

**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.**

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 CLIMATE CHANGE;

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, THAT DIRECTLY BENEFIT
9 ELIGIBLE REAL PROPERTY THROUGH A QUALIFIED COMMUNITY LOCATION,
10 AS DEFINED IN SECTION 30-20-602 (4.3), C.R.S., ENACTED BY SENATE
11 BILL 10-100, ENACTED IN 2010, OR THAT ARE INSTALLED BEHIND THE
12 METER OF ANY ELIGIBLE REAL PROPERTY AND THAT PRODUCE ENERGY
13 FROM RENEWABLE RESOURCES, INCLUDING, BUT NOT LIMITED TO,
14 PHOTOVOLTAIC, SOLAR THERMAL, SMALL WIND, LOW-IMPACT
15 HYDROELECTRIC, BIOMASS, OR GEOTHERMAL SYSTEMS SUCH AS GROUND
16 SOURCE HEAT PUMPS, AS MAY BE APPROVED BY THE DISTRICT; EXCEPT
17 THAT NO RENEWABLE ENERGY IMPROVEMENT SHALL BE AUTHORIZED
18 THAT INTERFERES WITH A RIGHT HELD BY A PUBLIC UTILITY UNDER A
19 CERTIFICATE ISSUED BY THE PUBLIC UTILITIES COMMISSION UNDER
20 ARTICLE 5 OF TITLE 40, C.R.S. NOTHING IN THIS ARTICLE SHALL LIMIT
21 THE RIGHT OF A PUBLIC UTILITY, SUBJECT TO ARTICLE 3 OR 3.5 OF TITLE
22 40, C.R.S., OR SECTION 40-9.5-106, C.R.S., TO ASSESS FEES FOR THE USE
23 OF ITS FACILITIES OR MODIFY OR EXPAND THE NET METERING LIMITATIONS
24 ESTABLISHED IN SECTIONS 40-9.5-118 AND 40-2-124 (7), C.R.S. PRIMARY
25 JURISDICTION TO HEAR ANY DISPUTES AS TO WHETHER A RENEWABLE
26 ENERGY IMPROVEMENT INTERFERES WITH SUCH A RIGHT SHALL LIE:

27 (a) IN THE CASE OF A REGULATED UTILITY, WITH THE PUBLIC

1 UTILITIES COMMISSION; AND

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

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

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

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

24 **32-20-104. Colorado new energy improvement district -**
25 **creation - board - meetings - quorum - expenses - records.** (1) THE
26 COLORADO NEW ENERGY IMPROVEMENT DISTRICT IS HEREBY CREATED AS
27 AN INDEPENDENT PUBLIC BODY CORPORATE, AND THE BOUNDARIES OF THE

1 DISTRICT SHALL INCLUDE THE ELIGIBLE REAL PROPERTY THAT IS OWNED
2 BY A PERSON WHO HAS VOLUNTARILY JOINED THE DISTRICT. THE DISTRICT
3 CONSTITUTES A PUBLIC INSTRUMENTALITY, AND ITS EXERCISE OF THE
4 POWERS CONFERRED BY THIS ARTICLE SHALL BE DEEMED AND HELD TO BE
5 THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION, BUT THE
6 DISTRICT:

7 (a) SHALL NOT BE AN AGENCY OF STATE GOVERNMENT OR OF ANY
8 LOCAL GOVERNMENT;

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

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

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

20 (I) THE FOLLOWING TWO EX OFFICIO MEMBERS OR THEIR
21 DESIGNEES:

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

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

26 (II) THE FOLLOWING FIVE MEMBERS APPOINTED BY THE
27 GOVERNOR:

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

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

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

8 (D) ONE MEMBER WHO REPRESENTS THE ENERGY EFFICIENCY
9 INDUSTRY; AND

10 (E) ONE MEMBER WHO REPRESENTS LOCAL GOVERNMENTS;

11 (III) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE
12 WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN THE RENEWABLE ENERGY
13 INDUSTRY;

14 (IV) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF
15 REPRESENTATIVES WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN THE
16 FINANCIAL INDUSTRY;

17 (V) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE
18 SENATE WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN THE UTILITY
19 INDUSTRY; AND

20 (VI) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE
21 HOUSE OF REPRESENTATIVES WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN
22 THE HOUSING INDUSTRY.

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

27 (c) (I) NOTWITHSTANDING ANY OTHER LAW, IT IS NOT A CONFLICT

1 OF INTEREST FOR A TRUSTEE, DIRECTOR, OFFICER, OR EMPLOYEE OF ANY
2 PUBLIC UTILITY, FINANCIAL INSTITUTION, INVESTMENT BANKING FIRM,
3 BROKERAGE FIRM, COMMERCIAL BANK OR TRUST COMPANY, INSURANCE
4 COMPANY, LAW FIRM, OR OTHER FIRM, CORPORATION, OR BUSINESS
5 ENTITY TO SERVE AS A BOARD MEMBER, THE EXECUTIVE DIRECTOR OF THE
6 DISTRICT, OR AN EMPLOYEE OF THE DISTRICT. HOWEVER, A BOARD
7 MEMBER, EXECUTIVE DIRECTOR, OR OTHER EMPLOYEE WHO IS ALSO SUCH
8 A TRUSTEE, DIRECTOR, OFFICER, OR EMPLOYEE SHALL DISCLOSE HIS OR
9 HER BUSINESS AFFILIATION TO THE BOARD AND SHALL ABSTAIN FROM
10 VOTING OR OTHERWISE TAKING ACTION IN ANY INSTANCE IN WHICH HIS OR
11 HER BUSINESS AFFILIATION IS DIRECTLY INVOLVED.

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

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

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

1 BOARD.

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

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

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

27 (7) BECAUSE THE DISTRICT IS NOT A PART OF STATE GOVERNMENT

1 OR A COUNTY OR MUNICIPALITY, NEITHER THE DISTRICT NOR ANY MEMBER
2 OF THE BOARD, EXECUTIVE DIRECTOR OF THE DISTRICT, OR EMPLOYEE OF
3 THE DISTRICT SHALL BE SUBJECT TO THE PROVISIONS OF ARTICLE XXIX OF
4 THE STATE CONSTITUTION.

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

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

- 23 (a) TO HAVE PERPETUAL EXISTENCE;
- 24 (b) TO HAVE AND USE A CORPORATE SEAL;
- 25 (c) TO ADOPT BYLAWS FOR THE REGULATION OF ITS AFFAIRS AND
26 CONDUCT OF ITS BUSINESS;
- 27 (d) TO SET AN ANNUAL BUDGET;

1 (e) TO SUE AND BE SUED AND TO BE A PARTY TO SUITS, ACTIONS,
2 AND PROCEEDINGS;

3 (f) TO ENTER INTO CONTRACTS AND AGREEMENTS NEEDED FOR ITS
4 FUNCTIONS OR OPERATIONS;

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

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

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

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

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

24 (k) IN ACCORDANCE WITH SECTIONS 32-20-106 TO 32-20-108, TO
25 ESTABLISH SPECIAL ASSESSMENT UNITS, LEVY AND COLLECT SPECIAL
26 ASSESSMENTS ON ELIGIBLE REAL PROPERTY SPECIALLY BENEFITED BY A
27 RENEWABLE ENERGY IMPROVEMENT FOR WHICH THE DISTRICT MADE

1 REIMBURSEMENT OR A DIRECT PAYMENT, AND ISSUE SPECIAL ASSESSMENT
2 BONDS;

3 (l) TO ACCEPT GIFTS AND DONATIONS AND APPLY FOR AND ACCEPT
4 GRANTS UPON SUCH TERMS OR CONDITIONS AS THE BOARD MAY APPROVE;
5 AND

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

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

1 PROGRAM, THE DISTRICT, ACTING DIRECTLY OR THROUGH A PROGRAM
2 ADMINISTRATOR OR SUCH OTHER AGENTS, EMPLOYEES, OR PROFESSIONALS
3 AS THE DISTRICT MAY APPOINT, HIRE, RETAIN, OR CONTRACT WITH, SHALL:

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

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

26 (c) ESTABLISH SUCH STANDARDS, GUIDELINES, AND PROCEDURES,
27 INCLUDING BUT NOT LIMITED TO STANDARDS OF CREDIT-WORTHINESS FOR

1 QUALIFICATION OF PROGRAM APPLICANTS, AS ARE NECESSARY TO ENSURE
2 THE FINANCIAL STABILITY OF THE PROGRAM AND OTHERWISE PREVENT
3 FRAUD AND ABUSE;

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

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

13 (f) TAKE APPROPRIATE STEPS TO ESTABLISH QUALIFICATIONS FOR
14 THE CERTIFICATION OF CONTRACTORS TO CONSTRUCT OR INSTALL NEW
15 ENERGY IMPROVEMENTS; AND

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

1 COMMITTEES REGARDING THE INFORMATION OBTAINED AS REQUIRED BY
2 THIS PARAGRAPH (g).

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

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

26 (2) FOR THE PURPOSE OF DETERMINING THE AMOUNT OF THE
27 SPECIAL ASSESSMENT TO BE LEVIED ON A PARTICULAR UNIT OF ELIGIBLE

1 REAL PROPERTY WITHIN THE DISTRICT, "SPECIAL BENEFIT" INCLUDES, BUT
2 IS NOT LIMITED TO:

3 (a) ANY INCREASE IN THE MARKET VALUE OF THE ELIGIBLE REAL
4 PROPERTY RESULTING FROM THE COMPLETION OF A NEW ENERGY
5 IMPROVEMENT;

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

8 (c) ANY REDUCTION IN ENERGY-RELATED UTILITY BILLS FOR THE
9 ELIGIBLE REAL PROPERTY CAUSED BY A QUANTIFIABLE REDUCTION IN THE
10 ENERGY CONSUMPTION OF THE ELIGIBLE REAL PROPERTY RESULTING FROM
11 THE COMPLETION OF A NEW ENERGY IMPROVEMENT; AND

12 (d) ANY ACKNOWLEDGED VALUE OF A NEW ENERGY
13 IMPROVEMENT TO A DISTRICT MEMBER'S ELIGIBLE REAL PROPERTY SET
14 FORTH IN THE PROGRAM APPLICATION SUBMITTED BY THE DISTRICT
15 MEMBER.

16 (3) (a) THE DISTRICT MAY LEVY A SPECIAL ASSESSMENT AGAINST
17 ELIGIBLE REAL PROPERTY SPECIALLY BENEFITED BY A NEW ENERGY
18 IMPROVEMENT BASED ON THE COST TO THE DISTRICT OF THE NEW ENERGY
19 IMPROVEMENT. THE DISTRICT SHALL INITIATE THE LEVY OF ANY
20 ASSESSMENT BY THE ADOPTION OF A RESOLUTION OF THE BOARD THAT
21 SETS THE ASSESSMENT, APPROVES THE PREPARATION OF A PRELIMINARY
22 ASSESSMENT ROLL, AND SETS A DATE FOR A PUBLIC HEARING REGARDING
23 THE ASSESSMENT ROLL. THE DISTRICT SHALL PREPARE A PRELIMINARY
24 ASSESSMENT ROLL LISTING ALL SPECIAL ASSESSMENTS TO BE LEVIED. THE
25 DISTRICT MAY POST NOTICE OF THE HEARING ON THE ASSESSMENT ON ANY
26 DISTRICT INTERNET WEB SITE AND SHALL SEND NOTICE THAT THE
27 ASSESSMENT ROLL HAS BEEN COMPLETED AND NOTICE OF A HEARING ON

1 THE ASSESSMENT ROLL NO LATER THAN THIRTY DAYS BEFORE THE
2 HEARING DATE TO:

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

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

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

11 (I) THE AMOUNT OF THE SPECIAL ASSESSMENT PROPOSED TO BE
12 LEVIED ON THE UNIT OF ELIGIBLE REAL PROPERTY OWNED BY THE DISTRICT
13 MEMBER OR SUBJECTED TO A LIEN BY THE LIENHOLDER TO WHOM THE
14 NOTICE IS SENT;

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

20 (III) THE DATE WHEN AND PLACE WHERE THE HEARING WILL BE
21 HELD AT WHICH COMPLAINTS OR OBJECTIONS MADE IN PERSON WILL BE
22 HEARD.

23 (c) FOLLOWING THE HEARING REQUIRED BY PARAGRAPH (a) OF
24 THIS SUBSECTION (3) AND NOTICE PURSUANT TO PARAGRAPHS (a) AND (b)
25 OF THIS SUBSECTION (3), THE BOARD SHALL ADOPT A RESOLUTION
26 RESOLVING ALL COMPLAINTS OR OBJECTIONS MADE AND LEVYING THE
27 SPECIAL ASSESSMENTS. A DISTRICT MEMBER OR LIENHOLDER WHOSE

1 COMPLAINT OR OBJECTION IS DENIED BY THE BOARD SHALL HAVE THIRTY
2 DAYS FROM THE DATE OF THE DENIAL TO APPEAL THE DENIAL TO A COURT
3 OF COMPETENT JURISDICTION. THEREAFTER, THE COMPLAINT OR
4 OBJECTION SHALL BE PERPETUALLY BARRED.

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

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

1 WITHIN SAID PERIOD OF THIRTY DAYS SHALL BE CONCLUSIVELY
2 CONSIDERED AND HELD TO BE AN ELECTION ON THE PART OF THE DISTRICT
3 MEMBER TO PAY IN INSTALLMENTS.

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

17 (7) FAILURE TO PAY ANY INSTALLMENT ON SPECIAL ASSESSMENTS,
18 WHETHER OF PRINCIPAL OR INTEREST, WHEN DUE SHALL GIVE THE
19 DISTRICT THE RIGHT TO DECLARE THE DELINQUENT INSTALLMENTS DUE
20 AND COLLECTIBLE IMMEDIATELY, AND UPON SUCH A DECLARATION THE
21 WHOLE AMOUNT OF THE UNPAID PRINCIPAL AND ACCRUED INTEREST
22 SHALL THEREAFTER DRAW INTEREST AT THE RATE ESTABLISHED
23 PURSUANT TO SECTION 5-12-106 (2) AND (3), C.R.S., UNTIL THE DAY OF
24 SALE. AT ANY TIME PRIOR TO THE DAY OF SALE, THE DISTRICT
25 MEMBER MAY PAY THE AMOUNT OF ALL UNPAID INSTALLMENTS, WITH
26 INTEREST AT THE PENALTY RATE SET BY THE ASSESSING RESOLUTION, AND
27 ALL COSTS OF COLLECTION ACCRUED AND SHALL THEREUPON BE

1 RESTORED TO THE RIGHT THEREAFTER TO PAY IN INSTALLMENTS IN THE
2 SAME MANNER AS IF DEFAULT HAD NOT BEEN SUFFERED. A DISTRICT
3 MEMBER NOT IN DEFAULT AS TO ANY INSTALLMENT OR PAYMENT MAY, AT
4 ANY TIME, PAY THE WHOLE OF THE UNPAID PRINCIPAL WITH THE INTEREST
5 ACCRUING TO THE MATURITY OF THE NEXT INSTALLMENT OF INTEREST OR
6 PRINCIPAL.

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

22 (b) THE OWNER OF ANY DIVIDED OR UNDIVIDED INTEREST IN
23 ELIGIBLE REAL PROPERTY ASSESSED MAY PAY THE OWNER'S SHARE OF ANY
24 ASSESSMENT, UPON PRODUCING EVIDENCE OF THE EXTENT OF THE
25 OWNER'S INTEREST SATISFACTORY TO THE TREASURER HAVING THE ROLL
26 IN CHARGE; EXCEPT THAT THE ASSESSMENT LIEN SHALL REMAIN ON THE
27 ENTIRE PROPERTY ASSESSED UNTIL THE ENTIRE ASSESSMENT IS PAID,

1 EXCEPT AS OTHERWISE PROVIDED PURSUANT TO SECTION 32-20-107.

2 **32-20-107. Special assessment constitutes lien - filing - sale of**
3 **property for nonpayment.** (1) A SPECIAL ASSESSMENT, TOGETHER
4 WITH ALL INTEREST THEREON AND PENALTIES FOR DEFAULT IN PAYMENT
5 THEREOF, AND ASSOCIATED COLLECTION COSTS SHALL CONSTITUTE, FROM
6 THE DATE OF THE RECORDING OF THE ASSESSING RESOLUTION AND
7 ASSESSMENT ROLL PURSUANT TO SUBSECTION (2) OF THIS SECTION, A
8 PERPETUAL LIEN IN THE AMOUNT ASSESSED AGAINST THE ASSESSED
9 ELIGIBLE REAL PROPERTY AND SHALL HAVE PRIORITY OVER ALL OTHER
10 LIENS; EXCEPT THAT GENERAL TAX LIENS SHALL HAVE PRIORITY OVER
11 DISTRICT SPECIAL ASSESSMENT LIENS, AND LIENS FOR ASSESSMENTS
12 IMPOSED BY OTHER GOVERNMENTAL ENTITIES SHALL HAVE COEQUAL
13 PRIORITY WITH DISTRICT SPECIAL ASSESSMENT LIENS. ~~NEITHER THE~~
14 ~~SALE OF ELIGIBLE REAL PROPERTY IN THE DISTRICT TO ENFORCE THE~~
15 ~~PAYMENT OF GENERAL AD VALOREM TAXES NOR THE ISSUANCE OF A~~
16 ~~TREASURER'S DEED IN CONNECTION WITH SUCH A SALE SHALL EXTINGUISH~~
17 ~~THE LIEN OF A SPECIAL ASSESSMENT.~~ IF ELIGIBLE REAL PROPERTY
18 ASSESSED IS SUBDIVIDED, THE ASSESSMENT LIEN MAY BE APPORTIONED BY
19 THE BOARD IN SUCH MANNER AS MAY BE PROVIDED IN THE ASSESSING
20 RESOLUTION.

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

1 AND ASSESSMENT ROLL SHALL BE INDEXED IN THE GRANTOR INDEX UNDER
2 THE NAME OF THE DISTRICT MEMBER AND IN THE GRANTEE INDEX UNDER
3 THE COLORADO NEW ENERGY IMPROVEMENT DISTRICT. IN ADDITION, THE
4 COUNTY CLERK AND RECORDER SHALL FILE COPIES OF THE ASSESSING
5 RESOLUTION, AFTER ITS FINAL ADOPTION BY THE BOARD, AND THE
6 ASSESSMENT ROLL WITH THE COUNTY ASSESSOR AND THE COUNTY
7 TREASURER. THE COUNTY ASSESSOR IS AUTHORIZED TO CREATE
8 SEPARATE SCHEDULES FOR EACH UNIT OF ELIGIBLE REAL PROPERTY
9 ASSESSED WITHIN THE COUNTY PURSUANT TO THE RESOLUTION.

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

22 (4) (a) IN CASE OF DEFAULT IN THE PAYMENT OF ANY
23 INSTALLMENT OF PRINCIPAL OR INTEREST WHEN DUE, THE COUNTY
24 TREASURER SHALL ADVERTISE AND SELL THE ASSESSED ELIGIBLE REAL
25 PROPERTY TAX LIEN DEFAULTED UPON FOR THE PAYMENT OF THE WHOLE
26 OF THE UNPAID INSTALLMENT OF PRINCIPAL AND INTEREST.
27 ADVERTISEMENTS AND SALES SHALL BE MADE AT THE SAME TIMES, IN THE

1 SAME MANNER, UNDER ALL THE SAME CONDITIONS AND PENALTIES, AND
2 WITH THE SAME EFFECT AS PROVIDED BY GENERAL LAW FOR SALES OF
3 REAL ESTATE TAX LIENS IN DEFAULT OF PAYMENT OF THE GENERAL
4 PROPERTY TAX.

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

27 (c) THE BOARD, AS A PURCHASER, HAS THE RIGHT TO APPLY FOR

1 TAX DEEDS ON CERTIFICATES OF PURCHASE AT ANY TIME AFTER THREE
2 YEARS FROM THE DATE OF ISSUANCE OF THE CERTIFICATES, AND THE
3 DEEDS SHALL BE ISSUED AS PROVIDED BY LAW FOR ISSUANCE OF TAX
4 DEEDS FOR THE NONPAYMENT OF THE GENERAL PROPERTY TAX.

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

1 TO THE SUCCESSFUL BIDDER BY QUITCLAIM DEED.

2 (e) IN ADDITION TO ALL OTHER REMEDIES, THE DISTRICT, AS A
3 HOLDER OF CERTIFICATES OF PURCHASE, MAY BRING A CIVIL ACTION FOR
4 FORECLOSURE THEREOF IN ACCORDANCE WITH ARTICLE 38 OF TITLE 38,
5 C.R.S., JOINING AS DEFENDANTS ALL PERSONS HOLDING RECORD TITLE,
6 PERSONS OCCUPYING OR IN POSSESSION OF THE PROPERTY, PERSONS
7 HAVING OR CLAIMING ANY INTEREST IN THE PROPERTY OR IN THE
8 PROCEEDS OF A FORECLOSURE SALE, ALL GOVERNMENTAL TAXING UNITS
9 HAVING TAXES OR OTHER CLAIMS AGAINST THE PROPERTY, AND ALL
10 UNKNOWN PERSONS HAVING OR CLAIMING ANY INTEREST IN THE
11 PROPERTY. ANY NUMBER OF CERTIFICATES MAY BE FORECLOSED IN THE
12 SAME PROCEEDING. IN SUCH A PROCEEDING, THE DISTRICT, AS PLAINTIFF,
13 IS ENTITLED TO ALL RELIEF PROVIDED BY LAW IN ACTIONS FOR AN
14 ADJUDICATION OF RIGHTS WITH RESPECT TO REAL PROPERTY, INCLUDING
15 ACTIONS TO QUIET TITLE.

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

20 (5) WHEN THE DISTRICT HAS SOLD OR CONVEYED AT A FAIR
21 MARKET VALUE CERTIFICATES OF PURCHASE OR PROPERTY THAT THE
22 DISTRICT HAS ACQUIRED IN SATISFACTION OR DISCHARGE OF SPECIAL
23 ASSESSMENT LIENS, THE SALES AND CONVEYANCES ARE HEREBY
24 VALIDATED AND CONFIRMED AS AGAINST ALL PARTIES HAVING OR
25 CLAIMING ANY INTEREST IN THE PROPERTY OR SALE PROCEEDS.

26 **32-20-108. Special assessment bonds - legal investment -**
27 **exemption from taxation.** (1) THE DISTRICT SHALL ISSUE SPECIAL

1 ASSESSMENT BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT MORE
2 THAN EIGHT HUNDRED MILLION DOLLARS FOR THE PURPOSE OF
3 GENERATING THE MONEYS NEEDED TO MAKE REIMBURSEMENT OR A
4 DIRECT PAYMENT TO DISTRICT MEMBERS AND TO PAY OTHER COSTS OF THE
5 DISTRICT. THE BONDS SHALL BE ISSUED PURSUANT TO A RESOLUTION OF
6 THE BOARD OR A TRUST INDENTURE, SHALL NOT BE SECURED BY AN
7 ENCUMBRANCE, MORTGAGE, OR OTHER PLEDGE OF REAL OR PERSONAL
8 PROPERTY OF THE DISTRICT, AND SHALL BE PAYABLE FROM SPECIAL
9 ASSESSMENTS AND ANY OTHER LAWFULLY PLEDGED DISTRICT REVENUES
10 UNLESS THE BOND RESOLUTION OR TRUST INDENTURE SPECIFICALLY
11 LIMITS THE SOURCE OF DISTRICT REVENUES FROM WHICH THE BONDS ARE
12 PAYABLE. THE BONDS SHALL NOT CONSTITUTE A DEBT OR OTHER
13 FINANCIAL OBLIGATION OF THE STATE. THE BOARD MAY ADOPT ONE OR
14 MORE RESOLUTIONS CREATING SPECIAL ASSESSMENT UNITS COMPRISED OF
15 MULTIPLE UNITS OF ELIGIBLE REAL PROPERTY ON WHICH THE BOARD HAS
16 LEVIED A SPECIAL ASSESSMENT AND MAY ISSUE SPECIAL ASSESSMENT
17 BONDS PAYABLE FROM SPECIAL ASSESSMENTS IMPOSED WITHIN THE
18 ENTIRE DISTRICT OR FROM SPECIAL ASSESSMENTS IMPOSED ONLY WITHIN
19 ONE OR MORE SPECIFIED SPECIAL ASSESSMENT UNITS.

20 (2) BONDS MAY BE EXECUTED AND DELIVERED AT SUCH TIMES;
21 MAY BE IN SUCH FORM AND DENOMINATIONS AND INCLUDE SUCH TERMS
22 AND MATURITIES; MAY BE SUBJECT TO OPTIONAL OR MANDATORY
23 REDEMPTION PRIOR TO MATURITY WITH OR WITHOUT A PREMIUM; MAY BE
24 IN FULLY REGISTERED FORM OR BEARER FORM REGISTRABLE AS TO
25 PRINCIPAL OR INTEREST OR BOTH; MAY BEAR SUCH CONVERSION
26 PRIVILEGES; MAY BE PAYABLE IN SUCH INSTALLMENTS AND AT SUCH
27 TIMES NOT EXCEEDING TWENTY YEARS FROM THE DATE THEREOF; MAY BE

1 PAYABLE AT SUCH PLACE OR PLACES WHETHER WITHIN OR WITHOUT THE
2 STATE; MAY BEAR INTEREST AT SUCH RATE OR RATES PER ANNUM, WHICH
3 MAY BE FIXED OR VARY ACCORDING TO INDEX, PROCEDURE, OR FORMULA
4 OR AS DETERMINED BY THE DISTRICT WITHOUT REGARD TO ANY INTEREST
5 RATE LIMITATION APPEARING IN ANY OTHER LAW OF THE STATE; MAY BE
6 SUBJECT TO PURCHASE AT THE OPTION OF THE HOLDER OR THE DISTRICT;
7 MAY BE EVIDENCED IN SUCH MANNER; MAY BE EXECUTED BY SUCH
8 OFFICERS OF THE DISTRICT, INCLUDING THE USE OF ONE OR MORE
9 FACSIMILE SIGNATURES SO LONG AS AT LEAST ONE MANUAL SIGNATURE
10 APPEARS ON THE BONDS, WHICH MAY BE EITHER OF THE CHAIR OF THE
11 BOARD OR OF AN AGENT OF THE DISTRICT AUTHENTICATING THE SAME;
12 MAY BE IN THE FORM OF COUPON BONDS THAT HAVE ATTACHED INTEREST
13 COUPONS BEARING A MANUAL OR FACSIMILE SIGNATURE OF THE CHAIR OR
14 THE AGENT; AND MAY CONTAIN SUCH PROVISIONS NOT INCONSISTENT
15 WITH THIS ARTICLE, ALL AS PROVIDED IN THE RESOLUTION OF THE BOARD
16 UNDER WHICH THE BONDS ARE AUTHORIZED TO BE ISSUED OR AS
17 PROVIDED IN A TRUST INDENTURE BETWEEN THE DISTRICT AND ANY BANK
18 OR TRUST COMPANY HAVING FULL TRUST POWERS.

19 (3) BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT SUCH
20 PRICE OR PRICES, IN SUCH MANNER, AND AT SUCH TIMES AS DETERMINED
21 BY THE DISTRICT, AND THE DISTRICT MAY PAY ALL FEES, EXPENSES, AND
22 COMMISSIONS THAT IT DEEMS NECESSARY OR ADVANTAGEOUS IN
23 CONNECTION WITH THE SALE OF THE BONDS. THE POWER TO FIX THE DATE
24 OF SALE OF THE BONDS, TO RECEIVE BIDS OR PROPOSALS, TO AWARD AND
25 SELL BONDS, TO FIX INTEREST RATES, AND TO TAKE ALL OTHER ACTION
26 NECESSARY TO SELL AND DELIVER THE BONDS MAY BE DELEGATED TO AN
27 OFFICER OR AGENT OF THE DISTRICT. ANY OUTSTANDING BONDS MAY BE

1 REFUNDED BY THE DISTRICT PURSUANT TO ARTICLE 56 OF TITLE 11, C.R.S.
2 ALL BONDS AND ANY INTEREST COUPONS APPLICABLE THERETO ARE
3 DECLARED TO BE NEGOTIABLE INSTRUMENTS.

4 (4) THE RESOLUTION OR A TRUST INDENTURE AUTHORIZING THE
5 ISSUANCE OF THE BONDS MAY PLEDGE ALL OR A PORTION OF ANY SPECIAL
6 FUND CREATED BY THE DISTRICT, MAY CONTAIN SUCH PROVISIONS FOR
7 PROTECTING AND ENFORCING THE RIGHTS AND REMEDIES OF HOLDERS OF
8 ANY OF THE BONDS AS THE DISTRICT DEEMS APPROPRIATE, MAY SET FORTH
9 THE RIGHTS AND REMEDIES OF THE HOLDERS OF ANY OF THE BONDS, AND
10 MAY CONTAIN PROVISIONS THAT THE DISTRICT DEEMS APPROPRIATE FOR
11 THE SECURITY OF THE HOLDERS OF THE BONDS, INCLUDING, BUT NOT
12 LIMITED TO, PROVISIONS FOR LETTERS OF CREDIT, INSURANCE, STANDBY
13 CREDIT AGREEMENTS, OR OTHER FORMS OF CREDIT ENSURING TIMELY
14 PAYMENT OF THE BONDS, INCLUDING THE REDEMPTION PRICE OR THE
15 PURCHASE PRICE. THE RESOLUTION OR TRUST INDENTURE SHALL CONTAIN
16 A PROVISION THAT STATES THAT THE BONDS DO NOT CONSTITUTE A DEBT
17 OR OTHER FINANCIAL OBLIGATION OF THE STATE, AND THE SAME OR A
18 SIMILAR PROVISION SHALL ALSO APPEAR ON THE BONDS.

19 (5) ANY PLEDGE OF MONEYS OR OTHER PROPERTY MADE BY THE
20 DISTRICT OR BY ANY PERSON OR GOVERNMENTAL UNIT WITH WHICH THE
21 DISTRICT CONTRACTS SHALL BE VALID AND BINDING FROM THE TIME THE
22 PLEDGE IS MADE. THE MONEYS OR OTHER PROPERTY SO PLEDGED SHALL
23 IMMEDIATELY BE SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY
24 PHYSICAL DELIVERY OR FURTHER ACT, AND THE LIEN OF THE PLEDGE
25 SHALL BE VALID AND BINDING AGAINST ALL PARTIES HAVING CLAIMS OF
26 ANY KIND IN TORT, CONTRACT, OR OTHERWISE AGAINST THE PLEDGING
27 PARTY REGARDLESS OF WHETHER THE CLAIMING PARTY HAS NOTICE OF

1 THE LIEN. THE INSTRUMENT BY WHICH THE PLEDGE IS CREATED NEED NOT
2 BE RECORDED OR FILED.

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

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

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

22 (9) BANKS, TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS,
23 INSURANCE COMPANIES, EXECUTORS, ADMINISTRATORS, GUARDIANS,
24 TRUSTEES, AND OTHER FIDUCIARIES MAY LEGALLY INVEST ANY MONEYS
25 WITHIN THEIR CONTROL IN ANY BONDS ISSUED UNDER THIS ARTICLE.
26 PUBLIC ENTITIES, AS DEFINED IN SECTION 24-75-601 (1), C.R.S., MAY
27 INVEST PUBLIC FUNDS IN BONDS ONLY IF THE BONDS SATISFY THE

1 INVESTMENT REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF
2 TITLE 24, C.R.S.

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

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

27 **32-20-110. Repeal of article - inapplicable if the district has**

1 **outstanding bond obligations.** (1) EXCEPT AS OTHERWISE PROVIDED IN
2 SUBSECTION (2) OF THIS SECTION, THIS ARTICLE IS REPEALED, EFFECTIVE
3 JANUARY 1, 2016.

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

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

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

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

26 **31-25-1102. Definitions.** As used in this part 11, unless the
27 context otherwise requires:

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

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