

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0656.01 Jason Gelender

HOUSE BILL 10-1328

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A BILL FOR AN ACT

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

Bill Summary

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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

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

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

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

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

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

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

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

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

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

4 **ARTICLE 20**

5 **Colorado New Energy Improvement District**

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

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

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

20 (I) NEW ENERGY IMPROVEMENTS HELP PROTECT OWNERS OF
21 ELIGIBLE REAL PROPERTY FROM THE FINANCIAL IMPACT OF THE RISING
22 COST OF ELECTRICITY PRODUCED FROM NONRENEWABLE FUELS AND CAN
23 EVEN PROVIDE POSITIVE CASH FLOW IN MANY INSTANCES IN WHICH THE
24 COSTS OF THE IMPROVEMENTS ARE SPREAD OUT OVER A LONG ENOUGH
25 TIME SO THAT THE OWNERS' UTILITY BILL COST SAVINGS EXCEED THE

1 SPECIAL ASSESSMENTS LEVIED ON THE ELIGIBLE REAL PROPERTY TO PAY
2 FOR THE IMPROVEMENTS;

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

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

12 (IV) NEW ENERGY IMPROVEMENTS INCREASE THE VALUE OF THE
13 ELIGIBLE REAL PROPERTY IMPROVED;

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

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

19 (B) BY REINFORCING THE LEADERSHIP ROLE OF THE STATE IN THE
20 NEW ENERGY ECONOMY AND THEREBY ATTRACTING NEW ENERGY
21 MANUFACTURING FACILITIES AND RELATED JOBS TO THE STATE; AND

22 (VI) THE NEW ENERGY IMPROVEMENTS PROGRAM PROVIDES A
23 MEANINGFUL, PRACTICAL OPPORTUNITY FOR AVERAGE CITIZENS TO TAKE
24 ACTION THAT WILL BENEFIT THEIR PERSONAL FINANCES AND THE
25 ECONOMY OF THE STATE, PROMOTE THEIR OWN AND THE NATION'S ENERGY
26 INDEPENDENCE AND SECURITY, AND HELP SUSTAIN THE ENVIRONMENT;

27 AND

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

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

19 (a) UNDER THE COLORADO SUPREME COURT'S DECISION IN
20 *CAMPBELL V. ORCHARD MESA IRRIGATION DISTRICT*, 972 P.2d 1037 (COLO.
21 1998), THE COLORADO NEW ENERGY IMPROVEMENT DISTRICT IS NEITHER
22 THE STATE NOR A LOCAL GOVERNMENT AND THEREFORE IS NOT A
23 DISTRICT, AS DEFINED IN SECTION 20 (2) (b) OF ARTICLE X OF THE STATE
24 CONSTITUTION, SUBJECT TO THE REQUIREMENTS OF SECTION 20 OF
25 ARTICLE X OF THE STATE CONSTITUTION BECAUSE:

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

27 (II) ALTHOUGH THE DISTRICT IS A PUBLIC CORPORATION THAT

1 SERVES THE PUBLIC PURPOSES OF PROMOTING NEW ENERGY
2 IMPROVEMENTS AND CREATING JOBS, IT DOES NOT HAVE ELECTED BOARD
3 MEMBERS AND PRIMARILY EXISTS TO SERVE THE INTERESTS OF OWNERS OF
4 ELIGIBLE REAL PROPERTY WHO VOLUNTARILY JOIN THE DISTRICT IN ORDER
5 TO FUND NEW ENERGY IMPROVEMENTS TO THE PROPERTY; AND

6 (III) THE DISTRICT IS ENDOWED BY THE STATE PURSUANT TO THIS
7 ARTICLE WITH ONLY THE POWERS NECESSARY TO PERFORM ITS
8 PREDOMINANTLY PRIVATE OBJECTIVE;

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

14 (c) THE BURDEN OF A SPECIAL ASSESSMENT IS VOLUNTARILY
15 ASSUMED BY THE OWNER OF THE ELIGIBLE REAL PROPERTY ON WHICH THE
16 SPECIAL ASSESSMENT IS LEVIED BECAUSE:

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

21 (II) A SUBSEQUENT PURCHASER OF ELIGIBLE REAL PROPERTY UPON
22 WHICH A SPECIAL ASSESSMENT HAS BEEN LEVIED PURCHASES THE
23 PROPERTY WITH FULL KNOWLEDGE OF THE SPECIAL ASSESSMENT; AND

24 (d) BOTH AN OWNER OF ELIGIBLE REAL PROPERTY WHO JOINS THE
25 DISTRICT AND RECEIVES REIMBURSEMENT OR A DIRECT PAYMENT AND ANY
26 SUBSEQUENT OWNER OF THE PROPERTY RECEIVE THE SPECIAL BENEFIT OF
27 THE NEW ENERGY IMPROVEMENT FOR WHICH THE DISTRICT HAS MADE

1 REIMBURSEMENT OR A DIRECT PAYMENT IN PROPORTION TO OR IN EXCESS
2 OF THE AMOUNT OF THE SPECIAL ASSESSMENT PAID.

3 **32-20-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
4 CONTEXT OTHERWISE REQUIRES:

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

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

8 (3) "DISTRICT MEMBER" MEANS A QUALIFIED APPLICANT WHOSE
9 APPLICATION TO JOIN THE DISTRICT, RECEIVE REIMBURSEMENT OR A
10 DIRECT PAYMENT, AND CONSENT TO THE LEVYING OF A SPECIAL
11 ASSESSMENT IS APPROVED BY THE DISTRICT.

12 (4) "ELIGIBLE REAL PROPERTY" MEANS A RESIDENTIAL BUILDING,
13 LOCATED WITHIN A COUNTY IN WHICH THE DISTRICT HAS BEEN
14 AUTHORIZED TO CONDUCT THE PROGRAM AS REQUIRED BY SECTION
15 32-20-105 (3), ON WHICH OR IN WHICH A NEW ENERGY IMPROVEMENT TO
16 BE FINANCED BY THE DISTRICT HAS BEEN OR WILL BE COMPLETED.

17 (5) "ENERGY EFFICIENCY IMPROVEMENT" MEANS ONE OR MORE
18 INSTALLATIONS OR MODIFICATIONS TO ELIGIBLE REAL PROPERTY THAT
19 ARE DESIGNED TO REDUCE THE ENERGY CONSUMPTION OF THE PROPERTY
20 AND THAT ARE NOT REQUIRED BY A BUILDING CODE AS PART OF NEW
21 CONSTRUCTION OR A MAJOR RENOVATION AND INCLUDES, BUT IS NOT
22 LIMITED TO, THE FOLLOWING:

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

25 (b) STORM WINDOWS AND DOORS, MULTIGLAZED WINDOWS AND
26 DOORS, HEAT-ABSORBING OR HEAT-REFLECTIVE GLAZED AND COATED
27 WINDOW AND DOOR SYSTEMS, ADDITIONAL GLAZING, REDUCTIONS IN

1 GLASS AREA, AND OTHER WINDOW AND DOOR SYSTEM MODIFICATIONS
2 THAT REDUCE ENERGY CONSUMPTION;

3 (c) AUTOMATIC ENERGY CONTROL SYSTEMS;

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

6 (e) CAULKING AND WEATHERSTRIPPING;

7 (f) REPLACEMENT OR MODIFICATION OF LIGHTING FIXTURES TO
8 INCREASE THE ENERGY EFFICIENCY OF THE SYSTEM WITHOUT INCREASING
9 THE OVERALL ILLUMINATION OF ELIGIBLE REAL PROPERTY UNLESS THE
10 INCREASE IN ILLUMINATION IS NECESSARY TO CONFORM TO THE
11 APPLICABLE BUILDING CODE FOR THE PROPOSED LIGHTING SYSTEM;

12 (g) ENERGY RECOVERY SYSTEMS;

13 (h) DAYLIGHTING SYSTEMS; AND

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

16 (6) "NEW ENERGY IMPROVEMENT" MEANS ONE OR MORE ENERGY
17 EFFICIENCY IMPROVEMENTS OR RENEWABLE ENERGY IMPROVEMENTS, OR
18 BOTH, MADE TO ELIGIBLE REAL PROPERTY THAT WILL REDUCE THE
19 ENERGY CONSUMPTION OF OR ADD ENERGY PRODUCED FROM RENEWABLE
20 ENERGY SOURCES ONLY TO ANY PORTION OF THE ELIGIBLE REAL PROPERTY
21 THAT IS USED PREDOMINANTLY AS A PLACE OF RESIDENCY.

22 (7) "PROGRAM" MEANS THE NEW ENERGY IMPROVEMENT
23 PROGRAM ESTABLISHED BY THE DISTRICT IN ACCORDANCE WITH SECTION
24 32-20-105.

25 (8) "PROGRAM ADMINISTRATOR" OR "ADMINISTRATOR" MEANS AN
26 ENTITY HIRED BY THE DISTRICT TO ADMINISTER THE PROGRAM ON BEHALF
27 OF THE DISTRICT TO THE EXTENT SPECIFIED IN A CONTRACT BETWEEN THE

1 DISTRICT AND THE ADMINISTRATOR. NEITHER THE DISTRICT NOR ITS
2 PROGRAM ADMINISTRATOR SHALL OFFER REBATES FOR THE PURCHASE OF
3 RENEWABLE ENERGY CREDITS. THE DISTRICT'S ACTIVITIES SHALL BE
4 LIMITED TO FUNDING NEW ENERGY IMPROVEMENTS AND TO MARKETING
5 THAT FUNDING.

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

7 (a) OWNS ELIGIBLE REAL PROPERTY;

8 (b) TIMELY SUBMITS TO THE DISTRICT A COMPLETE APPLICATION
9 TO JOIN THE DISTRICT, HAVE THE ELIGIBLE REAL PROPERTY INCLUDED IN
10 THE DISTRICT'S BOUNDARIES, RECEIVE REIMBURSEMENT OR A DIRECT
11 PAYMENT, AND CONSENT TO THE LEVYING OF A SPECIAL ASSESSMENT ON
12 THE PROPERTY; AND

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

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

1 ACTUAL VALUE, AS SPECIFIED IN THE RECORDS OF THE COUNTY ASSESSOR,
2 OF THE ELIGIBLE REAL PROPERTY TO WHICH THE NEW ENERGY
3 IMPROVEMENT IS MADE, OR TWENTY-FIVE THOUSAND DOLLARS; EXCEPT
4 THAT THE TWENTY-FIVE THOUSAND DOLLAR LIMIT SHALL BE ADJUSTED BY
5 THE DISTRICT FOR EACH CALENDAR YEAR COMMENCING ON OR AFTER
6 JANUARY 1, 2012, BASED ON THE CONSUMER PRICE INDEX FOR THE
7 DENVER-BOULDER-GREELEY METROPOLITAN STATISTICAL AREA FOR THE
8 STATE FISCAL YEAR THAT ENDS IN THE PRECEDING CALENDAR YEAR.

9 (11) "RENEWABLE ENERGY IMPROVEMENT" MEANS ONE OR MORE
10 FIXTURES, PRODUCTS, SYSTEMS, OR DEVICES, OR AN INTERACTING GROUP
11 OF FIXTURES, PRODUCTS, SYSTEMS, OR DEVICES, INSTALLED BEHIND THE
12 METER OF ANY ELIGIBLE REAL PROPERTY THAT PRODUCES ENERGY FROM
13 RENEWABLE RESOURCES, INCLUDING, BUT NOT LIMITED TO,
14 PHOTOVOLTAIC, SOLAR THERMAL, SMALL WIND, BIOMASS, OR
15 GEOTHERMAL SYSTEMS SUCH AS GROUND SOURCE HEAT PUMPS, AS MAY
16 BE APPROVED BY THE DISTRICT; EXCEPT THAT NO RENEWABLE ENERGY
17 IMPROVEMENT SHALL BE AUTHORIZED THAT INTERFERES WITH A RIGHT
18 HELD BY A PUBLIC UTILITY UNDER A CERTIFICATE ISSUED BY THE PUBLIC
19 UTILITIES COMMISSION UNDER ARTICLE 5 OF TITLE 40, C.R.S., AND THE
20 PUBLIC UTILITIES COMMISSION SHALL HAVE PRIMARY JURISDICTION TO
21 ADJUDICATE DISPUTES AS TO WHETHER A RENEWABLE ENERGY
22 IMPROVEMENT INTERFERES WITH SUCH A RIGHT.

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

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

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

16 **32-20-104. Colorado new energy improvement district -**
17 **creation - board - meetings - quorum - expenses - records.** (1) THE
18 COLORADO NEW ENERGY IMPROVEMENT DISTRICT IS HEREBY CREATED AS
19 AN INDEPENDENT PUBLIC BODY CORPORATE, AND THE BOUNDARIES OF THE
20 DISTRICT SHALL INCLUDE THE ELIGIBLE REAL PROPERTY THAT IS OWNED
21 BY A PERSON WHO HAS VOLUNTARILY JOINED THE DISTRICT. THE DISTRICT
22 CONSTITUTES A PUBLIC INSTRUMENTALITY, AND ITS EXERCISE OF THE
23 POWERS CONFERRED BY THIS ARTICLE SHALL BE DEEMED AND HELD TO BE
24 THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION, BUT THE
25 DISTRICT:

26 (a) SHALL NOT BE AN AGENCY OF STATE GOVERNMENT OR OF ANY
27 LOCAL GOVERNMENT;

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

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

7 (2) (a) THE DISTRICT SHALL BE GOVERNED BY A BOARD OF
8 DIRECTORS, WHICH SHALL EXERCISE THE POWERS OF THE DISTRICT, SHALL,
9 BY A MAJORITY VOTE OF A QUORUM OF ITS MEMBERS, SELECT FROM ITS
10 MEMBERSHIP A CHAIR AND A VICE-CHAIR, AND SHALL BE COMPOSED OF
11 NINE MEMBERS, INCLUDING:

12 (I) THE FOLLOWING TWO EX OFFICIO MEMBERS OR THEIR
13 DESIGNEES:

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

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

18 (II) THE FOLLOWING THREE MEMBERS APPOINTED BY THE
19 GOVERNOR:

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

22 (B) ONE MEMBER WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN THE
23 LENDING INDUSTRY; AND

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

27 (III) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE

1 WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN THE RENEWABLE ENERGY
2 INDUSTRY;

3 (IV) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF
4 REPRESENTATIVES WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN THE
5 FINANCIAL INDUSTRY;

6 (V) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE
7 SENATE WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN THE UTILITY
8 INDUSTRY; AND

9 (VI) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE
10 HOUSE OF REPRESENTATIVES WHO HAS EXECUTIVE-LEVEL EXPERIENCE IN
11 THE HOUSING INDUSTRY.

12 (b) THE TERMS OF THE APPOINTED MEMBERS SHALL BE FOUR
13 YEARS; EXCEPT THAT THE TERMS OF THE MEMBERS INITIALLY APPOINTED
14 BY THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,
15 AND THE MINORITY LEADER OF THE SENATE SHALL BE TWO YEARS.

16 (c) (I) NOTWITHSTANDING ANY OTHER LAW, IT IS NOT A CONFLICT
17 OF INTEREST FOR A TRUSTEE, DIRECTOR, OFFICER, OR EMPLOYEE OF ANY
18 PUBLIC UTILITY, FINANCIAL INSTITUTION, INVESTMENT BANKING FIRM,
19 BROKERAGE FIRM, COMMERCIAL BANK OR TRUST COMPANY, INSURANCE
20 COMPANY, LAW FIRM, OR OTHER FIRM, CORPORATION, OR BUSINESS
21 ENTITY TO SERVE AS A BOARD MEMBER, THE EXECUTIVE DIRECTOR OF THE
22 DISTRICT, OR AN EMPLOYEE OF THE DISTRICT. HOWEVER, A BOARD
23 MEMBER, EXECUTIVE DIRECTOR, OR OTHER EMPLOYEE WHO IS ALSO SUCH
24 A TRUSTEE, DIRECTOR, OFFICER, OR EMPLOYEE SHALL DISCLOSE HIS OR
25 HER BUSINESS AFFILIATION TO THE BOARD AND SHALL ABSTAIN FROM
26 VOTING OR OTHERWISE TAKING ACTION IN ANY INSTANCE IN WHICH HIS OR
27 HER BUSINESS AFFILIATION IS DIRECTLY INVOLVED.

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

5 (d) MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION
6 FOR SERVICES BUT SHALL BE ENTITLED TO THE NECESSARY EXPENSES,
7 INCLUDING TRAVEL AND LODGING EXPENSES, INCURRED IN THE
8 DISCHARGE OF THEIR OFFICIAL DUTIES. ANY PAYMENTS FOR
9 COMPENSATION AND EXPENSES SHALL BE PAID FROM FUNDS OF THE
10 DISTRICT.

11 (3) FIVE MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM
12 FOR THE PURPOSE OF CONDUCTING BUSINESS AND EXERCISING THE
13 POWERS OF THE BOARD. ACTION MAY BE TAKEN BY THE BOARD UPON THE
14 AFFIRMATIVE VOTE OF AT LEAST FIVE OF ITS MEMBERS. NO VACANCY IN
15 THE MEMBERSHIP OF THE BOARD SHALL IMPAIR THE RIGHT OF A QUORUM
16 TO EXERCISE ALL THE RIGHTS AND PERFORM ALL THE DUTIES OF THE
17 BOARD.

18 (4) THE DISTRICT SHALL BE SUBJECT TO THE OPEN MEETINGS
19 PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", PART 4 OF
20 ARTICLE 6 OF TITLE 24, C.R.S., AND THE "COLORADO OPEN RECORDS
21 ACT", PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S. THE BOARD SHALL ALSO
22 PROMULGATE AND ADHERE TO POLICIES AND PROCEDURES THAT GOVERN
23 ITS CONDUCT, PROVIDE MEANINGFUL OPPORTUNITIES FOR PUBLIC INPUT,
24 AND ESTABLISH STANDARDS AND PROCEDURES FOR CALLING EMERGENCY
25 MEETINGS. ONE OR MORE MEMBERS OF THE BOARD MAY PARTICIPATE IN
26 A MEETING OF THE BOARD AND MAY VOTE THROUGH THE USE OF
27 TELECOMMUNICATIONS DEVICES, INCLUDING, BUT NOT LIMITED TO, A

1 CONFERENCE TELEPHONE OR SIMILAR COMMUNICATIONS EQUIPMENT.
2 PARTICIPATION THROUGH TELECOMMUNICATIONS DEVICES SHALL
3 CONSTITUTE PRESENCE IN PERSON AT A MEETING. THE USE OF
4 TELECOMMUNICATIONS DEVICES SHALL NOT SUPERSEDE ANY
5 REQUIREMENTS FOR A PUBLIC HEARING OTHERWISE PROVIDED BY LAW.

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

10 (6) THE DISTRICT SHALL BE CONSIDERED A SPECIAL DISTRICT
11 INCLUDED WITHIN THE DEFINITION OF THE STATE OR ANY OF ITS POLITICAL
12 SUBDIVISIONS SET FORTH IN SECTION 2 (14.6) OF ARTICLE XXVIII OF THE
13 STATE CONSTITUTION AND SHALL, ACCORDINGLY, BE SUBJECT TO THE
14 SOLE SOURCE CONTRACTING PROVISIONS OF SECTIONS 15 TO 17 OF SAID
15 ARTICLE XXVIII.

16 (7) BECAUSE THE DISTRICT IS NOT A PART OF STATE GOVERNMENT
17 OR A COUNTY OR MUNICIPALITY, NEITHER THE DISTRICT NOR ANY MEMBER
18 OF THE BOARD, EXECUTIVE DIRECTOR OF THE DISTRICT, OR EMPLOYEE OF
19 THE DISTRICT SHALL BE SUBJECT TO THE PROVISIONS OF ARTICLE XXIX OF
20 THE STATE CONSTITUTION.

21 **32-20-105. District - purpose - general powers and duties -**
22 **new energy improvement program.** (1) THE PURPOSE OF THE DISTRICT
23 IS TO HELP PROVIDE THE SPECIAL BENEFITS OF NEW ENERGY
24 IMPROVEMENTS TO OWNERS OF ELIGIBLE REAL PROPERTY WHO
25 VOLUNTARILY JOIN THE DISTRICT BY ESTABLISHING, DEVELOPING,
26 FINANCING, AND ADMINISTERING A NEW ENERGY IMPROVEMENT PROGRAM
27 THROUGH WHICH THE DISTRICT CAN PROVIDE ASSISTANCE TO SUCH

1 OWNERS IN COMPLETING NEW ENERGY IMPROVEMENTS. THE DISTRICT
2 MAY EXERCISE ANY OF THE POWERS GRANTED TO THE DISTRICT IN THIS
3 ARTICLE BEFORE ANY ELIGIBLE REAL PROPERTY IS INCLUDED WITHIN THE
4 BOUNDARIES OF THE DISTRICT; EXCEPT THAT THE DISTRICT SHALL
5 EXERCISE THE POWERS TO LEVY SPECIAL ASSESSMENTS AND ISSUE SPECIAL
6 ASSESSMENT BONDS ONLY AFTER ELIGIBLE REAL PROPERTY IS INCLUDED
7 WITHIN THE BOUNDARIES OF THE DISTRICT.

8 (2) IN ORDER TO ALLOW THE DISTRICT TO ACHIEVE ITS PURPOSE,
9 IN ADDITION TO ANY OTHER POWERS AND DUTIES OF THE DISTRICT
10 SPECIFIED IN THIS ARTICLE, THE DISTRICT SHALL HAVE THE FOLLOWING
11 GENERAL POWERS AND DUTIES:

12 (a) TO HAVE PERPETUAL EXISTENCE;

13 (b) TO HAVE AND USE A CORPORATE SEAL;

14 (c) TO ADOPT BYLAWS FOR THE REGULATION OF ITS AFFAIRS AND
15 CONDUCT OF ITS BUSINESS;

16 (d) TO SET AN ANNUAL BUDGET;

17 (e) TO SUE AND BE SUED AND TO BE A PARTY TO SUITS, ACTIONS,
18 AND PROCEEDINGS;

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

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

23 (h) TO BORROW MONEY FOR THE PURPOSE OF DEFRAYING DISTRICT
24 EXPENSES, INCLUDING, BUT NOT LIMITED TO, THE FUNDING OF
25 APPROPRIATE LOSS RESERVES, OR FOR ANY OTHER PURPOSE DEEMED
26 APPROPRIATE BY THE BOARD;

27 (i) TO INVEST ANY MONEYS OF THE DISTRICT IN ACCORDANCE

1 WITH PART 6 OF ARTICLE 75 OF TITLE 24, C.R.S.;

2 (j) (I) TO HIRE AND SET THE COMPENSATION OF A PROGRAM
3 ADMINISTRATOR AND TO APPOINT, HIRE, RETAIN, AND SET THE
4 COMPENSATION OF OTHER AGENTS AND EMPLOYEES AND CONTRACT FOR
5 PROFESSIONAL SERVICES.

6 (II) THE BOARD MAY DELEGATE ANY OF THE POWERS AND DUTIES
7 OF THE DISTRICT THAT SPECIFICALLY PERTAIN TO THE ESTABLISHMENT,
8 DEVELOPMENT, FINANCING, AND ADMINISTRATION OF THE PROGRAM TO
9 ANY PROGRAM ADMINISTRATOR THE DISTRICT HIRES; EXCEPT THAT THE
10 DISTRICT SHALL NOT DELEGATE THE POWER TO ESTABLISH ASSESSMENT
11 UNITS, THE POWER TO DETERMINE THE METHOD OF CALCULATING SPECIAL
12 ASSESSMENTS, OR THE POWER TO ISSUE SPECIAL ASSESSMENT BONDS.

13 (k) IN ACCORDANCE WITH SECTIONS 32-20-106 TO 32-20-108, TO
14 ESTABLISH SPECIAL ASSESSMENT UNITS, LEVY AND COLLECT SPECIAL
15 ASSESSMENTS ON ELIGIBLE REAL PROPERTY SPECIALLY BENEFITED BY A
16 RENEWABLE ENERGY IMPROVEMENT FOR WHICH THE DISTRICT MADE
17 REIMBURSEMENT OR A DIRECT PAYMENT, AND ISSUE SPECIAL ASSESSMENT
18 BONDS;

19 (l) TO ACCEPT GIFTS AND DONATIONS AND APPLY FOR AND ACCEPT
20 GRANTS UPON SUCH TERMS OR CONDITIONS AS THE BOARD MAY APPROVE;
21 AND

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

27 (3) THE DISTRICT SHALL ESTABLISH, DEVELOP, FINANCE, AND

1 ADMINISTER A NEW ENERGY IMPROVEMENT PROGRAM. HOWEVER, THE
2 DISTRICT MAY CONDUCT THE PROGRAM WITHIN ANY GIVEN COUNTY ONLY
3 IF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY HAS ADOPTED
4 A RESOLUTION AUTHORIZING THE DISTRICT TO CONDUCT THE PROGRAM
5 WITHIN THE COUNTY. THE PROGRAM SHALL BE DESIGNED TO ALLOW AN
6 OWNER OF ELIGIBLE REAL PROPERTY TO APPLY TO JOIN THE DISTRICT,
7 RECEIVE REIMBURSEMENT OR A DIRECT PAYMENT FROM THE DISTRICT,
8 AND CONSENT TO THE LEVYING OF A SPECIAL ASSESSMENT ON THE
9 ELIGIBLE REAL PROPERTY SPECIALLY BENEFITED BY A RENEWABLE
10 ENERGY IMPROVEMENT FOR WHICH THE DISTRICT MAKES REIMBURSEMENT
11 OR A DIRECT PAYMENT. THE DISTRICT SHALL ESTABLISH AN APPLICATION
12 PROCESS FOR THE PROGRAM, WHICH MAY ALLOW AN OWNER OF ELIGIBLE
13 REAL PROPERTY TO BECOME A QUALIFIED APPLICANT BY SUBMITTING AN
14 APPLICATION TO THE DISTRICT AND WHICH MAY INCLUDE ONE OR MORE
15 DEADLINES FOR THE FILING OF AN APPLICATION. THE DISTRICT SHALL NOT
16 CHARGE AN APPLICATION FEE. IN ORDER TO ADMINISTER THE PROGRAM,
17 THE DISTRICT, ACTING DIRECTLY OR THROUGH A PROGRAM
18 ADMINISTRATOR OR SUCH OTHER AGENTS, EMPLOYEES, OR PROFESSIONALS
19 AS THE DISTRICT MAY APPOINT, HIRE, RETAIN, OR CONTRACT WITH, SHALL:

20 (a) MARKET THE PROGRAM TO OWNERS OF ELIGIBLE REAL
21 PROPERTY, ENCOURAGE SUCH OWNERS TO OBTAIN THE SPECIAL BENEFITS
22 OF COMPLETING NEW ENERGY IMPROVEMENTS TO THEIR PROPERTY BY
23 PROVIDING MORE ATTRACTIVE AND ACCESSIBLE MEANS OF FUNDING THE
24 COMPLETION OF NEW ENERGY IMPROVEMENTS, AND ACCEPT AND PROCESS
25 PROGRAM APPLICATIONS FROM ANY SUCH OWNERS WHO ARE QUALIFIED
26 APPLICANTS;

27 (b) SPECIFY THE INFORMATION TO BE INCLUDED IN A PROGRAM

1 APPLICATION. THE DISTRICT SHALL REQUIRE AN OWNER OF ELIGIBLE REAL
2 PROPERTY WHO SUBMITS A PROGRAM APPLICATION TO INCLUDE, AT A
3 MINIMUM, A POSTAL ADDRESS OR ELECTRONIC MAIL ADDRESS AT WHICH
4 THE DISTRICT MAY CONTACT THE OWNER, THE NAME AND POSTAL OR
5 ELECTRONIC MAILING ADDRESS OF ANY PERSON HOLDING A LIEN AGAINST
6 THE ELIGIBLE REAL PROPERTY, AND ANY INFORMATION THAT THE DISTRICT
7 REQUIRES TO VERIFY THAT THE OWNER WILL COMPLETE A NEW ENERGY
8 IMPROVEMENT, VERIFY THE COST OF COMPLETING THE NEW ENERGY
9 IMPROVEMENT, DETERMINE THE APPROPRIATE AMOUNT OF
10 REIMBURSEMENT OR A DIRECT PAYMENT TO BE MADE TO THE APPLICANT
11 OR A CONTRACTOR AFTER THE NEW ENERGY IMPROVEMENT HAS BEEN
12 COMPLETED, AND ESTIMATE THE VALUE OF THE SPECIAL BENEFIT
13 PROVIDED BY THE COMPLETED NEW ENERGY IMPROVEMENT TO THE
14 APPLICANT'S ELIGIBLE REAL PROPERTY.

15 (c) ESTABLISH SUCH STANDARDS, GUIDELINES, AND PROCEDURES,
16 INCLUDING BUT NOT LIMITED TO STANDARDS OF CREDIT-WORTHINESS FOR
17 QUALIFICATION OF PROGRAM APPLICANTS, AS ARE NECESSARY TO ENSURE
18 THE FINANCIAL STABILITY OF THE PROGRAM AND OTHERWISE PREVENT
19 FRAUD AND ABUSE;

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

23 (e) INFORM PROSPECTIVE PROGRAM APPLICANTS AND QUALIFIED
24 APPLICANTS OF PRIVATE FINANCING OPTIONS NOT PROVIDED BY THE
25 DISTRICT, INCLUDING BUT NOT LIMITED TO HOME EQUITY LOANS AND
26 HOME EQUITY LINES OF CREDIT, THAT MAY, WITH RESPECT TO A
27 PARTICULAR APPLICANT, REPRESENT VIABLE ALTERNATIVES FOR

1 FINANCING NEW ENERGY IMPROVEMENTS;

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

5 (g) IF DEEMED NECESSARY BY THE BOARD, MONITOR THE QUALITY
6 OF NEW ENERGY IMPROVEMENTS FOR WHICH THE DISTRICT HAS MADE
7 REIMBURSEMENT OR A DIRECT PAYMENT, AND MEASURE THE TOTAL
8 ENERGY SAVINGS ACHIEVED BY THE PROGRAM.

9 (4) THE DISTRICT SHALL ESTABLISH UNDERWRITING GUIDELINES
10 THAT CONSIDER PROGRAM APPLICANTS' QUALIFICATIONS,
11 CREDIT-WORTHINESS, HOME EQUITY, AND OTHER APPROPRIATE FACTORS,
12 CONSISTENT WITH GOOD AND CUSTOMARY LENDING PRACTICES, AND AS
13 REQUIRED IN ORDER FOR THE DISTRICT TO OBTAIN A BOND RATING
14 NECESSARY FOR A SUCCESSFUL BOND SALE. THE DISTRICT SHALL ALSO
15 ARRANGE FOR AN APPROPRIATE LOSS RESERVE IN ORDER TO OBTAIN THE
16 NECESSARY BOND RATING.

17 **32-20-106. Special assessments - determination of special**
18 **benefits - notice and hearing requirements - certification of**
19 **assessment roll - manner of collection.** (1) THE APPROVAL BY THE
20 DISTRICT OF A PROGRAM APPLICATION SHALL ESTABLISH THE QUALIFIED
21 APPLICANT WHO SUBMITTED THE APPLICATION AS A DISTRICT MEMBER,
22 INCLUDE THE QUALIFIED APPLICANT'S ELIGIBLE REAL PROPERTY WITHIN
23 THE BOUNDARIES OF THE DISTRICT, ENTITLE THE DISTRICT MEMBER TO
24 REIMBURSEMENT OR A DIRECT PAYMENT, AND, SUBJECT TO THE
25 PROVISIONS OF SUBSECTION (3) OF THIS SECTION, CONSTITUTE THE
26 CONSENT OF THE DISTRICT MEMBER TO THE LEVYING OF A SPECIAL
27 ASSESSMENT ON THE DISTRICT MEMBER'S ELIGIBLE REAL PROPERTY IN AN

1 AMOUNT THAT DOES NOT EXCEED THE VALUE OF THE SPECIAL BENEFIT
2 PROVIDED TO THE ELIGIBLE REAL PROPERTY BY THE NEW ENERGY
3 IMPROVEMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (5) ALL SPECIAL ASSESSMENTS SHALL BE DUE AND PAYABLE
26 WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THE ASSESSING
27 RESOLUTION WITHOUT DEMAND, BUT ALL SUCH ASSESSMENTS MAY BE

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

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

22 (7) FAILURE TO PAY ANY INSTALLMENT ON SPECIAL ASSESSMENTS,
23 WHETHER OF PRINCIPAL OR INTEREST, WHEN DUE SHALL GIVE THE
24 DISTRICT THE RIGHT TO DECLARE THE WHOLE OF THE UNPAID PRINCIPAL
25 DUE AND COLLECTIBLE IMMEDIATELY, AND UPON SUCH A DECLARATION
26 THE WHOLE AMOUNT OF THE UNPAID PRINCIPAL AND ACCRUED INTEREST
27 SHALL THEREAFTER DRAW INTEREST AT THE RATE ESTABLISHED

1 PURSUANT TO SECTION 5-12-106 (2) AND (3), C.R.S., UNTIL THE DAY OF
2 SALE; BUT THE DISTRICT SHALL, WHENEVER FEASIBLE, UNDERTAKE
3 FORECLOSURE OF INSTALLMENTS WITHOUT ACCELERATION PURSUANT TO
4 SECTION 38-38-201, C.R.S., IN LIEU OF MAKING SUCH A DECLARATION,
5 AND, AT ANY TIME PRIOR TO THE DAY OF SALE, THE DISTRICT MEMBER
6 MAY PAY THE AMOUNT OF ALL UNPAID INSTALLMENTS, WITH INTEREST AT
7 THE PENALTY RATE SET BY THE ASSESSING RESOLUTION, AND ALL COSTS
8 OF COLLECTION ACCRUED AND SHALL THEREUPON BE RESTORED TO THE
9 RIGHT THEREAFTER TO PAY IN INSTALLMENTS IN THE SAME MANNER AS IF
10 DEFAULT HAD NOT BEEN SUFFERED. A DISTRICT MEMBER NOT IN DEFAULT
11 AS TO ANY INSTALLMENT OR PAYMENT MAY, AT ANY TIME, PAY THE
12 WHOLE OF THE UNPAID PRINCIPAL WITH THE INTEREST ACCRUING TO THE
13 MATURITY OF THE NEXT INSTALLMENT OF INTEREST OR PRINCIPAL.

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

1 REFERENCE.

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

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

1 THE ASSESSING RESOLUTION.

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

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

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

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

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

1 SPECIAL ASSESSMENT UNITS.

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

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

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

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

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

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

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

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

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

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

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

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

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

9 **2-3-120. Financial and performance audits of Colorado new**
10 **energy improvement district and new energy improvement program**
11 **- reports.** FOR THE STATE FISCAL YEAR 2010-11 AND FOR EACH
12 SUCCEEDING STATE FISCAL YEAR, THE STATE AUDITOR SHALL CONDUCT
13 OR CAUSE TO BE CONDUCTED AN ANNUAL PERFORMANCE AUDIT AND AN
14 ANNUAL FINANCIAL AUDIT OF THE COLORADO NEW ENERGY
15 IMPROVEMENT DISTRICT CREATED IN SECTION 32-20-104 (1), C.R.S., AND
16 THE NEW ENERGY IMPROVEMENT PROGRAM ESTABLISHED BY THE DISTRICT
17 PURSUANT TO SECTION 32-20-105 (3), C.R.S. THE STATE AUDITOR SHALL
18 PREPARE AN ANNUAL REPORT AND RECOMMENDATIONS ON EACH AUDIT
19 CONDUCTED AND SHALL PRESENT THE REPORT AND RECOMMENDATIONS
20 TO THE COMMITTEE.

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

23 **31-25-1102. Definitions.** As used in this part 11, unless the
24 context otherwise requires:

25 (2) "Taxing authority" means THE COLORADO NEW ENERGY
26 IMPROVEMENT DISTRICT CREATED IN SECTION 32-20-104 (1), C.R.S., AND
27 any municipal corporation or taxing district organized under the

1 constitution and laws of the state of Colorado with power to make local
2 improvements therein and pay for the same by means of special
3 assessments based upon benefits accruing to property within the
4 municipality or taxing district by reason of such local improvement.

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