

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 08-0563.02 Jason Gelender

SENATE BILL 08-184

SENATE SPONSORSHIP

Romer,

HOUSE SPONSORSHIP

Levy,

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.*

HOUSE
3rd Reading Unam ended
April 30, 2008

HOUSE
Am ended 2nd Reading
April 29, 2008

SENATE
3rd Reading Unam ended
April 21, 2008

SENATE
Am ended 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 NONPROFIT CORPORATION

1 OR LOCAL 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 PROJECT 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;

23 (d) ENCOURAGE HOMEOWNERS TO PARTICIPATE IN UTILITY
24 DEMAND SIDE MANAGEMENT PROGRAMS WHERE APPLICABLE; AND

25 (e) PERFORM SUCH OTHER DUTIES AS MAY BE AUTHORIZED IN THIS
26 ARTICLE OR REQUIRED BY THE OFFICE.

27 (9) "PROGRAM FUND" MEANS THE CLEAN ENERGY PROGRAM FUND

1 CREATED IN SECTION 24-38.5-103 (2) (a).

2 (10) "PUBLIC LENDER" MEANS A COUNTY, MUNICIPALITY,
3 DISTRICT, AUTHORITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE
4 AUTHORIZED TO MAKE ECONOMIC DEVELOPMENT, AFFORDABLE HOUSING,
5 OR HOUSING REHABILITATION LOANS.

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

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

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

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

27 (a) SELECT THE PROGRAM ADMINISTRATOR IN ACCORDANCE WITH

1 THE PROVISIONS OF THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF
2 THIS TITLE. IN SELECTING THE PROGRAM ADMINISTRATOR, THE OFFICE
3 SHALL CONSIDER THE EXTENT TO WHICH A POTENTIAL PROGRAM
4 ADMINISTRATOR HAS DEMONSTRATED EXPERIENCE IN RECRUITING,
5 TRAINING, AND CERTIFYING CONTRACTORS OR CAN OTHERWISE ESTABLISH
6 THAT IT WILL BE ABLE TO PERFORM SUCH FUNCTIONS.

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

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

13 (I) MONITOR THE QUALITY OF CLEAN ENERGY IMPROVEMENT
14 INSTALLATIONS; AND

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

18 (d) DETERMINE, IN CONSULTATION WITH THE STATE TREASURER,
19 WHEN THE ADMINISTRATIVE AND PROCEDURAL FRAMEWORK FOR THE
20 PROGRAM AND THE AVAILABLE ADMINISTRATIVE AND FINANCIAL
21 RESOURCES FOR THE PROGRAM ARE SUFFICIENTLY DEVELOPED TO ALLOW
22 THE OFFICE TO EFFECTIVELY OVERSEE THE PROGRAM. NO CLEAN ENERGY
23 LOAN SHALL BE MARKETED TO A POTENTIAL QUALIFIED BORROWER,
24 APPLIED FOR BY A POTENTIAL QUALIFIED BORROWER, OR MADE TO A
25 QUALIFIED BORROWER UNTIL THE OFFICE HAS DETERMINED THAT IT IS
26 READY TO EFFECTIVELY OVERSEE THE PROGRAM AND INSTRUCTED
27 CERTIFIED CONTRACTORS TO BEGIN MARKETING CLEAN ENERGY LOANS.

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

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

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

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

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

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

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

1 TRAINING AND CERTIFICATION, AND THE RECRUITING, SELECTION,
2 SCREENING, TRAINING, AND CERTIFICATION PROCESS SHALL INCLUDE, AT
3 A MINIMUM:

4 (I) DIRECT MARKETING OF THE PROGRAM TO CONTRACTORS;
5 (II) FINANCIAL AND BUSINESS PRACTICES BACKGROUND CHECKS
6 OF CONTRACTORS SEEKING TO BECOME CERTIFIED CONTRACTORS; AND

7 (III) INITIAL TRAINING THAT INCLUDES:

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

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

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

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

1 THE APPLICANT, WHETHER THE APPLICANT IS A QUALIFIED BORROWER
2 AND, IF SO, WHETHER THE QUALIFIED BORROWER IS A FIRST TIER, SECOND
3 TIER, OR THIRD TIER QUALIFIED BORROWER. HOWEVER, A PARTICIPATING
4 PUBLIC LENDER MAY ONLY ORIGINATE CLEAN ENERGY LOANS FOR FIRST
5 TIER AND SECOND TIER QUALIFIED BORROWERS. A QUALIFIED BORROWER
6 MAY CHOOSE A LOAN TERM OF UP TO TEN YEARS. THE STATE TREASURER
7 SHALL, USING A FORMULA TIED TO A REGULARLY PUBLISHED INTEREST
8 RATE INDEX SELECTED BY THE STATE TREASURER, DETERMINE A BASE
9 ANNUAL RATE OF INTEREST TO BE CHARGED ON LOANS MADE TO THIRD
10 TIER QUALIFIED BORROWERS. THE STATE TREASURER SHALL SET AN
11 ANNUAL RATE OF INTEREST FOR LOANS TO SECOND TIER QUALIFIED
12 BORROWERS BY SUBTRACTING A NUMBER OF BASIS POINTS SELECTED BY
13 THE STATE TREASURER FROM THE BASE ANNUAL RATE AND SHALL SET AN
14 ANNUAL RATE OF INTEREST FOR LOANS TO FIRST TIER QUALIFIED
15 BORROWERS BY SUBTRACTING A NUMBER OF BASIS POINTS SELECTED BY
16 THE STATE TREASURER FROM THE ANNUAL RATE OF INTEREST FOR LOANS
17 TO SECOND TIER QUALIFIED BORROWERS. THE INTEREST RATE CHARGED
18 TO A QUALIFIED BORROWER THAT IS A NONPROFIT CORPORATION OR A
19 HOUSING AUTHORITY SHALL BE THE INTEREST RATE CHARGED TO SECOND
20 TIER QUALIFIED BORROWERS; EXCEPT THAT THE INTEREST RATE CHARGED
21 TO A NONPROFIT CORPORATION OR HOUSING AUTHORITY SHALL BE THE
22 INTEREST RATE CHARGED TO FIRST TIER QUALIFIED BUYERS IF THE
23 NONPROFIT CORPORATION OR HOUSING AUTHORITY ONLY PROVIDES THE
24 HOUSING FOR WHICH THE LOAN WILL FINANCE CLEAN ENERGY
25 IMPROVEMENTS TO INDIVIDUALS OR FAMILIES WHO ARE FIRST TIER
26 QUALIFIED BORROWERS.

27

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

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

10 (A) THE TOTAL NUMBER AND PRINCIPAL AMOUNT OF CLEAN
11 ENERGY LOANS ORIGINATED AND THE NUMBER AND PRINCIPAL AMOUNT OF
12 CLEAN ENERGY LOANS ORIGINATED TO FIRST TIER, SECOND TIER, AND
13 THIRD TIER QUALIFIED BORROWERS;

14 (B) THE TOTAL AMOUNT OF OUTSTANDING PRINCIPAL AND
15 INTEREST ON CLEAN ENERGY LOANS OWED BY QUALIFIED BORROWERS
16 AND THE AMOUNT OF SUCH PRINCIPAL AND INTEREST OWED BY FIRST TIER,
17 SECOND TIER, AND THIRD TIER QUALIFIED BORROWERS;

18 (C) THE TOTAL NUMBER AND PRINCIPAL AND INTEREST AMOUNTS
19 OF ANY UNCOLLECTIBLE CLEAN ENERGY LOANS WRITTEN OFF BY
20 PARTICIPATING PUBLIC LENDERS AND PRIVATE LENDERS AND THE NUMBER
21 AND PRINCIPAL AMOUNTS OF SUCH LOANS ISSUED TO FIRST TIER, SECOND
22 TIER, AND THIRD TIER QUALIFIED BORROWERS;

23 (D) THE TOTAL AMOUNT OF BONDS OR OTHER NOTES IN WHICH
24 THE STATE TREASURER HAS INVESTED AS AUTHORIZED BY SECTION
25 24-38.5-103 (3) (d), THE PAYMENTS MADE ON SUCH BONDS OR OTHER
26 NOTES, AND THE PAYMENTS TO BE MADE IN THE FUTURE ON SUCH BONDS
27 OR OTHER NOTES; AND

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

5 (II) ESTIMATES OF THE TOTAL ENERGY, EMISSIONS, AND GROSS
6 AND NET COST SAVINGS RESULTING FROM CLEAN ENERGY IMPROVEMENTS
7 FINANCED BY CLEAN ENERGY LOANS; AND

8 (III) ANY RECOMMENDED PROGRAM IMPROVEMENTS.

9 (b) SUBJECT TO THE LIMITATION SET FORTH IN SECTION 24-1-136
10 (11), NO LATER THAN JANUARY 30, 2010, AND NO LATER THAN EACH
11 JANUARY 30 THEREAFTER, THE OFFICE SHALL REPORT TO THE
12 TRANSPORTATION AND ENERGY COMMITTEE OF THE HOUSE OF
13 REPRESENTATIVES AND THE AGRICULTURE, NATURAL RESOURCES, AND
14 ENERGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES,
15 REGARDING THE PROGRAM. THE REPORT SHALL INCLUDE THE
16 INFORMATION PROVIDED TO THE OFFICE IN THE PROGRAM
17 ADMINISTRATOR'S ANNUAL REPORT AND WHATEVER ADDITIONAL
18 INFORMATION THE OFFICE DEEMS RELEVANT TO FULLY APPRISE THE
19 COMMITTEES REGARDING THE STATUS OF THE PROGRAM.

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

22 **24-36-113. Investment of state moneys - limitations. (5) The**
23 **state treasurer may engage in reverse repurchase agreements and**
24 **securities lending programs for any securities in the state treasurer's**
25 **custody AND MAY PURCHASE LOANS, IF, IN THE STATE TREASURER'S**
26 **DISCRETION, THE PURCHASE OF LOANS WILL YIELD A FAIR AND EQUITABLE**
27 **RETURN TO THE STATE.**

1 WITH A NAMEPLATE RATING OF MORE THAN FIFTY MEGAWATTS, AND IS
2 LOCATED WITHIN THE CERTIFICATED SERVICE AREA OF A COOPERATIVE
3 ELECTRIC ASSOCIATION. "ELIGIBLE CLEAN ENERGY PROJECT" INCLUDES
4 TRANSMISSION LINES TO THE POINT OF ENTRY TO THE POWER GRID OF A
5 COOPERATIVE ELECTRIC ASSOCIATION, A GENERATION AND TRANSMISSION
6 ELECTRIC CORPORATION OR ASSOCIATION, OR ANY FEDERAL AGENCY AND
7 ANY OTHER EQUIPMENT OR FACILITY, INCLUDING, BUT NOT LIMITED TO,
8 SUBSTATION UPGRADES NEEDED TO DELIVER THE CLEAN ENERGY
9 PRODUCED BY AN ELIGIBLE CLEAN ENERGY PROJECT TO A MARKET.

10 **30-20-1203. Eligible clean energy project financing - county**
11 **approval - private activity bond financing.** (1) AN ELIGIBLE
12 APPLICANT MAY APPLY TO THE BOARD OF THE COUNTY OR CITY AND
13 COUNTY IN WHICH IT PROPOSES TO CONSTRUCT, EXPAND, OR UPGRADE AN
14 ELIGIBLE CLEAN ENERGY PROJECT FOR ASSISTANCE IN THE FINANCING OF
15 THE PROJECT. SUBJECT TO THE REQUIREMENTS AND LIMITATIONS
16 SPECIFIED IN FEDERAL LAW, THE "COLORADO PRIVATE ACTIVITY BOND
17 CEILING ALLOCATION ACT", PART 17 OF ARTICLE 32 OF TITLE 24, C.R.S.,
18 AND SUBSECTION (2) OF THIS SECTION, IF THE BOARD APPROVES THE
19 APPLICATION, IT MAY PROVIDE FINANCING ASSISTANCE BY ISSUING
20 TAX-EXEMPT PRIVATE ACTIVITY BONDS IN A MINIMUM AMOUNT OF ONE
21 MILLION DOLLARS ON BEHALF OF THE ELIGIBLE APPLICANT.

22 (2) A BOARD SHALL ISSUE TAX-EXEMPT PRIVATE ACTIVITY BONDS
23 ON BEHALF OF AN ELIGIBLE APPLICANT TO FINANCE AN ELIGIBLE CLEAN
24 ENERGY PROJECT SUBJECT TO THE FOLLOWING REQUIREMENTS AND
25 LIMITATIONS:

26 (a) THE BOARD SHALL ENTER INTO AGREEMENTS WITH THE
27 ELIGIBLE APPLICANT UNDER WHICH:

1 (I) THE BOARD AGREES TO LOAN TO THE ELIGIBLE APPLICANT THE
2 NET PROCEEDS OF THE BONDS ISSUED SO THAT THE ELIGIBLE APPLICANT
3 CAN FINANCE ALL OR A PORTION OF THE ELIGIBLE CLEAN ENERGY PROJECT;
4 AND

5 (II) THE ELIGIBLE APPLICANT AGREES THAT IT HAS THE SOLE
6 RESPONSIBILITY TO PAY, EITHER DIRECTLY OR INDIRECTLY THROUGH THE
7 BOARD OR A BOND TRUSTEE, ALL FINANCIAL OBLIGATIONS OWED TO
8 BONDHOLDERS AND THAT IT SHALL PROVIDE AND MAINTAIN ANY RESERVE
9 DEEMED NECESSARY BY THE BOARD TO ENSURE THAT THE FINANCIAL
10 OBLIGATIONS ARE PAID;

11 (b) THE BONDS ISSUED SHALL SPECIFY THAT BONDHOLDERS MAY
12 NOT LOOK TO ANY COUNTY OR CITY AND COUNTY REVENUES FOR
13 REPAYMENT OF THE BONDS. THE BONDS SHALL FURTHER SPECIFY THAT
14 THE ONLY SOURCES OF REPAYMENT FOR THE BONDS ARE REVENUES
15 PROVIDED BY THE ELIGIBLE APPLICANT, PROPERTY OF THE ELIGIBLE
16 APPLICANT, OR CREDIT ENHANCEMENT OBTAINED BY THE ELIGIBLE
17 APPLICANT THAT MAY BE PLEDGED TO THE PAYMENT OF THE BONDS; AND


18 (c) THE REPAYMENT TERM FOR THE BONDS ISSUED SHALL NOT
19 EXCEED TEN YEARS.

20 (3) BECAUSE PRIVATE ACTIVITY BONDS ARE PAYABLE ONLY FROM
21 THE SOURCES SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (2) OF THIS
22 SECTION, SUCH BONDS SHALL NOT BE DEEMED TO CREATE COUNTY OR CITY
23 AND COUNTY INDEBTEDNESS OR A MULTIPLE-FISCAL YEAR OBLIGATION
24 WITHIN THE MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR
25 THE LAWS OF THIS STATE, AND A BOARD MAY ISSUE SUCH BONDS WITHOUT
26 VOTER APPROVAL.

27 (4) THE RATES CHARGED BY AN ELIGIBLE APPLICANT FOR THE

1 DELIVERY OF CLEAN ENERGY PRODUCED BY AN ELIGIBLE CLEAN ENERGY
2 PROJECT SHALL BE SET TO ALLOW RECOVERY OF ALL COSTS NECESSARILY
3 INCURRED TO DELIVER THE CLEAN ENERGY TO A MARKET, INCLUDING, BUT
4 NOT LIMITED TO, THE COSTS OF SUBSTATION UPGRADES, TRANSMISSION
5 LINES TO THE POINT OF ENTRY TO THE POWER GRID OF A COOPERATIVE
6 ELECTRIC ASSOCIATION, AND ANY WHEELING CHARGES IMPOSED BY A
7 COOPERATIVE ELECTRIC ASSOCIATION.

8 **SECTION 4. Appropriation - adjustments to the 2008 long**
9 **bill.** For the implementation of this act, the appropriation made in the
10 annual general appropriation act for the fiscal year beginning July 1,
11 2008, to the office of the governor, for allocation to the governor's energy
12 office, clean energy, is increased by 1.0 FTE. This 1.0 FTE shall be
13 supported by moneys in the clean energy program fund created in section
14 24-38.5-103 (2) (a), Colorado Revised Statutes, and any gifts, grants, or
15 donations made to the governor's energy office for the purposes of
16 implementing this act. Moneys in the clean energy program fund are
17 continuously appropriated pursuant to section 24-38.5-103 (3) (a),
18 Colorado Revised Statutes.

19 
20 **SECTION 5. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.