

First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0423.01 Jason Gelender

HOUSE BILL 11-1255

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HOUSE SPONSORSHIP

DelGrosso, Kefalas

SENATE SPONSORSHIP

Schwartz,

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House Committees  
Finance

Senate Committees

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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.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill 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 INTEREST IN DETERMINING THE LOCATION OF ALTERNATIVE ENERGY  
2 PARKS, AND THE PROCEDURE FOR CREATING ALTERNATIVE ENERGY PARKS  
3 REQUIRES THE INVOLVEMENT OF BOTH.

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

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

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

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

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

18 (c) MORE THAN ONE-THIRD OF THE ENERGY USED IN THE  
19 OPERATION OF THE FACILITY IS CLEAN ENERGY AS DEFINED IN SECTION  
20 40-9.7-103 (5), C.R.S.

21 (3) "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) CLEAN ENERGY AS DEFINED IN SECTION 40-9.7-103 (5), C.R.S.;

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

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

12 (7) "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 (8) "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 (9) "ENERGY-EFFICIENT MODE OF TRANSPORTATION" INCLUDES  
25 RAIL TRANSPORTATION AND ANY OTHER MODE OF TRANSPORTATION THAT  
26 USES SIGNIFICANTLY LESS ENERGY THAN CONVENTIONAL GASOLINE- OR  
27 DIESEL-POWERED TRUCKS, AS DETERMINED BY THE DIRECTOR.

1           (10) "FACILITY" MEANS A FACTORY, MILL, PLANT, REFINERY,  
2 WAREHOUSE, FEEDLOT, BUILDING, OR COMPLEX OF BUILDINGS LOCATED  
3 WITHIN THE STATE, INCLUDING THE LAND ON WHICH THE FACILITY IS  
4 LOCATED AND ALL MACHINERY, EQUIPMENT, AND OTHER REAL AND  
5 PERSONAL PROPERTY LOCATED AT OR WITHIN THE FACILITY AND USED IN  
6 CONNECTION WITH THE OPERATION OF THE FACILITY.

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

17           (12) "FINANCING TERM" MEANS THE AGGREGATE PERIOD  
18 AUTHORIZED BY THE COMMISSION PURSUANT TO THIS PART 4 WITHIN  
19 WHICH THE FINANCING ENTITY IS AUTHORIZED TO RECEIVE AND USE TAX  
20 INCREMENT REVENUE TO FINANCE ELIGIBLE COSTS.

21           (13) "LOCAL GOVERNMENT" MEANS A CITY, COUNTY, CITY AND  
22 COUNTY, OR TOWN OR A GROUP OF CONTIGUOUS CITIES, COUNTIES, CITY  
23 AND COUNTIES, OR TOWNS.

24           (14) "PROJECT" MEANS A PROJECT FOR CONSTRUCTION OF ELIGIBLE  
25 IMPROVEMENTS APPROVED BY A FINANCING ENTITY PURSUANT TO SECTION  
26 24-46-407.

27           (15) "PROJECT AREA" MEANS THE PORTION OF AN ALTERNATIVE

1 ENERGY PARK SERVED BY A PROJECT AS DESIGNATED BY A FINANCING  
2 ENTITY IN CONNECTION WITH THE APPROVAL OF A PROJECT PURSUANT TO  
3 SECTION 24-46-407.

4 (16) "PUBLIC BODY" MEANS THE STATE OF COLORADO, A COUNTY  
5 IN COLORADO, OR A MUNICIPALITY, QUASI-MUNICIPAL CORPORATION,  
6 BOARD, COMMISSION, AUTHORITY, OR OTHER POLITICAL SUBDIVISION OR  
7 PUBLIC CORPORATE BODY OF THE STATE OF COLORADO.

8 (17) "TAX INCREMENT REVENUE" MEANS THE PORTION OF  
9 PROPERTY TAXES OR SALES TAXES, OR BOTH, PAID INTO A SPECIAL FUND  
10 OF A FINANCING ENTITY PURSUANT TO SECTION 24-46-407 (1) (a) (II).

11 **24-46-404. Alternative energy park - criteria - application -**  
12 **requirements.** (1) A LOCAL GOVERNMENT OR THE DIRECTOR MAY APPLY  
13 FOR APPROVAL OF AN ALTERNATIVE ENERGY PARK OR TO EXPAND THE  
14 BOUNDARIES OF A PREVIOUSLY APPROVED ALTERNATIVE ENERGY PARK.

15 (2) A LOCAL GOVERNMENT OR THE DIRECTOR MAY INCLUDE  
16 INCORPORATED AREAS WITHIN ITS APPLICATION, BUT IF IT DOES, AND IF  
17 THE APPLICABLE CITY OR TOWN DOES NOT JOIN IN THE APPLICATION, THEN  
18 THAT MUNICIPALITY'S PORTION OF PROPERTY AND SALES TAX IS NOT  
19 INCLUDED IN ANY TAX INCREMENT REVENUE.

20 (3) THE COMMISSION SHALL DETERMINE THE FORM AND MANNER  
21 OF AN APPLICATION FOR APPROVAL OR EXPANSION OF AN ALTERNATIVE  
22 ENERGY PARK. THE DIRECTOR SHALL SUBMIT AN APPLICATION DIRECTLY  
23 TO THE COMMISSION AND PROVIDE COPIES TO EACH LOCAL GOVERNMENT  
24 THAT HAS JURISDICTION OVER ANY PORTION OF THE PROPOSED  
25 ALTERNATIVE ENERGY PARK. A LOCAL GOVERNMENT SHALL FIRST SUBMIT  
26 AN APPLICATION FOR APPROVAL OR EXPANSION OF AN ALTERNATIVE  
27 ENERGY PARK TO THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT,



1 WHICH SHALL PROVIDE THE COMMISSION WITH EACH APPLICATION  
2 RECEIVED AFTER THE DIRECTOR'S REVIEW PURSUANT TO SECTION  
3 24-46-405. THE APPLICATION FOR APPROVAL OF A NEW ALTERNATIVE  
4 ENERGY PARK MUST INCLUDE THE FOLLOWING:

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

8 (b) IDENTIFICATION OF EXISTING ALTERNATIVE ENERGY FACILITIES  
9 AND ALTERNATIVE ENERGY CONTRIBUTING FACILITIES WITHIN THE  
10 PROPOSED PARK AND THE REPLACEMENT COST OF THE FACILITIES;

11 (c) IDENTIFICATION OF ANY EXISTING ALTERNATIVE POWER  
12 GENERATION OCCURRING WITHIN THE ALTERNATIVE ENERGY PARK AND  
13 ANY EXISTING ZERO-ENERGY FOOTPRINT DEVELOPMENTS WITHIN THE  
14 ALTERNATIVE ENERGY PARK;

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

17 (e) A NARRATIVE DESCRIPTION AND CONCEPTUAL RENDERING OF  
18 THE PROPOSED PARK, INCLUDING THE LOCATION AND ESTIMATED OVERALL  
19 COST, ESTIMATED ELIGIBLE COSTS, ANTICIPATED SCOPE AND PHASING OF  
20 ELIGIBLE IMPROVEMENTS, AND THE EXISTING OR NEEDED  
21 INFRASTRUCTURE IN CONNECTION WITH THE PARK;

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

24 (I) THE NUMBER AND TYPES OF ADDITIONAL ALTERNATIVE ENERGY  
25 FACILITIES AND ALTERNATIVE ENERGY CONTRIBUTING FACILITIES THAT  
26 THE ALTERNATIVE ENERGY PARK COULD ACCOMMODATE;

27 (II) A DISCUSSION AS TO WHETHER THE ALTERNATIVE ENERGY

1 PARK COULD ACCOMMODATE IN-PARK ALTERNATIVE ENERGY POWER  
2 GENERATION OR ZERO-ENERGY FOOTPRINT DEVELOPMENTS;

3 (III) IF APPLICABLE, A DISCUSSION OF ANY EXISTING OR  
4 CONTEMPLATED INTERSTATE ALTERNATIVE ENERGY PROJECT, THE  
5 COLORADO PORTION OF WHICH IS OR COULD BE LOCATED IN THE  
6 ALTERNATIVE ENERGY PARK;

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

10 (A) JOB CATEGORY, AS USED IN THE COLORADO DEPARTMENT OF  
11 LABOR AND EMPLOYMENT OCCUPATIONAL EMPLOYMENT STATISTICS  
12 SURVEY; AND

13 (B) THE WAGES AND, TO THE EXTENT THAT IT IS REASONABLY  
14 POSSIBLE, INFORMATION ON HEALTH BENEFITS FOR JOBS IN EACH  
15 CATEGORY;

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

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

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

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

23 (D) THE FISCAL IMPACT TO LOCAL GOVERNMENTS WITHIN AND  
24 ADJACENT TO THE PARK;

25 (VI) AN ANALYSIS OF THE IMPACT TO LOCAL SCHOOL DISTRICTS  
26 AND AN ESTIMATE OF THE PERCENTAGE OF DISTRICT TOTAL PROGRAM  
27 THAT THE STATE WILL BE RESPONSIBLE TO FUND THROUGH THE STATE'S

1 SHARE OF DISTRICT TOTAL PROGRAM PURSUANT TO SECTION 22-54-106,  
2 C.R.S.; AND

3 (VII) ANY OTHER INFORMATION REASONABLY REQUESTED BY THE  
4 COMMISSION;

5 (g) A DESCRIPTION OF THE PROPOSED FINANCING ENTITY, A  
6 GENERAL DESCRIPTION OF THE FINANCING ENTITY'S PLAN FOR FINANCING  
7 THE ELIGIBLE COSTS AND PROVIDING THE ELIGIBLE IMPROVEMENTS, AND  
8 WHETHER AUTHORIZATION OF AN ALTERNATIVE ENERGY AUTHORITY IS  
9 REQUESTED. A REQUEST FOR AUTHORIZATION OF AN ALTERNATIVE  
10 ENERGY AUTHORITY MUST INCLUDE A DESCRIPTION OF THE PROPOSED  
11 AUTHORITY'S GEOGRAPHIC BOUNDARIES, REQUESTED POWERS, AND  
12 ANTICIPATED SOURCES OF REVENUE, IF ANY, IN ADDITION TO TAX  
13 INCREMENT REVENUE.

14 (h) A GENERAL DESCRIPTION OF THE CONTEMPLATED  
15 CONTRACTUAL ARRANGEMENTS IF THE FINANCING ENTITY IS ANTICIPATED  
16 TO ENTER INTO CONTRACTUAL ARRANGEMENTS WITH ONE OR MORE URBAN  
17 RENEWAL AUTHORITIES, METROPOLITAN DISTRICTS, LOCAL  
18 GOVERNMENTS, OR PRIVATE PARTIES WITH RESPECT TO THE METHOD OF  
19 FINANCING THE ELIGIBLE COSTS AND PROVIDING ELIGIBLE IMPROVEMENTS;

20 (i) IF THE ELIGIBLE IMPROVEMENTS ARE ANTICIPATED TO BE  
21 CONSTRUCTED IN PHASES OR IF FINANCING OF THE ELIGIBLE COSTS WILL  
22 LIKELY BE COMPLETED IN PHASES, A DESCRIPTION OF THE CONTEMPLATED  
23 PHASES AND ANTICIPATED TIMING OF THE PHASES;

24 (j) THE PROPOSED FINANCING TERM, THE PERCENTAGE OF TAX  
25 INCREMENT REVENUE TO BE ALLOCATED TO THE PROPOSED ALTERNATIVE  
26 ENERGY PARK, AND THE PORTION OF THE FINANCING TERM DURING WHICH  
27 THE PERCENTAGE IS TO BE ALLOCATED TO THE FINANCING ENTITY. A

1 SINGLE DEBT ISSUANCE OF THE FINANCING ENTITY IS NOT PERMITTED TO  
2 HAVE A MATURITY DATE IN EXCESS OF TWENTY-FIVE YEARS; EXCEPT  
3 THAT:

4 (I) THE FINANCING TERM MAY EXCEED TWENTY-FIVE YEARS TO  
5 THE EXTENT THAT THE FINANCING ENTITY ANTICIPATES ISSUING A SERIES  
6 OF BONDS OR OTHER FORMS OF DEBT; AND

7 (II) THE FINANCING ENTITY MAY CONSOLIDATE OR REFINANCE  
8 PREVIOUSLY ISSUED DEBT OR BONDS WITH A MATURITY DATE FOR THE  
9 CONSOLIDATED OR REFINANCED DEBT OR BONDS NOT TO EXCEED  
10 TWENTY-FIVE YEARS THEREAFTER.

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

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

3 (a) MAPS OF THE PROPOSED EXPANSION AREA SHOWING THE  
4 PROPOSED BOUNDARIES AND RELATIONSHIP TO THE EXISTING  
5 ALTERNATIVE ENERGY PARK, AS WELL AS EXISTING ZONING, USES, ROADS  
6 AND ROAD RIGHTS-OF-WAY, AND RAILROADS AND RAILROAD  
7 RIGHTS-OF-WAY;

8 (b) IDENTIFICATION OF EXISTING ALTERNATIVE ENERGY FACILITIES  
9 AND ALTERNATIVE ENERGY CONTRIBUTING FACILITIES WITHIN THE  
10 PROPOSED EXPANSION AREA AND THE REPLACEMENT COST OF THE  
11 FACILITIES;

12 (c) IDENTIFICATION OF ANY EXISTING ALTERNATIVE ENERGY  
13 POWER GENERATION OCCURRING WITHIN THE PROPOSED EXPANSION AREA  
14 AND ANY EXISTING ZERO-ENERGY FOOTPRINT DEVELOPMENTS WITHIN THE  
15 PROPOSED EXPANSION AREA;

16 (d) A DETAILED DESCRIPTION OF ALL UTILITIES SERVING THE  
17 PROPOSED EXPANSION AREA OR AVAILABLE TO SERVE THE PROPOSED  
18 EXPANSION AREA;

19 (e) A NARRATIVE DESCRIPTION AND CONCEPTUAL RENDERING OF  
20 THE PROPOSED EXPANSION AREA, INCLUDING THE LOCATION AND  
21 ESTIMATED OVERALL COST, ESTIMATED ELIGIBLE COSTS, ANTICIPATED  
22 SCOPE AND PHASING OF ELIGIBLE IMPROVEMENTS, AND THE EXISTING OR  
23 NEEDED INFRASTRUCTURE IN CONNECTION WITH THE EXPANSION; AND

24 (f) A DISCUSSION OF ANY CHANGES TO THE MATTERS SET FORTH IN  
25 THE ORIGINAL APPLICATION THAT THE PROPOSED EXPANSION WILL  
26 REQUIRE.

27 (5) THE COMMISSION SHALL APPROVE AN APPLICATION BY A LOCAL

1 GOVERNMENT OR THE DIRECTOR FOR DESIGNATION AS AN ALTERNATIVE  
2 ENERGY PARK UPON A FINDING BY A MAJORITY OF THE MEMBERS OF THE  
3 COMMISSION PARTICIPATING IN THE REVIEW THAT THE APPLICATION  
4 DEMONSTRATES THAT EACH OF THE FOLLOWING CRITERIA ARE  
5 MATERIALLY MET:

6 (a) THE PARK CONTAINS AT LEAST TWO EXISTING ALTERNATIVE  
7 ENERGY FACILITIES, EACH WITH A CONSTRUCTION OR REPLACEMENT COST  
8 OF NOT LESS THAN TEN MILLION DOLLARS;

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

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

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

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

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

1 (b) THE EXPANSION AREA IS SERVED BY TRANSPORTATION  
2 SYSTEMS SUFFICIENT TO SERVE A CONCENTRATION OF ALTERNATIVE  
3 ENERGY FACILITIES AND ALTERNATIVE ENERGY CONTRIBUTING FACILITIES;

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

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

10 **24-46-405. Alternative energy park approval - director -**  
11 **commission - review.** (1) UPON RECEIPT OF A LOCAL GOVERNMENT'S  
12 APPLICATION FOR THE CREATION OR EXPANSION OF AN ALTERNATIVE  
13 ENERGY PARK, THE DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL  
14 REVIEW THE APPLICATION AND MAKE AN INITIAL DETERMINATION  
15 REGARDING WHETHER THE APPLICATION HAS MET THE CRITERIA FOR AN  
16 ALTERNATIVE ENERGY PARK SPECIFIED IN SECTION 24-46-404.

17 (2) UPON REVIEW OF EACH APPLICATION FOR COMPLETENESS, THE  
18 DIRECTOR SHALL FORWARD THE APPLICATION TO ANY LOCAL  
19 GOVERNMENT LOCATED WITHIN ONE MILE OF THE PROPOSED ALTERNATIVE  
20 ENERGY PARK FOR AN OPPORTUNITY TO REVIEW THE APPLICATION AND  
21 SUBMIT COMMENTS TO THE COMMISSION. IF THE APPLICATION IS INITIATED  
22 BY THE DIRECTOR, THE DIRECTOR SHALL FORWARD THE APPLICATION TO  
23 THE LOCAL GOVERNMENT IN WHICH THE PROPOSED ALTERNATIVE ENERGY  
24 PARK WILL BE LOCATED. THE DIRECTOR SHALL PROVIDE ALL THE LOCAL  
25 GOVERNMENTS WITH THE APPLICATION AT LEAST THIRTY DAYS PRIOR TO  
26 THE PUBLIC HEARING HELD PURSUANT TO SUBSECTION (3) OF THIS  
27 SECTION. THE DIRECTOR SHALL ALSO FORWARD THE APPLICATION TO THE

1 COMMISSION WITH A RECOMMENDATION THAT THE COMMISSION APPROVE  
2 OR DENY THE APPLICATION OR APPROVE THE APPLICATION WITH  
3 CONDITIONS.

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

13 (a) THE GEOGRAPHIC BOUNDARIES OF THE ALTERNATIVE ENERGY  
14 PARK;

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

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

19 (d) THE PERCENTAGE OF THE TAX INCREMENT REVENUE THAT WILL  
20 BE DEDICATED TO THE ALTERNATIVE ENERGY PARK. THE COMMISSION  
21 SHALL SET THE PERCENTAGE AT A VALUE ESTIMATED TO RESULT IN ONLY  
22 THE NET NEW REVENUE LIKELY TO BE CREATED BY THE PARK AND  
23 RELATED DEVELOPMENT BEING DEDICATED TO THE FINANCING ENTITY AND  
24 SHALL EXCLUDE ANY TAX INCREMENT REVENUE THAT TAXING  
25 GOVERNMENTAL ENTITIES WOULD LIKELY HAVE RECEIVED WITHOUT THE  
26 ALTERNATIVE ENERGY PARK.

27 (4) AS PART OF THE APPROVAL OF THE CREATION OR EXPANSION



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

19 (5) FOLLOWING THE COMMISSION'S APPROVAL OF AN APPLICATION,  
20 THE COMMISSION SHALL PROMPTLY TRANSMIT WRITTEN NOTICE AND A  
21 COPY OF THE APPROVAL TO THE EXECUTIVE DIRECTOR OF THE  
22 DEPARTMENT OF REVENUE AND THE COUNTY TREASURER OF ANY COUNTY  
23 WITHIN WHICH TAX INCREMENT REVENUE WILL BE COLLECTED AND  
24 DISTRIBUTED. THE TRANSMITTAL MUST INCLUDE ANY INFORMATION  
25 DEEMED NECESSARY BY THE DEPARTMENT OF REVENUE AND THE COUNTY  
26 TREASURERS TO FULFILL THEIR OBLIGATIONS PURSUANT TO THIS PART 4.

27 **24-46-406. Alternative energy authority - board - creation -**

1 **powers and duties.** (1) THE COMMISSION SHALL NOT DENY A REQUEST  
2 TO AUTHORIZE THE CREATION OF AN ALTERNATIVE ENERGY AUTHORITY IF  
3 THE COMMISSION OTHERWISE APPROVES AN APPLICATION FOR AN  
4 ALTERNATIVE ENERGY PARK THAT INCLUDES A REQUEST FOR THE  
5 FORMATION OF AN ALTERNATIVE ENERGY AUTHORITY.

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

8 (a) IF THE APPLICANT IS A SINGLE LOCAL GOVERNMENTAL ENTITY:

9 (I) TWO MEMBERS APPOINTED BY THE LOCAL GOVERNMENTAL  
10 ENTITY; AND

11 (II) THREE MEMBERS APPOINTED BY THE COMMISSION;

12 (b) IF THE APPLICANT IS TWO LOCAL GOVERNMENTAL ENTITIES:

13 (I) ONE MEMBER APPOINTED BY EACH LOCAL GOVERNMENTAL  
14 ENTITY APPLICANT WHO IS THE OWNER OF AN ALTERNATIVE ENERGY  
15 CONTRIBUTING FACILITY LOCATED WITHIN THE ALTERNATIVE ENERGY  
16 PARK, FOR A TOTAL OF TWO MEMBERS;

17 (II) TWO MEMBERS APPOINTED BY THE COMMISSION WHO ARE  
18 OWNERS OF AN ALTERNATIVE ENERGY CONTRIBUTING FACILITY LOCATED  
19 WITHIN THE ALTERNATIVE ENERGY PARK; AND

20 (III) ONE MEMBER APPOINTED BY THE COMMISSION WHO IS EITHER  
21 AN OWNER OF AN ALTERNATIVE ENERGY CONTRIBUTING FACILITY OR AN  
22 OWNER OF AN INDUSTRIAL OR BUSINESS PARK LOCATED WITHIN THE  
23 ALTERNATIVE ENERGY PARK;

24 (c) IF THE APPLICANT IS THREE OR MORE LOCAL GOVERNMENTAL  
25 ENTITIES:

26 (I) ONE MEMBER APPOINTED BY EACH LOCAL GOVERNMENTAL  
27 ENTITY APPLICANT WHO IS THE OWNER OF AN ALTERNATIVE ENERGY

1 CONTRIBUTING FACILITY LOCATED WITHIN THE ALTERNATIVE ENERGY  
2 PARK;

3 (II) THREE OR MORE MEMBERS APPOINTED BY THE COMMISSION,  
4 COINCIDING WITH THE NUMBER OF MEMBERS APPOINTED PURSUANT TO  
5 SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), WHO ARE OWNERS OF AN  
6 ALTERNATIVE ENERGY CONTRIBUTING FACILITY LOCATED WITHIN THE  
7 ALTERNATIVE ENERGY PARK; AND

8 (III) TWO MEMBERS APPOINTED BY THE COMMISSION WHO ARE  
9 EITHER OWNERS OF AN ALTERNATIVE ENERGY CONTRIBUTING FACILITY OR  
10 OWNERS OF AN INDUSTRIAL OR BUSINESS PARK LOCATED WITHIN THE  
11 ALTERNATIVE ENERGY PARK.

12 (3) UNLESS LIMITED BY THE COMMISSION'S CONDITIONS OF  
13 APPROVAL, EACH AUTHORITY HAS ALL OF THE POWERS NECESSARY OR  
14 CONVENIENT TO CARRY OUT THE PURPOSES OF THIS PART 4, INCLUDING  
15 THE FOLLOWING POWERS:

16 (a) PERPETUAL EXISTENCE AND SUCCESSION;

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

18 (c) TO SUE AND BE SUED AND TO BE A PARTY TO SUITS, ACTIONS,  
19 AND PROCEEDINGS;

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

22 (e) TO ENTER INTO CONTRACTS AND AGREEMENTS AFFECTING THE  
23 AFFAIRS OF THE ALTERNATIVE ENERGY AUTHORITY AS NECESSARY TO  
24 COMPLETE AN ALTERNATIVE ENERGY PARK;

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

1           (g) TO ASSIGN AND PLEDGE TO A METROPOLITAN DISTRICT OR  
2 URBAN RENEWAL AUTHORITY HAVING ALL OR A PORTION OF THE  
3 ALTERNATIVE ENERGY PARK WITHIN ITS BOUNDARIES OR SERVICE AREA  
4 THE ALTERNATIVE ENERGY AUTHORITY'S RIGHT TO RECEIVE AND USE TAX  
5 INCREMENT REVENUE TO SUPPORT BONDS OR OTHER FINANCING  
6 INSTRUMENTS ISSUED OR ENTERED INTO BY THE METROPOLITAN DISTRICT  
7 OR URBAN RENEWAL AUTHORITY FOR ELIGIBLE COSTS OR TO ACQUIRE  
8 ELIGIBLE IMPROVEMENTS, INCLUDING LOANS OR FUNDING AND  
9 REIMBURSEMENT AGREEMENTS WITH DEVELOPERS INVOLVED IN THE  
10 ALTERNATIVE ENERGY PARK OR OTHER THIRD PARTIES;

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

17           (i) TO DEPOSIT ANY MONEYS NOT REQUIRED FOR IMMEDIATE  
18 DISBURSEMENT IN A DEPOSITORY AUTHORIZED IN SECTION 24-75-603 AND,  
19 FOR THE PURPOSE OF MAKING THE DEPOSITS, TO APPOINT BY WRITTEN  
20 RESOLUTION ONE OR MORE PERSONS TO ACT AS CUSTODIANS OF THE  
21 MONEYS OF THE AUTHORITY, WHICH PERSON OR PERSONS SHALL GIVE  
22 SURETY BONDS IN THE AMOUNTS AND FORM AND FOR THE PURPOSES AS  
23 THE AUTHORITY REQUIRES;

24           (j) TO MAKE THE APPROPRIATIONS AND EXPENDITURES OF ITS  
25 FUNDS AND TO SET UP, ESTABLISH, AND MAINTAIN SUCH GENERAL,  
26 SEPARATE, OR SPECIAL FUNDS AND BANK ACCOUNTS OR OTHER ACCOUNTS  
27 AS IT DEEMS NECESSARY OR CONVENIENT TO CARRY OUT THE PURPOSES OF

1 THIS PART 4;

2 (k) TO ACCEPT ON BEHALF OF THE ALTERNATIVE ENERGY  
3 AUTHORITY REAL OR PERSONAL PROPERTY FOR THE USE OF THE  
4 AUTHORITY AND TO ACCEPT GIFTS AND CONVEYANCES MADE TO THE  
5 AUTHORITY UPON THE TERMS OR CONDITIONS AS THE BOARD OF THE  
6 AUTHORITY MAY APPROVE;

7 (l) TO ADOPT, AMEND, AND ENFORCE BYLAWS AND RULES THAT DO  
8 NOT CONFLICT WITH THE CONSTITUTION AND LAWS OF THE STATE FOR  
9 CARRYING OUT THE BUSINESS OF THE AUTHORITY;

10 (m) TO HAVE AND EXERCISE ALL RIGHTS AND POWERS NECESSARY  
11 OR INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS GRANTED TO  
12 THE ALTERNATIVE ENERGY AUTHORITY BY THIS PART 4. SUCH SPECIFIC  
13 POWERS ARE NOT CONSIDERED A LIMITATION UPON ANY POWER  
14 NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES AND INTENT  
15 OF THIS PART 4.

16 (n) TO AUTHORIZE THE USE OF ELECTRONIC RECORDS OR  
17 SIGNATURES AND TO ADOPT RULES, STANDARDS, POLICIES, AND  
18 PROCEDURES FOR USE OF ELECTRONIC RECORDS OR SIGNATURES PURSUANT  
19 TO ARTICLE 71.3 OF THIS TITLE.

20 (4) AN ALTERNATIVE ENERGY AUTHORITY DOES NOT HAVE THE  
21 POWER OF EMINENT DOMAIN, NOR THE POWER TO IMPOSE OR LEVY A SALES  
22 TAX, USE TAX, PROPERTY TAX, OR ANY OTHER TAX.

23 (5) THE BOARD OF DIRECTORS OF AN ALTERNATIVE ENERGY  
24 AUTHORITY IS SUBJECT TO THE PROVISIONS OF THE "COLORADO OPEN  
25 RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE, AND THE  
26 "COLORADO SUNSHINE ACT OF 1972", ARTICLE 6 OF THIS TITLE.

27 **24-46-407. Tax increment revenue.** (1) (a) NOTWITHSTANDING

1 ANY LAW TO THE CONTRARY, AN ALTERNATIVE ENERGY PARK  
2 APPLICATION, AS ORIGINALLY APPROVED OR AS LATER MODIFIED  
3 PURSUANT TO THIS PART 4, MAY CONTAIN A PROVISION THAT THE  
4 FINANCING ENTITY MAY OCCASIONALLY APPROVE ONE OR MORE PROJECTS  
5 FOR CONSTRUCTION OF ELIGIBLE IMPROVEMENTS AND PROVIDE THAT  
6 TAXES, IF ANY, LEVIED AFTER THE EFFECTIVE DATE OF THE APPROVAL OF  
7 THE PROJECT UPON TAXABLE PROPERTY WITHIN THE PROJECT AREA EACH  
8 YEAR OR THAT MUNICIPAL SALES TAXES COLLECTED WITHIN THE PROJECT  
9 AREA, OR BOTH SUCH TAXES, BY OR FOR THE BENEFIT OF ANY PUBLIC BODY  
10 SHALL BE DIVIDED FOR A PERIOD NOT TO EXCEED TWENTY-FIVE YEARS  
11 AFTER THE EFFECTIVE DATE OF APPROVAL OF A PROJECT AS FOLLOWS:

12 (I) THAT PORTION OF THE TAXES PRODUCED BY THE LEVY AT THE  
13 RATE FIXED EACH YEAR BY OR FOR EACH PUBLIC BODY UPON THE  
14 VALUATION FOR ASSESSMENT OF TAXABLE PROPERTY IN THE PROJECT  
15 AREA LAST CERTIFIED PRIOR TO THE EFFECTIVE DATE OF APPROVAL OF THE  
16 PROJECT OR, AS TO AN AREA LATER ADDED TO THE PROJECT AREA, THE  
17 EFFECTIVE DATE OF THE MODIFICATION OF THE PROJECT AREA, OR THAT  
18 PORTION OF MUNICIPAL SALES TAXES COLLECTED WITHIN THE BOUNDARIES  
19 OF SAID PROJECT AREA IN THE TWELVE-MONTH PERIOD ENDING ON THE  
20 LAST DAY OF THE MONTH PRIOR TO THE EFFECTIVE DATE OF APPROVAL OF  
21 THE PROJECT AREA, OR BOTH SUCH PORTIONS, MUST BE PAID INTO THE  
22 FUNDS OF EACH PUBLIC BODY AS ARE ALL OTHER TAXES COLLECTED BY OR  
23 FOR SAID LOCAL GOVERNMENT;

24 (II) (A) THAT PORTION OF THE PROPERTY TAXES OR ALL OR A  
25 PORTION OF SAID SALES TAXES, OR BOTH, IN EXCESS OF THE AMOUNT MUST  
26 BE ALLOCATED TO AND, WHEN COLLECTED, PAID INTO A SPECIAL FUND OF  
27 THE FINANCING ENTITY TO PAY THE PRINCIPAL OF, THE INTEREST ON, AND

1 ANY PREMIUMS DUE IN CONNECTION WITH THE BONDS OF, LOANS OR  
2 ADVANCES TO, OR DEBT INCURRED BY, WHETHER FUNDED, REFUNDED,  
3 ASSUMED, OR OTHERWISE, SUCH FINANCING ENTITY FOR FINANCING OR  
4 REFINANCING, IN WHOLE OR IN PART, A PROJECT, OR TO MAKE PAYMENTS  
5 UNDER AN AGREEMENT EXECUTED PURSUANT TO SUBSECTION (3) OF THIS  
6 SECTION. ANY EXCESS MUNICIPAL SALES TAX COLLECTIONS NOT  
7 ALLOCATED PURSUANT TO THIS SUBPARAGRAPH (II) MUST BE PAID INTO  
8 THE FUNDS OF THE MUNICIPALITY.

9 (B) UNLESS AND UNTIL THE TOTAL VALUATION FOR ASSESSMENT  
10 OF THE TAXABLE PROPERTY IN A PROJECT AREA EXCEEDS THE BASE  
11 VALUATION FOR ASSESSMENT OF THE TAXABLE PROPERTY IN THE PROJECT  
12 AREA, AS PROVIDED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), ALL OF  
13 THE TAXES LEVIED UPON THE TAXABLE PROPERTY IN THE PROJECT AREA  
14 MUST BE PAID INTO THE GENERAL FUNDS OF THE RESPECTIVE PUBLIC  
15 BODIES.

16 (C) UNLESS AND UNTIL THE TOTAL MUNICIPAL SALES TAX  
17 COLLECTIONS IN A PROJECT AREA EXCEED THE BASE YEAR MUNICIPAL  
18 SALES TAX COLLECTIONS IN THE PROJECT AREA, AS PROVIDED IN  
19 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), ALL SUCH SALES TAX  
20 COLLECTIONS MUST BE PAID INTO THE GENERAL FUND OF THE  
21 MUNICIPALITY. WHEN THE BONDS, LOANS, ADVANCES, AND DEBT, IF ANY,  
22 INCLUDING INTEREST AND ANY PREMIUMS DUE IN CONNECTION  
23 THEREWITH, HAVE BEEN PAID, ALL TAXES UPON THE TAXABLE PROPERTY  
24 OR THE TOTAL MUNICIPAL SALES TAX COLLECTIONS, OR BOTH, IN THE  
25 PROJECT AREA MUST BE PAID INTO THE GENERAL FUNDS OF THE  
26 RESPECTIVE PUBLIC BODIES.

27 (III) IN CALCULATING AND MAKING PAYMENTS AS DESCRIBED IN

1 SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), THE COUNTY TREASURER  
2 MAY OFFSET THE FINANCING ENTITY'S PRO RATA PORTION OF ANY  
3 PROPERTY TAXES THAT ARE PAID TO THE FINANCING ENTITY UNDER THE  
4 TERMS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) AND THAT ARE  
5 SUBSEQUENTLY REFUNDED TO THE TAXPAYER AGAINST ANY SUBSEQUENT  
6 PAYMENTS DUE TO THE FINANCING ENTITY FOR THE PROJECT. THE  
7 FINANCING ENTITY SHALL MAKE ADEQUATE PROVISION FOR THE RETURN  
8 OF OVERPAYMENTS IN THE EVENT THAT THERE ARE NOT SUFFICIENT  
9 PROPERTY TAXES DUE TO THE FINANCING ENTITY TO OFFSET THE  
10 FINANCING ENTITY'S PRO RATA PORTION OF THE REFUNDS. THE FINANCING  
11 ENTITY MAY ESTABLISH A RESERVE FUND FOR THIS PURPOSE OR ENTER  
12 INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE MUNICIPAL  
13 GOVERNING BODY IN WHICH THE MUNICIPALITY ASSUMES RESPONSIBILITY  
14 FOR THE RETURN OF THE OVERPAYMENTS. THIS SUBPARAGRAPH (III) DOES  
15 NOT APPLY TO A CITY AND COUNTY.

16 (b) THE PORTION OF TAXES DESCRIBED IN SUBPARAGRAPH (II) OF  
17 PARAGRAPH (a) OF THIS SUBSECTION (1) MAY BE IRREVOCABLY PLEDGED  
18 BY THE FINANCING ENTITY, A LOCAL GOVERNMENT, OR A SPECIAL DISTRICT  
19 CREATED PURSUANT TO TITLE 32, C.R.S., FOR THE PAYMENT OF THE  
20 PRINCIPAL OF, THE INTEREST ON, AND ANY PREMIUMS DUE IN CONNECTION  
21 WITH THE BONDS, LOANS, ADVANCES, AND DEBT. THIS IRREVOCABLE  
22 PLEDGE DOES NOT EXTEND TO ANY TAXES PLACED IN A RESERVE FUND TO  
23 BE RETURNED TO THE FINANCING ENTITY FOR REFUNDS OF OVERPAYMENTS  
24 BY TAXPAYERS; EXCEPT THAT THIS LIMITATION ON THE EXTENSION OF THE  
25 IRREVOCABLE PLEDGE DOES NOT APPLY TO A CITY AND COUNTY.

26 (c) AS USED IN THIS SECTION, "TAXES" INCLUDES, WITHOUT  
27 LIMITATION, ALL LEVIES AUTHORIZED TO BE MADE ON AN AD VALOREM



1 BASIS UPON REAL AND PERSONAL PROPERTY OR MUNICIPAL SALES TAXES,  
2 BUT NOTHING IN THIS SECTION REQUIRES A PUBLIC BODY TO LEVY TAXES.

3 (d) IN THE CASE OF AN ALTERNATIVE ENERGY PARK THAT HAS  
4 WITHIN ITS BORDERS SINGLE- AND MULTIPLE-FAMILY RESIDENCES, SCHOOL  
5 DISTRICTS THAT INCLUDE ALL OR A PART OF THE ALTERNATIVE ENERGY  
6 PARK ARE PERMITTED TO PARTICIPATE IN AN ADVISORY CAPACITY WITH  
7 RESPECT TO THIS SUBSECTION (1).

8 (e) IN THE EVENT OF A GENERAL REASSESSMENT OF TAXABLE  
9 PROPERTY VALUATIONS IN A COUNTY, INCLUDING ALL OR PART OF THE  
10 ALTERNATIVE ENERGY PARK SUBJECT TO DIVISION OF VALUATION FOR  
11 ASSESSMENT UNDER PARAGRAPH (a) OF THIS SUBSECTION (1), OR A  
12 CHANGE IN THE SALES TAX PERCENTAGE LEVIED IN A MUNICIPALITY,  
13 INCLUDING ALL OR PART OF THE ALTERNATIVE ENERGY PARK SUBJECT TO  
14 DIVISION OF SALES TAXES UNDER PARAGRAPH (a) OF THIS SUBSECTION (1),  
15 THE PORTIONS OF VALUATIONS FOR ASSESSMENT OR SALES TAXES UNDER  
16 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (a) OF THIS SUBSECTION (1)  
17 MUST BE PROPORTIONATELY ADJUSTED IN ACCORDANCE WITH THE  
18 REASSESSMENT OR CHANGE.

19 (f) NOTWITHSTANDING THE TWENTY-FIVE-YEAR PERIOD OF  
20 LIMITATION SET FORTH IN THIS SUBSECTION (1), ANY PROJECT, AS  
21 ORIGINALLY APPROVED OR AS LATER MODIFIED PURSUANT TO THIS PART  
22 4, MAY CONTAIN A PROVISION THAT THE MUNICIPAL SALES TAXES  
23 COLLECTED IN A PROJECT AREA EACH YEAR OR THE MUNICIPAL PORTION  
24 OF TAXES LEVIED UPON TAXABLE PROPERTY WITHIN THE PROJECT AREA,  
25 OR BOTH SUCH TAXES, MAY BE ALLOCATED AS DESCRIBED IN THIS SECTION  
26 FOR A PERIOD IN EXCESS OF TWENTY-FIVE YEARS AFTER THE EFFECTIVE  
27 DATE OF THE PROJECT IF THE EXISTING BONDS ARE IN DEFAULT OR ABOUT

1 TO GO INTO DEFAULT; EXCEPT THAT THE TAXES MAY NOT BE ALLOCATED  
2 AFTER ALL BONDS OF THE FINANCING ENTITY, A LOCAL GOVERNMENT, OR  
3 A SPECIAL DISTRICT CREATED PURSUANT TO TITLE 32, C.R.S., ISSUED  
4 PURSUANT TO SUCH PLAN, INCLUDING LOANS, ADVANCES, AND DEBT, IF  
5 ANY, AND INTEREST THEREON, AND ANY PREMIUMS DUE IN CONNECTION  
6 THEREWITH HAVE BEEN PAID.

7 (2) THE FINANCING ENTITY SHALL TIMELY NOTIFY THE ASSESSOR  
8 OF THE COUNTY IN WHICH A PROJECT AND PROJECT AREA HAVE BEEN  
9 APPROVED WHEN:

10 (a) A PROJECT AND PROJECT AREA PROVIDE FOR THE FINANCING  
11 MECHANISM REFERENCED IN SUBSECTION (1) OF THIS SECTION, WHICH  
12 NOTICE MUST INCLUDE A PRECISE DESCRIPTION OF THE PROJECT AREA;

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

15 (c) THE PURPOSES OF THE PROJECT AREA HAVE OTHERWISE BEEN  
16 ACHIEVED.

17 (3) THE FINANCING ENTITY MAY ENTER INTO AN AGREEMENT WITH  
18 A COUNTY WITHIN THE BOUNDARIES OF WHICH PROPERTY TAXES  
19 COLLECTED AS A RESULT OF THE COUNTY LEVY, OR A PORTION OF THE  
20 LEVY, WILL BE SUBJECT TO ALLOCATION PURSUANT TO SUBSECTION (1) OF  
21 THIS SECTION. THE AGREEMENT MAY PROVIDE FOR THE ALLOCATION OF  
22 RESPONSIBILITY AMONG THE PARTIES TO THE AGREEMENT FOR PAYMENT  
23 OF THE COSTS OF ANY ADDITIONAL COUNTY INFRASTRUCTURE OR  
24 SERVICES NECESSARY TO OFFSET THE IMPACTS OF THE PROJECT AND FOR  
25 THE SHARING OF REVENUES. EXCEPT WITH THE CONSENT OF THE  
26 FINANCING ENTITY, ANY SHARED REVENUES ARE LIMITED TO ALL OR A  
27 PORTION OF THE TAXES LEVIED UPON TAXABLE PROPERTY WITHIN THE

1 PROJECT AREA BY THE COUNTY.

2           **24-46-408. Annual report - audit.** (1) WITHIN NINETY DAYS OF  
3 THE END OF THE FIRST FULL STATE FISCAL YEAR AFTER THE COMMISSION  
4 APPROVES AN ALTERNATIVE ENERGY PARK AND ON THE SAME DATE EACH  
5 YEAR THEREAFTER, THE FINANCING ENTITY SHALL PREPARE AND SUBMIT  
6 TO THE COMMISSION AN ANNUAL REPORT DETAILING, BY PROJECT AND  
7 PROJECT AREA, THE TOTAL AMOUNT OF TAX INCREMENT REVENUE THAT  
8 THE FINANCING ENTITY COLLECTED OVER THE PAST YEAR, HOW THE  
9 REVENUE WAS SPENT, PROJECTED REVENUE FOR THE REMAINDER OF THE  
10 PERIOD FOR WHICH THE FINANCING ENTITY MAY COLLECT TAX INCREMENT  
11 REVENUE, AND A SUMMARY OF THE STATUS OF CONSTRUCTION OF THE  
12 ELIGIBLE IMPROVEMENTS. IF ANY INFORMATION PROVIDED IN THE ANNUAL  
13 REPORT IS A TRADE SECRET, PROPRIETARY, OR OTHERWISE ENTITLED TO  
14 PROTECTION PURSUANT TO ARTICLE 72 OF THIS TITLE, IT MUST BE SO  
15 DESIGNATED AND KEPT CONFIDENTIAL BY THE STATE. THE GOVERNING  
16 BODY OF THE FINANCING ENTITY SHALL ATTEST TO THE ACCURACY OF THE  
17 INFORMATION PROVIDED IN THE ANNUAL REPORT.

18           (2) WITH THE ANNUAL REPORT, A FINANCING ENTITY SHALL  
19 SUBMIT AN INDEPENDENT AUDIT OF ITS FINANCIAL STATUS PREPARED BY  
20 A CERTIFIED PUBLIC ACCOUNTANT ATTESTING TO THE ACCURACY OF THE  
21 ANNUAL REPORT. IN THE REPORT, THE FINANCING ENTITY SHALL STATE  
22 WHETHER ANY TAX INCREMENT REVENUE IS BEING USED FOR PURPOSES  
23 OTHER THAN FOR ELIGIBLE COSTS AND ANY OTHER FINANCIAL  
24 INFORMATION THAT IS REASONABLY REQUIRED BY THE COMMISSION.

25           (3) IF THE AUDIT REQUIRED BY SUBSECTION (2) OF THIS SECTION  
26 FINDS THAT TAX INCREMENT REVENUE HAS BEEN USED FOR  
27 UNAUTHORIZED PURPOSES, THE FINANCING ENTITY SHALL BE LIABLE FOR

1 THE REPAYMENT OF THE TAX INCREMENT REVENUE TO THE PARK OR TO  
2 THE GENERAL FUND OF EACH AFFECTED MUNICIPALITY OR OTHER TAXING  
3 ENTITY. THE REPAYMENT MAY BE MADE FROM MONEYS OF THE FINANCING  
4 ENTITY DERIVED FROM SOURCES OTHER THAN TAX INCREMENT REVENUE,  
5 IF ANY, BY OFFSET AGAINST FUTURE TAX INCREMENT REVENUE THAT  
6 WOULD OTHERWISE BE DISBURSED TO IT BY THE DEPARTMENT OF REVENUE  
7 OR A COUNTY TREASURER, OR FROM OTHER MONEYS THAT ARE LEGALLY  
8 AVAILABLE TO THE FINANCING ENTITY FOR SUCH PURPOSE.

9 (4) IF THE FINANCING ENTITY IS A METROPOLITAN DISTRICT, IT MAY  
10 COMPLY WITH THE REQUIREMENTS OF THIS SECTION BY SUBMITTING TO  
11 THE COMMISSION A COPY OF THE REPORT THAT THE METROPOLITAN  
12 DISTRICT IS OTHERWISE REQUIRED TO SUBMIT TO A LOCAL GOVERNMENT.  
13 THE FINANCING ENTITY SHALL DELIVER THE COPY TO THE COMMISSION  
14 CONCURRENTLY WITH THE DELIVERY OF THE ANNUAL REPORT AND AUDIT  
15 WHEN OTHERWISE REQUIRED BY LAW.

16 (5) THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT SHALL  
17 PREPARE A REPORT TO BE SUBMITTED BY THE OFFICE NO LATER THAN  
18 SEPTEMBER 1 OF THE APPLICABLE FISCAL YEAR TO THE FINANCE  
19 COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE, THE  
20 ECONOMIC AND BUSINESS DEVELOPMENT COMMITTEE OF THE HOUSE OF  
21 REPRESENTATIVES, AND THE BUSINESS, LABOR, AND TECHNOLOGY  
22 COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES. THE  
23 REPORT SHALL PRESENT INFORMATION ON ALL LOCAL GOVERNMENT TAX  
24 EXPENDITURES FOR ALTERNATIVE ENERGY ECONOMIC DEVELOPMENT  
25 DURING THE PRIOR FISCAL YEAR AND INCLUDE INFORMATION FROM THE  
26 REPORTS REQUIRED PURSUANT TO SUBSECTION (6) OF THIS SECTION.

27 (6) (a) EACH YEAR, NO LATER THAN SEPTEMBER 1, THE

1 DEPARTMENT OF REVENUE AND THE DEPARTMENT OF LOCAL AFFAIRS  
2 SHALL JOINTLY REPORT THE AGGREGATE AMOUNT OF TAX INCREMENT  
3 REVENUE DIVERTED TO FINANCING ENTITIES FOR APPROVED PARKS.

4 (b) EVERY TWO YEARS, NO LATER THAN SEPTEMBER 1, THE  
5 COLORADO OFFICE OF ECONOMIC DEVELOPMENT AND THE DEPARTMENTS  
6 OF REVENUE AND LOCAL AFFAIRS SHALL REPORT DETAILED INFORMATION  
7 ON EACH PARK APPROVED TO RECEIVE TAX INCREMENT REVENUE,  
8 INCLUDING:

9 (I) THE NAME, ADDRESS, AND CONTACT INFORMATION FOR EACH  
10 RECIPIENT;

11 (II) THE AMOUNT OF TAX INCREMENT REVENUE DIVERTED FOR THE  
12 PARK, DIVIDED, IF APPLICABLE, INTO CATEGORIES OF SALES TAX REVENUE  
13 AND PROPERTY TAX REVENUE;

14 (III) THE BOUNDARIES OF THE APPROVED ALTERNATIVE ENERGY  
15 PARK AND NARRATIVE FOR THE PARK;

16 (IV) THE PROPOSED TERM OF FINANCING AND THE PERCENT OF TAX  
17 INCREMENT REVENUE THAT IS APPROVED FOR THE PARK;

18 (V) THE ACTUAL TAX INCREMENT REVENUE COLLECTED WITHIN  
19 THE PARK COMPARED TO THE PROJECTED TAX INCREMENT REVENUE  
20 CONTAINED IN THE APPROVED APPLICATION;

21 (VI) THE NUMBER OF NET NEW JOBS DIRECTLY CREATED BY THE  
22 PARK IN EACH CATEGORY AS USED IN THE COLORADO DEPARTMENT OF  
23 LABOR AND EMPLOYMENT OCCUPATIONAL EMPLOYMENT STATISTICS  
24 SURVEY AND THE WAGES AND HEALTH BENEFITS FOR JOBS IN EACH  
25 CATEGORY; AND

26 (VII) AN ASSESSMENT OF THE OVERALL EFFECTIVENESS OF THE  
27 ALTERNATIVE ENERGY PARK.

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

11           (2) IF SUBSTANTIAL WORK ON A PROJECT DOES NOT COMMENCE  
12 WITHIN FIVE YEARS OF APPROVAL BY THE FINANCING ENTITY, THE  
13 APPROVAL LAPSES, BUT MAY BE REINSTATED BY THE FINANCING ENTITY  
14 UPON A SHOWING OF GOOD CAUSE FOR THE DELAY. ANY TAX INCREMENT  
15 REVENUE THAT THE ALTERNATIVE ENERGY PARK HAS GENERATED FROM  
16 THE TIME OF THE ORIGINAL APPROVAL FOR THE PARK MAY REMAIN  
17 DEDICATED TO THE PARK TO THE EXTENT THAT IT HAS BEEN PREVIOUSLY  
18 EXPENDED OR PLEDGED BY THE FINANCING ENTITY FOR THE FINANCING OF  
19 ELIGIBLE COSTS.

20           **24-46-410. Issuance of bonds by a financing entity.** (1) A  
21 FINANCING ENTITY MAY ISSUE BONDS OCCASIONALLY IN ITS DISCRETION  
22 TO FINANCE ANY ELIGIBLE IMPROVEMENTS WITH RESPECT TO A PROJECT  
23 AND MAY ALSO ISSUE REFUNDING OR OTHER BONDS OF THE FINANCING  
24 ENTITY ON OCCASION IN ITS DISCRETION FOR THE PAYMENT, RETIREMENT,  
25 RENEWAL, OR EXTENSION OF ANY BONDS PREVIOUSLY ISSUED BY THE  
26 FINANCING ENTITY UNDER THIS SECTION AND TO PROVIDE FOR THE  
27 REPLACEMENT OF LOST, DESTROYED, OR MUTILATED BONDS PREVIOUSLY

1 ISSUED UNDER THIS SECTION.

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

7 (b) A BOND ISSUED UNDER THIS SECTION MAY BE A SPECIAL  
8 OBLIGATION OF THE FINANCING ENTITY THAT, AS TO PRINCIPAL AND  
9 INTEREST AND PREMIUMS, IF ANY, IS PAYABLE SOLELY FROM AND SECURED  
10 ONLY BY A PLEDGE OF ANY INCOME, PROCEEDS, REVENUES, OR FUNDS OF  
11 THE FINANCING ENTITY, INCLUDING, WITHOUT LIMITATION, TAX  
12 INCREMENT REVENUE.

13 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,  
14 A BOND ISSUED UNDER THIS SECTION MAY BE ADDITIONALLY SECURED AS  
15 TO THE PAYMENT OF THE PRINCIPAL AND INTEREST AND PREMIUMS, IF ANY,  
16 BY A MORTGAGE OF AN ALTERNATIVE ENERGY PARK, OR ANY PART  
17 THEREOF, THE TITLE TO WHICH IS THEN OR THEREAFTER IN THE FINANCING  
18 ENTITY OR OF ANY OTHER REAL OR PERSONAL PROPERTY OR INTERESTS  
19 THEREIN THEN OWNED OR ACQUIRED BY THE FINANCING ENTITY.

20 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,  
21 A GENERAL OBLIGATION BOND ISSUED UNDER THIS SECTION MAY BE  
22 ADDITIONALLY SECURED AS TO THE PAYMENT OF THE PRINCIPAL AND  
23 INTEREST AND PREMIUMS, IF ANY, AS PROVIDED IN SUBSECTION (2) OF THIS  
24 SECTION, WITH OR WITHOUT BEING ALSO ADDITIONALLY SECURED AS TO  
25 PAYMENT OF THE PRINCIPAL AND INTEREST AND PREMIUMS, IF ANY, BY A  
26 MORTGAGE AS PROVIDED IN SUBSECTION (3) OF THIS SECTION OR A TRUST  
27 AGREEMENT AS PROVIDED IN SUBSECTION (5) OF THIS SECTION.

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

7           (6) A BOND ISSUED UNDER THIS SECTION BY A FINANCING ENTITY  
8           THAT CONSISTS SOLELY OF A METROPOLITAN DISTRICT OR AN  
9           ALTERNATIVE ENERGY AUTHORITY DOES NOT CONSTITUTE A DEBT OF THE  
10          STATE OR OF A COUNTY, MUNICIPALITY, OR PUBLIC BODY OF THE STATE  
11          OTHER THAN THE FINANCING ENTITY ISSUING THE BOND. THE BOND IS NOT  
12          SUBJECT TO ANY OTHER LAW OR CHARTER OF A MUNICIPALITY RELATING  
13          TO THE AUTHORIZATION, ISSUANCE, OR SALE OF BONDS. A BOND ISSUED  
14          BY A FINANCING ENTITY THAT INCLUDES A LOCAL GOVERNMENT IS  
15          GOVERNED BY APPLICABLE LAW.

16          (7) (a) A BOND ISSUED UNDER THIS SECTION MUST BE AUTHORIZED  
17          BY A RESOLUTION OF THE FINANCING ENTITY AND MAY BE ISSUED IN ONE  
18          OR MORE SERIES AND MUST BEAR SUCH DATE, BE PAYABLE UPON DEMAND  
19          OR MATURE AT SUCH TIME, BEAR INTEREST AT SUCH RATE, BE IN SUCH  
20          DENOMINATION, BE IN SUCH FORM, EITHER COUPON OR REGISTERED OR  
21          OTHERWISE, CARRY SUCH CONVERSION OR REGISTRATION PRIVILEGES,  
22          HAVE SUCH RANK OR PRIORITY, BE EXECUTED IN THE NAME OF THE  
23          FINANCING ENTITY IN SUCH MANNER, BE PAYABLE IN SUCH MEDIUM OF  
24          PAYMENT, BE PAYABLE AT SUCH PLACE, BE SUBJECT TO SUCH CALLABILITY  
25          PROVISIONS OR TERMS OF REDEMPTION, WITH OR WITHOUT PREMIUMS, BE  
26          SECURED IN SUCH MANNER, BE OF SUCH DESCRIPTION, CONTAIN OR BE  
27          SUBJECT TO SUCH COVENANTS, PROVISIONS, TERMS, CONDITIONS, AND



1 AGREEMENTS, INCLUDING PROVISIONS CONCERNING EVENTS OF DEFAULT,  
2 AND HAVE SUCH OTHER CHARACTERISTICS AS MAY BE PROVIDED BY SUCH  
3 RESOLUTION OR BY THE TRUST AGREEMENT, INDENTURE, OR MORTGAGE,  
4 IF ANY, ISSUED PURSUANT TO THE RESOLUTION.

5 (b) THE SEAL, OR A FACSIMILE OF THE SEAL, OF THE FINANCING  
6 ENTITY MUST BE AFFIXED, IMPRINTED, ENGRAVED, OR OTHERWISE  
7 REPRODUCED UPON EACH BOND ISSUED UNDER THIS SECTION. A BOND  
8 ISSUED UNDER THIS SECTION MUST BE EXECUTED IN THE NAME OF THE  
9 FINANCING ENTITY BY THE MANUAL OR FACSIMILE SIGNATURES OF SUCH  
10 OFFICIALS AS MAY BE DESIGNATED IN SAID RESOLUTION OR TRUST  
11 AGREEMENT, INDENTURE, OR MORTGAGE; EXCEPT THAT AT LEAST ONE  
12 SIGNATURE ON EACH BOND MUST BE A MANUAL SIGNATURE. COUPONS, IF  
13 ANY, ATTACHED TO THE BOND MUST BEAR THE FACSIMILE SIGNATURE OF  
14 AN OFFICIAL OF THE FINANCING ENTITY AS MAY BE DESIGNATED AS  
15 PROVIDED IN THIS SUBSECTION (7). SAID RESOLUTION OR TRUST  
16 AGREEMENT, INDENTURE, OR MORTGAGE MAY PROVIDE FOR THE  
17 AUTHENTICATION OF THE PERTINENT BONDS BY THE TRUSTEE.

18 (8) A BOND ISSUED UNDER THIS SECTION MAY BE SOLD BY THE  
19 FINANCING ENTITY IN THE MANNER AND FOR THE PRICE AS THE FINANCING  
20 ENTITY, IN ITS DISCRETION, MAY DETERMINE, AT PAR, BELOW PAR, OR  
21 ABOVE PAR, AT PRIVATE OR PUBLIC SALE AFTER NOTICE IS PUBLISHED  
22 PRIOR TO THE SALE IN A NEWSPAPER HAVING GENERAL CIRCULATION IN  
23 THE MUNICIPALITY, OR IN ANOTHER MEDIUM OF PUBLICATION AS THE  
24 FINANCING ENTITY MAY DEEM APPROPRIATE, OR MAY BE EXCHANGED BY  
25 THE FINANCING ENTITY FOR ANOTHER BOND ISSUED UNDER THIS SECTION.

26 (9) IF AN OFFICIAL OF THE FINANCING ENTITY WHOSE SIGNATURE  
27 OR FACSIMILE SIGNATURE APPEARS ON A BOND OR COUPON ISSUED UNDER

1 THIS SECTION CEASES TO BE AN OFFICIAL BEFORE THE DELIVERY OF THE  
2 BOND, THE SIGNATURE OR FACSIMILE SIGNATURE IS NEVERTHELESS VALID  
3 AND SUFFICIENT FOR ALL PURPOSES, THE SAME AS IF THE OFFICIAL HAD  
4 REMAINED IN OFFICE UNTIL DELIVERY OF THE BOND.

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

7 (11) IN A SUIT, ACTION, OR PROCEEDING INVOLVING THE VALIDITY  
8 OR ENFORCEABILITY OF A BOND ISSUED UNDER THIS SECTION OR THE  
9 SECURITY THEREFOR, A BOND RECITING IN SUBSTANCE THAT IT HAS BEEN  
10 ISSUED BY THE FINANCING ENTITY IN CONNECTION WITH AN ALTERNATIVE  
11 ENERGY PARK, OR ANY ACTIVITY OR OPERATION OF THE FINANCING ENTITY  
12 UNDER THIS PART 4, IS CONCLUSIVELY DEEMED TO HAVE BEEN ISSUED FOR  
13 SUCH PURPOSES. THE ALTERNATIVE ENERGY PARK OR OPERATION OR  
14 ACTIVITY IS CONCLUSIVELY DEEMED TO HAVE BEEN INITIATED, PLANNED,  
15 LOCATED, UNDERTAKEN, ACCOMPLISHED, AND CARRIED OUT IN  
16 ACCORDANCE WITH THIS PART 4.

17 (12) PENDING THE PREPARATION OF A DEFINITIVE BOND UNDER  
18 THIS SECTION, A FINANCING ENTITY MAY ISSUE AN INTERIM CERTIFICATE  
19 OR RECEIPT OR TEMPORARY BOND, WITH OR WITHOUT COUPONS,  
20 EXCHANGEABLE FOR A DEFINITIVE BOND WHEN THE LATTER HAS BEEN  
21 EXECUTED AND IS AVAILABLE FOR DELIVERY.

22 (13) A PERSON RETAINED OR EMPLOYED BY A FINANCING ENTITY  
23 AS AN ADVISOR OR CONSULTANT FOR THE PURPOSE OF RENDERING  
24 FINANCIAL ADVICE AND ASSISTANCE MAY PURCHASE OR PARTICIPATE IN  
25 THE PURCHASE OR DISTRIBUTION OF ITS BONDS WHEN THE BONDS ARE  
26 OFFERED AT PUBLIC OR PRIVATE SALE.

27 (14) NO COMMISSIONER, MEMBER OR OTHER OFFICER OF A

1 FINANCING ENTITY ISSUING A BOND UNDER THIS SECTION, OR PERSON  
2 EXECUTING A BOND IS PERSONALLY LIABLE ON THE BOND OR SUBJECT TO  
3 ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE  
4 ISSUANCE OF A BOND.

5 (15) NO COMMISSIONER, MEMBER OR OTHER OFFICER OF AN  
6 ALTERNATIVE ENERGY AUTHORITY ISSUING A BOND PURSUANT TO THIS  
7 PART 4, OR PERSON EXECUTING A BOND IS PERSONALLY LIABLE ON THE  
8 BOND OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY  
9 REASON OF THE ISSUANCE OF A BOND.

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

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

16 **39-30-103.6. Credit against tax - contributions to alternative**  
17 **energy parks to implement development - definitions.** (1) (a) FOR  
18 INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, A  
19 TAXPAYER WHO MAKES A MONETARY OR IN-KIND CONTRIBUTION TO A  
20 FINANCING ENTITY FOR THE PURPOSE OF IMPLEMENTING AN ALTERNATIVE  
21 ENERGY PARK IS ALLOWED A CREDIT AGAINST THE INCOME TAX IMPOSED  
22 BY ARTICLE 22 OF THIS TITLE IN AN AMOUNT EQUAL TO TWENTY-FIVE  
23 PERCENT OF THE TOTAL VALUE OF THE CONTRIBUTION AS CERTIFIED BY  
24 THE APPROPRIATE FINANCING ENTITY.

25 (b) THE CREDIT ALLOWED BY PARAGRAPH (a) OF THIS SUBSECTION  
26 (1) MUST NOT EXCEED ONE HUNDRED THOUSAND DOLLARS OR THE TOTAL  
27 AMOUNT OF THE INCOME TAX IMPOSED ON THE TAXPAYER'S INCOME BY

1 ARTICLE 22 OF THIS TITLE FOR THE TAX YEAR FOR WHICH THE CREDIT IS  
2 CLAIMED, WHICHEVER IS LESS. IN-KIND CONTRIBUTIONS MUST NOT  
3 EXCEED FIFTY PERCENT OF THE TOTAL CREDIT CLAIMED.

4 (c) UPON REQUEST, THE FINANCING ENTITY, ACTING ON BEHALF OF  
5 THE DEPARTMENT OF REVENUE, SHALL PROVIDE THE TAXPAYER WITH A  
6 FORM TO BE FILED WITH THE DEPARTMENT OF REVENUE FOR THE PURPOSE  
7 OF CLAIMING THE CREDIT ALLOWED BY THIS SECTION, WHICH MUST BE  
8 ACCOMPANIED BY A COPY OF THE CERTIFICATION OF THE VALUE AND  
9 PURPOSE OF THE CONTRIBUTION FURNISHED TO THE TAXPAYER BY THE  
10 DIRECTOR.

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

21 (2) IN NO EVENT ARE CREDITS ALLOWED PURSUANT TO THIS  
22 SECTION TO BE USED FOR CONTRIBUTIONS THAT DIRECTLY BENEFIT THE  
23 CONTRIBUTOR. IN ADDITION, CREDITS MUST BE DIRECTLY RELATED TO JOB  
24 CREATION, JOB PRESERVATION, OR OTHER PURPOSES SPECIFIED IN SECTION  
25 24-46-404, C.R.S.

26 (3) (a) CONTRIBUTIONS PURSUANT TO THIS SECTION MAY BE MADE  
27 DIRECTLY TO THE FINANCING ENTITY APPROVED BY THE COLORADO

1 ECONOMIC DEVELOPMENT COMMISSION PURSUANT TO SECTION 24-46-405,  
2 C.R.S.

3 (b) NO LATER THAN NINETY DAYS AFTER MAKING A CERTIFICATION  
4 OF VALUE PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE FINANCING  
5 ENTITY MAKING THE CERTIFICATION SHALL REPORT TO THE DIRECTOR OF  
6 THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT, ACTING ON BEHALF  
7 OF THE COLORADO ECONOMIC DEVELOPMENT COMMISSION, THE TOTAL  
8 VALUE OF THE CONTRIBUTION AS CERTIFIED BY THE FINANCING ENTITY,  
9 THE SOURCE OF THE CONTRIBUTION, THE PURPOSE OF THE CONTRIBUTION,  
10 AND THE RELATIONSHIP OF THE STATED PURPOSE OF THE CONTRIBUTION  
11 TO THE ALTERNATIVE ENERGY PARK'S GOALS OR JOB CREATION  
12 OBJECTIVES.

13 (4) THE DIRECTOR OF THE COLORADO OFFICE OF ECONOMIC  
14 DEVELOPMENT, ON BEHALF OF THE COLORADO ECONOMIC DEVELOPMENT  
15 COMMISSION, MAY RELEASE INFORMATION CONCERNING THE SOURCE AND  
16 AMOUNT OF CONTRIBUTIONS MADE PURSUANT TO THIS SECTION, AS WELL  
17 AS THE AMOUNT OF THE CREDITS ALLOWED PURSUANT TO THIS SECTION.

18 (5) 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 **39-30-104.5. Credit against tax - investment in certain**  
22 **property in alternative energy park - definitions.** (1) (a) IN LIEU OF  
23 ANY CREDIT ALLOWABLE UNDER SECTION 39-22-507.5, A PERSON IS  
24 ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY ARTICLE 22 OF THIS  
25 TITLE FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1,  
26 2014, IN AN AMOUNT EQUAL TO THREE PERCENT OF THE TOTAL QUALIFIED  
27 INVESTMENT, AS DETERMINED UNDER SECTION 46 (c) (2) OF THE FEDERAL

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

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

21 (2) THE AMOUNT OF THE CREDIT SET FORTH IN SUBSECTION (1) OF  
22 THIS SECTION IS SUBJECT TO THE LIMITATIONS OF SECTION 39-22-507.5;  
23 EXCEPT THAT, IN COMPUTING THE LIMITATIONS ON CREDIT PURSUANT TO  
24 SECTION 39-22-507.5 (3), A TAXPAYER'S ACTUAL TAX LIABILITY FOR THE  
25 INCOME TAX YEAR IS NOT REDUCED BY THE AMOUNT OF CREDITS ALLOWED  
26 BY SECTION 39-30-105.5, AND THE LIMIT ON THAT PORTION OF A  
27 TAXPAYER'S TAX LIABILITY THAT EXCEEDS FIVE THOUSAND DOLLARS IS

1 FIFTY PERCENT.

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

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

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

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

19 (II) "TOTAL INVESTMENT" MEANS:

20 (A) LAND, BUILDING, REAL PROPERTY IMPROVEMENT, LEASEHOLD  
21 IMPROVEMENT, OR SPACE LEASE COSTS AND THE COSTS OF ANY CAPITAL  
22 EQUIPMENT PURCHASED OR LEASED BY THE TAXPAYER AND USED  
23 ENTIRELY WITHIN AN ALTERNATIVE ENERGY PARK PRIMARILY FOR  
24 QUALIFIED JOB TRAINING PROGRAM PURPOSES OR TO MAKE A TRAINING  
25 SITE ACCESSIBLE, WHEN THE COSTS ARE NOT THE SUBJECT OF A CREDIT  
26 UNDER SUBSECTION (1) OF THIS SECTION; AND

27 (B) EXPENSES OF A QUALIFIED JOB TRAINING PROGRAM, WHETHER

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

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

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

20 **39-30-105.2. Credit for new business facility employees in**  
21 **alternative energy parks - definitions.** (1) (a) (I) FOR AN INCOME TAX  
22 YEAR COMMENCING ON OR AFTER JANUARY 1, 2014, A TAXPAYER WHO  
23 ESTABLISHES A NEW BUSINESS FACILITY IN AN ALTERNATIVE ENERGY PARK  
24 IS ALLOWED A CREDIT AGAINST THE INCOME TAX IMPOSED BY ARTICLE 22  
25 OF THIS TITLE IN AN AMOUNT EQUAL TO TWO THOUSAND DOLLARS PER  
26 INCOME TAX YEAR FOR EACH NEW BUSINESS FACILITY EMPLOYEE,  
27 PURSUANT TO SUBSECTION (4) OF THIS SECTION, WHO IS WORKING WITHIN



1 THE ALTERNATIVE ENERGY PARK, PRORATED ACCORDING TO THE NUMBER  
2 OF MONTHS THE EMPLOYEE WAS EMPLOYED BY THE TAXPAYER DURING  
3 THE INCOME TAX YEAR. AN EMPLOYEE WHOSE PRIMARY DUTIES CONSIST  
4 OF OPERATING A COMMERCIAL MOTOR VEHICLE WITH A COMMERCIAL  
5 DRIVER'S LICENSE IS DEEMED TO BE WORKING ONE HUNDRED PERCENT  
6 WITHIN THE ALTERNATIVE ENERGY PARK IF THE EMPLOYEE SPENDS NO  
7 MORE THAN FIVE PERCENT OF HIS OR HER TOTAL TIME AT ANY NEW  
8 BUSINESS FACILITY OF THE EMPLOYER OTHER THAN THE NEW BUSINESS  
9 FACILITY WITHIN THE ALTERNATIVE ENERGY PARK.

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

17 (b) IN ADDITION TO THE CREDIT AVAILABLE UNDER PARAGRAPH (a)  
18 OF THIS SUBSECTION (1), A TAXPAYER QUALIFIED UNDER SAID PARAGRAPH  
19 (a) IS ALLOWED, FOR THE FIRST TWO FULL INCOME TAX YEARS WHILE  
20 LOCATED IN AN ALTERNATIVE ENERGY PARK, A CREDIT IN AN AMOUNT  
21 EQUAL TO TWO HUNDRED DOLLARS FOR EACH NEW BUSINESS FACILITY  
22 EMPLOYEE WHO IS INSURED UNDER A HEALTH INSURANCE PLAN OR  
23 PROGRAM PROVIDED THROUGH HIS OR HER EMPLOYER. TO BE ELIGIBLE  
24 FOR THE CREDIT, THE EMPLOYER MUST CONTRIBUTE FIFTY PERCENT OR  
25 MORE OF THE TOTAL COST OF A HEALTH INSURANCE PLAN OR PROGRAM,  
26 AND THE PLAN OR PROGRAM MUST BE IN ACCORDANCE WITH ARTICLE 8 OF  
27 TITLE 10, C.R.S., OR PART 1, 2, 3, OR 4 OF ARTICLE 16 OF TITLE 10, C.R.S.,

1 OR BE A SELF-INSURANCE PROGRAM AND INCLUDE PARTIAL OR COMPLETE  
2 COVERAGE FOR HOSPITAL AND PHYSICIAN SERVICES.

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

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

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

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

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

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

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

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

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

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

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

20 (a) (I) "ALTERNATIVE ENERGY CONTRIBUTING FACILITY" HAS THE  
21 SAME MEANING AS SET FORTH IN SECTION 24-46-403 (2), C.R.S.

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

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

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

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

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

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

1 EMPLOYEE, WHICHEVER IS LESS, DURING THE TAXABLE YEAR OVER AND  
2 ABOVE THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED IN THAT  
3 ALTERNATIVE ENERGY PARK BY THE TAXPAYER DURING THE TWELVE  
4 MONTHS IMMEDIATELY PRIOR TO THE EXPANSION, DETERMINED PURSUANT  
5 TO SUBSECTION (4) OF THIS SECTION; AND

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

8 (b) "ALTERNATIVE ENERGY FACILITY" HAS THE SAME MEANING AS  
9 SET FORTH IN SECTION 24-46-403 (3), C.R.S.

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

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

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

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

23 (I) THE ALTERNATIVE ENERGY CONTRIBUTING FACILITY IS  
24 OPERATED BY THE TAXPAYER IN THE OPERATION OF A  
25 REVENUE-PRODUCING ENTERPRISE. AN ALTERNATIVE ENERGY  
26 CONTRIBUTING FACILITY IS NOT CONSIDERED A NEW BUSINESS FACILITY IN  
27 THE HANDS OF THE TAXPAYER IF THE TAXPAYER'S ONLY ACTIVITY WITH

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

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

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

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

27 (I) A REGULAR, FULL-TIME BASIS;

1           (II) A PART-TIME BASIS IF THE PERSON IS CUSTOMARILY  
2 PERFORMING HIS OR HER DUTIES AT LEAST TWENTY HOURS PER WEEK  
3 THROUGHOUT THE TAXABLE YEAR; OR

4           (III) A SEASONAL BASIS IF THE PERSON PERFORMS HIS OR HER  
5 DUTIES FOR SUBSTANTIALLY ALL OF THE SEASON CUSTOMARY FOR THE  
6 POSITION IN WHICH THE PERSON IS EMPLOYED.

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

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

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

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

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

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

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



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

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

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

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

25           (II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH  
26 (i), AN ALTERNATIVE ENERGY CONTRIBUTING FACILITY IS NOT CONSIDERED  
27 A REPLACEMENT BUSINESS FACILITY IF THE TAXPAYER'S INVESTMENT IN

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

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

10 (I) THE PRODUCTION, ASSEMBLY, FABRICATION, MANUFACTURING,  
11 OR PROCESSING OF CLEAN ENERGY, AS DEFINED IN SECTION 40-9.7-103 (5),  
12 C.R.S., OR AN AGRICULTURAL, MINERAL, OR MANUFACTURED PRODUCT,  
13 INCLUDING ENERGY EFFICIENCY IMPROVEMENTS, AS DEFINED IN SECTION  
14 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 (2), C.R.S.

13 (b) "ALTERNATIVE ENERGY PARK" HAS THE SAME MEANING AS SET  
14 FORTH IN SECTION 24-46-403 (4), 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 (2), C.R.S.

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

25 (c) "FINANCING ENTITY" HAS THE SAME MEANING AS SET FORTH IN  
26 SECTION 24-46-403 (11), 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 (2), C.R.S.

20 (b) "ALTERNATIVE ENERGY PARK" HAS THE SAME MEANING AS SET  
21 FORTH IN SECTION 24-46-403 (4), 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 (4), 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. Act subject to petition - effective date.** This act  
15 shall take effect at 12:01 a.m. on the day following the expiration of the  
16 ninety-day period after final adjournment of the general assembly (August  
17 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a  
18 referendum petition is filed pursuant to section 1 (3) of article V of the  
19 state constitution against this act or an item, section, or part of this act  
20 within such period, then the act, item, section, or part shall not take effect  
21 unless approved by the people at the general election to be held in  
22 November 2012 and shall take effect on the date of the official  
23 declaration of the vote thereon by the governor.