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HOUSE BILL 07-1150

BY REPRESENTATIVE(S) Gardner C., Witwer, Rose, Hodge, Kerr J., Lundberg, Massey, Soper, Balmer, Borodkin, Buescher, Butcher, Carroll M., Carroll T., Curry, Frangas, Gallegos, Gardner B., Gibbs, Hicks, Kefalas, Kerr A., King, Labuda, Levy, Liston, Looper, Madden, Marostica, May M., McFadyen, McGihon, McNulty, Merrifield, Peniston, Primavera, Rice, Riesberg, Roberts, Romanoff, Solano, Sonnenberg, Stafford, Stephens, Summers, Todd, Vaad, White, and Jahn;
also SENATOR(S) Kester, Penry, Harvey, Bacon, Boyd, Brophy, Groff, Isgar, Keller, Kopp, Morse, Romer, Schwartz, Shaffer, Spence, Taylor, Tupa, Ward, Williams, Windels, and Tapia.

CONCERNING THE CREATION OF THE CLEAN ENERGY DEVELOPMENT
AUTHORITY.

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

SECTION 1. Title 40, Colorado Revised Statutes, is amended BY
THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 9.7
Colorado Clean Energy
Development Authority

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

40-9.7-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO CLEAN ENERGY DEVELOPMENT AUTHORITY ACT".

40-9.7-102. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) THERE ARE EXTENSIVE CLEAN ENERGY RESOURCES IN COLORADO, AND ADDITIONAL FACILITIES ARE NEEDED TO DEVELOP AND MARKET THESE RESOURCES;

(b) COLORADO HAS A GREAT CAPACITY TO PRODUCE AND CONSUME CLEAN ENERGY, BUT ADDITIONAL PROJECTS, INCLUDING PROJECTS TO IMPROVE PRODUCTION, TRANSPORTATION, TRANSMISSION, AND STORAGE OF CLEAN ENERGY, ARE NEEDED TO DEVELOP AND MARKET THIS CAPACITY;

(c) TIMELY DEVELOPMENT OF PROJECTS FOR THE PRODUCTION, TRANSPORTATION, TRANSMISSION, AND STORAGE OF CLEAN ENERGY SOURCES WILL STABILIZE AND INCREASE STATE REVENUES;

(d) THE PROMOTION OF THE ECONOMIC WELFARE OF THE STATE AND ITS RESIDENTS THROUGH THE DEVELOPMENT AND UTILIZATION OF CLEAN ENERGY RESOURCES IS IN THE PUBLIC INTEREST AND SERVES A PUBLIC PURPOSE BECAUSE IT WILL INCREASE EMPLOYMENT, STIMULATE ECONOMIC ACTIVITY, AUGMENT SOURCES OF TAX REVENUE, FOSTER ECONOMIC STABILITY, AND IMPROVE THE BALANCE OF THE STATE'S ECONOMY;

(e) IT IS ALSO IN THE PUBLIC INTEREST AND IN FURTHERANCE OF A PUBLIC PURPOSE TO DEVELOP COLORADO'S VAST SOURCES OF CLEAN ENERGY FOR IN-STATE CONSUMPTION AND FOR EXPORT TO OTHER CLEAN ENERGY MARKETS AND TO PROMOTE COLORADO AS A NATIONAL CENTER FOR CLEAN ENERGY FINANCE AND DEVELOPMENT;

(f) INVESTMENT IN THE PRODUCTION, TRANSPORTATION, TRANSMISSION, AND STORAGE OF CLEAN ENERGY PURSUANT TO THE PROVISIONS OF THIS ARTICLE WILL RESULT IN SIGNIFICANT ENVIRONMENTAL BENEFITS BOTH WITHIN AND OUTSIDE COLORADO.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THE PURPOSE OF THIS ARTICLE IS TO CREATE THE COLORADO CLEAN ENERGY

DEVELOPMENT AUTHORITY AND TO ENDOW THE AUTHORITY WITH POWERS SUFFICIENT TO ENABLE IT TO:

(a) FACILITATE THE PRODUCTION AND CONSUMPTION OF CLEAN ENERGY; AND

(b) INCREASE THE TRANSMISSION AND USE OF CLEAN ENERGY BY FINANCING AND REFINANCING PROJECTS LOCATED WITHIN OR OUTSIDE THE STATE FOR THE PRODUCTION, TRANSPORTATION, TRANSMISSION, AND STORAGE OF CLEAN ENERGY, INCLUDING PIPELINES, AND RELATED SUPPORTING INFRASTRUCTURE AND INTERESTS THEREIN.

40-9.7-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AUTHORITY" MEANS THE COLORADO CLEAN ENERGY DEVELOPMENT AUTHORITY CREATED IN SECTION 40-9.7-104.

(2) "AUTHORITY FINANCING AGREEMENT" MEANS A LOAN GUARANTY AGREEMENT, LEASE, SUBLEASE, RENTAL AGREEMENT, AGREEMENT TO PURCHASE OUTPUT OR PRODUCTS, GUARANTY OF AMOUNTS PAYABLE BY THE USER OR A THIRD-PARTY FINANCIER FOR A PROJECT LOCATED WITHIN THE STATE ONLY, OR ANY COMBINATION THEREOF THAT DOES NOT GIVE THE AUTHORITY OWNERSHIP OF OR AN OWNERSHIP INTEREST IN A PROJECT AND THAT IS ENTERED INTO BETWEEN THE AUTHORITY AND A USER OR THIRD-PARTY FINANCIER IN CONNECTION WITH THE FINANCING OR REFINANCING OF ANY PROJECT PURSUANT TO THIS ARTICLE; EXCEPT THAT THE AUTHORITY SHALL NOT MAKE A DIRECT COMMERCIAL LOAN TO A USER.

(3) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE AUTHORITY.

(4) "BOND" MEANS A BOND, NOTE, DEBENTURE, INTERIM CERTIFICATE, GRANT OR REVENUE ANTICIPATION NOTE, OR OTHER EVIDENCE OF INDEBTEDNESS AUTHORIZED TO BE ISSUED BY THE AUTHORITY PURSUANT TO THIS ARTICLE.

(5) "CLEAN ENERGY" MEANS ANY OF THE FOLLOWING FUELS THAT ARE THEMSELVES MANUFACTURED OR SYNTHESIZED AND ENERGY DERIVED FROM ANY OF THE FOLLOWING:

(a) BIODIESEL;

(b) BIOMASS RESOURCES SUCH AS BIOGAS, AGRICULTURAL OR ANIMAL WASTE, SMALL DIAMETER TIMBER, SALT CEDAR, OTHER NONNATIVE INVASIVE PHREATOPHYTE VEGETATION REMOVED FROM RIVER BASINS OR WATERSHEDS IN COLORADO, LANDFILL GAS, AND ANAEROBICALLY DIGESTED WASTE BIOMASS; EXCEPT THAT BIOMASS RESOURCES DO NOT INCLUDE ENERGY GENERATED BY USE OF FOSSIL FUEL;

(c) ETHANOL;

(d) FUEL CELLS THAT DO NOT USE FOSSIL FUELS;

(e) ZERO-EMISSIONS GENERATION TECHNOLOGY, INCLUDING EMISSION OF CARBON DIOXIDE, WITH LONG-TERM PRODUCTION POTENTIAL;

(f) RENEWABLE RESOURCES, INCLUDING BUT NOT LIMITED TO SOLAR, WIND, AND GEOTHERMAL RESOURCES; OR

(g) THE IGCC PROJECT DEFINED IN SECTION 40-2-123 (2) (b) (I).

(6) (a) "FINANCE" OR "FINANCING" MEANS:

(I) THE ISSUANCE OF BONDS BY THE AUTHORITY TO FINANCE A PROJECT OWNED BY A USER AND THE USE OF SUBSTANTIALLY ALL OF THE NET PROCEEDS OF SUCH BONDS TO PAY FOR, OR TO REIMBURSE THE USER OR ITS DESIGNEE FOR THE PAYMENT OF, THE COSTS OF THE PLANNING FOR OR THE DEVELOPMENT, ACQUISITION, CONSTRUCTION, MAINTENANCE, OPERATION, OR OWNERSHIP OF A PROJECT, WHETHER THE COSTS ARE INCURRED BY THE AUTHORITY, THE USER, OR THE USER'S DESIGNEE; OR

(II) THE GUARANTY BY THE AUTHORITY OF ALL OR ANY PORTION OF THE AMOUNTS PAYABLE BY THE USER UNDER ANY THIRD-PARTY FINANCING AGREEMENT SO LONG AS SUBSTANTIALLY ALL OF THE AMOUNTS PAYABLE TO THE USER PURSUANT TO THE AGREEMENT ARE USED TO PAY FOR OR TO REIMBURSE THE USER, A THIRD-PARTY FINANCIER, OR THEIR DESIGNEE FOR THE PAYMENT OF THE COSTS OF THE PLANNING, DEVELOPMENT, ACQUISITION, CONSTRUCTION, MAINTENANCE, OPERATION, OR OWNERSHIP OF A PROJECT LOCATED WITHIN THE STATE, WHETHER THE COSTS ARE INCURRED BY THE AUTHORITY, THE USER, OR THE THIRD-PARTY FINANCIER,

OR ANY DESIGNEE THEREOF.

(7) "FINANCING AGREEMENT" MEANS AN AUTHORITY FINANCING AGREEMENT OR A THIRD-PARTY FINANCING AGREEMENT.

(8) "FUND" MEANS THE COLORADO CLEAN ENERGY DEVELOPMENT AUTHORITY FUND CREATED IN SECTION 40-9.7-108.

(9) "PERSON" MEANS ANY INDIVIDUAL, CORPORATION, THE UNITED STATES GOVERNMENT, THIS STATE, ANY OTHER STATE, ANY LOCAL GOVERNMENT OF THIS STATE OR ANY OTHER STATE, ANY PUBLIC BODY, DEPARTMENT, AGENCY, OR INSTRUMENTALITY OF THE UNITED STATES GOVERNMENT, THIS STATE, ANY OTHER STATE, OR ANY PUBLIC BODY, BUSINESS TRUST, ESTATE, TRUST, LIMITED LIABILITY COMPANY, PARTNERSHIP, ASSOCIATION, OR OTHER LEGAL ENTITY.

(10) (a) "PROJECT" MEANS REAL PROPERTY INCLUDING LAND AND BUILDINGS OR OTHER IMPROVEMENTS, PERSONAL OR INTANGIBLE PROPERTY, AND ANY UNDIVIDED OR FRACTIONAL INTEREST, INCLUDING A USE INTEREST, IN REAL, PERSONAL, OR INTANGIBLE PROPERTY, WHETHER IN OR OUTSIDE THE STATE, WHETHER OR NOT IN EXISTENCE, USED OR TO BE USED FOR, OR IN CONNECTION WITH, THE FOLLOWING:

(I) THE PRODUCTION OF CLEAN ENERGY;

(II) THE TRANSPORTATION OF CLEAN ENERGY BY ANY MEANS, INCLUDING BY PIPELINE, CONTAINER, RAIL, OR TRUCK;

(III) THE TRANSMISSION OF CLEAN ENERGY BY ANY MEANS;

(IV) THE STORAGE OF CLEAN ENERGY; OR

(V) THE MANUFACTURING OF MAJOR EQUIPMENT OR COMPONENTS NEEDED TO PRODUCE CLEAN ENERGY.

(b) (I) A BIOMASS RESOURCES PROJECT MAY USE ENERGY THAT IS NOT CLEAN ENERGY IN THE PRODUCTION, TRANSPORTATION, OR STORAGE OF CLEAN ENERGY SO LONG AS THE BIOMASS RESOURCES PROJECT IS DESIGNED AND EXPECTED TO PRODUCE ONLY CLEAN ENERGY WITHIN FIVE YEARS OF BECOMING OPERATIONAL.

(II) A PROJECT OTHER THAN A BIOMASS RESOURCES PROJECT MAY TRANSPORT, TRANSMIT, OR STORE ENERGY THAT IS NOT CLEAN ENERGY SO LONG AS, IN THE CASE OF A TRANSMISSION PROJECT, THE PRINCIPAL PURPOSE IS TO PROVIDE FOR TRANSMISSION OF CLEAN ENERGY OR, IN THE CASE OF A TRANSPORT OR STORAGE PROJECT, THE PROJECT IS DESIGNED AND IS EXPECTED TO BE USED TO TRANSPORT OR STORE PRIMARILY CLEAN ENERGY WITHIN FIVE YEARS OF BECOMING OPERATIONAL.

(11) "PUBLIC BODY" INCLUDES, BUT IS NOT LIMITED TO, THE STATE, ANY INSTITUTION, AGENCY, COUNTY, CITY AND COUNTY, MUNICIPALITY, DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE STATE, ANY DEPARTMENT, AGENCY, OR INSTRUMENTALITY THEREOF, AND ANY POLITICAL OR PUBLIC CORPORATION, BOARD, OR COMMISSION.

(12) "PUBLIC UTILITY" MEANS A PUBLIC UTILITY AS DEFINED IN SECTION 40-1-103 AND REGULATED BY THE PUBLIC UTILITIES COMMISSION CREATED IN SECTION 40-2-101.

(13) "REFINANCE" OR "REFINANCING" MEANS:

(a) THE ISSUANCE OF BONDS BY THE AUTHORITY AND THE USE OF SUBSTANTIALLY ALL OF THE NET PROCEEDS THEREFROM TO LIQUIDATE ANY OBLIGATIONS PREVIOUSLY INCURRED TO FINANCE OR AID IN THE FINANCING OF A PROJECT NOT ORIGINALLY UNDERTAKEN OR FINANCED BY THE AUTHORITY PURSUANT TO THIS ARTICLE; OR

(b) THE GUARANTY BY THE AUTHORITY OF ALL OR ANY PORTION OF THE AMOUNT PAYABLE BY THE USER UNDER ANY THIRD-PARTY FINANCING AGREEMENT, OR AN INTEREST IN A THIRD-PARTY FINANCING AGREEMENT, IF SUBSTANTIALLY ALL AMOUNTS SO GUARANTEED ARE USED TO PAY, OR PROVIDE FOR THE PAYMENT OF, ANY OBLIGATIONS PREVIOUSLY INCURRED TO FINANCE OR AID IN THE FINANCING OF A PROJECT LOCATED WITHIN THE STATE AND NOT ORIGINALLY UNDERTAKEN OR FINANCED BY THE AUTHORITY PURSUANT TO THIS ARTICLE.

(14) "THIRD-PARTY FINANCIER" MEANS A PERSON, OTHER THAN THE AUTHORITY, THAT ENTERS INTO A THIRD-PARTY FINANCING AGREEMENT WITH A USER.

(15) "THIRD-PARTY FINANCING AGREEMENT" MEANS A LOAN

AGREEMENT, LEASE, SUBLEASE, RENTAL AGREEMENT, AGREEMENT TO PURCHASE OUTPUT OR PRODUCTS, GUARANTY OF AMOUNTS PAYABLE BY THE USER OR A THIRD-PARTY FINANCIER FOR A PROJECT LOCATED WITHIN THE STATE ONLY, OR ANY OTHER AGREEMENT OR COMBINATION THEREOF THAT DOES NOT GIVE THE AUTHORITY OWNERSHIP OF OR AN OWNERSHIP INTEREST IN A PROJECT AND THAT IS ENTERED INTO BETWEEN A USER AND A PERSON OTHER THAN THE AUTHORITY IN CONNECTION WITH THE FINANCING OR REFINANCING OF ANY PROJECT PURSUANT TO THIS ARTICLE.

(16) "USER" MEANS ONE OR MORE PERSONS OR A RENEWABLE ENERGY COOPERATIVE ESTABLISHED PURSUANT TO SECTION 7-56-210, C.R.S., WHO ENTER INTO AN AUTHORITY FINANCING AGREEMENT WITH THE AUTHORITY OR A THIRD-PARTY FINANCING AGREEMENT WITH A THIRD-PARTY FINANCIER RELATING TO A PROJECT. "USER" MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE PERSON ACTUALLY OCCUPYING, OPERATING, OR MAINTAINING THE PROJECT.

40-9.7-104. Colorado clean energy development authority - creation - board membership. (1) THERE IS HEREBY CREATED THE COLORADO CLEAN ENERGY DEVELOPMENT AUTHORITY, AN INDEPENDENT PUBLIC BODY POLITIC AND CORPORATE. THE AUTHORITY IS CONSTITUTED A PUBLIC INSTRUMENTALITY, AND ITS EXERCISE OF THE POWERS CONFERRED BY THIS ARTICLE SHALL BE DEEMED AND HELD TO BE THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION IN FURTHERANCE OF A PUBLIC PURPOSE. THE AUTHORITY SHALL BE A POLITICAL SUBDIVISION OF THE STATE, SHALL NOT BE AN AGENCY OF STATE GOVERNMENT, AND SHALL NOT BE SUBJECT TO ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION, BOARD, OR AGENCY OF THE STATE.

(2) THE AUTHORITY SHALL BE GOVERNED BY A BOARD OF DIRECTORS, WHICH SHALL EXERCISE THE POWERS OF THE AUTHORITY AND SHALL BE COMPOSED OF NINE MEMBERS, INCLUDING:

(a) THE FOLLOWING FOUR EX OFFICIO MEMBERS OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT OR THEIR DESIGNEES:

(I) THE STATE TREASURER;

(II) THE DIRECTOR OF THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101 (1), C.R.S.;

(III) THE COMMISSIONER OF AGRICULTURE; AND

(IV) THE DIRECTOR OF THE GOVERNOR'S OFFICE OF ENERGY MANAGEMENT AND CONSERVATION, WHO SHALL SERVE AS THE CHAIRPERSON OF THE BOARD.

(b) ONE MEMBER APPOINTED BY THE GOVERNOR. THE GOVERNOR SHALL MAKE THE GOVERNOR'S INITIAL APPOINTMENT TO THE BOARD ON OR BEFORE AUGUST 1, 2007. THE TERM OF THE MEMBER APPOINTED BY THE GOVERNOR SHALL BE FOUR YEARS.

(c) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. THE SPEAKER SHALL MAKE THE SPEAKER'S INITIAL APPOINTMENT TO THE BOARD ON OR BEFORE AUGUST 1, 2007. THE TERM OF THE MEMBER APPOINTED BY THE SPEAKER SHALL BE FOUR YEARS; EXCEPT THAT THE TERM OF THE MEMBER INITIALLY APPOINTED BY THE SPEAKER SHALL BE TWO YEARS.

(d) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE. THE PRESIDENT SHALL MAKE THE PRESIDENT'S INITIAL APPOINTMENT TO THE BOARD ON OR BEFORE AUGUST 1, 2007. THE TERM OF THE MEMBER APPOINTED BY THE PRESIDENT SHALL BE FOUR YEARS.

(e) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES. THE MINORITY LEADER SHALL MAKE THE MINORITY LEADER'S INITIAL APPOINTMENT TO THE BOARD ON OR BEFORE AUGUST 1, 2007. THE TERM OF THE MEMBER APPOINTED BY THE MINORITY LEADER SHALL BE FOUR YEARS; EXCEPT THAT THE TERM OF THE MEMBER INITIALLY APPOINTED BY THE MINORITY LEADER SHALL BE TWO YEARS.

(f) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE SENATE. THE MINORITY LEADER SHALL MAKE THE MINORITY LEADER'S INITIAL APPOINTMENT TO THE BOARD ON OR BEFORE AUGUST 1, 2007. THE TERM OF THE MEMBER APPOINTED BY THE MINORITY LEADER SHALL BE FOUR YEARS.

(3) THE MEMBERS OF THE BOARD SHALL ELECT A VICE-CHAIRPERSON AND A SECRETARY.

(4) THE APPOINTED MEMBERS OF THE BOARD SHALL BE QUALIFIED

VOTERS OF THE STATE WHO HAVE SPECIALIZED KNOWLEDGE OR COMPETENCE REGARDING THE FIELD OF CLEAN ENERGY DEVELOPMENT, THE PUBLIC UTILITY INDUSTRY, BANKING, OR PUBLIC FINANCE, AS EVIDENCED BY ACADEMIC COURSE WORK, DEGREES, OR SIGNIFICANT WORK EXPERIENCE IN MANAGEMENT POSITIONS IN SAID FIELDS OR INDUSTRY.

(5) NOTWITHSTANDING ANY OTHER LAW, IT IS NOT A CONFLICT OF INTEREST FOR A TRUSTEE, DIRECTOR, OFFICER, OR EMPLOYEE OF ANY PUBLIC UTILITY, FINANCIAL INSTITUTION, INVESTMENT BANKING FIRM, BROKERAGE FIRM, COMMERCIAL BANK OR TRUST COMPANY, INSURANCE COMPANY, OR OTHER FIRM, CORPORATION, OR BUSINESS ENTITY TO SERVE AS A BOARD MEMBER, THE EXECUTIVE DIRECTOR OF THE AUTHORITY, OR AN EMPLOYEE OF THE AUTHORITY. HOWEVER, A BOARD MEMBER, EXECUTIVE DIRECTOR, OR OTHER EMPLOYEE WHO IS ALSO SUCH A TRUSTEE, DIRECTOR, OFFICER, OR EMPLOYEE SHALL DISCLOSE HIS OR HER BUSINESS AFFILIATION TO THE BOARD AND SHALL ABSTAIN FROM VOTING OR OTHERWISE TAKING ACTION IN ANY INSTANCE IN WHICH HIS OR HER BUSINESS AFFILIATION IS DIRECTLY INVOLVED.

40-9.7-105. Meetings of authority - quorum - expenses. (1) FIVE MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM FOR THE PURPOSE OF CONDUCTING BUSINESS AND EXERCISING THE POWERS OF THE BOARD. ACTION MAY BE TAKEN BY THE BOARD UPON THE AFFIRMATIVE VOTE OF AT LEAST FIVE OF ITS MEMBERS. NO VACANCY IN THE MEMBERSHIP OF THE BOARD SHALL IMPAIR THE RIGHT OF A QUORUM TO EXERCISE ALL THE RIGHTS AND PERFORM ALL THE DUTIES OF THE BOARD.

(2) THE AUTHORITY SHALL BE SUBJECT TO THE OPEN MEETINGS PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972" CONTAINED IN PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S., AND THE OPEN RECORDS PROVISIONS OF ARTICLE 72 OF TITLE 24, C.R.S.

(3) THE BOARD SHALL PROMULGATE AND ADHERE TO POLICIES AND PROCEDURES THAT GOVERN ITS CONDUCT AND PROVIDE MEANINGFUL OPPORTUNITIES FOR PUBLIC INPUT. THE POLICIES SHALL INCLUDE STANDARDS AND PROCEDURES FOR CALLING AN EMERGENCY MEETING.

(4) MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION FOR SERVICES BUT SHALL BE ENTITLED TO THE NECESSARY EXPENSES, INCLUDING TRAVEL AND LODGING EXPENSES, INCURRED IN THE DISCHARGE OF THEIR

OFFICIAL DUTIES. ANY PAYMENTS FOR COMPENSATION AND EXPENSES SHALL BE PAID FROM FUNDS OF THE AUTHORITY.

40-9.7-106. Authority - duties and powers. (1) THE AUTHORITY SHALL:

(a) HIRE AN EXECUTIVE DIRECTOR AND SUCH OTHER EMPLOYEES OR OTHER AGENTS AS IT DEEMS NECESSARY FOR THE PERFORMANCE OF ITS POWERS AND DUTIES, INCLUDING CONSULTANTS, FINANCIAL ADVISORS, AND LEGAL ADVISORS, AND PRESCRIBE THE POWERS AND DUTIES AND FIX THE COMPENSATION OF THE EMPLOYEES AND AGENTS. THE EXECUTIVE DIRECTOR OF THE AUTHORITY SHALL DIRECT THE AFFAIRS AND BUSINESS OF THE AUTHORITY, SUBJECT TO THE POLICIES, CONTROL, AND DIRECTION OF THE BOARD.

(b) MAINTAIN RECORDS AND ACCOUNTS OF REVENUES AND EXPENDITURES AS REQUIRED BY THE STATE AUDITOR;

(c) (I) CONVENE QUALIFIED TASK FORCES TO DEVELOP PROPOSED RECOMMENDATIONS FOR ITS CONSIDERATION, AMENDMENT, AND ADOPTION AND THEREAFTER ITSELF ADOPT OFFICIAL RECOMMENDATIONS FOR THE GENERAL ASSEMBLY REGARDING THE TYPES OF CLEAN ENERGY PROJECTS THAT THE AUTHORITY SHOULD FINANCE, REFINANCE, OR OTHERWISE SUPPORT. THE AUTHORITY SHALL CONVENE THE TASK FORCES AS SOON AS THE AUTHORITY DETERMINES THAT IT HAS RECEIVED SUFFICIENT MONEYS FROM GIFTS, GRANTS, DONATIONS, OR PROJECT FEES TO ADEQUATELY FUND THE ACTIVITIES OF THE TASK FORCES. THE TASK FORCES SHALL DEVELOP AND THE AUTHORITY SHALL ADOPT FINAL RECOMMENDATIONS AS TO:

(A) WHETHER HYDROELECTRIC POWER GENERATION PROJECTS SHOULD BE CONSIDERED CLEAN ENERGY PROJECTS THAT THE AUTHORITY MAY FINANCE, REFINANCE, OR OTHERWISE SUPPORT AND, IF SO, THE NATURE OF ANY RESTRICTIONS, INCLUDING BUT NOT LIMITED TO TECHNOLOGICAL OR NAMEPLATE RATING REQUIREMENTS, THAT SUCH PROJECTS SHOULD SATISFY AS A PREREQUISITE TO AUTHORITY FINANCING, REFINANCING, OR OTHER SUPPORT;

(B) WHETHER PROJECTS THAT INVOLVE INTEGRATED GASIFICATION COMBINED CYCLE GENERATION FACILITIES OR IGCC FACILITIES, AS DEFINED IN SECTION 40-2-123 (2) (b) (II), OTHER THAN THE IGCC PROJECT

DESCRIBED IN SECTION 40-2-123 (2) (b) (I) THAT IS SPECIFICALLY DEFINED AS CLEAN ENERGY PURSUANT TO SECTION 40-9.7-103 (5) (g), OR OTHER CLEAN COAL TECHNOLOGIES THAT HAVE THE POTENTIAL FOR SUBSTANTIAL SEQUESTRATION OF CARBON EMISSIONS SHOULD BE CONSIDERED CLEAN ENERGY PROJECTS THAT THE AUTHORITY MAY FINANCE, REFINANCE, OR OTHERWISE SUPPORT, AND, IF SO, THE NATURE AND EXTENT OF ANY RESTRICTIONS, INCLUDING BUT NOT LIMITED TO SPECIFIC CARBON DIOXIDE EMISSIONS SEQUESTRATION REQUIREMENTS, THAT SUCH PROJECTS SHOULD SATISFY AS A PREREQUISITE TO AUTHORITY FINANCING, REFINANCING, OR OTHER SUPPORT; AND

(C) WHETHER ADDITIONAL RESTRICTIONS ON THE TYPES OF BIOMASS PROJECTS THAT ARE CONSIDERED CLEAN ENERGY PROJECTS THAT THE AUTHORITY MAY FINANCE, REFINANCE, OR OTHERWISE SUPPORT ARE APPROPRIATE AND, IF SO, WHAT THE RESTRICTIONS SHOULD BE.

(II) BEFORE DEVELOPING AND ADOPTING RECOMMENDATIONS AS REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), THE TASK FORCES AND AUTHORITY SHALL SOLICIT PUBLIC INPUT REGARDING THE ISSUES FOR WHICH RECOMMENDATIONS ARE TO BE DEVELOPED AND ADOPTED. THE AUTHORITY SHALL INCLUDE ITS RECOMMENDATIONS IN EITHER ITS INITIAL THREE-YEAR PLAN PREPARED PURSUANT TO PARAGRAPH (d) OF THIS SUBSECTION (3) OR, WITH RESPECT TO ANY RECOMMENDATION THAT IS NOT DEVELOPED AND ADOPTED BY FEBRUARY 1, 2008, IN THE FIRST THREE-YEAR PLAN THAT FOLLOWS THE DEVELOPMENT AND ADOPTION OF THE RECOMMENDATION.

(d) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH (d), BEFORE FINANCING, REFINANCING, OR OTHERWISE SUPPORTING ANY PROJECT, DEVELOP, ADOPT, AND PUBLISH A THREE-YEAR PLAN FOR ITS ACTIVITIES THAT INCLUDES:

(A) A DESCRIPTION OF HOW THE PLANNED ACTIVITIES OF THE AUTHORITY ARE CONSISTENT WITH THE FINDINGS AND DECLARATIONS OF THE GENERAL ASSEMBLY EXPRESSED IN SECTION 40-9.7-102; AND

(B) A DESCRIPTION OF THE PRIORITIES OF THE AUTHORITY IN EXERCISING ITS POWERS AND DUTIES, INCLUDING A SPECIFIC DESCRIPTION OF THE RELATIVE EMPHASES PLACED BY THE AUTHORITY ON FUEL AND ELECTRICITY PROJECTS AND ON PROJECTS LOCATED WITHIN OR OUTSIDE THE

STATE.

(II) THE AUTHORITY SHALL DEVELOP, PUBLISH, AND ADOPT A NEW THREE-YEAR ACTIVITY PLAN THAT INCLUDES THE DESCRIPTIONS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) FOR EACH THREE-YEAR PERIOD FOLLOWING THE PERIOD COVERED BY ITS INITIAL THREE-YEAR PLAN.

(III) BEFORE ADOPTING ANY THREE-YEAR PLAN REQUIRED BY SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH (d), THE AUTHORITY SHALL DEVELOP AND PUBLISH A DRAFT OF THE PLAN AND SOLICIT PUBLIC COMMENTS ON THE PLAN.

(IV) THE AUTHORITY SHALL ADOPT AND SUBMIT ITS INITIAL THREE-YEAR PLAN TO THE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE OF THE SENATE AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, NO LATER THAN FEBRUARY 1, 2008, AND SHALL ADOPT AND SUBMIT TO SAID COMMITTEES ITS SUBSEQUENT THREE-YEAR PLANS NO LATER THAN FEBRUARY 1 OF EVERY THIRD YEAR THEREAFTER.

(V) THE AUTHORITY MAY FINANCE, REFINANCE, OR OTHERWISE LEND SUPPORT TO THE PROJECTS DESCRIBED IN SECTION 40-9.7-108 (3) (d) BEFORE DEVELOPING, ADOPTING, AND PUBLISHING A PLAN REQUIRED BY SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH (d).

(2) IN ADDITION TO ANY OTHER POWERS SPECIFICALLY GRANTED TO THE AUTHORITY IN THIS ARTICLE, THE AUTHORITY HAS THE FOLLOWING POWERS:

(a) TO HAVE PERPETUAL EXISTENCE AND SUCCESSION AS A BODY POLITIC AND CORPORATE;

(b) TO HAVE AND TO USE A SEAL AND TO ALTER THE SAME AT ITS PLEASURE;

(c) TO MAINTAIN AN OFFICE AT SUCH PLACE AS IT MAY DESIGNATE;

(d) TO ADOPT AND FROM TIME TO TIME AMEND OR REPEAL BYLAWS FOR THE REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS, CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE;

(e) TO FIX THE TIME AND PLACE OF BOARD MEETINGS, WHETHER WITHIN OR OUTSIDE THE STATE, AND THE METHOD OF PROVIDING NOTICE OF THE MEETINGS;

(f) TO MAKE AND PASS ORDERS AND RESOLUTIONS NECESSARY FOR THE GOVERNMENT AND MANAGEMENT OF THE AFFAIRS OF THE AUTHORITY AND THE EXECUTION OF THE POWERS VESTED IN THE AUTHORITY;

(g) TO APPOINT ADVISORY COMMITTEES AND TO DEFINE THE DUTIES THEREOF;

(h) TO SUE AND BE SUED;

(i) TO FINANCE AND REFINANCE PROJECTS LOCATED WITHIN OR OUTSIDE THE STATE AND TO ENTER INTO AND PERFORM ITS OBLIGATIONS UNDER FINANCING AGREEMENTS;

(j) TO ISSUE BONDS AND REFUNDING BONDS IN ACCORDANCE WITH SECTION 40-9.7-107;

(k) TO ENTER INTO AND PERFORM ITS OBLIGATIONS UNDER CONTRACTS AND AGREEMENTS AFFECTING THE AFFAIRS, ASSETS, REVENUES, AND PROPERTY OF THE AUTHORITY AND AFFECTING ANY BONDS, FINANCING AGREEMENTS, OR ANY OTHER CONTRACTS OF THE AUTHORITY, INCLUDING, BUT NOT LIMITED TO, CONTRACTS FOR THE ORIGINATION, PROCESSING, AND SERVICING OF FINANCING AGREEMENTS;

(l) TO PURCHASE OR ARRANGE FOR BOND INSURANCE, LETTERS OF CREDIT, STANDBY BOND PURCHASE AGREEMENTS, INTEREST RATE HEDGING, AND OTHER FINANCIAL ARRANGEMENTS WITH RESPECT TO ANY BONDS, FINANCING AGREEMENTS, OR OTHER CONTRACTS AUTHORIZED BY THIS ARTICLE;

(m) TO PLEDGE ALL OR ANY PORTION OF THE REVENUES PAYABLE TO THE AUTHORITY PURSUANT TO A FINANCING AGREEMENT TO SECURE BONDS OR THE OBLIGATIONS OF THE AUTHORITY UNDER ANY FINANCING AGREEMENT OR CONTRACT AUTHORIZED BY THIS ARTICLE;

(n) TO USE MONEYS IN THE FUND OR ANY ACCOUNT THEREOF TO MAKE LOANS TO USERS OR THIRD-PARTY FINANCIERS OR TO ENTER INTO

OTHER FINANCING AGREEMENTS IN CONNECTION WITH THE FINANCING OR REFINANCING OF PROJECTS IN ACCORDANCE WITH SECTION 40-9.7-108;

(o) TO USE OR PLEDGE ALL OR ANY PORTION OF THE FUND OR ANY ACCOUNT THEREOF TO PAY OR SECURE THE PAYMENT OF BONDS OR THE OBLIGATIONS OF THE AUTHORITY UNDER ANY FINANCING AGREEMENT OR CONTRACT AUTHORIZED BY THIS ARTICLE IN ACCORDANCE WITH SECTION 40-9.7-108;

(p) IN CONNECTION WITH A FINANCING, A REFINANCING, OR BONDS ISSUED TO FINANCE OR REFINANCE A PROJECT PURSUANT TO AN ARRANGEMENT UNDER WHICH TITLE TO OR IN A PROJECT OR AN INTEREST THEREIN REMAINS WITH THE USER OR A THIRD-PARTY FINANCIER, TO GRANT A MORTGAGE OR OTHER LIEN UPON OR SECURITY INTEREST IN SUCH PROJECT OR AN INTEREST THEREIN OR ANY OTHER PROPERTY OF THE USER OR THE THIRD-PARTY FINANCIER, UPON OR IN ONE OR MORE NOTES, DEBENTURES, BONDS, LOAN AGREEMENTS, LEASES, SUBLEASES, RENTAL AGREEMENTS, OPTIONS TO PURCHASE, AGREEMENTS TO PURCHASE OUTPUT OR PRODUCTS, GUARANTEES, OR ANY OTHER PROPERTY OF THE USER OR THIRD-PARTY FINANCIER OR UPON OR IN ANY OTHER SECURED OR UNSECURED OBLIGATIONS OF THE USER OR A THIRD-PARTY FINANCIER, AS THE AUTHORITY DEEMS ADVISABLE;

(q) TO RECEIVE AND ACCEPT FROM ANY SOURCE AID, GRANTS OR CONTRIBUTIONS OF MONEY, CONVEYANCES OF REAL OR PERSONAL PROPERTY, LABOR, OR OTHER THINGS OF VALUE, INCLUDING, BUT NOT LIMITED TO, GIFTS OR GRANTS FROM ANY DEPARTMENT, AGENCY, OR INSTRUMENTALITY OF THE UNITED STATES, UPON SUCH TERMS AND CONDITIONS AS THE AUTHORITY MAY APPROVE TO BE HELD, USED, AND APPLIED BY THE AUTHORITY TO CARRY OUT THE PURPOSES OF THIS ARTICLE SUBJECT TO ANY CONDITIONS UPON WHICH THE AID, GRANTS OR CONTRIBUTIONS, PROPERTY, LABOR, OR OTHER THINGS OF VALUE ARE PROVIDED;

(r) TO PROCURE INSURANCE AGAINST ANY LOSS IN CONNECTION WITH ITS PROPERTY AND OTHER ASSETS, INCLUDING LOANS AND LOAN NOTES, IN SUCH AMOUNTS AND FROM SUCH INSURERS AS IT MAY DEEM ADVISABLE;

(s) TO PROCURE INSURANCE OR GUARANTEES FROM ANY PUBLIC OR PRIVATE ENTITY, INCLUDING ANY DEPARTMENT, AGENCY, OR

INSTRUMENTALITY OF THE UNITED STATES, FOR PAYMENT OF ANY BONDS ISSUED BY THE AUTHORITY AND TO PAY PREMIUMS FOR ANY SUCH INSURANCE;

(t) TO ENTER INTO CONTRACTS AND AGREEMENTS WITH ANY USER, THIRD-PARTY FINANCIER, OR PERSON;

(u) TO PROVIDE TECHNICAL ASSISTANCE TO LOCAL PUBLIC BODIES AND FOR-PROFIT AND NONPROFIT ENTITIES IN THE DEVELOPMENT OR OPERATION OF PROJECTS AND TO DISTRIBUTE DATA AND INFORMATION CONCERNING THE ENCOURAGEMENT AND IMPROVEMENT OF PROJECTS;

(v) TO ENTER INTO ONE OR MORE AGREEMENTS OR CONTRACTS WITH THE UNITED STATES GOVERNMENT, THIS STATE, ANY OTHER STATE, ANY LOCAL GOVERNMENT OF THIS STATE OR ANY OTHER STATE, ANY PUBLIC BODY, OR ANY DEPARTMENT, AGENCY, OR INSTRUMENTALITY OF THE UNITED STATES GOVERNMENT, THIS STATE, ANY OTHER STATE, OR ANY PUBLIC BODY, IN ORDER TO JOINTLY FINANCE OR REFINANCE ONE OR MORE PROJECTS AND TO COOPERATE WITH AND EXCHANGE SERVICES, PERSONNEL, AND INFORMATION WITH ANY SUCH GOVERNMENT, PUBLIC BODY, DEPARTMENT, AGENCY, OR INSTRUMENTALITY;

(w) TO SELL, AT PUBLIC OR PRIVATE SALE, WITH OR WITHOUT PUBLIC BIDDING, ANY NOTES, DEBENTURES, BONDS, LOAN AGREEMENTS, LEASES, SUBLEASES, RENTAL AGREEMENTS, AGREEMENTS TO PURCHASE OUTPUT OR PRODUCTS, GUARANTEES, OR ANY OTHER SECURED OR UNSECURED OBLIGATIONS HELD BY THE AUTHORITY;

(x) TO PROVIDE INFORMATION AND TRAINING TO EMPLOYEES OF A PROJECT REGARDING ANY UNIQUE HAZARDS THAT MAY BE POSED BY THE PROJECT, AS WELL AS TRAINING IN SAFETY WORK PRACTICES AND EMERGENCY PROCEDURES; AND

(y) TO HAVE AND EXERCISE ALL RIGHTS AND POWERS NECESSARY OR INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS GRANTED BY THIS ARTICLE AND TO DO ALL OTHER THINGS NECESSARY AND CONVENIENT TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

(3) IN PERFORMING ITS DUTIES AND EXERCISING ITS POWERS UNDER THIS ARTICLE, THE AUTHORITY SHALL, TO THE GREATEST EXTENT FEASIBLE,

SEEK TO ENSURE AND PROVIDE OPEN NONDISCRIMINATORY ACCESS TO CLEAN ENERGY PROJECT FINANCING AND THE USE OF CLEAN ENERGY PROJECTS THAT THE AUTHORITY FINANCES, REFINANCES, OR GUARANTEES.

40-9.7-107. Bonds. (1) SUBJECT TO SECTION 40-9.7-109, THE AUTHORITY MAY ISSUE BONDS FOR ANY OF ITS CORPORATE PURPOSES AND MAY PAY AND SECURE THE BONDS BY, AND PLEDGE FOR THE PAYMENT AND SECURITY OF THE BONDS, ALL OR ANY PORTION OF THE FUND, THE RIGHT, TITLE, AND INTEREST OF THE AUTHORITY IN AND TO REVENUES FROM ANY PROJECT, FINANCING AGREEMENT, MORTGAGE, LIEN, OR OTHER SECURITY INTEREST PERMITTED BY SECTION 40-9.7-106 (2) (p), OR ANY OTHER REVENUES, MONEY, PROPERTY, CONTRACT RIGHTS, OR OTHER RIGHTS OF THE AUTHORITY. BONDS SHALL BE ISSUED PURSUANT TO A RESOLUTION OF THE AUTHORITY.

(2) AS PROVIDED IN THE RESOLUTION OF THE AUTHORITY UNDER WHICH BONDS ARE AUTHORIZED TO BE ISSUED OR AS PROVIDED IN A TRUST INDENTURE BETWEEN THE AUTHORITY AND ANY COMMERCIAL BANK OR TRUST COMPANY HAVING FULL TRUST POWERS, BONDS MAY:

(a) BE EXECUTED AND DELIVERED BY THE AUTHORITY AT SUCH TIMES;

(b) BE IN SUCH FORM AND DENOMINATIONS AND INCLUDE SUCH TERMS AND MATURITIES;

(c) BE SUBJECT TO OPTIONAL OR MANDATORY REDEMPTION PRIOR TO MATURITY WITH OR WITHOUT A PREMIUM;

(d) BE IN FULLY REGISTERED FORM OR BEARER FORM REGISTRABLE AS TO PRINCIPAL OR INTEREST OR BOTH;

(e) BEAR SUCH CONVERSION PRIVILEGES;

(f) BE PAYABLE IN SUCH INSTALLMENTS AND AT SUCH TIMES NOT EXCEEDING FIFTY YEARS FROM THE DATE THEREOF;

(g) BE PAYABLE AT SUCH PLACE OR PLACES WHETHER WITHIN OR OUTSIDE THE STATE;

(h) BEAR INTEREST AT SUCH RATE OR RATES PER ANNUM, WHICH MAY BE FIXED OR VARY ACCORDING TO INDEX, PROCEDURE, OR FORMULA OR AS DETERMINED BY THE AUTHORITY OR ITS AGENTS, WITHOUT REGARD TO ANY INTEREST RATE LIMITATION APPEARING IN ANY OTHER LAW OF THE STATE;

(i) BE SUBJECT TO PURCHASE AT THE OPTION OF THE HOLDER OR THE AUTHORITY;

(j) BE EVIDENCED IN SUCH MANNER;

(k) BE EXECUTED BY SUCH OFFICERS OF THE AUTHORITY, INCLUDING THE USE OF ONE OR MORE FACSIMILE SIGNATURES SO LONG AS AT LEAST ONE MANUAL SIGNATURE OF AN OFFICER OF THE AUTHORITY OR OF AN AGENT AUTHENTICATING THE SAME APPEARS ON THE BONDS;

(l) BE IN THE FORM OF COUPON BONDS THAT HAVE ATTACHED INTEREST COUPONS BEARING A MANUAL OR FACSIMILE SIGNATURE OF AN OFFICER OF THE AUTHORITY; AND

(m) CONTAIN SUCH PROVISIONS NOT INCONSISTENT WITH THIS ARTICLE.

(3) BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT SUCH PRICE OR PRICES, IN SUCH MANNER, AND AT SUCH TIMES AS DETERMINED BY THE AUTHORITY, AND THE AUTHORITY MAY PAY ALL FEES, EXPENSES, AND COMMISSIONS THAT IT DEEMS NECESSARY OR ADVANTAGEOUS IN CONNECTION WITH THE SALE OF THE BONDS. THE POWER TO FIX THE DATE OF SALE OF THE BONDS, TO RECEIVE BIDS OR PROPOSALS, TO AWARD AND SELL BONDS, TO FIX INTEREST RATES, AND TO TAKE ALL OTHER ACTION NECESSARY TO SELL AND DELIVER THE BONDS MAY BE DELEGATED TO AN OFFICER OR AGENT OF THE AUTHORITY. ANY OUTSTANDING BONDS MAY BE REFUNDED BY THE AUTHORITY PURSUANT TO ARTICLE 56 OF TITLE 11, C.R.S.; EXCEPT THAT THE MATURITY OF ANY REFUNDING BONDS SHALL NOT EXCEED FIFTY YEARS NOTWITHSTANDING ANY PROVISION OF ARTICLE 56 OF TITLE 11, C.R.S., TO THE CONTRARY. ALL BONDS AND ANY APPLICABLE INTEREST COUPONS ARE DECLARED TO BE NEGOTIABLE INSTRUMENTS.

(4) SUBJECT TO THE PROVISIONS OF SECTION 40-9.7-109, THE RESOLUTION OR TRUST INDENTURE AUTHORIZING THE ISSUANCE OF BONDS

MAY CONTAIN SUCH PROVISIONS FOR PROTECTING AND ENFORCING THE RIGHTS AND REMEDIES OF HOLDERS OF ANY OF THE BONDS AS THE AUTHORITY DEEMS APPROPRIATE, MAY SET FORTH THE RIGHTS AND REMEDIES OF THE HOLDERS OF ANY OF THE BONDS, AND MAY CONTAIN PROVISIONS THAT THE AUTHORITY DEEMS APPROPRIATE FOR THE SECURITY OF THE HOLDERS OF THE BONDS, INCLUDING, BUT NOT LIMITED TO, PROVISIONS FOR LETTERS OF CREDIT, INSURANCE, STANDBY CREDIT AGREEMENTS, OR OTHER FORMS OF CREDIT INSURING TIMELY PAYMENT OF THE BONDS, INCLUDING THE REDEMPTION PRICE OR THE PURCHASE PRICE.

(5) ANY PLEDGE OF REVENUES OR PROPERTY MADE BY THE AUTHORITY OR BY ANY PERSON OR GOVERNMENTAL UNIT WITH WHICH THE AUTHORITY CONTRACTS SHALL BE VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE. THE REVENUES OR PROPERTY PLEDGED SHALL IMMEDIATELY BE SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY PHYSICAL DELIVERY OR FURTHER ACT, AND THE LIEN OF THE PLEDGE SHALL BE VALID AND BINDING AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT, OR OTHERWISE AGAINST THE PLEDGING PARTY, IRRESPECTIVE OF WHETHER THE CLAIMING PARTY HAS NOTICE OF THE LIEN. THE INSTRUMENT BY WHICH THE PLEDGE IS CREATED NEED NOT BE RECORDED OR FILED.

(6) THE MEMBERS OF THE AUTHORITY, EMPLOYEES OF THE AUTHORITY, AND ANY PERSON EXECUTING BONDS ARE NOT LIABLE PERSONALLY ON THE BONDS OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSUANCE THEREOF.

(7) THE AUTHORITY MAY PURCHASE ITS BONDS OUT OF ANY AVAILABLE FUNDS AND MAY HOLD, PLEDGE, CANCEL, OR RESELL THE BONDS SUBJECT TO AND IN ACCORDANCE WITH AGREEMENTS WITH THE BOND HOLDERS.

(8) THE AUTHORITY IS AUTHORIZED TO ENGAGE THE SERVICES OF CONSULTANTS, FINANCIAL ADVISORS, UNDERWRITERS, ATTORNEYS, ACCOUNTANTS, CONSULTANTS, BOND INSURERS, LETTER OF CREDIT BANKS, RATING AGENCIES, AGENTS, OR OTHER PERSONS WHOSE SERVICES MAY BE REQUIRED OR DEEMED ADVANTAGEOUS BY THE AUTHORITY IN CONNECTION WITH BONDS.

40-9.7-108. Colorado clean energy development authority fund

- creation - authorization of projects. (1) THE COLORADO CLEAN ENERGY DEVELOPMENT AUTHORITY FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FOLLOWING MONEYS, TOGETHER WITH ANY OTHER MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY, SHALL BE CREDITED TO THE FUND SUBJECT TO AGREEMENTS WITH THE HOLDERS OF BONDS, FINANCING AGREEMENTS, CONTRACTS, AGREEMENTS, OR OTHER OBLIGATIONS OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE:

(a) ANY GIFTS, GRANTS, AND DONATIONS, INCLUDING GRANTS FROM OTHER GOVERNMENTAL AGENCIES OR ENTITIES, ACCEPTED BY THE AUTHORITY TO BE USED FOR THE PURPOSES SET FORTH IN THIS ARTICLE;

(b) REVENUES PAID TO THE AUTHORITY BY PUBLIC UTILITIES AND OTHER PERSONS USING PROJECTS FINANCED OR REFINANCED BY THE AUTHORITY; AND

(c) ANY OTHER MONEYS DETERMINED BY THE GENERAL ASSEMBLY OR THE AUTHORITY TO BE DEPOSITED THEREIN.

(2) THE FUND SHALL BE ADMINISTERED BY THE AUTHORITY AND SHALL BE AVAILABLE IN PERPETUITY FOR THE PURPOSES STATED IN THIS ARTICLE. THE AUTHORITY IS AUTHORIZED TO ESTABLISH PROCEDURES TO ADMINISTER THE FUND IN ACCORDANCE WITH THIS ARTICLE. THE AUTHORITY MAY CREATE SEPARATE ACCOUNTS IN THE FUND. SUBJECT TO THE PROVISIONS OF SUBSECTION (3) OF THIS SECTION, MONEYS IN THE FUND SHALL BE USED, AS DETERMINED BY THE AUTHORITY, FOR THE PURPOSES OF PAYING FOR OR PROVIDING FOR THE PAYMENT OF THE COSTS OF OPERATING THE AUTHORITY, FINANCING OR REFINANCING PROJECTS, PAYING OR SECURING OR PROVIDING FOR THE PAYMENT OF OR SECURITY FOR BONDS OF THE AUTHORITY OR OBLIGATIONS OF THE AUTHORITY UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE, OR FOR ANY OTHER PURPOSE CONSISTENT WITH THIS ARTICLE. THE AUTHORITY MAY LIMIT THE USE OF ANY PORTION OF THE FUND OR ANY ACCOUNT IN THE FUND TO ONE OR MORE SPECIFIED PURPOSES, INCLUDING BUT NOT LIMITED TO THE FINANCING OR REFINANCING OF A PARTICULAR TYPE OF PROJECT OR THE FINANCING OR REFINANCING OF PROJECTS FOR A PARTICULAR TYPE OF USER.

(3) (a) SUBJECT TO THE PROVISIONS OF SUBSECTION (4) OF THIS SECTION, AND AS DETERMINED BY AND SUBJECT TO THE LIMITATIONS

DETERMINED BY THE AUTHORITY, MONEYS IN THE FUND MAY BE USED TO FUND OR PROVIDE FOR THE FUNDING OF ONE OR MORE RESERVES FOR THE PAYMENT OF ALL OR ANY PORTION OF BONDS OR OBLIGATIONS OF THE AUTHORITY UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE.

(b) (I) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (4) OF THIS SECTION, AND SUBJECT TO THE LIMITATIONS SET FORTH IN PARAGRAPHS (e) AND (f) OF THIS SUBSECTION (3), THE AUTHORITY, WITH PRIOR APPROVAL BY ENACTED LEGISLATION OF THE GENERAL ASSEMBLY IN ACCORDANCE WITH PARAGRAPH (c) OF THIS SUBSECTION (3), MAY AGREE IN ANY RESOLUTION OR TRUST INDENTURE AUTHORIZING THE ISSUANCE OF BONDS THAT, IF THE BALANCE IN THE FUND PLEDGED AS A RESERVE FOR THE PAYMENT OF ALL OR ANY PORTION OF BONDS OR OBLIGATIONS OF THE AUTHORITY UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE FALLS BELOW THE DEBT SERVICE RESERVE FUND REQUIREMENT ESTABLISHED IN SUCH RESOLUTION OR TRUST INDENTURE, THE BOARD SHALL, ON OR BEFORE JANUARY 1 OF EACH YEAR, MAKE AND DELIVER TO THE GOVERNOR A CERTIFICATE STATING THE SUM, IF ANY, REQUIRED TO RESTORE THE DEBT SERVICE RESERVE FUND TO THE RESERVE FUND REQUIREMENT AND, IF THE PROJECT IS LOCATED PARTLY OR WHOLLY OUTSIDE THE STATE, THE PERCENTAGE OF THE TOTAL VALUE OF THE PROJECT THAT IS LOCATED WITHIN THE STATE. IF THE GOVERNOR DETERMINES THAT THE SUM OF THE AMOUNT OF ANTICIPATED GENERAL FUND REVENUES FOR THE FISCAL YEAR IN WHICH THE BOARD DELIVERS A CERTIFICATE TO THE GOVERNOR AND THE AMOUNT OF AVAILABLE MONEYS IN OR TO BE CREDITED TO STATE FUNDS OTHER THAN THE GENERAL FUND FOR THE FISCAL YEAR ARE SUFFICIENT TO ALLOW THE GENERAL ASSEMBLY TO MAKE GENERAL FUND APPROPRIATIONS UP TO THE LIMIT SPECIFIED IN SECTION 24-75-201.1 (1) (a), C.R.S., MAINTAIN THE FOUR PERCENT RESERVE REQUIRED BY SECTION 24-75-201.1 (1) (d) (III), C.R.S., AND RESTORE THE DEBT SERVICE RESERVE FUND TO THE RESERVE FUND REQUIREMENT, THE GOVERNOR SHALL TRANSMIT TO THE GENERAL ASSEMBLY A REQUEST FOR THE AMOUNT, IF ANY, REQUIRED TO RESTORE THE DEBT SERVICE RESERVE FUND TO THE DEBT SERVICE RESERVE FUND REQUIREMENT; EXCEPT THAT, IF THE PROJECT IS LOCATED PARTLY OR WHOLLY OUTSIDE THE STATE, THE GOVERNOR SHALL TRANSMIT TO THE GENERAL ASSEMBLY ONLY A REQUEST FOR AN AMOUNT EQUAL TO THE PRODUCT OF THE AMOUNT, IF ANY, REQUIRED TO RESTORE

THE DEBT SERVICE RESERVE FUND TO THE DEBT SERVICE RESERVE FUND REQUIREMENT AND THE PERCENTAGE OF THE TOTAL VALUE OF THE PROJECT LOCATED WITHIN THE STATE. THE GENERAL ASSEMBLY MAY, BUT SHALL NOT BE REQUIRED TO, MAKE ANY APPROPRIATIONS SO REQUESTED. ALL SUMS APPROPRIATED AND PAID BY THE GENERAL ASSEMBLY FOR THE RESTORATION SHALL BE DEPOSITED BY THE AUTHORITY IN THE DEBT SERVICE RESERVE FUND. NOTHING IN THIS SECTION SHALL CREATE OR CONSTITUTE A DEBT OR LIABILITY OF THE STATE.

(II) ANY MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY PURSUANT TO THIS PARAGRAPH (b) FOR THE PURPOSES OF ANY DEBT SERVICE RESERVE FUNDS ESTABLISHED PURSUANT TO THIS SECTION SHALL NOT REVERT TO THE GENERAL FUND OF THE STATE AT THE END OF ANY FISCAL YEAR.

(III) IF, BY VIRTUE OF A DECISION OF THE COLORADO SUPREME COURT OR ANY FEDERAL COURT, PORTIONS OF THIS ARTICLE ARE HELD UNCONSTITUTIONAL AND THE AUTHORITY IS THEREBY RENDERED INCAPABLE OF PERFORMING ALL OF THE PURPOSES FOR WHICH IT IS HEREBY CREATED, THEN, SUBJECT TO THE PROVISIONS OF SECTION 40-9.7-114, ANY MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY FOR ANY DEBT SERVICE RESERVE FUNDS PURSUANT TO THIS PARAGRAPH (b) REMAINING IN THE FUND SHALL BE TRANSFERRED TO THE FUND FROM WHICH THEY WERE APPROPRIATED, EFFECTIVE ON THE DAY AFTER THE COURT DECISION BECOMES FINAL AND IS NO LONGER APPEALABLE.

(c) THE AUTHORITY SHALL PROVIDE TO THE GENERAL ASSEMBLY BY JANUARY 15 OF EACH YEAR A LIST THAT IDENTIFIES EACH PROJECT FOR WHICH THE AUTHORITY SEEKS APPROVAL TO MAKE AN AGREEMENT OF THE KIND DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (3) IN A RESOLUTION OR TRUST INDENTURE AUTHORIZING THE ISSUANCE OF BONDS TO FINANCE OR REFINANCE THE PROJECT. EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION (3), THE AUTHORITY MAY ONLY INCLUDE SUCH AN AGREEMENT IN A RESOLUTION OR TRUST INDENTURE IF THE GENERAL ASSEMBLY ENACTS A BILL APPROVING THE INCLUSION OF THE AGREEMENT. THE AUTHORITY SHALL NOT SEEK APPROVAL TO INCLUDE, AND THE GENERAL ASSEMBLY SHALL NOT APPROVE THE INCLUSION OF, SUCH AN AGREEMENT IN A RESOLUTION OR TRUST INDENTURE IF THE AUTHORITY CANNOT ASSURE THE GENERAL ASSEMBLY THAT IT WILL BE ABLE TO COMPLY WITH PARAGRAPH (f) OF THIS SUBSECTION

(3) OR IF THE INCLUSION WOULD CAUSE THE AGGREGATE AMOUNT OF SCHEDULED PAYMENTS IN ANY ONE FISCAL YEAR FOR ALL OUTSTANDING BONDS OF THE AUTHORITY THAT WERE ISSUED PURSUANT TO ANY RESOLUTION OR TRUST INDENTURE THAT INCLUDES SUCH AN AGREEMENT TO EXCEED THE MAXIMUM AMOUNT SPECIFIED IN PARAGRAPH (e) OF THIS SUBSECTION (3). FAILURE OF THE AUTHORITY TO COMPLY WITH PARAGRAPH (f) OF THIS SUBSECTION (3) BY OBTAINING EITHER A PERFORMANCE BOND OR SIMILAR ASSURANCE OR A THIRD-PARTY GUARANTY OF THE BONDS TO BE ISSUED SHALL VOID ANY PRIOR APPROVAL BY THE GENERAL ASSEMBLY OF THE INCLUSION OF SUCH AN AGREEMENT IN A RESOLUTION OR TRUST INDENTURE.

(d) IN ACCORDANCE WITH THE PROVISIONS OF SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (3), AND SUBJECT TO THE LIMITATIONS SET FORTH IN PARAGRAPHS (e) AND (f) OF THIS SUBSECTION (3), THE AUTHORITY IS HEREBY AUTHORIZED TO MAKE AN AGREEMENT OF THE KIND DESCRIBED IN SAID SUBPARAGRAPH (I) IN ANY RESOLUTION OR TRUST INDENTURE THAT AUTHORIZES THE ISSUANCE OF BONDS TO FINANCE OR REFINANCE ONE OR MORE OF THE FOLLOWING PROJECTS:

(I) A WIND ENERGY TRANSMISSION FACILITIES PROJECT FINANCED OR REFINANCED BY UP TO FORTY MILLION DOLLARS OF BONDS; AND

(II) A SOLAR ENERGY PROJECT FINANCED OR REFINANCED BY UP TO TWENTY-FIVE MILLION DOLLARS OF BONDS.

(e) FOR ANY ONE FISCAL YEAR, THE AGGREGATE AMOUNT OF THE SCHEDULED PAYMENTS FOR ALL OUTSTANDING BONDS OF THE AUTHORITY ISSUED PURSUANT TO A RESOLUTION OR TRUST INDENTURE THAT INCLUDES AN AGREEMENT OF THE KIND DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (3) SHALL NOT EXCEED EIGHT MILLION DOLLARS.

(f) PRIOR TO OR AT THE TIME OF ISSUANCE OF BONDS ISSUED PURSUANT TO A RESOLUTION OR TRUST INDENTURE THAT INCLUDES AN AGREEMENT OF THE KIND DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (3), THE AUTHORITY SHALL OBTAIN EITHER A PERFORMANCE BOND OR SIMILAR ASSURANCE THAT GUARANTEES THE COMPLETION OF THE PROJECT TO BE FINANCED BY THE BONDS OR A THIRD-PARTY GUARANTY OF THE BONDS PROVIDED BY A THIRD PARTY THAT

HAS AN INVESTMENT-GRADE RATING.

(4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE:

(a) NO BONDS OR OTHER FINANCIAL OBLIGATIONS MAY BE PAID FROM OR SECURED BY THE PROCEEDS OF ANY TAXES LEVIED OR IMPOSED BY ANY PUBLIC BODY; AND

(b) UNLESS THE VOTERS OF THE STATE HAVE APPROVED BONDS OR OTHER FINANCIAL OBLIGATIONS IN ACCORDANCE WITH SECTION 40-9.7-109, NO MONEYS IN THE FUND, OTHER THAN MONEYS THAT ARE ON DEPOSIT IN THE FUND AND ARE IRREVOCABLY PLEDGED TO THE PAYMENT OF THE BONDS OR FINANCIAL OBLIGATIONS AS OF THE DATE THE BONDS ARE ISSUED OR THE FINANCIAL OBLIGATIONS ARE INCURRED OR MONEYS THAT ARE DEPOSITED INTO A DEBT SERVICE RESERVE FUND PURSUANT TO SUBSECTION (3) OF THIS SECTION, MAY BE USED TO PAY OR SECURE THE PAYMENT OF AMOUNTS PAYABLE ON BONDS OR OTHER FINANCIAL OBLIGATIONS AFTER THE END OF THE FISCAL YEAR IN WHICH THE BONDS ARE ISSUED OR THE OTHER FINANCIAL OBLIGATIONS ARE INCURRED.

(5) MONEYS IN THE FUND NOT CURRENTLY NEEDED FOR THE OPERATION OF THE AUTHORITY AND THE FUND MAY BE INVESTED IN ACCORDANCE WITH THIS ARTICLE, AND ALL EARNINGS SHALL BE CREDITED TO THE FUND OR AN ACCOUNT IN THE FUND SPECIFIED BY THE AUTHORITY.

40-9.7-109. Voter approval required for certain bonds and financial obligations - legislative declaration. (1) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE AUTHORITY SHALL NOT, UNLESS THE VOTERS OF THE STATE HAVE AUTHORIZED AT A STATEWIDE ELECTION THE INCURRENCE OF A MULTIPLE-FISCAL YEAR OBLIGATION FOR SUCH PURPOSE, ISSUE ANY BONDS OR INCUR ANY FINANCIAL OBLIGATION UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY PAYABLE IN ANY FISCAL YEAR BEYOND THE FISCAL YEAR IN WHICH THE BONDS ARE ISSUED OR THE FINANCIAL OBLIGATION IS INCURRED IF THE BONDS OR FINANCIAL OBLIGATION ARE PAYABLE FROM OR SECURED BY ANY PORTION OF THE FUND OTHER THAN MONEYS THAT ARE ON DEPOSIT IN THE FUND AND ARE IRREVOCABLY PLEDGED TO THE PAYMENT OF THE BONDS OR FINANCIAL OBLIGATION AS OF THE DATE THE BONDS ARE ISSUED OR THE FINANCIAL OBLIGATION IS INCURRED, OR SECURED BY MONEYS THAT ARE DEPOSITED

INTO A DEBT SERVICE RESERVE FUND PURSUANT TO SECTION 40-9.7-108 (3).

(b) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE QUESTION OF WHETHER THE AUTHORITY SHOULD INCUR A MULTIPLE-FISCAL YEAR OBLIGATION THAT REQUIRES THE AUTHORIZATION OF THE VOTERS OF THE STATE UNDER PARAGRAPH (a) OF THIS SUBSECTION (1) IS A STATE MATTER ARISING UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION. CONSEQUENTLY, IN ACCORDANCE WITH THE PROVISIONS OF SAID SECTION 20 AND ARTICLE 41 OF TITLE 1, C.R.S., THE AUTHORITY MAY INSTRUCT THE SECRETARY OF STATE TO SUBMIT A BALLOT QUESTION TO A VOTE OF THE REGISTERED ELECTORS OF THE STATE SEEKING THEIR APPROVAL FOR THE AUTHORITY TO INCUR SUCH A MULTIPLE-FISCAL YEAR OBLIGATION AT ANY GENERAL ELECTION OR STATEWIDE ODD-YEAR ELECTION.

(2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION AND SECTION 40-9.7-107 (1) AND (4), THE AUTHORITY, WITHOUT VOTER APPROVAL, SHALL BE AUTHORIZED TO ISSUE BONDS AND INCUR FINANCIAL OBLIGATIONS UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE IF THE BONDS OR FINANCIAL OBLIGATIONS:

(a) ARE PAYABLE IN THE FISCAL YEAR IN WHICH THE BONDS ARE ISSUED OR THE FINANCIAL OBLIGATION IS INCURRED; OR

(b) ARE PAYABLE ONLY FROM OR SECURED ONLY BY THE FOLLOWING:

(I) AMOUNTS PAYABLE BY A USER OR A THIRD-PARTY FINANCIER PURSUANT TO A THIRD-PARTY FINANCING AGREEMENT;

(II) A MORTGAGE OR OTHER LIEN UPON OR SECURITY INTEREST GRANTED IN ACCORDANCE WITH SECTION 40-9.7-106 (2) (p);

(III) A DEBT SERVICE RESERVE FUND CREATED PURSUANT TO SECTION 40-9.7-108 (3) THAT IS FUNDED WITH MONEYS THAT ARE ON DEPOSIT IN THE FUND AND ARE IRREVOCABLY PLEDGED TO THE PAYMENT OF THE BONDS OR FINANCIAL OBLIGATIONS AS OF THE DATE THE BONDS ARE ISSUED OR THE FINANCIAL OBLIGATIONS ARE INCURRED;

(IV) MONEYS THAT ARE DEPOSITED INTO A DEBT SERVICE RESERVE FUND PURSUANT TO SECTION 40-9.7-108 (3); OR

(V) ANOTHER SOURCE FOR WHICH STATEWIDE VOTER APPROVAL IS NOT SPECIFICALLY REQUIRED PURSUANT TO SUBSECTION (1) OF THIS SECTION.

40-9.7-110. Payment of obligations - nonliability of state.

(1) BONDS OR OBLIGATIONS OF THE AUTHORITY UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE SHALL NOT CONSTITUTE OR BECOME AN INDEBTEDNESS, A DEBT, OR A LIABILITY OF THE STATE, NOR SHALL THE STATE BE LIABLE FOR THE PAYMENT THEREOF, NOR SHALL THE BONDS OR OBLIGATIONS OF THE AUTHORITY UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE CONSTITUTE THE GIVING, PLEDGING, OR LOANING OF THE FULL FAITH AND CREDIT OF THE STATE, BUT THE BONDS OR OBLIGATIONS OF THE AUTHORITY UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE SHALL BE PAYABLE SOLELY FROM THE MONEYS SPECIFIED IN THIS ARTICLE. THE ISSUANCE OF BONDS OR THE INCURRENCE OF OBLIGATIONS OF THE AUTHORITY UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE UNDER THE PROVISIONS OF THIS ARTICLE SHALL NOT OBLIGATE THE STATE OR THE AUTHORITY, DIRECTLY, INDIRECTLY, OR CONTINGENTLY, TO LEVY OR COLLECT ANY FORM OF TAXES OR ASSESSMENTS OR TO CREATE ANY INDEBTEDNESS PAYABLE OUT OF TAXES OR ASSESSMENTS.

(2) NOTHING IN THIS SECTION SHALL PREVENT OR BE CONSTRUED TO PREVENT THE AUTHORITY FROM PLEDGING ITS FULL FAITH AND CREDIT TO THE PAYMENT OF BONDS OR OBLIGATIONS OF THE AUTHORITY UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE, BUT NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO AUTHORIZE THE AUTHORITY TO CREATE A DEBT OF THE STATE WITHIN THE MEANING OF THE CONSTITUTION OR STATUTES OF THE STATE. ALL BONDS OR OBLIGATIONS OF THE AUTHORITY UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE ARE PAYABLE AND SHALL STATE THAT THEY ARE PAYABLE

SOLELY FROM THE FUNDS PLEDGED FOR THEIR PAYMENT IN ACCORDANCE WITH THE RESOLUTION AUTHORIZING THEIR ISSUANCE OR INCURRENCE AND WITH ANY TRUST INDENTURE, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY EXECUTED AS THEIR SECURITY AND ARE NOT A DEBT OR LIABILITY OF THE STATE.

(3) THE STATE IS NOT LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON ANY BONDS OR OBLIGATIONS OF THE AUTHORITY UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION, OR AGREEMENT OF ANY KIND WHATSOEVER THAT MAY BE UNDERTAKEN BY THE AUTHORITY. NO BREACH OF ANY SUCH PLEDGE, OBLIGATION, OR AGREEMENT SHALL IMPOSE ANY PECUNIARY LIABILITY UPON THE STATE OR ANY CHARGE UPON ITS GENERAL CREDIT OR AGAINST ITS TAXING POWER.

40-9.7-111. Exemption from taxation - securities law. THE INCOME OR OTHER REVENUES OF THE AUTHORITY, ALL PROPERTIES AT ANY TIME OWNED BY THE AUTHORITY, ANY BONDS OR OBLIGATIONS OF THE AUTHORITY UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE, THE TRANSFER OF AND THE INCOME, INCLUDING ANY PROFIT MADE ON SALE THEREFROM, AND ALL TRUST INDENTURES, FINANCING AGREEMENTS, CONTRACTS, AGREEMENTS, OTHER OBLIGATIONS OF THE AUTHORITY, AND OTHER DOCUMENTS ISSUED OR EXECUTED IN CONNECTION THEREWITH SHALL BE EXEMPT AT ALL TIMES FROM ALL TAXATION AND ASSESSMENTS IN THE STATE. BONDS OR OBLIGATIONS OF THE AUTHORITY UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE SHALL ALSO BE EXEMPT FROM THE PROVISIONS OF ARTICLE 51 OF TITLE 11, C.R.S.

40-9.7-112. Expenses of the authority. EXPENSES OF THE AUTHORITY INCURRED IN CARRYING OUT THE PROVISIONS OF THIS ARTICLE SHALL BE PAYABLE SOLELY FROM MONEYS PROVIDED UNDER THE AUTHORITY OF THIS ARTICLE, AND NO LIABILITY SHALL BE INCURRED BY THE AUTHORITY BEYOND THE MONEYS THAT ARE PROVIDED PURSUANT TO THIS ARTICLE. FOR THE PURPOSES OF MEETING THE NECESSARY EXPENSES OF INITIAL ORGANIZATION AND OPERATION UNTIL SUCH DATE AS THE AUTHORITY DERIVES MONEYS FROM FUNDS PROVIDED PURSUANT TO THIS ARTICLE, THE AUTHORITY MAY BORROW SUCH MONEYS AS MAY BE REQUIRED

FOR THE NECESSARY EXPENSES OF ORGANIZATION AND OPERATION. SUCH BORROWED MONEYS SHALL BE REPAID WITHIN A REASONABLE TIME AFTER THE AUTHORITY RECEIVES FUNDS PROVIDED PURSUANT TO THIS ARTICLE.

40-9.7-113. Investment powers of authority. THE AUTHORITY MAY INVEST OR DEPOSIT ANY FUNDS IN THE MANNER PROVIDED BY PART 6 OF ARTICLE 75 OF TITLE 24, C.R.S. IN ADDITION, THE AUTHORITY MAY DIRECT A CORPORATE TRUSTEE THAT HOLDS FUNDS OF THE AUTHORITY TO INVEST OR DEPOSIT THE FUNDS IN INVESTMENTS OR DEPOSITS OTHER THAN THOSE SPECIFIED BY SAID PART 6 IF THE AUTHORITY DETERMINES, BY RESOLUTION, THAT SUCH AN INVESTMENT OR DEPOSIT MEETS THE STANDARD ESTABLISHED IN SECTION 15-1-304, C.R.S., THE INCOME IS AT LEAST COMPARABLE TO INCOME AVAILABLE ON INVESTMENTS OR DEPOSITS SPECIFIED BY SAID PART 6, AND THE INVESTMENT WILL ASSIST THE AUTHORITY IN THE FINANCING, CONSTRUCTION, MAINTENANCE, OR OPERATION OF ANY PROJECT.

40-9.7-114. Agreement of the state not to limit or alter rights of obligees. THE STATE HEREBY PLEDGES TO AND AGREES WITH THE HOLDERS OF ANY BONDS ISSUED UNDER THIS ARTICLE AND WITH THOSE PARTIES WHO MAY ENTER INTO CONTRACTS WITH THE AUTHORITY PURSUANT TO THIS ARTICLE THAT THE STATE WILL NOT LIMIT, ALTER, RESTRICT, OR IMPAIR THE RIGHTS VESTED IN THE AUTHORITY TO FULFILL THE TERMS OF ANY AGREEMENTS MADE WITH THE HOLDERS OF BONDS AND WITH THE PARTIES WHO MAY ENTER INTO CONTRACTS WITH THE AUTHORITY. THE STATE FURTHER AGREES THAT IT WILL NOT IN ANY WAY IMPAIR THE RIGHTS OR REMEDIES OF THE HOLDERS OF BONDS OR THE PARTIES UNTIL THE BONDS, TOGETHER WITH INTEREST THEREON AND WITH INTEREST ON ANY UNPAID INSTALLMENT OF INTEREST, AND ALL COSTS AND EXPENSES IN CONNECTION WITH ANY ACTION OR PROCEEDING BY OR ON BEHALF OF THE HOLDERS, ARE FULLY PAID AND DISCHARGED AND THE CONTRACTS WITH THE PARTIES ARE FULLY PERFORMED ON THE PART OF THE AUTHORITY. NOTHING IN THIS ARTICLE PRECLUDES SUCH LIMITATION OR ALTERATION IF AND WHEN ADEQUATE PROVISION IS MADE BY LAW FOR THE PROTECTION OF THE HOLDERS OF BONDS OR THE PARTIES. THE AUTHORITY MAY INCLUDE THIS PLEDGE AND UNDERTAKING FOR THE STATE IN ITS BONDS AND CONTRACTS.

40-9.7-115. Enforcement of rights of obligees. ANY HOLDER OF BONDS ISSUED PURSUANT TO THIS ARTICLE OR OTHER OBLIGATIONS OF THE AUTHORITY UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT,

AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE, OR A TRUSTEE UNDER A TRUST AGREEMENT OR TRUST INDENTURE ENTERED INTO PURSUANT TO THIS ARTICLE, EXCEPT TO THE EXTENT THAT THE TRUSTEE'S RIGHTS ARE RESTRICTED BY THE AUTHORITY RESOLUTION AUTHORIZING THE SAME, MAY PROTECT AND ENFORCE, BY ANY SUITABLE FORM OF LEGAL PROCEEDINGS, ANY RIGHTS UNDER THE LAWS OF THE STATE OR GRANTED BY THE AUTHORIZING RESOLUTION, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY. ENFORCEABLE RIGHTS INCLUDE THE RIGHT TO COMPEL THE PERFORMANCE OF ALL DUTIES OF THE AUTHORITY REQUIRED BY THIS ARTICLE, THE AUTHORIZING RESOLUTION, THE BOND, OR THE FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AND THE RIGHT TO ENJOIN UNLAWFUL ACTIVITIES.

40-9.7-116. Bonds eligible for investment. ALL BANKS, BANKERS, TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS, INVESTMENT COMPANIES, INSURANCE COMPANIES AND ASSOCIATIONS, EXECUTORS, ADMINISTRATORS, GUARDIANS, TRUSTEES, AND OTHER FIDUCIARIES MAY LEGALLY INVEST ANY MONEYS BELONGING TO THEM OR WITHIN THEIR CONTROL IN ANY BONDS ISSUED PURSUANT TO THIS ARTICLE. PUBLIC ENTITIES, AS DEFINED IN SECTION 24-75-601 (1), C.R.S., MAY INVEST PUBLIC FUNDS IN SUCH BONDS ONLY IF THE BONDS SATISFY THE INVESTMENT REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF TITLE 24, C.R.S.

40-9.7-117. No action maintainable. AN ACTION OR PROCEEDING AT LAW OR IN EQUITY TO REVIEW ANY ACTS OR PROCEEDINGS OR TO QUESTION THE VALIDITY OR ENJOIN THE PERFORMANCE OF ANY ACT OR PROCEEDINGS OR THE ISSUANCE OF ANY BONDS OR THE INCURRENCE OF OBLIGATIONS OF THE AUTHORITY UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE OR FOR ANY OTHER RELIEF AGAINST OR FROM ANY ACTS OR PROCEEDINGS DONE UNDER THIS ARTICLE, WHETHER BASED UPON IRREGULARITIES OR JURISDICTIONAL DEFECTS, SHALL NOT BE MAINTAINED UNLESS COMMENCED WITHIN THIRTY DAYS AFTER THE PERFORMANCE OF THE ACT OR PROCEEDINGS OR THE EFFECTIVE DATE THEREOF, WHICHEVER OCCURS FIRST, AND IS THEREAFTER PERPETUALLY BARRED.

40-9.7-118. Judicial examination of powers, acts, proceedings, or contracts of an authority. IN ITS DISCRETION, THE AUTHORITY MAY FILE

A PETITION AT ANY TIME IN THE DISTRICT COURT IN AND FOR ANY COUNTY IN WHICH THE AUTHORITY IS LOCATED WHOLLY OR IN PART REQUESTING A JUDICIAL EXAMINATION AND DETERMINATION OF ANY POWER CONFERRED TO THE AUTHORITY OR ANY ACT, PROCEEDING, OR CONTRACT OF THE AUTHORITY, WHETHER OR NOT THE CONTRACT HAS BEEN EXECUTED. THE JUDICIAL EXAMINATION AND DETERMINATION SHALL BE CONDUCTED IN SUBSTANTIALLY THE MANNER SET FORTH IN SECTION 32-4-540, C.R.S.; EXCEPT THAT THE NOTICE REQUIRED SHALL BE PUBLISHED ONCE A WEEK FOR THREE CONSECUTIVE WEEKS AND THE HEARING SHALL BE HELD NOT LESS THAN THIRTY DAYS NOR MORE THAN FORTY DAYS AFTER THE FILING OF THE PETITION.

40-9.7-119. Sufficiency of article - preservation of authority of public utilities commission. (1) THIS ARTICLE, WITHOUT REFERENCE TO OTHER STATUTES OF THE STATE, CONSTITUTES FULL AUTHORITY FOR THE EXERCISE OF POWERS GRANTED IN THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO, THE AUTHORIZATION AND ISSUANCE OF BONDS AND THE INCURRENCE OF OTHER OBLIGATIONS OF THE AUTHORITY UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE.

(2) NO OTHER ACT OR LAW WITH REGARD TO THE AUTHORIZATION OR ISSUANCE OF BONDS OR INCURRENCE OF OTHER OBLIGATIONS THAT PROVIDES FOR AN ELECTION REQUIRING AN APPROVAL OR IN ANY WAY IMPEDING OR RESTRICTING THE CARRYING OUT OF THE ACTS AUTHORIZED IN THIS ARTICLE TO BE DONE SHALL BE CONSTRUED AS APPLYING TO ANY PROCEEDINGS TAKEN UNDER THIS ARTICLE OR ACTS DONE PURSUANT TO THIS ARTICLE.

(3) NO NOTICE, CONSENT, OR APPROVAL BY ANY PUBLIC BODY OR OFFICER THEREOF SHALL BE REQUIRED AS A PREREQUISITE TO THE SALE OR ISSUANCE OF ANY BONDS, THE INCURRENCE OF OTHER OBLIGATIONS OF THE AUTHORITY UNDER ANY BOND, FINANCING AGREEMENT, CONTRACT, AGREEMENT, OR OTHER OBLIGATION OF THE AUTHORITY AUTHORIZED BY THIS ARTICLE, OR THE EXERCISE OF ANY OTHER POWER UNDER THIS ARTICLE, EXCEPT AS PROVIDED IN THIS ARTICLE.

(4) THE POWERS CONFERRED BY THIS ARTICLE SHALL BE IN ADDITION AND SUPPLEMENTAL TO AND NOT IN SUBSTITUTION FOR, AND THE LIMITATIONS IMPOSED BY THIS ARTICLE SHALL NOT AFFECT, THE POWERS

CONFERRED BY ANY OTHER LAW.

(5) NO PART OF THIS ARTICLE SHALL REPEAL OR AFFECT ANY OTHER LAW OR PART THEREOF EXCEPT TO THE EXTENT THAT THIS ARTICLE IS INCONSISTENT WITH ANY OTHER LAW, IT BEING INTENDED THAT THIS ARTICLE SHALL PROVIDE A SEPARATE METHOD OF ACCOMPLISHING ITS OBJECTIVES AND NOT AN EXCLUSIVE ONE; AND THIS ARTICLE SHALL NOT BE CONSTRUED AS REPEALING, AMENDING, OR CHANGING ANY OTHER LAW EXCEPT TO THE EXTENT OF SUCH INCONSISTENCY.

(6) NOTHING IN THIS ARTICLE SHALL AFFECT THE JURISDICTION OR POWER OF THE PUBLIC UTILITIES COMMISSION, AND THE AUTHORITY SHALL NOT FINANCE OR REFINANCE ANY PROJECT THAT IS SUBJECT TO REGULATION BY THE COMMISSION WITHOUT THE APPROVAL OF THE COMMISSION.

40-9.7-120. Account of activities - receipts for expenditures - report - audit. THE AUTHORITY SHALL KEEP AN ACCURATE ACCOUNT OF ALL ITS ACTIVITIES AND OF ALL ITS RECEIPTS AND EXPENDITURES. THE STATE AUDITOR MAY INVESTIGATE THE AFFAIRS OF THE AUTHORITY, MAY EXAMINE THE PROPERTIES AND RECORDS OF THE AUTHORITY, AND MAY PRESCRIBE METHODS OF ACCOUNTING AND THE RENDERING OF PERIODICAL REPORTS IN RELATION TO UNDERTAKINGS BY THE AUTHORITY.

40-9.7-121. Federal social security act. THE AUTHORITY MAY TAKE SUCH ACTION AS IT DEEMS APPROPRIATE TO ENABLE ITS EMPLOYEES TO COME WITHIN THE PROVISIONS AND OBTAIN THE BENEFITS OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED.

40-9.7-122. Powers of authority not restricted. THIS ARTICLE SHALL NOT BE CONSTRUED AS A RESTRICTION OR LIMITATION UPON ANY POWERS THAT THE AUTHORITY MIGHT OTHERWISE HAVE UNDER ANY LAWS OF THIS STATE BUT SHALL BE CONSTRUED AS CUMULATIVE OF ANY SUCH POWERS. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO DEPRIVE THE STATE AND ITS POLITICAL SUBDIVISIONS OF THEIR RESPECTIVE POLICE POWERS OVER PROPERTIES OF THE AUTHORITY OR TO IMPAIR ANY POWER OVER SUCH PROPERTIES OF ANY OFFICIAL OR AGENCY OF THE STATE AND ITS GOVERNMENTAL SUBDIVISIONS THAT MAY BE OTHERWISE PROVIDED BY LAW.

40-9.7-123. Report to legislature. NOTWITHSTANDING SECTION 24-1-136 (11), C.R.S., THE AUTHORITY SHALL SUBMIT A REPORT OF ITS

ACTIVITIES TO THE GOVERNOR AND TO THE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE OF THE SENATE AND THE TRANSPORTATION AND ENERGY COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, NO LATER THAN FEBRUARY 1 OF EACH YEAR. EACH REPORT SHALL SET FORTH A COMPLETE OPERATING AND FINANCIAL STATEMENT COVERING THE AUTHORITY'S OPERATIONS FOR THE PREVIOUS FISCAL YEAR.

SECTION 2. 24-77-102 (15) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-77-102. Definitions. As used in this article, unless the context otherwise requires:

(15) (b) "Special purpose authority" includes, but is not limited to:

(XVI) THE COLORADO CLEAN ENERGY DEVELOPMENT AUTHORITY CREATED PURSUANT TO SECTION 40-9.7-104, C.R.S.

SECTION 3. 40-3.2-104, Colorado Revised Statutes, as enacted by House Bill 07-1037, enacted at the First Regular Session of the Sixty-sixth General Assembly, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

40-3.2-104. Electricity utility demand-side management programs - rules - annual report. (7) FOR PURPOSES OF THIS SECTION, "ELECTRIC UTILITY" OR "UTILITY" MEANS "INVESTOR-OWNED UTILITY".

SECTION 4. Effective date. This act shall take effect upon passage; except that section 3 of this act shall take effect only if House Bill 07-1037 is enacted at the First Regular Session of the Sixty-sixth General Assembly and becomes law.

SECTION 5. 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.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Joan Fitz-Gerald
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO