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SENATE BILL 09-031

BY SENATOR(S) Heath, Boyd, Foster, Keller, Morse, Newell, Romer, Schwartz, Shaffer B., Williams, Bacon, Gibbs;
also REPRESENTATIVE(S) Riesberg, Apuan, Frangas, Ryden, Todd, Vigil, Fischer.

CONCERNING THE CREATION OF THE CLEAN TECHNOLOGY DISCOVERY
EVALUATION GRANT PROGRAM.

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

SECTION 1. Article 48.5 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-48.5-111. Clean technology discovery evaluation grant program - clean technology research - definitions - evaluation - fund - repeal. (1) **Legislative declaration.** (a) THE GENERAL ASSEMBLY FINDS THAT:

(I) ADDITIONAL RESOURCES ARE NEEDED TO ASSIST IN IMPROVING AND ACCELERATING THE EVALUATION PROCESS FOR CLEAN TECHNOLOGY RESEARCH DISCOVERIES TO DETERMINE THE BEST DISPOSITION OF THESE DISCOVERIES;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(II) THE PROCESS OF ADVANCING CLEAN TECHNOLOGY RESEARCH DISCOVERIES TOWARD COMMERCIALIZATION NEEDS TO BE ACCELERATED TO SUPPORT THE DEVELOPMENT OF NEW CLEAN TECHNOLOGY PRODUCTS AND SERVICES IN COLORADO;

(III) THE DEVELOPMENT OF PRODUCTS AND SERVICES FROM CLEAN TECHNOLOGY RESEARCH DISCOVERIES THAT ORIGINATE IN COLORADO'S RESEARCH INSTITUTIONS WILL CREATE NEW CLEAN TECHNOLOGY COMPANIES AND ADDITIONAL PRIMARY JOBS IN COLORADO; AND

(IV) THE STATE SHOULD DEDICATE RESOURCES TO SUPPORT PARTNERSHIP EFFORTS BETWEEN THE CLEAN TECHNOLOGY INDUSTRY AND RESEARCH INSTITUTIONS TO BUILD INFRASTRUCTURE THAT SUPPORTS THE COMMERCIALIZATION OF CLEAN TECHNOLOGY PRODUCTS AND SERVICES.

(b) THE GENERAL ASSEMBLY, THEREFORE, DECLARES THAT IT IS IN THE BEST INTEREST OF THE STATE'S ECONOMIC GROWTH TO DEDICATE FINANCIAL RESOURCES TO FACILITATE THE DEVELOPMENT OF NEW CLEAN TECHNOLOGY RESEARCH DISCOVERIES IN COLORADO AND PROMOTE COLORADO-BASED CLEAN TECHNOLOGY.

(2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CLEAN TECHNOLOGY COMPANY" MEANS A COMPANY THAT IS LOCATED IN COLORADO AND PRODUCES OR DEVELOPS ONE OR MORE CLEAN TECHNOLOGY PRODUCTS OR SERVICES.

(b) "CLEAN TECHNOLOGY PRODUCTS OR SERVICES" MEANS:

(I) RENEWABLE ENERGY GENERATION TECHNOLOGIES, INCLUDING BUT NOT LIMITED TO SOLAR, WIND, BIOFUEL, AND GEOTHERMAL ENERGY-GENERATION TECHNOLOGIES;

(II) PRODUCTS AND TECHNOLOGIES USED IN RENEWABLE ENERGY DEPLOYMENT AND GENERATION ON A COMMERCIAL SCALE;

(III) PRODUCTS AND TECHNOLOGIES THAT ENHANCE THE EFFICIENT STORAGE, DISTRIBUTION, AND CONSUMPTION OF ENERGY; OR

(IV) PRODUCTS AND TECHNOLOGIES THAT MITIGATE HUMAN IMPACT ON THE ENVIRONMENT, INCLUDING BUT NOT LIMITED TO PRODUCTS AND TECHNOLOGIES THAT FACILITATE THE MANAGEMENT OF GREENHOUSE GASES, WATER, AND WASTE.

(c) "CLEAN TECHNOLOGY RESEARCH" MEANS BASIC OR APPLIED RESEARCH THAT LEADS TO THE DEVELOPMENT OF CLEAN TECHNOLOGY PRODUCTS OR SERVICES.

(d) "DIRECTOR" MEANS THE DIRECTOR OF THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101.

(e) "EARLY-STAGE CLEAN TECHNOLOGY COMPANY" MEANS A CLEAN TECHNOLOGY COMPANY THAT:

(I) HAS RECEIVED LESS THAN FIVE MILLION DOLLARS FROM GRANTS AND THIRD-PARTY INVESTORS;

(II) EMPLOYS FIFTY OR FEWER PERSONS; AND

(III) HAS ITS HEADQUARTERS LOCATED IN COLORADO.

(f) "FUND" MEANS THE CLEAN TECHNOLOGY DISCOVERY EVALUATION CASH FUND CREATED IN SUBSECTION (5) OF THIS SECTION.

(g) "OFFICE OF TECHNOLOGY TRANSFER" MEANS AN OFFICE THAT IS AFFILIATED WITH A RESEARCH INSTITUTION AND THAT IS RESPONSIBLE FOR TECHNOLOGY TRANSFER AND THAT ARRANGES FOR THE SALE OR LICENSURE OF A CLEAN TECHNOLOGY RESEARCH PROJECT TO A PRIVATE ENTITY.

(h) "PROGRAM" MEANS THE CLEAN TECHNOLOGY DISCOVERY EVALUATION GRANT PROGRAM CREATED IN SUBSECTION (3) OF THIS SECTION.

(i) "RESEARCH INSTITUTION" MEANS A PUBLIC OR PRIVATE, NONPROFIT INSTITUTION OF HIGHER EDUCATION LOCATED AND OPERATING IN COLORADO.

(3) **Program.** (a) THERE IS HEREBY CREATED IN THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT THE CLEAN TECHNOLOGY DISCOVERY

EVALUATION GRANT PROGRAM FOR THE PURPOSE OF IMPROVING AND EXPANDING THE DEVELOPMENT OF CLEAN TECHNOLOGY DISCOVERIES WITH THE INTENT OF ACCELERATING THE DEVELOPMENT OF NEW CLEAN TECHNOLOGY PRODUCTS AND SERVICES. THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT SHALL ADMINISTER THE PROGRAM. THE DIRECTOR SHALL CONSULT WITH A COLORADO-BASED CLEAN TECHNOLOGY INDUSTRY ASSOCIATION IN IMPLEMENTING THE PROGRAM, WHICH IMPLEMENTATION SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, REVIEWING PROGRAM GRANT APPLICATIONS AND MONITORING AND EVALUATING THE GRANTEES AND THE CLEAN TECHNOLOGY RESEARCH PROJECTS.

(b) THE PROGRAM SHALL PROVIDE GRANTS TO OFFICES OF TECHNOLOGY TRANSFER, EARLY-STAGE CLEAN TECHNOLOGY COMPANIES, AND PRIVATE ENTITIES. THE GRANTS SHALL BE PAID FROM MONEYS APPROPRIATED TO THE FUND. THE GRANTS SHALL BE PROVIDED IN AMOUNTS OF:

(I) NO MORE THAN FIFTY THOUSAND DOLLARS FOR EACH OFFICE OF TECHNOLOGY TRANSFER THAT IS AWARDED A GRANT FOR A RESEARCH PROJECT; AND

(II) NO MORE THAN ONE HUNDRED FIFTY THOUSAND DOLLARS FOR EACH EARLY-STAGE CLEAN TECHNOLOGY COMPANY THAT IS AWARDED A GRANT. THE TOTAL SUM OF MONEYS AWARDED AS GRANTS FROM THE PROGRAM TO AN EARLY-STAGE CLEAN TECHNOLOGY COMPANY SHALL NOT EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS.

(c) IN PROVIDING GRANTS TO OFFICES OF TECHNOLOGY TRANSFER AND EARLY-STAGE CLEAN TECHNOLOGY COMPANIES PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3), THE PROGRAM SHALL PROVIDE THE GRANTS AS FOLLOWS:

(I) AT LEAST TWENTY-FIVE PERCENT OF THE MONEYS CREDITED TO THE FUND SHALL BE USED TO PROVIDE GRANTS TO OFFICES OF TECHNOLOGY TRANSFER FOR CLEAN TECHNOLOGY RESEARCH PROJECTS.

(II) AT LEAST TWENTY-FIVE PERCENT OF THE MONEYS CREDITED TO THE FUND SHALL BE USED TO PROVIDE GRANTS TO EARLY-STAGE CLEAN TECHNOLOGY COMPANIES.

(d) THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT MAY USE ANY MONEYS TRANSFERRED TO THE FUND THAT ARE NOT USED TO PROVIDE GRANTS AS DESCRIBED IN PARAGRAPHS (b) AND (c) OF THIS SUBSECTION (3) TO SUPPORT PARTNERSHIP EFFORTS BETWEEN THE CLEAN TECHNOLOGY INDUSTRY AND RESEARCH INSTITUTIONS TO BUILD AND MAINTAIN INFRASTRUCTURE THAT SUPPORTS THE COMMERCIALIZATION OF CLEAN TECHNOLOGY PRODUCTS OR SERVICES, WHICH INFRASTRUCTURE MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE COLORADO RENEWABLE ENERGY AUTHORITY CREATED IN SECTION 24-47.5-101.

(e) IN APPLYING FOR A GRANT UNDER THE PROGRAM FOR A CLEAN TECHNOLOGY RESEARCH PROJECT, AN OFFICE OF TECHNOLOGY TRANSFER SHALL SUBMIT TO THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT ALL OF THE FOLLOWING:

(I) A DESCRIPTION OF A CLEAN TECHNOLOGY RESEARCH PROJECT THAT IS LIKELY TO LEAD TO COMMERCIALIZATION OF ONE OR MORE CLEAN TECHNOLOGY PRODUCTS OR SERVICES;

(II) EVIDENCE OF A DEDICATED, MATCHING SOURCE OF MONEYS THAT IS AT LEAST EQUAL TO THE AMOUNT APPLIED FOR UNDER THE PROGRAM; AND

(III) AN ANALYSIS DEMONSTRATING THAT THE SCOPE OF THE PROJECT FOR WHICH THE OFFICE OF TECHNOLOGY TRANSFER IS APPLYING FOR A GRANT IS SUFFICIENT TO DETERMINE THE MOST PRODUCTIVE DISPOSITION OF THE CLEAN TECHNOLOGY PRODUCTS OR SERVICES THAT RESULTS FROM THE PROJECT.

(f) IN APPLYING FOR A GRANT FROM THE PROGRAM FOR A COMMERCIALIZATION PURPOSE THAT IS DESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH (c) OF THIS SUBSECTION (3), AN EARLY-STAGE CLEAN TECHNOLOGY COMPANY SHALL SUBMIT TO THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT ALL OF THE FOLLOWING:

(I) AN ANALYSIS DEMONSTRATING THAT THE SCOPE OF THE PROJECT FOR WHICH THE EARLY-STAGE CLEAN TECHNOLOGY COMPANY IS APPLYING FOR A GRANT IS SUFFICIENT TO ENHANCE THE COMMERCIALIZATION OF ONE OR MORE CLEAN TECHNOLOGY PRODUCTS OR SERVICES; AND

(II) EVIDENCE OF A DEDICATED, MATCHING SOURCE OF MONEYS THAT IS AT LEAST EQUAL TO THE AMOUNT APPLIED FOR UNDER THE PROGRAM, WHICH SOURCE CONSISTS ENTIRELY OF OTHER GRANTS OR CONTRIBUTIONS FROM THIRD-PARTY INVESTORS.

(g) SUBJECT TO AVAILABLE APPROPRIATIONS, THE DIRECTOR SHALL AWARD THE GRANTS.

(h) A GRANT RECIPIENT SHALL USE A GRANT AWARDED UNDER THE PROGRAM ONLY TO ADVANCE A NEW RESEARCH DISCOVERY TOWARD COMMERCIALIZATION AND NOT TO SUPPORT BASIC RESEARCH.

(i) UPON COMPLETION OF THE RESEARCH SCOPE OF A CLEAN TECHNOLOGY RESEARCH PROJECT FOR WHICH A GRANT RECIPIENT HAS RECEIVED A GRANT AWARDED UNDER THE PROGRAM, THE OFFICE OF TECHNOLOGY TRANSFER SHALL RETURN ANY UNUSED GRANT MONEYS TO THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT. THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT SHALL TRANSFER THE MONEYS TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND.

(4) **Policies - reporting.** (a) ON OR BEFORE SEPTEMBER 1, 2009, THE DIRECTOR SHALL ESTABLISH POLICIES FOR THE PROGRAM THAT INCLUDE, BUT NEED NOT BE LIMITED TO:

(I) THE PROCEDURES AND TIMELINES BY WHICH AN OFFICE OF TECHNOLOGY TRANSFER OR AN EARLY-STAGE CLEAN TECHNOLOGY COMPANY MAY APPLY FOR A GRANT;

(II) CRITERIA FOR DETERMINING THE GRANT AMOUNTS; AND

(III) A REPORTING REQUIREMENT FOR GRANT RECIPIENTS THAT REQUIRES, AT A MINIMUM, EACH OFFICE OF TECHNOLOGY TRANSFER THAT RECEIVES A GRANT UNDER THE PROGRAM OR ITS DESIGNEE TO PRESENT ITS CLEAN TECHNOLOGY RESEARCH PROJECT TO ELEMENTARY AND SECONDARY SCHOOL SCIENCE TEACHERS WHO ARE EMPLOYED IN THE GEOGRAPHIC REGION IN WHICH THE CLEAN TECHNOLOGY PRODUCTS OR SERVICES ARE BEING DEVELOPED.

(b) ON OR BEFORE APRIL 15, 2010, AND ON OR BEFORE APRIL 15 EACH YEAR THEREAFTER, THE DIRECTOR SHALL SUBMIT A REPORT TO THE

BUSINESS AFFAIRS AND LABOR COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, SUMMARIZING THE CLEAN TECHNOLOGY RESEARCH PROJECTS AND DESCRIBING THE EARLY-STAGE CLEAN TECHNOLOGY COMPANIES THAT RECEIVED FUNDING UNDER THE PROGRAM IN THE PRECEDING YEAR. AT A MINIMUM, THE REPORT SHALL SPECIFY THE FOLLOWING INFORMATION:

(I) THE AMOUNT OF FUNDING DISTRIBUTED TO EACH CLEAN TECHNOLOGY RESEARCH PROJECT AND EARLY-STAGE CLEAN TECHNOLOGY COMPANY FROM THE PROGRAM AND A DESCRIPTION OF EACH CLEAN TECHNOLOGY RESEARCH PROJECT AND EARLY-STAGE CLEAN TECHNOLOGY COMPANY;

(II) THE MANNER IN WHICH EACH CLEAN TECHNOLOGY RESEARCH PROJECT AND EARLY-STAGE CLEAN TECHNOLOGY COMPANY APPLIED THE FUNDING RECEIVED FROM THE PROGRAM; AND

(III) THE RESULTS ACHIEVED BY EACH CLEAN TECHNOLOGY RESEARCH PROJECT AND EARLY-STAGE CLEAN TECHNOLOGY COMPANY, INCLUDING BUT NOT LIMITED TO:

(A) IDENTIFIABLE MONETARY RETURNS TO THE GRANT RECIPIENT AND OTHER PARTIES SINCE THE RECEIPT OF THE GRANT; AND

(B) THE NUMBER OF JOBS THAT HAVE DIRECTLY AND INDIRECTLY RESULTED FROM THE RESEARCH PROJECT.

(5) **Fund.** (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE CLEAN TECHNOLOGY DISCOVERY EVALUATION CASH FUND THAT SHALL CONSIST OF MONEYS THAT ARE CREDITED TO THE FUND PURSUANT TO PARAGRAPH (b) OR (c) OF THIS SUBSECTION (5). THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THE PROGRAM. ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS SECTION MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT

THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

(b) THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT IS AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS ARTICLE; EXCEPT THAT THE DEPARTMENT SHALL NOT ACCEPT A GIFT, GRANT, OR DONATION IF IT IS SUBJECT TO CONDITIONS THAT ARE INCONSISTENT WITH THIS ARTICLE OR ANY OTHER LAW OF THE STATE. THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT SHALL TRANSMIT ALL PRIVATE AND PUBLIC MONEYS RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND.

(c) TO THE EXTENT PERMITTED BY LAW, THE GOVERNOR, AT HIS OR HER DISCRETION, OR THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT, AT ITS DISCRETION, MAY DIRECT OTHER MONEYS TO THE FUND FOR THE PURPOSES OF THIS ARTICLE.

(d) THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT MAY USE UP TO FIVE PERCENT OF THE MONEYS ANNUALLY APPROPRIATED FROM THE FUND FOR THE ACTUAL COSTS INCURRED IN ADMINISTERING THE PROGRAM.

(6) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2014.

SECTION 2. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Peter C. Groff
PRESIDENT OF
THE SENATE

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO