

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 09-0565.01 Duane Gall

HOUSE BILL 09-1126

HOUSE SPONSORSHIP

Hullinghorst, Curry

SENATE SPONSORSHIP

Shaffer B., Heath

House Committees
Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 CONCERNING INCENTIVES FOR THE DEVELOPMENT OF SOLAR THERMAL
102 ENERGY SYSTEMS.

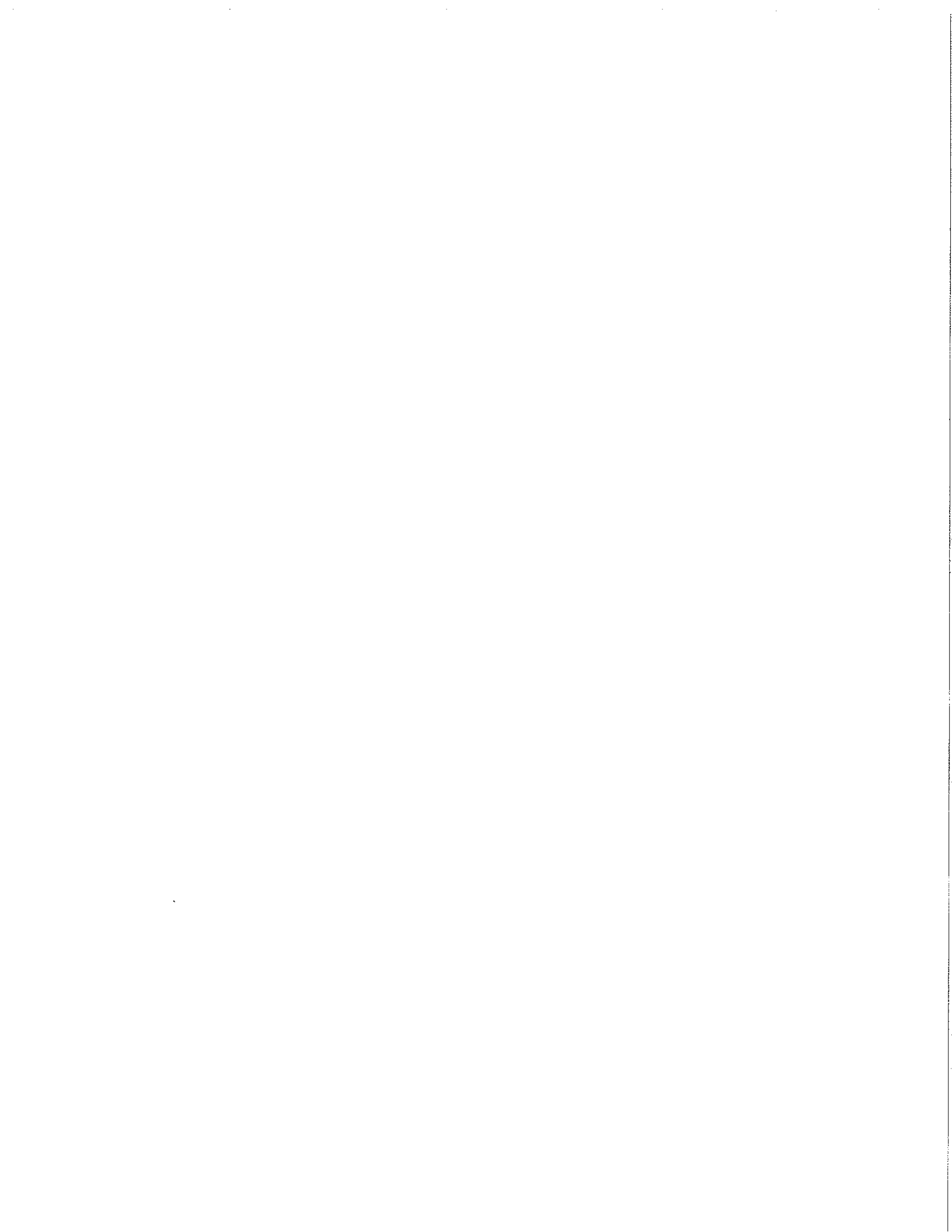
Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Allows local governments to provide the same incentives for solar thermal installations as may now be provided for solar electric installations. Adds a corresponding exemption from state sales and use tax.

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.



1 **SECTION 1.** 31-20-101.3 (2), Colorado Revised Statutes, is
2 amended to read:

3 **31-20-101.3. Incentives for installation of renewable energy**
4 **fixtures - definitions.** (2) For purposes of this section, unless the
5 context otherwise requires, "renewable energy fixture" means any fixture,
6 product, system, device, or interacting group of devices that produces
7 ENERGY, INCLUDING BUT NOT LIMITED TO ALTERNATING CURRENT
8 electricity, from renewable resources, including, but not limited to,
9 photovoltaic systems, solar thermal systems, small wind systems, biomass
10 systems, or geothermal systems.

11 **SECTION 2.** 39-26-724, Colorado Revised Statutes, is amended
12 to read:

13 **39-26-724. Components used to produce energy from a**
14 **renewable energy source - definitions.** (1) (a) For fiscal years
15 commencing on or after July 1, 2006, all sales, storage, and use of
16 components used in the production of alternating current electricity from
17 a renewable energy source, including but not limited to wind, shall be
18 exempt from taxation under ~~the provisions of parts 1 and 2 of this article.~~

19 (b) FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2009,
20 ALL SALES, STORAGE, AND USE OF COMPONENTS USED IN SOLAR THERMAL
21 SYSTEMS SHALL BE EXEMPT FROM TAXATION UNDER PARTS 1 AND 2 OF
22 THIS ARTICLE.

23 (2) As used in this section:

24 (a) "COMPONENTS USED IN SOLAR THERMAL SYSTEMS" SHALL
25 INCLUDE, BUT SHALL NOT BE LIMITED TO:

26 (I) SOLAR COLLECTORS, INCLUDING FLAT-PLATE COLLECTORS,
27 EVACUATED TUBE COLLECTORS, SOLAR AIR COLLECTORS, AND

1 CONCENTRATING SOLAR THERMAL COLLECTORS;

2 (II) TANKS FOR THE STORAGE OF GASES OR LIQUIDS THAT HAVE
3 BEEN HEATED OR COOLED BY SOLAR-GENERATED ENERGY;

4 (III) PUMPS, IMPELLERS, AND FANS FOR THE CIRCULATION OF
5 GASES OR LIQUIDS THAT HAVE BEEN HEATED OR COOLED BY
6 SOLAR-GENERATED ENERGY;

7 (IV) HEAT EXCHANGERS USED TO TRANSFER SOLAR-GENERATED
8 ENERGY;

9 (V) SUPPORT STRUCTURES, RACKS, AND FOUNDATIONS FOR ANY
10 COMPONENTS LISTED IN SUBPARAGRAPHS (I) TO (IV) OF THIS PARAGRAPH
11 (a); AND

12 (VI) ANY OTHER SYSTEM COMPONENTS SUCH AS PIPING, VALVES,
13 GAUGES, FITTINGS, INSULATION, AND CONTROLS FOR ANY COMPONENTS
14 LISTED IN SUBPARAGRAPHS (I) TO (IV) OF THIS PARAGRAPH (a).

15 (b) (I) "Components USED IN THE PRODUCTION OF ALTERNATING
16 CURRENT ELECTRICITY FROM A RENEWABLE ENERGY SOURCE" shall
17 include, but shall not be limited to, wind turbines, rotors and blades, solar
18 modules, trackers, generating equipment, supporting structures or racks,
19 inverters, towers and foundations, balance of system components such as
20 wiring, control systems, switchgears, and generator step-up transformers,
21 and concentrating solar power components that include, but are not
22 limited to, mirrors, plumbing, and heat exchangers.

23 (b) (II) ~~As used in this section,~~ "Components USED IN THE
24 PRODUCTION OF ALTERNATING CURRENT ELECTRICITY FROM A RENEWABLE
25 ENERGY SOURCE" shall not include any components beyond the point of
26 generator step-up transformers located at the production site, labor,
27 energy storage devices, or remote monitoring systems.



1 (c) "SOLAR THERMAL SYSTEM" MEANS A SYSTEM THAT USES THE
2 SUN TO PRODUCE HEAT OR COLD FOR:

3 (I) HEATING OR COOLING A RESIDENTIAL OR COMMERCIAL
4 BUILDING;

5 (II) HEATING OR COOLING WATER; OR

6 (III) ANY INDUSTRIAL, COMMERCIAL, OR MANUFACTURING
7 PROCESS.

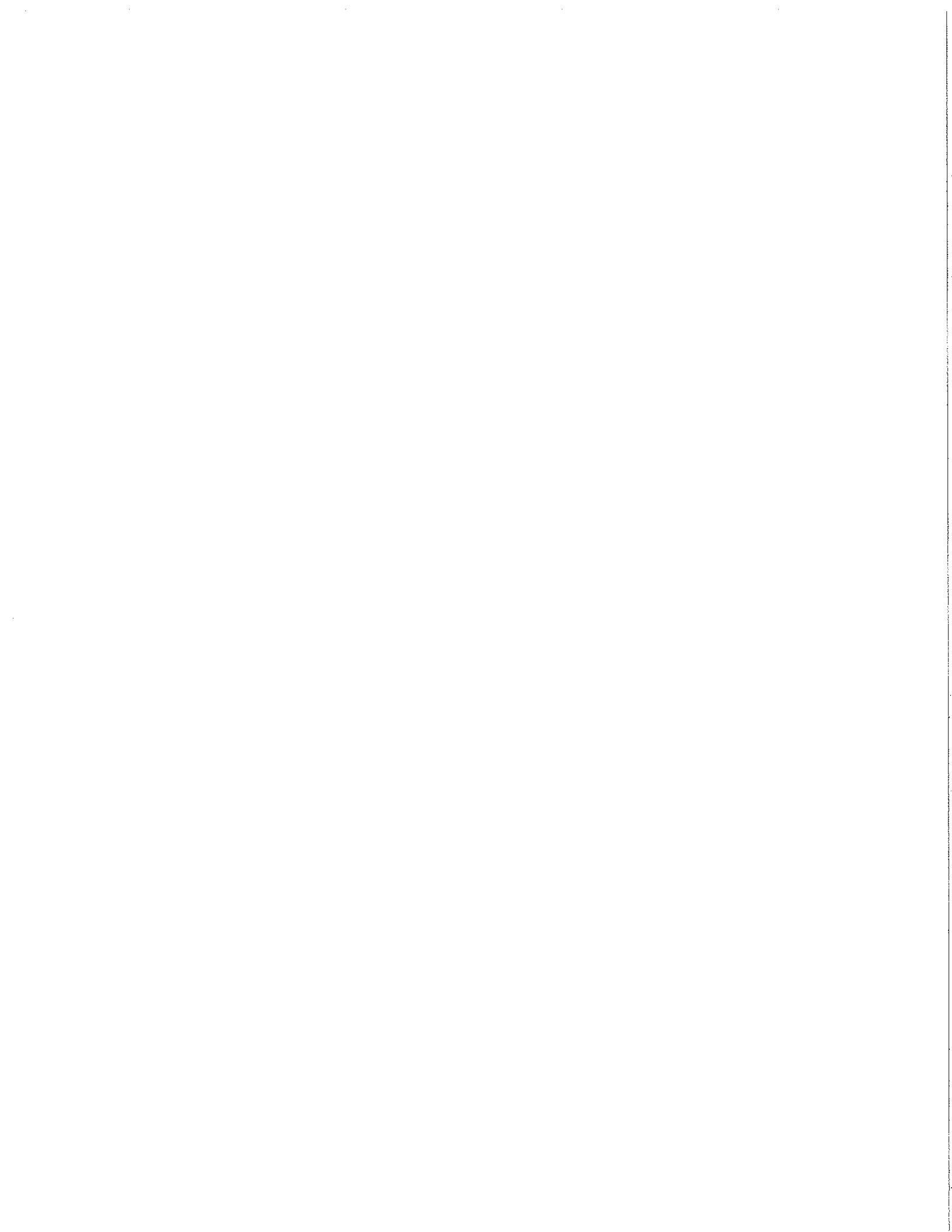
8 **SECTION 3.** 29-2-105 (1) (d) (I) (J), Colorado Revised Statutes,
9 is amended to read:

10 **29-2-105. Contents of sales tax ordinances and proposals.**

11 (1) The sales tax ordinance or proposal of any incorporated town, city,
12 or county adopted pursuant to this article shall be imposed on the sale of
13 tangible personal property at retail or the furnishing of services, as
14 provided in paragraph (d) of this subsection (1). Any countywide or
15 incorporated town or city sales tax ordinance or proposal shall include the
16 following provisions:

17 (d) (I) A provision that the sale of tangible personal property and
18 services taxable pursuant to this article shall be the same as the sale of
19 tangible personal property and services taxable pursuant to section
20 39-26-104, C.R.S., except as otherwise provided in this paragraph (d).
21 The sale of tangible personal property and services taxable pursuant to
22 this article shall be subject to the same sales tax exemptions as those
23 specified in part 7 of article 26 of title 39, C.R.S.; except that the sale of
24 the following may be exempted from a town, city, or county sales tax only
25 by the express inclusion of the exemption either at the time of adoption
26 of the initial sales tax ordinance or resolution or by amendment thereto:

27 (J) The exemption for sales of components used in the production



1 of ENERGY, INCLUDING BUT NOT LIMITED TO alternating current electricity,
2 from a renewable energy source ~~including but not limited to wind,~~
3 specified in section 39-26-724, C.R.S.; except that this sub-subparagraph
4 (J) shall not apply to any incorporated town, city, or county that adopted
5 the exemption specified in sub-subparagraph (A) of this subparagraph (I)
6 prior to May 27, 2008;

7 **SECTION 4.** The introductory portion to 29-2-109 (1), Colorado
8 Revised Statutes, is amended to read:

9 **29-2-109. Contents of use tax ordinances and proposals.**

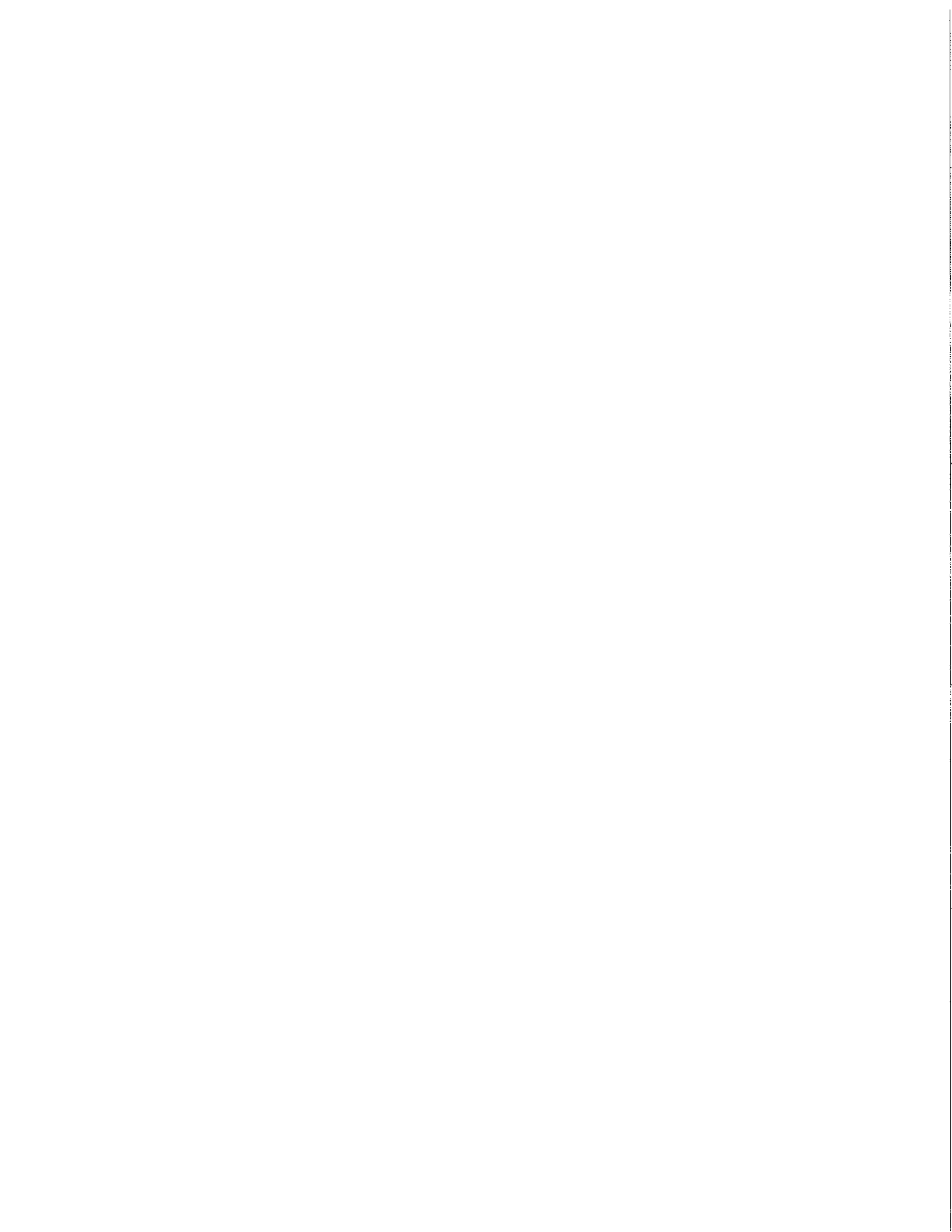
10 (1) The use tax ordinance, resolution, or proposal of any town, city, or
11 county adopted pursuant to this article shall be imposed only for the
12 privilege of using or consuming in the town, city, or county any
13 construction and building materials purchased at retail or for the privilege
14 of storing, using, or consuming in the town, city, or county any motor and
15 other vehicles, purchased at retail on which registration is required, or
16 both. For the purposes of this subsection (1), the term "construction and
17 building materials" shall not include parts or materials utilized in the
18 fabrication, construction, assembly, or installation of passenger tramways,
19 as defined in section 25-5-702 (4), C.R.S., by any ski area operator, as
20 defined in section 33-44-103 (7), C.R.S., or any person fabricating,
21 constructing, assembling, or installing a passenger tramway for a ski area
22 operator. The ordinance, resolution, or proposal may recite that the use
23 tax shall not apply to the storage and use of wood from salvaged trees
24 killed or infested in Colorado by mountain pine beetles as exempted from
25 the state use tax pursuant to section 39-26-723, C.R.S. The ordinance,
26 resolution, or proposal may recite that the use tax shall not apply to the
27 storage and use of components used in the production of ENERGY,



1 INCLUDING BUT NOT LIMITED TO alternating current electricity, from a
2 renewable energy source, ~~including but not limited to wind~~, as exempted
3 from the state use tax pursuant to section 39-26-724, C.R.S. The
4 ordinance, resolution, or proposal shall recite that the use tax shall not
5 apply:

6 **SECTION 5. Applicability.** This act shall apply to systems and
7 components installed on or after January 1, 2009.

8 **SECTION 6. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.




Colorado Legislative Council Staff Fiscal Note
STATE and LOCAL
REVISED FISCAL IMPACT
 (replaces fiscal note dated January 26, 2009)

Drafting Number: LLS 09-0565
Prime Sponsor(s): Rep. Hullinghorst
 Sen. Shaffer B.

Date: January 27, 2009
Bill Status: House Transportation & Energy
Fiscal Analyst: Marc Carey (303-866-4102)

TITLE: CONCERNING INCENTIVES FOR THE DEVELOPMENT OF SOLAR THERMAL ENERGY SYSTEMS.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue		
General Fund	(\$313,058)	(\$261,900)
State Expenditures	\$0	\$0
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: Upon signature of the Governor, and shall apply to systems installed on or after January 1, 2009.		
Appropriation Summary for FY 2009-2010: None required.		
Local Government Impact: See Local Government Impact section.		

** This fiscal note was revised to reflect new information received.*

Summary of Legislation

Beginning in FY 2009-10, this bill makes all sales, storage and use of components used in solar thermal systems exempt from the state sales and use tax. The bill specifies various components for solar thermal systems that are affected, and defines such a system as one that uses the sun to produce heat or cold for:

- heating or cooling a residential or commercial building or water; or
- any industrial, commercial, or manufacturing process.

Finally, the bill allows local governments to provide the same financial incentives for solar thermal installations as are now be provided for solar electric installations.

State Revenue

General Fund. This bill will result in a loss in General Fund revenue of \$313,058 in FY 2009-10 and \$261,900 in FY 2010-11. In addition, passage of this bill would eliminate potential future state revenue from sales tax related to solar thermal systems.

The types of solar thermal systems that qualify for this exemption include residential water heating systems, residential space heating systems, and commercial water heating systems. According to the Colorado Solar Energy Industries Association and Findsolar.com, there are currently 85 solar thermal installers operating in Colorado. These companies reported a total of \$335,000 in state sales tax paid on installations in FY 2007-08. Using this as a base year, estimated revenue reductions for FY 2009-10 and FY 2010-11 are \$313,058 and \$261,900, respectively, based on the following assumptions:

- it is possible that not all of the tax reported by these companies was related to systems affected by this bill, Accordingly, it is assumed that 80 percent of reported sales tax was for affected solar thermal items;
- it is assumed that sales tax collections for solar thermal installations will correlate with overall sales tax trends over time, as represented in the December 2008 Legislative Council Staff (LCS) revenue forecast;
- half of the sales tax collected on systems installed between January and July 2009 will be refunded through the Department of Revenue's sales tax refund mechanism in FY 2009-10.

Based on the December 2008 LCS revenue forecast, there will be insufficient revenue to fully fund the 6 percent spending limit for FY 2009-10. This bill reduces General Fund revenue by creating a new sales tax exemption. Therefore, the decrease in revenue under this bill will further reduce the amount of money available for General Fund appropriations. In FY 2009-10, this amount is \$313,058.

Local Government Impact

HB 09-1126 may fiscally impact counties that currently exempt renewable energy components from their sales tax base. The bill expands the types of renewable energy components that could be exempt, if the county affirmatively moved to exempt such items. Thus, the following 20 counties are conditionally impacted by the bill, assuming they chose to exempt items such as solar thermal system components from their sales tax base.

Adams	Elbert	Mesa	Routt
Arapahoe	El Paso	Montezuma	Saguache
Boulder	Fremont	Otero	San Miguel
Custer	Garfield	Park	Teller
Eagle	Larimer	Pueblo	Washington

Additionally, the state collects sales tax for most non home rule cities and several special districts. The creation of a new sales tax exemption will result in reduced revenue for these entities.

Departments Contacted

Revenue