

**Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0656.01 Jason Gelender

**HOUSE BILL 10-1328**

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**A BILL FOR AN ACT**

101      **CONCERNING THE "NEW ENERGY JOBS CREATION ACT OF 2010", AND,**  
102            **IN CONNECTION THEREWITH, CREATING THE COLORADO NEW**  
103            **ENERGY IMPROVEMENT DISTRICT AND AUTHORIZING THE**  
104            **DISTRICT TO FUND NEW ENERGY IMPROVEMENTS BY ISSUING**  
105            **SPECIAL ASSESSMENT BONDS PAYABLE FROM SPECIAL**  
106            **ASSESSMENTS LEVIED ON ELIGIBLE REAL PROPERTY OWNED BY**  
107            **PERSONS WHO VOLUNTARILY JOIN THE DISTRICT IN ORDER TO**  
108            **HAVE THE DISTRICT HELP THEM FUND NEW ENERGY**  
109            **IMPROVEMENTS TO THE ELIGIBLE REAL PROPERTY.**

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**Bill Summary**

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

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.*

*passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Section 1** of the bill creates the Colorado new energy improvement district (district) as an independent public body corporate and a public instrumentality performing an essential public function, clarifies that, under applicable Colorado supreme court case law, the district is not subject to the provisions of the taxpayer's bill of rights, and specifies the qualifications, manner of appointment, and terms of the board of directors of the district.

**Section 1** of the bill also specifies that the purpose of the district is to help provide the special benefits of new energy improvements to owners of eligible real property who voluntarily join the district by establishing, developing, financing, and administering a new energy improvement program (program) in counties that have approved the conduct of the program by the district through which the district can provide assistance to any such owner in completing a new energy improvement by providing reimbursement or a direct payment for all or a portion of the cost of completing a new energy improvement and further specifies the powers and duties of the district, including but not limited to the power to:

- ! Develop and implement a process by which an owner of eligible real property may join the district;
- ! Impose special assessments on eligible real property included in the district; and
- ! Issue bonds payable from the special assessments for the purpose of generating the moneys needed to make a reimbursement or a direct payment to district members for all or a portion of the cost of completing new energy improvements.

**Section 1** of the bill also requires the public utilities commission to:

- ! Determine the extent to which the marketing, promotional, and other efforts of a utility for which the commission has developed demand-side management targets or goals have contributed to energy efficiency improvements funded by the district; and
- ! Allow a utility to count the related energy savings towards compliance with the targets or goals using any method deemed appropriate by the commission.

**Section 2** of the bill requires the state auditor to conduct or cause to be conducted an annual performance audit and an annual financial audit of the district and the program and prepare and present to the legislative audit committee an annual report and recommendations on

each audit conducted. **Section 3** of the bill makes a conforming amendment.

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

2 **SECTION 1.** Title 32, Colorado Revised Statutes, is amended  
3 BY THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 20**

5 **Colorado New Energy Improvement District**

6 **32-20-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY  
7 BE CITED AS THE "NEW ENERGY JOBS CREATION ACT OF 2010".

8 **32-20-102. Legislative declaration.** (1) THE GENERAL  
9 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

10 (a) IT IS IN THE BEST INTEREST OF THE STATE AND ITS CITIZENS  
11 AND A PUBLIC PURPOSE TO ENABLE AND ENCOURAGE THE OWNERS OF  
12 ELIGIBLE REAL PROPERTY TO INVEST IN NEW ENERGY IMPROVEMENTS,  
13 INCLUDING ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE ENERGY  
14 IMPROVEMENTS, SOONER RATHER THAN LATER BY CREATING THE  
15 COLORADO NEW ENERGY IMPROVEMENT DISTRICT AND AUTHORIZING THE  
16 DISTRICT TO ESTABLISH, DEVELOP, FINANCE, IMPLEMENT, AND  
17 ADMINISTER A NEW ENERGY IMPROVEMENT PROGRAM THAT INCLUDES  
18 BOTH ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE ENERGY  
19 IMPROVEMENTS TO ASSIST ANY SUCH OWNERS WHO CHOOSE TO JOIN THE  
20 DISTRICT IN COMPLETING NEW ENERGY IMPROVEMENTS TO THEIR  
21 PROPERTY BECAUSE:

22 (I) NEW ENERGY IMPROVEMENTS, INCLUDING ENERGY EFFICIENCY  
23 IMPROVEMENTS AND RENEWABLE ENERGY IMPROVEMENTS, HELP PROTECT  
24 OWNERS OF ELIGIBLE REAL PROPERTY FROM THE FINANCIAL IMPACT OF  
25 THE RISING COST OF ELECTRICITY PRODUCED FROM NONRENEWABLE FUELS

1 AND CAN EVEN PROVIDE POSITIVE CASH FLOW IN MANY INSTANCES IN  
2 WHICH THE COSTS OF THE IMPROVEMENTS ARE SPREAD OUT OVER A LONG  
3 ENOUGH TIME SO THAT THE OWNERS' UTILITY BILL COST SAVINGS EXCEED  
4 THE SPECIAL ASSESSMENTS LEVIED ON THE ELIGIBLE REAL PROPERTY TO  
5 PAY FOR THE IMPROVEMENTS;

6 (II) THE INCLUSION OF BOTH ENERGY EFFICIENCY IMPROVEMENTS  
7 AND RENEWABLE ENERGY IMPROVEMENTS IN THE NEW ENERGY  
8 IMPROVEMENT PROGRAM WILL HELP TO PROMOTE INFORMED CHOICES AND  
9 MAXIMIZE THE BENEFITS OF THE PROGRAM FOR BOTH INDIVIDUAL OWNERS  
10 OF ELIGIBLE REAL PROPERTY AND SOCIETY AS A WHOLE;

11 (III) REDUCTION IN THE AMOUNT OF EMISSIONS OF GREENHOUSE  
12 GASES AND ENVIRONMENTAL POLLUTANTS RESULTING FROM DECREASED  
13 USE OF TRADITIONAL NONRENEWABLE FUELS WILL IMPROVE AIR QUALITY  
14 AND MAY HELP TO MITIGATE GLOBAL WARMING;

15 (IV) NEW ENERGY IMPROVEMENTS, INCLUDING ENERGY  
16 EFFICIENCY IMPROVEMENTS AND RENEWABLE ENERGY IMPROVEMENTS,  
17 INCREASE THE VALUE OF THE ELIGIBLE REAL PROPERTY IMPROVED;

18 (V) THE COMMITMENT OF A SIGNIFICANT AMOUNT OF  
19 SUSTAINABLE FUNDING FOR INCREASED CONSTRUCTION OF NEW ENERGY  
20 IMPROVEMENTS WILL CREATE JOBS AND STIMULATE THE STATE ECONOMY:

21 (A) BY DIRECTLY CREATING JOBS FOR CONTRACTORS AND OTHER  
22 PERSONS WHO COMPLETE NEW ENERGY IMPROVEMENTS; AND

23 (B) BY REINFORCING THE LEADERSHIP ROLE OF THE STATE IN THE  
24 NEW ENERGY ECONOMY AND THEREBY ATTRACTING NEW ENERGY  
25 MANUFACTURING FACILITIES AND RELATED JOBS TO THE STATE; AND

26 (VI) THE NEW ENERGY IMPROVEMENT PROGRAM PROVIDES A  
27 MEANINGFUL, PRACTICAL OPPORTUNITY FOR AVERAGE CITIZENS TO TAKE

1 ACTION THAT WILL BENEFIT THEIR PERSONAL FINANCES AND THE  
2 ECONOMY OF THE STATE, PROMOTE THEIR OWN AND THE NATION'S ENERGY  
3 INDEPENDENCE AND SECURITY, AND HELP SUSTAIN THE ENVIRONMENT;  
4 AND

5 (b) IN MANY CASES, THE OWNER OF ELIGIBLE REAL PROPERTY IS  
6 UNABLE TO FUND A NEW ENERGY IMPROVEMENT BECAUSE THE OWNER  
7 DOES NOT HAVE SUFFICIENT LIQUID ASSETS TO DIRECTLY FUND THE  
8 IMPROVEMENT AND IS UNABLE OR UNWILLING TO INCUR THE NEGATIVE  
9 NET CASH FLOW LIKELY TO RESULT IF THE OWNER USES A TYPICAL HOME  
10 EQUITY LOAN OR LINE OF CREDIT OR OTHER LOAN TO FUND THE  
11 IMPROVEMENT.

12 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT  
13 IT IS NECESSARY, APPROPRIATE, AND LEGALLY PERMISSIBLE UNDER  
14 SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND ALL OTHER  
15 CONSTITUTIONAL PROVISIONS AND LAWS TO AUTHORIZE THE COLORADO  
16 NEW ENERGY IMPROVEMENT DISTRICT, WITHOUT VOTER APPROVAL IN  
17 ADVANCE, TO GENERATE THE CAPITAL NEEDED TO REIMBURSE OWNERS OF  
18 ELIGIBLE REAL PROPERTY WHO VOLUNTARILY JOIN THE DISTRICT FOR, OR  
19 DIRECTLY PAY FOR ALL OR A PORTION OF THE COST OF, COMPLETING NEW  
20 ENERGY IMPROVEMENTS, INCLUDING ENERGY EFFICIENCY IMPROVEMENTS  
21 AND RENEWABLE ENERGY IMPROVEMENTS, TO THE PROPERTY BY LEVYING  
22 SPECIAL ASSESSMENTS AND ISSUING SPECIAL ASSESSMENT BONDS TO BE  
23 PAID FROM THE REVENUES GENERATED BY THE SPECIAL ASSESSMENTS  
24 BECAUSE:

25 (a) UNDER THE COLORADO SUPREME COURT'S DECISION IN  
26 *CAMPBELL V. ORCHARD MESA IRRIGATION DISTRICT*, 972 P.2d 1037 (COLO.  
27 1998), THE COLORADO NEW ENERGY IMPROVEMENT DISTRICT IS NEITHER

1 THE STATE NOR A LOCAL GOVERNMENT AND THEREFORE IS NOT A  
2 DISTRICT, AS DEFINED IN SECTION 20 (2) (b) OF ARTICLE X OF THE STATE  
3 CONSTITUTION, SUBJECT TO THE REQUIREMENTS OF SECTION 20 OF  
4 ARTICLE X OF THE STATE CONSTITUTION BECAUSE:

5 (I) THE DISTRICT IS NOT AUTHORIZED TO LEVY GENERAL TAXES;

6 (II) ALTHOUGH THE DISTRICT IS A PUBLIC CORPORATION THAT  
7 SERVES THE PUBLIC PURPOSES OF PROMOTING NEW ENERGY  
8 IMPROVEMENTS AND CREATING JOBS, IT DOES NOT HAVE ELECTED BOARD  
9 MEMBERS AND PRIMARILY EXISTS TO SERVE THE INTERESTS OF OWNERS OF  
10 ELIGIBLE REAL PROPERTY WHO VOLUNTARILY JOIN THE DISTRICT IN ORDER  
11 TO FUND NEW ENERGY IMPROVEMENTS TO THE PROPERTY; AND

12 (III) THE DISTRICT IS ENDOWED BY THE STATE PURSUANT TO THIS  
13 ARTICLE WITH ONLY THE POWERS NECESSARY TO PERFORM ITS  
14 PREDOMINANTLY PRIVATE OBJECTIVE;

15 (b) THERE IS NO LEGAL IMPEDIMENT TO THE IMPOSITION OF  
16 SPECIAL ASSESSMENTS AND THE ISSUANCE OF SPECIAL ASSESSMENT BONDS  
17 WITHOUT AN ELECTION BY AN ENTITY LIKE THE COLORADO NEW ENERGY  
18 IMPROVEMENT DISTRICT THAT IS FORMED BY LAW, HAS STATEWIDE  
19 JURISDICTION, AND IS GOVERNED BY AN APPOINTED BOARD;

20 (c) THE BURDEN OF A SPECIAL ASSESSMENT IS VOLUNTARILY  
21 ASSUMED BY THE OWNER OF THE ELIGIBLE REAL PROPERTY ON WHICH THE  
22 SPECIAL ASSESSMENT IS LEVIED BECAUSE:

23 (I) A SPECIAL ASSESSMENT MAY ONLY BE LEVIED ON ELIGIBLE  
24 REAL PROPERTY IF THE OWNER OF THE PROPERTY HAS VOLUNTARILY  
25 JOINED THE DISTRICT, AGREED TO ACCEPT REIMBURSEMENT OR A DIRECT  
26 PAYMENT, AND CONSENTED TO THE LEVY OF A SPECIAL ASSESSMENT; AND

27 (II) A SUBSEQUENT PURCHASER OF ELIGIBLE REAL PROPERTY UPON

1 WHICH A SPECIAL ASSESSMENT HAS BEEN LEVIED PURCHASES THE  
2 PROPERTY WITH FULL KNOWLEDGE OF THE SPECIAL ASSESSMENT; AND

3 (d) BOTH AN OWNER OF ELIGIBLE REAL PROPERTY WHO JOINS THE  
4 DISTRICT AND RECEIVES REIMBURSEMENT OR A DIRECT PAYMENT AND ANY  
5 SUBSEQUENT OWNER OF THE PROPERTY RECEIVE THE SPECIAL BENEFIT OF  
6 THE NEW ENERGY IMPROVEMENT FOR WHICH THE DISTRICT HAS MADE  
7 REIMBURSEMENT OR A DIRECT PAYMENT IN PROPORTION TO OR IN EXCESS  
8 OF THE AMOUNT OF THE SPECIAL ASSESSMENT PAID.

9 **32-20-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
10 CONTEXT OTHERWISE REQUIRES:

11 (1) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE DISTRICT.

12 (2) "DISTRICT" MEANS THE COLORADO NEW ENERGY  
13 IMPROVEMENT DISTRICT CREATED IN SECTION 32-20-104 (1).

14 (3) "DISTRICT MEMBER" MEANS A QUALIFIED APPLICANT WHOSE  
15 APPLICATION TO JOIN THE DISTRICT, RECEIVE REIMBURSEMENT OR A  
16 DIRECT PAYMENT, AND CONSENT TO THE LEVYING OF A SPECIAL  
17 ASSESSMENT IS APPROVED BY THE DISTRICT.

18 (4) "ELIGIBLE REAL PROPERTY" MEANS A RESIDENTIAL BUILDING,  
19 LOCATED WITHIN A COUNTY IN WHICH THE DISTRICT HAS BEEN  
20 AUTHORIZED TO CONDUCT THE PROGRAM AS REQUIRED BY SECTION  
21 32-20-105 (3), ON WHICH OR IN WHICH A NEW ENERGY IMPROVEMENT TO  
22 BE FINANCED BY THE DISTRICT HAS BEEN OR WILL BE COMPLETED.

23 (5) "ENERGY EFFICIENCY IMPROVEMENT" MEANS ONE OR MORE  
24 INSTALLATIONS OR MODIFICATIONS TO ELIGIBLE REAL PROPERTY THAT  
25 ARE DESIGNED TO REDUCE THE ENERGY CONSUMPTION OF THE PROPERTY  
26 AND THAT ARE NOT REQUIRED BY A BUILDING CODE AS PART OF NEW  
27 CONSTRUCTION OR A MAJOR RENOVATION AND INCLUDES, BUT IS NOT

1 LIMITED TO, THE FOLLOWING:

2 (a) INSULATION IN WALLS, ROOFS, FLOORS, AND FOUNDATIONS  
3 AND IN HEATING AND COOLING DISTRIBUTION SYSTEMS;

4 (b) STORM WINDOWS AND DOORS, MULTIGLAZED WINDOWS AND  
5 DOORS, HEAT-ABSORBING OR HEAT-REFLECTIVE GLAZED AND COATED  
6 WINDOW AND DOOR SYSTEMS, ADDITIONAL GLAZING, REDUCTIONS IN  
7 GLASS AREA, AND OTHER WINDOW AND DOOR SYSTEM MODIFICATIONS  
8 THAT REDUCE ENERGY CONSUMPTION;

9 (c) AUTOMATIC ENERGY CONTROL SYSTEMS;

10 (d) HEATING, VENTILATING, OR AIR CONDITIONING AND  
11 DISTRIBUTION SYSTEM MODIFICATIONS OR REPLACEMENTS IN A BUILDING;

12 (e) CAULKING AND WEATHERSTRIPPING;

13 (f) REPLACEMENT OR MODIFICATION OF LIGHTING FIXTURES TO  
14 INCREASE THE ENERGY EFFICIENCY OF THE SYSTEM WITHOUT INCREASING  
15 THE OVERALL ILLUMINATION OF ELIGIBLE REAL PROPERTY UNLESS THE  
16 INCREASE IN ILLUMINATION IS NECESSARY TO CONFORM TO THE  
17 APPLICABLE BUILDING CODE FOR THE PROPOSED LIGHTING SYSTEM;

18 (g) ENERGY RECOVERY SYSTEMS;

19 (h) DAYLIGHTING SYSTEMS; AND

20 (i) ANY OTHER MODIFICATION, INSTALLATION, OR REMODELING  
21 APPROVED AS A UTILITY COST-SAVINGS MEASURE BY THE DISTRICT.

22 (6) "NEW ENERGY IMPROVEMENT" MEANS ONE OR MORE ON-SITE  
23 ENERGY EFFICIENCY IMPROVEMENTS OR RENEWABLE ENERGY  
24 IMPROVEMENTS, OR BOTH, MADE TO ELIGIBLE REAL PROPERTY THAT WILL  
25 REDUCE THE ENERGY CONSUMPTION OF OR ADD ENERGY PRODUCED FROM  
26 RENEWABLE ENERGY SOURCES ONLY TO ANY PORTION OF THE ELIGIBLE  
27 REAL PROPERTY THAT IS USED PREDOMINANTLY AS A PLACE OF



1 RESIDENCY.

2 (7) "PROGRAM" MEANS THE NEW ENERGY IMPROVEMENT  
3 PROGRAM ESTABLISHED BY THE DISTRICT IN ACCORDANCE WITH SECTION  
4 32-20-105.

5 (8) "PROGRAM ADMINISTRATOR" OR "ADMINISTRATOR" MEANS AN  
6 ENTITY HIRED BY THE DISTRICT TO ADMINISTER THE PROGRAM ON BEHALF  
7 OF THE DISTRICT TO THE EXTENT SPECIFIED IN A CONTRACT BETWEEN THE  
8 DISTRICT AND THE ADMINISTRATOR. NEITHER THE DISTRICT NOR ITS  
9 PROGRAM ADMINISTRATOR SHALL OFFER REBATES FOR THE PURCHASE OF  
10 RENEWABLE ENERGY CREDITS. THE DISTRICT'S ACTIVITIES SHALL BE  
11 LIMITED TO FUNDING NEW ENERGY IMPROVEMENTS AND TO MARKETING  
12 THAT FUNDING.

13 (9) "QUALIFIED APPLICANT" MEANS A PERSON WHO:

14 (a) OWNS ELIGIBLE REAL PROPERTY;

15 (b) TIMELY SUBMITS TO THE DISTRICT A COMPLETE APPLICATION,  
16 WHICH NOTES THE EXISTENCE OF ANY FIRST PRIORITY MORTGAGE OR DEED  
17 OF TRUST ON THE ELIGIBLE REAL PROPERTY AND THE IDENTITY OF THE  
18 HOLDER THEREOF, TO JOIN THE DISTRICT, HAVE THE ELIGIBLE REAL  
19 PROPERTY INCLUDED IN THE DISTRICT'S BOUNDARIES, RECEIVE  
20 REIMBURSEMENT OR A DIRECT PAYMENT, AND CONSENT TO THE LEVYING  
21 OF A SPECIAL ASSESSMENT ON THE PROPERTY. WITHIN THIRTY DAYS OF  
22 A PERSON'S SUBMISSION OF AN APPLICATION TO THE DISTRICT, THE  
23 DISTRICT SHALL PROVIDE WRITTEN NOTICE TO THE HOLDER OF ANY FIRST  
24 PRIORITY MORTGAGE OR DEED OF TRUST ON THE ELIGIBLE REAL PROPERTY  
25 THAT THE PERSON IS PARTICIPATING IN THE DISTRICT.

26 (c) MEETS ANY STANDARD OF CREDIT-WORTHINESS THAT THE  
27 DISTRICT MAY ESTABLISH.

1           (10) "REIMBURSEMENT OR A DIRECT PAYMENT" MEANS THE  
2 PAYMENT BY THE DISTRICT TO A DISTRICT MEMBER, OR ON BEHALF OF  
3 SUCH A DISTRICT MEMBER TO A CONTRACTOR THAT HAS COMPLETED A  
4 NEW ENERGY IMPROVEMENT TO THE DISTRICT MEMBER'S ELIGIBLE REAL  
5 PROPERTY, OF ALL OR A PORTION OF THE COST OF COMPLETING A NEW  
6 ENERGY IMPROVEMENT. UTILITY REBATES OFFERED TO PROGRAM  
7 PARTICIPANTS BY A QUALIFYING RETAIL UTILITY FOR THE PURPOSE OF  
8 COMPLIANCE WITH RENEWABLE ENERGY TARGETS ESTABLISHED IN  
9 SECTION 40-2-124, C.R.S., SHALL BE SUBJECT TO THE RETAIL RATE  
10 IMPACT CAP ESTABLISHED PURSUANT TO SECTION 40-2-124 (1) (g) (I),  
11 C.R.S. THE MAXIMUM AMOUNT OF REIMBURSEMENT OR A DIRECT  
12 PAYMENT THAT MAY BE MADE SHALL BE THE LOWEST OF THE FULL COST  
13 OF COMPLETING A NEW ENERGY IMPROVEMENT, TWENTY PERCENT OF THE  
14 ACTUAL VALUE, AS SPECIFIED IN THE RECORDS OF THE COUNTY ASSESSOR,  
15 OF THE ELIGIBLE REAL PROPERTY TO WHICH THE NEW ENERGY  
16 IMPROVEMENT IS MADE, OR TWENTY-FIVE THOUSAND DOLLARS; EXCEPT  
17 THAT THE TWENTY-FIVE THOUSAND DOLLAR LIMIT SHALL BE ADJUSTED BY  
18 THE DISTRICT FOR EACH CALENDAR YEAR COMMENCING ON OR AFTER  
19 JANUARY 1, 2012, BASED ON THE CONSUMER PRICE INDEX FOR THE  
20 DENVER-BOULDER-GREELEY METROPOLITAN STATISTICAL AREA FOR THE  
21 STATE FISCAL YEAR THAT ENDS IN THE PRECEDING CALENDAR YEAR.

22           (11) "RENEWABLE ENERGY IMPROVEMENT" MEANS ONE OR MORE  
23 FIXTURES, PRODUCTS, SYSTEMS, OR DEVICES, OR AN INTERACTING GROUP  
24 OF FIXTURES, PRODUCTS, SYSTEMS, OR DEVICES, INSTALLED BEHIND THE  
25 METER OF ANY ELIGIBLE REAL PROPERTY THAT PRODUCES ENERGY FROM  
26 RENEWABLE RESOURCES, INCLUDING, BUT NOT LIMITED TO,  
27 PHOTOVOLTAIC, SOLAR THERMAL, SMALL WIND, BIOMASS, OR

1 GEOTHERMAL SYSTEMS SUCH AS GROUND SOURCE HEAT PUMPS, AS MAY  
2 BE APPROVED BY THE DISTRICT; EXCEPT THAT NO RENEWABLE ENERGY  
3 IMPROVEMENT SHALL BE AUTHORIZED THAT INTERFERES WITH A RIGHT  
4 HELD BY A PUBLIC UTILITY UNDER A CERTIFICATE ISSUED BY THE PUBLIC  
5 UTILITIES COMMISSION UNDER ARTICLE 5 OF TITLE 40, C.R.S., AND THE  
6 PUBLIC UTILITIES COMMISSION SHALL HAVE PRIMARY JURISDICTION TO  
7 ADJUDICATE DISPUTES AS TO WHETHER A RENEWABLE ENERGY  
8 IMPROVEMENT INTERFERES WITH SUCH A RIGHT.

9 (12) "RESIDENTIAL BUILDING" MEANS AN IMPROVEMENT TO REAL  
10 PROPERTY THAT IS DESIGNED FOR USE PREDOMINANTLY AS A PLACE OF  
11 RESIDENCY. THE TERM ALSO INCLUDES ANY OTHER IMPROVEMENT OR  
12 CONNECTED LAND THAT IS BILLED WITH THE IMPROVEMENT FOR PURPOSES  
13 OF AD VALOREM PROPERTY TAXATION.

14 (13) "SPECIAL ASSESSMENT" OR "ASSESSMENT" MEANS A CHARGE  
15 LEVIED BY THE DISTRICT AGAINST ELIGIBLE REAL PROPERTY SPECIALLY  
16 BENEFITED BY A NEW ENERGY IMPROVEMENT FOR WHICH THE DISTRICT  
17 HAS MADE OR WILL MAKE REIMBURSEMENT OR A DIRECT PAYMENT THAT  
18 IS PROPORTIONAL TO THE BENEFIT RECEIVED FROM THE NEW ENERGY  
19 IMPROVEMENT AND DOES NOT EXCEED THE ESTIMATED AMOUNT OF  
20 SPECIAL BENEFITS RECEIVED.

21 (14) "SPECIAL ASSESSMENT BOND" OR "BOND" MEANS ANY BOND,  
22 NOTE, INTERIM CERTIFICATE, LOAN AGREEMENT, CONTRACT, OR OTHER  
23 EVIDENCE OF BORROWING OF THE DISTRICT ISSUED BY THE DISTRICT  
24 PURSUANT TO THIS ARTICLE THAT IS PAYABLE, IN WHOLE OR IN PART,  
25 FROM REVENUES GENERATED BY SPECIAL ASSESSMENTS LEVIED AS  
26 AUTHORIZED IN THIS ARTICLE AND, AT THE DISCRETION OF THE BOARD,  
27 FROM ANY OTHER LEGALLY AVAILABLE SOURCE OF MONEYS LAWFULLY

1 PLEDGED FOR THEIR REPAYMENT.

2 **32-20-104. Colorado new energy improvement district -**  
3 **creation - board - meetings - quorum - expenses - records.** (1) THE  
4 COLORADO NEW ENERGY IMPROVEMENT DISTRICT IS HEREBY CREATED AS  
5 AN INDEPENDENT PUBLIC BODY CORPORATE, AND THE BOUNDARIES OF THE  
6 DISTRICT SHALL INCLUDE THE ELIGIBLE REAL PROPERTY THAT IS OWNED  
7 BY A PERSON WHO HAS VOLUNTARILY JOINED THE DISTRICT. THE DISTRICT  
8 CONSTITUTES A PUBLIC INSTRUMENTALITY, AND ITS EXERCISE OF THE  
9 POWERS CONFERRED BY THIS ARTICLE SHALL BE DEEMED AND HELD TO BE  
10 THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION, BUT THE  
11 DISTRICT:

12 (a) SHALL NOT BE AN AGENCY OF STATE GOVERNMENT OR OF ANY  
13 LOCAL GOVERNMENT;

14 (b) SHALL NOT BE SUBJECT TO ADMINISTRATIVE DIRECTION BY  
15 ANY DEPARTMENT, COMMISSION, BOARD, OR AGENCY OF THE STATE OR  
16 ANY LOCAL GOVERNMENT; AND

17 (c) SHALL NOT BE A DISTRICT, AS DEFINED IN SECTION 20 (2) (b)  
18 OF ARTICLE X OF THE STATE CONSTITUTION, FOR PURPOSES OF SECTION 20  
19 OF SAID ARTICLE X.

20 (2) (a) THE DISTRICT SHALL BE GOVERNED BY A BOARD OF  
21 DIRECTORS, WHICH SHALL EXERCISE THE POWERS OF THE DISTRICT, SHALL,  
22 BY A MAJORITY VOTE OF A QUORUM OF ITS MEMBERS, SELECT FROM ITS  
23 MEMBERSHIP A CHAIR AND A VICE-CHAIR, AND SHALL BE COMPOSED OF  
24 NINE MEMBERS, INCLUDING:

25 (I) THE FOLLOWING TWO EX OFFICIO MEMBERS OR THEIR  
26 DESIGNEES:

27 (A) THE DIRECTOR OF THE GOVERNOR'S ENERGY OFFICE CREATED

1 IN SECTION 24-38.5-101 (1), C.R.S.; AND

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

4 (II) THE FOLLOWING FIVE MEMBERS APPOINTED BY THE  
5 GOVERNOR:

6 (A) ONE MEMBER WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN THE  
7 AFFORDABLE HOUSING INDUSTRY;

8 (B) ONE MEMBER WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN THE  
9 LENDING INDUSTRY; [REDACTED]

10 (C) ONE MEMBER WHO IS AN ATTORNEY LICENSED TO PRACTICE  
11 LAW IN COLORADO AND WHO SHALL SERVE AS THE SECRETARY OF THE  
12 BOARD;

13 (D) ONE MEMBER WHO REPRESENTS THE ENERGY EFFICIENCY  
14 INDUSTRY; AND

15 (E) ONE MEMBER WHO REPRESENTS LOCAL GOVERNMENTS;

16 (III) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE  
17 WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN THE RENEWABLE ENERGY  
18 INDUSTRY;

19 (IV) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF  
20 REPRESENTATIVES WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN THE  
21 FINANCIAL INDUSTRY;

22 (V) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE  
23 SENATE WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN THE UTILITY  
24 INDUSTRY; AND

25 (VI) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE  
26 HOUSE OF REPRESENTATIVES WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN  
27 THE HOUSING INDUSTRY.

1 (b) THE TERMS OF THE APPOINTED MEMBERS SHALL BE FOUR  
2 YEARS; EXCEPT THAT THE TERMS OF THE MEMBERS INITIALLY APPOINTED  
3 BY THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,  
4 AND THE MINORITY LEADER OF THE SENATE SHALL BE TWO YEARS.

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

17 (II) A MEMBER OF THE BOARD, ANY EXECUTIVE DIRECTOR OF THE  
18 DISTRICT, AND ANY EMPLOYEE OF THE DISTRICT SHALL BE IMMUNE FROM  
19 CIVIL LIABILITY FOR ANY ACTION TAKEN IN GOOD FAITH IN THE COURSE OF  
20 THE MEMBER'S, DIRECTOR'S, OR EMPLOYEE'S DUTIES FOR THE DISTRICT.

21 (d) MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION  
22 FOR SERVICES BUT SHALL BE ENTITLED TO THE NECESSARY EXPENSES,  
23 INCLUDING TRAVEL AND LODGING EXPENSES, INCURRED IN THE  
24 DISCHARGE OF THEIR OFFICIAL DUTIES. ANY PAYMENTS FOR  
25 COMPENSATION AND EXPENSES SHALL BE PAID FROM FUNDS OF THE  
26 DISTRICT.

27 (3) SIX MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM

1 FOR THE PURPOSE OF CONDUCTING BUSINESS AND EXERCISING THE  
2 POWERS OF THE BOARD. ACTION MAY BE TAKEN BY THE BOARD UPON THE  
3 AFFIRMATIVE VOTE OF AT LEAST SIX OF ITS MEMBERS. NO VACANCY IN  
4 THE MEMBERSHIP OF THE BOARD SHALL IMPAIR THE RIGHT OF A QUORUM  
5 TO EXERCISE ALL THE RIGHTS AND PERFORM ALL THE DUTIES OF THE  
6 BOARD.

7 (4) THE DISTRICT SHALL BE SUBJECT TO THE OPEN MEETINGS  
8 PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", PART 4 OF  
9 ARTICLE 6 OF TITLE 24, C.R.S., AND THE "COLORADO OPEN RECORDS  
10 ACT", PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S. THE BOARD SHALL ALSO  
11 PROMULGATE AND ADHERE TO POLICIES AND PROCEDURES THAT GOVERN  
12 ITS CONDUCT, PROVIDE MEANINGFUL OPPORTUNITIES FOR PUBLIC INPUT,  
13 AND ESTABLISH STANDARDS AND PROCEDURES FOR CALLING EMERGENCY  
14 MEETINGS. ONE OR MORE MEMBERS OF THE BOARD MAY PARTICIPATE IN  
15 A MEETING OF THE BOARD AND MAY VOTE THROUGH THE USE OF  
16 TELECOMMUNICATIONS DEVICES, INCLUDING, BUT NOT LIMITED TO, A  
17 CONFERENCE TELEPHONE OR SIMILAR COMMUNICATIONS EQUIPMENT.  
18 PARTICIPATION THROUGH TELECOMMUNICATIONS DEVICES SHALL  
19 CONSTITUTE PRESENCE IN PERSON AT A MEETING. THE USE OF  
20 TELECOMMUNICATIONS DEVICES SHALL NOT SUPERSEDE ANY  
21 REQUIREMENTS FOR A PUBLIC HEARING OTHERWISE PROVIDED BY LAW.

22 (5) THE DISTRICT SHALL BE SUBJECT TO THE "LOCAL  
23 GOVERNMENT BUDGET LAW OF COLORADO", PART 1 OF ARTICLE 1 OF  
24 TITLE 29, C.R.S., AND THE "COLORADO LOCAL GOVERNMENT AUDIT  
25 LAW", PART 6 OF ARTICLE 1 OF TITLE 29, C.R.S.

26 (6) THE DISTRICT SHALL BE CONSIDERED A SPECIAL DISTRICT  
27 INCLUDED WITHIN THE DEFINITION OF THE STATE OR ANY OF ITS POLITICAL

1 SUBDIVISIONS SET FORTH IN SECTION 2 (14.6) OF ARTICLE XXVIII OF THE  
2 STATE CONSTITUTION AND SHALL, ACCORDINGLY, BE SUBJECT TO THE  
3 SOLE SOURCE CONTRACTING PROVISIONS OF SECTIONS 15 TO 17 OF SAID  
4 ARTICLE XXVIII.

5 (7) BECAUSE THE DISTRICT IS NOT A PART OF STATE GOVERNMENT  
6 OR A COUNTY OR MUNICIPALITY, NEITHER THE DISTRICT NOR ANY MEMBER  
7 OF THE BOARD, EXECUTIVE DIRECTOR OF THE DISTRICT, OR EMPLOYEE OF  
8 THE DISTRICT SHALL BE SUBJECT TO THE PROVISIONS OF ARTICLE XXIX OF  
9 THE STATE CONSTITUTION.

10 **32-20-105. District - purpose - general powers and duties -**  
11 **new energy improvement program.** (1) THE PURPOSE OF THE DISTRICT  
12 IS TO HELP PROVIDE THE SPECIAL BENEFITS OF NEW ENERGY  
13 IMPROVEMENTS TO OWNERS OF ELIGIBLE REAL PROPERTY WHO  
14 VOLUNTARILY JOIN THE DISTRICT BY ESTABLISHING, DEVELOPING,  
15 FINANCING, AND ADMINISTERING A NEW ENERGY IMPROVEMENT PROGRAM  
16 THROUGH WHICH THE DISTRICT CAN PROVIDE ASSISTANCE TO SUCH  
17 OWNERS IN COMPLETING NEW ENERGY IMPROVEMENTS. THE DISTRICT  
18 MAY EXERCISE ANY OF THE POWERS GRANTED TO THE DISTRICT IN THIS  
19 ARTICLE BEFORE ANY ELIGIBLE REAL PROPERTY IS INCLUDED WITHIN THE  
20 BOUNDARIES OF THE DISTRICT; EXCEPT THAT THE DISTRICT SHALL  
21 EXERCISE THE POWERS TO LEVY SPECIAL ASSESSMENTS AND ISSUE SPECIAL  
22 ASSESSMENT BONDS ONLY AFTER ELIGIBLE REAL PROPERTY IS INCLUDED  
23 WITHIN THE BOUNDARIES OF THE DISTRICT.

24 (2) IN ORDER TO ALLOW THE DISTRICT TO ACHIEVE ITS PURPOSE,  
25 IN ADDITION TO ANY OTHER POWERS AND DUTIES OF THE DISTRICT  
26 SPECIFIED IN THIS ARTICLE, THE DISTRICT SHALL HAVE THE FOLLOWING  
27 GENERAL POWERS AND DUTIES:



- 1 (a) TO HAVE PERPETUAL EXISTENCE;
- 2 (b) TO HAVE AND USE A CORPORATE SEAL;
- 3 (c) TO ADOPT BYLAWS FOR THE REGULATION OF ITS AFFAIRS AND  
4 CONDUCT OF ITS BUSINESS;
- 5 (d) TO SET AN ANNUAL BUDGET;
- 6 (e) TO SUE AND BE SUED AND TO BE A PARTY TO SUITS, ACTIONS,  
7 AND PROCEEDINGS;
- 8 (f) TO ENTER INTO CONTRACTS AND AGREEMENTS NEEDED FOR ITS  
9 FUNCTIONS OR OPERATIONS;
- 10 (g) TO ACQUIRE, DISPOSE OF, AND ENCUMBER REAL AND PERSONAL  
11 PROPERTY NEEDED FOR ITS FUNCTIONS OR OPERATIONS;
- 12 (h) TO BORROW MONEY FOR THE PURPOSE OF DEFRAYING DISTRICT  
13 EXPENSES, INCLUDING, BUT NOT LIMITED TO, THE FUNDING OF  
14 APPROPRIATE LOSS RESERVES, OR FOR ANY OTHER PURPOSE DEEMED  
15 APPROPRIATE BY THE BOARD;
- 16 (i) TO INVEST ANY MONEYS OF THE DISTRICT IN ACCORDANCE  
17 WITH PART 6 OF ARTICLE 75 OF TITLE 24, C.R.S.;
- 18 (j) (I) TO HIRE AND SET THE COMPENSATION OF A PROGRAM  
19 ADMINISTRATOR AND TO APPOINT, HIRE, RETAIN, AND SET THE  
20 COMPENSATION OF OTHER AGENTS AND EMPLOYEES AND CONTRACT FOR  
21 PROFESSIONAL SERVICES.
- 22 (II) THE BOARD MAY DELEGATE ANY OF THE POWERS AND DUTIES  
23 OF THE DISTRICT THAT SPECIFICALLY PERTAIN TO THE ESTABLISHMENT,  
24 DEVELOPMENT, FINANCING, AND ADMINISTRATION OF THE PROGRAM TO  
25 ANY PROGRAM ADMINISTRATOR THE DISTRICT HIRES; EXCEPT THAT THE  
26 DISTRICT SHALL NOT DELEGATE THE POWER TO ESTABLISH ASSESSMENT  
27 UNITS, THE POWER TO DETERMINE THE METHOD OF CALCULATING SPECIAL

1 ASSESSMENTS, OR THE POWER TO ISSUE SPECIAL ASSESSMENT BONDS.

2 (k) IN ACCORDANCE WITH SECTIONS 32-20-106 TO 32-20-108, TO  
3 ESTABLISH SPECIAL ASSESSMENT UNITS, LEVY AND COLLECT SPECIAL  
4 ASSESSMENTS ON ELIGIBLE REAL PROPERTY SPECIALLY BENEFITED BY A  
5 RENEWABLE ENERGY IMPROVEMENT FOR WHICH THE DISTRICT MADE  
6 REIMBURSEMENT OR A DIRECT PAYMENT, AND ISSUE SPECIAL ASSESSMENT  
7 BONDS;

8 (l) TO ACCEPT GIFTS AND DONATIONS AND APPLY FOR AND ACCEPT  
9 GRANTS UPON SUCH TERMS OR CONDITIONS AS THE BOARD MAY APPROVE;  
10 AND

11 (m) TO HAVE AND EXERCISE ALL RIGHTS AND POWERS NECESSARY  
12 OR INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS GRANTED TO  
13 THE DISTRICT BY THIS ARTICLE. SUCH SPECIFIC POWERS SHALL NOT BE  
14 CONSIDERED AS A LIMITATION UPON ANY POWER NECESSARY OR  
15 APPROPRIATE TO CARRY OUT THE PURPOSES AND INTENT OF THIS ARTICLE.

16 (3) THE DISTRICT SHALL ESTABLISH, DEVELOP, FINANCE, AND  
17 ADMINISTER A NEW ENERGY IMPROVEMENT PROGRAM. HOWEVER, THE  
18 DISTRICT MAY CONDUCT THE PROGRAM WITHIN ANY GIVEN COUNTY ONLY  
19 IF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY HAS ADOPTED  
20 A RESOLUTION AUTHORIZING THE DISTRICT TO CONDUCT THE PROGRAM  
21 WITHIN THE COUNTY. THE PROGRAM SHALL BE DESIGNED TO ALLOW AN  
22 OWNER OF ELIGIBLE REAL PROPERTY TO APPLY TO JOIN THE DISTRICT,  
23 RECEIVE REIMBURSEMENT OR A DIRECT PAYMENT FROM THE DISTRICT,  
24 AND CONSENT TO THE LEVYING OF A SPECIAL ASSESSMENT ON THE  
25 ELIGIBLE REAL PROPERTY SPECIALLY BENEFITED BY A NEW ENERGY  
26 IMPROVEMENT FOR WHICH THE DISTRICT MAKES REIMBURSEMENT OR A  
27 DIRECT PAYMENT. THE DISTRICT SHALL ESTABLISH AN APPLICATION

1 PROCESS FOR THE PROGRAM, WHICH MAY ALLOW AN OWNER OF ELIGIBLE  
2 REAL PROPERTY TO BECOME A QUALIFIED APPLICANT BY SUBMITTING AN  
3 APPLICATION TO THE DISTRICT AND WHICH MAY INCLUDE ONE OR MORE  
4 DEADLINES FOR THE FILING OF AN APPLICATION. THE DISTRICT MAY  
5 CHARGE PROGRAM APPLICATION FEES. IN ORDER TO ADMINISTER THE  
6 PROGRAM, THE DISTRICT, ACTING DIRECTLY OR THROUGH A PROGRAM  
7 ADMINISTRATOR OR SUCH OTHER AGENTS, EMPLOYEES, OR PROFESSIONALS  
8 AS THE DISTRICT MAY APPOINT, HIRE, RETAIN, OR CONTRACT WITH, SHALL:

9 (a) MARKET THE PROGRAM TO OWNERS OF ELIGIBLE REAL  
10 PROPERTY, ENCOURAGE SUCH OWNERS TO OBTAIN THE SPECIAL BENEFITS  
11 OF COMPLETING NEW ENERGY IMPROVEMENTS TO THEIR PROPERTY BY  
12 PROVIDING MORE ATTRACTIVE AND ACCESSIBLE MEANS OF FUNDING THE  
13 COMPLETION OF NEW ENERGY IMPROVEMENTS, AND ACCEPT AND PROCESS  
14 PROGRAM APPLICATIONS FROM ANY SUCH OWNERS WHO ARE QUALIFIED  
15 APPLICANTS;

16 (b) SPECIFY THE INFORMATION TO BE INCLUDED IN A PROGRAM  
17 APPLICATION. THE DISTRICT SHALL REQUIRE AN OWNER OF ELIGIBLE REAL  
18 PROPERTY WHO SUBMITS A PROGRAM APPLICATION TO INCLUDE, AT A  
19 MINIMUM, A POSTAL ADDRESS OR ELECTRONIC MAIL ADDRESS AT WHICH  
20 THE DISTRICT MAY CONTACT THE OWNER, THE NAME AND POSTAL OR  
21 ELECTRONIC MAILING ADDRESS OF ANY PERSON HOLDING A LIEN AGAINST  
22 THE ELIGIBLE REAL PROPERTY, AND ANY INFORMATION THAT THE DISTRICT  
23 REQUIRES TO VERIFY THAT THE OWNER WILL COMPLETE A NEW ENERGY  
24 IMPROVEMENT, VERIFY THE COST OF COMPLETING THE NEW ENERGY  
25 IMPROVEMENT, DETERMINE THE APPROPRIATE AMOUNT OF  
26 REIMBURSEMENT OR A DIRECT PAYMENT TO BE MADE TO THE APPLICANT  
27 OR A CONTRACTOR AFTER THE NEW ENERGY IMPROVEMENT HAS BEEN

1 COMPLETED, AND ESTIMATE THE VALUE OF THE SPECIAL BENEFIT  
2 PROVIDED BY THE COMPLETED NEW ENERGY IMPROVEMENT TO THE  
3 APPLICANT'S ELIGIBLE REAL PROPERTY.

4 (c) ESTABLISH SUCH STANDARDS, GUIDELINES, AND PROCEDURES,  
5 INCLUDING BUT NOT LIMITED TO STANDARDS OF CREDIT-WORTHINESS FOR  
6 QUALIFICATION OF PROGRAM APPLICANTS, AS ARE NECESSARY TO ENSURE  
7 THE FINANCIAL STABILITY OF THE PROGRAM AND OTHERWISE PREVENT  
8 FRAUD AND ABUSE;

9 (d) ENCOURAGE ANY QUALIFIED APPLICANT TO OBTAIN AN ONLINE  
10 OR ON-SITE HOME ENERGY AUDIT IN ORDER TO ENSURE THE EFFICIENT USE  
11 OF NEW ENERGY IMPROVEMENT FUNDING PURSUANT TO THIS ARTICLE;

12 (e) INFORM PROSPECTIVE PROGRAM APPLICANTS AND QUALIFIED  
13 APPLICANTS OF PRIVATE FINANCING OPTIONS NOT PROVIDED BY THE  
14 DISTRICT, INCLUDING BUT NOT LIMITED TO HOME EQUITY LOANS AND  
15 HOME EQUITY LINES OF CREDIT, THAT MAY, WITH RESPECT TO A  
16 PARTICULAR APPLICANT, REPRESENT VIABLE ALTERNATIVES FOR  
17 FINANCING NEW ENERGY IMPROVEMENTS;

18 (f) IF DEEMED NECESSARY BY THE BOARD, ESTABLISH  
19 QUALIFICATIONS FOR THE CERTIFICATION OF CONTRACTORS TO  
20 CONSTRUCT OR INSTALL NEW ENERGY IMPROVEMENTS; AND

21 (g) MONITOR THE QUALITY OF NEW ENERGY IMPROVEMENTS FOR  
22 WHICH THE DISTRICT HAS MADE REIMBURSEMENT OR A DIRECT PAYMENT  
23 IF DEEMED NECESSARY BY THE BOARD, MEASURE THE TOTAL ENERGY  
24 SAVINGS ACHIEVED BY THE PROGRAM, MONITOR THE TOTAL NUMBER OF  
25 PROGRAM PARTICIPANTS, THE TOTAL AMOUNT PAID TO CONTRACTORS,  
26 THE NUMBER OF JOBS CREATED BY THE PROGRAM, THE NUMBER OF  
27 DEFAULTS BY PROGRAM PARTICIPANTS, AND THE TOTAL LOSSES FROM THE

1     DEFAULTS, AND CALCULATE THE TOTAL AMOUNT OF BONDS ISSUED BY THE  
2     DISTRICT. ON OR BEFORE MARCH 1, 2011, AND ON OR BEFORE EACH  
3     SUBSEQUENT MARCH 1, THE DISTRICT SHALL REPORT TO THE STATE,  
4     VETERANS, AND MILITARY AFFAIRS COMMITTEES OF THE GENERAL  
5     ASSEMBLY, OR ANY SUCCESSOR COMMITTEES REGARDING THE  
6     INFORMATION OBTAINED AS REQUIRED BY THIS PARAGRAPH (g).

7             (4) THE DISTRICT SHALL ESTABLISH UNDERWRITING GUIDELINES  
8     THAT CONSIDER PROGRAM APPLICANTS' QUALIFICATIONS,  
9     CREDIT-WORTHINESS, HOME EQUITY, AND OTHER APPROPRIATE FACTORS,  
10    INCLUDING BUT NOT LIMITED TO CREDIT REPORTS, CREDIT SCORES, AND  
11    LOAN-TO-VALUE RATIOS, CONSISTENT WITH GOOD AND CUSTOMARY  
12    LENDING PRACTICES, AND AS REQUIRED IN ORDER FOR THE DISTRICT TO  
13    OBTAIN A BOND RATING NECESSARY FOR A SUCCESSFUL BOND SALE. THE  
14    DISTRICT SHALL ALSO ARRANGE FOR AN APPROPRIATE LOSS RESERVE IN  
15    ORDER TO OBTAIN THE NECESSARY BOND RATING.

16             **32-20-106. Special assessments - determination of special**  
17    **benefits - notice and hearing requirements - certification of**  
18    **assessment roll - manner of collection.** (1) THE APPROVAL BY THE  
19    DISTRICT OF A PROGRAM APPLICATION SHALL ESTABLISH THE QUALIFIED  
20    APPLICANT WHO SUBMITTED THE APPLICATION AS A DISTRICT MEMBER,  
21    INCLUDE THE QUALIFIED APPLICANT'S ELIGIBLE REAL PROPERTY WITHIN  
22    THE BOUNDARIES OF THE DISTRICT, ENTITLE THE DISTRICT MEMBER TO  
23    REIMBURSEMENT OR A DIRECT PAYMENT, AND, SUBJECT TO THE  
24    PROVISIONS OF SUBSECTION (3) OF THIS SECTION, CONSTITUTE THE  
25    CONSENT OF THE DISTRICT MEMBER TO THE LEVYING OF A SPECIAL  
26    ASSESSMENT ON THE DISTRICT MEMBER'S ELIGIBLE REAL PROPERTY IN AN  
27    AMOUNT THAT DOES NOT EXCEED THE VALUE OF THE SPECIAL BENEFIT

1 PROVIDED TO THE ELIGIBLE REAL PROPERTY BY THE NEW ENERGY  
2 IMPROVEMENT.

3 (2) FOR THE PURPOSE OF DETERMINING THE AMOUNT OF THE  
4 SPECIAL ASSESSMENT TO BE LEVIED ON A PARTICULAR UNIT OF ELIGIBLE  
5 REAL PROPERTY WITHIN THE DISTRICT, "SPECIAL BENEFIT" INCLUDES, BUT  
6 IS NOT LIMITED TO:

7 (a) ANY INCREASE IN THE MARKET VALUE OF THE ELIGIBLE REAL  
8 PROPERTY RESULTING FROM THE COMPLETION OF A NEW ENERGY  
9 IMPROVEMENT;

10 (b) ANY COST OF COMPLETING A NEW ENERGY IMPROVEMENT  
11 THAT IS DEFRAID BY REIMBURSEMENT OR A DIRECT PAYMENT;

12 (c) ANY REDUCTION IN ENERGY-RELATED UTILITY BILLS FOR THE  
13 ELIGIBLE REAL PROPERTY CAUSED BY A QUANTIFIABLE REDUCTION IN THE  
14 ENERGY CONSUMPTION OF THE ELIGIBLE REAL PROPERTY RESULTING FROM  
15 THE COMPLETION OF A NEW ENERGY IMPROVEMENT; AND

16 (d) ANY ACKNOWLEDGED VALUE OF A NEW ENERGY  
17 IMPROVEMENT TO A DISTRICT MEMBER'S ELIGIBLE REAL PROPERTY SET  
18 FORTH IN THE PROGRAM APPLICATION SUBMITTED BY THE DISTRICT  
19 MEMBER.

20 (3) (a) THE DISTRICT MAY LEVY A SPECIAL ASSESSMENT AGAINST  
21 ELIGIBLE REAL PROPERTY SPECIALLY BENEFITED BY A NEW ENERGY  
22 IMPROVEMENT BASED ON THE COST TO THE DISTRICT OF THE NEW ENERGY  
23 IMPROVEMENT. THE DISTRICT SHALL INITIATE THE LEVY OF ANY  
24 ASSESSMENT BY THE ADOPTION OF A RESOLUTION OF THE BOARD THAT  
25 SETS THE ASSESSMENT, APPROVES THE PREPARATION OF A PRELIMINARY  
26 ASSESSMENT ROLL, AND SETS A DATE FOR A PUBLIC HEARING REGARDING  
27 THE ASSESSMENT ROLL. THE DISTRICT SHALL PREPARE A PRELIMINARY

1 ASSESSMENT ROLL LISTING ALL SPECIAL ASSESSMENTS TO BE LEVIED. THE  
2 DISTRICT MAY POST NOTICE OF THE HEARING ON THE ASSESSMENT ON ANY  
3 DISTRICT INTERNET WEB SITE AND SHALL SEND NOTICE THAT THE  
4 ASSESSMENT ROLL HAS BEEN COMPLETED AND NOTICE OF A HEARING ON  
5 THE ASSESSMENT ROLL NO LATER THAN THIRTY DAYS BEFORE THE  
6 HEARING DATE TO:

7 (I) EACH DISTRICT MEMBER AT THE POSTAL ADDRESS OR  
8 ELECTRONIC MAIL ADDRESS, OR BOTH IF BOTH ARE SPECIFIED, SPECIFIED  
9 IN THE MEMBER'S PROGRAM APPLICATION; AND

10 (II) EACH PERSON, BY FIRST-CLASS MAIL OR ELECTRONIC MAIL,  
11 WHO HAS A LIEN AGAINST A UNIT OF ELIGIBLE REAL PROPERTY LISTED ON  
12 THE ASSESSMENT ROLL.

13 (b) THE NOTICE REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION  
14 (3) SHALL SPECIFY:

15 (I) THE AMOUNT OF THE SPECIAL ASSESSMENT PROPOSED TO BE  
16 LEVIED ON THE UNIT OF ELIGIBLE REAL PROPERTY OWNED BY THE DISTRICT  
17 MEMBER OR SUBJECTED TO A LIEN BY THE LIENHOLDER TO WHOM THE  
18 NOTICE IS SENT;

19 (II) THAT ANY COMPLAINTS OR OBJECTIONS THAT ARE MADE BY  
20 A DISTRICT MEMBER OR LIENHOLDER IN WRITING TO THE BOARD, AND  
21 FILED IN WRITING ON OR PRIOR TO THE DATE OF THE HEARING, WILL BE  
22 HEARD AND DETERMINED BY THE BOARD BEFORE THE PASSAGE OF ANY  
23 RESOLUTION LEVYING A SPECIAL ASSESSMENT; AND

24 (III) THE DATE WHEN AND PLACE WHERE THE HEARING WILL BE  
25 HELD AT WHICH COMPLAINTS OR OBJECTIONS MADE IN PERSON WILL BE  
26 HEARD.

27 (c) FOLLOWING THE HEARING REQUIRED BY PARAGRAPH (a) OF

1 THIS SUBSECTION (3) AND NOTICE PURSUANT TO PARAGRAPHS (a) AND (b)  
2 OF THIS SUBSECTION (3), THE BOARD SHALL ADOPT A RESOLUTION  
3 RESOLVING ALL COMPLAINTS OR OBJECTIONS MADE AND LEVYING THE  
4 SPECIAL ASSESSMENTS. A DISTRICT MEMBER OR LIENHOLDER WHOSE  
5 COMPLAINT OR OBJECTION IS DENIED BY THE BOARD SHALL HAVE THIRTY  
6 DAYS FROM THE DATE OF THE DENIAL TO APPEAL THE DENIAL TO A COURT  
7 OF COMPETENT JURISDICTION. THEREAFTER, THE COMPLAINT OR  
8 OBJECTION SHALL BE PERPETUALLY BARRED.

9 (4) THE BOARD SHALL PREPARE OR CAUSE TO BE PREPARED A  
10 DISTRICT ASSESSMENT ROLL IN BOOK FORM SHOWING IN SUITABLE  
11 COLUMNS EACH UNIT OF ELIGIBLE REAL PROPERTY ASSESSED, THE TOTAL  
12 AMOUNT OF ASSESSMENT, THE AMOUNT OF EACH INSTALLMENT OF  
13 PRINCIPAL AND INTEREST IF THE ASSESSMENT IS PAYABLE IN  
14 INSTALLMENTS, AND THE DATE WHEN EACH INSTALLMENT WILL BECOME  
15 DUE. THE ASSESSMENT ROLL SHALL HAVE SUITABLE COLUMNS FOR USE IN  
16 CASE OF PAYMENT OF THE WHOLE AMOUNT OR OF ANY INSTALLMENT OR  
17 PENALTY. THE BOARD SHALL DELIVER THE ASSESSMENT ROLL, DULY  
18 CERTIFIED, UNDER THE CORPORATE SEAL, FOR COLLECTION TO THE  
19 TREASURER OF EACH COUNTY IN WHICH THE DISTRICT HAS ASSESSED  
20 ELIGIBLE REAL PROPERTY. AFTER DELIVERY OF THE ASSESSMENT ROLL,  
21 THE DISTRICT MAY REDUCE THE AMOUNT OF ANY SPECIAL ASSESSMENT  
22 WITH THE CONSENT OF THE OWNER OF THE ELIGIBLE REAL PROPERTY ON  
23 WHICH THE SPECIAL ASSESSMENT IS LEVIED.

24 (5) ALL SPECIAL ASSESSMENTS SHALL BE DUE AND PAYABLE  
25 WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THE ASSESSING  
26 RESOLUTION WITHOUT DEMAND, BUT ALL SUCH ASSESSMENTS MAY BE  
27 PAID, AT THE ELECTION OF THE OWNER, IN INSTALLMENTS WITH INTEREST



1 AS PROVIDED IN SUBSECTION (6) OF THIS SECTION; EXCEPT THAT THE  
2 BOARD MAY PROVIDE THAT SPECIAL ASSESSMENTS BE DUE AND PAYABLE  
3 AT SUCH ALTERNATE TIME AS SET FORTH IN THE ASSESSING RESOLUTION.  
4 FAILURE OF A DISTRICT MEMBER TO PAY THE WHOLE SPECIAL ASSESSMENT  
5 WITHIN SAID PERIOD OF THIRTY DAYS SHALL BE CONCLUSIVELY  
6 CONSIDERED AND HELD TO BE AN ELECTION ON THE PART OF THE DISTRICT  
7 MEMBER TO PAY IN INSTALLMENTS.

8 (6) IN CASE OF AN ELECTION TO PAY IN INSTALLMENTS, THE  
9 SPECIAL ASSESSMENTS SHALL BE PAYABLE IN TWO OR MORE  
10 INSTALLMENTS OF PRINCIPAL, WHICH SHALL BE PAYABLE AS PRESCRIBED  
11 BY THE BOARD OVER A PERIOD OF NOT MORE THAN TWENTY YEARS, WITH  
12 INTEREST IN ALL CASES ON THE UNPAID PRINCIPAL. THE NUMBER AND  
13 AMOUNTS OF PAYMENT OF INSTALLMENTS, THE PERIOD OF PAYMENT, AND  
14 THE RATE AND TIMES OF PAYMENT OF INTEREST SHALL BE DETERMINED BY  
15 THE BOARD AND SET FORTH IN THE ASSESSING RESOLUTION. THE TIMES OF  
16 PAYMENT OF INSTALLMENTS SHALL BE THE SAME AS THE TIMES OF  
17 PAYMENT FOR INSTALLMENTS OF PROPERTY TAXES AS SPECIFIED IN  
18 SECTION 39-10-104.5 (2), C.R.S.; EXCEPT THAT SPECIAL ASSESSMENTS  
19 MAY BE PAYABLE AT SUCH ALTERNATE TIMES AS PROVIDED BY THE BOARD  
20 IN THE ASSESSING RESOLUTION.

21 (7) FAILURE TO PAY ANY INSTALLMENT ON SPECIAL ASSESSMENTS,  
22 WHETHER OF PRINCIPAL OR INTEREST, WHEN DUE SHALL GIVE THE  
23 DISTRICT THE RIGHT TO DECLARE INSTALLMENTS DUE AND COLLECTIBLE  
24 IMMEDIATELY, AND UPON SUCH A DECLARATION THE WHOLE AMOUNT OF  
25 THE UNPAID PRINCIPAL AND ACCRUED INTEREST SHALL THEREAFTER  
26 DRAW INTEREST AT THE RATE ESTABLISHED PURSUANT TO SECTION  
27 5-12-106 (2) AND (3), C.R.S., UNTIL THE DAY OF SALE. THE DISTRICT

1 SHALL UNDERTAKE FORECLOSURE OF INSTALLMENTS WITHOUT  
2 ACCELERATION PURSUANT TO SECTION 38-38-201, C.R.S., IN LIEU OF  
3 DECLARING THE WHOLE OF THE UNPAID PRINCIPAL DUE AND COLLECTIBLE  
4 IMMEDIATELY, AND, AT ANY TIME PRIOR TO THE DAY OF SALE, THE  
5 DISTRICT MEMBER MAY PAY THE AMOUNT OF ALL UNPAID INSTALLMENTS,  
6 WITH INTEREST AT THE PENALTY RATE SET BY THE ASSESSING  
7 RESOLUTION, AND ALL COSTS OF COLLECTION ACCRUED AND SHALL  
8 THEREUPON BE RESTORED TO THE RIGHT THEREAFTER TO PAY IN  
9 INSTALLMENTS IN THE SAME MANNER AS IF DEFAULT HAD NOT BEEN  
10 SUFFERED. A DISTRICT MEMBER NOT IN DEFAULT AS TO ANY  
11 INSTALLMENT OR PAYMENT MAY, AT ANY TIME, PAY THE WHOLE OF THE  
12 UNPAID PRINCIPAL WITH THE INTEREST ACCRUING TO THE MATURITY OF  
13 THE NEXT INSTALLMENT OF INTEREST OR PRINCIPAL.

14 (8) (a) PAYMENT OF SPECIAL ASSESSMENTS MAY BE MADE TO A  
15 COUNTY TREASURER AT ANY TIME WITHIN THIRTY DAYS AFTER THE  
16 EFFECTIVE DATE OF THE ASSESSING RESOLUTION, AND THE COUNTY  
17 TREASURER SHALL PROMPTLY FORWARD ALL SPECIAL ASSESSMENT  
18 PAYMENTS RECEIVED TO THE DISTRICT. AT THE EXPIRATION OF THE  
19 THIRTY-DAY PERIOD, EACH COUNTY TREASURER OF A COUNTY THAT  
20 INCLUDES ELIGIBLE REAL PROPERTY IN THE DISTRICT SHALL RETURN THE  
21 DISTRICT ASSESSMENT ROLL FOR THE COUNTY TO THE BOARD, THEREIN  
22 SHOWING ALL PAYMENTS MADE THEREON, WITH THE DATE OF EACH  
23 PAYMENT. THE ROLL SHALL BE CERTIFIED BY THE BOARD UNDER THE  
24 SEAL OF THE BOARD AND BY THE BOARD DELIVERED TO EACH COUNTY  
25 TREASURER, WITH THE TREASURER'S WARRANT FOR ITS COLLECTION. THE  
26 COUNTY TREASURER SHALL RECEIPT THE ROLL, AND ALL SUCH ROLLS  
27 SHALL BE NUMBERED OR IDENTIFIED BY COUNTY FOR CONVENIENT

1 REFERENCE.

2 (b) THE OWNER OF ANY DIVIDED OR UNDIVIDED INTEREST IN  
3 ELIGIBLE REAL PROPERTY ASSESSED MAY PAY THE OWNER'S SHARE OF ANY  
4 ASSESSMENT, UPON PRODUCING EVIDENCE OF THE EXTENT OF THE  
5 OWNER'S INTEREST SATISFACTORY TO THE TREASURER HAVING THE ROLL  
6 IN CHARGE; EXCEPT THAT THE ASSESSMENT LIEN SHALL REMAIN ON THE  
7 ENTIRE PROPERTY ASSESSED UNTIL THE ENTIRE ASSESSMENT IS PAID,  
8 EXCEPT AS OTHERWISE PROVIDED PURSUANT TO SECTION 32-20-107.

9 **32-20-107. Special assessment constitutes lien - filing - sale of**  
10 **property for nonpayment.** (1) A SPECIAL ASSESSMENT, TOGETHER  
11 WITH ALL INTEREST THEREON AND PENALTIES FOR DEFAULT IN PAYMENT  
12 THEREOF, AND ASSOCIATED COLLECTION COSTS SHALL CONSTITUTE, FROM  
13 THE DATE OF THE RECORDING OF THE ASSESSING RESOLUTION AND  
14 ASSESSMENT ROLL PURSUANT TO SUBSECTION (2) OF THIS SECTION, A  
15 PERPETUAL LIEN IN THE AMOUNT ASSESSED AGAINST THE ASSESSED  
16 ELIGIBLE REAL PROPERTY AND SHALL HAVE PRIORITY OVER ALL OTHER  
17 LIENS; EXCEPT THAT GENERAL TAX LIENS SHALL HAVE PRIORITY OVER  
18 DISTRICT SPECIAL ASSESSMENT LIENS, AND LIENS FOR ASSESSMENTS  
19 IMPOSED BY OTHER GOVERNMENTAL ENTITIES SHALL HAVE COEQUAL  
20 PRIORITY WITH DISTRICT SPECIAL ASSESSMENT LIENS. HOWEVER, IF THE  
21 DISTRICT INITIATES A FORECLOSURE OF INSTALLMENTS WITHOUT  
22 ACCELERATION PURSUANT TO SECTION 38-38-201, C.R.S., AS SPECIFIED  
23 IN SECTION 32-20-106 (7), ONLY THE AMOUNT OF THE LIEN ATTRIBUTABLE  
24 TO THE INSTALLMENTS BEING FORECLOSED, INCLUDING APPROPRIATE  
25 INTEREST, COSTS, AND FEES, SHALL HAVE SUCH PRIORITY. IF ELIGIBLE  
26 REAL PROPERTY ASSESSED IS SUBDIVIDED, THE ASSESSMENT LIEN MAY BE  
27 APPORTIONED BY THE BOARD IN SUCH MANNER AS MAY BE PROVIDED IN

1 THE ASSESSING RESOLUTION.

2 (2) THE DISTRICT SHALL TRANSMIT TO A COUNTY CLERK AND  
3 RECORDER OF A COUNTY THAT INCLUDES ELIGIBLE REAL PROPERTY  
4 INCLUDED IN THE DISTRICT COPIES OF THE DISTRICT'S ASSESSING  
5 RESOLUTION AFTER ITS FINAL ADOPTION BY THE BOARD AND THE  
6 ASSESSMENT ROLL FOR RECORDING ON THE LAND RECORDS OF EACH UNIT  
7 OF ELIGIBLE REAL PROPERTY ASSESSED WITHIN THE COUNTY AS PROVIDED  
8 IN ARTICLE 30, 35, OR 36 OF TITLE 38, C.R.S. IN ADDITION, THE COUNTY  
9 CLERK AND RECORDER SHALL FILE COPIES OF THE ASSESSING RESOLUTION,  
10 AFTER ITS FINAL ADOPTION BY THE BOARD, AND THE ASSESSMENT ROLL  
11 WITH THE COUNTY ASSESSOR AND THE COUNTY TREASURER. THE COUNTY  
12 ASSESSOR IS AUTHORIZED TO CREATE SEPARATE SCHEDULES FOR EACH  
13 UNIT OF ELIGIBLE REAL PROPERTY ASSESSED WITHIN THE COUNTY  
14 PURSUANT TO THE RESOLUTION.

15 (3) NO DELAYS, MISTAKES, ERRORS, OR IRREGULARITIES IN ANY  
16 ACT OR PROCEEDING AUTHORIZED OR REQUIRED BY THIS ARTICLE SHALL  
17 PREJUDICE OR INVALIDATE ANY FINAL ASSESSMENT, AND SUCH MISTAKES,  
18 ERRORS, OR IRREGULARITIES MAY BE REMEDIED BY SUBSEQUENT FILINGS,  
19 AMENDING ACTS, OR PROCEEDINGS. A REMEDIED ASSESSMENT SHALL  
20 TAKE EFFECT AS OF THE DATE OF THE ORIGINAL FILING, ACT, OR  
21 PROCEEDING. IF A COURT OF COMPETENT JURISDICTION SETS ASIDE ANY  
22 FINAL ASSESSMENT OR IF, FOR ANY OTHER REASON, THE BOARD  
23 DETERMINES IT TO BE NECESSARY TO ALTER ANY FINAL ASSESSMENT, THE  
24 BOARD, UPON NOTICE AS REQUIRED IN THE MAKING OF AN ORIGINAL  
25 ASSESSMENT, MAY MAKE A NEW ASSESSMENT IN ACCORDANCE WITH THE  
26 PROVISIONS OF THIS ARTICLE.

27 (4) IN CASE OF DEFAULT IN THE PAYMENT OF ANY INSTALLMENT

1 OF PRINCIPAL OR INTEREST WHEN DUE, THE COUNTY TREASURER SHALL  
2 ADVERTISE AND SELL THE ASSESSED ELIGIBLE REAL PROPERTY TAX LIEN  
3 DEFAULTED UPON FOR THE PAYMENT OF THE WHOLE OF THE UNPAID  
4 ASSESSMENTS. ADVERTISEMENTS AND SALES SHALL BE MADE AT THE  
5 SAME TIMES, IN THE SAME MANNER, UNDER ALL THE SAME CONDITIONS  
6 AND PENALTIES, AND WITH THE SAME EFFECT AS PROVIDED BY GENERAL  
7 LAW FOR SALES OF REAL ESTATE TAX LIENS IN DEFAULT OF PAYMENT OF  
8 THE GENERAL PROPERTY TAX.

9 **32-20-108. Special assessment bonds - legal investment -**  
10 **exemption from taxation.** (1) THE DISTRICT SHALL ISSUE SPECIAL  
11 ASSESSMENT BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT MORE  
12 THAN EIGHT HUNDRED MILLION DOLLARS FOR THE PURPOSE OF  
13 GENERATING THE MONEYS NEEDED TO MAKE REIMBURSEMENT OR A  
14 DIRECT PAYMENT TO DISTRICT MEMBERS AND TO PAY OTHER COSTS OF THE  
15 DISTRICT. THE BONDS SHALL BE ISSUED PURSUANT TO A RESOLUTION OF  
16 THE BOARD OR A TRUST INDENTURE, SHALL NOT BE SECURED BY AN  
17 ENCUMBRANCE, MORTGAGE, OR OTHER PLEDGE OF REAL OR PERSONAL  
18 PROPERTY OF THE DISTRICT, AND SHALL BE PAYABLE FROM SPECIAL  
19 ASSESSMENTS AND ANY OTHER LAWFULLY PLEDGED DISTRICT REVENUES  
20 UNLESS THE BOND RESOLUTION OR TRUST INDENTURE SPECIFICALLY  
21 LIMITS THE SOURCE OF DISTRICT REVENUES FROM WHICH THE BONDS ARE  
22 PAYABLE. THE BOARD MAY ADOPT ONE OR MORE RESOLUTIONS CREATING  
23 SPECIAL ASSESSMENT UNITS COMPRISED OF MULTIPLE UNITS OF ELIGIBLE  
24 REAL PROPERTY ON WHICH THE BOARD HAS LEVIED A SPECIAL  
25 ASSESSMENT AND MAY ISSUE SPECIAL ASSESSMENT BONDS PAYABLE FROM  
26 SPECIAL ASSESSMENTS IMPOSED WITHIN THE ENTIRE DISTRICT OR FROM  
27 SPECIAL ASSESSMENTS IMPOSED ONLY WITHIN ONE OR MORE SPECIFIED

1 SPECIAL ASSESSMENT UNITS.

2 (2) BONDS MAY BE EXECUTED AND DELIVERED AT SUCH TIMES;  
3 MAY BE IN SUCH FORM AND DENOMINATIONS AND INCLUDE SUCH TERMS  
4 AND MATURITIES; MAY BE SUBJECT TO OPTIONAL OR MANDATORY  
5 REDEMPTION PRIOR TO MATURITY WITH OR WITHOUT A PREMIUM; MAY BE  
6 IN FULLY REGISTERED FORM OR BEARER FORM REGISTRABLE AS TO  
7 PRINCIPAL OR INTEREST OR BOTH; MAY BEAR SUCH CONVERSION  
8 PRIVILEGES; MAY BE PAYABLE IN SUCH INSTALLMENTS AND AT SUCH  
9 TIMES NOT EXCEEDING TWENTY YEARS FROM THE DATE THEREOF; MAY BE  
10 PAYABLE AT SUCH PLACE OR PLACES WHETHER WITHIN OR WITHOUT THE  
11 STATE; MAY BEAR INTEREST AT SUCH RATE OR RATES PER ANNUM, WHICH  
12 MAY BE FIXED OR VARY ACCORDING TO INDEX, PROCEDURE, OR FORMULA  
13 OR AS DETERMINED BY THE DISTRICT WITHOUT REGARD TO ANY INTEREST  
14 RATE LIMITATION APPEARING IN ANY OTHER LAW OF THE STATE; MAY BE  
15 SUBJECT TO PURCHASE AT THE OPTION OF THE HOLDER OR THE DISTRICT;  
16 MAY BE EVIDENCED IN SUCH MANNER; MAY BE EXECUTED BY SUCH  
17 OFFICERS OF THE DISTRICT, INCLUDING THE USE OF ONE OR MORE  
18 FACSIMILE SIGNATURES SO LONG AS AT LEAST ONE MANUAL SIGNATURE  
19 APPEARS ON THE BONDS, WHICH MAY BE EITHER OF THE CHAIR OF THE  
20 BOARD OR OF AN AGENT OF THE DISTRICT AUTHENTICATING THE SAME;  
21 MAY BE IN THE FORM OF COUPON BONDS THAT HAVE ATTACHED INTEREST  
22 COUPONS BEARING A MANUAL OR FACSIMILE SIGNATURE OF THE CHAIR OR  
23 THE AGENT; AND MAY CONTAIN SUCH PROVISIONS NOT INCONSISTENT  
24 WITH THIS ARTICLE, ALL AS PROVIDED IN THE RESOLUTION OF THE BOARD  
25 UNDER WHICH THE BONDS ARE AUTHORIZED TO BE ISSUED OR AS  
26 PROVIDED IN A TRUST INDENTURE BETWEEN THE DISTRICT AND ANY BANK  
27 OR TRUST COMPANY HAVING FULL TRUST POWERS.

1           (3) BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT SUCH  
2           PRICE OR PRICES, IN SUCH MANNER, AND AT SUCH TIMES AS DETERMINED  
3           BY THE DISTRICT, AND THE DISTRICT MAY PAY ALL FEES, EXPENSES, AND  
4           COMMISSIONS THAT IT DEEMS NECESSARY OR ADVANTAGEOUS IN  
5           CONNECTION WITH THE SALE OF THE BONDS. THE POWER TO FIX THE DATE  
6           OF SALE OF THE BONDS, TO RECEIVE BIDS OR PROPOSALS, TO AWARD AND  
7           SELL BONDS, TO FIX INTEREST RATES, AND TO TAKE ALL OTHER ACTION  
8           NECESSARY TO SELL AND DELIVER THE BONDS MAY BE DELEGATED TO AN  
9           OFFICER OR AGENT OF THE DISTRICT. ANY OUTSTANDING BONDS MAY BE  
10          REFUNDED BY THE DISTRICT PURSUANT TO ARTICLE 56 OF TITLE 11, C.R.S.  
11          ALL BONDS AND ANY INTEREST COUPONS APPLICABLE THERETO ARE  
12          DECLARED TO BE NEGOTIABLE INSTRUMENTS.

13          (4) THE RESOLUTION OR A TRUST INDENTURE AUTHORIZING THE  
14          ISSUANCE OF THE BONDS MAY PLEDGE ALL OR A PORTION OF ANY SPECIAL  
15          FUND CREATED BY THE DISTRICT, MAY CONTAIN SUCH PROVISIONS FOR  
16          PROTECTING AND ENFORCING THE RIGHTS AND REMEDIES OF HOLDERS OF  
17          ANY OF THE BONDS AS THE DISTRICT DEEMS APPROPRIATE, MAY SET FORTH  
18          THE RIGHTS AND REMEDIES OF THE HOLDERS OF ANY OF THE BONDS, AND  
19          MAY CONTAIN PROVISIONS THAT THE DISTRICT DEEMS APPROPRIATE FOR  
20          THE SECURITY OF THE HOLDERS OF THE BONDS, INCLUDING, BUT NOT  
21          LIMITED TO, PROVISIONS FOR LETTERS OF CREDIT, INSURANCE, STANDBY  
22          CREDIT AGREEMENTS, OR OTHER FORMS OF CREDIT ENSURING TIMELY  
23          PAYMENT OF THE BONDS, INCLUDING THE REDEMPTION PRICE OR THE  
24          PURCHASE PRICE.

25          (5) ANY PLEDGE OF MONEYS OR OTHER PROPERTY MADE BY THE  
26          DISTRICT OR BY ANY PERSON OR GOVERNMENTAL UNIT WITH WHICH THE  
27          DISTRICT CONTRACTS SHALL BE VALID AND BINDING FROM THE TIME THE

1 PLEDGE IS MADE. THE MONEYS OR OTHER PROPERTY SO PLEDGED SHALL  
2 IMMEDIATELY BE SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY  
3 PHYSICAL DELIVERY OR FURTHER ACT, AND THE LIEN OF THE PLEDGE  
4 SHALL BE VALID AND BINDING AGAINST ALL PARTIES HAVING CLAIMS OF  
5 ANY KIND IN TORT, CONTRACT, OR OTHERWISE AGAINST THE PLEDGING  
6 PARTY REGARDLESS OF WHETHER THE CLAIMING PARTY HAS NOTICE OF  
7 THE LIEN. THE INSTRUMENT BY WHICH THE PLEDGE IS CREATED NEED NOT  
8 BE RECORDED OR FILED.

9 (6) NO MEMBER OF THE BOARD, EMPLOYEE, OFFICER, OR AGENT OF  
10 THE DISTRICT, OR OTHER PERSON EXECUTING BONDS SHALL BE LIABLE  
11 PERSONALLY ON THE BONDS OR SUBJECT TO ANY PERSONAL LIABILITY BY  
12 REASON OF THE ISSUANCE THEREOF.

13 (7) THE DISTRICT MAY PURCHASE ITS BONDS OUT OF ANY  
14 AVAILABLE MONEYS AND MAY HOLD, PLEDGE, CANCEL, OR RESELL SUCH  
15 BONDS SUBJECT TO AND IN ACCORDANCE WITH AGREEMENTS WITH THE  
16 HOLDERS THEREOF.

17 (8) THE STATE HEREBY PLEDGES AND AGREES WITH THE HOLDERS  
18 OF ANY BONDS AND WITH THOSE PARTIES WHO ENTER INTO CONTRACTS  
19 WITH THE DISTRICT PURSUANT TO THIS ARTICLE THAT THE STATE WILL NOT  
20 LIMIT, ALTER, RESTRICT, OR IMPAIR THE RIGHTS VESTED IN THE DISTRICT  
21 OR THE RIGHTS OR OBLIGATIONS OF ANY PERSON WITH WHICH THE  
22 DISTRICT CONTRACTS TO FULFILL THE TERMS OF ANY AGREEMENTS MADE  
23 PURSUANT TO THIS ARTICLE. THE STATE FURTHER AGREES THAT IT WILL  
24 NOT IN ANY WAY IMPAIR THE RIGHTS OR REMEDIES OF THE HOLDERS OF  
25 BONDS UNTIL THE BONDS HAVE BEEN PAID OR UNTIL ADEQUATE PROVISION  
26 FOR PAYMENT HAS BEEN MADE. THE DISTRICT MAY INCLUDE THIS  
27 PROVISION AND UNDERTAKING FOR THE DISTRICT IN ITS BONDS.



1 (9) BANKS, TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS,  
2 INSURANCE COMPANIES, EXECUTORS, ADMINISTRATORS, GUARDIANS,  
3 TRUSTEES, AND OTHER FIDUCIARIES MAY LEGALLY INVEST ANY MONEYS  
4 WITHIN THEIR CONTROL IN ANY BONDS ISSUED UNDER THIS ARTICLE.  
5 PUBLIC ENTITIES, AS DEFINED IN SECTION 24-75-601 (1), C.R.S., MAY  
6 INVEST PUBLIC FUNDS IN BONDS ONLY IF THE BONDS SATISFY THE  
7 INVESTMENT REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF  
8 TITLE 24, C.R.S.

9 (10) BONDS SHALL BE EXEMPT FROM ALL TAXATION AND  
10 ASSESSMENTS IN THE STATE. IN THE RESOLUTION OR INDENTURE  
11 AUTHORIZING BONDS, THE DISTRICT MAY WAIVE THE EXEMPTION FROM  
12 FEDERAL INCOME TAXATION FOR INTEREST ON THE BONDS. BONDS SHALL  
13 BE EXEMPT FROM THE PROVISIONS OF ARTICLE 51 OF TITLE 11, C.R.S. THE  
14 BOARD MAY ELECT TO APPLY ANY OR ALL OF THE PROVISIONS OF THE  
15 "SUPPLEMENTAL PUBLIC SECURITIES ACT", PART 2 OF ARTICLE 57 OF  
16 TITLE 11, C.R.S.

17 **32-20-109. Credit towards demand-side management goals for**  
18 **public utilities.** FOR ANY GAS UTILITY OR ELECTRIC UTILITY FOR WHICH  
19 THE PUBLIC UTILITIES COMMISSION HAS DEVELOPED EXPENDITURE AND  
20 NATURAL GAS SAVINGS TARGETS PURSUANT TO SECTION 40-3.2-103,  
21 C.R.S., OR ESTABLISHED ENERGY SAVING AND PEAK DEMAND REDUCTION  
22 GOALS PURSUANT TO SECTION 40-3.2-104, C.R.S., THE COMMISSION  
23 SHALL DETERMINE THE EXTENT TO WHICH THE MARKETING,  
24 PROMOTIONAL, AND OTHER EFFORTS OF THE UTILITY HAVE CONTRIBUTED  
25 TO ENERGY EFFICIENCY IMPROVEMENTS FUNDED BY THE DISTRICT. TO  
26 THE EXTENT THAT THE COMMISSION FINDS THAT THE UTILITY'S EFFORTS  
27 HAVE CREATED ENERGY SAVINGS, THE COMMISSION SHALL ALLOW THE

1 UTILITY TO COUNT THE RELATED ENERGY SAVINGS TOWARDS COMPLIANCE  
2 WITH THE GAS UTILITY'S EXPENDITURE AND NATURAL GAS SAVINGS  
3 TARGETS OR WITH THE ELECTRIC UTILITY'S ENERGY SAVINGS AND PEAK  
4 DEMAND REDUCTION GOALS, AS APPLICABLE, USING ANY METHOD DEEMED  
5 APPROPRIATE BY THE COMMISSION.

6 **32-20-110. Repeal of article - inapplicable if the district has**  
7 **outstanding bond obligations.** (1) EXCEPT AS OTHERWISE PROVIDED IN  
8 SUBSECTION (2) OF THIS SECTION, THIS ARTICLE IS REPEALED, EFFECTIVE  
9 JANUARY 1, 2016.

10 (2) IN ACCORDANCE WITH SECTION 32-20-108 (8), THIS ARTICLE  
11 SHALL NOT BE REPEALED AS PROVIDED IN SUBSECTION (1) OF THIS SECTION  
12 IF THE DISTRICT HAS ISSUED BONDS THAT HAVE NOT BEEN REPAID IN FULL  
13 AS OF JANUARY 1, 2016. HOWEVER, THE DISTRICT SHALL NOT ACCEPT  
14 ANY NEW APPLICATION FOR THE PROGRAM OR ISSUE ANY ADDITIONAL  
15 BONDS ON OR AFTER JANUARY 1, 2016.

16 **SECTION 2.** Part 1 of article 3 of title 2, Colorado Revised  
17 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
18 read:

19 **2-3-120. Periodic performance audits of Colorado new energy**  
20 **improvement district and new energy improvement program -**  
21 **reports.** NO LATER THAN JUNE 30, 2014, AND NO LATER THAN JUNE 30  
22 OF EVERY FIFTH YEAR THEREAFTER, THE STATE AUDITOR SHALL CONDUCT  
23 OR CAUSE TO BE CONDUCTED A PERFORMANCE AUDIT OF THE COLORADO  
24 NEW ENERGY IMPROVEMENT DISTRICT CREATED IN SECTION 32-20-104 (1),  
25 C.R.S., AND THE NEW ENERGY IMPROVEMENT PROGRAM ESTABLISHED BY  
26 THE DISTRICT PURSUANT TO SECTION 32-20-105 (3), C.R.S. THE STATE  
27 AUDITOR SHALL PREPARE A REPORT AND RECOMMENDATIONS ON EACH

1     AUDIT CONDUCTED AND SHALL PRESENT THE REPORT AND  
2     RECOMMENDATIONS TO THE COMMITTEE.

3             **SECTION 3.** 31-25-1102 (2), Colorado Revised Statutes, is  
4     amended to read:

5             **31-25-1102. Definitions.** As used in this part 11, unless the  
6     context otherwise requires:

7             (2) "Taxing authority" means THE COLORADO NEW ENERGY  
8     IMPROVEMENT DISTRICT CREATED IN SECTION 32-20-104 (1), C.R.S., AND  
9     any municipal corporation or taxing district organized under the  
10    constitution and laws of the state of Colorado with power to make local  
11    improvements therein and pay for the same by means of special  
12    assessments based upon benefits accruing to property within the  
13    municipality or taxing district by reason of such local improvement.

14            **SECTION 4. Safety clause.** The general assembly hereby finds,  
15    determines, and declares that this act is necessary for the immediate  
16    preservation of the public peace, health, and safety.