

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 11-0423.01 Jason Gelender

HOUSE BILL 11-1255

HOUSE SPONSORSHIP

DelGrosso, Kefalas

SENATE SPONSORSHIP

Schwartz,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ALTERNATIVE ENERGY PARKS, AND, IN CONNECTION**
102 **THEREWITH, AUTHORIZING LOCAL GOVERNMENTS TO APPLY TO**
103 **THE COLORADO ECONOMIC DEVELOPMENT COMMISSION FOR**
104 **APPROVAL TO CREATE SUCH PARKS, ALLOWING TAX INCREMENT**
105 **FINANCING AND BONDING TO BE USED TO FINANCE**
106 **DEVELOPMENT WITHIN SUCH PARKS, AND PROVIDING TAX**
107 **INCENTIVES TO TAXPAYERS WHO INVEST IN OR OTHERWISE**
108 **FINANCIALLY SUPPORT SUCH PARKS.**

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 passes third reading in the house of introduction, a bill summary that

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.*

applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries.>)

Section 1 of the bill:

- ! Allows one or more contiguous counties or municipalities or the director of the Colorado office of economic development to apply to the Colorado economic development commission (commission) for approval of an alternative energy park;
- ! Specifies information that must be included in an application for approval of an alternative energy park (application) and the criteria and process for review and approval or denial of such an application;
- ! Allows an application to include a request to authorize the creation of an alternative energy authority (authority), requires the commission to approve such a request if it otherwise approved the application, and specifies the governance and powers of an authority;
- ! Authorizes the use of either property tax or sales tax increment financing, or both, and the issuance of bonds to finance the construction of eligible improvements within an alternative energy park; and
- ! Specifies annual reporting and auditing requirements for a financing entity that finances an alternative energy park.

Section 2 of the bill amends the "Urban and Rural Enterprise Zone Act" to allow income tax credits for:

- ! Contributions made for the purpose of implementing an alternative energy park;
- ! Qualified investments in qualifying property in an alternative energy park;
- ! The employment of new business facility employees in an alternative energy park;
- ! Expenditures for research and experimental facilities in an alternative energy park; and
- ! Rehabilitation of vacant buildings in an alternative energy park.

Section 2 also exempts purchases of qualifying machinery, machine tools, and parts that are used solely and exclusively in an alternative energy park from the state sales tax and allows a local government to provide property tax or sales tax incentives to a taxpayer that financially supports or invests in an alternative energy park in accordance with specified criteria.

1 OF ALTERNATIVE ENERGY PARKS THAT WILL ATTRACT COMPANIES
2 ENGAGED IN THE ALTERNATIVE ENERGY ECONOMY; AND

3 (f) BOTH STATE AND LOCAL GOVERNMENTS HAVE A SIGNIFICANT
4 INTEREST IN DETERMINING THE LOCATION OF ALTERNATIVE ENERGY
5 PARKS, AND THE PROCEDURE FOR CREATING ALTERNATIVE ENERGY PARKS
6 REQUIRES THE INVOLVEMENT OF BOTH.

7 **24-46-403. Definitions.** AS USED IN THIS PART 4, UNLESS THE
8 CONTEXT OTHERWISE REQUIRES:

9 (1) "ALTERNATIVE ENERGY" MEANS AND INCLUDES, BUT IS NOT
10 LIMITED TO, ANY OF THE FOLLOWING FUELS THAT ARE THEMSELVES
11 MANUFACTURED OR SYNTHESIZED AND ENERGY DERIVED FROM ANY OF
12 THE FOLLOWING:

13 (a) NATURAL GAS;

14 (b) BIODIESEL;

15 (c) BIOMASS RESOURCES SUCH AS BIOGAS, INCLUDING METHANE
16 THAT HAS BEEN PRODUCED BIOGENICALLY IN GEOLOGIC STRATA AS A
17 RESULT OF HUMAN INTERVENTION AND THAT DOES NOT INVOLVE
18 ADDITIONAL LAND DISTURBANCE, AGRICULTURAL OR ANIMAL WASTE,
19 SMALL DIAMETER TIMBER OR ANY TIMBER HARVESTED PURSUANT TO A
20 WATERSHED PROTECTION PROJECT OR FOREST HEALTH PROJECT, SALT
21 CEDAR, OTHER NONNATIVE INVASIVE PHREATOPHYTE VEGETATION
22 REMOVED FROM RIVER BASINS OR WATERSHEDS IN COLORADO, LANDFILL
23 GAS, AND ANAEROBICALLY DIGESTED WASTE BIOMASS; EXCEPT THAT
24 BIOMASS RESOURCES DO NOT INCLUDE ENERGY GENERATED BY USE OF
25 FOSSIL FUEL;

26 (d) ETHANOL;

27 (e) FUEL CELLS THAT DO NOT USE FOSSIL FUELS;

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

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

5 (h) THE IGCC PROJECT DEFINED IN SECTION 40-2-123 (2) (b) (I),
6 C.R.S.

7 (2) "ALTERNATIVE ENERGY AUTHORITY" OR "AUTHORITY" MEANS
8 A CORPORATE BODY APPROVED BY THE COMMISSION AND ORGANIZED
9 WITH THE PURPOSES AND POWERS SET FORTH IN THIS PART 4 AND SUBJECT
10 TO THE RESTRICTIONS SPECIFIED IN THIS PART 4.

11 (3) "ALTERNATIVE ENERGY CONTRIBUTING FACILITY" MEANS A
12 FACILITY THAT IS LOCATED WITHIN AN ALTERNATIVE ENERGY PARK AND
13 SATISFIES ONE OR MORE OF THE FOLLOWING CRITERIA:

14 (a) THE FACILITY IS AN ALTERNATIVE ENERGY FACILITY;

15 (b) THE PRIMARY MODE OF TRANSPORTATION USED BY THE
16 FACILITY TO BRING IN RAW MATERIALS FOR THE MANUFACTURING PROCESS
17 OR TO SHIP FINISHED GOODS FROM THE FACILITY IS AN ENERGY-EFFICIENT
18 MODE OF TRANSPORTATION; OR

19 (c) MORE THAN ONE-THIRD OF THE ENERGY USED IN THE
20 OPERATION OF THE FACILITY IS ALTERNATIVE ENERGY.

21 (4) "ALTERNATIVE ENERGY FACILITY" MEANS A FACILITY THAT
22 SATISFIES BOTH OF THE FOLLOWING REQUIREMENTS:

23 (a) THE FACILITY IS OPERATED BY A TAXPAYER IN THE OPERATION
24 OF A REVENUE-PRODUCING ENTERPRISE; AND

25 (b) THE PRIMARY USE OF THE FACILITY IS THE PRODUCTION OF:

26 (I) ALTERNATIVE ENERGY;

27 (II) COMPONENTS, MACHINERY, OR EQUIPMENT FOR USE IN THE

1 PRODUCTION OF CLEAN ENERGY; OR

2 (III) THE PRODUCTION OF ENERGY EFFICIENCY IMPROVEMENTS AS
3 DEFINED IN SECTION 40-9.7-103 (5.5), C.R.S.

4 (5) "ALTERNATIVE ENERGY PARK" OR "PARK" MEANS THE
5 GEOGRAPHIC AREA APPROVED BY THE COMMISSION AS AN ALTERNATIVE
6 ENERGY PARK, INCLUDING THE ELIGIBLE IMPROVEMENTS PLANNED TO BE
7 CONSTRUCTED WITHIN THE PARK.

8 (6) "COMMISSION" MEANS THE COLORADO ECONOMIC
9 DEVELOPMENT COMMISSION CREATED IN SECTION 24-46-102.

10 (7) "DIRECTOR" MEANS THE DIRECTOR OF THE COLORADO OFFICE
11 OF ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101.

12 (8) "ELIGIBLE COST" MEANS THE COST OF DESIGNING,
13 CONSTRUCTING, FINANCING, AND MAINTAINING ELIGIBLE IMPROVEMENTS
14 DESIGNATED BY THE COMMISSION AS PART OF AN APPROVED ALTERNATIVE
15 ENERGY PARK, INCLUDING COSTS OF ENGINEERING, CONSTRUCTION
16 ENGINEERING, SURVEYING, CONSTRUCTION SURVEYING, CONSTRUCTION
17 LABOR AND MATERIALS, DESIGN, PLANNING, LEGAL SERVICES,
18 ACCOUNTING, OVERHEAD OR ADMINISTRATIVE STAFFING, FINANCING,
19 BOND ISSUANCE OR REISSUANCE, UNDERWRITING, INTEREST PAYMENTS,
20 LOAN ORIGATION FEES, AND SIMILAR NECESSARY AND CONVENIENT
21 COSTS INCURRED BY A FINANCING ENTITY IN EXERCISING ITS POWERS
22 PURSUANT TO THIS PART 4. "ELIGIBLE COST" INCLUDES:

23 (a) MONEYS ADVANCED BY PRIVATE DEVELOPERS WITHIN THE
24 ALTERNATIVE ENERGY PARK FOR ELIGIBLE IMPROVEMENTS, WHETHER
25 PURSUANT TO LOANS OR CONTRACTUAL FUNDING AND REIMBURSEMENT
26 AGREEMENTS, TOGETHER WITH REASONABLE INTEREST;

27 (b) THE FINANCING ENTITY'S COSTS FOR PURCHASING ELIGIBLE

1 IMPROVEMENTS CONSTRUCTED AND OWNED BY THIRD PARTIES EITHER
2 PRIOR TO OR SUBSEQUENT TO DESIGNATION OF THE ALTERNATIVE ENERGY
3 PARK; AND

4 (c) COSTS AND EXPENSES INCURRED BY A LOCAL GOVERNMENT IN
5 COMPLYING WITH ITS ANNUAL REPORT AND AUDIT OBLIGATIONS UNDER
6 THIS ARTICLE.

7 (9) "ELIGIBLE IMPROVEMENT" MEANS A SPECIFIC IMPROVEMENT
8 AUTHORIZED BY THE COMMISSION AS PART OF AN APPROVED ALTERNATIVE
9 ENERGY PARK, WHETHER PUBLICLY OR PRIVATELY OWNED, INCLUDING
10 STORM SEWER AND SANITARY SEWER COLLECTION, CONVEYANCE,
11 DISTRIBUTION, TREATMENT, AND RELATED FACILITIES AND REAL
12 PROPERTY INTERESTS; POTABLE AND NONPOTABLE WATER SUPPLIES AND
13 COLLECTION, CONVEYANCE, DISTRIBUTION, TREATMENT, AND RELATED
14 FACILITIES AND REAL PROPERTY INTERESTS; ROADS; STREETS; STATE
15 HIGHWAYS; RIGHTS-OF-WAY; LIGHTING; TRAFFIC SIGNALS AND SIGNS;
16 DIRECTION AND LOCATION SIGNAGE AND SIMILAR SIGNAGE; LAND
17 ACQUISITION; SURVEYING, ENGINEERING, SOILS TESTING, SITE PLANNING,
18 GRADING, AND SIMILAR ACTIVITIES NECESSARY OR CONVENIENT FOR SITE
19 PREPARATION AND DEVELOPMENT; PUBLIC SAFETY FACILITIES;
20 LANDSCAPING; TRANSPORTATION FACILITIES; SURFACE AND STRUCTURED
21 PARKING FACILITIES; AND ANY OTHER FACILITIES OR IMPROVEMENTS
22 NECESSARY TO OR CONVENIENT FOR THE COMPLETION OF AN APPROVED
23 ALTERNATIVE ENERGY PARK.

24 (10) "ENERGY-EFFICIENT MODE OF TRANSPORTATION" INCLUDES
25 RAIL TRANSPORTATION AND ANY OTHER UNITED STATES ENVIRONMENTAL
26 PROTECTION AGENCY MODE OF TRANSPORTATION THAT USES
27 SIGNIFICANTLY LESS ENERGY THAN CONVENTIONAL GASOLINE- OR

1 DIESEL-POWERED TRUCKS, AS DETERMINED BY THE DIRECTOR.
2 ENERGY-EFFICIENT MODE OF TRANSPORTATION" ALSO INCLUDES ANY
3 VEHICLE OWNED OR OPERATED BY A BUSINESS THAT IS AN APPROVED
4 SMARTWAY TRANSPORT CARRIER OR SMARTWAY SHIPPER AS DEFINED BY
5 THE ENVIRONMENTAL PROTECTION AGENCY.

6 (11) "FACILITY" MEANS A FACTORY, MILL, PLANT, REFINERY,
7 WAREHOUSE, FEEDLOT, DISTRIBUTION CENTER, TERMINAL, BUILDING, OR
8 COMPLEX OF BUILDINGS LOCATED WITHIN THE STATE, INCLUDING THE
9 LAND ON WHICH THE FACILITY IS LOCATED AND ALL MACHINERY,
10 EQUIPMENT, AND OTHER REAL AND PERSONAL PROPERTY LOCATED AT OR
11 WITHIN THE FACILITY AND USED IN CONNECTION WITH THE OPERATION OF
12 THE FACILITY. ANY BUILDING OR COMPLEX OF BUILDINGS SHALL NOT BE
13 A FACILITY FOR THE PURPOSES OF THIS PART 4 IF THE PRIMARY USE OF THE
14 BUILDING OR COMPLEX OF BUILDINGS IS EITHER RETAIL OR RESIDENTIAL.

15 (12) "FINANCING ENTITY" MEANS THE ENTITY DESIGNATED BY THE
16 COMMISSION IN CONNECTION WITH ITS APPROVAL OF AN ALTERNATIVE
17 ENERGY PARK TO RECEIVE AND USE TAX INCREMENT REVENUE. A
18 FINANCING ENTITY MAY BE ONE OR MORE LOCAL GOVERNMENTS, A
19 METROPOLITAN DISTRICT CREATED PURSUANT TO TITLE 32, C.R.S., OR
20 SOME COMBINATION OF BOTH SO LONG AS THE PROPOSED ALTERNATIVE
21 ENERGY PARK IS LOCATED IN WHOLE OR IN PART WITHIN THE TERRITORIAL
22 BOUNDARIES OF EACH LOCAL GOVERNMENT SERVING AS A FINANCING
23 ENTITY. A FINANCING ENTITY MAY ALSO BE AN ALTERNATIVE ENERGY
24 AUTHORITY FORMED PURSUANT TO THIS PART 4.

25 (13) "FINANCING TERM" MEANS THE AGGREGATE PERIOD
26 AUTHORIZED BY THE COMMISSION PURSUANT TO THIS PART 4 WITHIN
27 WHICH THE FINANCING ENTITY IS AUTHORIZED TO RECEIVE AND USE TAX

1 INCREMENT REVENUE TO FINANCE ELIGIBLE COSTS.

2 (14) "LOCAL GOVERNMENT" MEANS A CITY, COUNTY, CITY AND
3 COUNTY, OR TOWN OR A GROUP OF CONTIGUOUS CITIES, COUNTIES, CITY
4 AND COUNTIES, OR TOWNS.

5 (15) "PROJECT" MEANS A PROJECT FOR CONSTRUCTION OF ELIGIBLE
6 IMPROVEMENTS APPROVED BY A FINANCING ENTITY PURSUANT TO SECTION
7 24-46-407.

8 (16) "PROJECT AREA" MEANS THE PORTION OF AN ALTERNATIVE
9 ENERGY PARK SERVED BY A PROJECT AS DESIGNATED BY A FINANCING
10 ENTITY IN CONNECTION WITH THE APPROVAL OF A PROJECT PURSUANT TO
11 SECTION 24-46-407.

12 (17) "PUBLIC BODY" MEANS THE STATE OF COLORADO, A COUNTY
13 IN COLORADO, OR A MUNICIPALITY, QUASI-MUNICIPAL CORPORATION,
14 BOARD, COMMISSION, AUTHORITY, SCHOOL DISTRICT, OR OTHER POLITICAL
15 SUBDIVISION OR PUBLIC CORPORATE BODY OF THE STATE OF COLORADO.

16 (18) "TAX INCREMENT REVENUE" MEANS THE PORTION OF
17 PROPERTY TAXES OR SALES TAXES, OR BOTH, PAID INTO A SPECIAL FUND
18 OF A FINANCING ENTITY PURSUANT TO SECTION 24-46-407 (2) (a) (II).

19 **24-46-404. Alternative energy park - criteria - application -**
20 **requirements.** (1) A LOCAL GOVERNMENT OR THE DIRECTOR MAY APPLY
21 FOR APPROVAL OF AN ALTERNATIVE ENERGY PARK OR TO EXPAND THE
22 BOUNDARIES OF A PREVIOUSLY APPROVED ALTERNATIVE ENERGY PARK.

23 (2) (a) A LOCAL GOVERNMENT OR THE DIRECTOR MAY INCLUDE
24 SUCH AREAS AS IT DEEMS APPROPRIATE WITHIN AN APPLICATION FOR
25 APPROVAL OF A NEW ALTERNATIVE ENERGY PARK OR EXPANSION OF AN
26 EXISTING ALTERNATIVE ENERGY PARK. EACH PUBLIC BODY WITH
27 JURISDICTION OVER ALL OR ANY PORTION OF THE TERRITORY INCLUDED IN

1 THE APPLICATION SHALL BE OFFERED THE OPPORTUNITY TO JOIN IN THE
2 APPLICATION AND TO CONSENT TO THE USE OF ITS AD VALOREM PROPERTY
3 TAXES AND SALES TAXES AS PROVIDED IN THIS PART 4 NOT LESS THAN
4 SIXTY DAYS PRIOR TO SUBMISSION OF THE APPLICATION TO THE
5 COMMISSION. THE NOTICE SHALL BE PROVIDED IN WRITING AND
6 DELIVERED BY FIRST-CLASS MAIL TO THE GOVERNING BODY OF EACH
7 PUBLIC BODY OR TO THE DIRECTOR IN THE CASE OF THE STATE. IF A PUBLIC
8 BODY DOES NOT RESPOND TO A NOTICE WITHIN TWENTY DAYS OF THE DATE
9 THE NOTICE IS MAILED, IT SHALL BE DEEMED TO HAVE ELECTED NOT TO
10 JOIN IN THE APPLICATION AND NO PORTION OF ITS AD VALOREM PROPERTY
11 TAXES OR ITS SALES TAXES MAY BE USED AS OTHERWISE PROVIDED IN THIS
12 PART 4.

13 (b) A PUBLIC BODY MAY AGREE IN WRITING TO THE USE OF ALL OR
14 A PORTION OF ITS AD VALOREM PROPERTY TAXES OR ITS SALES TAXES AS
15 DESCRIBED IN SECTION 24-46-407 WITHOUT JOINING AN APPLICATION FOR
16 APPROVAL OF A NEW ALTERNATIVE ENERGY PARK OR EXPANSION OF AN
17 EXISTING ALTERNATIVE ENERGY PARK; EXCEPT THAT NO SCHOOL DISTRICT
18 MAY AGREE TO THE USE OF ANY PORTION OF ITS AD VALOREM PROPERTY
19 TAX REVENUE THAT IS PART OF THE DISTRICT SHARE OF THE DISTRICT'S
20 TOTAL PROGRAM AS DESCRIBED IN SECTION 22-54-106, C.R.S.

21 (3) THE COMMISSION SHALL DETERMINE THE FORM AND MANNER
22 OF AN APPLICATION FOR APPROVAL OR EXPANSION OF AN ALTERNATIVE
23 ENERGY PARK AND THE APPLICATION FEE TO BE PAID IN CONNECTION WITH
24 ANY APPLICATION, WHICH SHALL BE SET AT AN AMOUNT REASONABLY
25 CALCULATED TO COVER THE COMMISSION'S EXPENSES IN PROCESSING AN
26 APPLICATION. THE COMMISSION MAY ALSO SEEK AND ACCEPT GIFTS,
27 GRANTS, AND DONATIONS FOR THE PURPOSE OF DEFRAYING ITS

1 ADMINISTRATIVE EXPENSES INCURRED IN THE ADMINISTRATION OF THIS
2 PART 4. ALL APPLICATION FEES, GIFTS, GRANTS, AND DONATIONS
3 RECEIVED BY THE COMMISSION SHALL BE TRANSMITTED TO THE STATE
4 TREASURER, WHO SHALL CREDIT THEM TO THE ALTERNATIVE ENERGY
5 PARK ADMINISTRATION CASH FUND, WHICH IS HEREBY CREATED IN THE
6 STATE TREASURY. THE MONEYS IN THE FUND SHALL BE SUBJECT TO
7 ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND
8 INDIRECT COSTS ASSOCIATED WITH THE ADMINISTRATION OF THIS PART 4.

9 THE DIRECTOR SHALL SUBMIT AN APPLICATION DIRECTLY TO THE
10 COMMISSION AND PROVIDE COPIES TO EACH PUBLIC BODY THAT HAS
11 JURISDICTION OVER ANY PORTION OF THE PROPOSED ALTERNATIVE
12 ENERGY PARK. A LOCAL GOVERNMENT SHALL FIRST SUBMIT AN
13 APPLICATION FOR APPROVAL OR EXPANSION OF AN ALTERNATIVE ENERGY
14 PARK TO THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT, WHICH
15 SHALL PROVIDE THE COMMISSION WITH EACH APPLICATION RECEIVED
16 AFTER THE DIRECTOR'S REVIEW PURSUANT TO SECTION 24-46-405. THE
17 APPLICATION FOR APPROVAL OF A NEW ALTERNATIVE ENERGY PARK MUST
18 INCLUDE THE FOLLOWING:

19 (a) MAPS OF THE PROPOSED PARK AREA SHOWING THE PROPOSED
20 BOUNDARIES, AS WELL AS EXISTING ZONING, USES, ROADS AND ROAD
21 RIGHTS-OF-WAY, AND RAILROADS AND RAILROAD RIGHTS-OF-WAY;

22 (b) IDENTIFICATION OF EXISTING ALTERNATIVE ENERGY FACILITIES
23 AND ALTERNATIVE ENERGY CONTRIBUTING FACILITIES WITHIN THE
24 PROPOSED PARK AND THE REPLACEMENT COST OF THE FACILITIES;

25 (c) IDENTIFICATION OF ANY EXISTING ALTERNATIVE POWER
26 GENERATION OCCURRING WITHIN THE ALTERNATIVE ENERGY PARK AND
27 ANY EXISTING ZERO-ENERGY FOOTPRINT DEVELOPMENTS WITHIN THE

1 ALTERNATIVE ENERGY PARK;

2 (d) A DETAILED DESCRIPTION OF ALL UTILITIES SERVING THE
3 PROPOSED PARK OR AVAILABLE TO SERVE THE PROPOSED PARK;

4 (e) A NARRATIVE DESCRIPTION AND CONCEPTUAL RENDERING OF
5 THE PROPOSED PARK, INCLUDING THE LOCATION AND ESTIMATED OVERALL
6 COST, ESTIMATED ELIGIBLE COSTS, ANTICIPATED SCOPE AND PHASING OF
7 ELIGIBLE IMPROVEMENTS, AND THE EXISTING OR NEEDED
8 INFRASTRUCTURE IN CONNECTION WITH THE PARK;

9 (f) A DISCUSSION OF EACH OF THE APPLICATION CRITERIA AND HOW
10 THE PARK WILL MEET EACH OF THE CRITERIA, INCLUDING:

11 (I) THE NUMBER AND TYPES OF ADDITIONAL ALTERNATIVE ENERGY
12 FACILITIES AND ALTERNATIVE ENERGY CONTRIBUTING FACILITIES THAT
13 THE ALTERNATIVE ENERGY PARK COULD ACCOMMODATE;

14 (II) A DISCUSSION AS TO WHETHER THE ALTERNATIVE ENERGY
15 PARK COULD ACCOMMODATE IN-PARK ALTERNATIVE ENERGY POWER
16 GENERATION OR ZERO-ENERGY FOOTPRINT DEVELOPMENTS;

17 (III) IF APPLICABLE, A DISCUSSION OF ANY EXISTING OR
18 CONTEMPLATED INTERSTATE ALTERNATIVE ENERGY PROJECT, THE
19 COLORADO PORTION OF WHICH IS OR COULD BE LOCATED IN THE
20 ALTERNATIVE ENERGY PARK;

21 (IV) THE POTENTIAL NUMBER OF NEW JOBS LIKELY TO BE CREATED
22 BY EACH TYPE OF ALTERNATIVE ENERGY FACILITY OR ALTERNATIVE
23 ENERGY CONTRIBUTING FACILITY, IDENTIFIED BY:

24 (A) JOB CATEGORY, AS USED IN THE COLORADO DEPARTMENT OF
25 LABOR AND EMPLOYMENT OCCUPATIONAL EMPLOYMENT STATISTICS
26 SURVEY; AND

27 (B) THE WAGES AND, TO THE EXTENT THAT IT IS REASONABLY

1 POSSIBLE, INFORMATION ON HEALTH BENEFITS FOR JOBS IN EACH
2 CATEGORY;

3 (V) AN ECONOMIC ANALYSIS CONTAINING ESTIMATES OF THE
4 PARK'S PROJECTED ECONOMIC IMPACT, INCLUDING:

5 (A) THE IMPACT ON FUTURE STATE AND LOCAL GOVERNMENT TAX
6 REVENUE DURING AND AFTER THE FINANCING TERM;

7 (B) THE NUMBER OF NEW JOBS TO BE CREATED;

8 (C) THE ANTICIPATED EFFECTS OF, AND CONTRIBUTIONS BY THE
9 PARK TO, REGIONAL AND IN-STATE COMPETITION; AND

10 (D) THE FISCAL IMPACT TO LOCAL GOVERNMENTS WITHIN AND
11 ADJACENT TO THE PARK;

12 (VI) AN ANALYSIS OF THE IMPACT TO LOCAL SCHOOL DISTRICTS
13 AND AN ESTIMATE OF THE PERCENTAGE OF DISTRICT TOTAL PROGRAM
14 THAT THE STATE WILL BE RESPONSIBLE TO FUND THROUGH THE STATE'S
15 SHARE OF DISTRICT TOTAL PROGRAM PURSUANT TO SECTION 22-54-106,
16 C.R.S.; AND

17 (VII) ANY OTHER INFORMATION REASONABLY REQUESTED BY THE
18 COMMISSION;

19 (g) A DESCRIPTION OF THE PROPOSED FINANCING ENTITY, A
20 GENERAL DESCRIPTION OF THE FINANCING ENTITY'S PLAN FOR FINANCING
21 THE ELIGIBLE COSTS AND PROVIDING THE ELIGIBLE IMPROVEMENTS, AND
22 WHETHER AUTHORIZATION OF AN ALTERNATIVE ENERGY AUTHORITY IS
23 REQUESTED. A REQUEST FOR AUTHORIZATION OF AN ALTERNATIVE
24 ENERGY AUTHORITY MUST INCLUDE A DESCRIPTION OF THE PROPOSED
25 AUTHORITY'S GEOGRAPHIC BOUNDARIES, REQUESTED POWERS, AND
26 ANTICIPATED SOURCES OF REVENUE, IF ANY, IN ADDITION TO TAX
27 INCREMENT REVENUE. WITH RESPECT TO ANY PUBLIC BODY THAT HAS

1 NOT YET ADVISED THE APPLICANT AS TO WHETHER IT INTENDS TO EXEMPT
2 OR LIMIT ITS PORTION OF PROPERTY TAXES OR SALES TAXES FROM THE
3 PROVISIONS OF SECTION 24-46-407, THE APPLICATION SHALL ADDRESS THE
4 IMPACT THAT ANY SUCH EXEMPTION OR LIMITATION WOULD HAVE ON ITS
5 FINANCING PLAN.

6 (h) A GENERAL DESCRIPTION OF THE CONTEMPLATED
7 CONTRACTUAL ARRANGEMENTS IF THE FINANCING ENTITY IS ANTICIPATED
8 TO ENTER INTO CONTRACTUAL ARRANGEMENTS WITH ONE OR MORE URBAN
9 RENEWAL AUTHORITIES, METROPOLITAN DISTRICTS, LOCAL
10 GOVERNMENTS, OR PRIVATE PARTIES WITH RESPECT TO THE METHOD OF
11 FINANCING THE ELIGIBLE COSTS AND PROVIDING ELIGIBLE IMPROVEMENTS;

12 (i) IF THE ELIGIBLE IMPROVEMENTS ARE ANTICIPATED TO BE
13 CONSTRUCTED IN PHASES OR IF FINANCING OF THE ELIGIBLE COSTS WILL
14 LIKELY BE COMPLETED IN PHASES, A DESCRIPTION OF THE CONTEMPLATED
15 PHASES AND ANTICIPATED TIMING OF THE PHASES;

16 (j) THE PROPOSED FINANCING TERM, THE PERCENTAGE OF TAX
17 INCREMENT REVENUE TO BE ALLOCATED TO THE PROPOSED ALTERNATIVE
18 ENERGY PARK BY EACH PUBLIC BODY THAT HAS JOINED IN THE
19 APPLICATION, THE PORTION OF THE FINANCING TERM DURING WHICH THE
20 PERCENTAGE IS TO BE ALLOCATED TO THE FINANCING ENTITY, AND
21 SUPPORTING DOCUMENTATION FROM EACH PUBLIC BODY THAT HAS
22 AGREED TO THE USE OF ALL OR A PORTION OF ITS TAX REVENUES BY THE
23 FINANCING ENTITY. A SINGLE DEBT ISSUANCE OF THE FINANCING ENTITY
24 IS NOT PERMITTED TO HAVE A MATURITY DATE IN EXCESS OF TWENTY-FIVE
25 YEARS; EXCEPT THAT:

26 (I) THE FINANCING TERM MAY EXCEED TWENTY-FIVE YEARS TO
27 THE EXTENT THAT THE FINANCING ENTITY ANTICIPATES ISSUING A SERIES

1 OF BONDS OR OTHER FORMS OF DEBT; AND

2 (II) THE FINANCING ENTITY MAY CONSOLIDATE OR REFINANCE
3 PREVIOUSLY ISSUED DEBT OR BONDS WITH A MATURITY DATE FOR THE
4 CONSOLIDATED OR REFINANCED DEBT OR BONDS NOT TO EXCEED
5 TWENTY-FIVE YEARS THEREAFTER.

6 (k) ACCOMPANYING THE ECONOMIC ANALYSIS SUBMITTED
7 PURSUANT TO SUBPARAGRAPH (V) OF PARAGRAPH (f) OF THIS SUBSECTION
8 (3), A REPORT BY A THIRD-PARTY ANALYST WHO IS AN EXPERT IN THE
9 FIELD OF ECONOMIC OR PUBLIC FINANCIAL ANALYSIS CALCULATING THE
10 PERCENTAGE OF THE TAX INCREMENT REVENUE THAT WILL BE DEDICATED
11 TO THE ALTERNATIVE ENERGY PARK TO BE SET BY THE COMMISSION
12 PURSUANT TO SECTION 24-46-405 (3) (d). THE APPLICANT SHALL SHARE
13 ITS DATA AND REASONING WITH THE THIRD-PARTY ANALYST, WHO SHALL
14 RELY ON THE DATA AND REASONING AS IT DEEMS APPROPRIATE BASED ON
15 INDEPENDENT JUDGMENT. AN APPLICANT DISSATISFIED WITH THE REPORT
16 MAY REVISE THE APPLICATION AND REQUEST REVISIONS TO THE REPORT.
17 THE OFFICE OF STATE PLANNING AND BUDGETING SHALL CHOOSE THE
18 THIRD-PARTY ANALYST THROUGH A REQUEST FOR PROPOSALS ISSUED BY
19 THE OFFICE TO ENSURE AN INDEPENDENT AND THOROUGH ANALYSIS, AND
20 THE THIRD-PARTY ANALYST SHALL REPORT TO THE OFFICE. THE
21 APPLICANT SHALL PAY THE COST OF THE REPORT DIRECTLY TO THE
22 THIRD-PARTY ANALYST.

23 (4) AN APPLICATION FOR EXPANSION OF AN EXISTING
24 ALTERNATIVE ENERGY PARK MUST INCLUDE THE FOLLOWING:

25 (a) MAPS OF THE PROPOSED EXPANSION AREA SHOWING THE
26 PROPOSED BOUNDARIES AND RELATIONSHIP TO THE EXISTING
27 ALTERNATIVE ENERGY PARK, AS WELL AS EXISTING ZONING, USES, ROADS

1 AND ROAD RIGHTS-OF-WAY, AND RAILROADS AND RAILROAD
2 RIGHTS-OF-WAY;

3 (b) IDENTIFICATION OF EXISTING ALTERNATIVE ENERGY FACILITIES
4 AND ALTERNATIVE ENERGY CONTRIBUTING FACILITIES WITHIN THE
5 PROPOSED EXPANSION AREA AND THE REPLACEMENT COST OF THE
6 FACILITIES;

7 (c) IDENTIFICATION OF ANY EXISTING ALTERNATIVE ENERGY
8 POWER GENERATION OCCURRING WITHIN THE PROPOSED EXPANSION AREA
9 AND ANY EXISTING ZERO-ENERGY FOOTPRINT DEVELOPMENTS WITHIN THE
10 PROPOSED EXPANSION AREA;

11 (d) A DETAILED DESCRIPTION OF ALL UTILITIES SERVING THE
12 PROPOSED EXPANSION AREA OR AVAILABLE TO SERVE THE PROPOSED
13 EXPANSION AREA;

14 (e) A NARRATIVE DESCRIPTION AND CONCEPTUAL RENDERING OF
15 THE PROPOSED EXPANSION AREA, INCLUDING THE LOCATION AND
16 ESTIMATED OVERALL COST, ESTIMATED ELIGIBLE COSTS, ANTICIPATED
17 SCOPE AND PHASING OF ELIGIBLE IMPROVEMENTS, AND THE EXISTING OR
18 NEEDED INFRASTRUCTURE IN CONNECTION WITH THE EXPANSION; AND

19 (f) A DISCUSSION OF ANY CHANGES TO THE MATTERS SET FORTH IN
20 THE ORIGINAL APPLICATION THAT THE PROPOSED EXPANSION WILL
21 REQUIRE.

22 (5) THE COMMISSION SHALL APPROVE AN APPLICATION BY A LOCAL
23 GOVERNMENT OR THE DIRECTOR FOR DESIGNATION AS AN ALTERNATIVE
24 ENERGY PARK UPON A FINDING BY A MAJORITY OF THE MEMBERS OF THE
25 COMMISSION PARTICIPATING IN THE REVIEW THAT THE APPLICATION
26 DEMONSTRATES THAT EACH OF THE FOLLOWING CRITERIA ARE
27 MATERIALLY MET:

1 (a) THE PARK CONTAINS ONE OR MORE EXISTING OR PLANNED
2 ALTERNATIVE ENERGY FACILITIES WITH AN AGGREGATE CONSTRUCTION OR
3 REPLACEMENT COST OF NOT LESS THAN TWO MILLION FIVE HUNDRED
4 THOUSAND DOLLARS, BUT NO PLANNED FACILITY SHALL BE COUNTED
5 TOWARD SATISFACTION OF THIS REQUIREMENT UNLESS THE COMMISSION
6 DETERMINES THAT THE PLANS FOR THE FACILITY ARE LIKELY TO BE
7 ACHIEVED IF THE PARK IS APPROVED;

8 (b) THE PARK HAS APPROPRIATE ZONING FOR THE DEVELOPMENT
9 OF ADDITIONAL ALTERNATIVE ENERGY FACILITIES AND ALTERNATIVE
10 ENERGY CONTRIBUTING FACILITIES;

11 (c) THE PARK IS SERVED BY TRANSPORTATION SYSTEMS SUFFICIENT
12 TO SERVE A CONCENTRATION OF ALTERNATIVE ENERGY FACILITIES AND
13 ALTERNATIVE ENERGY CONTRIBUTING FACILITIES; AND

14 (d) THE PARK EITHER HAS THE INFRASTRUCTURE NECESSARY TO
15 SERVE A CONCENTRATION OF ALTERNATIVE ENERGY FACILITIES AND
16 ALTERNATIVE ENERGY CONTRIBUTING FACILITIES OR THE
17 INFRASTRUCTURE CAN BE READILY PROVIDED.

18 (6) THE COMMISSION SHALL APPROVE AN APPLICATION BY A LOCAL
19 GOVERNMENT OR THE DIRECTOR FOR EXPANSION OF AN EXISTING
20 ALTERNATIVE ENERGY PARK UPON A FINDING BY A MAJORITY OF THE
21 MEMBERS OF THE COMMISSION PARTICIPATING IN THE REVIEW THAT THE
22 APPLICATION DEMONSTRATES THAT EACH OF THE FOLLOWING CRITERIA
23 ARE MATERIALLY MET:

24 (a) THE EXPANSION AREA HAS APPROPRIATE ZONING FOR THE
25 DEVELOPMENT OF ADDITIONAL ALTERNATIVE ENERGY FACILITIES AND
26 ALTERNATIVE ENERGY CONTRIBUTING FACILITIES;

27 (b) THE EXPANSION AREA IS SERVED BY TRANSPORTATION

1 SYSTEMS SUFFICIENT TO SERVE A CONCENTRATION OF ALTERNATIVE
2 ENERGY FACILITIES AND ALTERNATIVE ENERGY CONTRIBUTING FACILITIES;

3 (c) THE EXPANSION AREA EITHER HAS THE INFRASTRUCTURE
4 NECESSARY TO SERVE A CONCENTRATION OF ALTERNATIVE ENERGY
5 FACILITIES AND ALTERNATIVE ENERGY CONTRIBUTING FACILITIES OR THE
6 INFRASTRUCTURE CAN BE READILY PROVIDED; AND

7 (d) THE EXPANSION OF THE ALTERNATIVE ENERGY PARK WILL
8 FACILITATE THE PURPOSES OF THIS PART 4.

9 (7) THE COMMISSION SHALL NOT APPROVE AN APPLICATION IF ANY
10 PORTION OF A PROPOSED ALTERNATIVE ENERGY PARK OR A PROPOSED
11 EXPANSION OF AN EXISTING ALTERNATIVE ENERGY PARK IS LOCATED
12 WITHIN A JURISDICTION THAT HAS ESTABLISHED AN URBAN RENEWAL
13 AUTHORITY AND THE APPROVAL OF AN URBAN RENEWAL PLAN IN THE
14 SAME LOCATION WOULD BE PROHIBITED BY SECTION 31-25-107 (1) (c) (II)
15 OR (1) (c) (III), C.R.S.

16 **24-46-405. Alternative energy park approval - director -**
17 **commission - review.** (1) UPON RECEIPT OF A LOCAL GOVERNMENT'S
18 APPLICATION FOR THE CREATION OR EXPANSION OF AN ALTERNATIVE
19 ENERGY PARK, THE DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL
20 REVIEW THE APPLICATION AND MAKE AN INITIAL DETERMINATION
21 REGARDING WHETHER THE APPLICATION HAS MET THE CRITERIA FOR AN
22 ALTERNATIVE ENERGY PARK SPECIFIED IN SECTION 24-46-404.

23 (2) UPON REVIEW OF EACH APPLICATION FOR COMPLETENESS, THE
24 DIRECTOR SHALL FORWARD THE APPLICATION TO ANY PUBLIC BODY
25 LOCATED WITHIN ONE MILE OF THE PROPOSED ALTERNATIVE ENERGY PARK
26 FOR AN OPPORTUNITY TO REVIEW THE APPLICATION AND SUBMIT
27 COMMENTS TO THE COMMISSION. THE DIRECTOR SHALL PROVIDE THE

1 APPLICATION TO THE PUBLIC BODIES AT LEAST THIRTY DAYS PRIOR TO THE
2 PUBLIC HEARING HELD PURSUANT TO SUBSECTION (3) OF THIS SECTION.
3 THE DIRECTOR SHALL ALSO FORWARD THE APPLICATION TO THE
4 COMMISSION WITH A RECOMMENDATION THAT THE COMMISSION APPROVE
5 OR DENY THE APPLICATION OR APPROVE THE APPLICATION WITH
6 CONDITIONS.

7 (3) THE COMMISSION SHALL HOLD A PUBLIC HEARING, SUBJECT TO
8 THE PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", ARTICLE 6
9 OF THIS TITLE, TO REVIEW AND CONSIDER THE APPLICATION. AFTER THE
10 HEARING HAS BEEN HELD, THE COMMISSION SHALL REVIEW EACH
11 APPLICATION AND GIVE CONSIDERATION TO THE DIRECTOR'S
12 RECOMMENDATIONS. THE COMMISSION SHALL TAKE ACTION ON THE
13 APPLICATION WITHIN A REASONABLE TIME AFTER SUBMISSION. IF THE
14 COMMISSION APPROVES THE APPLICATION, IT SHALL ADOPT A RESOLUTION
15 SPECIFYING THE FOLLOWING:

16 (a) THE GEOGRAPHIC BOUNDARIES OF THE ALTERNATIVE ENERGY
17 PARK;

18 (b) THE FINANCING ENTITY THAT THE COMMISSION HAS APPROVED
19 TO RECEIVE AND USE TAX INCREMENT REVENUE;

20 (c) WHETHER THE COMMISSION HAS AUTHORIZED THE CREATION
21 OF AN ALTERNATIVE ENERGY AUTHORITY; AND

22 (d) THE PERCENTAGE OF THE TAX INCREMENT REVENUE
23 AVAILABLE TO THE FINANCING ENTITY THAT WILL BE DEDICATED TO THE
24 ALTERNATIVE ENERGY PARK. THE COMMISSION SHALL SET THE
25 PERCENTAGE AT A VALUE ESTIMATED TO RESULT IN ONLY THE NET NEW
26 REVENUE LIKELY TO BE CREATED BY THE PARK AND RELATED
27 DEVELOPMENT BEING DEDICATED TO THE FINANCING ENTITY AND SHALL

1 EXCLUDE ANY TAX INCREMENT REVENUE THAT TAXING GOVERNMENTAL
2 ENTITIES WOULD LIKELY HAVE RECEIVED WITHOUT THE ALTERNATIVE
3 ENERGY PARK.

4 (4) AS PART OF THE APPROVAL OF THE CREATION OR EXPANSION
5 OF AN ALTERNATIVE ENERGY PARK, THE COMMISSION SHALL AUTHORIZE
6 THE DEPARTMENT OF REVENUE TO COLLECT THE PERCENTAGE OF THE TAX
7 INCREMENT REVENUE ATTRIBUTABLE TO MUNICIPAL SALES TAXES, AND
8 SHALL AUTHORIZE THE APPROPRIATE COUNTY TREASURER TO COLLECT
9 THE PERCENTAGE OF THE TAX INCREMENT REVENUE ATTRIBUTABLE TO
10 PROPERTY TAXES, SET BY THE COMMISSION PURSUANT TO PARAGRAPH (d)
11 OF SUBSECTION (3) OF THIS SECTION ON BEHALF OF THE APPROVED
12 FINANCING ENTITY. THE COMMISSION SHALL ALSO AUTHORIZE THE
13 FINANCING ENTITY TO RECEIVE AND USE THE TAX INCREMENT REVENUE
14 FOR THE DURATION OF THE FINANCING TERM. IN IMPLEMENTING THE
15 AUTHORIZATION, THE DEPARTMENT OF REVENUE SHALL REMIT THE TAX
16 INCREMENT REVENUE ATTRIBUTABLE TO MUNICIPAL SALES TAXES TO THE
17 FINANCING ENTITY ON A MONTHLY BASIS PROMPTLY AFTER COLLECTION.
18 THE COMMISSION SHALL AUTHORIZE THE USE OF THE TAX INCREMENT
19 REVENUE BY THE FINANCING ENTITY PURSUANT TO THIS PART 4 AND ANY
20 CONDITIONS OF APPROVAL IMPOSED BY THE COMMISSION AND
21 INCORPORATED IN WRITING INTO THE COMMISSION'S RESOLUTION OF
22 APPROVAL.

23 (5) IN CALCULATING AND MAKING PAYMENTS AS DESCRIBED IN
24 SUBSECTION (4) OF THIS SECTION, A COUNTY TREASURER MAY OFFSET A
25 PRO RATA PORTION OF ANY PROPERTY TAXES THAT ARE PAID TO THE
26 FINANCING ENTITY PURSUANT TO SAID SUBSECTION (4) AND THAT ARE
27 SUBSEQUENTLY REFUNDED TO A TAXPAYER AGAINST ANY SUBSEQUENT

1 PAYMENTS DUE TO THE FINANCING ENTITY FOR THE ALTERNATIVE ENERGY
2 PARK PROJECT. THE FINANCING ENTITY SHALL MAKE ADEQUATE
3 PROVISION FOR THE RETURN OF OVERPAYMENTS IF THERE ARE NOT
4 SUFFICIENT PROPERTY TAXES DUE TO THE FINANCING ENTITY TO OFFSET
5 ITS PRO RATA PORTION OF THE REFUNDS. THE FINANCING ENTITY MAY
6 ESTABLISH A RESERVE FUND FOR THIS PURPOSE OR ENTER INTO AN
7 INTERGOVERNMENTAL AGREEMENT WITH OTHER LOCAL GOVERNMENT
8 APPLICANTS TO SHARE RESPONSIBILITY FOR THE RETURN OF THE
9 OVERPAYMENTS. ANY PLEDGE OF TAX REVENUES BY A FINANCING ENTITY
10 SHALL NOT EXTEND TO TAXES PLACED IN A RESERVE FUND FOR THE
11 RETURN OF OVERPAYMENTS.

12 (6) FOLLOWING THE COMMISSION'S APPROVAL OF AN APPLICATION,
13 THE COMMISSION SHALL PROMPTLY TRANSMIT WRITTEN NOTICE AND A
14 COPY OF THE APPROVAL TO THE EXECUTIVE DIRECTOR OF THE
15 DEPARTMENT OF REVENUE AND THE COUNTY TREASURER OF ANY COUNTY
16 WITHIN WHICH TAX INCREMENT REVENUE WILL BE COLLECTED AND
17 DISTRIBUTED. THE TRANSMITTAL MUST INCLUDE ANY INFORMATION
18 DEEMED NECESSARY BY THE DEPARTMENT OF REVENUE AND THE COUNTY
19 TREASURERS TO FULFILL THEIR OBLIGATIONS PURSUANT TO THIS PART 4.

20 (7) (a) NOTHING IN THIS PART 4 SHALL BE CONSTRUED TO
21 AUTHORIZE INTERFERENCE WITH THE CERTIFICATED SERVICE TERRITORY
22 RIGHTS OF A PUBLIC UTILITY OR TO OTHERWISE INTERFERE WITH THE
23 CONTRACT RIGHTS OF A WHOLESALE POWER SUPPLIER WITH THE PUBLIC
24 UTILITY.

25 (b) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
26 IF AGRICULTURAL LAND IS INCLUDED WITHIN AN ALTERNATIVE ENERGY
27 PARK, THE COUNTY ASSESSOR SHALL VALUE THE AGRICULTURAL LAND AT

1 ITS FAIR MARKET VALUE IN MAKING THE CALCULATION OF THE AD
2 VALOREM PROPERTY TAXES TO BE PAID TO PUBLIC BODIES PURSUANT TO
3 SECTION 24-46-407 SOLELY FOR THE PURPOSE OF DETERMINING THE
4 AMOUNT OF TAX INCREMENT REVENUE AVAILABLE PURSUANT TO SAID
5 SECTION. NOTHING IN THIS PARAGRAPH (b) SHALL AFFECT THE ACTUAL
6 CLASSIFICATION, OR REQUIRE RECLASSIFICATION, OF AGRICULTURAL LAND
7 FOR PROPERTY TAX PURPOSES, AND NOTHING IN THIS SECTION SHALL
8 AFFECT THE TAXES ACTUALLY TO BE PAID TO THE PUBLIC BODIES
9 PURSUANT TO SECTION 24-46-407, WHICH SHALL CONTINUE TO BE BASED
10 ON THE AGRICULTURAL CLASSIFICATION OF SUCH LAND UNLESS AND UNTIL
11 IT HAS BEEN RECLASSIFIED IN THE NORMAL COURSE OF THE ASSESSMENT
12 PROCESS.

13 **24-46-406. Alternative energy authority - board - creation -**
14 **powers and duties.** (1) THE COMMISSION SHALL NOT DENY A REQUEST
15 TO AUTHORIZE THE CREATION OF AN ALTERNATIVE ENERGY AUTHORITY IF
16 THE COMMISSION OTHERWISE APPROVES AN APPLICATION FOR AN
17 ALTERNATIVE ENERGY PARK THAT INCLUDES A REQUEST FOR THE
18 FORMATION OF AN ALTERNATIVE ENERGY AUTHORITY.

19 (2) AN ALTERNATIVE ENERGY AUTHORITY, IF AUTHORIZED, IS
20 GOVERNED BY A BOARD CONSISTING OF THE FOLLOWING MEMBERS:

21 (a) IF THE APPLICANT LOCAL GOVERNMENT IS A SINGLE PUBLIC
22 BODY:

23 (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS
24 SECTION, TWO MEMBERS APPOINTED BY THE PUBLIC BODY; AND

25 (II) THREE MEMBERS APPOINTED BY THE COMMISSION;

26 (b) IF THE APPLICANT LOCAL GOVERNMENT INCLUDES TWO PUBLIC
27 BODIES:

1 (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS
2 SECTION, ONE MEMBER APPOINTED BY EACH PUBLIC BODY THAT HAS
3 COMMITTED ALL OR A PORTION OF ITS TAX REVENUES IN ACCORDANCE
4 WITH SECTION 24-46-404 (2), FOR A TOTAL OF TWO MEMBERS;

5 (II) TWO MEMBERS APPOINTED BY THE COMMISSION WHO ARE
6 OWNERS OF AN ALTERNATIVE ENERGY CONTRIBUTING FACILITY LOCATED
7 WITHIN THE ALTERNATIVE ENERGY PARK; AND

8 (III) ONE MEMBER APPOINTED BY THE COMMISSION WHO IS EITHER
9 AN OWNER OF AN ALTERNATIVE ENERGY CONTRIBUTING FACILITY OR AN
10 OWNER OF AN INDUSTRIAL OR BUSINESS PARK LOCATED WITHIN THE
11 ALTERNATIVE ENERGY PARK;

12 (c) IF THE APPLICANT LOCAL GOVERNMENT INCLUDES THREE OR
13 MORE PUBLIC BODIES:

14 (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS
15 SECTION, ONE MEMBER APPOINTED BY EACH PUBLIC BODY THAT HAS
16 COMMITTED ALL OR A PORTION OF ITS TAX REVENUES IN ACCORDANCE
17 WITH SECTION 24-46-404 (2);

18 (II) THREE OR MORE MEMBERS APPOINTED BY THE COMMISSION,
19 COINCIDING WITH THE NUMBER OF MEMBERS APPOINTED PURSUANT TO
20 SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), WHO ARE OWNERS OF AN
21 ALTERNATIVE ENERGY CONTRIBUTING FACILITY LOCATED WITHIN THE
22 ALTERNATIVE ENERGY PARK; AND

23 (III) TWO MEMBERS APPOINTED BY THE COMMISSION WHO ARE
24 EITHER OWNERS OF AN ALTERNATIVE ENERGY CONTRIBUTING FACILITY OR
25 OWNERS OF AN INDUSTRIAL OR BUSINESS PARK LOCATED WITHIN THE
26 ALTERNATIVE ENERGY PARK.

27 (3) A PUBLIC BODY SHALL NOT BE ENTITLED TO APPOINT A

1 MEMBER OF AN ALTERNATIVE ENERGY PARK BOARD UNLESS THE LOCAL
2 GOVERNMENT HAS ELECTED TO COMMIT ALL OR A PORTION OF ITS TAX
3 REVENUES IN ACCORDANCE WITH SECTION 24-46-404 (2).

4 (4) UNLESS LIMITED BY THE COMMISSION'S CONDITIONS OF
5 APPROVAL, EACH AUTHORITY HAS ALL OF THE POWERS NECESSARY OR
6 CONVENIENT TO CARRY OUT THE PURPOSES OF THIS PART 4, INCLUDING
7 THE FOLLOWING POWERS:

8 (a) PERPETUAL EXISTENCE AND SUCCESSION;

9 (b) TO ADOPT, HAVE, AND USE A CORPORATE SEAL;

10 (c) TO SUE AND BE SUED AND TO BE A PARTY TO SUITS, ACTIONS,
11 AND PROCEEDINGS;

12 (d) TO UNDERTAKE THE COMPLETION OF ELIGIBLE IMPROVEMENTS
13 IN AN ALTERNATIVE ENERGY PARK;

14 (e) TO ENTER INTO CONTRACTS AND AGREEMENTS AFFECTING THE
15 AFFAIRS OF THE ALTERNATIVE ENERGY AUTHORITY AS NECESSARY TO
16 COMPLETE AN ALTERNATIVE ENERGY PARK;

17 (f) TO RECEIVE, INVEST, PLEDGE, SPEND, AND OTHERWISE USE AND
18 EXPEND TAX INCREMENT REVENUE IN ACCORDANCE WITH AN APPROVED
19 ALTERNATIVE ENERGY PARK;

20 (g) TO ASSIGN AND PLEDGE TO A FINANCING ENTITY OR URBAN
21 RENEWAL AUTHORITY HAVING ALL OR A PORTION OF THE ALTERNATIVE
22 ENERGY PARK WITHIN ITS BOUNDARIES OR SERVICE AREA THE
23 ALTERNATIVE ENERGY AUTHORITY'S RIGHT TO RECEIVE AND USE TAX
24 INCREMENT REVENUE TO SUPPORT BONDS OR OTHER FINANCING
25 INSTRUMENTS ISSUED OR ENTERED INTO BY THE FINANCING ENTITY OR
26 URBAN RENEWAL AUTHORITY FOR ELIGIBLE COSTS OR TO ACQUIRE
27 ELIGIBLE IMPROVEMENTS, INCLUDING LOANS OR FUNDING AND

1 REIMBURSEMENT AGREEMENTS WITH DEVELOPERS INVOLVED IN THE
2 ALTERNATIVE ENERGY PARK OR OTHER THIRD PARTIES;

3 (h) TO BORROW MONEY AND INCUR DEBT, EVIDENCED BY
4 CERTIFICATES AND NOTE AND DEBENTURES, TO ISSUE BONDS, AND TO
5 INVEST ANY MONEYS OF THE AUTHORITY NOT REQUIRED FOR IMMEDIATE
6 DISBURSEMENT IN PROPERTY OR IN SECURITIES IN WHICH PUBLIC BODIES
7 MAY LEGALLY INVEST FUNDS PURSUANT TO PART 6 OF ARTICLE 75 OF THIS
8 TITLE;

9 (i) TO DEPOSIT ANY MONEYS NOT REQUIRED FOR IMMEDIATE
10 DISBURSEMENT IN A DEPOSITORY AUTHORIZED IN SECTION 24-75-603 AND,
11 FOR THE PURPOSE OF MAKING THE DEPOSITS, TO APPOINT BY WRITTEN
12 RESOLUTION ONE OR MORE PERSONS TO ACT AS CUSTODIANS OF THE
13 MONEYS OF THE AUTHORITY, WHICH PERSON OR PERSONS SHALL GIVE
14 SURETY BONDS IN THE AMOUNTS AND FORM AND FOR THE PURPOSES AS
15 THE AUTHORITY REQUIRES;

16 (j) TO MAKE THE APPROPRIATIONS AND EXPENDITURES OF ITS
17 FUNDS AND TO SET UP, ESTABLISH, AND MAINTAIN SUCH GENERAL,
18 SEPARATE, OR SPECIAL FUNDS AND BANK ACCOUNTS OR OTHER ACCOUNTS
19 AS IT DEEMS NECESSARY OR CONVENIENT TO CARRY OUT THE PURPOSES OF
20 THIS PART 4;

21 (k) TO ACCEPT ON BEHALF OF THE ALTERNATIVE ENERGY
22 AUTHORITY REAL OR PERSONAL PROPERTY FOR THE USE OF THE
23 AUTHORITY AND TO ACCEPT GIFTS AND CONVEYANCES MADE TO THE
24 AUTHORITY UPON THE TERMS OR CONDITIONS AS THE BOARD OF THE
25 AUTHORITY MAY APPROVE;

26 (l) TO ADOPT, AMEND, AND ENFORCE BYLAWS AND RULES THAT DO
27 NOT CONFLICT WITH THE CONSTITUTION AND LAWS OF THE STATE FOR

1 CARRYING OUT THE BUSINESS OF THE AUTHORITY;

2 (m) TO HAVE AND EXERCISE ALL RIGHTS AND POWERS NECESSARY
3 OR INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS GRANTED TO
4 THE ALTERNATIVE ENERGY AUTHORITY BY THIS PART 4. SUCH SPECIFIC
5 POWERS ARE NOT CONSIDERED A LIMITATION UPON ANY POWER
6 NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES AND INTENT
7 OF THIS PART 4.

8 (n) TO AUTHORIZE THE USE OF ELECTRONIC RECORDS OR
9 SIGNATURES AND TO ADOPT RULES, STANDARDS, POLICIES, AND
10 PROCEDURES FOR USE OF ELECTRONIC RECORDS OR SIGNATURES PURSUANT
11 TO ARTICLE 71.3 OF THIS TITLE.

12 (5) AN ALTERNATIVE ENERGY AUTHORITY DOES NOT HAVE THE
13 POWER OF EMINENT DOMAIN, NOR THE POWER TO IMPOSE OR LEVY A SALES
14 TAX, USE TAX, PROPERTY TAX, OR ANY OTHER TAX.

15 (6) THE BOARD OF DIRECTORS OF AN ALTERNATIVE ENERGY
16 AUTHORITY IS SUBJECT TO THE PROVISIONS OF THE "COLORADO OPEN
17 RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE, AND THE
18 "COLORADO SUNSHINE ACT OF 1972", ARTICLE 6 OF THIS TITLE.

19 **24-46-407. Tax increment revenue.** (1) EACH PUBLIC BODY
20 ENTITLED TO RECEIVE A PORTION OF THE AD VALOREM PROPERTY TAXES
21 OR SALES TAXES COLLECTED WITHIN A PROPOSED ALTERNATIVE ENERGY
22 PARK OR WITHIN THE PROPOSED EXPANSION AREA OF AN ALTERNATIVE
23 ENERGY PARK MAY ELECT TO LIMIT THE PERCENTAGE OF ITS PORTION OF
24 THE AD VALOREM PROPERTY TAXES OR SALES TAXES THAT IS SUBJECT TO
25 THIS SECTION AND TO LIMIT THE DURATION OF TIME THAT ITS PORTION OF
26 THE AD VALOREM PROPERTY TAXES OR SALES TAXES SHALL BE SUBJECT TO
27 THIS SECTION. IF A PUBLIC BODY MAKES SUCH AN ELECTION, THE

1 PROVISIONS OF THIS SECTION SHALL APPLY ONLY TO THE PERCENTAGE AND
2 FOR THE DURATION SPECIFIED IN THE ELECTION. AN ELECTION MADE
3 PURSUANT TO THIS SUBSECTION (1) SHALL BE MADE IN WRITING TO THE
4 APPLICANT FOR APPROVAL OF A NEW ALTERNATIVE ENERGY PARK OR
5 EXPANSION OF AN EXISTING ALTERNATIVE ENERGY PARK AND INCLUDED
6 BY THE APPLICANT IN THE APPLICATION. A PUBLIC BODY THAT DOES NOT
7 NOTIFY THE APPLICANT IN WRITING OF THE ELECTION PRIOR TO THE
8 HEARING ON THE APPLICATION SHALL BE DEEMED TO HAVE MADE AN
9 ELECTION TO EXEMPT ALL OF ITS PORTION OF THE AD VALOREM OR SALES
10 TAXES COLLECTED WITHIN THE PARK.

11 (2) (a) NOTWITHSTANDING ANY LAW TO THE CONTRARY, AN
12 ALTERNATIVE ENERGY PARK APPLICATION, AS ORIGINALLY APPROVED OR
13 AS LATER MODIFIED PURSUANT TO THIS PART 4, MAY CONTAIN A
14 PROVISION THAT THE FINANCING ENTITY MAY OCCASIONALLY APPROVE
15 ONE OR MORE PROJECTS FOR CONSTRUCTION OF ELIGIBLE IMPROVEMENTS
16 AND PROVIDE THAT TAXES, IF ANY, LEVIED AFTER THE EFFECTIVE DATE OF
17 THE APPROVAL OF THE PROJECT UPON TAXABLE PROPERTY WITHIN THE
18 PROJECT AREA EACH YEAR OR THAT MUNICIPAL SALES TAXES COLLECTED
19 WITHIN THE PROJECT AREA, OR BOTH SUCH TAXES, BY OR FOR THE BENEFIT
20 OF ANY PUBLIC BODY SHALL BE DIVIDED FOR A PERIOD NOT TO EXCEED
21 TWENTY-FIVE YEARS AFTER THE EFFECTIVE DATE OF APPROVAL OF A
22 PROJECT AS FOLLOWS:

23 (I) THAT PORTION OF THE TAXES PRODUCED BY THE LEVY AT THE
24 RATE FIXED EACH YEAR BY OR FOR EACH PUBLIC BODY UPON THE
25 VALUATION FOR ASSESSMENT OF TAXABLE PROPERTY IN THE PROJECT
26 AREA LAST CERTIFIED PRIOR TO THE EFFECTIVE DATE OF APPROVAL OF THE
27 PROJECT OR, AS TO AN AREA LATER ADDED TO THE PROJECT AREA, THE

1 EFFECTIVE DATE OF THE MODIFICATION OF THE PROJECT AREA, OR THAT
2 PORTION OF MUNICIPAL SALES TAXES COLLECTED WITHIN THE BOUNDARIES
3 OF SAID PROJECT AREA IN THE TWELVE-MONTH PERIOD ENDING ON THE
4 LAST DAY OF THE MONTH PRIOR TO THE EFFECTIVE DATE OF APPROVAL OF
5 THE PROJECT AREA, OR BOTH SUCH PORTIONS, MUST BE PAID INTO THE
6 FUNDS OF EACH PUBLIC BODY AS ARE ALL OTHER TAXES COLLECTED BY OR
7 FOR SAID PUBLIC BODY;

8 (II) (A) THAT PORTION OF THE PROPERTY TAXES OR ALL OR A
9 PORTION OF SAID SALES TAXES, OR BOTH, IN EXCESS OF THE AMOUNT MUST
10 BE ALLOCATED TO AND, WHEN COLLECTED, PAID INTO A SPECIAL FUND OF
11 THE FINANCING ENTITY TO PAY THE PRINCIPAL OF, THE INTEREST ON, AND
12 ANY PREMIUMS DUE IN CONNECTION WITH THE BONDS OF, LOANS OR
13 ADVANCES TO, OR DEBT INCURRED BY, WHETHER FUNDED, REFUNDED,
14 ASSUMED, OR OTHERWISE, SUCH FINANCING ENTITY FOR FINANCING OR
15 REFINANCING, IN WHOLE OR IN PART, A PROJECT, OR TO MAKE PAYMENTS
16 UNDER AN AGREEMENT EXECUTED PURSUANT TO SUBSECTION (4) OF THIS
17 SECTION. ANY EXCESS MUNICIPAL SALES TAX COLLECTIONS NOT
18 ALLOCATED PURSUANT TO THIS SUBPARAGRAPH (II) MUST BE PAID INTO
19 THE FUNDS OF THE MUNICIPALITY.

20 (B) UNLESS AND UNTIL THE TOTAL VALUATION FOR ASSESSMENT
21 OF THE TAXABLE PROPERTY IN A PROJECT AREA EXCEEDS THE BASE
22 VALUATION FOR ASSESSMENT OF THE TAXABLE PROPERTY IN THE PROJECT
23 AREA, AS PROVIDED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), ALL OF
24 THE TAXES LEVIED UPON THE TAXABLE PROPERTY IN THE PROJECT AREA
25 MUST BE PAID INTO THE GENERAL FUNDS OF THE RESPECTIVE PUBLIC
26 BODIES.

27 (C) UNLESS AND UNTIL THE TOTAL MUNICIPAL SALES TAX

1 COLLECTIONS IN A PROJECT AREA EXCEED THE BASE YEAR MUNICIPAL
2 SALES TAX COLLECTIONS IN THE PROJECT AREA, AS PROVIDED IN
3 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), ALL SUCH SALES TAX
4 COLLECTIONS MUST BE PAID INTO THE GENERAL FUND OF THE
5 MUNICIPALITY. WHEN THE BONDS, LOANS, ADVANCES, AND DEBT, IF ANY,
6 INCLUDING INTEREST AND ANY PREMIUMS DUE IN CONNECTION
7 THEREWITH, HAVE BEEN PAID, ALL TAXES UPON THE TAXABLE PROPERTY
8 OR THE TOTAL MUNICIPAL SALES TAX COLLECTIONS, OR BOTH, IN THE
9 PROJECT AREA MUST BE PAID INTO THE GENERAL FUNDS OF THE
10 RESPECTIVE PUBLIC BODIES.

11 (III) IN CALCULATING AND MAKING PAYMENTS AS DESCRIBED IN
12 SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), THE COUNTY TREASURER
13 MAY OFFSET THE FINANCING ENTITY'S PRO RATA PORTION OF ANY
14 PROPERTY TAXES THAT ARE PAID TO THE FINANCING ENTITY UNDER THE
15 TERMS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) AND THAT ARE
16 SUBSEQUENTLY REFUNDED TO THE TAXPAYER AGAINST ANY SUBSEQUENT
17 PAYMENTS DUE TO THE FINANCING ENTITY FOR THE PROJECT. THE
18 FINANCING ENTITY SHALL MAKE ADEQUATE PROVISION FOR THE RETURN
19 OF OVERPAYMENTS IN THE EVENT THAT THERE ARE NOT SUFFICIENT
20 PROPERTY TAXES DUE TO THE FINANCING ENTITY TO OFFSET THE
21 FINANCING ENTITY'S PRO RATA PORTION OF THE REFUNDS. THE FINANCING
22 ENTITY MAY ESTABLISH A RESERVE FUND FOR THIS PURPOSE OR ENTER
23 INTO AN INTERGOVERNMENTAL AGREEMENT WITH A MUNICIPAL
24 GOVERNING BODY IN WHICH THE MUNICIPALITY ASSUMES RESPONSIBILITY
25 FOR THE RETURN OF THE OVERPAYMENTS. THIS SUBPARAGRAPH (III) DOES
26 NOT APPLY TO A CITY AND COUNTY.

27 (b) THE PORTION OF TAXES DESCRIBED IN SUBPARAGRAPH (II) OF

1 PARAGRAPH (a) OF THIS SUBSECTION (2) MAY BE IRREVOCABLY PLEDGED
2 BY THE FINANCING ENTITY, A LOCAL GOVERNMENT, OR A SPECIAL DISTRICT
3 CREATED PURSUANT TO TITLE 32, C.R.S., FOR THE PAYMENT OF THE
4 PRINCIPAL OF, THE INTEREST ON, AND ANY PREMIUMS DUE IN CONNECTION
5 WITH THE BONDS, LOANS, ADVANCES, AND DEBT. THIS IRREVOCABLE
6 PLEDGE DOES NOT EXTEND TO ANY TAXES PLACED IN A RESERVE FUND TO
7 BE RETURNED TO THE FINANCING ENTITY FOR REFUNDS OF OVERPAYMENTS
8 BY TAXPAYERS; EXCEPT THAT THIS LIMITATION ON THE EXTENSION OF THE
9 IRREVOCABLE PLEDGE DOES NOT APPLY TO A CITY AND COUNTY.

10 (c) AS USED IN THIS SECTION, "TAXES" INCLUDES, WITHOUT
11 LIMITATION, ALL LEVIES AUTHORIZED TO BE MADE ON AN AD VALOREM
12 BASIS UPON REAL AND PERSONAL PROPERTY OR MUNICIPAL SALES TAXES,
13 BUT NOTHING IN THIS SECTION REQUIRES A PUBLIC BODY TO LEVY TAXES.

14 (d) IN THE CASE OF AN ALTERNATIVE ENERGY PARK THAT HAS
15 WITHIN ITS BORDERS SINGLE- AND MULTIPLE-FAMILY RESIDENCES, SCHOOL
16 DISTRICTS THAT INCLUDE ALL OR A PART OF THE ALTERNATIVE ENERGY
17 PARK ARE PERMITTED TO PARTICIPATE IN AN ADVISORY CAPACITY WITH
18 RESPECT TO THIS SUBSECTION (2).

19 (e) IN THE EVENT OF A GENERAL REASSESSMENT OF TAXABLE
20 PROPERTY VALUATIONS IN A COUNTY, INCLUDING ALL OR PART OF THE
21 ALTERNATIVE ENERGY PARK SUBJECT TO DIVISION OF VALUATION FOR
22 ASSESSMENT UNDER PARAGRAPH (a) OF THIS SUBSECTION (2), OR A
23 CHANGE IN THE SALES TAX PERCENTAGE LEVIED IN A MUNICIPALITY,
24 INCLUDING ALL OR PART OF THE ALTERNATIVE ENERGY PARK SUBJECT TO
25 DIVISION OF SALES TAXES UNDER PARAGRAPH (a) OF THIS SUBSECTION (2),
26 THE PORTIONS OF VALUATIONS FOR ASSESSMENT OR SALES TAXES UNDER
27 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (a) OF THIS SUBSECTION (2)

1 MUST BE PROPORTIONATELY ADJUSTED IN ACCORDANCE WITH THE
2 REASSESSMENT OR CHANGE.

3 (f) NOTWITHSTANDING THE TWENTY-FIVE-YEAR PERIOD OF
4 LIMITATION SET FORTH IN THIS SUBSECTION (2), ANY PROJECT, AS
5 ORIGINALLY APPROVED OR AS LATER MODIFIED PURSUANT TO THIS PART
6 4, MAY CONTAIN A PROVISION THAT THE MUNICIPAL SALES TAXES
7 COLLECTED IN A PROJECT AREA EACH YEAR OR THE MUNICIPAL PORTION
8 OF TAXES LEVIED UPON TAXABLE PROPERTY WITHIN THE PROJECT AREA,
9 OR BOTH SUCH TAXES, MAY BE ALLOCATED AS DESCRIBED IN THIS SECTION
10 FOR A PERIOD IN EXCESS OF TWENTY-FIVE YEARS AFTER THE EFFECTIVE
11 DATE OF THE PROJECT IF THE EXISTING BONDS ARE IN DEFAULT OR ABOUT
12 TO GO INTO DEFAULT; EXCEPT THAT THE TAXES MAY NOT BE ALLOCATED
13 AFTER ALL BONDS OF THE FINANCING ENTITY, A LOCAL GOVERNMENT, OR
14 A SPECIAL DISTRICT CREATED PURSUANT TO TITLE 32, C.R.S., ISSUED
15 PURSUANT TO SUCH PLAN, INCLUDING LOANS, ADVANCES, AND DEBT, IF
16 ANY, AND INTEREST THEREON, AND ANY PREMIUMS DUE IN CONNECTION
17 THEREWITH HAVE BEEN PAID.

18 (2) THE FINANCING ENTITY SHALL TIMELY NOTIFY THE ASSESSOR
19 OF THE COUNTY IN WHICH A PROJECT AND PROJECT AREA HAVE BEEN
20 APPROVED WHEN:

21 (a) A PROJECT AND PROJECT AREA PROVIDE FOR THE FINANCING
22 MECHANISM REFERENCED IN SUBSECTION (2) OF THIS SECTION, WHICH
23 NOTICE MUST INCLUDE A PRECISE DESCRIPTION OF THE PROJECT AREA;

24 (b) ANY OUTSTANDING OBLIGATION INCURRED BY THE FINANCING
25 ENTITY PURSUANT TO THIS SECTION HAS BEEN PAID IN FULL; AND

26 (c) THE PURPOSES OF THE PROJECT AREA HAVE OTHERWISE BEEN
27 ACHIEVED.

1 (3) THE FINANCING ENTITY MAY ENTER INTO AN AGREEMENT WITH
2 A COUNTY WITHIN THE BOUNDARIES OF WHICH PROPERTY TAXES
3 COLLECTED AS A RESULT OF THE COUNTY LEVY, OR A PORTION OF THE
4 LEVY, WILL BE SUBJECT TO ALLOCATION PURSUANT TO SUBSECTION (2) OF
5 THIS SECTION. THE AGREEMENT MAY PROVIDE FOR THE ALLOCATION OF
6 RESPONSIBILITY AMONG THE PARTIES TO THE AGREEMENT FOR PAYMENT
7 OF THE COSTS OF ANY ADDITIONAL COUNTY INFRASTRUCTURE OR
8 SERVICES NECESSARY TO OFFSET THE IMPACTS OF THE PROJECT AND FOR
9 THE SHARING OF REVENUES. EXCEPT WITH THE CONSENT OF THE
10 FINANCING ENTITY, ANY SHARED REVENUES ARE LIMITED TO ALL OR A
11 PORTION OF THE TAXES LEVIED UPON TAXABLE PROPERTY WITHIN THE
12 PROJECT AREA BY THE COUNTY.

13 **24-46-408. Annual report - audit.** (1) WITHIN NINETY DAYS OF
14 THE END OF THE FIRST FULL STATE FISCAL YEAR AFTER THE COMMISSION
15 APPROVES AN ALTERNATIVE ENERGY PARK AND ON THE SAME DATE EACH
16 YEAR THEREAFTER, THE FINANCING ENTITY SHALL PREPARE AND SUBMIT
17 TO THE COMMISSION AN ANNUAL REPORT DETAILING, BY PROJECT AND
18 PROJECT AREA, THE TOTAL AMOUNT OF TAX INCREMENT REVENUE THAT
19 THE FINANCING ENTITY COLLECTED OVER THE PAST YEAR, HOW THE
20 REVENUE WAS SPENT, PROJECTED REVENUE FOR THE REMAINDER OF THE
21 PERIOD FOR WHICH THE FINANCING ENTITY MAY COLLECT TAX INCREMENT
22 REVENUE, AND A SUMMARY OF THE STATUS OF CONSTRUCTION OF THE
23 ELIGIBLE IMPROVEMENTS. IF ANY INFORMATION PROVIDED IN THE ANNUAL
24 REPORT IS A TRADE SECRET, PROPRIETARY, OR OTHERWISE ENTITLED TO
25 PROTECTION PURSUANT TO ARTICLE 72 OF THIS TITLE, IT MUST BE SO
26 DESIGNATED AND KEPT CONFIDENTIAL BY THE STATE. THE GOVERNING
27 BODY OF THE FINANCING ENTITY SHALL ATTEST TO THE ACCURACY OF THE

1 INFORMATION PROVIDED IN THE ANNUAL REPORT.

2 (2) WITH THE ANNUAL REPORT, A FINANCING ENTITY SHALL
3 SUBMIT AN INDEPENDENT AUDIT OF ITS FINANCIAL STATUS PREPARED BY
4 A CERTIFIED PUBLIC ACCOUNTANT ATTESTING TO THE ACCURACY OF THE
5 ANNUAL REPORT. IN THE REPORT, THE FINANCING ENTITY SHALL STATE
6 WHETHER ANY TAX INCREMENT REVENUE IS BEING USED FOR PURPOSES
7 OTHER THAN FOR ELIGIBLE COSTS AND ANY OTHER FINANCIAL
8 INFORMATION THAT IS REASONABLY REQUIRED BY THE COMMISSION.

9 (3) IF THE AUDIT REQUIRED BY SUBSECTION (2) OF THIS SECTION
10 FINDS THAT TAX INCREMENT REVENUE HAS BEEN USED FOR
11 UNAUTHORIZED PURPOSES, THE FINANCING ENTITY SHALL BE LIABLE FOR
12 THE REPAYMENT OF THE TAX INCREMENT REVENUE TO THE PARK OR TO
13 THE GENERAL FUND OF EACH AFFECTED MUNICIPALITY OR OTHER TAXING
14 ENTITY. THE REPAYMENT MAY BE MADE FROM MONEYS OF THE FINANCING
15 ENTITY DERIVED FROM SOURCES OTHER THAN TAX INCREMENT REVENUE,
16 IF ANY, BY OFFSET AGAINST FUTURE TAX INCREMENT REVENUE THAT
17 WOULD OTHERWISE BE DISBURSED TO IT BY THE DEPARTMENT OF REVENUE
18 OR A COUNTY TREASURER, OR FROM OTHER MONEYS THAT ARE LEGALLY
19 AVAILABLE TO THE FINANCING ENTITY FOR SUCH PURPOSE.

20 (4) IF THE FINANCING ENTITY IS A METROPOLITAN DISTRICT, IT MAY
21 COMPLY WITH THE REQUIREMENTS OF THIS SECTION BY SUBMITTING TO
22 THE COMMISSION A COPY OF THE REPORT THAT THE METROPOLITAN
23 DISTRICT IS OTHERWISE REQUIRED TO SUBMIT TO A LOCAL GOVERNMENT.
24 THE FINANCING ENTITY SHALL DELIVER THE COPY TO THE COMMISSION
25 CONCURRENTLY WITH THE DELIVERY OF THE ANNUAL REPORT AND AUDIT
26 WHEN OTHERWISE REQUIRED BY LAW.

27 (5) THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT SHALL

1 PREPARE A REPORT TO BE SUBMITTED BY THE OFFICE NO LATER THAN
2 SEPTEMBER 1 OF THE APPLICABLE FISCAL YEAR TO THE FINANCE
3 COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE, THE
4 ECONOMIC AND BUSINESS DEVELOPMENT COMMITTEE OF THE HOUSE OF
5 REPRESENTATIVES, AND THE BUSINESS, LABOR, AND TECHNOLOGY
6 COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES. THE
7 REPORT SHALL PRESENT INFORMATION ON ALL LOCAL GOVERNMENT TAX
8 EXPENDITURES FOR ALTERNATIVE ENERGY ECONOMIC DEVELOPMENT
9 DURING THE PRIOR FISCAL YEAR AND INCLUDE INFORMATION FROM THE
10 REPORTS REQUIRED PURSUANT TO SUBSECTION (6) OF THIS SECTION.

11 (6) (a) EACH YEAR, NO LATER THAN SEPTEMBER 1, THE
12 DEPARTMENT OF REVENUE AND THE DEPARTMENT OF LOCAL AFFAIRS
13 SHALL JOINTLY REPORT THE AGGREGATE AMOUNT OF TAX INCREMENT
14 REVENUE DIVERTED TO FINANCING ENTITIES FOR APPROVED PARKS.

15 (b) EVERY TWO YEARS, NO LATER THAN SEPTEMBER 1, THE
16 COLORADO OFFICE OF ECONOMIC DEVELOPMENT AND THE DEPARTMENTS
17 OF REVENUE AND LOCAL AFFAIRS SHALL REPORT DETAILED INFORMATION
18 ON EACH PARK APPROVED TO RECEIVE TAX INCREMENT REVENUE,
19 INCLUDING:

20 (I) THE NAME, ADDRESS, AND CONTACT INFORMATION FOR EACH
21 RECIPIENT;

22 (II) THE AMOUNT OF TAX INCREMENT REVENUE DIVERTED FOR THE
23 PARK, DIVIDED, IF APPLICABLE, INTO CATEGORIES OF SALES TAX REVENUE
24 AND PROPERTY TAX REVENUE;

25 (III) THE BOUNDARIES OF THE APPROVED ALTERNATIVE ENERGY
26 PARK AND NARRATIVE FOR THE PARK;

27 (IV) THE PROPOSED TERM OF FINANCING AND THE PERCENT OF TAX

1 INCREMENT REVENUE THAT IS APPROVED FOR THE PARK;

2 (V) THE ACTUAL TAX INCREMENT REVENUE COLLECTED WITHIN
3 THE PARK COMPARED TO THE PROJECTED TAX INCREMENT REVENUE
4 CONTAINED IN THE APPROVED APPLICATION;

5 (VI) THE NUMBER OF NET NEW JOBS DIRECTLY CREATED BY THE
6 PARK IN EACH CATEGORY AS USED IN THE COLORADO DEPARTMENT OF
7 LABOR AND EMPLOYMENT OCCUPATIONAL EMPLOYMENT STATISTICS
8 SURVEY AND THE WAGES AND HEALTH BENEFITS FOR JOBS IN EACH
9 CATEGORY; AND

10 (VII) AN ASSESSMENT OF THE OVERALL EFFECTIVENESS OF THE
11 ALTERNATIVE ENERGY PARK.

12 **24-46-409. Commencement of development.** (1) SUBSTANTIAL
13 WORK ON A PROJECT APPROVED BY A FINANCING ENTITY, INCLUDING THE
14 FINANCING ENTITY'S ISSUANCE OF BONDS OR OTHER DEBT INSTRUMENTS,
15 THE REPAYMENT OF WHICH IS SECURED BY A PLEDGE OF THE TAX
16 INCREMENT REVENUE OR THE COMMENCEMENT OF ACTUAL DEVELOPMENT
17 OR PREDEVELOPMENT, SUCH AS ERECTING PERMANENT STRUCTURES,
18 EXCAVATING THE GROUND TO LAY FOUNDATIONS, MASS GRADING OF THE
19 SITE, OR WORK OF A SIMILAR DESCRIPTION THAT MANIFESTS AN INTENTION
20 AND PURPOSE TO COMPLETE THE PARK, MUST COMMENCE WITHIN FIVE
21 YEARS FROM THE DATE OF APPROVAL OF THE PROJECT.

22 (2) IF SUBSTANTIAL WORK ON A PROJECT DOES NOT COMMENCE
23 WITHIN FIVE YEARS OF APPROVAL BY THE FINANCING ENTITY, THE
24 APPROVAL LAPSES, BUT MAY BE REINSTATED BY THE FINANCING ENTITY
25 UPON A SHOWING OF GOOD CAUSE FOR THE DELAY. ANY TAX INCREMENT
26 REVENUE THAT THE ALTERNATIVE ENERGY PARK HAS GENERATED FROM
27 THE TIME OF THE ORIGINAL APPROVAL FOR THE PARK MAY REMAIN

1 DEDICATED TO THE PARK TO THE EXTENT THAT IT HAS BEEN PREVIOUSLY
2 EXPENDED OR PLEDGED BY THE FINANCING ENTITY FOR THE FINANCING OF
3 ELIGIBLE COSTS.

4 **24-46-410. Issuance of bonds by a financing entity.** (1) A
5 FINANCING ENTITY MAY ISSUE BONDS OCCASIONALLY IN ITS DISCRETION
6 TO FINANCE ANY ELIGIBLE IMPROVEMENTS WITH RESPECT TO A PROJECT
7 AND MAY ALSO ISSUE REFUNDING OR OTHER BONDS OF THE FINANCING
8 ENTITY ON OCCASION IN ITS DISCRETION FOR THE PAYMENT, RETIREMENT,
9 RENEWAL, OR EXTENSION OF ANY BONDS PREVIOUSLY ISSUED BY THE
10 FINANCING ENTITY UNDER THIS SECTION AND TO PROVIDE FOR THE
11 REPLACEMENT OF LOST, DESTROYED, OR MUTILATED BONDS PREVIOUSLY
12 ISSUED UNDER THIS SECTION.

13 (2) (a) A BOND ISSUED UNDER THIS SECTION MAY BE A GENERAL
14 OBLIGATION BOND OF THE FINANCING ENTITY, THE PAYMENT OF WHICH, AS
15 TO PRINCIPAL AND INTEREST AND PREMIUMS, IF ANY, THE FULL FAITH,
16 CREDIT, AND ASSETS, ACQUIRED AND TO BE ACQUIRED, OF THE FINANCING
17 ENTITY ARE IRREVOCABLY PLEDGED.

18 (b) A BOND ISSUED UNDER THIS SECTION MAY BE A SPECIAL
19 OBLIGATION OF THE FINANCING ENTITY THAT, AS TO PRINCIPAL AND
20 INTEREST AND PREMIUMS, IF ANY, IS PAYABLE SOLELY FROM AND SECURED
21 ONLY BY A PLEDGE OF ANY INCOME, PROCEEDS, REVENUES, OR FUNDS OF
22 THE FINANCING ENTITY, INCLUDING, WITHOUT LIMITATION, TAX
23 INCREMENT REVENUE.

24 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
25 A BOND ISSUED UNDER THIS SECTION MAY BE ADDITIONALLY SECURED AS
26 TO THE PAYMENT OF THE PRINCIPAL AND INTEREST AND PREMIUMS, IF ANY,
27 BY A MORTGAGE OF AN ALTERNATIVE ENERGY PARK, OR ANY PART

1 THEREOF, THE TITLE TO WHICH IS THEN OR THEREAFTER IN THE FINANCING
2 ENTITY OR OF ANY OTHER REAL OR PERSONAL PROPERTY OR INTERESTS
3 THEREIN THEN OWNED OR ACQUIRED BY THE FINANCING ENTITY.

4 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
5 A GENERAL OBLIGATION BOND ISSUED UNDER THIS SECTION MAY BE
6 ADDITIONALLY SECURED AS TO THE PAYMENT OF THE PRINCIPAL AND
7 INTEREST AND PREMIUMS, IF ANY, AS PROVIDED IN SUBSECTION (2) OF THIS
8 SECTION, WITH OR WITHOUT BEING ALSO ADDITIONALLY SECURED AS TO
9 PAYMENT OF THE PRINCIPAL AND INTEREST AND PREMIUMS, IF ANY, BY A
10 MORTGAGE AS PROVIDED IN SUBSECTION (3) OF THIS SECTION OR A TRUST
11 AGREEMENT AS PROVIDED IN SUBSECTION (5) OF THIS SECTION.

12 (5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
13 A BOND ISSUED UNDER THIS SECTION MAY BE ADDITIONALLY SECURED AS
14 TO THE PAYMENT OF THE PRINCIPAL AND INTEREST AND PREMIUMS, IF ANY,
15 BY A TRUST AGREEMENT BY AND BETWEEN THE FINANCING ENTITY AND A
16 CORPORATE TRUSTEE, WHICH MAY BE A TRUST COMPANY OR BANK HAVING
17 THE POWERS OF A TRUST COMPANY WITHIN OR OUTSIDE OF THE STATE.

18 (6) A BOND ISSUED UNDER THIS SECTION BY A FINANCING ENTITY
19 THAT CONSISTS SOLELY OF A METROPOLITAN DISTRICT OR AN
20 ALTERNATIVE ENERGY AUTHORITY DOES NOT CONSTITUTE A DEBT OF THE
21 STATE OR OF A COUNTY, MUNICIPALITY, OR PUBLIC BODY OF THE STATE
22 OTHER THAN THE FINANCING ENTITY ISSUING THE BOND. THE BOND IS NOT
23 SUBJECT TO ANY OTHER LAW OR CHARTER OF A MUNICIPALITY RELATING
24 TO THE AUTHORIZATION, ISSUANCE, OR SALE OF BONDS. A BOND ISSUED
25 BY A FINANCING ENTITY THAT INCLUDES A LOCAL GOVERNMENT IS
26 GOVERNED BY APPLICABLE LAW.

27 (7) (a) A BOND ISSUED UNDER THIS SECTION MUST BE AUTHORIZED

1 BY A RESOLUTION OF THE FINANCING ENTITY AND MAY BE ISSUED IN ONE
2 OR MORE SERIES AND MUST BEAR SUCH DATE, BE PAYABLE UPON DEMAND
3 OR MATURE AT SUCH TIME, BEAR INTEREST AT SUCH RATE, BE IN SUCH
4 DENOMINATION, BE IN SUCH FORM, EITHER COUPON OR REGISTERED OR
5 OTHERWISE, CARRY SUCH CONVERSION OR REGISTRATION PRIVILEGES,
6 HAVE SUCH RANK OR PRIORITY, BE EXECUTED IN THE NAME OF THE
7 FINANCING ENTITY IN SUCH MANNER, BE PAYABLE IN SUCH MEDIUM OF
8 PAYMENT, BE PAYABLE AT SUCH PLACE, BE SUBJECT TO SUCH CALLABILITY
9 PROVISIONS OR TERMS OF REDEMPTION, WITH OR WITHOUT PREMIUMS, BE
10 SECURED IN SUCH MANNER, BE OF SUCH DESCRIPTION, CONTAIN OR BE
11 SUBJECT TO SUCH COVENANTS, PROVISIONS, TERMS, CONDITIONS, AND
12 AGREEMENTS, INCLUDING PROVISIONS CONCERNING EVENTS OF DEFAULT,
13 AND HAVE SUCH OTHER CHARACTERISTICS AS MAY BE PROVIDED BY SUCH
14 RESOLUTION OR BY THE TRUST AGREEMENT, INDENTURE, OR MORTGAGE,
15 IF ANY, ISSUED PURSUANT TO THE RESOLUTION.

16 (b) THE SEAL, OR A FACSIMILE OF THE SEAL, OF THE FINANCING
17 ENTITY MUST BE AFFIXED, IMPRINTED, ENGRAVED, OR OTHERWISE
18 REPRODUCED UPON EACH BOND ISSUED UNDER THIS SECTION. A BOND
19 ISSUED UNDER THIS SECTION MUST BE EXECUTED IN THE NAME OF THE
20 FINANCING ENTITY BY THE MANUAL OR FACSIMILE SIGNATURES OF SUCH
21 OFFICIALS AS MAY BE DESIGNATED IN SAID RESOLUTION OR TRUST
22 AGREEMENT, INDENTURE, OR MORTGAGE; EXCEPT THAT AT LEAST ONE
23 SIGNATURE ON EACH BOND MUST BE A MANUAL SIGNATURE. COUPONS, IF
24 ANY, ATTACHED TO THE BOND MUST BEAR THE FACSIMILE SIGNATURE OF
25 AN OFFICIAL OF THE FINANCING ENTITY AS MAY BE DESIGNATED AS
26 PROVIDED IN THIS SUBSECTION (7). SAID RESOLUTION OR TRUST
27 AGREEMENT, INDENTURE, OR MORTGAGE MAY PROVIDE FOR THE

1 AUTHENTICATION OF THE PERTINENT BONDS BY THE TRUSTEE.

2 (8) A BOND ISSUED UNDER THIS SECTION MAY BE SOLD BY THE
3 FINANCING ENTITY IN THE MANNER AND FOR THE PRICE AS THE FINANCING
4 ENTITY, IN ITS DISCRETION, MAY DETERMINE, AT PAR, BELOW PAR, OR
5 ABOVE PAR, AT PRIVATE OR PUBLIC SALE AFTER NOTICE IS PUBLISHED
6 PRIOR TO THE SALE IN A NEWSPAPER HAVING GENERAL CIRCULATION IN
7 THE COUNTY IN WHICH THE ALTERNATIVE ENERGY PARK IS LOCATED OR
8 MAY BE EXCHANGED BY THE FINANCING ENTITY FOR ANOTHER BOND
9 ISSUED UNDER THIS SECTION.

10 (9) IF AN OFFICIAL OF THE FINANCING ENTITY WHOSE SIGNATURE
11 OR FACSIMILE SIGNATURE APPEARS ON A BOND OR COUPON ISSUED UNDER
12 THIS SECTION CEASES TO BE AN OFFICIAL BEFORE THE DELIVERY OF THE
13 BOND, THE SIGNATURE OR FACSIMILE SIGNATURE IS NEVERTHELESS VALID
14 AND SUFFICIENT FOR ALL PURPOSES, THE SAME AS IF THE OFFICIAL HAD
15 REMAINED IN OFFICE UNTIL DELIVERY OF THE BOND.

16 (10) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A BOND
17 ISSUED PURSUANT TO THIS SECTION IS FULLY NEGOTIABLE.

18 (11) IN A SUIT, ACTION, OR PROCEEDING INVOLVING THE VALIDITY
19 OR ENFORCEABILITY OF A BOND ISSUED UNDER THIS SECTION OR THE
20 SECURITY THEREFOR, A BOND RECITING IN SUBSTANCE THAT IT HAS BEEN
21 ISSUED BY THE FINANCING ENTITY IN CONNECTION WITH AN ALTERNATIVE
22 ENERGY PARK, OR ANY ACTIVITY OR OPERATION OF THE FINANCING ENTITY
23 UNDER THIS PART 4, IS CONCLUSIVELY DEEMED TO HAVE BEEN ISSUED FOR
24 SUCH PURPOSES. THE ALTERNATIVE ENERGY PARK OR OPERATION OR
25 ACTIVITY IS CONCLUSIVELY DEEMED TO HAVE BEEN INITIATED, PLANNED,
26 LOCATED, UNDERTAKEN, ACCOMPLISHED, AND CARRIED OUT IN
27 ACCORDANCE WITH THIS PART 4.

1 (12) PENDING THE PREPARATION OF A DEFINITIVE BOND UNDER
2 THIS SECTION, A FINANCING ENTITY MAY ISSUE AN INTERIM CERTIFICATE
3 OR RECEIPT OR TEMPORARY BOND, WITH OR WITHOUT COUPONS,
4 EXCHANGEABLE FOR A DEFINITIVE BOND WHEN THE LATTER HAS BEEN
5 EXECUTED AND IS AVAILABLE FOR DELIVERY.

6 (13) A PERSON RETAINED OR EMPLOYED BY A FINANCING ENTITY
7 AS AN ADVISOR OR CONSULTANT FOR THE PURPOSE OF RENDERING
8 FINANCIAL ADVICE AND ASSISTANCE MAY PURCHASE OR PARTICIPATE IN
9 THE PURCHASE OR DISTRIBUTION OF ITS BONDS WHEN THE BONDS ARE
10 OFFERED AT PUBLIC OR PRIVATE SALE.

11 (14) NO COMMISSIONER, MEMBER OR OTHER OFFICER OF A
12 FINANCING ENTITY ISSUING A BOND UNDER THIS SECTION, OR PERSON
13 EXECUTING A BOND IS PERSONALLY LIABLE ON THE BOND OR SUBJECT TO
14 ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE
15 ISSUANCE OF A BOND.

16 (15) NO COMMISSIONER, MEMBER OR OTHER OFFICER OF AN
17 ALTERNATIVE ENERGY AUTHORITY ISSUING A BOND PURSUANT TO THIS
18 PART 4, OR PERSON EXECUTING A BOND IS PERSONALLY LIABLE ON THE
19 BOND OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY
20 REASON OF THE ISSUANCE OF A BOND.

21 (16) A BOND ISSUED PURSUANT TO THIS PART 4 IS DECLARED TO BE
22 ISSUED FOR AN ESSENTIAL PUBLIC AND GOVERNMENTAL PURPOSE AND,
23 TOGETHER WITH INTEREST AND INCOME, IS EXEMPTED FROM ALL TAXES.

24 **SECTION 2.** Article 30 of title 39, Colorado Revised Statutes, is
25 amended BY THE ADDITION OF THE FOLLOWING NEW
26 SECTIONS to read:

27 **39-30-103.6. Credit against tax - contributions to alternative**

1 **energy parks to implement development - definitions.** (1) (a) FOR
2 INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, A
3 TAXPAYER WHO MAKES A MONETARY OR IN-KIND CONTRIBUTION TO A
4 FINANCING ENTITY FOR THE PURPOSE OF IMPLEMENTING AN ALTERNATIVE
5 ENERGY PARK IS ALLOWED A CREDIT AGAINST THE INCOME TAX IMPOSED
6 BY ARTICLE 22 OF THIS TITLE IN AN AMOUNT EQUAL TO TWENTY-FIVE
7 PERCENT OF THE TOTAL VALUE OF THE CONTRIBUTION AS CERTIFIED BY
8 THE APPROPRIATE FINANCING ENTITY.

9 (b) THE CREDIT ALLOWED BY PARAGRAPH (a) OF THIS SUBSECTION
10 (1) MUST NOT EXCEED ONE HUNDRED THOUSAND DOLLARS OR THE TOTAL
11 AMOUNT OF THE INCOME TAX IMPOSED ON THE TAXPAYER'S INCOME BY
12 ARTICLE 22 OF THIS TITLE FOR THE TAX YEAR FOR WHICH THE CREDIT IS
13 CLAIMED, WHICHEVER IS LESS. IN-KIND CONTRIBUTIONS MUST NOT
14 EXCEED FIFTY PERCENT OF THE TOTAL CREDIT CLAIMED.

15 (c) UPON REQUEST, THE FINANCING ENTITY, ACTING ON BEHALF OF
16 THE DEPARTMENT OF REVENUE, SHALL PROVIDE THE TAXPAYER WITH A
17 FORM TO BE FILED WITH THE DEPARTMENT OF REVENUE FOR THE PURPOSE
18 OF CLAIMING THE CREDIT ALLOWED BY THIS SECTION, WHICH MUST BE
19 ACCOMPANIED BY A COPY OF THE CERTIFICATION OF THE VALUE AND
20 PURPOSE OF THE CONTRIBUTION FURNISHED TO THE TAXPAYER BY THE
21 DIRECTOR.

22 (d) IF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS
23 SECTION EXCEEDS THE AMOUNT OF INCOME TAXES OTHERWISE DUE ON THE
24 INCOME OF THE TAXPAYER IN THE INCOME TAX YEAR FOR WHICH THE
25 CREDIT IS BEING CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN
26 OFFSET AGAINST INCOME TAXES IN SAID INCOME TAX YEAR MAY BE
27 CARRIED FORWARD AS A CREDIT AGAINST SUBSEQUENT YEARS' INCOME

1 TAX LIABILITY FOR A PERIOD NOT EXCEEDING FIVE YEARS AND MUST BE
2 APPLIED FIRST TO THE EARLIEST POSSIBLE INCOME TAX YEARS. THE
3 TAXPAYER SHALL NOT RECEIVE A REFUND FOR ANY CREDIT REMAINING
4 AFTER SAID PERIOD.

5 (2) IN NO EVENT ARE CREDITS ALLOWED PURSUANT TO THIS
6 SECTION TO BE USED FOR CONTRIBUTIONS THAT DIRECTLY BENEFIT THE
7 CONTRIBUTOR. IN ADDITION, CREDITS MUST BE DIRECTLY RELATED TO JOB
8 CREATION, JOB PRESERVATION, OR OTHER PURPOSES SPECIFIED IN SECTION
9 24-46-404, C.R.S.

10 (3) (a) CONTRIBUTIONS PURSUANT TO THIS SECTION MAY BE MADE
11 DIRECTLY TO THE FINANCING ENTITY APPROVED BY THE COLORADO
12 ECONOMIC DEVELOPMENT COMMISSION PURSUANT TO SECTION 24-46-405,
13 C.R.S.

14 (b) NO LATER THAN NINETY DAYS AFTER MAKING A CERTIFICATION
15 OF VALUE PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE FINANCING
16 ENTITY MAKING THE CERTIFICATION SHALL REPORT TO THE DIRECTOR OF
17 THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT, ACTING ON BEHALF
18 OF THE COLORADO ECONOMIC DEVELOPMENT COMMISSION, THE TOTAL
19 VALUE OF THE CONTRIBUTION AS CERTIFIED BY THE FINANCING ENTITY,
20 THE SOURCE OF THE CONTRIBUTION, THE PURPOSE OF THE CONTRIBUTION,
21 AND THE RELATIONSHIP OF THE STATED PURPOSE OF THE CONTRIBUTION
22 TO THE ALTERNATIVE ENERGY PARK'S GOALS OR JOB CREATION
23 OBJECTIVES.

24 (4) THE DIRECTOR OF THE COLORADO OFFICE OF ECONOMIC
25 DEVELOPMENT, ON BEHALF OF THE COLORADO ECONOMIC DEVELOPMENT
26 COMMISSION, MAY RELEASE INFORMATION CONCERNING THE SOURCE AND
27 AMOUNT OF CONTRIBUTIONS MADE PURSUANT TO THIS SECTION, AS WELL

1 AS THE AMOUNT OF THE CREDITS ALLOWED PURSUANT TO THIS SECTION.

2 (5) (a) ANY FINANCING ENTITY THAT PROVIDES OVERSIGHT,
3 MANAGEMENT, OR OTHER ADMINISTRATIVE SERVICES TO A PROGRAM,
4 PROJECT, OR ORGANIZATION THAT HAS BEEN APPROVED BY THE
5 COLORADO ECONOMIC DEVELOPMENT COMMISSION FOR PURPOSES OF THE
6 CONTRIBUTION TAX CREDIT, AS DESCRIBED IN THIS SECTION, IS
7 AUTHORIZED TO CHARGE REASONABLE FEES TO PROGRAMS, PROJECTS, AND
8 ORGANIZATIONS AS DESCRIBED IN THIS SECTION. EACH FINANCING ENTITY
9 THAT CHARGES ADMINISTRATIVE FEES PURSUANT TO THIS PARAGRAPH (a)
10 SHALL ESTABLISH A REASONABLE POLICY REGARDING THE IMPOSITION OF
11 SUCH FEES AND SHALL SUBMIT THE POLICY TO THE COLORADO ECONOMIC
12 DEVELOPMENT COMMISSION FOR REVIEW AND APPROVAL.

13 (b) THE COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL
14 REVIEW THE ADMINISTRATIVE FEE POLICY ESTABLISHED BY A FINANCING
15 ENTITY AND SHALL APPROVE THE POLICY OR REQUIRE THAT THE
16 FINANCING ENTITY MAKE MODIFICATIONS TO THE POLICY AS SPECIFIED BY
17 THE COMMISSION BEFORE APPROVING THE POLICY.

18 (6) FOR PURPOSES OF THIS SECTION, THE TERMS "ALTERNATIVE
19 ENERGY PARK" AND "FINANCING ENTITY" HAVE THE SAME MEANING AS
20 SET FORTH IN SECTION 24-46-403, C.R.S.

21 **39-30-103.7. Pre-certification for alternative energy park**
22 **credits.** (1) FOR EACH YEAR IN WHICH A TAXPAYER INTENDS TO CLAIM
23 AN INCOME TAX CREDIT PURSUANT TO SECTION 39-30-104.5, 39-30-105.2,
24 39-30-105.3, OR 39-30-105.4, BEFORE THE TAXPAYER ENGAGES IN ANY
25 ACTIVITY FOR WHICH IT INTENDS TO CLAIM THE CREDIT, AN AUTHORIZED
26 COMPANY OFFICIAL OF THE TAXPAYER'S BUSINESS OR THE TAXPAYER WHO
27 IS THE OWNER OF THE BUSINESS SHALL SUBMIT A PRE-CERTIFICATION FORM

1 TO THE FINANCING ENTITY FOR THE ALTERNATIVE ENERGY AUTHORITY
2 AND OBTAIN A CERTIFICATION FROM THE FINANCING ENTITY THAT THE
3 TAXPAYER'S BUSINESS IS LOCATED IN THE ALTERNATIVE ENERGY PARK. IN
4 CONNECTION WITH THE PRE-CERTIFICATION, THE TAXPAYER SHALL:

5 (a) OBTAIN VERIFICATION FROM THE FINANCING ENTITY THAT THE
6 TAXPAYER'S BUSINESS IS LOCATED IN AN ALTERNATIVE ENERGY PARK;

7 (b) CERTIFY THAT THE TAXPAYER IS AWARE OF THE ALTERNATIVE
8 ENERGY PARK INCOME TAX CREDITS ALLOWED PURSUANT TO THIS
9 ARTICLE;

10 (c) CERTIFY THAT THE ALTERNATIVE ENERGY PARK INCOME TAX
11 CREDITS ALLOWED PURSUANT TO THIS ARTICLE ARE A CONTRIBUTING
12 FACTOR TO THE START-UP, EXPANSION, OR RELOCATION OF THE
13 TAXPAYER'S BUSINESS IN THE ALTERNATIVE ENERGY PARK; AND

14 (d) CERTIFY THAT THE TAXPAYER ACKNOWLEDGES THAT THE
15 PRE-CERTIFICATION REQUIRED PURSUANT TO THIS SECTION IS FOR
16 ACTIVITIES THAT SHALL COMMENCE AFTER THE DATE THAT THE
17 PRE-CERTIFICATION FORM IS EXECUTED BY THE ALTERNATIVE ENERGY
18 AUTHORITY THROUGH THE END OF THE BUSINESS'S THEN-CURRENT INCOME
19 TAX YEAR.

20 (2) THE DEPARTMENT OF REVENUE SHALL DEVELOP FORMS TO BE
21 USED TO CLAIM AN INCOME TAX CREDIT PURSUANT TO THIS ARTICLE.

22 **39-30-103.8. Alternative energy parks - measurement of**
23 **outcomes with specific verifiable data.** (1) FOR ANY AREA DESIGNATED
24 AS AN ALTERNATIVE ENERGY PARK OR AS A PORTION OF AN ALTERNATIVE
25 ENERGY PARK PURSUANT TO PART 4 OF ARTICLE 46 OF TITLE 24, C.R.S.,
26 THE COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL WORK WITH
27 THE FINANCING ENTITY FOR THE ALTERNATIVE ENERGY PARK TO ENSURE

1 THAT THE AREA HAS SPECIFIC ECONOMIC DEVELOPMENT OBJECTIVES WITH
2 OUTCOMES THAT CAN BE MEASURED WITH SPECIFIC, VERIFIABLE DATA.
3 THE DIRECTOR OF THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT
4 SHALL REQUIRE THE FINANCING ENTITY FOR EACH ALTERNATIVE ENERGY
5 PARK TO SUBMIT ANNUAL DOCUMENTATION OF EFFORTS TO IMPROVE
6 CONDITIONS IN AREAS DESIGNATED AS ALTERNATIVE ENERGY PARKS AND
7 THE RESULTS OF THOSE EFFORTS. THE ANNUAL DOCUMENTATION SHALL
8 INCLUDE SPECIFIC, VERIFIABLE DATA THAT CAN BE USED TO MEASURE
9 WHETHER THE ALTERNATIVE ENERGY PARK HAS ACHIEVED THE SPECIFIC
10 ECONOMIC DEVELOPMENT OBJECTIVES FOR THE ALTERNATIVE ENERGY
11 PARK THAT HAVE MEASURABLE OUTCOMES. IN ORDER FOR THE
12 COMMISSION TO DETERMINE IF THE ALTERNATIVE ENERGY PARKS OR
13 PORTIONS THEREOF ARE ACHIEVING THE SPECIFIC ECONOMIC
14 DEVELOPMENT OBJECTIVES SUBMITTED PURSUANT TO THIS SECTION, THE
15 ANNUAL DOCUMENTATION SHALL INCLUDE, BUT NEED NOT BE LIMITED TO,
16 THE MOST RECENT STATISTICS AVAILABLE FOR COMPANIES CLAIMING
17 ALTERNATIVE ENERGY PARK TAX CREDITS ON:

18 (a) THE NUMBER OF JOBS CREATED IN THE ALTERNATIVE ENERGY
19 PARK AND THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM
20 (NAICS) CODE OF EACH COMPANY REPORTING THE CREATION OF JOBS
21 WITHIN THE ALTERNATIVE ENERGY PARK;

22 (b) THE NUMBER OF JOBS RETAINED IN THE ALTERNATIVE ENERGY
23 PARK;

24 (c) THE AVERAGE ANNUAL COMPENSATION LEVEL, INCLUDING
25 BENEFITS, OF THE JOBS CREATED OR RETAINED WITHIN THE ALTERNATIVE
26 ENERGY PARK, CATEGORIZED BY FULL-TIME PERMANENT, PART-TIME,
27 TEMPORARY, AND CONTRACT JOBS;

1 (d) THE NUMBER OF EMPLOYEES FROM OUTSIDE THE ALTERNATIVE
2 ENERGY PARK TRANSFERRED TO A FACILITY WITHIN THE ALTERNATIVE
3 ENERGY PARK;

4 (e) AN ANALYSIS OF CAPITAL INVESTMENT IN THE ALTERNATIVE
5 ENERGY PARK INCLUDING:

6 (I) THE NUMBER AND AMOUNT OF QUALIFIED REHABILITATION
7 EXPENSES MADE ON REHABILITATED VACANT BUILDINGS;

8 (II) THE AMOUNT OF INVESTMENT IN QUALIFYING PROPERTY FOR
9 WHICH TAX CREDITS WERE CLAIMED PURSUANT TO SECTION 39-30-104.5;

10 (f) THE NUMBER OF EMPLOYEES EMPLOYED IN NEW OR EXPANDED
11 BUSINESS FACILITIES FOR WHICH A TAX CREDIT IS CLAIMED PURSUANT TO
12 SECTION 39-30-105.2;

13 (g) THE AMOUNT OF INVESTMENT TAX CREDITS CLAIMED
14 PURSUANT TO SECTION 39-30-104.5 AND THE AMOUNT OF TAX CREDITS
15 CLAIMED FOR NEW BUSINESS FACILITY EMPLOYEES PURSUANT TO SECTION
16 39-30-105.2; AND

17 (h) ANY OTHER INFORMATION REASONABLY REQUIRED BY THE
18 FINANCING ENTITY, THE DIRECTOR OF THE COLORADO OFFICE OF
19 ECONOMIC DEVELOPMENT, OR THE COLORADO ECONOMIC DEVELOPMENT
20 COMMISSION TO EVALUATE THE EFFECTIVENESS OF EACH ALTERNATIVE
21 ENERGY PARK IN ACCOMPLISHING THE SPECIFIC MEASURABLE OBJECTIVES
22 OF THE ALTERNATIVE ENERGY PARK.

23 **39-30-104.5. Credit against tax - investment in certain**
24 **property in alternative energy park - definitions.** (1) (a) IN LIEU OF
25 ANY CREDIT ALLOWABLE UNDER SECTION 39-22-507.5, A PERSON IS
26 ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY ARTICLE 22 OF THIS
27 TITLE FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1,

1 2014, IN AN AMOUNT EQUAL TO THREE PERCENT OF THE TOTAL QUALIFIED
2 INVESTMENT, AS DETERMINED UNDER SECTION 46 (c) (2) OF THE FEDERAL
3 "INTERNAL REVENUE CODE OF 1986", AS AMENDED, IN SUCH TAXABLE
4 YEAR IN QUALIFIED PROPERTY AS DEFINED IN SECTION 48 OF THE INTERNAL
5 REVENUE CODE TO THE EXTENT THAT THE INVESTMENT IS IN PROPERTY
6 THAT IS USED SOLELY AND EXCLUSIVELY IN AN ALTERNATIVE ENERGY
7 CONTRIBUTING FACILITY WITHIN AN ALTERNATIVE ENERGY PARK FOR AT
8 LEAST ONE YEAR. THE REFERENCES IN THIS SUBSECTION (1) TO SECTIONS
9 46 (c) (2) AND 48 OF THE INTERNAL REVENUE CODE MEAN SECTIONS 46 (c)
10 (2) AND 48 OF THE INTERNAL REVENUE CODE AS THEY EXISTED
11 IMMEDIATELY PRIOR TO THE ENACTMENT OF THE FEDERAL "REVENUE
12 RECONCILIATION ACT OF 1990".

13 (b) A COMMERCIAL TRUCK, TRUCK TRACTOR, TRACTOR, OR
14 SEMITRAILER WITH A GROSS VEHICLE WEIGHT RATING OF SIXTEEN
15 THOUSAND POUNDS OR GREATER THAT IS MODEL YEAR 2011 OR NEWER, AS
16 WELL AS ANY PARTS ASSOCIATED WITH THE VEHICLE AT THE TIME OF
17 PURCHASE, IS DEEMED TO BE USED SOLELY AND EXCLUSIVELY BY AN
18 ALTERNATIVE ENERGY CONTRIBUTING FACILITY WITHIN AN ALTERNATIVE
19 ENERGY PARK IF IT IS LICENSED AND REGISTERED WITHIN THE STATE AND
20 PREDOMINANTLY HOUSED AND BASED AT THE TAXPAYER'S ALTERNATIVE
21 ENERGY CONTRIBUTING FACILITY WITHIN THE ALTERNATIVE ENERGY PARK
22 FOR THE TWELVE-MONTH PERIOD FOLLOWING ITS PURCHASE.

23 (2) THE AMOUNT OF THE CREDIT SET FORTH IN SUBSECTION (1) OF
24 THIS SECTION IS SUBJECT TO THE LIMITATIONS OF SECTION 39-22-507.5;
25 EXCEPT THAT, IN COMPUTING THE LIMITATIONS ON CREDIT PURSUANT TO
26 SECTION 39-22-507.5 (3), A TAXPAYER'S ACTUAL TAX LIABILITY FOR THE
27 INCOME TAX YEAR IS NOT REDUCED BY THE AMOUNT OF CREDITS ALLOWED

1 BY SECTION 39-30-105.5, AND THE LIMIT ON THAT PORTION OF A
2 TAXPAYER'S TAX LIABILITY THAT EXCEEDS FIVE THOUSAND DOLLARS IS
3 FIFTY PERCENT.

4 (3) NOTWITHSTANDING SECTION 39-22-507.5 (7) (b), ANY EXCESS
5 CREDIT CLAIMED PURSUANT TO THIS SECTION IS AN INVESTMENT TAX
6 CREDIT CARRYOVER TO EACH OF THE TWELVE INCOME TAX YEARS
7 FOLLOWING THE UNUSED CREDIT YEAR.

8 (4) (a) IN ADDITION TO ANY OTHER CREDIT ALLOWED UNDER THIS
9 SECTION, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
10 1, 2014, A PERSON IS ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY
11 ARTICLE 22 OF THIS TITLE IN AN AMOUNT EQUAL TO TEN PERCENT OF THE
12 TOTAL INVESTMENT MADE DURING THE TAXABLE YEAR IN A QUALIFIED JOB
13 TRAINING PROGRAM.

14 (b) FOR PURPOSES OF THIS SUBSECTION (4):

15 (I) "QUALIFIED JOB TRAINING PROGRAM" MEANS A STRUCTURED
16 TRAINING OR BASIC EDUCATION PROGRAM CONDUCTED ON-SITE OR
17 OFF-SITE BY THE TAXPAYER OR ANOTHER ENTITY TO IMPROVE THE JOB
18 SKILLS OF EMPLOYEES EMPLOYED BY THE TAXPAYER WORKING
19 PREDOMINANTLY WITHIN AN ALTERNATIVE ENERGY CONTRIBUTING
20 FACILITY IN AN ALTERNATIVE ENERGY PARK.

21 (II) "TOTAL INVESTMENT" MEANS:

22 (A) LAND, BUILDING, REAL PROPERTY IMPROVEMENT, LEASEHOLD
23 IMPROVEMENT, OR SPACE LEASE COSTS AND THE COSTS OF ANY CAPITAL
24 EQUIPMENT PURCHASED OR LEASED BY THE TAXPAYER AND USED
25 ENTIRELY WITHIN AN ALTERNATIVE ENERGY PARK PRIMARILY FOR
26 QUALIFIED JOB TRAINING PROGRAM PURPOSES OR TO MAKE A TRAINING
27 SITE ACCESSIBLE, WHEN THE COSTS ARE NOT THE SUBJECT OF A CREDIT

1 UNDER SUBSECTION (1) OF THIS SECTION; AND

2 (B) EXPENSES OF A QUALIFIED JOB TRAINING PROGRAM, WHETHER
3 INCURRED WITHIN OR OUTSIDE OF AN ALTERNATIVE ENERGY PARK,
4 INCLUDING EXPENSED EQUIPMENT, SUPPLIES, TRAINING STAFF WAGES OR
5 FEES, TRAINING CONTRACT COSTS, TEMPORARY SPACE RENTAL, TRAVEL
6 EXPENSES, AND OTHER EXPENSE COSTS OF QUALIFIED JOB TRAINING
7 PROGRAMS FOR EMPLOYEES WORKING PREDOMINANTLY WITHIN AN
8 ALTERNATIVE ENERGY CONTRIBUTING FACILITY IN AN ALTERNATIVE
9 ENERGY PARK.

10 (5) FOR CREDITS CLAIMED FOR INCOME TAX YEARS COMMENCING
11 ON OR AFTER JANUARY 1, 2014, A CREDIT PURSUANT TO THIS SECTION IS
12 NOT ALLOWED IF THE INVESTMENT RESULTED FROM THE RELOCATION OF
13 AN ALTERNATIVE ENERGY CONTRIBUTING FACILITY FROM WITHIN THE
14 STATE TO AN ALTERNATIVE ENERGY PARK, REGARDLESS OF WHETHER THE
15 ORIGINAL LOCATION OF THE OPERATION WAS WITHIN AN ALTERNATIVE
16 ENERGY PARK, EXCEPT TO THE EXTENT THE RELOCATION MEETS THE
17 CRITERIA FOR AN EXPANSION PURSUANT TO SECTION 39-30-105.2 (5) (a)
18 (II) AND (5) (a) (III).

19 (6) FOR PURPOSES OF THIS SECTION, THE TERMS "ALTERNATIVE
20 ENERGY CONTRIBUTING FACILITY" AND "ALTERNATIVE ENERGY PARK"
21 HAVE THE SAME MEANING AS SET FORTH IN SECTION 24-46-403, C.R.S.

22 **39-30-105.2. Credit for new business facility employees in**
23 **alternative energy parks - definitions.** (1) (a) (I) FOR AN INCOME TAX
24 YEAR COMMENCING ON OR AFTER JANUARY 1, 2014, A TAXPAYER WHO
25 ESTABLISHES A NEW BUSINESS FACILITY IN AN ALTERNATIVE ENERGY PARK
26 IS ALLOWED A CREDIT AGAINST THE INCOME TAX IMPOSED BY ARTICLE 22
27 OF THIS TITLE IN AN AMOUNT EQUAL TO TWO THOUSAND DOLLARS PER

1 INCOME TAX YEAR FOR EACH NEW BUSINESS FACILITY EMPLOYEE,
2 PURSUANT TO SUBSECTION (4) OF THIS SECTION, WHO IS WORKING WITHIN
3 THE ALTERNATIVE ENERGY PARK, PRORATED ACCORDING TO THE NUMBER
4 OF MONTHS THE EMPLOYEE WAS EMPLOYED BY THE TAXPAYER DURING
5 THE INCOME TAX YEAR. AN EMPLOYEE WHOSE PRIMARY DUTIES CONSIST
6 OF OPERATING A COMMERCIAL MOTOR VEHICLE WITH A COMMERCIAL
7 DRIVER'S LICENSE IS DEEMED TO BE WORKING ONE HUNDRED PERCENT
8 WITHIN THE ALTERNATIVE ENERGY PARK IF THE EMPLOYEE IS BASED
9 OUT OF, DISPATCHED OUT OF, AND OPERATES OUT OF THE NEW BUSINESS
10 FACILITY WITHIN THE ALTERNATIVE ENERGY PARK.

11 (II) A NEW BUSINESS FACILITY QUALIFYING FOR THE CREDIT
12 ALLOWED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) IS ALLOWED THE
13 CREDIT FOR EACH SUBSEQUENT TAX YEAR FOR EACH ADDITIONAL NEW
14 BUSINESS FACILITY EMPLOYEE IN EXCESS OF THE MAXIMUM NUMBER
15 EMPLOYED IN A PRIOR TAX YEAR. A CREDIT IS ALLOWED FOR A MAXIMUM
16 OF TWELVE CONSECUTIVE MONTHS FOR EACH NEW BUSINESS FACILITY
17 EMPLOYEE EMPLOYED BY THE TAXPAYER.

18 (b) IN ADDITION TO THE CREDIT AVAILABLE UNDER PARAGRAPH (a)
19 OF THIS SUBSECTION (1), A TAXPAYER QUALIFIED UNDER SAID PARAGRAPH
20 (a) IS ALLOWED, FOR THE FIRST TWO FULL INCOME TAX YEARS WHILE
21 LOCATED IN AN ALTERNATIVE ENERGY PARK, A CREDIT IN AN AMOUNT
22 EQUAL TO TWO HUNDRED DOLLARS FOR EACH NEW BUSINESS FACILITY
23 EMPLOYEE WHO IS INSURED UNDER A HEALTH INSURANCE PLAN OR
24 PROGRAM PROVIDED THROUGH HIS OR HER EMPLOYER. TO BE ELIGIBLE
25 FOR THE CREDIT, THE EMPLOYER MUST CONTRIBUTE FIFTY PERCENT OR
26 MORE OF THE TOTAL COST OF A HEALTH INSURANCE PLAN OR PROGRAM,
27 AND THE PLAN OR PROGRAM MUST BE IN ACCORDANCE WITH ARTICLE 8 OF

1 TITLE 10, C.R.S., OR PART 1, 2, 3, OR 4 OF ARTICLE 16 OF TITLE 10, C.R.S.,
2 OR BE A SELF-INSURANCE PROGRAM AND INCLUDE PARTIAL OR COMPLETE
3 COVERAGE FOR HOSPITAL AND PHYSICIAN SERVICES.

4 (2) IN ADDITION TO THE CREDITS ALLOWED UNDER SUBSECTION (1)
5 OF THIS SECTION, A TAXPAYER WHO OPERATES A NEW BUSINESS FACILITY
6 WITHIN AN ALTERNATIVE ENERGY PARK THAT QUALIFIES AS AN
7 ALTERNATIVE ENERGY FACILITY IS ALLOWED, WHILE LOCATED IN THE
8 ALTERNATIVE ENERGY PARK, A CREDIT AGAINST THE INCOME TAX IMPOSED
9 BY ARTICLE 22 OF THIS TITLE IN AN AMOUNT EQUAL TO FIVE HUNDRED
10 DOLLARS FOR EACH ADDITIONAL NEW BUSINESS FACILITY EMPLOYEE IN
11 EXCESS OF THE MAXIMUM NUMBER EMPLOYED IN A PRIOR TAX YEAR.

12 (3) (a) IF THE TOTAL AMOUNT OF THE CREDITS CLAIMED BY A
13 TAXPAYER PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF
14 SUBSECTION (1), PARAGRAPH (b) OF SUBSECTION (1), AND SUBSECTION (2)
15 OF THIS SECTION EXCEEDS THE AMOUNT OF INCOME TAXES DUE ON THE
16 INCOME OF THE TAXPAYER IN THE INCOME TAX YEAR FOR WHICH THE
17 CREDITS ARE BEING CLAIMED, THE AMOUNT OF THE CREDITS NOT USED AS
18 AN OFFSET AGAINST INCOME TAXES IN SAID INCOME TAX YEAR IS NOT
19 ALLOWED AS A REFUND BUT MAY BE CARRIED FORWARD AS A CREDIT
20 AGAINST SUBSEQUENT YEARS' TAX LIABILITY FOR A PERIOD NOT
21 EXCEEDING SEVEN YEARS AND MUST BE APPLIED FIRST TO THE EARLIEST
22 INCOME TAX YEARS POSSIBLE. ANY AMOUNT OF THE CREDIT THAT IS NOT
23 USED DURING SAID PERIOD IS NOT REFUNDABLE TO THE TAXPAYER.

24 (b) FOR PURPOSES OF THIS SECTION, A PARTNERSHIP, S
25 CORPORATION, LIMITED LIABILITY COMPANY, OR OTHER ENTITY ELECTING
26 NOT TO BE TAXED AS A CORPORATION MAY PASS THROUGH THE CREDITS
27 EARNED UNDER THIS SECTION IN ANY TAX YEAR TO ITS PARTICIPATING

1 PARTNERS, SHAREHOLDERS, OR MEMBERS, HEREINAFTER REFERRED TO AS
2 THE "INVESTORS" OF THE ENTITY, IN A PERCENTAGE THE ENTITY CHOOSES,
3 UP TO THE AMOUNT OF THE CREDIT EARNED IN THE TAX YEAR. CREDITS
4 EARNED BUT UNCLAIMED IN A TAX YEAR FOR WHICH THE ENTITY ELECTS
5 TO BE TAXED AS A CORPORATION MAY NOT BE DISTRIBUTED TO INVESTORS
6 IN A LATER TAX YEAR FOR WHICH THE ENTITY ELECTS NOT TO BE TAXED AS
7 A CORPORATION. IN A TAX YEAR FOR WHICH THE ENTITY ELECTS NOT TO
8 BE TAXED AS A CORPORATION, ALL CREDITS PASSED THROUGH TO
9 INVESTORS MAY BE CARRIED FORWARD AT THE INVESTOR LEVEL FOR THE
10 CARRYOVER PERIODS SPECIFIED IN THIS SECTION.

11 (c) FOR PURPOSES OF THIS SECTION, A TAXPAYER MAY ONLY CLAIM
12 THE NEW BUSINESS FACILITY EMPLOYEE CREDIT FOR EMPLOYEES FOR
13 WHOM:

14 (I) THE TAXPAYER WITHHOLDS SOCIAL SECURITY, MEDICARE, AND
15 INCOME TAXES UNDER THE TAXPAYER'S OWN FEDERAL AND STATE
16 TAXPAYER IDENTIFICATION NUMBERS; OR

17 (II) THE TAXPAYER IS THE WORK-SITE EMPLOYER, AS DEFINED IN
18 SECTION 8-70-114 (2) (a) (VII), C.R.S., AND AN EMPLOYEE LEASING
19 COMPANY, AS DEFINED IN SECTION 8-70-114 (2) (a) (V), C.R.S., AS THE
20 EMPLOYING UNIT FOR, OR CO-EMPLOYER WITH, THE TAXPAYER,
21 WITHHOLDS SOCIAL SECURITY, MEDICARE, AND INCOME TAXES UNDER THE
22 EMPLOYEE LEASING COMPANY'S OWN FEDERAL AND STATE TAXPAYER
23 IDENTIFICATION NUMBERS.

24 (4) (a) THE NUMBER OF NEW BUSINESS FACILITY EMPLOYEES
25 DURING A TAXABLE YEAR IS DETERMINED BY DIVIDING BY TWELVE THE
26 SUM OF THE NUMBER OF NEW BUSINESS FACILITY EMPLOYEES ON THE LAST
27 BUSINESS DAY OF EACH MONTH OF THE TAXABLE YEAR. IF THE NEW

1 BUSINESS FACILITY IS IN OPERATION FOR LESS THAN THE ENTIRE TAXABLE
2 YEAR, THE NUMBER OF NEW BUSINESS FACILITY EMPLOYEES IS
3 DETERMINED BY DIVIDING THE SUM OF THE NUMBER OF NEW BUSINESS
4 FACILITY EMPLOYEES ON THE LAST BUSINESS DAY OF EACH FULL
5 CALENDAR MONTH DURING THE PORTION OF THE TAXABLE YEAR DURING
6 WHICH THE NEW BUSINESS FACILITY WAS IN OPERATION BY THE NUMBER
7 OF FULL CALENDAR MONTHS DURING THE PERIOD.

8 (b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (4),
9 FOR THE PURPOSE OF DETERMINING THE CREDIT ALLOWED BY THIS SECTION
10 IN THE CASE OF A FACILITY THAT QUALIFIES AS A NEW BUSINESS FACILITY
11 BUT IS A REPLACEMENT BUSINESS FACILITY, THE NUMBER OF NEW
12 BUSINESS FACILITY EMPLOYEES EMPLOYED IN THE OPERATION OF THE
13 FACILITY MUST BE REDUCED BY THE AVERAGE NUMBER, DETERMINED
14 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4), OF INDIVIDUALS
15 EMPLOYED IN THE OPERATION OF THE FACILITY THAT THE NEW BUSINESS
16 FACILITY REPLACES DURING THE THREE TAXABLE YEARS PRECEDING THE
17 TAXABLE YEAR IN WHICH COMMENCEMENT OF COMMERCIAL OPERATIONS
18 OCCURS AT THE NEW BUSINESS FACILITY.

19 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
20 REQUIRES:

21 (a) (I) "ALTERNATIVE ENERGY CONTRIBUTING FACILITY" HAS THE
22 SAME MEANING AS SET FORTH IN SECTION 24-46-403 (3), C.R.S.

23 (II) (A) IF AN ALTERNATIVE ENERGY CONTRIBUTING FACILITY
24 THAT DOES NOT CONSTITUTE A NEW BUSINESS FACILITY IS EXPANDED BY
25 THE TAXPAYER, THE EXPANSION IS CONSIDERED A SEPARATE FACILITY
26 ELIGIBLE FOR THE CREDIT ALLOWED BY THIS SECTION IF THE EXPANSION
27 OTHERWISE CONSTITUTES A NEW BUSINESS FACILITY AND THE TAXPAYER'S

1 INVESTMENT IN THE EXPANSION EXCEEDS ONE MILLION DOLLARS OR THE
2 INVESTMENT IS LESS THAN ONE MILLION DOLLARS BUT EXCEEDS ONE
3 HUNDRED PERCENT OF THE INVESTMENT IN THE ORIGINAL FACILITY PRIOR
4 TO EXPANSION;

5 (B) THE TAXPAYER'S INVESTMENT IN THE EXPANSION AND IN THE
6 ORIGINAL FACILITY PRIOR TO EXPANSION IS DETERMINED IN THE MANNER
7 PROVIDED IN PARAGRAPH (i) OF THIS SUBSECTION (5).

8 (C) FOR PURPOSES OF THIS SUBPARAGRAPH (II), THE AMOUNT OF
9 AN INVESTMENT IS THE VALUE OF THE REAL AND TANGIBLE PERSONAL
10 PROPERTY, EXCEPT INVENTORY OR PROPERTY HELD FOR SALE TO
11 CUSTOMERS IN THE ORDINARY COURSE OF THE TAXPAYER'S BUSINESS,
12 THAT CONSTITUTES THE NEW BUSINESS FACILITY OR THAT IS USED BY THE
13 TAXPAYER IN THE OPERATION OF THE NEW BUSINESS FACILITY DURING THE
14 TAXABLE YEAR FOR WHICH THE CREDIT ALLOWED BY THIS SECTION IS
15 CLAIMED. THE VALUE OF THE PROPERTY DURING THE TAXABLE YEAR IS
16 THE ORIGINAL COST OF THE REAL AND TANGIBLE PERSONAL PROPERTY IF
17 OWNED BY THE TAXPAYER OR EIGHT TIMES THE NET ANNUAL RENTAL RATE
18 OF THE REAL AND TANGIBLE PERSONAL PROPERTY IF LEASED BY THE
19 TAXPAYER.

20 (III) IF AN ALTERNATIVE ENERGY CONTRIBUTING FACILITY THAT
21 DOES NOT CONSTITUTE A NEW BUSINESS FACILITY IS EXPANDED BY THE
22 TAXPAYER, THE EXPANSION IS CONSIDERED A SEPARATE FACILITY FOR
23 PURPOSES OF THE CREDIT ALLOWED BY THIS SECTION IF:

24 (A) THE EXPANSION RESULTS IN THE EMPLOYMENT OF TEN OR
25 MORE NEW BUSINESS FACILITY EMPLOYEES OR, FOR INCOME TAX YEARS
26 COMMENCING ON OR AFTER JANUARY 1, 2010, A TEN PERCENT INCREASE
27 IN THE NUMBER OF NEW BUSINESS FACILITY EMPLOYEES RESULTING IN THE

1 EMPLOYMENT OF AT LEAST ONE FULL-TIME NEW BUSINESS FACILITY
2 EMPLOYEE, WHICHEVER IS LESS, DURING THE TAXABLE YEAR OVER AND
3 ABOVE THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED IN THAT
4 ALTERNATIVE ENERGY PARK BY THE TAXPAYER DURING THE TWELVE
5 MONTHS IMMEDIATELY PRIOR TO THE EXPANSION, DETERMINED PURSUANT
6 TO SUBSECTION (4) OF THIS SECTION; AND

7 (B) THE EXPANSION OTHERWISE CONSTITUTES A NEW BUSINESS
8 FACILITY.

9 (b) "ALTERNATIVE ENERGY FACILITY" HAS THE SAME MEANING AS
10 SET FORTH IN SECTION 24-46-403 (4), C.R.S.

11 (c) "ALTERNATIVE ENERGY PARK" HAS THE SAME MEANING AS SET
12 FORTH IN SECTION 24-46-403 (5), C.R.S.

13 (d) "COMMENCEMENT OF COMMERCIAL OPERATIONS" MEANS THE
14 FIRST TAXABLE YEAR THAT THE NEW BUSINESS FACILITY IS FIRST
15 AVAILABLE FOR USE BY THE TAXPAYER, OR FIRST CAPABLE OF BEING USED
16 BY THE TAXPAYER, IN THE REVENUE-PRODUCING ENTERPRISE IN WHICH
17 THE TAXPAYER INTENDS TO USE THE NEW BUSINESS FACILITY.

18 (e) "NET ANNUAL RENTAL RATE" MEANS THE ANNUAL RENTAL
19 RATE PAID BY THE TAXPAYER ON REAL AND TANGIBLE PERSONAL
20 PROPERTY, LESS ANY ANNUAL RENTAL RATE RECEIVED BY THE TAXPAYER
21 FROM SUBRENTALS.

22 (f) "NEW BUSINESS FACILITY" MEANS AN ALTERNATIVE ENERGY
23 CONTRIBUTING FACILITY THAT SATISFIES THE FOLLOWING REQUIREMENTS:

24 (I) THE ALTERNATIVE ENERGY CONTRIBUTING FACILITY IS
25 OPERATED BY THE TAXPAYER IN THE OPERATION OF A
26 REVENUE-PRODUCING ENTERPRISE. AN ALTERNATIVE ENERGY
27 CONTRIBUTING FACILITY IS NOT CONSIDERED A NEW BUSINESS FACILITY IN

1 THE HANDS OF THE TAXPAYER IF THE TAXPAYER'S ONLY ACTIVITY WITH
2 RESPECT TO THE FACILITY IS TO LEASE IT TO ANOTHER PERSON. IF THE
3 TAXPAYER OPERATES ONLY A PORTION OF THE ALTERNATIVE ENERGY
4 CONTRIBUTING FACILITY IN THE OPERATION OF A REVENUE-PRODUCING
5 ENTERPRISE AND LEASES ANOTHER PORTION OF THE FACILITY TO ANOTHER
6 PERSON OR DOES NOT OTHERWISE USE THE OTHER PORTIONS IN THE
7 OPERATION OF A REVENUE-PRODUCING ENTERPRISE, THE PORTION
8 OPERATED BY THE TAXPAYER IN THE OPERATION OF A
9 REVENUE-PRODUCING ENTERPRISE IS CONSIDERED A NEW BUSINESS
10 FACILITY IF THE REQUIREMENTS OF SUBPARAGRAPHS (II) AND (III) OF THIS
11 PARAGRAPH (f) ARE SATISFIED.

12 (II) IF THE ALTERNATIVE ENERGY CONTRIBUTING FACILITY WAS
13 ACQUIRED BY THE TAXPAYER FROM ANOTHER PERSON, THE FACILITY WAS
14 NOT OPERATED IMMEDIATELY PRIOR TO THE TRANSFER OF TITLE TO THE
15 TAXPAYER OR IMMEDIATELY PRIOR TO THE COMMENCEMENT OF THE TERM
16 OF THE LEASE OF THE FACILITY TO THE TAXPAYER BY ANY OTHER PERSON
17 IN THE OPERATION OF A REVENUE-PRODUCING ENTERPRISE, AND THE
18 TAXPAYER CONTINUES THE OPERATION OF THE SAME OR A SUBSTANTIALLY
19 IDENTICAL REVENUE-PRODUCING ENTERPRISE AT THE FACILITY; AND

20 (III) THE ALTERNATIVE ENERGY CONTRIBUTING FACILITY IS NOT
21 A REPLACEMENT BUSINESS FACILITY.

22 (g) "NEW BUSINESS FACILITY EMPLOYEE" MEANS A PERSON
23 EMPLOYED BY THE TAXPAYER IN THE OPERATION OF A NEW BUSINESS
24 FACILITY DURING THE TAXABLE YEAR FOR WHICH THE CREDIT ALLOWED
25 BY THIS SECTION IS CLAIMED. A PERSON IS DEEMED AN EMPLOYEE IF THE
26 PERSON PERFORMS DUTIES IN CONNECTION WITH THE OPERATION OF THE
27 NEW BUSINESS FACILITY ON:

- 1 (I) A REGULAR, FULL-TIME BASIS;
- 2 (II) A PART-TIME BASIS IF THE PERSON IS CUSTOMARILY
3 PERFORMING HIS OR HER DUTIES AT LEAST TWENTY HOURS PER WEEK
4 THROUGHOUT THE TAXABLE YEAR; OR
- 5 (III) A SEASONAL BASIS IF THE PERSON PERFORMS HIS OR HER
6 DUTIES FOR SUBSTANTIALLY ALL OF THE SEASON CUSTOMARY FOR THE
7 POSITION IN WHICH THE PERSON IS EMPLOYED.

8 (h) (I) "RELATED TAXPAYER" MEANS:

9 (A) A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY,
10 TRUST, OR ASSOCIATION UNDER THE CONTROL OF THE TAXPAYER;

11 (B) AN INDIVIDUAL, CORPORATION, LIMITED LIABILITY COMPANY,
12 PARTNERSHIP, TRUST, OR ASSOCIATION UNDER THE CONTROL OF THE
13 TAXPAYER; OR

14 (C) A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP,
15 TRUST, OR ASSOCIATION CONTROLLED BY AN INDIVIDUAL, CORPORATION,
16 LIMITED LIABILITY COMPANY, PARTNERSHIP, TRUST, OR ASSOCIATION
17 UNDER THE CONTROL OF THE TAXPAYER.

18 (II) FOR THE PURPOSES OF THIS PARAGRAPH (h), UNLESS THE
19 CONTEXT OTHERWISE REQUIRES, "CONTROL" MEANS:

20 (A) WITH RESPECT TO A CORPORATION, DIRECT OR INDIRECT
21 OWNERSHIP OF STOCK POSSESSING AT LEAST EIGHTY PERCENT OF THE
22 TOTAL COMBINED VOTING POWER OF ALL CLASSES OF STOCK ENTITLED TO
23 VOTE AND AT LEAST EIGHTY PERCENT OF ALL OTHER CLASSES OF STOCK OF
24 THE CORPORATION;

25 (B) WITH RESPECT TO A PARTNERSHIP, LIMITED LIABILITY
26 COMPANY, OR ASSOCIATION, DIRECT OR INDIRECT OWNERSHIP OF AT LEAST
27 EIGHTY PERCENT OF THE CAPITAL OR PROFITS INTEREST IN THE

1 PARTNERSHIP, LIMITED LIABILITY COMPANY, OR ASSOCIATION;

2 (C) WITH RESPECT TO A TRUST, DIRECT OR INDIRECT OWNERSHIP
3 OF AT LEAST EIGHTY PERCENT OF THE BENEFICIAL INTEREST IN THE
4 PRINCIPAL OR INCOME OF THE TRUST.

5 (i) (I) "REPLACEMENT BUSINESS FACILITY" MEANS AN
6 ALTERNATIVE ENERGY CONTRIBUTING FACILITY, OTHERWISE DESCRIBED
7 IN PARAGRAPH (f) OF THIS SUBSECTION (5) AND REFERRED TO IN THIS
8 PARAGRAPH (i) AS A "NEW FACILITY", THAT REPLACES ANOTHER
9 ALTERNATIVE ENERGY CONTRIBUTING FACILITY, REFERRED TO IN THIS
10 PARAGRAPH (i) AS AN "OLD FACILITY", LOCATED WITHIN THE STATE THAT
11 THE TAXPAYER OR A RELATED TAXPAYER PREVIOUSLY OPERATED BUT
12 DISCONTINUED OPERATING ON OR BEFORE THE CLOSE OF THE FIRST
13 TAXABLE YEAR IN WHICH THE CREDIT ALLOWED BY THIS SECTION IS
14 CLAIMED. A NEW FACILITY IS DEEMED TO REPLACE AN OLD FACILITY IF
15 THE FOLLOWING CONDITIONS ARE MET:

16 (A) THE OLD FACILITY WAS OPERATED BY THE TAXPAYER OR A
17 RELATED TAXPAYER FOR MORE THAN THREE FULL TAXABLE YEARS OUT OF
18 THE FIVE TAXABLE YEARS PRECEDING THE TAXABLE YEAR IN WHICH
19 COMMENCEMENT OF COMMERCIAL OPERATIONS OCCURS AT THE NEW
20 FACILITY; AND

21 (B) THE OLD FACILITY WAS OPERATED BY THE TAXPAYER OR A
22 RELATED TAXPAYER IN THE OPERATION OF A REVENUE-PRODUCING
23 ENTERPRISE AND THE TAXPAYER CONTINUES THE OPERATION OF THE SAME
24 OR A SUBSTANTIALLY IDENTICAL REVENUE-PRODUCING ENTERPRISE AT
25 THE NEW FACILITY.

26 (II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH
27 (i), AN ALTERNATIVE ENERGY CONTRIBUTING FACILITY IS NOT CONSIDERED

1 A REPLACEMENT BUSINESS FACILITY IF THE TAXPAYER'S INVESTMENT IN
2 THE NEW FACILITY EXCEEDS THREE MILLION DOLLARS OR THE INVESTMENT
3 IS LESS THAN THREE MILLION DOLLARS BUT THE INVESTMENT IN THE NEW
4 FACILITY EXCEEDS THREE HUNDRED PERCENT OF THE INVESTMENT IN THE
5 OLD FACILITY BY THE TAXPAYER OR RELATED TAXPAYER. THE
6 INVESTMENT IN THE NEW FACILITY AND IN THE OLD FACILITY IS
7 DETERMINED IN THE MANNER PROVIDED IN SUB-SUBPARAGRAPH (C) OF
8 SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (5).

9 (j) "REVENUE-PRODUCING ENTERPRISE" MEANS AN ENTERPRISE
10 THAT ENGAGES IN:

11 (I) THE PRODUCTION, ASSEMBLY, FABRICATION, MANUFACTURING,
12 OR PROCESSING OF ALTERNATIVE ENERGY OR AN AGRICULTURAL,
13 MINERAL, OR MANUFACTURED PRODUCT, INCLUDING ENERGY EFFICIENCY
14 IMPROVEMENTS, AS DEFINED IN SECTION 40-9.7-103 (5.5), C.R.S.;

15 (II) THE STORAGE, WAREHOUSING, DISTRIBUTION, OR SALE OF ANY
16 CLEAN ENERGY OR PRODUCTS OF AGRICULTURE, MINING, OR
17 MANUFACTURING;

18 (III) THE FEEDING OF LIVESTOCK AT A FEEDLOT;

19 (IV) THE OPERATION OF LABORATORIES OR OTHER FACILITIES FOR
20 SCIENTIFIC, AGRICULTURAL, ANIMAL HUSBANDRY, OR INDUSTRIAL
21 RESEARCH, DEVELOPMENT, OR TESTING;

22 (V) THE PERFORMANCE OF SERVICES OF ANY TYPE;

23 (VI) THE ADMINISTRATIVE MANAGEMENT OF ANY OF THE
24 ACTIVITIES LISTED IN SUBPARAGRAPHS (I) TO (V) OF THIS PARAGRAPH (j);
25 OR

26 (VII) ANY COMBINATION OF THE ACTIVITIES REFERRED TO IN
27 SUBPARAGRAPHS (I) TO (VI) OF THIS PARAGRAPH (j).

1 (k) "SAME OR A SUBSTANTIALLY IDENTICAL REVENUE-PRODUCING
2 ENTERPRISE" MEANS A REVENUE-PRODUCING ENTERPRISE IN WHICH THE
3 PRODUCTS PRODUCED OR SOLD, SERVICES PERFORMED, OR ACTIVITIES
4 CONDUCTED ARE THE SAME IN CHARACTER AND USE AND ARE PRODUCED,
5 SOLD, PERFORMED, OR CONDUCTED IN THE SAME MANNER AND TO OR FOR
6 THE SAME TYPES OF CUSTOMERS AS THE PRODUCTS, SERVICES, OR
7 ACTIVITIES PRODUCED, SOLD, PERFORMED, OR CONDUCTED IN ANOTHER
8 REVENUE-PRODUCING ENTERPRISE.

9 **39-30-105.3. Credit against Colorado income tax based upon**
10 **expenditures for research and experimental facilities in alternative**
11 **energy parks.** (1) A TAXPAYER WHO MAKES EXPENDITURES IN
12 RESEARCH AND EXPERIMENTAL ACTIVITIES, WHICH ACTIVITIES ARE
13 CONDUCTED IN AN ALTERNATIVE ENERGY CONTRIBUTING FACILITY
14 LOCATED WITHIN AN ALTERNATIVE ENERGY PARK, IS ALLOWED A CREDIT
15 AGAINST THE INCOME TAX IMPOSED BY ARTICLE 22 OF THIS TITLE FOR
16 INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, IN AN
17 AMOUNT EQUAL TO THREE PERCENT OF THE AMOUNT BY WHICH THE
18 AMOUNT EXPENDED FOR RESEARCH AND EXPERIMENTAL ACTIVITIES IN THE
19 ALTERNATIVE ENERGY CONTRIBUTING FACILITY IN THE TAXPAYER'S
20 INCOME TAX YEAR EXCEEDS THE TAXPAYER'S AVERAGE OF THE TOTAL
21 ACTUAL EXPENDITURES FOR THE PURPOSES MADE IN THE SAME AREA THAT
22 COMPRISES THE ALTERNATIVE ENERGY PARK IN THE PRECEDING TWO
23 INCOME TAX YEARS.

24 (2) IN ANY ONE TAX YEAR, THE AMOUNT OF THE CREDIT ALLOWED
25 PURSUANT TO SUBSECTION (1) OF THIS SECTION FOR DEDUCTION FROM THE
26 TAXPAYER'S TAX LIABILITY IS THE TOTAL OF:

27 (a) TWENTY-FIVE PERCENT OF THE TOTAL AMOUNT OF SUCH

1 CREDIT, WITH THE BALANCE CARRYING FORWARD TO THE NEXT TAX YEAR;
2 AND

3 (b) ANY APPLICABLE CARRYFORWARD AMOUNT, IN THE AMOUNT
4 OF TWENTY-FIVE PERCENT OF THE ORIGINAL AMOUNT OF THE CREDIT. THE
5 AMOUNT BY WHICH THE CREDIT ALLOWED BY SUBSECTION (1) OF THIS
6 SECTION IN ANY ONE TAXABLE YEAR EXCEEDS THE CREDIT ALLOWED TO
7 BE DEDUCTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) MAY
8 BE CARRIED FORWARD UNTIL THE TOTAL AMOUNT OF THE CREDIT IS USED.

9 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
10 REQUIRES:

11 (a) "ALTERNATIVE ENERGY CONTRIBUTING FACILITY" HAS THE
12 SAME MEANING AS SET FORTH IN SECTION 24-46-403 (3), C.R.S.

13 (b) "ALTERNATIVE ENERGY PARK" HAS THE SAME MEANING AS SET
14 FORTH IN SECTION 24-46-403 (5), C.R.S.

15 (c) "EXPENDITURES IN RESEARCH AND EXPERIMENTAL ACTIVITIES"
16 MEANS EXPENDITURES MADE FOR SUCH PURPOSES, OTHER THAN
17 EXPENDITURES OF MONEYS MADE AVAILABLE TO THE TAXPAYER
18 PURSUANT TO FEDERAL OR STATE LAW, WHICH ARE PAID AS EXPENSES
19 UNDER THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

20 **39-30-105.4. Credit against tax - rehabilitation of vacant**
21 **buildings in alternative energy parks.** (1) FOR INCOME TAX YEARS
22 COMMENCING ON OR AFTER JANUARY 1, 2014, A TAXPAYER WHO IS THE
23 OWNER OR TENANT OF A BUILDING LOCATED IN AN ALTERNATIVE ENERGY
24 PARK THAT IS AT LEAST TWENTY YEARS OLD AND HAS BEEN UNOCCUPIED
25 FOR AT LEAST TWO YEARS AND WHO MAKES QUALIFIED EXPENDITURES FOR
26 THE PURPOSE OF REHABILITATING SAID BUILDING INTO AN ALTERNATIVE
27 ENERGY CONTRIBUTING FACILITY IS ALLOWED A CREDIT AGAINST THE

1 INCOME TAX IMPOSED BY ARTICLE 22 OF THIS TITLE IN AN AMOUNT EQUAL
2 TO TWENTY-FIVE PERCENT OF THE AGGREGATE QUALIFIED EXPENDITURES
3 PER BUILDING OR FIFTY THOUSAND DOLLARS PER BUILDING, WHICHEVER
4 IS LESS.

5 (2) A TAXPAYER WHO IS ALLOWED A CREDIT FOR COSTS INCURRED
6 IN THE REHABILITATION OF PROPERTY PURSUANT TO SECTIONS 38, 46, AND
7 47 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED,
8 IS NOT ALLOWED THE CREDIT UNDER SUBSECTION (1) OF THIS SECTION.

9 (3) IF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS
10 SECTION EXCEEDS THE AMOUNT OF INCOME TAXES OTHERWISE DUE ON THE
11 INCOME OF THE TAXPAYER IN THE INCOME TAX YEAR FOR WHICH THE
12 CREDIT IS BEING CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN
13 OFFSET AGAINST INCOME TAXES IN SAID INCOME TAX YEAR MAY BE
14 CARRIED FORWARD AS A CREDIT AGAINST SUBSEQUENT YEARS' INCOME
15 TAX LIABILITY FOR A PERIOD NOT EXCEEDING FIVE YEARS AND IS APPLIED
16 FIRST TO THE EARLIEST INCOME TAX YEARS POSSIBLE. ANY CREDIT
17 REMAINING AFTER SAID PERIOD IS NOT TO BE REFUNDED OR CREDITED TO
18 THE TAXPAYER.

19 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
20 REQUIRES:

21 (a) "ALTERNATIVE ENERGY CONTRIBUTING FACILITY" HAS THE
22 SAME MEANING AS SET FORTH IN SECTION 24-46-403 (3), C.R.S.

23 (b) "ALTERNATIVE ENERGY PARK" HAS THE SAME MEANING AS SET
24 FORTH IN SECTION 24-46-403 (5), C.R.S.

25 (c) "FINANCING ENTITY" HAS THE SAME MEANING AS SET FORTH IN
26 SECTION 24-46-403 (12), C.R.S.

27 (d) (I) "QUALIFIED EXPENDITURES" MEANS EXPENDITURES

1 ASSOCIATED WITH AN EXTERIOR IMPROVEMENT, STRUCTURAL
2 IMPROVEMENT, MECHANICAL IMPROVEMENT, OR ELECTRICAL
3 IMPROVEMENT NECESSARY TO REHABILITATE FOR COMMERCIAL USE A
4 BUILDING THAT MEETS THE REQUIREMENTS ESTABLISHED IN SUBSECTION
5 (1) OF THIS SECTION. "QUALIFIED EXPENDITURES" INCLUDES
6 EXPENDITURES ASSOCIATED WITH DEMOLITION, CARPENTRY, SHEETROCK,
7 PLASTER, PAINTING, CEILINGS, FIXTURES, DOORS, WINDOWS, SPRINKLER
8 SYSTEMS INSTALLED FOR FIRE PROTECTION PURPOSES, ROOFING AND
9 FLASHING, EXTERIOR REPAIR, CLEANING, TUCKPOINTING, AND CLEANUP.

10 (II) "QUALIFIED EXPENDITURES" DOES NOT INCLUDE:

11 (A) EXPENDITURES COMMONLY REFERRED TO AS SOFT COSTS,
12 WHICH INCLUDE COSTS ASSOCIATED WITH APPRAISALS; ARCHITECTURAL,
13 ENGINEERING, AND INTERIOR DESIGN FEES; LEGAL, ACCOUNTING, AND
14 REALTOR FEES; LOAN FEES; SALES AND MARKETING; CLOSING; BUILDING
15 PERMIT, USE, AND INSPECTION FEES; BIDS; INSURANCE; PROJECT SIGNS AND
16 PHONES; TEMPORARY POWER; BID BONDS; COPYING; AND RENT LOSS
17 DURING CONSTRUCTION; OR

18 (B) COSTS ASSOCIATED WITH ACQUISITION; INTERIOR
19 FURNISHINGS; NEW ADDITIONS EXCEPT AS MAY BE REQUIRED TO COMPLY
20 WITH BUILDING AND SAFETY CODES; EXCAVATION; GRADING; PAVING;
21 LANDSCAPING; AND REPAIRS TO OUTBUILDINGS.

22 (5) A FORM FILED WITH THE DEPARTMENT OF REVENUE FOR THE
23 PURPOSE OF CLAIMING THE CREDIT ALLOWED BY THIS SECTION MUST BE
24 ACCOMPANIED BY A COPY OF THE CERTIFICATION OF THE QUALIFIED
25 NATURE OF THE EXPENDITURES FURNISHED TO THE TAXPAYER BY THE
26 APPROPRIATE FINANCING ENTITY AND BY COPIES OF ANY RECEIPT, BILL, OR
27 OTHER DOCUMENTATION OF THE QUALIFIED EXPENDITURES CLAIMED FOR

1 THE PURPOSE OF RECEIVING THE CREDIT.

2 **39-30-106.5. Sales and use tax - machinery and equipment**
3 **exempted in alternative energy parks.** (1) ON OR AFTER JULY 1, 2012,
4 PURCHASES OF MACHINERY OR MACHINE TOOLS, OR PARTS THEREOF, AND
5 MATERIALS FOR THE CONSTRUCTION OR REPAIR OF MACHINERY OR
6 MACHINE TOOLS IN EXCESS OF FIVE HUNDRED DOLLARS TO BE USED
7 SOLELY AND EXCLUSIVELY AT AN ALTERNATIVE ENERGY CONTRIBUTING
8 FACILITY WITHIN AN ALTERNATIVE ENERGY PARK, WHETHER OR NOT THE
9 PURCHASES ARE CAPITALIZED OR EXPENSED, ARE EXEMPT FROM TAXATION
10 UNDER ARTICLE 26 OF THIS TITLE.

11 (2) SECTION 39-26-709 (1) GOVERNS THE ADMINISTRATION OF
12 SUBSECTION (1) OF THIS SECTION, EXCEPT TO THE EXTENT THAT SECTION
13 39-26-709 AND SUBSECTION (1) OF THIS SECTION ARE INCONSISTENT, IN
14 WHICH CASE SUBSECTION (1) OF THIS SECTION SUPERSEDES SECTION
15 39-26-709.

16 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
17 REQUIRES:

18 (a) "ALTERNATIVE ENERGY CONTRIBUTING FACILITY" HAS THE
19 SAME MEANING AS SET FORTH IN SECTION 24-46-403 (3), C.R.S.

20 (b) "ALTERNATIVE ENERGY PARK" HAS THE SAME MEANING AS SET
21 FORTH IN SECTION 24-46-403 (5), C.R.S.

22 **39-30-107.4. Taxable property valuations - sales taxes -**
23 **incentives in alternative energy parks - definitions.**

24 (1) (a) (I) NOTWITHSTANDING ANY LAW TO THE CONTRARY, A SPECIAL
25 DISTRICT, COUNTY, MUNICIPALITY, OR CITY AND COUNTY WITH AN
26 ALTERNATIVE ENERGY PARK MAY NEGOTIATE WITH A TAXPAYER FOR AN
27 INCENTIVE PAYMENT OR CREDIT EQUAL TO NOT MORE THAN THE AMOUNT

1 OF THE TAXES LEVIED UPON THE TAXABLE PROPERTY OF THE TAXPAYER.

2 TO BE ELIGIBLE FOR THE NEGOTIATION, A TAXPAYER MUST:

3 (A) QUALIFY FOR A CREDIT PURSUANT TO SECTION 39-30-105.2;

4 (B) ESTABLISH A NEW BUSINESS FACILITY WITHIN AN
5 ALTERNATIVE ENERGY PARK; OR

6 (C) EXPAND SUCH A FACILITY WITHIN AN ALTERNATIVE ENERGY
7 PARK, THE EXPANSION OF WHICH CONSTITUTES A NEW BUSINESS FACILITY.

8 (II) A NEGOTIATION IS NOT PERMITTED, HOWEVER, TO RESULT IN
9 AN INCENTIVE PAYMENT OR CREDIT THAT IS GREATER THAN THE
10 DIFFERENCE BETWEEN THE CURRENT PROPERTY TAX LIABILITY AND THE
11 TAX LIABILITY FOR THE SAME PROPERTY FOR THE YEAR PRECEDING THE
12 YEAR IN WHICH THE ALTERNATIVE ENERGY PARK WAS APPROVED.

13 (b) A SPECIAL DISTRICT MAY NOT ENTER INTO AN AGREEMENT
14 PURSUANT TO THIS SUBSECTION (1) UNLESS, PRIOR TO OR SIMULTANEOUS
15 WITH THE EXECUTION OF THE AGREEMENT, THE TAXPAYER ALSO ENTERS
16 INTO AN AGREEMENT WITH A MUNICIPALITY OR COUNTY PURSUANT TO
17 THIS SECTION.

18 (2) NOTWITHSTANDING ANY LAW TO THE CONTRARY, A COUNTY,
19 MUNICIPALITY, OR CITY AND COUNTY WITH AN ALTERNATIVE ENERGY
20 PARK MAY NEGOTIATE WITH A TAXPAYER FOR A REFUND OF THE SALES
21 TAXES LEVIED BY THE COUNTY, MUNICIPALITY, OR CITY AND COUNTY FOR
22 THE PURCHASE OF EQUIPMENT, MACHINERY, MACHINE TOOLS, OR SUPPLIES
23 USED IN THE TAXPAYER'S BUSINESS IN THE ALTERNATIVE ENERGY PARK.

24 TO BE ELIGIBLE FOR THE NEGOTIATION, THE TAXPAYER MUST:

25 (a) QUALIFY FOR A CREDIT PURSUANT TO SECTION 39-30-105.2;

26 (b) ESTABLISH A NEW BUSINESS FACILITY WITHIN AN ALTERNATIVE
27 ENERGY PARK; OR

1 (c) EXPAND THE FACILITY WITHIN AN ALTERNATIVE ENERGY PARK,
2 THE EXPANSION OF WHICH CONSTITUTES A NEW BUSINESS FACILITY.

3 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
4 REQUIRES:

5 (a) "ALTERNATIVE ENERGY CONTRIBUTING FACILITY" OR
6 "FACILITY" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-30-105.2
7 (5) (a).

8 (b) "ALTERNATIVE ENERGY PARK" HAS THE SAME MEANING AS SET
9 FORTH IN SECTION 24-46-403 (5), C.R.S.

10 (c) "NEW BUSINESS FACILITY" HAS THE SAME MEANING AS SET
11 FORTH IN SECTION 39-30-105.2 (5) (f).

12 (d) "SPECIAL DISTRICT" HAS THE SAME MEANING AS SET FORTH IN
13 SECTION 32-1-103 (20), C.R.S.

14 **SECTION 3.** 29-2-105 (1) (d) (I) (A), Colorado Revised Statutes,
15 is amended to read:

16 **29-2-105. Contents of sales tax ordinances and proposals.**

17 (1) The sales tax ordinance or proposal of any incorporated town, city,
18 or county adopted pursuant to this article shall be imposed on the sale of
19 tangible personal property at retail or the furnishing of services, as
20 provided in paragraph (d) of this subsection (1). Any countywide or
21 incorporated town or city sales tax ordinance or proposal shall include the
22 following provisions:

23 (d) (I) A provision that the sale of tangible personal property and
24 services taxable pursuant to this article shall be the same as the sale of
25 tangible personal property and services taxable pursuant to section
26 39-26-104, C.R.S., except as otherwise provided in this paragraph (d).
27 The sale of tangible personal property and services taxable pursuant to

1 this article shall be subject to the same sales tax exemptions as those
2 specified in part 7 of article 26 of title 39, C.R.S.; except that the sale of
3 the following may be exempted from a town, city, or county sales tax only
4 by the express inclusion of the exemption either at the time of adoption
5 of the initial sales tax ordinance or resolution or by amendment thereto:

6 (A) The exemption for sales of machinery or machine tools
7 specified in ~~section 39-26-709 (1)~~ SECTIONS 39-26-709 (1) AND
8 39-30-106.5 (1), C.R.S.;

9 **SECTION 4.** 39-30-110 (1), Colorado Revised Statutes, is
10 amended to read:

11 **39-30-110. Electronic submissions.** (1) The Colorado office of
12 economic development shall collaborate with the Colorado economic
13 development commission and the department of revenue to develop the
14 capability to allow taxpayers that intend to claim one or more income tax
15 credits pursuant to this article to obtain any necessary certification,
16 including pre-certification requirements, from the enterprise zone
17 administrator ~~OR FROM AN ALTERNATIVE ENERGY PARK FINANCING ENTITY~~
18 in an electronic format. The Colorado office of economic development
19 shall implement the electronic submission system by January 1, 2013. If
20 the Colorado office of economic development is unable to implement an
21 electronic submission system by January 1, 2013, the office shall submit
22 a report to the Colorado economic development commission and the
23 general assembly that explains the reasons that the implementation of
24 such system has not been accomplished.

25 **SECTION 5.** 39-30-111 (3), Colorado Revised Statutes, is
26 amended to read:

27 **39-30-111. Department of revenue - enterprise zone data -**

1 **electronic filing - submission of carry forward schedule.** (3) For the
2 2012 income tax year and each income tax year thereafter, the department
3 of revenue shall aggregate and report data on all of the income tax credits
4 that are claimed pursuant to this article for each income tax year. The
5 department shall categorize such aggregated data by the date that the
6 income tax credit was certified by an enterprise zone administrator OR AN
7 ALTERNATIVE ENERGY PARK FINANCING ENTITY, the specific income tax
8 credit allowed pursuant to this article that each taxpayer was authorized
9 to claim, and the total amount of the income tax credits claimed for each
10 income tax credit allowed pursuant to this article.

11 **SECTION 6.** 39-30-112, Colorado Revised Statutes, is amended
12 to read:

13 **39-30-112. Data provided to department of revenue.** (1) On
14 or before September 30 of each calendar year, the director of the
15 Colorado office of economic development or the director's designee shall
16 transmit to the department of revenue the data regarding income tax
17 credits allowed pursuant to this article that are certified by enterprise zone
18 administrators AND ALTERNATIVE ENERGY PARK FINANCING ENTITIES from
19 January 1 through June 30 of the same calendar year.

20 (2) On or before March 31 of each calendar year, the director of
21 the Colorado office of economic development or the director's designee
22 shall transmit to the department of revenue the data regarding income tax
23 credits allowed pursuant to this article that are certified by enterprise zone
24 administrators AND ALTERNATIVE ENERGY PARK FINANCING ENTITIES from
25 July 1 through December 31 of the previous calendar year.

26 **SECTION 7.** 39-21-113 (22), Colorado Revised Statutes, is
27 amended to read:

1 **39-21-113. Reports and returns - repeal.** (22) Notwithstanding
2 the provisions of this section, the executive director shall supply the
3 Colorado office of economic development with information relating to
4 the actual amount of any enterprise zone tax credit AND ANY
5 ALTERNATIVE ENERGY PARK TAX CREDIT claimed pursuant to article 30 of
6 this title as well as information submitted to the department pursuant to
7 section 39-30-111 (2) and (3) regarding the carry forward of such income
8 tax credits. Any information provided to the office pursuant to this
9 subsection (22) shall remain confidential, and all office employees shall
10 be subject to the limitations set forth in subsection (4) of this section and
11 the penalties contained in subsection (6) of this section. Nothing in this
12 subsection (22) shall prevent the office from making aggregated data
13 regarding enterprise zone tax credits AND ALTERNATIVE ENERGY PARK
14 TAX CREDITS available.

15 **SECTION 8.** 39-22-622 (4), Colorado Revised Statutes, as it will
16 become effective January 1, 2012, is amended to read:

17 **39-22-622. Refunds.** (4) The provisions of subsection (2) of this
18 section shall not apply to any return that is being audited or to any return
19 that may take longer than normal to process due to the mathematical or
20 clerical errors contained in said return, to unforeseen delays caused by the
21 failure of processing equipment, because of a tax credit allowed in section
22 39-22-531, or because the taxpayer claimed an enterprise zone tax credit
23 OR AN ALTERNATIVE ENERGY PARK TAX CREDIT pursuant to article 30 of
24 this title and the department is awaiting confirmation from the Colorado
25 office of economic development that the taxpayer is eligible for such
26 credit. Such determinations shall be made in good faith by the
27 department of revenue.

1 **SECTION 9. No appropriation.** The general assembly has
2 determined that this act can be implemented within existing
3 appropriations, and therefore no separate appropriation of state moneys
4 is necessary to carry out the purposes of this act.

5 **SECTION 10. Act subject to petition - effective date.** This act
6 shall take effect at 12:01 a.m. on the day following the expiration of the
7 ninety-day period after final adjournment of the general assembly (August
8 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
9 referendum petition is filed pursuant to section 1 (3) of article V of the
10 state constitution against this act or an item, section, or part of this act
11 within such period, then the act, item, section, or part shall not take effect
12 unless approved by the people at the general election to be held in
13 November 2012 and shall take effect on the date of the official
14 declaration of the vote thereon by the governor.