



## *State of Colorado*

July 12, 2011

Representative Andy Kerr, House prime sponsor of H.B. 09-1312  
Senator Gail Schwartz, Senate prime sponsor of H.B. 09-1312  
Senator Brandon Shaffer, President of the Senate  
Representative Frank McNulty, Speaker of the House of Representatives  
Senator Mike Kopp, Minority Leader of the Senate  
Representative Sal Pace, Minority Leader of the House of Representatives  
State Capitol Building  
Denver, Colorado 80203

Dear Representative Kerr, Senator Schwartz, President Shaffer, Speaker McNulty, Senator Kopp, and Representative Pace:

As you may recall, Senate Bill 06-079 established a process for the post-enactment review of legislation. House Bill 09-1312, concerning the renewable energy and energy efficiency for school loans program, required such a post-enactment review.

To facilitate the post-enactment review of the legislation, we contacted the Governor's Energy Office, The State Board of Education, and the State Treasurer's Office to notify them of the requirements of the post-enactment review and to request they provide information to us for use in the review. Specifically, we requested responses to the following questions that are set out in section 2-2-1201 (2), C.R.S., the post-enactment review statute adopted in Senate Bill 06-079:

- Whether the bill has been implemented, in whole or in part;
- If the bill has been implemented in whole or in part, how the bill has been implemented, including whether the bill has been implemented in the most efficient and cost-effective manner;
- If the bill has been implemented in part, the reasons why the bill has not been implemented in whole;
- The extent to which the desired results or benefits of the bill, as specified in the legislative declaration of the bill, are being achieved;
- Whether there have been any unintended consequences or problems caused by the implementation of the bill;
- Whether the implementation of the bill has been impeded by any existing state or federal statutes, rules, procedures, or practices;
- Whether any administrative or statutory changes are necessary to improve the implementation of the bill;
- Whether the actual costs of implementing the bill have been within the estimated costs, if any, set forth in the fiscal note for the bill; and
- Whether any increase in state funding is necessary to improve the implementation of the bill.

In addition, we requested information related to the following items, which were specifically identified in section 22-92-102 (3) of House Bill 09-1312:

- The name and location of each qualified school district that has applied for a loan from the loan program;
- The number of loans that have been awarded to qualified school districts from the loan program;
- The name and location of each qualified school district that has been awarded a loan from the loan program;
- The amount of each loan that is awarded to a qualified school district from the loan program; and
- The terms of repayment for each loan that is awarded to a qualified school district from the loan program.

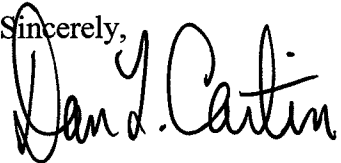
The purpose of this letter is to provide to you the information received from the Governor's Energy Office and the State Board of Education regarding the implementation of the legislation. Although multiple requests for information were sent to the State Treasurer's Office, no response was provided.

Attached for your review is the following information, with an indication of the pages on which the information can be located:

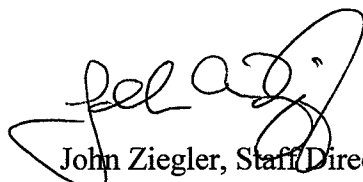
- (1) A copy of House Bill 09-1312; pages 1-9
- (2) The response received from the Governor's Energy Office; pages 10-12
- (3) The response received from the State Board of Education; pages 13-14

If you have any questions regarding the post-enactment review of House Bill 09-1312, please feel free to contact us.

Sincerely,



Dan L. Cartin, Director  
Office of Legislative Legal Services  
(303) 866-2045



John Ziegler, Staff Director  
Joint Budget Committee  
(303) 866-2061



Mike Mauer, Director  
Legislative Council Staff  
(303) 866-3521

## CHAPTER 253

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**EDUCATION - PUBLIC SCHOOLS**


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**HOUSE BILL 09-1312**

BY REPRESENTATIVE(S) Kerr A., Merrifield, Middleton, Scanlan, Todd, Benefield, Court, Fischer, Frangas, Green, Kefalas, Labuda, Levy, McCann, Miklosi, Primavera, Riesberg, Ryden, Schafer S., Solano, Vigil, Casso, Ferrandino, Hullinghorst, Pace, Pommer;  
also SENATOR(S) Schwartz and Romer, Bacon, Boyd, Foster, Gibbs, Groff, Heath, Newell, Shaffer B., Tochtrop.

**AN ACT**

**CONCERNING THE RENEWABLE ENERGY AND ENERGY EFFICIENCY FOR SCHOOLS LOAN PROGRAM.**

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

**SECTION 1.** Title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 92**  
**Renewable Energy and Energy Efficiency**  
**for Schools Loan Program**

**22-92-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "RENEWABLE ENERGY AND ENERGY EFFICIENCY FOR SCHOOLS LOAN PROGRAM ACT".

**22-92-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

(a) COLORADO'S SCHOOL DISTRICTS FACE A PERENNIAL STRUGGLE WITH TIGHT BUDGETS, AND THEIR FINANCIAL DIFFICULTIES ARE WORSENERED BY VOLATILE ENERGY PRICES THAT OFTEN LEAD TO HIGH UTILITY BILLS;

(b) A SMALL BUT GROWING NUMBER OF SCHOOL DISTRICTS HAVE RESPONDED TO THESE DIFFICULTIES BY BEGINNING TO PRODUCE THEIR OWN ENERGY WITH RENEWABLE ENERGY SOURCES;

(c) BY PRODUCING THEIR OWN ENERGY WITH RENEWABLE ENERGY SOURCES,

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

SOME SCHOOL DISTRICTS HAVE REDUCED THEIR ENERGY COSTS WHILE PROMOTING ENERGY INDEPENDENCE AND ENVIRONMENTAL RESPONSIBILITY AND HAVE PROVIDED STUDENTS WITH AN OPPORTUNITY TO UNDERSTAND THIS BURGEONING TECHNOLOGY; AND

(d) SOME SCHOOL DISTRICTS HAVE ALSO REDUCED THEIR ENERGY COSTS BY IMPROVING THE EFFICIENCY OF THEIR EXISTING ENERGY SOURCES.

(2) THE GENERAL ASSEMBLY FURTHER FINDS THAT SECTION 3 OF ARTICLE IX OF THE STATE CONSTITUTION AUTHORIZES THE GENERAL ASSEMBLY TO ADOPT LAWS ESTABLISHING THE TERMS AND CONDITIONS UPON WHICH THE STATE TREASURER MAY MAKE LOANS TO SCHOOL DISTRICTS IN ORDER TO ASSIST PUBLIC SCHOOLS IN PROVIDING NECESSARY BUILDINGS, LAND, AND EQUIPMENT.

(3) NOW, THEREFORE, THE GENERAL ASSEMBLY DETERMINES AND DECLARES THAT IT WOULD SERVE THE BEST INTERESTS OF COLORADO SCHOOLS FOR THE STATE TO MAKE AVAILABLE LOANS TO SUPPORT THE EFFORTS OF SCHOOL DISTRICTS THAT CHOOSE TO UNDERTAKE RENEWABLE ENERGY PROJECTS OR ENERGY-EFFICIENT BUS PROJECTS. FURTHERMORE, TO ENSURE THAT THE BEST INTERESTS OF COLORADO SCHOOLS ARE BEING SERVED, THE LEGISLATIVE SERVICE AGENCIES OF THE GENERAL ASSEMBLY SHALL CONDUCT A POST-ENACTMENT REVIEW OF THIS ACT AND REPORT THEIR CONCLUSIONS TO THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE, OR ANY SUCCESSOR COMMITTEES. THE REVIEW SHALL INCLUDE CONSIDERATION OF THE FOLLOWING INFORMATION:

(a) THE NAME AND LOCATION OF EACH QUALIFIED SCHOOL DISTRICT THAT HAS APPLIED FOR A LOAN FROM THE LOAN PROGRAM;

(b) THE NUMBER OF LOANS THAT HAVE BEEN AWARDED TO QUALIFIED SCHOOL DISTRICTS FROM THE LOAN PROGRAM;

(c) THE NAME AND LOCATION OF EACH QUALIFIED SCHOOL DISTRICT THAT HAS BEEN AWARDED A LOAN FROM THE LOAN PROGRAM;

(d) THE AMOUNT OF EACH LOAN THAT IS AWARDED TO A QUALIFIED SCHOOL DISTRICT FROM THE LOAN PROGRAM;

(e) THE TERMS OF REPAYMENT FOR EACH LOAN THAT IS AWARDED TO A QUALIFIED SCHOOL DISTRICT FROM THE LOAN PROGRAM;

(f) THE RATE OF INTEREST THAT IS BEING CHARGED ON EACH LOAN THAT IS AWARDED TO A QUALIFIED SCHOOL DISTRICT FROM THE LOAN PROGRAM; AND

(g) ANY OTHER INFORMATION THAT THE LEGISLATIVE SERVICE AGENCIES DETERMINE MAY BE HELPFUL TO THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE, OR ANY SUCCESSOR COMMITTEES, IN EVALUATING THE EFFECTIVENESS OF THE LOAN PROGRAM.

**22-92-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BANK" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 11-101-401 (5), C.R.S.

(2) "ENERGY-EFFICIENT BUS PROJECT" MEANS A PROJECT TO HELP A QUALIFIED SCHOOL DISTRICT ATTAIN AND EMPLOY BATTERY-POWERED, COMPRESSED NATURAL GAS, PROPANE GAS, OR HYBRID-ELECTRIC BUSES IN ITS DAILY TRANSPORTATION OPERATIONS FOR THE PURPOSE OF REDUCING ENERGY CONSUMPTION AND EXPENDITURES.

(3) "GOVERNOR'S ENERGY OFFICE" OR "OFFICE" MEANS THE GOVERNOR'S ENERGY OFFICE CREATED IN SECTION 24-38.5-101, C.R.S., OR ANY SUCCESSOR OFFICE.

(4) "PUBLIC SCHOOL FUND" MEANS THE PUBLIC SCHOOL FUND CREATED AND EXISTING PURSUANT TO SECTION 3 OF ARTICLE IX OF THE STATE CONSTITUTION.

(5) "QUALIFIED SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT IN THE STATE THAT HAS A RENEWABLE ENERGY PROJECT TEAM.

(6) "RENEWABLE ENERGY AND ENERGY EFFICIENCY FOR SCHOOLS LOAN PROGRAM" OR "LOAN PROGRAM" MEANS THE RENEWABLE ENERGY AND ENERGY EFFICIENCY FOR SCHOOLS LOAN PROGRAM CREATED IN SECTION 22-92-104.

(7) "RENEWABLE ENERGY AND ENERGY EFFICIENCY FOR SCHOOLS LOAN PROGRAM ADMINISTRATION FUND" OR "FUND" MEANS THE RENEWABLE ENERGY AND ENERGY EFFICIENCY FOR SCHOOLS LOAN PROGRAM ADMINISTRATION FUND CREATED IN SECTION 22-92-106.

(8) "RENEWABLE ENERGY PROJECT" MEANS A PROJECT TO HELP A QUALIFIED SCHOOL DISTRICT INSTALL EQUIPMENT AND RELATED INFRASTRUCTURE THAT WILL HELP DEFRAID THE SCHOOL DISTRICT'S ENERGY COSTS AND PROVIDE EDUCATIONAL OPPORTUNITIES FOR STUDENTS RELATING TO THE GENERATION OF RENEWABLE ENERGY. A "RENEWABLE ENERGY PROJECT" SHALL BE OPERATED IN COMPLIANCE WITH EXISTING LAWS AND MAY INCORPORATE ONE OR MORE OF THE FOLLOWING:

- (a) WIND ENERGY;
- (b) SOLAR ENERGY; OR
- (c) OTHER SOURCES OF RENEWABLE ENERGY.

(9) "RENEWABLE ENERGY PROJECT TEAM" MEANS A TEAM OF PEOPLE WHO ARE DEDICATED TO A RENEWABLE ENERGY PROJECT AT A SCHOOL DISTRICT. A RENEWABLE ENERGY PROJECT TEAM SHALL INCLUDE, AT A MINIMUM, REPRESENTATIVES OF THE SCHOOL DISTRICT, REPRESENTATIVES OF THE LOCAL COMMUNITY, AND AT LEAST ONE MEMBER WHO PROVIDES PROFESSIONAL TECHNICAL ASSISTANCE TO THE SCHOOL DISTRICT TO FACILITATE A RENEWABLE ENERGY PROJECT OR AN ENERGY-EFFICIENT BUS PROJECT. THE MEMBER OF A RENEWABLE ENERGY PROJECT TEAM WHO PROVIDES PROFESSIONAL TECHNICAL ASSISTANCE TO THE SCHOOL DISTRICT MAY BE A REPRESENTATIVE OF A LOCAL ELECTRICAL UTILITY.

**22-92-104. Renewable energy and energy efficiency for schools loan**

**program - created - applications - permissible uses of loans.** (1) THERE IS HEREBY CREATED THE RENEWABLE ENERGY AND ENERGY EFFICIENCY FOR SCHOOLS LOAN PROGRAM TO FUND RENEWABLE ENERGY PROJECTS AND ENERGY-EFFICIENT BUS PROJECTS AT QUALIFIED SCHOOL DISTRICTS. A QUALIFIED SCHOOL DISTRICT MAY, WITH THE WRITTEN AUTHORIZATION OF THE SCHOOL DISTRICT BOARD OF EDUCATION, APPLY TO THE GOVERNOR'S ENERGY OFFICE, IN ACCORDANCE WITH PROCEDURES AND DEADLINES ESTABLISHED BY RULES PROMULGATED BY THE STATE BOARD OF EDUCATION PURSUANT TO SECTION 22-92-105, TO RECEIVE MONEYS THROUGH THE LOAN PROGRAM. THE OFFICE SHALL ADMINISTER THE LOAN PROGRAM AS PROVIDED IN THIS ARTICLE AND PURSUANT TO THE POLICIES ADOPTED BY THE OFFICE.

(2) IF A QUALIFIED SCHOOL DISTRICT APPLIES FOR A LOAN FROM THE LOAN PROGRAM PURSUANT TO SUBSECTION (1) OF THIS SECTION, AND THE STATE TREASURER AUTHORIZES A LOAN FOR THE SCHOOL DISTRICT PURSUANT TO SECTION 22-92-107, THE SCHOOL DISTRICT SHALL NOT ACCEPT THE LOAN UNLESS THE SCHOOL DISTRICT HAS FIRST DETERMINED WHAT FINANCING TERMS ARE AVAILABLE TO IT FROM AT LEAST TWO BANKS.

(3) (a) A QUALIFIED SCHOOL DISTRICT THAT RECEIVES A LOAN THROUGH THE LOAN PROGRAM SHALL USE THE MONEYS RECEIVED TO PAY FOR TECHNICAL ASSISTANCE, EQUIPMENT, OR INSTALLATION COSTS ASSOCIATED WITH A RENEWABLE ENERGY PROJECT OR AN ENERGY-EFFICIENT BUS PROJECT.

(b) A QUALIFIED SCHOOL DISTRICT THAT RECEIVES A LOAN THROUGH THE LOAN PROGRAM FOR A RENEWABLE ENERGY PROJECT MAY USE THE MONEYS RECEIVED TO FINANCE THE ACQUISITION OF A RENEWABLE ENERGY PROJECT.

(4) A QUALIFIED SCHOOL DISTRICT THAT APPLIES FOR A LOAN THROUGH THE LOAN PROGRAM FOR A RENEWABLE ENERGY PROJECT SHALL CONTACT ITS LOCAL ELECTRICAL UTILITY AND ALLOW THE UTILITY, AT THE UTILITY'S DISCRETION, TO PLACE A REPRESENTATIVE OF THE UTILITY ON THE SCHOOL DISTRICT'S RENEWABLE ENERGY PROJECT TEAM.

(5) A QUALIFIED SCHOOL DISTRICT MAY APPLY FOR A LOAN FROM THE LOAN PROGRAM FOR A RENEWABLE ENERGY PROJECT OR AN ENERGY-EFFICIENT BUS PROJECT THAT IS LOCATED AT A CHARTER SCHOOL OF THE SCHOOL DISTRICT.

**22-92-105. Renewable energy and energy efficiency for schools loan program - rules - awarding loans.** (1) ON OR BEFORE OCTOBER 15, 2009, THE STATE BOARD OF EDUCATION, IN CONSULTATION WITH THE GOVERNOR'S ENERGY OFFICE, SHALL PROMULGATE RULES ESTABLISHING POLICIES AND PROCEDURES FOR THE ADMINISTRATION OF THE RENEWABLE ENERGY AND ENERGY EFFICIENCY FOR SCHOOLS LOAN PROGRAM. AT A MINIMUM, THE RULES SHALL INCLUDE:

(a) POLICIES SPECIFYING THE PROCEDURES BY WHICH A QUALIFIED SCHOOL DISTRICT MAY APPLY FOR A LOAN, THE FORM OF THE LOAN APPLICATION, THE INFORMATION TO BE PROVIDED BY AN APPLICANT, AND THE CRITERIA USED BY THE OFFICE FOR AWARDING AND DENYING LOANS;

(b) THE REQUIREMENTS THAT THE OFFICE SHALL REQUIRE OF LOAN APPLICANTS,

WHICH REQUIREMENTS SHALL INCLUDE, BUT NEED NOT BE LIMITED TO A REQUIREMENT THAT A LOAN APPLICANT SUBMIT WITH ITS APPLICATION:

(I) AN ENERGY RATING FOR THE FACILITY FOR WHICH THE LOAN IS INTENDED THAT DEMONSTRATES THAT THE FACILITY QUALIFIES FOR THE FEDERAL ENERGY STAR LABEL, WHICH RATING HAS BEEN ISSUED AS A RESULT OF AN AUDIT PERFORMED BY A QUALIFIED ENERGY EFFICIENCY AUDITOR; OR

(II) AN ENERGY EFFICIENCY PLAN THAT IS CREATED IN CONSULTATION WITH THE OFFICE, WHICH PLAN INCLUDES:

(A) COST-EFFECTIVE ENERGY-SAVING MEASURES AND PROGRAMS THAT THE APPLICANT WILL IMPLEMENT; AND

(B) ACTIONS THAT THE APPLICANT WILL TAKE TO IMPLEMENT, MONITOR, REVIEW, AND REVISE THE PLAN.

(2)(a) THE GOVERNOR'S ENERGY OFFICE SHALL REVIEW EACH LOAN APPLICATION RECEIVED FROM A QUALIFIED SCHOOL DISTRICT PURSUANT TO SECTION 22-92-104 (1), EVALUATE THE RENEWABLE ENERGY PROJECT OR ENERGY-EFFICIENT BUS PROJECT DESCRIBED THEREIN, AND MAKE A RECOMMENDATION TO THE STATE TREASURER AS TO WHETHER TO AWARD THE LOAN AND THE AMOUNT OF THE LOAN. IF THE OFFICE DETERMINES AN APPLICATION IS MISSING ANY INFORMATION REQUIRED BY THE OFFICE'S POLICY TO BE INCLUDED WITH THE APPLICATION, THE OFFICE MAY CONTACT THE APPLICANT TO OBTAIN THE MISSING INFORMATION.

(b) IN REVIEWING LOAN APPLICATIONS FOR RENEWABLE ENERGY PROJECTS AND ENERGY-EFFICIENT BUS PROJECTS PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), THE GOVERNOR'S ENERGY OFFICE SHALL CONSIDER, AT A MINIMUM, WHETHER A QUALIFIED SCHOOL DISTRICT WOULD REDUCE ITS ENERGY COSTS BY THE IMPLEMENTATION OF THE RENEWABLE ENERGY PROJECT OR ENERGY-EFFICIENT BUS PROJECT THAT IS THE SUBJECT OF EACH LOAN APPLICATION.

(3) THE STATE TREASURER IS AUTHORIZED TO REQUIRE EACH QUALIFIED SCHOOL DISTRICT THAT RECEIVES A LOAN FROM THE LOAN PROGRAM TO PAY TO THE GOVERNOR'S ENERGY OFFICE A FEE THAT REFLECTS THE DIRECT AND INDIRECT COSTS INCURRED BY THE STATE TREASURER IN ADMINISTERING LOANS PURSUANT TO SECTION 22-92-107. IF THE STATE TREASURER ELECTS TO IMPOSE A FEE PURSUANT TO THIS SUBSECTION (3), HE OR SHE SHALL NOTIFY THE GOVERNOR'S ENERGY OFFICE AND THE STATE BOARD OF EDUCATION OF THE DECISION TO IMPOSE THE FEE. A FEE IMPOSED PURSUANT TO THIS SUBSECTION (3) MAY BE IMPOSED ON A REGULARLY SCHEDULED BASIS TO BE DETERMINED BY THE STATE TREASURER. A QUALIFIED SCHOOL DISTRICT THAT RECEIVES A LOAN FROM THE LOAN PROGRAM SHALL BE REQUIRED TO PAY THE FEE UNTIL THE LOAN IS REPAYED IN FULL.

(4) IF THE STATE TREASURER ELECTS TO IMPOSE A FEE AS PART OF THE LOAN APPLICATION PROCESS PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE GOVERNOR'S ENERGY OFFICE SHALL FORWARD ALL MONEYS RECEIVED AS FEES TO THE STATE TREASURER.

**22-92-106. Renewable energy and energy efficiency for schools loan**

**program administration fund - creation - administrative costs.** (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE RENEWABLE ENERGY AND ENERGY EFFICIENCY FOR SCHOOLS LOAN PROGRAM ADMINISTRATION FUND. THE FUND SHALL CONSIST OF:

(a) MONEYS APPROPRIATED TO THE FUND FROM THE PUBLIC SCHOOL ENERGY EFFICIENCY FUND CREATED IN SECTION 39-29-109.5 (2), C.R.S.;

(b) ANY OTHER MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY TO THE FUND;

(c) ANY GIFTS, GRANTS, OR DONATIONS RECEIVED BY THE OFFICE FOR THE FUND PURSUANT TO SUBSECTION (4) OF THIS SECTION; AND

(d) ANY OTHER MONEYS DIRECTED TO THE FUND BY THE OFFICE PURSUANT TO SUBSECTION (5) OF THIS SECTION.

(2) THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS INCURRED BY THE OFFICE IN ADMINISTERING THE PROGRAM PURSUANT TO THIS ARTICLE. THE MONEYS IN THE FUND SHALL NOT BE INCLUDED IN ANY LOAN MADE TO A QUALIFIED SCHOOL DISTRICT PURSUANT TO THIS ARTICLE.

(3) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS ARTICLE 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.

(4) THE OFFICE MAY SEEK AND ACCEPT GIFTS, GRANTS, AND DONATIONS FROM PUBLIC AND PRIVATE SOURCES TO FUND THE PROGRAM, BUT RECEIPT OF GIFTS, GRANTS, AND DONATIONS SHALL NOT BE A PREREQUISITE TO THE IMPLEMENTATION OF THE PROGRAM. ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH GIFTS, GRANTS, AND DONATIONS SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND.

(5) TO THE EXTENT PERMITTED BY LAW, THE OFFICE MAY, AT ITS DISCRETION, DIRECT OTHER MONEYS TO FUND THE PROGRAM.

**22-92-107. Loans from public school fund authorized.** (1) AS AUTHORIZED UNDER THE PROVISIONS OF SECTION 3 OF ARTICLE IX OF THE STATE CONSTITUTION, THE STATE TREASURER MAY MAKE LOANS TO SCHOOL DISTRICTS TO ASSIST THEM IN PROVIDING NECESSARY BUILDINGS, LAND, AND EQUIPMENT, INCLUDING RENEWABLE ENERGY PROJECTS AND ENERGY-EFFICIENT BUS PROJECTS AS DESCRIBED IN THIS ARTICLE. LOANS MADE PURSUANT TO THIS ARTICLE SHALL NOT BE SUBJECT TO THE PROVISIONS OF SECTION 24-36-113, C.R.S., THAT REQUIRE THE STATE TREASURER TO SECURE THE MAXIMUM RATE OF INTEREST ON INVESTMENTS OF STATE MONEYS. THE PROCEDURES FOR THE MAKING OF LOANS SHALL BE DETERMINED BY THE STATE TREASURER SUBJECT TO THE FOLLOWING:



(a) NO LOAN SHALL BE AUTHORIZED FOR ANY RENEWABLE ENERGY PROJECT OR ENERGY-EFFICIENT BUS PROJECT THAT HAS NOT BEEN EVALUATED BY THE GOVERNOR'S ENERGY OFFICE PURSUANT TO SECTION 22-92-105 (2) (a).

(b) NO LOAN SHALL BE AUTHORIZED IN AN AMOUNT EXCEEDING THE AMOUNT RECOMMENDED BY THE GOVERNOR'S ENERGY OFFICE PURSUANT TO SECTION 22-92-105 (2) (a) UNLESS THE GOVERNOR'S ENERGY OFFICE APPROVES THE CHANGE IN THE LOAN AMOUNT.

(c) NO LOAN SHALL BE AUTHORIZED UNLESS THE METHOD FOR REPAYMENT OF THE LOAN IS SPECIFIED IN THE APPLICATION.

(2) (a) SUBJECT TO THE LIMITATIONS DESCRIBED IN THIS SECTION, THE STATE TREASURER SHALL DETERMINE THE AMOUNT OF THE PERMANENT SCHOOL FUND THAT MAY BE LOANED OUT PURSUANT TO THIS SECTION, WHICH QUALIFIED SCHOOL DISTRICTS SHALL RECEIVE LOANS, THE AMOUNT OF EACH LOAN, THE TERMS OF REPAYMENT OF EACH LOAN, AND THE RATE OF INTEREST TO BE CHARGED ON LOANS. THE AVERAGE RATE OF INTEREST CHARGED ON LOANS MADE IN ANY CALENDAR YEAR MUST EXCEED THE AVERAGE BOOK YIELD EARNED BY THE FUND IN THE MOST RECENTLY COMPLETED QUARTER. PAYMENTS OF THE PRINCIPAL OF AND INTEREST ON ALL LOANS SHALL BE RETURNED TO THE PUBLIC SCHOOL FUND.

(b) THE STATE TREASURER MAY INCLUDE, AS PART OF ANY LOAN AGREEMENT WITH ANY QUALIFIED SCHOOL DISTRICT, WHATEVER TERMS AND CONDITIONS HE OR SHE FEELS ARE NECESSARY TO PROTECT THE PRINCIPAL OF THE PUBLIC SCHOOL FUND AGAINST LOSS.

(3) THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEY FROM THE GENERAL FUND TO RESTORE MONEYS TO THE PUBLIC SCHOOL FUND, TOGETHER WITH INTEREST, THAT ARE LOST BY REASON OF THE FAILURE OF ANY SCHOOL DISTRICT TO REPAY A LOAN MADE PURSUANT TO THIS SECTION.

(4) ADMINISTRATIVE COSTS THAT WILL BE INCURRED BY A QUALIFIED SCHOOL DISTRICT AS A RESULT OF THE RENEWABLE ENERGY PROJECT OR ENERGY-EFFICIENT BUS PROJECT THAT IS THE BASIS FOR THE LOAN MAY BE INCLUDED IN THE AMOUNT OF THE LOAN.

**SECTION 2.** 22-41-110 (1) (b), Colorado Revised Statutes, is amended to read:

**22-41-110. Timely payment of school district obligations.** (1) (b) This section applies to:

(I) General obligation bonds issued by a school district on or after July 1, 1991, pursuant to article 42 or 43 of this title; ~~to~~

(II) Obligations of a school district in connection with a lease agreement or installment purchase agreement entered into by a school district under section 22-32-127 or 22-45-103 (1) (c) on or after July 1, 1991; ~~and to~~

(III) Refunding bonds issued by a school district pursuant to article 56 of title 11, C.R.S.; AND

(IV) OBLIGATIONS OF A SCHOOL DISTRICT IN CONNECTION WITH A LOAN RECEIVED UNDER THE RENEWABLE ENERGY AND ENERGY EFFICIENCY FOR SCHOOLS LOAN PROGRAM CREATED IN SECTION 22-92-104.

**SECTION 3.** 24-38.5-102 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**24-38.5-102. Governor's energy office - duties and powers.** (1) The governor's energy office shall:

(r) IMPLEMENT AND ADMINISTER THE RENEWABLE ENERGY AND ENERGY EFFICIENCY FOR SCHOOLS LOAN PROGRAM PURSUANT TO ARTICLE 92 OF TITLE 22, C.R.S.

**SECTION 4.** 39-29-109.5 (3) (c), (3) (d), and (5), Colorado Revised Statutes, are amended, and the said 39-29-109.5 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**39-29-109.5. Interest differential - public school energy efficiency fund - creation - uses - definitions - repeal.** (3) The governor's energy office shall use moneys appropriated from the fund to establish and manage a program to improve energy efficiency in public schools. In administering the program, the office shall give consideration to whether a public school or school district is located in an area socially or economically impacted by the development, processing, or energy conversion of minerals and mineral fuels subject to taxation under this article. The program shall include the following features:

(c) Assisting school districts in increasing the effectiveness of their utility budget management; ~~and~~

(d) Providing training and supporting resources related to energy efficiency for school districts; AND

(e) PROVIDING FUNDING FOR THE ADMINISTRATION OF THE RENEWABLE ENERGY AND ENERGY EFFICIENCY FOR SCHOOLS LOAN PROGRAM CREATED IN SECTION 22-92-104, C.R.S.

(5) This section is repealed, effective ~~July 1, 2012~~ JULY 1, 2017.

**SECTION 5. Accountability.** Two years after this act becomes law and in accordance with section 2-2-1201, Colorado Revised Statutes, the legislative service agencies of the Colorado General Assembly shall conduct a post-enactment review of the implementation of this act utilizing the information contained in the legislative declaration set forth in section 22-92-102, Colorado Revised Statutes, which section is set forth in section 1 of this act, and report their conclusions to the education committees of the House of Representatives and Senate, or any successor committees.

**SECTION 6. Act subject to petition - effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum

petition pursuant to article V, section 1 (3) of the state constitution, (August 5, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 15, 2009

# STATE OF COLORADO

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## GOVERNOR'S ENERGY OFFICE

1580 Logan Street, Suite 100  
Denver, CO 80203-1973  
Phone: (303) 866-2100  
Fax: (303) 866-2930  
[www.rechargecolorado.com](http://www.rechargecolorado.com)  
[geo@state.co.us](mailto:geo@state.co.us)



John W. Hickenlooper  
Governor  
TJ Deora  
Director

May 2, 2011

Office of Legislative Legal Services  
Attn: Matt Dawkins  
200 East Colfax Avenue  
State Capitol Building, Room 091  
Denver, CO 80203

RE: HB09-1312

Dear Mr. Dawkins:

The following information is provided to inform the legislative council of the progress to date implementing House Bill 09-1312. The following information is provided in response to the bulleted questions as set forth in section 2-2-1201 (2), C.R.S.:

Whether the bill has been implemented, in whole or in part;

*The bill has been implemented in part.*

If the bill has been implemented in whole or in part, how the bill has been implemented, including whether the bill has been implemented in the most efficient and cost-effective manner;

*The bill has been implemented with two open application periods, the development of rules and the development of an application. The rules and application are publically available on the GEO website in the K-12 Schools section and information regarding the loans has been shared via e-mail communiqué with school districts in coordination with CDE. Further, the program has been communicated to additional school associations, interest groups, and faculty directly by GEO staff. The open*

*application periods were both extended, the first time from October 31 to November 31, 2010 to account for the program's rules and application development and to give time after the elections and the second time from April 30 to May 30, 2011 to account for an interested district learning about the program and expressing a desire to submit an application.*

*From an efficiency standpoint, the communications via e-mail and through the GEO website have been a good use of time and effectively communicate the program to a larger audience. On the other hand, the total outreach to date has been minimal and a broader communication strategy will be developed to spread the word and increase participation. The strategies to date have been extremely cost-effective as they have focused on meeting the minimum required components of the statute without spending additional time or money in an environment where uptake was deemed improbable.*

If the bill has been implemented in part, the reasons why the bill has not been implemented in whole;

*The bill has not been implemented in whole because there have been no applications submitted or requests for assistance to the GEO. The rules have been developed and the application form has been made available per the requirements of the statute.*

The extent to which the desired results or benefits of the bill, as specified in the legislative declaration of the bill, are being achieved;

*To date the results or benefits of the bill have not been achieved, due to the lack of applications.*

Whether there have been any unintended consequences or problems caused by the implementation of the bill;

*None known.*

Whether the implementation of the bill has been impeded by any existing state or federal statutes, rules, procedures, or practices;

*The implementation has not been impeded by any state or federal statutes, rules, procedures, or practices.*

Whether any administrative or statutory changes are necessary to improve the implementation of the bill;

*No changes are deemed necessary at this time; more information will be forthcoming after participation increases.*

Whether the actual costs of implementing the bill have been within the estimated costs, if any, set forth in the fiscal note for the bill; and

*Bill implementation costs have been too minimal to count.*

Whether any increase in state funding is necessary to improve the implementation of the bill.

*An increase in state funding is not anticipated to be necessary to improve implementation.*

In addition, we are providing the information identified in section 22-92-102 (3), C.R.S. (from section I of House Bill 09-1312), specifically:

- The name and location of each qualified school district that has applied for a loan from the loan program;

*N/A*

- The number of loans that have been awarded to qualified school districts from the loan program;

*None*

- The name and location of each qualified school district that has been awarded a loan from the loan program;

*N/A*

- The amount of each loan that is awarded to a qualified school district from the loan program;

*N/A*

- The terms of repayment for each loan that is awarded to a qualified school district from the loan program; and

*N/A*

- The rate of interest that is being charged on each loan that is awarded to a qualified school district from the loan program.

*N/A*

Please contact me if you have questions.

Sincerely,



Angie Fyfe  
Associate Director, Operations



# COLORADO DEPARTMENT OF EDUCATION

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**Robert K. Hammond**  
Commissioner of Education

**Diana Sirko, Ph.D.**  
Deputy Commissioner

June 27, 2011

Office of Legislative Legal Services  
Dan L. Cartin, Director  
c/o Matt Dawkins  
200 E. Colfax Avenue  
State Capitol Building, Room 091  
Denver, CO 80203

Dear Sirs:

This letter is in response to your inquiry regarding HB09-1312 dated June 17, 2011. The implementation of this law falls primarily on the Governor's Energy Office (GEO), and as a result, the Colorado Department of Education (CDE) has very limited knowledge as to how, when, or with what success this statute has been carried out. We will do our best to address each of the questions posed in your letter however many of the answers you have requested will need to come from GEO.

Below are the questions you posed to us on page 2 of your letter with our responses written in bold.

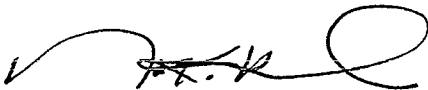
1. Whether the bill has been implemented, in whole or in part.  
**The responsibility of the State Board of Education was the promulgation of rules governing the grant program. Those rules were adopted on June 3, 2010 and went into effect on July 30, 2010. They can be found at CCR 301-85. The delay in the adoption of these rules was due to the requirement that the State Board consult with GEO prior to adoption. House Bill 09-1312 placed no other duties or requirements on the Department of Education or the State Board of Education.**
2. If the bill has been implemented in whole or in part, how the bill has been implemented, including whether the bill has been implemented in the most efficient and cost-effective manner.  
**Implementation of the grant program is the duty of GEO. CDE has no information on how that office has carried out implementation of the program.**
3. If the bill has been implemented in part, the reasons why the bill has not been implemented in whole.  
**See response to #2 above.**

4. The extent to which the desired result or benefits of the bill, as specified in the legislative declaration of the bill are being achieved.  
**The Department of Education has no additional information on this beyond what may be provided by GEO.**
5. Whether there have been any unintended consequences or problems caused by the implementation of the bill.  
**No problems arising from the implementation of this legislation have been brought to the attention of CDE.**
6. Whether the implementation of the bill has been impeded by any existing state or federal statutes, rules, procedures, or practices.  
**Not Applicable**
7. Whether any administrative or statutory changes are necessary to improve the implementation of the bill.  
**Not Applicable**
8. Whether the actual costs of implementing the bill have been within the estimated costs, if any, set forth in the fiscal note for the bill.  
**Not Applicable**
9. Whether any increase in state funding is necessary to improve the implementation of the bill.  
**Not Applicable**

In response to the set of questions at the bottom of page 2 in reference to applications received, neither the Department of Education nor the State Board of Education receive or review any of the applications for this program. We therefore have no knowledge of the contents of any of these applications. These questions should be addressed by the Governor's Energy Office or the State Treasurer's Office, where the fund for the grant program was created.

I apologize for the delay in getting these responses to you. As you may know, CDE has been undergoing a substantial transformation in both our staff and our organizational structure. Please feel free to contact me directly if you have any further questions or concerns.

Sincerely,



Robert K. Hammond  
Commissioner of Education  
Colorado Department of Education