY BOND
6 CEILING ALLOCATION ACT", PART 17 OF ARTICLE 32 OF TITLE 24, C.R.S.,
7 AND SUBSECTION (2) OF THIS SECTION, IF THE BOARD APPROVES THE
8 APPLICATION, IT MAY PROVIDE FINANCING ASSISTANCE BY ISSUING
9 TAX-EXEMPT PRIVATE ACTIVITY BONDS IN A MINIMUM AMOUNT OF ONE
10 MILLION DOLLARS ON BEHALF OF THE ELIGIBLE APPLICANT.

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

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

17 (I) THE BOARD AGREES TO LOAN TO THE ELIGIBLE APPLICANT THE
18 NET PROCEEDS OF THE BONDS ISSUED SO THAT THE ELIGIBLE APPLICANT
19 CAN FINANCE ALL OR A PORTION OF THE ELIGIBLE CLEAN ENERGY PROJECT;
20 AND

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

27 (b) THE BONDS ISSUED SHALL SPECIFY THAT BONDHOLDERS MAY

1 NOT LOOK TO ANY COUNTY OR CITY AND COUNTY REVENUES FOR
2 REPAYMENT OF THE BONDS. THE BONDS SHALL FURTHER SPECIFY THAT
3 THE ONLY SOURCES OF REPAYMENT FOR THE BONDS ARE REVENUES
4 PROVIDED BY THE ELIGIBLE APPLICANT, PROPERTY OF THE ELIGIBLE
5 APPLICANT, OR CREDIT ENHANCEMENT OBTAINED BY THE ELIGIBLE
6 APPLICANT THAT MAY BE PLEDGED TO THE PAYMENT OF THE BONDS; AND

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

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

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

24 **SECTION 4. Appropriation.** In addition to any other
25 appropriation, there is hereby appropriated, out of any moneys in the
26 clean energy fund created in section 24-75-1201 (1), Colorado Revised
27 Statutes, not otherwise appropriated, to the office of the governor, for

1 allocation to the governor's energy office, to provide sub-market rate
2 loans to homeowners and businesses to finance structural improvements
3 that will improve energy efficiency and increase the use of renewable
4 energy, for the fiscal year beginning July 1, 2008, the sum of nine
5 hundred eighty-one thousand seven hundred sixty-one dollars (\$981,761)
6 and 1.0 FTE, or so much thereof as may be necessary, for the
7 implementation of this act.

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