

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

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

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.**

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.*

HOUSE
3rd Reading Unamended
March 29, 2010

HOUSE
Amended 2nd Reading
March 26, 2010

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.

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) "LOAN BALANCE" MEANS THE OUTSTANDING PRINCIPAL
23 BALANCE OF LOANS SECURED BY A MORTGAGE OR DEED OF TRUST WITH
24 A FIRST OR SECOND LIEN ON ELIGIBLE REAL PROPERTY.

25 (7) "NEW ENERGY IMPROVEMENT" MEANS ONE OR MORE ON-SITE
26 ENERGY EFFICIENCY IMPROVEMENTS OR RENEWABLE ENERGY
27 IMPROVEMENTS, OR BOTH, MADE TO ELIGIBLE REAL PROPERTY THAT WILL

1 REDUCE THE ENERGY CONSUMPTION OF OR ADD ENERGY PRODUCED FROM
2 RENEWABLE ENERGY SOURCES ONLY TO ANY PORTION OF THE ELIGIBLE
3 REAL PROPERTY THAT IS USED PREDOMINANTLY AS A PLACE OF
4 RESIDENCY.

5 (8) "PROGRAM" MEANS THE NEW ENERGY IMPROVEMENT
6 PROGRAM ESTABLISHED BY THE DISTRICT IN ACCORDANCE WITH SECTION
7 32-20-105.

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

16 (10) "QUALIFIED APPLICANT" MEANS A PERSON WHO:

17 (a) OWNS ELIGIBLE REAL PROPERTY THAT HAS A RATIO OF LOAN
18 BALANCE TO ITS ACTUAL VALUE OF NINETY-FIVE PERCENT OR LESS AT THE
19 TIME THE PERSON'S PROGRAM APPLICATION IS APPROVED, AS SHOWN IN
20 THE RECORDS OF THE COUNTY ASSESSOR, UNLESS THE HOLDER OF THE
21 DEED OF TRUST OR MORTGAGE RECORDED AGAINST THE ELIGIBLE REAL
22 PROPERTY THAT HAS PRIORITY OVER ALL OTHER DEEDS OF TRUST OR
23 MORTGAGES RECORDED AGAINST THE ELIGIBLE REAL PROPERTY HAS
24 CONSENTED IN WRITING TO THE LEVYING OF A SPECIAL ASSESSMENT
25 AGAINST THE ELIGIBLE REAL PROPERTY.

26 (b) TIMELY SUBMITS TO THE DISTRICT A COMPLETE APPLICATION,
27 WHICH NOTES THE EXISTENCE OF ANY FIRST PRIORITY MORTGAGE OR DEED

1 OF TRUST ON THE ELIGIBLE REAL PROPERTY AND THE IDENTITY OF THE
2 HOLDER THEREOF, TO JOIN THE DISTRICT, HAVE THE ELIGIBLE REAL
3 PROPERTY INCLUDED IN THE DISTRICT'S BOUNDARIES, RECEIVE
4 REIMBURSEMENT OR A DIRECT PAYMENT, AND CONSENT TO THE LEVYING
5 OF A SPECIAL ASSESSMENT ON THE PROPERTY. WITHIN THIRTY DAYS OF
6 A PERSON'S SUBMISSION OF AN APPLICATION TO THE DISTRICT, THE
7 DISTRICT SHALL PROVIDE WRITTEN NOTICE TO THE HOLDER OF ANY FIRST
8 PRIORITY MORTGAGE OR DEED OF TRUST ON THE ELIGIBLE REAL PROPERTY
9 THAT THE PERSON IS PARTICIPATING IN THE DISTRICT.

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

12 (11) "REIMBURSEMENT OR A DIRECT PAYMENT" MEANS THE
13 PAYMENT BY THE DISTRICT TO A DISTRICT MEMBER, OR ON BEHALF OF
14 SUCH A DISTRICT MEMBER TO A CONTRACTOR THAT HAS COMPLETED A
15 NEW ENERGY IMPROVEMENT TO THE DISTRICT MEMBER'S ELIGIBLE REAL
16 PROPERTY, OF ALL OR A PORTION OF THE COST OF COMPLETING A NEW
17 ENERGY IMPROVEMENT. UTILITY REBATES OFFERED TO PROGRAM
18 PARTICIPANTS BY A QUALIFYING RETAIL UTILITY FOR THE PURPOSE OF
19 COMPLIANCE WITH RENEWABLE ENERGY TARGETS ESTABLISHED IN
20 SECTION 40-2-124, C.R.S., SHALL BE SUBJECT TO THE RETAIL RATE
21 IMPACT CAP ESTABLISHED PURSUANT TO SECTION 40-2-124 (1) (g) (I),
22 C.R.S. THE MAXIMUM AMOUNT OF REIMBURSEMENT OR A DIRECT
23 PAYMENT THAT MAY BE MADE SHALL BE THE LOWEST OF THE FULL COST
24 OF COMPLETING A NEW ENERGY IMPROVEMENT, TWENTY PERCENT OF THE
25 ACTUAL VALUE, AS SPECIFIED IN THE RECORDS OF THE COUNTY ASSESSOR,
26 OF THE ELIGIBLE REAL PROPERTY TO WHICH THE NEW ENERGY
27 IMPROVEMENT IS MADE, OR TWENTY-FIVE THOUSAND DOLLARS; EXCEPT

1 THAT THE TWENTY-FIVE THOUSAND DOLLAR LIMIT SHALL BE ADJUSTED BY
2 THE DISTRICT FOR EACH CALENDAR YEAR COMMENCING ON OR AFTER
3 JANUARY 1, 2012, BASED ON THE CONSUMER PRICE INDEX FOR THE
4 DENVER-BOULDER-GREELEY METROPOLITAN STATISTICAL AREA FOR THE
5 STATE FISCAL YEAR THAT ENDS IN THE PRECEDING CALENDAR YEAR.

6 (12) "RENEWABLE ENERGY IMPROVEMENT" MEANS ONE OR MORE
7 FIXTURES, PRODUCTS, SYSTEMS, OR DEVICES, OR AN INTERACTING GROUP
8 OF FIXTURES, PRODUCTS, SYSTEMS, OR DEVICES, INSTALLED BEHIND THE
9 METER OF ANY ELIGIBLE REAL PROPERTY THAT PRODUCES ENERGY FROM
10 RENEWABLE RESOURCES, INCLUDING, BUT NOT LIMITED TO,
11 PHOTOVOLTAIC, SOLAR THERMAL, SMALL WIND, BIOMASS, OR
12 GEOTHERMAL SYSTEMS SUCH AS GROUND SOURCE HEAT PUMPS, AS MAY
13 BE APPROVED BY THE DISTRICT; EXCEPT THAT NO RENEWABLE ENERGY
14 IMPROVEMENT SHALL BE AUTHORIZED THAT INTERFERES WITH A RIGHT
15 HELD BY A PUBLIC UTILITY UNDER A CERTIFICATE ISSUED BY THE PUBLIC
16 UTILITIES COMMISSION UNDER ARTICLE 5 OF TITLE 40, C.R.S. NOTHING
17 IN THIS ARTICLE SHALL LIMIT THE RIGHT OF A PUBLIC UTILITY, SUBJECT TO
18 ARTICLE 3 OR 3.5 OF TITLE 40, C.R.S., OR SECTION 40-9.5-106, C.R.S., TO
19 ASSESS FEES FOR THE USE OF ITS FACILITIES OR MODIFY OR EXPAND THE
20 NET METERING LIMITATIONS ESTABLISHED IN SECTIONS 40-9.5-118 AND
21 40-2-124 (7), C.R.S. PRIMARY JURISDICTION TO HEAR ANY DISPUTES AS
22 TO WHETHER A RENEWABLE ENERGY IMPROVEMENT INTERFERES WITH
23 SUCH A RIGHT SHALL LIE:

24 (a) IN THE CASE OF A REGULATED UTILITY, WITH THE PUBLIC
25 UTILITIES COMMISSION; AND

26 (b) IN THE CASE OF A MUNICIPALLY-OWNED ELECTRIC UTILITY,
27 WITH THE GOVERNING BODY OF THE MUNICIPALITY.

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

6 (14) "SPECIAL ASSESSMENT" OR "ASSESSMENT" MEANS A CHARGE
7 LEVIED BY THE DISTRICT AGAINST ELIGIBLE REAL PROPERTY SPECIALLY
8 BENEFITED BY A NEW ENERGY IMPROVEMENT FOR WHICH THE DISTRICT
9 HAS MADE OR WILL MAKE REIMBURSEMENT OR A DIRECT PAYMENT THAT
10 IS PROPORTIONAL TO THE BENEFIT RECEIVED FROM THE NEW ENERGY
11 IMPROVEMENT AND DOES NOT EXCEED THE ESTIMATED AMOUNT OF
12 SPECIAL BENEFITS RECEIVED.

13 (15) "SPECIAL ASSESSMENT BOND" OR "BOND" MEANS ANY BOND,
14 NOTE, INTERIM CERTIFICATE, LOAN AGREEMENT, CONTRACT, OR OTHER
15 EVIDENCE OF BORROWING OF THE DISTRICT ISSUED BY THE DISTRICT
16 PURSUANT TO THIS ARTICLE THAT IS PAYABLE, IN WHOLE OR IN PART,
17 FROM REVENUES GENERATED BY SPECIAL ASSESSMENTS LEVIED AS
18 AUTHORIZED IN THIS ARTICLE AND, AT THE DISCRETION OF THE BOARD,
19 FROM ANY OTHER LEGALLY AVAILABLE SOURCE OF MONEYS LAWFULLY
20 PLEDGED FOR THEIR REPAYMENT.

21 **32-20-104. Colorado new energy improvement district -**
22 **creation - board - meetings - quorum - expenses - records.** (1) THE
23 COLORADO NEW ENERGY IMPROVEMENT DISTRICT IS HEREBY CREATED AS
24 AN INDEPENDENT PUBLIC BODY CORPORATE, AND THE BOUNDARIES OF THE
25 DISTRICT SHALL INCLUDE THE ELIGIBLE REAL PROPERTY THAT IS OWNED
26 BY A PERSON WHO HAS VOLUNTARILY JOINED THE DISTRICT. THE DISTRICT
27 CONSTITUTES A PUBLIC INSTRUMENTALITY, AND ITS EXERCISE OF THE

1 POWERS CONFERRED BY THIS ARTICLE SHALL BE DEEMED AND HELD TO BE
2 THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION, BUT THE
3 DISTRICT:

4 (a) SHALL NOT BE AN AGENCY OF STATE GOVERNMENT OR OF ANY
5 LOCAL GOVERNMENT;

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

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

12 (2) (a) THE DISTRICT SHALL BE GOVERNED BY A BOARD OF
13 DIRECTORS, WHICH SHALL EXERCISE THE POWERS OF THE DISTRICT, SHALL,
14 BY A MAJORITY VOTE OF A QUORUM OF ITS MEMBERS, SELECT FROM ITS
15 MEMBERSHIP A CHAIR AND A VICE-CHAIR, AND SHALL BE COMPOSED OF
16 NINE MEMBERS, INCLUDING:

17 (I) THE FOLLOWING TWO EX OFFICIO MEMBERS OR THEIR
18 DESIGNEES:

19 (A) THE DIRECTOR OF THE GOVERNOR'S ENERGY OFFICE CREATED
20 IN SECTION 24-38.5-101 (1), C.R.S.; AND

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

23 (II) THE FOLLOWING FIVE MEMBERS APPOINTED BY THE
24 GOVERNOR:

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

27 (B) ONE MEMBER WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN THE

1 LENDING INDUSTRY; [REDACTED]

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

5 (D) ONE MEMBER WHO REPRESENTS THE ENERGY EFFICIENCY
6 INDUSTRY; AND

7 (E) ONE MEMBER WHO REPRESENTS LOCAL GOVERNMENTS;

8 (III) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE
9 WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN THE RENEWABLE ENERGY
10 INDUSTRY;

11 (IV) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF
12 REPRESENTATIVES WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN THE
13 FINANCIAL INDUSTRY;

14 (V) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE
15 SENATE WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN THE UTILITY
16 INDUSTRY; AND

17 (VI) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE
18 HOUSE OF REPRESENTATIVES WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN
19 THE HOUSING INDUSTRY.

20 (b) THE TERMS OF THE APPOINTED MEMBERS SHALL BE FOUR
21 YEARS; EXCEPT THAT THE TERMS OF THE MEMBERS INITIALLY APPOINTED
22 BY THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,
23 AND THE MINORITY LEADER OF THE SENATE SHALL BE TWO YEARS.

24 (c) (I) NOTWITHSTANDING ANY OTHER LAW, IT IS NOT A CONFLICT
25 OF INTEREST FOR A TRUSTEE, DIRECTOR, OFFICER, OR EMPLOYEE OF ANY
26 PUBLIC UTILITY, FINANCIAL INSTITUTION, INVESTMENT BANKING FIRM,
27 BROKERAGE FIRM, COMMERCIAL BANK OR TRUST COMPANY, INSURANCE

1 COMPANY, LAW FIRM, OR OTHER FIRM, CORPORATION, OR BUSINESS
2 ENTITY TO SERVE AS A BOARD MEMBER, THE EXECUTIVE DIRECTOR OF THE
3 DISTRICT, OR AN EMPLOYEE OF THE DISTRICT. HOWEVER, A BOARD
4 MEMBER, EXECUTIVE DIRECTOR, OR OTHER EMPLOYEE WHO IS ALSO SUCH
5 A TRUSTEE, DIRECTOR, OFFICER, OR EMPLOYEE SHALL DISCLOSE HIS OR
6 HER BUSINESS AFFILIATION TO THE BOARD AND SHALL ABSTAIN FROM
7 VOTING OR OTHERWISE TAKING ACTION IN ANY INSTANCE IN WHICH HIS OR
8 HER BUSINESS AFFILIATION IS DIRECTLY INVOLVED.

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

13 (d) MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION
14 FOR SERVICES BUT SHALL BE ENTITLED TO THE NECESSARY EXPENSES,
15 INCLUDING TRAVEL AND LODGING EXPENSES, INCURRED IN THE
16 DISCHARGE OF THEIR OFFICIAL DUTIES. ANY PAYMENTS FOR
17 COMPENSATION AND EXPENSES SHALL BE PAID FROM FUNDS OF THE
18 DISTRICT.

19 (3) SIX MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM
20 FOR THE PURPOSE OF CONDUCTING BUSINESS AND EXERCISING THE
21 POWERS OF THE BOARD. ACTION MAY BE TAKEN BY THE BOARD UPON THE
22 AFFIRMATIVE VOTE OF AT LEAST SIX OF ITS MEMBERS. NO VACANCY IN
23 THE MEMBERSHIP OF THE BOARD SHALL IMPAIR THE RIGHT OF A QUORUM
24 TO EXERCISE ALL THE RIGHTS AND PERFORM ALL THE DUTIES OF THE
25 BOARD.

26 (4) THE DISTRICT SHALL BE SUBJECT TO THE OPEN MEETINGS
27 PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", PART 4 OF

1 ARTICLE 6 OF TITLE 24, C.R.S., AND THE "COLORADO OPEN RECORDS
2 ACT", PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S. THE BOARD SHALL ALSO
3 PROMULGATE AND ADHERE TO POLICIES AND PROCEDURES THAT GOVERN
4 ITS CONDUCT, PROVIDE MEANINGFUL OPPORTUNITIES FOR PUBLIC INPUT,
5 ANDESTABLISH STANDARDS ANDPROCEDURES FOR CALLING EMERGENCY
6 MEETINGS. ONE OR MORE MEMBERS OF THE BOARD MAY PARTICIPATE IN
7 A MEETING OF THE BOARD AND MAY VOTE THROUGH THE USE OF
8 TELECOMMUNICATIONS DEVICES, INCLUDING, BUT NOT LIMITED TO, A
9 CONFERENCE TELEPHONE OR SIMILAR COMMUNICATIONS EQUIPMENT.
10 PARTICIPATION THROUGH TELECOMMUNICATIONS DEVICES SHALL
11 CONSTITUTE PRESENCE IN PERSON AT A MEETING. THE USE OF
12 TELECOMMUNICATIONS DEVICES SHALL NOT SUPERSEDE ANY
13 REQUIREMENTS FOR A PUBLIC HEARING OTHERWISE PROVIDED BY LAW.

14 (5) THE DISTRICT SHALL BE SUBJECT TO THE "LOCAL
15 GOVERNMENT BUDGET LAW OF COLORADO", PART 1 OF ARTICLE 1 OF
16 TITLE 29, C.R.S., AND THE "COLORADO LOCAL GOVERNMENT AUDIT
17 LAW", PART 6 OF ARTICLE 1 OF TITLE 29, C.R.S.

18 (6) THE DISTRICT SHALL BE CONSIDERED A SPECIAL DISTRICT
19 INCLUDED WITHIN THE DEFINITION OF THE STATE OR ANY OF ITS POLITICAL
20 SUBDIVISIONS SET FORTH IN SECTION 2 (14.6) OF ARTICLE XXVIII OF THE
21 STATE CONSTITUTION AND SHALL, ACCORDINGLY, BE SUBJECT TO THE
22 SOLE SOURCE CONTRACTING PROVISIONS OF SECTIONS 15 TO 17 OF SAID
23 ARTICLE XXVIII.

24 (7) BECAUSE THE DISTRICT IS NOT A PART OF STATE GOVERNMENT
25 OR A COUNTY OR MUNICIPALITY, NEITHER THE DISTRICT NOR ANY MEMBER
26 OF THE BOARD, EXECUTIVE DIRECTOR OF THE DISTRICT, OR EMPLOYEE OF
27 THE DISTRICT SHALL BE SUBJECT TO THE PROVISIONS OF ARTICLE XXIX OF

1 THE STATE CONSTITUTION.

2 **32-20-105. District - purpose - general powers and duties -**
3 **new energy improvement program.** (1) THE PURPOSE OF THE DISTRICT
4 IS TO HELP PROVIDE THE SPECIAL BENEFITS OF NEW ENERGY
5 IMPROVEMENTS TO OWNERS OF ELIGIBLE REAL PROPERTY WHO
6 VOLUNTARILY JOIN THE DISTRICT BY ESTABLISHING, DEVELOPING,
7 FINANCING, AND ADMINISTERING A NEW ENERGY IMPROVEMENT PROGRAM
8 THROUGH WHICH THE DISTRICT CAN PROVIDE ASSISTANCE TO SUCH
9 OWNERS IN COMPLETING NEW ENERGY IMPROVEMENTS. THE DISTRICT
10 MAY EXERCISE ANY OF THE POWERS GRANTED TO THE DISTRICT IN THIS
11 ARTICLE BEFORE ANY ELIGIBLE REAL PROPERTY IS INCLUDED WITHIN THE
12 BOUNDARIES OF THE DISTRICT; EXCEPT THAT THE DISTRICT SHALL
13 EXERCISE THE POWERS TO LEVY SPECIAL ASSESSMENTS AND ISSUE SPECIAL
14 ASSESSMENT BONDS ONLY AFTER ELIGIBLE REAL PROPERTY IS INCLUDED
15 WITHIN THE BOUNDARIES OF THE DISTRICT.

16 (2) IN ORDER TO ALLOW THE DISTRICT TO ACHIEVE ITS PURPOSE,
17 IN ADDITION TO ANY OTHER POWERS AND DUTIES OF THE DISTRICT
18 SPECIFIED IN THIS ARTICLE, THE DISTRICT SHALL HAVE THE FOLLOWING
19 GENERAL POWERS AND DUTIES:

- 20 (a) TO HAVE PERPETUAL EXISTENCE;
- 21 (b) TO HAVE AND USE A CORPORATE SEAL;
- 22 (c) TO ADOPT BYLAWS FOR THE REGULATION OF ITS AFFAIRS AND
23 CONDUCT OF ITS BUSINESS;
- 24 (d) TO SET AN ANNUAL BUDGET;
- 25 (e) TO SUE AND BE SUED AND TO BE A PARTY TO SUITS, ACTIONS,
26 AND PROCEEDINGS;
- 27 (f) TO ENTER INTO CONTRACTS AND AGREEMENTS NEEDED FOR ITS

1 FUNCTIONS OR OPERATIONS;

2 (g) TO ACQUIRE, DISPOSE OF, AND ENCUMBER REAL AND PERSONAL
3 PROPERTY NEEDED FOR ITS FUNCTIONS OR OPERATIONS;

4 (h) TO BORROW MONEY FOR THE PURPOSE OF DEFRAYING DISTRICT
5 EXPENSES, INCLUDING, BUT NOT LIMITED TO, THE FUNDING OF
6 APPROPRIATE LOSS RESERVES, OR FOR ANY OTHER PURPOSE DEEMED
7 APPROPRIATE BY THE BOARD;

8 (i) TO INVEST ANY MONEYS OF THE DISTRICT IN ACCORDANCE
9 WITH PART 6 OF ARTICLE 75 OF TITLE 24, C.R.S.;

10 (j) (I) TO HIRE AND SET THE COMPENSATION OF A PROGRAM
11 ADMINISTRATOR AND TO APPOINT, HIRE, RETAIN, AND SET THE
12 COMPENSATION OF OTHER AGENTS AND EMPLOYEES AND CONTRACT FOR
13 PROFESSIONAL SERVICES.

14 (II) THE BOARD MAY DELEGATE ANY OF THE POWERS AND DUTIES
15 OF THE DISTRICT THAT SPECIFICALLY PERTAIN TO THE ESTABLISHMENT,
16 DEVELOPMENT, FINANCING, AND ADMINISTRATION OF THE PROGRAM TO
17 ANY PROGRAM ADMINISTRATOR THE DISTRICT HIRES; EXCEPT THAT THE
18 DISTRICT SHALL NOT DELEGATE THE POWER TO ESTABLISH ASSESSMENT
19 UNITS, THE POWER TO DETERMINE THE METHOD OF CALCULATING SPECIAL
20 ASSESSMENTS, OR THE POWER TO ISSUE SPECIAL ASSESSMENT BONDS.

21 (k) IN ACCORDANCE WITH SECTIONS 32-20-106 TO 32-20-108, TO
22 ESTABLISH SPECIAL ASSESSMENT UNITS, LEVY AND COLLECT SPECIAL
23 ASSESSMENTS ON ELIGIBLE REAL PROPERTY SPECIALLY BENEFITED BY A
24 RENEWABLE ENERGY IMPROVEMENT FOR WHICH THE DISTRICT MADE
25 REIMBURSEMENT OR A DIRECT PAYMENT, AND ISSUE SPECIAL ASSESSMENT
26 BONDS;

27 (l) TO ACCEPT GIFTS AND DONATIONS AND APPLY FOR AND ACCEPT

1 GRANTS UPON SUCH TERMS OR CONDITIONS AS THE BOARD MAY APPROVE;
2 AND

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

8 (3) THE DISTRICT SHALL ESTABLISH, DEVELOP, FINANCE, AND
9 ADMINISTER A NEW ENERGY IMPROVEMENT PROGRAM. HOWEVER, THE
10 DISTRICT MAY CONDUCT THE PROGRAM WITHIN ANY GIVEN COUNTY ONLY
11 IF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY HAS ADOPTED
12 A RESOLUTION AUTHORIZING THE DISTRICT TO CONDUCT THE PROGRAM
13 WITHIN THE COUNTY. THE PROGRAM SHALL BE DESIGNED TO ALLOW AN
14 OWNER OF ELIGIBLE REAL PROPERTY TO APPLY TO JOIN THE DISTRICT,
15 RECEIVE REIMBURSEMENT OR A DIRECT PAYMENT FROM THE DISTRICT,
16 AND CONSENT TO THE LEVYING OF A SPECIAL ASSESSMENT ON THE
17 ELIGIBLE REAL PROPERTY SPECIALLY BENEFITED BY A NEW ENERGY
18 IMPROVEMENT FOR WHICH THE DISTRICT MAKES REIMBURSEMENT OR A
19 DIRECT PAYMENT. THE DISTRICT SHALL ESTABLISH AN APPLICATION
20 PROCESS FOR THE PROGRAM, WHICH MAY ALLOW AN OWNER OF ELIGIBLE
21 REAL PROPERTY TO BECOME A QUALIFIED APPLICANT BY SUBMITTING AN
22 APPLICATION TO THE DISTRICT AND WHICH MAY INCLUDE ONE OR MORE
23 DEADLINES FOR THE FILING OF AN APPLICATION. THE DISTRICT MAY
24 CHARGE PROGRAM APPLICATION FEES. IN ORDER TO ADMINISTER THE
25 PROGRAM, THE DISTRICT, ACTING DIRECTLY OR THROUGH A PROGRAM
26 ADMINISTRATOR OR SUCH OTHER AGENTS, EMPLOYEES, OR PROFESSIONALS
27 AS THE DISTRICT MAY APPOINT, HIRE, RETAIN, OR CONTRACT WITH, SHALL:

1 (a) MARKET THE PROGRAM TO OWNERS OF ELIGIBLE REAL
2 PROPERTY, ENCOURAGE SUCH OWNERS TO OBTAIN THE SPECIAL BENEFITS
3 OF COMPLETING NEW ENERGY IMPROVEMENTS TO THEIR PROPERTY BY
4 PROVIDING MORE ATTRACTIVE AND ACCESSIBLE MEANS OF FUNDING THE
5 COMPLETION OF NEW ENERGY IMPROVEMENTS, AND ACCEPT AND PROCESS
6 PROGRAM APPLICATIONS FROM ANY SUCH OWNERS WHO ARE QUALIFIED
7 APPLICANTS;

8 (b) SPECIFY THE INFORMATION TO BE INCLUDED IN A PROGRAM
9 APPLICATION. THE DISTRICT SHALL REQUIRE AN OWNER OF ELIGIBLE REAL
10 PROPERTY WHO SUBMITS A PROGRAM APPLICATION TO INCLUDE, AT A
11 MINIMUM, A POSTAL ADDRESS OR ELECTRONIC MAIL ADDRESS AT WHICH
12 THE DISTRICT MAY CONTACT THE OWNER, THE NAME AND POSTAL OR
13 ELECTRONIC MAILING ADDRESS OF ANY PERSON HOLDING A LIEN AGAINST
14 THE ELIGIBLE REAL PROPERTY, AND ANY INFORMATION THAT THE DISTRICT
15 REQUIRES TO VERIFY THAT THE OWNER WILL COMPLETE A NEW ENERGY
16 IMPROVEMENT, VERIFY THE COST OF COMPLETING THE NEW ENERGY
17 IMPROVEMENT, DETERMINE THE APPROPRIATE AMOUNT OF
18 REIMBURSEMENT OR A DIRECT PAYMENT TO BE MADE TO THE APPLICANT
19 OR A CONTRACTOR AFTER THE NEW ENERGY IMPROVEMENT HAS BEEN
20 COMPLETED, AND ESTIMATE THE VALUE OF THE SPECIAL BENEFIT
21 PROVIDED BY THE COMPLETED NEW ENERGY IMPROVEMENT TO THE
22 APPLICANT'S ELIGIBLE REAL PROPERTY.

23 (c) ESTABLISH SUCH STANDARDS, GUIDELINES, AND PROCEDURES,
24 INCLUDING BUT NOT LIMITED TO STANDARDS OF CREDIT-WORTHINESS FOR
25 QUALIFICATION OF PROGRAM APPLICANTS, AS ARE NECESSARY TO ENSURE
26 THE FINANCIAL STABILITY OF THE PROGRAM AND OTHERWISE PREVENT
27 FRAUD AND ABUSE;

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

4 (e) INFORM PROSPECTIVE PROGRAM APPLICANTS AND QUALIFIED
5 APPLICANTS OF PRIVATE FINANCING OPTIONS NOT PROVIDED BY THE
6 DISTRICT, INCLUDING BUT NOT LIMITED TO HOME EQUITY LOANS AND
7 HOME EQUITY LINES OF CREDIT, THAT MAY, WITH RESPECT TO A
8 PARTICULAR APPLICANT, REPRESENT VIABLE ALTERNATIVES FOR
9 FINANCING NEW ENERGY IMPROVEMENTS;

10 (f) TAKE APPROPRIATE STEPS TO ESTABLISH QUALIFICATIONS FOR
11 THE CERTIFICATION OF CONTRACTORS TO CONSTRUCT OR INSTALL NEW
12 ENERGY IMPROVEMENTS; AND

13 (g) MONITOR THE QUALITY OF NEW ENERGY IMPROVEMENTS FOR
14 WHICH THE DISTRICT HAS MADE REIMBURSEMENT OR A DIRECT PAYMENT
15 IF DEEMED NECESSARY BY THE BOARD, MEASURE THE TOTAL ENERGY
16 SAVINGS ACHIEVED BY THE PROGRAM, MONITOR THE TOTAL NUMBER OF
17 PROGRAM PARTICIPANTS, THE TOTAL AMOUNT PAID TO CONTRACTORS,
18 THE NUMBER OF JOBS CREATED BY THE PROGRAM, THE NUMBER OF
19 DEFAULTS BY PROGRAM PARTICIPANTS, AND THE TOTAL LOSSES FROM THE
20 DEFAULTS, AND CALCULATE THE TOTAL AMOUNT OF BONDS ISSUED BY THE
21 DISTRICT. ON OR BEFORE MARCH 1, 2011, AND ON OR BEFORE EACH
22 SUBSEQUENT MARCH 1, THE DISTRICT SHALL REPORT TO THE STATE,
23 VETERANS, AND MILITARY AFFAIRS COMMITTEES OF THE GENERAL
24 ASSEMBLY, OR ANY SUCCESSOR COMMITTEES REGARDING THE
25 INFORMATION OBTAINED AS REQUIRED BY THIS PARAGRAPH (g).

26 (4) THE DISTRICT SHALL ESTABLISH UNDERWRITING GUIDELINES
27 THAT CONSIDER PROGRAM APPLICANTS' QUALIFICATIONS,

1 CREDIT-WORTHINESS, HOME EQUITY, AND OTHER APPROPRIATE FACTORS,
2 INCLUDING BUT NOT LIMITED TO CREDIT REPORTS, CREDIT SCORES, AND
3 LOAN-TO-VALUE RATIOS, CONSISTENT WITH GOOD AND CUSTOMARY
4 LENDING PRACTICES, AND AS REQUIRED IN ORDER FOR THE DISTRICT TO
5 OBTAIN A BOND RATING NECESSARY FOR A SUCCESSFUL BOND SALE. THE
6 DISTRICT SHALL ALSO ARRANGE FOR AN APPROPRIATE LOSS RESERVE IN
7 ORDER TO OBTAIN THE NECESSARY BOND RATING.

8 **32-20-106. Special assessments - determination of special**
9 **benefits - notice and hearing requirements - certification of**
10 **assessment roll - manner of collection.** (1) THE APPROVAL BY THE
11 DISTRICT OF A PROGRAM APPLICATION SHALL ESTABLISH THE QUALIFIED
12 APPLICANT WHO SUBMITTED THE APPLICATION AS A DISTRICT MEMBER,
13 INCLUDE THE QUALIFIED APPLICANT'S ELIGIBLE REAL PROPERTY WITHIN
14 THE BOUNDARIES OF THE DISTRICT, ENTITLE THE DISTRICT MEMBER TO
15 REIMBURSEMENT OR A DIRECT PAYMENT, AND, SUBJECT TO THE
16 PROVISIONS OF SUBSECTION (3) OF THIS SECTION, CONSTITUTE THE
17 CONSENT OF THE DISTRICT MEMBER TO THE LEVYING OF A SPECIAL
18 ASSESSMENT ON THE DISTRICT MEMBER'S ELIGIBLE REAL PROPERTY IN AN
19 AMOUNT THAT DOES NOT EXCEED THE VALUE OF THE SPECIAL BENEFIT
20 PROVIDED TO THE ELIGIBLE REAL PROPERTY BY THE NEW ENERGY
21 IMPROVEMENT.

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

26 (a) ANY INCREASE IN THE MARKET VALUE OF THE ELIGIBLE REAL
27 PROPERTY RESULTING FROM THE COMPLETION OF A NEW ENERGY

1 IMPROVEMENT;

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

4 (c) ANY REDUCTION IN ENERGY-RELATED UTILITY BILLS FOR THE
5 ELIGIBLE REAL PROPERTY CAUSED BY A QUANTIFIABLE REDUCTION IN THE
6 ENERGY CONSUMPTION OF THE ELIGIBLE REAL PROPERTY RESULTING FROM
7 THE COMPLETION OF A NEW ENERGY IMPROVEMENT; AND

8 (d) ANY ACKNOWLEDGED VALUE OF A NEW ENERGY
9 IMPROVEMENT TO A DISTRICT MEMBER'S ELIGIBLE REAL PROPERTY SET
10 FORTH IN THE PROGRAM APPLICATION SUBMITTED BY THE DISTRICT
11 MEMBER.

12 (3) (a) THE DISTRICT MAY LEVY A SPECIAL ASSESSMENT AGAINST
13 ELIGIBLE REAL PROPERTY SPECIALLY BENEFITED BY A NEW ENERGY
14 IMPROVEMENT BASED ON THE COST TO THE DISTRICT OF THE NEW ENERGY
15 IMPROVEMENT. THE DISTRICT SHALL INITIATE THE LEVY OF ANY
16 ASSESSMENT BY THE ADOPTION OF A RESOLUTION OF THE BOARD THAT
17 SETS THE ASSESSMENT, APPROVES THE PREPARATION OF A PRELIMINARY
18 ASSESSMENT ROLL, AND SETS A DATE FOR A PUBLIC HEARING REGARDING
19 THE ASSESSMENT ROLL. THE DISTRICT SHALL PREPARE A PRELIMINARY
20 ASSESSMENT ROLL LISTING ALL SPECIAL ASSESSMENTS TO BE LEVIED. THE
21 DISTRICT MAY POST NOTICE OF THE HEARING ON THE ASSESSMENT ON ANY
22 DISTRICT INTERNET WEB SITE AND SHALL SEND NOTICE THAT THE
23 ASSESSMENT ROLL HAS BEEN COMPLETED AND NOTICE OF A HEARING ON
24 THE ASSESSMENT ROLL NO LATER THAN THIRTY DAYS BEFORE THE
25 HEARING DATE TO:

26 (I) EACH DISTRICT MEMBER AT THE POSTAL ADDRESS OR
27 ELECTRONIC MAIL ADDRESS, OR BOTH IF BOTH ARE SPECIFIED, SPECIFIED

1 IN THE MEMBER'S PROGRAM APPLICATION; AND

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

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

7 (I) THE AMOUNT OF THE SPECIAL ASSESSMENT PROPOSED TO BE
8 LEVIED ON THE UNIT OF ELIGIBLE REAL PROPERTY OWNED BY THE DISTRICT
9 MEMBER OR SUBJECTED TO A LIEN BY THE LIENHOLDER TO WHOM THE
10 NOTICE IS SENT;

11 (II) THAT ANY COMPLAINTS OR OBJECTIONS THAT ARE MADE BY
12 A DISTRICT MEMBER OR LIENHOLDER IN WRITING TO THE BOARD, AND
13 FILED IN WRITING ON OR PRIOR TO THE DATE OF THE HEARING, WILL BE
14 HEARD AND DETERMINED BY THE BOARD BEFORE THE PASSAGE OF ANY
15 RESOLUTION LEVYING A SPECIAL ASSESSMENT; AND

16 (III) THE DATE WHEN AND PLACE WHERE THE HEARING WILL BE
17 HELD AT WHICH COMPLAINTS OR OBJECTIONS MADE IN PERSON WILL BE
18 HEARD.

19 (c) FOLLOWING THE HEARING REQUIRED BY PARAGRAPH (a) OF
20 THIS SUBSECTION (3) AND NOTICE PURSUANT TO PARAGRAPHS (a) AND (b)
21 OF THIS SUBSECTION (3), THE BOARD SHALL ADOPT A RESOLUTION
22 RESOLVING ALL COMPLAINTS OR OBJECTIONS MADE AND LEVYING THE
23 SPECIAL ASSESSMENTS. A DISTRICT MEMBER OR LIENHOLDER WHOSE
24 COMPLAINT OR OBJECTION IS DENIED BY THE BOARD SHALL HAVE THIRTY
25 DAYS FROM THE DATE OF THE DENIAL TO APPEAL THE DENIAL TO A COURT
26 OF COMPETENT JURISDICTION. THEREAFTER, THE COMPLAINT OR
27 OBJECTION SHALL BE PERPETUALLY BARRED.

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

16 (5) ALL SPECIAL ASSESSMENTS SHALL BE DUE AND PAYABLE
17 WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THE ASSESSING
18 RESOLUTION WITHOUT DEMAND, BUT ALL SUCH ASSESSMENTS MAY BE
19 PAID, AT THE ELECTION OF THE OWNER, IN INSTALLMENTS WITH INTEREST
20 AS PROVIDED IN SUBSECTION (6) OF THIS SECTION; EXCEPT THAT THE
21 BOARD MAY PROVIDE THAT SPECIAL ASSESSMENTS BE DUE AND PAYABLE
22 AT SUCH ALTERNATE TIME AS SET FORTH IN THE ASSESSING RESOLUTION.
23 FAILURE OF A DISTRICT MEMBER TO PAY THE WHOLE SPECIAL ASSESSMENT
24 WITHIN SAID PERIOD OF THIRTY DAYS SHALL BE CONCLUSIVELY
25 CONSIDERED AND HELD TO BE AN ELECTION ON THE PART OF THE DISTRICT
26 MEMBER TO PAY IN INSTALLMENTS.

27 (6) IN CASE OF AN ELECTION TO PAY IN INSTALLMENTS, THE

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

13 (7) FAILURE TO PAY ANY INSTALLMENT ON SPECIAL ASSESSMENTS,
14 WHETHER OF PRINCIPAL OR INTEREST, WHEN DUE SHALL GIVE THE
15 DISTRICT THE RIGHT TO DECLARE THE DELINQUENT INSTALLMENTS DUE
16 AND COLLECTIBLE IMMEDIATELY, AND UPON SUCH A DECLARATION THE
17 WHOLE AMOUNT OF THE UNPAID PRINCIPAL AND ACCRUED INTEREST
18 SHALL THEREAFTER DRAW INTEREST AT THE RATE ESTABLISHED
19 PURSUANT TO SECTION 5-12-106 (2) AND (3), C.R.S., UNTIL THE DAY OF
20 SALE. AT ANY TIME PRIOR TO THE DAY OF SALE, THE DISTRICT
21 MEMBER MAY PAY THE AMOUNT OF ALL UNPAID INSTALLMENTS, WITH
22 INTEREST AT THE PENALTY RATE SET BY THE ASSESSING RESOLUTION, AND
23 ALL COSTS OF COLLECTION ACCRUED AND SHALL THEREUPON BE
24 RESTORED TO THE RIGHT THEREAFTER TO PAY IN INSTALLMENTS IN THE
25 SAME MANNER AS IF DEFAULT HAD NOT BEEN SUFFERED. A DISTRICT
26 MEMBER NOT IN DEFAULT AS TO ANY INSTALLMENT OR PAYMENT MAY, AT
27 ANY TIME, PAY THE WHOLE OF THE UNPAID PRINCIPAL WITH THE INTEREST

1 ACCRUING TO THE MATURITY OF THE NEXT INSTALLMENT OF INTEREST OR
2 PRINCIPAL.

3 (8) (a) PAYMENT OF SPECIAL ASSESSMENTS MAY BE MADE TO A
4 COUNTY TREASURER AT ANY TIME WITHIN THIRTY DAYS AFTER THE
5 EFFECTIVE DATE OF THE ASSESSING RESOLUTION, AND THE COUNTY
6 TREASURER SHALL PROMPTLY FORWARD ALL SPECIAL ASSESSMENT
7 PAYMENTS RECEIVED TO THE DISTRICT. AT THE EXPIRATION OF THE
8 THIRTY-DAY PERIOD, EACH COUNTY TREASURER OF A COUNTY THAT
9 INCLUDES ELIGIBLE REAL PROPERTY IN THE DISTRICT SHALL RETURN THE
10 DISTRICT ASSESSMENT ROLL FOR THE COUNTY TO THE BOARD, THEREIN
11 SHOWING ALL PAYMENTS MADE THEREON, WITH THE DATE OF EACH
12 PAYMENT. THE ROLL SHALL BE CERTIFIED BY THE BOARD UNDER THE
13 SEAL OF THE BOARD AND BY THE BOARD DELIVERED TO EACH COUNTY
14 TREASURER, WITH THE TREASURER'S WARRANT FOR ITS COLLECTION. THE
15 COUNTY TREASURER SHALL RECEIPT THE ROLL, AND ALL SUCH ROLLS
16 SHALL BE NUMBERED OR IDENTIFIED BY COUNTY FOR CONVENIENT
17 REFERENCE.

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

25 **32-20-107. Special assessment constitutes lien - filing - sale of**
26 **property for nonpayment.** (1) A SPECIAL ASSESSMENT, TOGETHER
27 WITH ALL INTEREST THEREON AND PENALTIES FOR DEFAULT IN PAYMENT

1 THEREOF, AND ASSOCIATED COLLECTION COSTS SHALL CONSTITUTE, FROM
2 THE DATE OF THE RECORDING OF THE ASSESSING RESOLUTION AND
3 ASSESSMENT ROLL PURSUANT TO SUBSECTION (2) OF THIS SECTION, A
4 PERPETUAL LIEN IN THE AMOUNT ASSESSED AGAINST THE ASSESSED
5 ELIGIBLE REAL PROPERTY AND SHALL HAVE PRIORITY OVER ALL OTHER
6 LIENS; EXCEPT THAT GENERAL TAX LIENS SHALL HAVE PRIORITY OVER
7 DISTRICT SPECIAL ASSESSMENT LIENS, AND LIENS FOR ASSESSMENTS
8 IMPOSED BY OTHER GOVERNMENTAL ENTITIES SHALL HAVE COEQUAL
9 PRIORITY WITH DISTRICT SPECIAL ASSESSMENT LIENS. ■ ■ ■ NEITHER THE
10 SALE OF ELIGIBLE REAL PROPERTY IN THE DISTRICT TO ENFORCE THE
11 PAYMENT OF GENERAL AD VALOREM TAXES NOR THE ISSUANCE OF A
12 TREASURER'S DEED IN CONNECTION WITH SUCH A SALE SHALL EXTINGUISH
13 THE LIEN OF A SPECIAL ASSESSMENT. ■ ■ ■ IF ELIGIBLE REAL PROPERTY
14 ASSESSED IS SUBDIVIDED, THE ASSESSMENT LIEN MAY BE APPORTIONED BY
15 THE BOARD IN SUCH MANNER AS MAY BE PROVIDED IN THE ASSESSING
16 RESOLUTION.

17 (2) THE DISTRICT SHALL TRANSMIT TO A COUNTY CLERK AND
18 RECORDER OF A COUNTY THAT INCLUDES ELIGIBLE REAL PROPERTY
19 INCLUDED IN THE DISTRICT COPIES OF THE DISTRICT'S ASSESSING
20 RESOLUTION AFTER ITS FINAL ADOPTION BY THE BOARD AND THE
21 ASSESSMENT ROLL FOR RECORDING ON THE LAND RECORDS OF EACH UNIT
22 OF ELIGIBLE REAL PROPERTY ASSESSED WITHIN THE COUNTY AS PROVIDED
23 IN ARTICLE 30, 35, OR 36 OF TITLE 38, C.R.S. IN ADDITION, THE COUNTY
24 CLERK AND RECORDER SHALL FILE COPIES OF THE ASSESSING RESOLUTION,
25 AFTER ITS FINAL ADOPTION BY THE BOARD, AND THE ASSESSMENT ROLL
26 WITH THE COUNTY ASSESSOR AND THE COUNTY TREASURER. THE COUNTY
27 ASSESSOR IS AUTHORIZED TO CREATE SEPARATE SCHEDULES FOR EACH

1 UNIT OF ELIGIBLE REAL PROPERTY ASSESSED WITHIN THE COUNTY
2 PURSUANT TO THE RESOLUTION.

3 (3) NO DELAYS, MISTAKES, ERRORS, OR IRREGULARITIES IN ANY
4 ACT OR PROCEEDING AUTHORIZED OR REQUIRED BY THIS ARTICLE SHALL
5 PREJUDICE OR INVALIDATE ANY FINAL ASSESSMENT, AND SUCH MISTAKES,
6 ERRORS, OR IRREGULARITIES MAY BE REMEDIED BY SUBSEQUENT FILINGS,
7 AMENDING ACTS, OR PROCEEDINGS. A REMEDIED ASSESSMENT SHALL
8 TAKE EFFECT AS OF THE DATE OF THE ORIGINAL FILING, ACT, OR
9 PROCEEDING. IF A COURT OF COMPETENT JURISDICTION SETS ASIDE ANY
10 FINAL ASSESSMENT OR IF, FOR ANY OTHER REASON, THE BOARD
11 DETERMINES IT TO BE NECESSARY TO ALTER ANY FINAL ASSESSMENT, THE
12 BOARD, UPON NOTICE AS REQUIRED IN THE MAKING OF AN ORIGINAL
13 ASSESSMENT, MAY MAKE A NEW ASSESSMENT IN ACCORDANCE WITH THE
14 PROVISIONS OF THIS ARTICLE.

15 (4) (a) IN CASE OF DEFAULT IN THE PAYMENT OF ANY
16 INSTALLMENT OF PRINCIPAL OR INTEREST WHEN DUE, THE COUNTY
17 TREASURER SHALL ADVERTISE AND SELL THE ASSESSED ELIGIBLE REAL
18 PROPERTY TAX LIEN DEFAULTED UPON FOR THE PAYMENT OF THE WHOLE
19 OF THE UNPAID INSTALLMENT OF PRINCIPAL AND INTEREST.
20 ADVERTISEMENTS AND SALES SHALL BE MADE AT THE SAME TIMES, IN THE
21 SAME MANNER, UNDER ALL THE SAME CONDITIONS AND PENALTIES, AND
22 WITH THE SAME EFFECT AS PROVIDED BY GENERAL LAW FOR SALES OF
23 REAL ESTATE TAX LIENS IN DEFAULT OF PAYMENT OF THE GENERAL
24 PROPERTY TAX.

25 (b) AT ANY SALE BY A COUNTY TREASURER OF ANY ELIGIBLE REAL
26 PROPERTY FOR THE PURPOSE OF PAYING A SPECIAL ASSESSMENT, THE
27 BOARD MAY PURCHASE THE PROPERTY FOR THE DISTRICT WITHOUT

1 PAYING FOR THE PROPERTY IN CASH AND SHALL RECEIVE CERTIFICATES OF
2 PURCHASE FOR THE PROPERTY IN THE NAME OF THE DISTRICT. THE
3 CERTIFICATES SHALL BE RECEIVED AND CREDITED AT THEIR FACE VALUE,
4 WITH ALL INTEREST AND PENALTIES ACCRUED, ON ACCOUNT OF THE
5 ASSESSMENT INSTALLMENT IN PURSUANCE OF WHICH THE SALE WAS
6 MADE. THE CERTIFICATES MAY THEREAFTER BE SOLD BY THE BOARD AT
7 THEIR FACE VALUE, WITH ALL INTEREST AND PENALTIES ACCRUED, AND
8 ASSIGNED TO THE PURCHASER IN THE NAME OF THE DISTRICT. THE
9 PROCEEDS OF THE SALE SHALL BE CREDITED TO THE FUND CREATED BY
10 RESOLUTION FOR THE PAYMENT OF SUCH ASSESSMENTS RESPECTIVELY. IF
11 THE DISTRICT HAS REPAID ALL SPECIAL ASSESSMENT BONDS IN FULL, THE
12 CERTIFICATES MAY BE SOLD BY THE BOARD FOR THE BEST PRICE
13 OBTAINABLE AT PUBLIC SALE, AT AUCTION, OR BY SEALED BIDS IN THE
14 SAME MANNER AND UNDER THE SAME CONDITIONS AS PROVIDED IN
15 PARAGRAPH (d) OF THIS SUBSECTION (4). SUCH ASSIGNMENTS SHALL BE
16 WITHOUT RECOURSE, AND THE SALE AND ASSIGNMENTS SHALL OPERATE
17 AS A LIEN IN FAVOR OF THE PURCHASER AND ASSIGNEE AS IS PROVIDED BY
18 LAW IN THE CASE OF SALE OF REAL ESTATE IN DEFAULT OF PAYMENT OF
19 THE GENERAL PROPERTY TAX.

20 (c) THE BOARD, AS A PURCHASER, HAS THE RIGHT TO APPLY FOR
21 TAX DEEDS ON CERTIFICATES OF PURCHASE AT ANY TIME AFTER THREE
22 YEARS FROM THE DATE OF ISSUANCE OF THE CERTIFICATES, AND THE
23 DEEDS SHALL BE ISSUED AS PROVIDED BY LAW FOR ISSUANCE OF TAX
24 DEEDS FOR THE NONPAYMENT OF THE GENERAL PROPERTY TAX.

25 (d) CUMULATIVELY WITH ALL OTHER REMEDIES, THE DISTRICT, AS
26 THE OWNER OF PROPERTY BY VIRTUE OF A TAX DEED OR OF PROPERTY
27 OTHERWISE ACQUIRED, IN SATISFACTION OR DISCHARGE OF THE LIENS

1 REPRESENTED BY CERTIFICATES OF SALE, MAY SELL THE PROPERTY FOR
2 THE BEST PRICE OBTAINABLE AT PUBLIC SALE, AT AUCTION, OR BY SEALED
3 BIDS. A SALE SHALL BE HELD AFTER PUBLIC NOTICE BY THE BOARD TO ALL
4 PERSONS HAVING OR CLAIMING ANY INTEREST IN THE ELIGIBLE REAL
5 PROPERTY TO BE SOLD OR IN THE PROCEEDS OF THE SALE BY PUBLICATION
6 OF THE NOTICE THREE TIMES, A WEEK APART, IN A WEEKLY OR DAILY
7 NEWSPAPER OF GENERAL CIRCULATION WITHIN THE COUNTY IN WHICH THE
8 PROPERTY IS LOCATED. THE NOTICE SHALL DESCRIBE THE PROPERTY AND
9 STATE THE TIME, PLACE, AND MANNER OF RECEIVING BIDS; EXCEPT THAT
10 THE TIME FIXED FOR THE SALE SHALL NOT BE LESS THAN TEN DAYS AFTER
11 THE LAST PUBLICATION. THE BOARD MAY REJECT ANY AND ALL BIDS.
12 ANY INTERESTED PARTY, AT ANY TIME WITHIN TEN DAYS AFTER THE
13 RECEIPT OF BIDS FOR THE SALE OF PROPERTY, MAY FILE WITH THE BOARD
14 A WRITTEN PROTEST AS TO THE SUFFICIENCY OF THE AMOUNT OF ANY BID
15 MADE OR THE VALIDITY OF THE PROCEEDINGS FOR THE SALE. IF THE
16 PROTEST IS DENIED, THE PROTESTOR, WITHIN TEN DAYS THEREAFTER,
17 SHALL COMMENCE AN ACTION IN A COURT OF COMPETENT JURISDICTION
18 TO ENJOIN OR RESTRAIN THE BOARD FROM COMPLETING THE SALE. IF NO
19 SUCH ACTION IS COMMENCED, ALL PROTESTS OR OBJECTIONS TO THE SALE
20 SHALL BE WAIVED, AND THE BOARD SHALL THEN CONVEY THE PROPERTY
21 TO THE SUCCESSFUL BIDDER BY QUITCLAIM DEED.

22 (e) IN ADDITION TO ALL OTHER REMEDIES, THE DISTRICT, AS A
23 HOLDER OF CERTIFICATES OF PURCHASE, MAY BRING A CIVIL ACTION FOR
24 FORECLOSURE THEREOF IN ACCORDANCE WITH ARTICLE 38 OF TITLE 38,
25 C.R.S., JOINING AS DEFENDANTS ALL PERSONS HOLDING RECORD TITLE,
26 PERSONS OCCUPYING OR IN POSSESSION OF THE PROPERTY, PERSONS
27 HAVING OR CLAIMING ANY INTEREST IN THE PROPERTY OR IN THE

1 PROCEEDS OF A FORECLOSURE SALE, ALL GOVERNMENTAL TAXING UNITS
2 HAVING TAXES OR OTHER CLAIMS AGAINST THE PROPERTY, AND ALL
3 UNKNOWN PERSONS HAVING OR CLAIMING ANY INTEREST IN THE
4 PROPERTY. ANY NUMBER OF CERTIFICATES MAY BE FORECLOSED IN THE
5 SAME PROCEEDING. IN SUCH A PROCEEDING, THE DISTRICT, AS PLAINTIFF,
6 IS ENTITLED TO ALL RELIEF PROVIDED BY LAW IN ACTIONS FOR AN
7 ADJUDICATION OF RIGHTS WITH RESPECT TO REAL PROPERTY, INCLUDING
8 ACTIONS TO QUIET TITLE.

9 (f) THE PROCEEDS OF ANY SALE OF PROPERTY SHALL BE CREDITED
10 TO THE APPROPRIATE SPECIAL ASSESSMENT FUND. THE DISTRICT SHALL
11 DEDUCT THEREFROM THE NECESSARY EXPENSES IN SECURING DEEDS AND
12 TAKING PROCEEDINGS FOR THE SALE OR FORECLOSURE.

13 (5) WHEN THE DISTRICT HAS SOLD OR CONVEYED AT A FAIR
14 MARKET VALUE CERTIFICATES OF PURCHASE OR PROPERTY THAT THE
15 DISTRICT HAS ACQUIRED IN SATISFACTION OR DISCHARGE OF SPECIAL
16 ASSESSMENT LIENS, THE SALES AND CONVEYANCES ARE HEREBY
17 VALIDATED AND CONFIRMED AS AGAINST ALL PARTIES HAVING OR
18 CLAIMING ANY INTEREST IN THE PROPERTY OR SALE PROCEEDS.

19 **32-20-108. Special assessment bonds - legal investment -**
20 **exemption from taxation.** (1) THE DISTRICT SHALL ISSUE SPECIAL
21 ASSESSMENT BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT MORE
22 THAN EIGHT HUNDRED MILLION DOLLARS FOR THE PURPOSE OF
23 GENERATING THE MONEYS NEEDED TO MAKE REIMBURSEMENT OR A
24 DIRECT PAYMENT TO DISTRICT MEMBERS AND TO PAY OTHER COSTS OF THE
25 DISTRICT. THE BONDS SHALL BE ISSUED PURSUANT TO A RESOLUTION OF
26 THE BOARD OR A TRUST INDENTURE, SHALL NOT BE SECURED BY AN
27 ENCUMBRANCE, MORTGAGE, OR OTHER PLEDGE OF REAL OR PERSONAL

1 PROPERTY OF THE DISTRICT, AND SHALL BE PAYABLE FROM SPECIAL
2 ASSESSMENTS AND ANY OTHER LAWFULLY PLEDGED DISTRICT REVENUES
3 UNLESS THE BOND RESOLUTION OR TRUST INDENTURE SPECIFICALLY
4 LIMITS THE SOURCE OF DISTRICT REVENUES FROM WHICH THE BONDS ARE
5 PAYABLE. THE BONDS SHALL NOT CONSTITUTE A DEBT OR OTHER
6 FINANCIAL OBLIGATION OF THE STATE. THE BOARD MAY ADOPT ONE OR
7 MORE RESOLUTIONS CREATING SPECIAL ASSESSMENT UNITS COMPRISED OF
8 MULTIPLE UNITS OF ELIGIBLE REAL PROPERTY ON WHICH THE BOARD HAS
9 LEVIED A SPECIAL ASSESSMENT AND MAY ISSUE SPECIAL ASSESSMENT
10 BONDS PAYABLE FROM SPECIAL ASSESSMENTS IMPOSED WITHIN THE
11 ENTIRE DISTRICT OR FROM SPECIAL ASSESSMENTS IMPOSED ONLY WITHIN
12 ONE OR MORE SPECIFIED SPECIAL ASSESSMENT UNITS.

13 (2) BONDS MAY BE EXECUTED AND DELIVERED AT SUCH TIMES;
14 MAY BE IN SUCH FORM AND DENOMINATIONS AND INCLUDE SUCH TERMS
15 AND MATURITIES; MAY BE SUBJECT TO OPTIONAL OR MANDATORY
16 REDEMPTION PRIOR TO MATURITY WITH OR WITHOUT A PREMIUM; MAY BE
17 IN FULLY REGISTERED FORM OR BEARER FORM REGISTRABLE AS TO
18 PRINCIPAL OR INTEREST OR BOTH; MAY BEAR SUCH CONVERSION
19 PRIVILEGES; MAY BE PAYABLE IN SUCH INSTALLMENTS AND AT SUCH
20 TIMES NOT EXCEEDING TWENTY YEARS FROM THE DATE THEREOF; MAY BE
21 PAYABLE AT SUCH PLACE OR PLACES WHETHER WITHIN OR WITHOUT THE
22 STATE; MAY BEAR INTEREST AT SUCH RATE OR RATES PER ANNUM, WHICH
23 MAY BE FIXED OR VARY ACCORDING TO INDEX, PROCEDURE, OR FORMULA
24 OR AS DETERMINED BY THE DISTRICT WITHOUT REGARD TO ANY INTEREST
25 RATE LIMITATION APPEARING IN ANY OTHER LAW OF THE STATE; MAY BE
26 SUBJECT TO PURCHASE AT THE OPTION OF THE HOLDER OR THE DISTRICT;
27 MAY BE EVIDENCED IN SUCH MANNER; MAY BE EXECUTED BY SUCH

1 OFFICERS OF THE DISTRICT, INCLUDING THE USE OF ONE OR MORE
2 FACSIMILE SIGNATURES SO LONG AS AT LEAST ONE MANUAL SIGNATURE
3 APPEARS ON THE BONDS, WHICH MAY BE EITHER OF THE CHAIR OF THE
4 BOARD OR OF AN AGENT OF THE DISTRICT AUTHENTICATING THE SAME;
5 MAY BE IN THE FORM OF COUPON BONDS THAT HAVE ATTACHED INTEREST
6 COUPONS BEARING A MANUAL OR FACSIMILE SIGNATURE OF THE CHAIR OR
7 THE AGENT; AND MAY CONTAIN SUCH PROVISIONS NOT INCONSISTENT
8 WITH THIS ARTICLE, ALL AS PROVIDED IN THE RESOLUTION OF THE BOARD
9 UNDER WHICH THE BONDS ARE AUTHORIZED TO BE ISSUED OR AS
10 PROVIDED IN A TRUST INDENTURE BETWEEN THE DISTRICT AND ANY BANK
11 OR TRUST COMPANY HAVING FULL TRUST POWERS.

12 (3) BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT SUCH
13 PRICE OR PRICES, IN SUCH MANNER, AND AT SUCH TIMES AS DETERMINED
14 BY THE DISTRICT, AND THE DISTRICT MAY PAY ALL FEES, EXPENSES, AND
15 COMMISSIONS THAT IT DEEMS NECESSARY OR ADVANTAGEOUS IN
16 CONNECTION WITH THE SALE OF THE BONDS. THE POWER TO FIX THE DATE
17 OF SALE OF THE BONDS, TO RECEIVE BIDS OR PROPOSALS, TO AWARD AND
18 SELL BONDS, TO FIX INTEREST RATES, AND TO TAKE ALL OTHER ACTION
19 NECESSARY TO SELL AND DELIVER THE BONDS MAY BE DELEGATED TO AN
20 OFFICER OR AGENT OF THE DISTRICT. ANY OUTSTANDING BONDS MAY BE
21 REFUNDED BY THE DISTRICT PURSUANT TO ARTICLE 56 OF TITLE 11, C.R.S.
22 ALL BONDS AND ANY INTEREST COUPONS APPLICABLE THERETO ARE
23 DECLARED TO BE NEGOTIABLE INSTRUMENTS.

24 (4) THE RESOLUTION OR A TRUST INDENTURE AUTHORIZING THE
25 ISSUANCE OF THE BONDS MAY PLEDGE ALL OR A PORTION OF ANY SPECIAL
26 FUND CREATED BY THE DISTRICT, MAY CONTAIN SUCH PROVISIONS FOR
27 PROTECTING AND ENFORCING THE RIGHTS AND REMEDIES OF HOLDERS OF

1 ANY OF THE BONDS AS THE DISTRICT DEEMS APPROPRIATE, MAY SET FORTH
2 THE RIGHTS AND REMEDIES OF THE HOLDERS OF ANY OF THE BONDS, AND
3 MAY CONTAIN PROVISIONS THAT THE DISTRICT DEEMS APPROPRIATE FOR
4 THE SECURITY OF THE HOLDERS OF THE BONDS, INCLUDING, BUT NOT
5 LIMITED TO, PROVISIONS FOR LETTERS OF CREDIT, INSURANCE, STANDBY
6 CREDIT AGREEMENTS, OR OTHER FORMS OF CREDIT ENSURING TIMELY
7 PAYMENT OF THE BONDS, INCLUDING THE REDEMPTION PRICE OR THE
8 PURCHASE PRICE. THE RESOLUTION OR TRUST INDENTURE SHALL CONTAIN
9 A PROVISION THAT STATES THAT THE BONDS DO NOT CONSTITUTE A DEBT
10 OR OTHER FINANCIAL OBLIGATION OF THE STATE, AND THE SAME OR A
11 SIMILAR PROVISION SHALL ALSO APPEAR ON THE BONDS.

12 (5) ANY PLEDGE OF MONEYS OR OTHER PROPERTY MADE BY THE
13 DISTRICT OR BY ANY PERSON OR GOVERNMENTAL UNIT WITH WHICH THE
14 DISTRICT CONTRACTS SHALL BE VALID AND BINDING FROM THE TIME THE
15 PLEDGE IS MADE. THE MONEYS OR OTHER PROPERTY SO PLEDGED SHALL
16 IMMEDIATELY BE SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY
17 PHYSICAL DELIVERY OR FURTHER ACT, AND THE LIEN OF THE PLEDGE
18 SHALL BE VALID AND BINDING AGAINST ALL PARTIES HAVING CLAIMS OF
19 ANY KIND IN TORT, CONTRACT, OR OTHERWISE AGAINST THE PLEDGING
20 PARTY REGARDLESS OF WHETHER THE CLAIMING PARTY HAS NOTICE OF
21 THE LIEN. THE INSTRUMENT BY WHICH THE PLEDGE IS CREATED NEED NOT
22 BE RECORDED OR FILED.

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

27 (7) THE DISTRICT MAY PURCHASE ITS BONDS OUT OF ANY

1 AVAILABLE MONEYS AND MAY HOLD, PLEDGE, CANCEL, OR RESELL SUCH
2 BONDS SUBJECT TO AND IN ACCORDANCE WITH AGREEMENTS WITH THE
3 HOLDERS THEREOF.

4 (8) THE STATE HEREBY PLEDGES AND AGREES WITH THE HOLDERS
5 OF ANY BONDS AND WITH THOSE PARTIES WHO ENTER INTO CONTRACTS
6 WITH THE DISTRICT PURSUANT TO THIS ARTICLE THAT THE STATE WILL NOT
7 LIMIT, ALTER, RESTRICT, OR IMPAIR THE RIGHTS VESTED IN THE DISTRICT
8 OR THE RIGHTS OR OBLIGATIONS OF ANY PERSON WITH WHICH THE
9 DISTRICT CONTRACTS TO FULFILL THE TERMS OF ANY AGREEMENTS MADE
10 PURSUANT TO THIS ARTICLE. THE STATE FURTHER AGREES THAT IT WILL
11 NOT IN ANY WAY IMPAIR THE RIGHTS OR REMEDIES OF THE HOLDERS OF
12 BONDS UNTIL THE BONDS HAVE BEEN PAID OR UNTIL ADEQUATE PROVISION
13 FOR PAYMENT HAS BEEN MADE. THE DISTRICT MAY INCLUDE THIS
14 PROVISION AND UNDERTAKING FOR THE DISTRICT IN ITS BONDS.

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

23 (10) BONDS SHALL BE EXEMPT FROM ALL TAXATION AND
24 ASSESSMENTS IN THE STATE. IN THE RESOLUTION OR INDENTURE
25 AUTHORIZING BONDS, THE DISTRICT MAY WAIVE THE EXEMPTION FROM
26 FEDERAL INCOME TAXATION FOR INTEREST ON THE BONDS. BONDS SHALL
27 BE EXEMPT FROM THE PROVISIONS OF ARTICLE 51 OF TITLE 11, C.R.S. THE

1 BOARD MAY ELECT TO APPLY ANY OR ALL OF THE PROVISIONS OF THE
2 "SUPPLEMENTAL PUBLIC SECURITIES ACT", PART 2 OF ARTICLE 57 OF
3 TITLE 11, C.R.S.

4 **32-20-109. Credit towards demand-side management goals for**
5 **public utilities.** FOR ANY GAS UTILITY OR ELECTRIC UTILITY FOR WHICH
6 THE PUBLIC UTILITIES COMMISSION HAS DEVELOPED EXPENDITURE AND
7 NATURAL GAS SAVINGS TARGETS PURSUANT TO SECTION 40-3.2-103,
8 C.R.S., OR ESTABLISHED ENERGY SAVING AND PEAK DEMAND REDUCTION
9 GOALS PURSUANT TO SECTION 40-3.2-104, C.R.S., THE COMMISSION
10 SHALL DETERMINE THE EXTENT TO WHICH THE MARKETING,
11 PROMOTIONAL, AND OTHER EFFORTS OF THE UTILITY HAVE CONTRIBUTED
12 TO ENERGY EFFICIENCY IMPROVEMENTS FUNDED BY THE DISTRICT. TO
13 THE EXTENT THAT THE COMMISSION FINDS THAT THE UTILITY'S EFFORTS
14 HAVE CREATED ENERGY SAVINGS, THE COMMISSION SHALL ALLOW THE
15 UTILITY TO COUNT THE RELATED ENERGY SAVINGS TOWARDS COMPLIANCE
16 WITH THE GAS UTILITY'S EXPENDITURE AND NATURAL GAS SAVINGS
17 TARGETS OR WITH THE ELECTRIC UTILITY'S ENERGY SAVINGS AND PEAK
18 DEMAND REDUCTION GOALS, AS APPLICABLE, USING ANY METHOD DEEMED
19 APPROPRIATE BY THE COMMISSION.

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

24 (2) IN ACCORDANCE WITH SECTION 32-20-108 (8), THIS ARTICLE
25 SHALL NOT BE REPEALED AS PROVIDED IN SUBSECTION (1) OF THIS SECTION
26 IF THE DISTRICT HAS ISSUED BONDS THAT HAVE NOT BEEN REPAID IN FULL
27 AS OF JANUARY 1, 2016. HOWEVER, THE DISTRICT SHALL NOT ACCEPT

1 ANY NEW APPLICATION FOR THE PROGRAM OR ISSUE ANY ADDITIONAL
2 BONDS ON OR AFTER JANUARY 1, 2016.

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

6 **2-3-120. Periodic performance audits of Colorado new energy**
7 **improvement district and new energy improvement program -**
8 **reports.** NO LATER THAN JUNE 30, 2014, AND NO LATER THAN JUNE 30
9 OF EVERY FIFTH YEAR THEREAFTER, THE STATE AUDITOR SHALL CONDUCT
10 OR CAUSE TO BE CONDUCTED A PERFORMANCE AUDIT OF THE COLORADO
11 NEW ENERGY IMPROVEMENT DISTRICT CREATED IN SECTION 32-20-104 (1),
12 C.R.S., AND THE NEW ENERGY IMPROVEMENT PROGRAM ESTABLISHED BY
13 THE DISTRICT PURSUANT TO SECTION 32-20-105 (3), C.R.S. THE STATE
14 AUDITOR SHALL PREPARE A REPORT AND RECOMMENDATIONS ON EACH
15 AUDIT CONDUCTED AND SHALL PRESENT THE REPORT AND
16 RECOMMENDATIONS TO THE COMMITTEE.

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

19 **31-25-1102. Definitions.** As used in this part 11, unless the
20 context otherwise requires:

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

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