

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0499.01 Duane Gall x4335

SENATE BILL 21-072

SENATE SPONSORSHIP

Hansen,

HOUSE SPONSORSHIP

Valdez A.,

Senate Committees
Transportation & Energy

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE EXPANSION OF ELECTRIC TRANSMISSION FACILITIES**
102 **TO ENABLE COLORADO TO MEET ITS CLEAN ENERGY GOALS,**
103 **AND, IN CONNECTION THEREWITH, CREATING THE COLORADO**
104 **ELECTRIC TRANSMISSION AUTHORITY, REQUIRING**
105 **TRANSMISSION UTILITIES TO JOIN REGIONAL TRANSMISSION**
106 **ORGANIZATIONS, AND ALLOWING ADDITIONAL CLASSES OF**
107 **TRANSMISSION UTILITIES TO OBTAIN REVENUE THROUGH THE**
108 **COLOCATION OF BROADBAND FACILITIES WITHIN THEIR**
109 **EXISTING RIGHTS-OF-WAY.**

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 or bold & italic numbers 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://leg.colorado.gov>.)

Section 1 of the bill directs the public utilities commission (PUC) to approve utilities' applications to build new transmission facilities if the PUC, in its discretion, finds that the new facilities would assist the utilities in meeting the state's clean energy goals established in 2019. In constructing or expanding transmission facilities, a utility must use its own employees, engage a contractor whose employees have access to federally approved apprenticeship programs, or both. Section 1 also requires the PUC to consider the ability of the proposed facilities to support future expansion as needed to enable the utility to participate in a regional transmission organization (RTO). An application for construction or expansion of transmission facilities is deemed approved if the PUC does not deny it within 180 days after the application is complete and public notice has been given.

Sections 4 and 5 create the Colorado electric transmission authority (CETA) as an independent special purpose authority, and section 4 specifies the composition and manner of appointment of the board of directors that governs the authority. CETA is authorized to select a qualified transmission operator to finance, plan, acquire, maintain, and operate eligible electric transmission and interconnected storage facilities (eligible facilities).

Under **sections 4 and 6**, CETA is granted various powers necessary to accomplish its purposes, including the power to:

- Issue revenue bonds;
- Identify and establish intrastate electric transmission corridors;
- Coordinate with other entities to establish interstate electric transmission corridors;
- Exercise the power of eminent domain to acquire eligible facilities; and
- Collect payments of reasonable rates, fees, interest, or other charges from persons using eligible facilities.

CETA is generally subject to state open records and open meetings requirements, but proprietary confidential information that it holds, including power purchase agreements, costs of production, costs of transmission, transmission service agreements, credit reviews, detailed power models, and financing statements, is not subject to inspection. **Section 8** authorizes payment of CETA's administrative expenses, not to exceed \$500,000 annually, from an existing cash fund administered by the PUC.

Section 2 sets out deadlines and conditions under which an electric utility that owns and controls transmission facilities is required to join an RTO. The commission may delay or waive this requirement for a utility

that is unable, despite its best efforts, to find a viable and available RTO to join or if the commission finds, in the course of its ongoing study of RTOs under Senate Bill 19-236, that requiring the utility to join an RTO would not be in the public interest.

Under current law, a cooperative electric association with an electric easement on real property is authorized to install or to allow a commercial broadband supplier to install broadband facilities on the real property, subject to notice and procedural requirements. **Section 3** expands the authorization to also apply to either of the following entities with an electric easement:

- A generation and transmission cooperative electric association; or
- The federal western area power administration within the United States department of energy.

Section 7 specifies that when a right-of-way is taken for an interstate electric transmission line, the court shall evaluate public purpose in light of the transmission system as a whole, including public use and benefits occurring both within Colorado and at a regional level.

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

2 **SECTION 1.** In Colorado Revised Statutes, 40-2-126, **amend** (3)
3 introductory portion and (3)(a); **add** (5); and **recreate and reenact, with**
4 **amendments**, (4) as follows:

5 **40-2-126. Transmission facilities - biennial review - energy**
6 **resource zones - definition - plans - approval - cost recovery.** (3) The
7 commission ~~shall~~ MAY, CONSISTENT WITH ITS AUTHORITY, approve a
8 utility's application for a certificate of public convenience and necessity
9 for the COST-EFFECTIVE construction or expansion of transmission
10 facilities pursuant to ~~paragraph (b) of subsection (2)~~ SUBSECTION (2)(b)
11 of this section if the commission finds that:

12 (a) The construction or expansion:

13 (I) Is required to:

14 (A) Ensure the reliable delivery of electricity to Colorado
15 consumers, ~~or to~~ EITHER ALONE OR IN COMBINATION WITH THE

1 CONSUMERS OF OTHER STATES SERVED BY A REGIONAL TRANSMISSION
2 ORGANIZATION AS DEFINED IN SECTION 40-5-108 (1)(a); OR

3 (B) Enable the utility to meet the renewable energy standards set
4 forth in section 40-2-124;

5 (II) CAN REASONABLY ACCOMMODATE FUTURE EXPANSION,
6 THROUGH THE ADDITION OF MORE LINES OR GREATER CAPACITY, AS MAY
7 BE REQUIRED TO SUPPORT THE UTILITY'S PARTICIPATION IN A REGIONAL
8 TRANSMISSION ORGANIZATION AS DEFINED IN SECTION 40-5-108 (1)(a);
9 and

10 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN
11 RESPONSE TO ANY APPLICATION FOR A CERTIFICATE OF PUBLIC
12 CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OR EXPANSION OF
13 TRANSMISSION FACILITIES THAT IS SUBMITTED TO THE COMMISSION
14 PURSUANT TO SUBSECTION (2)(d) OF THIS SECTION, THE COMMISSION
15 SHALL ISSUE A FINAL ORDER WITHIN ONE HUNDRED EIGHTY DAYS AFTER
16 THE APPLICATION IS DEEMED COMPLETE AND PUBLIC NOTICE OF THE
17 APPLICATION IS GIVEN. IF THE COMMISSION DOES NOT ISSUE A FINAL
18 ORDER WITHIN THAT PERIOD, THE APPLICATION IS DEEMED APPROVED.

19 (5) IN ANY CONSTRUCTION OR EXPANSION APPROVED PURSUANT
20 TO THIS SECTION, THE UTILITY SHALL USE ITS OWN EMPLOYEES OR
21 QUALIFIED CONTRACTORS, OR BOTH, BUT SHALL NOT USE A CONTRACTOR
22 UNLESS THE CONTRACTOR'S EMPLOYEES HAVE ACCESS TO AN
23 APPRENTICESHIP PROGRAM REGISTERED WITH THE UNITED STATES
24 DEPARTMENT OF LABOR'S OFFICE OF APPRENTICESHIP OR BY A STATE
25 APPRENTICESHIP COUNCIL RECOGNIZED BY THAT OFFICE; EXCEPT THAT
26 THIS APPRENTICESHIP REQUIREMENT DOES NOT APPLY TO:

27 (a) THE DESIGN, PLANNING, OR ENGINEERING OF THE

1 TRANSMISSION FACILITIES;

2 (b) MANAGEMENT FUNCTIONS TO OPERATE THE TRANSMISSION
3 FACILITIES; OR

4 (c) ANY WORK INCLUDED IN A WARRANTY.

5 **SECTION 2.** In Colorado Revised Statutes, **add** 40-5-108 as
6 follows:

7 **40-5-108. Electric utility participation in regional transmission**
8 **organizations required - conditions - authority of commission -**
9 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
10 OTHERWISE REQUIRES:

11 (a) "REGIONAL TRANSMISSION ORGANIZATION" OR "RTO" MEANS
12 AN ENTITY ESTABLISHED FOR THE PURPOSE OF COORDINATING AND
13 EFFICIENTLY MANAGING THE DISPATCH AND TRANSMISSION OF
14 ELECTRICITY AMONG PUBLIC UTILITIES ON A MULTISTATE OR REGIONAL
15 BASIS AND THAT:

16 (I) IS APPROVED BY THE FEDERAL ENERGY REGULATORY
17 COMMISSION;

18 (II) EFFECTS SEPARATE CONTROL OF TRANSMISSION FACILITIES
19 FROM CONTROL OF GENERATION FACILITIES;

20 (III) IMPLEMENTS, TO THE EXTENT REASONABLY POSSIBLE,
21 POLICIES AND PROCEDURES DESIGNED TO MINIMIZE PANCAKED
22 TRANSMISSION RATES WITHIN COLORADO;

23 (IV) IMPROVES SERVICE RELIABILITY WITHIN COLORADO;

24 (V) ACHIEVES THE OBJECTIVES OF AN OPEN AND COMPETITIVE
25 ELECTRIC GENERATION MARKETPLACE, ELIMINATION OF BARRIERS TO
26 MARKET ENTRY, AND PRECLUSION OF CONTROL OF BOTTLENECK ELECTRIC
27 TRANSMISSION FACILITIES IN THE PROVISION OF RETAIL ELECTRIC SERVICE;

1 (VI) IS OF SUFFICIENT SCOPE OR OTHERWISE OPERATES TO
2 SUBSTANTIALLY INCREASE ECONOMICAL SUPPLY OPTIONS FOR
3 CUSTOMERS;

4 (VII) HAS A STRUCTURE OF GOVERNANCE OR CONTROL THAT IS
5 INDEPENDENT OF THE USERS OF THE TRANSMISSION FACILITIES, AND NO
6 MEMBER OF ITS BOARD OF DIRECTORS HAS AN AFFILIATION WITH A USER
7 OR WITH AN AFFILIATE OF A USER DURING THE MEMBER'S TENURE ON THE
8 BOARD SO AS TO UNDULY AFFECT THE RTO'S PERFORMANCE. AS USED IN
9 THIS SUBSECTION (1)(a)(VII), "USER" MEANS ANY ENTITY OR AFFILIATE OF
10 THAT ENTITY THAT BUYS OR SELLS ELECTRIC ENERGY IN THE RTO'S
11 REGION OR IN A NEIGHBORING REGION.

12 (VIII) OPERATES UNDER POLICIES THAT PROMOTE POSITIVE
13 PERFORMANCE DESIGNED TO SATISFY THE ELECTRICITY REQUIREMENTS OF
14 CUSTOMERS;

15 (IX) HAS AN INCLUSIVE AND OPEN STAKEHOLDER PROCESS THAT
16 DOES NOT PLACE UNREASONABLE BURDENS ON, OR PRECLUDE
17 MEANINGFUL PARTICIPATION BY, ANY STAKEHOLDER GROUP;

18 (X) PROMOTES AND ASSISTS NEW ECONOMIC DEVELOPMENT IN
19 COLORADO; AND

20 (XI) IS CAPABLE OF MAINTAINING REAL-TIME RELIABILITY OF THE
21 ELECTRIC TRANSMISSION SYSTEM, ENSURING COMPARABLE AND
22 NONDISCRIMINATORY TRANSMISSION ACCESS AND NECESSARY SERVICES,
23 MINIMIZING SYSTEM CONGESTION, AND FURTHER ADDRESSING REAL OR
24 POTENTIAL TRANSMISSION CONSTRAINTS.

25 (b) "TRANSMISSION UTILITY" MEANS AN INVESTOR-OWNED PUBLIC
26 UTILITY THAT:

27 (I) IS A WHOLESALE OR RETAIL ELECTRICITY SUPPLIER; AND

1 (II) OWNS AND OPERATES ELECTRIC TRANSMISSION LINES CAPABLE
2 OF TRANSMITTING ELECTRIC ENERGY AT A VOLTAGE OF ONE HUNDRED
3 KILOVOLTS OR MORE.

4 (2) (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
5 (2)(a)(II) OF THIS SECTION, THE COMMISSION SHALL REQUIRE EVERY
6 TRANSMISSION UTILITY IN COLORADO TO JOIN A REGIONAL TRANSMISSION
7 ORGANIZATION ON OR BEFORE JANUARY 1, 2030.

8 (II) UPON APPLICATION BY A TRANSMISSION UTILITY, THE
9 COMMISSION MAY WAIVE OR DELAY THE REQUIREMENT STATED IN
10 SUBSECTION (2)(a)(I) OF THIS SECTION IF:

11 (A) THE TRANSMISSION UTILITY HAS MADE ALL REASONABLE
12 EFFORTS TO COMPLY WITH THE REQUIREMENT BUT IS UNABLE TO FIND A
13 VIABLE AND AVAILABLE RTO THAT IT CAN JOIN BY JANUARY 1, 2030; OR

14 (B) THE COMMISSION HAS DETERMINED, BASED ON THE STUDY
15 CONDUCTED IN ACCORDANCE WITH ARTICLE 2.3 OF THIS TITLE 40, THAT
16 REQUIRING THE TRANSMISSION UTILITY TO JOIN AN RTO IS NOT IN THE
17 PUBLIC INTEREST.

18 (b) THE COMMISSION MAY USE ITS AUTHORITY UNDER THIS TITLE
19 40 TO MANAGE PHYSICAL CONNECTIONS, COORDINATE MANAGEMENT,
20 FACILITATE SHARING OF DATA, AND REQUIRE CONSISTENCY IN THE
21 INTERPRETATION AND IMPLEMENTATION OF TARIFFS AND BUSINESS
22 PRACTICES BETWEEN RTOs WHOSE BOUNDARIES MEET WITHIN
23 COLORADO.

24 (3) THE COMMISSION SHALL CONSIDER ALLOWING, AND MAY
25 ALLOW, A TRANSMISSION UTILITY THAT JOINS AN RTO TO RECOVER RTO
26 SUBSCRIPTION FEES AND OTHER COSTS OF PARTICIPATION IN THE RTO
27 THROUGH RATES OR THROUGH A TRANSMISSION RIDER IF THOSE FEES AND

1 COSTS EXCEED THE NET REDUCTION IN COSTS ACHIEVED BY PARTICIPATION
2 IN THE RTO.

3 **SECTION 3.** In Colorado Revised Statutes, 40-15-601, **amend**
4 (6); and **add** (6.5) as follows:

5 **40-15-601. Definitions.** As used in this part 6, unless the context
6 otherwise requires:

7 (6) "Electric utility" means:

8 (a) A cooperative electric association, as defined in section
9 40-9.5-102;

10 (b) A GENERATION AND TRANSMISSION COOPERATIVE ELECTRIC
11 ASSOCIATION; OR

12 (c) THE FEDERAL WESTERN AREA POWER ADMINISTRATION WITHIN
13 THE UNITED STATES DEPARTMENT OF ENERGY.

14 (6.5) "GENERATION AND TRANSMISSION COOPERATIVE ELECTRIC
15 ASSOCIATION" HAS THE SAME MEANING AS "WHOLESALE ELECTRIC
16 COOPERATIVE" AS SET FORTH IN SECTION 40-2-136 (3)(c).

17 **SECTION 4.** In Colorado Revised Statutes, **add** article 42 to title
18 40 as follows:

19 **ARTICLE 42**

20 **Colorado Electric Transmission Authority Act**

21 **40-42-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 42 IS
22 THE "COLORADO ELECTRIC TRANSMISSION AUTHORITY ACT".

23 **40-42-102. Definitions.** AS USED IN THIS ARTICLE 42, UNLESS THE
24 CONTEXT OTHERWISE REQUIRES:

25 (1) "ACQUIRE" MEANS TO OBTAIN ELIGIBLE FACILITIES BY LEASE,
26 CONSTRUCTION, RECONSTRUCTION, PURCHASE, OR, AS AUTHORIZED BY
27 SECTION 40-42-104 (1)(q) AND SUBJECT TO THE REQUIREMENTS OF

1 ARTICLES 1 TO 7 OF TITLE 38, THE EXERCISE OF THE POWER OF EMINENT
2 DOMAIN.

3 (2) "AUTHORITY" MEANS THE COLORADO ELECTRIC TRANSMISSION
4 AUTHORITY CREATED IN SECTION 40-42-103.

5 (3) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE
6 AUTHORITY.

7 (4) "BONDS" MEANS ELECTRIC TRANSMISSION BONDS ISSUED AS
8 AUTHORIZED BY THIS ARTICLE 42 AND INCLUDES NOTES, WARRANTS,
9 BONDS, TEMPORARY BONDS, AND ANTICIPATION NOTES ISSUED BY THE
10 AUTHORITY.

11 (5) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION
12 CREATED IN SECTION 40-2-101.

13 (6) "ELECTRIC TRANSMISSION AUTHORITY OPERATIONAL FUND" OR
14 "OPERATIONAL FUND" MEANS THE FUND CREATED IN SECTION 40-42-106.

15 (7) "ELECTRIC TRANSMISSION BONDING FUND" OR "BONDING
16 FUND" MEANS THE FUND CREATED IN SECTION 40-42-105 (3).

17 (8) "ELECTRIC UTILITY" MEANS AN ENTITY OPERATING FOR THE
18 PURPOSE OF SUPPLYING ELECTRICITY TO THE PUBLIC FOR DOMESTIC,
19 MECHANICAL, OR PUBLIC USES AND INCLUDES AN INVESTOR-OWNED
20 ELECTRIC UTILITY SUBJECT TO REGULATION UNDER ARTICLES 1 TO 7 OF
21 THIS TITLE 40, A MUNICIPALLY OWNED UTILITY, AND A COOPERATIVE
22 ELECTRIC ASSOCIATION.

23 (9) "ELIGIBLE FACILITIES" MEANS FACILITIES THAT ARE FINANCED
24 OR ACQUIRED BY THE AUTHORITY.

25 (10) "FACILITIES" MEANS ELECTRIC TRANSMISSION AND
26 INTERCONNECTED STORAGE FACILITIES AND ALL RELATED STRUCTURES,
27 PROPERTIES, AND SUPPORTING INFRASTRUCTURE, INCLUDING ANY

1 INTERESTS THEREIN.

2 (11) "FERC" MEANS THE FEDERAL ENERGY REGULATORY
3 COMMISSION.

4 (12) "FINANCE" OR "FINANCING" MEANS THE LENDING OF BOND
5 PROCEEDS BY THE AUTHORITY TO A PUBLIC UTILITY OR OTHER PRIVATE
6 PERSON FOR THE PURPOSE OF PLANNING, ACQUIRING, OPERATING, AND
7 MAINTAINING ELIGIBLE FACILITIES IN WHOLE OR IN PART BY THE PUBLIC
8 UTILITY OR OTHER PRIVATE PERSON.

9 (13) "PROJECT" MEANS AN UNDERTAKING BY THE AUTHORITY TO
10 FINANCE OR TO PLAN, ACQUIRE, MAINTAIN, AND OPERATE ELIGIBLE
11 FACILITIES LOCATED PARTLY OR ENTIRELY WITHIN COLORADO.

12 (14) "STORAGE" MEANS ENERGY STORAGE TECHNOLOGIES THAT
13 CONVERT, STORE, AND RETURN ELECTRICITY TO:

14 (a) HELP ALLEVIATE DISPARITIES BETWEEN ELECTRICITY SUPPLY
15 AND DEMAND;

16 (b) FACILITATE THE DISPATCHING OF ELECTRICITY; OR

17 (c) INCREASE ECONOMIC RETURN ON THE SALE OF ELECTRICITY.

18 **40-42-103. Authority - creation - board - open meetings and**
19 **open records.** (1) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
20 IS HEREBY CREATED AS AN INDEPENDENT PUBLIC BODY POLITIC AND
21 CORPORATE. THE AUTHORITY IS A PUBLIC INSTRUMENTALITY, AND ITS
22 EXERCISE OF THE POWERS AS AUTHORIZED BY THIS ARTICLE 42 IS THE
23 PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION. THE AUTHORITY IS A
24 POLITICAL SUBDIVISION OF THE STATE, IS NOT AN AGENCY OF STATE
25 GOVERNMENT, AND IS NOT SUBJECT TO ADMINISTRATIVE DIRECTION BY
26 ANY DEPARTMENT, COMMISSION, BOARD, OR AGENCY OF THE STATE.

27 (2) (a) THE POWERS OF THE AUTHORITY ARE VESTED IN A BOARD

1 OF DIRECTORS, WHICH CONSISTS OF THE FOLLOWING SEVEN MEMBERS:

2 (I) TWO MEMBERS APPOINTED BY THE GOVERNOR WITH THE
3 CONSENT OF THE SENATE;

4 (II) THE DIRECTOR OF THE COLORADO ENERGY OFFICE CREATED
5 IN SECTION 24-38.5-101 OR THE DIRECTOR'S DESIGNEE;

6 (III) TWO MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
7 REPRESENTATIVES; AND

8 (IV) TWO MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE.

9 (b) THE APPOINTED MEMBERS OF THE BOARD MUST HAVE THE
10 FOLLOWING QUALIFICATIONS:

11 (I) OF THE MEMBERS APPOINTED BY THE GOVERNOR, ONE MUST
12 HAVE EXPERTISE IN FINANCIAL MATTERS INVOLVING THE FINANCING OF
13 MAJOR ELECTRIC TRANSMISSION PROJECTS AND THE OTHER MUST
14 REPRESENT THE INTERESTS OF ELECTRIC UTILITY CUSTOMERS RESIDING
15 WEST OF THE CONTINENTAL DIVIDE;

16 (II) OF THE MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE
17 OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE:

18 (A) ONE MUST REPRESENT THE INTERESTS OF ORGANIZED LABOR;

19 (B) ONE MUST REPRESENT THE INTERESTS OF RESIDENTIAL
20 CUSTOMERS OF ELECTRIC UTILITIES;

21 (C) ONE MUST REPRESENT THE INTERESTS OF COMMERCIAL OR
22 INDUSTRIAL CUSTOMERS OF ELECTRIC UTILITIES; AND

23 (D) ONE MUST HAVE KNOWLEDGE OF RENEWABLE ENERGY
24 DEVELOPMENT.

25 (c) A MEMBER OF THE BOARD SHALL NOT REPRESENT A PERSON
26 THAT OWNS OR OPERATES FACILITIES.

27 (d) BOARD MEMBERS SHALL SERVE FOUR-YEAR TERMS; EXCEPT

1 THAT, OF THE APPOINTED MEMBERS INITIALLY APPOINTED TO THE BOARD,
2 ONE OF THE MEMBERS APPOINTED BY THE GOVERNOR AND ONE OF THE
3 MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
4 REPRESENTATIVES SHALL SERVE INITIAL TERMS OF THREE YEARS AND ONE
5 OF THE MEMBERS APPOINTED BY THE GOVERNOR AND ONE OF THE
6 MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE SHALL SERVE
7 INITIAL TERMS OF TWO YEARS. THE REMAINDER OF THE APPOINTED
8 MEMBERS INITIALLY APPOINTED TO THE BOARD SHALL SERVE FOUR-YEAR
9 TERMS. THEREAFTER, ALL APPOINTED MEMBERS OF THE BOARD SHALL
10 SERVE FOUR-YEAR TERMS. A VACANCY IN THE MEMBERSHIP OF THE BOARD
11 MUST BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT
12 FOR THE REMAINDER OF THE EXPIRED TERM ONLY.

13 (e) AN APPOINTED MEMBER OF THE BOARD IS ELIGIBLE FOR
14 REAPPOINTMENT. AN APPOINTING AUTHORITY MAY REMOVE A MEMBER OF
15 THE BOARD FOR CAUSE.

16 (f) BOARD MEMBERS SHALL NOT RECEIVE COMPENSATION FOR
17 THEIR SERVICES BUT SHALL BE REIMBURSED FOR THEIR REASONABLE AND
18 NECESSARY TRAVEL AND OTHER EXPENSES INCURRED IN THE
19 PERFORMANCE OF THEIR OFFICIAL DUTIES.

20 (3) THE MEMBERS OF THE BOARD SHALL ELECT A CHAIR AND A
21 VICE-CHAIR. FOUR MEMBERS OF THE BOARD CONSTITUTE A QUORUM.

22 (4) THE AUTHORITY IS SUBJECT TO THE OPEN MEETINGS
23 PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", ARTICLE 6 OF
24 TITLE 24, AND TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF
25 ARTICLE 72 OF TITLE 24. HOWEVER, INFORMATION OBTAINED BY THE
26 AUTHORITY THAT IS PROPRIETARY TECHNICAL OR BUSINESS INFORMATION
27 IS CONFIDENTIAL AND IS NOT SUBJECT TO INSPECTION PURSUANT TO THE

1 "COLORADO OPEN RECORDS ACT". PROPRIETARY CONFIDENTIAL
2 INFORMATION INCLUDES POWER PURCHASE AGREEMENTS, COSTS OF
3 PRODUCTION, COSTS OF TRANSMISSION, TRANSMISSION SERVICE
4 AGREEMENTS, CREDIT REVIEWS, DETAILED POWER MODELS, AND
5 FINANCING STATEMENTS.

6 **40-42-104. General and specific powers and duties of the**
7 **authority.** (1) EXCEPT AS OTHERWISE LIMITED BY THIS ARTICLE 42, THE
8 AUTHORITY, ACTING THROUGH THE BOARD, HAS THE POWER TO:

9 (a) HOLD AND EXERCISE ALL RIGHTS, DUTIES, PRIVILEGES,
10 IMMUNITIES, LIABILITIES, AND DISABILITIES OF A BODY CORPORATE AND
11 A POLITICAL SUBDIVISION OF THE STATE;

12 (b) SUE AND BE SUED;

13 (c) HAVE AN OFFICIAL SEAL AND ALTER THE SEAL AT THE BOARD'S
14 PLEASURE;

15 (d) ESTABLISH REASONABLE ADMINISTRATIVE AND PROCEDURAL
16 BYLAWS FOR ITS ORGANIZATION AND INTERNAL MANAGEMENT AND FOR
17 THE CONDUCT OF ITS AFFAIRS AND BUSINESS;

18 (e) MAINTAIN AN OFFICE AT ANY PLACE IN COLORADO THAT IT
19 MAY DETERMINE;

20 (f) ACQUIRE, HOLD, USE, AND DISPOSE OF REAL AND PERSONAL
21 PROPERTY AND ITS INCOME, REVENUE, FUNDS, AND MONEY;

22 (g) SOLICIT AND RECEIVE AND EXPEND GIFTS, GRANTS, AND
23 DONATIONS;

24 (h) MAKE AND ENTER INTO ALL CONTRACTS, LEASES, AND
25 AGREEMENTS, INCLUDING INTERGOVERNMENTAL AGREEMENTS, THAT ARE
26 NECESSARY OR INCIDENTAL TO THE PERFORMANCE OF ITS DUTIES AND THE
27 EXERCISE OF ITS POWERS UNDER THIS ARTICLE 42, INCLUDING:

1 (I) CONTRACTS FOR THE LEASE AND OPERATION BY THE
2 AUTHORITY OF ELIGIBLE FACILITIES OWNED BY AN ELECTRIC UTILITY OR
3 OTHER PRIVATE PERSON; AND

4 (II) CONTRACTS FOR LEASING ELIGIBLE FACILITIES OWNED BY THE
5 AUTHORITY, SUBJECT TO THE REQUIREMENT THAT THE AUTHORITY
6 DEPOSIT ANY REVENUE DERIVED PURSUANT TO THE LEASE INTO THE
7 ELECTRIC TRANSMISSION BONDING FUND;

8 (i) UNLESS OTHERWISE SPECIFICALLY PROHIBITED BY THIS ARTICLE
9 42, DEPOSIT MONEY OF THE AUTHORITY IN ANY BANKING INSTITUTION
10 WITHIN OR OUTSIDE THE STATE;

11 (j) FIX THE TIME AND PLACE OR PLACES AT WHICH ITS REGULAR
12 AND SPECIAL MEETINGS ARE TO BE HELD;

13 (k) HIRE A CHIEF EXECUTIVE OFFICER OF THE AUTHORITY AND
14 AUTHORIZE THE CHIEF EXECUTIVE OFFICER TO HIRE OTHER STAFF AS
15 NECESSARY FOR THE OPERATION OF THE AUTHORITY;

16 (l) USE THE SERVICES OF EXECUTIVE DEPARTMENTS OF THE STATE
17 UPON MUTUALLY AGREEABLE TERMS AND CONDITIONS;

18 (m) ENTER INTO PARTNERSHIPS WITH PUBLIC OR PRIVATE ENTITIES;

19 (n) IDENTIFY AND ESTABLISH CORRIDORS FOR THE TRANSMISSION
20 OF ELECTRICITY WITHIN THE STATE;

21 (o) THROUGH PARTICIPATION IN APPROPRIATE REGIONAL
22 TRANSMISSION FORUMS AND OTHER ORGANIZATIONS, INCLUDING
23 REGIONAL TRANSMISSION ORGANIZATIONS, AS DEFINED IN SECTION
24 40-5-108 (1)(a), COORDINATE, INVESTIGATE, PLAN, PRIORITIZE, AND
25 NEGOTIATE WITH ENTITIES WITHIN AND OUTSIDE COLORADO FOR THE
26 ESTABLISHMENT OF INTERSTATE TRANSMISSION CORRIDORS AND ENGAGE
27 IN OTHER TRANSMISSION PLANNING ACTIVITIES;

1 (p) SUBJECT TO THE REQUIREMENTS OF SUBSECTION (2) OF THIS
2 SECTION, CONDUCT A TRANSPARENT AND COMPETITIVE PROCESS TO
3 SELECT A QUALIFIED TRANSMISSION OPERATOR TO ASSUME THE
4 RESPONSIBILITY TO CARRY OUT ALL REQUIRED FINANCING, PLANNING,
5 ACQUISITION, MAINTENANCE, AND OPERATION OF ELIGIBLE FACILITIES
6 NECESSARY OR USEFUL FOR THE ACCOMPLISHMENT OF THE PURPOSES OF
7 THIS ARTICLE 42;

8 (q) SUBJECT TO THE REQUIREMENTS OF ARTICLES 1 TO 7 OF TITLE
9 38, EXERCISE THE POWER OF EMINENT DOMAIN FOR ACQUIRING PROPERTY
10 OR RIGHTS-OF-WAY WHEN NEEDED FOR PROJECTS IF THE COMMISSION
11 DETERMINES THAT DOING SO DOES NOT INVOLVE A TAKING OF THE
12 PROPERTY OF AN ELECTRIC UTILITY OR MATERIALLY DIMINISH ELECTRIC
13 SERVICE RELIABILITY OF THE TRANSMISSION SYSTEM IN COLORADO;

14 (r) FOR ANY PROJECT, PROVIDE INFORMATION AND TRAINING TO
15 EMPLOYEES OF THE PROJECT REGARDING:

16 (I) ANY UNIQUE HAZARDS THAT MAY BE POSED BY THE PROJECT;

17 (II) SAFE WORK PRACTICES; AND

18 (III) EMERGENCY PROCEDURES;

19 (s) ISSUE BONDS AS NECESSARY TO UNDERTAKE A PROJECT;

20 (t) COLLECT PAYMENTS OF REASONABLE RATES, FEES, INTEREST,
21 OR OTHER CHARGES FROM PERSONS USING ELIGIBLE FACILITIES TO
22 FINANCE ELIGIBLE FACILITIES AND FOR OTHER SERVICES RENDERED BY THE
23 AUTHORITY, SUBJECT TO THE REQUIREMENT THAT ANY REVENUE DERIVED
24 FROM PAYMENTS MADE TO THE AUTHORITY SHALL BE DEPOSITED IN THE
25 ELECTRIC TRANSMISSION BONDING FUND;

26 (u) MAKE DETERMINATIONS ABOUT THE EFFICIENT USE OF
27 EXISTING RIGHTS-OF-WAY AS A PRECONDITION TO PIONEERING NEW

1 RIGHTS-OF-WAY; AND

2 (v) DO ANY AND ALL THINGS NECESSARY OR CONVENIENT TO
3 CARRY OUT ITS PURPOSES AND EXERCISE THE POWERS GIVEN AND
4 GRANTED IN THIS ARTICLE 42.

5 (2) EXCEPT AS PROVIDED IN THIS SUBSECTION (2), THE AUTHORITY
6 SHALL NOT ENTER INTO A PROJECT IF ELECTRIC UTILITIES OR OTHER
7 PRIVATE PERSONS ARE WILLING TO PROVIDE FUNDS FOR AND OWN NEW
8 INFRASTRUCTURE TO MEET AN IDENTIFIED NEED AND MARKET AND
9 ALREADY ARE PERFORMING THE ACTS, ARE CONSTRUCTING OR HAVE
10 CONSTRUCTED THE FACILITIES, OR ARE PROVIDING THE SERVICES
11 CONTEMPLATED BY THE AUTHORITY. BEFORE THE AUTHORITY ENTERS
12 INTO A PROJECT, THE FOLLOWING PROCEDURAL REQUIREMENTS MUST BE
13 MET:

14 (a) THE AUTHORITY SHALL PROVIDE TO EACH ELECTRIC UTILITY
15 AND THE COMMISSION AND PUBLISH AT LEAST ONCE IN A NEWSPAPER OF
16 GENERAL CIRCULATION IN COLORADO, AT LEAST ONCE IN A NEWSPAPER OF
17 GENERAL CIRCULATION IN THE AREA WHERE THE ELIGIBLE FACILITIES WILL
18 BE LOCATED, AND CONTINUOUSLY ON A PUBLICLY ACCESSIBLE WEB PAGE
19 MAINTAINED BY THE AUTHORITY AN INITIAL NOTICE DESCRIBING THE
20 PROJECT THAT THE AUTHORITY IS CONSIDERING.

21 (b) ANY PERSON WITH AN INTEREST THAT MAY BE AFFECTED BY
22 THE PROPOSED PROJECT HAS THIRTY DAYS AFTER THE DATE OF THE LAST
23 PRINTED PUBLICATION OF THE INITIAL NOTICE TO SUBMIT A WRITTEN
24 CHALLENGE CONCERNING THE PROPOSED PROJECT TO THE AUTHORITY. IF
25 THE AUTHORITY RECEIVES A CHALLENGE WITHIN THE THIRTY DAYS, THE
26 AUTHORITY SHALL HOLD A PUBLIC HEARING NO SOONER THAN THIRTY
27 DAYS AFTER RECEIVING THE CHALLENGE AND AT LEAST TWO WEEKS AFTER

1 POSTING NOTICE OF THE HEARING IN THE SAME NEWSPAPERS IN WHICH AND
2 WEB PAGE ON WHICH THE INITIAL NOTICE WAS GIVEN. FOLLOWING THE
3 PUBLIC HEARING, THE AUTHORITY SHALL MAKE A FINAL DETERMINATION
4 ON WHETHER THE AUTHORITY WILL IMPLEMENT THE PROPOSED PROJECT
5 AND GIVE NOTICE OF THE DETERMINATION IN THE SAME NEWSPAPERS AND
6 ON THE SAME WEB PAGE AS THE INITIAL NOTICE GIVEN. ANY PERSON OR
7 GOVERNMENTAL ENTITY PARTICIPATING IN THE HEARING MAY APPEAL THE
8 FINAL DETERMINATION BY FILING A NOTICE OF APPEAL WITH THE DISTRICT
9 COURT FOR THE CITY AND COUNTY OF DENVER WITHIN THIRTY-FIVE DAYS
10 AFTER THE DATE OF THE FINAL DETERMINATION.

11 (c) ELECTRIC UTILITIES AND OTHER PERSONS WILLING AND ABLE
12 TO PROVIDE MONEY FOR, ACQUIRE, MAINTAIN, AND OPERATE THE ELIGIBLE
13 FACILITIES DESCRIBED IN THE NOTICE HAVE THE FOLLOWING PERIOD
14 WITHIN WHICH TO NOTIFY THE AUTHORITY OF INTENTION AND ABILITY TO
15 PROVIDE MONEY FOR, ACQUIRE, MAINTAIN, AND OPERATE THE ELIGIBLE
16 FACILITIES DESCRIBED IN THE NOTICE:

17 (I) WITHIN NINETY DAYS AFTER THE DATE OF THE LAST PRINTED
18 PUBLICATION OF THE INITIAL NOTICE IF NO CHALLENGE IS RECEIVED
19 PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION; OR

20 (II) WITHIN NINETY DAYS AFTER THE DATE OF THE NOTICE OF
21 DETERMINATION IF A CHALLENGE IS RECEIVED PURSUANT TO SUBSECTION
22 (2)(b) OF THIS SECTION.

23 (d) ABSENT NOTIFICATION BY AN ELECTRIC UTILITY OR OTHER
24 PERSON PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION, OR IF A
25 PERSON, HAVING GIVEN NOTICE OF INTENTION TO PROVIDE MONEY FOR,
26 ACQUIRE, MAINTAIN, AND OPERATE THE ELIGIBLE FACILITIES
27 CONTEMPLATED BY THE AUTHORITY, FAILS TO MAKE A GOOD-FAITH

1 EFFORT TO BEGIN TO DO SO WITHIN SIX MONTHS AFTER THE DATE THE
2 PERSON NOTIFIED THE AUTHORITY OF ITS INTENTION, THE AUTHORITY MAY
3 PROCEED TO FINANCE, PLAN, ACQUIRE, MAINTAIN, AND OPERATE THE
4 ELIGIBLE FACILITIES ORIGINALLY CONTEMPLATED. HOWEVER, A PERSON
5 THAT, WITHIN THE TIME REQUIRED, HAS MADE NECESSARY APPLICATIONS
6 TO ACQUIRE FEDERAL, STATE, LOCAL, OR PRIVATE PERMITS, CERTIFICATES,
7 OR OTHER APPROVALS NECESSARY TO ACQUIRE THE ELIGIBLE FACILITIES
8 IS DEEMED TO HAVE COMMENCED THE ACQUISITION AS LONG AS THE
9 PERSON DILIGENTLY PURSUES THE PERMITS, CERTIFICATES, OR OTHER
10 APPROVALS.

11 (3) IN SOLICITING AND ENTERING INTO CONTRACTS FOR THE
12 TRANSMISSION OR STORAGE OF ELECTRICITY, THE AUTHORITY AND ANY
13 PERSON LEASING OR OPERATING ELIGIBLE FACILITIES FINANCED OR
14 ACQUIRED BY THE AUTHORITY SHALL, IF PRACTICABLE, GIVE PRIORITY TO
15 THOSE CONTRACTS THAT WILL TRANSMIT OR STORE ELECTRICITY TO BE
16 SOLD AND CONSUMED IN COLORADO.

17 (4) NEITHER THE AUTHORITY NOR ANY ELIGIBLE FACILITIES
18 ACQUIRED BY THE AUTHORITY ARE SUBJECT TO THE SUPERVISION,
19 REGULATION, CONTROL, OR JURISDICTION OF THE COMMISSION; EXCEPT
20 THAT NOTHING IN THIS SECTION ALLOWS AN ELECTRIC UTILITY, WITHOUT
21 THE APPROVAL OF THE COMMISSION, TO INCLUDE THE COST OF USING
22 ELIGIBLE FACILITIES IN ITS RATES OR IN ITS FERC JURISDICTIONAL
23 TRANSMISSION RATES.

24 (5) IN EXERCISING ITS POWERS AND DUTIES, THE AUTHORITY SHALL
25 NOT OWN OR CONTROL FACILITIES UNLESS:

26 (a) THE FACILITIES ARE LEASED TO OR HELD FOR LEASE OR SALE TO
27 AN ELECTRIC UTILITY OR ANOTHER PERSON APPROVED BY THE

1 COMMISSION;

2 (b) THE OPERATION, MAINTENANCE, AND USE OF THE FACILITIES
3 ARE VESTED BY LEASE OR OTHER CONTRACT IN AN ELECTRIC UTILITY OR
4 ANOTHER PERSON APPROVED BY THE COMMISSION;

5 (c) THE FACILITIES ARE OWNED OR CONTROLLED FOR A PERIOD OF
6 NOT MORE THAN ONE HUNDRED EIGHTY DAYS AFTER TERMINATION OF A
7 LEASE OR CONTRACT DESCRIBED IN SUBSECTION (5)(a) OR (5)(b) OF THIS
8 SECTION OR AFTER THE AUTHORITY GAINS POSSESSION OF THE FACILITIES
9 FOLLOWING A BREACH OF SUCH A LEASE OR CONTRACT OR AS A RESULT OF
10 BANKRUPTCY PROCEEDINGS; OR

11 (d) THE FACILITIES DO NOT AFFECT IN-STATE RETAIL RATES OR
12 ELECTRIC SERVICE RELIABILITY.

13 (6) (a) AN ELECTRIC UTILITY THAT IS SUBJECT TO REGULATION BY
14 THE COMMISSION MAY RECOVER THE CAPITAL COST OF A PROJECT
15 UNDERTAKEN PURSUANT TO THIS ARTICLE 42 FROM ITS RETAIL CUSTOMERS
16 ONLY IF THE PROJECT HAS RECEIVED A CERTIFICATE OF PUBLIC
17 CONVENIENCE AND NECESSITY FROM THE COMMISSION. AN ELECTRIC
18 UTILITY THAT IS A MUNICIPALLY OWNED UTILITY EXEMPT FROM
19 REGULATION BY THE COMMISSION MAY RECOVER SUCH COSTS ONLY IF THE
20 PROJECT HAS BEEN APPROVED BY THE GOVERNING BODY OF THE
21 MUNICIPALITY. A COOPERATIVE ELECTRIC ASSOCIATION EXEMPT FROM
22 REGULATION BY THE COMMISSION MAY RECOVER SUCH COSTS ONLY IF THE
23 PROJECT HAS BEEN APPROVED BY THE BOARD OF DIRECTORS OF THE
24 COOPERATIVE ELECTRIC ASSOCIATION.

25 (b) COSTS ASSOCIATED WITH A PROJECT UNDERTAKEN PURSUANT
26 TO THIS ARTICLE 42 ARE NOT RECOVERABLE FROM RETAIL UTILITY
27 CUSTOMERS EXCEPT TO THE EXTENT THE COSTS ARE PRUDENTLY

1 INCURRED AND THE PROJECT IS USED AND USEFUL IN SERVING THOSE
2 CUSTOMERS.

3 **40-42-105. Electric transmission bonds - conditions of issuance**
4 **- electric transmission bonding fund creation - auditor examination**
5 **- payment from bonding fund - exemption from taxation.** (1) THE
6 AUTHORITY MAY ISSUE AND SELL ELECTRIC TRANSMISSION BONDS,
7 PAYABLE SOLELY FROM THE ELECTRIC TRANSMISSION BONDING FUND, IN
8 COMPLIANCE WITH THIS ARTICLE 42 FOR THE PURPOSE OF ENTERING INTO
9 A PROJECT WHEN THE AUTHORITY DETERMINES THAT THE PROJECT IS
10 NEEDED. THIS ARTICLE 42 IS, WITHOUT REFERENCE TO ANY OTHER LAW,
11 FULL AUTHORITY FOR THE ISSUANCE AND SALE OF BONDS. BONDS HAVE
12 ALL THE QUALITIES OF INVESTMENT SECURITIES UNDER THE "UNIFORM
13 COMMERCIAL CODE", TITLE 4, AND SHALL NOT BE DEEMED INVALID FOR
14 ANY IRREGULARITY OR DEFECT OR BE CONTESTABLE IN THE HANDS OF
15 BONA FIDE PURCHASERS OR HOLDERS OF THE BONDS FOR VALUE.

16 (2) (a) BONDS MAY BE EXECUTED AND DELIVERED BY THE
17 AUTHORITY AT SUCH TIMES; MAY BE IN SUCH FORM AND DENOMINATIONS
18 AND INCLUDE SUCH TERMS AND MATURITIES; MAY BE SUBJECT TO
19 OPTIONAL OR MANDATORY REDEMPTION PRIOR TO MATURITY WITH OR
20 WITHOUT A PREMIUM; MAY BE IN FULLY REGISTERED FORM OR BEARER
21 FORM REGISTRABLE AS TO PRINCIPAL OR INTEREST OR BOTH; MAY BEAR
22 SUCH CONVERSION PRIVILEGES; MAY BE PAYABLE IN SUCH INSTALLMENTS
23 AND AT SUCH TIMES NOT EXCEEDING THIRTY YEARS; MAY BE PAYABLE AT
24 SUCH PLACE OR PLACES WHETHER WITHIN OR WITHOUT THE STATE; MAY
25 BEAR INTEREST AT SUCH RATE OR RATES PER ANNUM, WHICH MAY BE
26 FIXED OR VARY ACCORDING TO INDEX, PROCEDURE, OR FORMULA OR AS
27 DETERMINED BY THE AUTHORITY OR ITS AGENTS, WITHOUT REGARD TO

1 ANY INTEREST RATE LIMITATION APPEARING IN ANY OTHER LAW OF THE
2 STATE; MAY BE SUBJECT TO PURCHASE AT THE OPTION OF THE HOLDER OR
3 THE AUTHORITY; MAY BE EVIDENCED IN SUCH MANNER; MAY BE EXECUTED
4 BY SUCH OFFICERS OF THE AUTHORITY, INCLUDING THE USE OF ONE OR
5 MORE FACSIMILE SIGNATURES SO LONG AS AT LEAST ONE MANUAL
6 SIGNATURE APPEARS ON THE BONDS, WHICH MAY BE EITHER OF AN OFFICER
7 OF THE AUTHORITY OR OF AN AGENT AUTHENTICATING THE SAME; MAY BE
8 IN THE FORM OF COUPON BONDS THAT HAVE ATTACHED INTEREST
9 COUPONS BEARING A MANUAL OR FACSIMILE SIGNATURE OF AN OFFICER OF
10 THE AUTHORITY; AND MAY CONTAIN SUCH PROVISIONS NOT INCONSISTENT
11 WITH THIS ARTICLE 42, ALL AS PROVIDED IN THE RESOLUTION OF THE
12 AUTHORITY UNDER WHICH THE BONDS ARE AUTHORIZED TO BE ISSUED OR
13 AS PROVIDED IN A TRUST INDENTURE BETWEEN THE AUTHORITY AND ANY
14 COMMERCIAL BANK OR TRUST COMPANY HAVING FULL TRUST POWERS.

15 (b) (I) BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT SUCH
16 PRICE OR PRICES, IN SUCH MANNER, AND AT SUCH TIMES AS DETERMINED
17 BY THE BOARD, AND THE BOARD MAY PAY ALL FEES, EXPENSES, AND
18 COMMISSIONS THAT IT DEEMS NECESSARY OR ADVANTAGEOUS IN
19 CONNECTION WITH THE SALE OF BONDS.

20 (II) THE BOARD MAY DELEGATE TO AN OFFICER OR AGENT OF THE
21 BOARD THE POWER TO:

22 (A) FIX THE DATE OF SALE OF BONDS;

23 (B) RECEIVE BIDS OR PROPOSALS;

24 (C) AWARD AND SELL BONDS;

25 (D) FIX INTEREST RATES; AND

26 (E) TAKE ALL OTHER ACTION NECESSARY TO SELL AND DELIVER
27 BONDS.

1 (III) THE AUTHORITY MAY REFUND ANY OUTSTANDING BONDS
2 PURSUANT TO ARTICLE 56 OF TITLE 11.

3 (IV) ALL BONDS AND ANY INTEREST COUPONS APPLICABLE TO THE
4 BONDS ARE DECLARED TO BE NEGOTIABLE INSTRUMENTS.

5 (c) BONDS ARE EXEMPT FROM TAXATION BY THE STATE AND ANY
6 COUNTY, CITY AND COUNTY, MUNICIPALITY, OR OTHER POLITICAL
7 SUBDIVISION OF THE STATE.

8 (d) PUBLIC ENTITIES, AS DEFINED IN SECTION 24-75-601 (1), MAY
9 INVEST PUBLIC MONEY IN BONDS SO LONG AS THE BONDS SATISFY THE
10 INVESTMENT REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF
11 TITLE 24.

12 (e) NEITHER A MEMBER OF THE BOARD NOR AN EMPLOYEE OF THE
13 AUTHORITY NOR ANY PERSON EXECUTING BONDS IS LIABLE PERSONALLY
14 ON THE BONDS OR SUBJECT TO ANY PERSONAL LIABILITY BY REASON OF
15 THE ISSUANCE OF THE BONDS.

16 (3) (a) (I) THE ELECTRIC TRANSMISSION BONDING FUND IS
17 CREATED IN THE AUTHORITY. THE BONDING FUND CONSISTS OF:

18 (A) REVENUE RECEIVED BY THE AUTHORITY FROM OPERATING OR
19 LEASING ELIGIBLE FACILITIES;

20 (B) FEES AND SERVICE CHARGES COLLECTED;

21 (C) BOND PROCEEDS;

22 (D) MONEY FROM PAYMENTS OF PRINCIPAL AND INTEREST ON
23 LOANS IF THE AUTHORITY HAS PROVIDED FINANCING FOR ELIGIBLE
24 FACILITIES; AND

25 (E) ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
26 INVESTMENT OF MONEY IN THE BONDING FUND.

27 (II) THE AUTHORITY MAY CREATE SEPARATE ACCOUNTS WITHIN

1 THE BONDING FUND IN CONNECTION WITH ANY ISSUANCE OF BONDS AND
2 MAY DEPOSIT IN THE SEPARATE ACCOUNTS REVENUE RECEIVED BY THE
3 AUTHORITY FROM THE FINANCING OR LEASING OF ELIGIBLE FACILITIES.
4 ANY SEPARATE ACCOUNT SHALL BE HELD BY A TRUSTEE ACTING UNDER A
5 TRUST INDENTURE RELATING TO THE BONDS CONNECTED TO THE
6 ACCOUNT. INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
7 INVESTMENT OF MONEY IN A SEPARATE ACCOUNT SHALL BE CREDITED TO
8 THE ACCOUNT.

9 (III) BALANCES IN THE BONDING FUND AT THE END OF ANY STATE
10 FISCAL YEAR REMAIN IN THE BONDING FUND, EXCEPT AS OTHERWISE
11 PROVIDED IN THIS SECTION.

12 (b) MONEY IN THE BONDING FUND SHALL BE DEPOSITED IN A BANK
13 DESIGNATED BY THE AUTHORITY IN AN ACCOUNT OR ACCOUNTS AS THE
14 AUTHORITY MAY ESTABLISH. MONEY IN ACCOUNTS SHALL BE WITHDRAWN
15 ON THE ORDER OF PERSONS THE AUTHORITY MAY AUTHORIZE. ALL
16 DEPOSITS OF MONEY SHALL BE SECURED IN SUCH MANNER AS THE
17 AUTHORITY MAY DETERMINE. THE STATE AUDITOR AND THE STATE
18 AUDITOR'S LEGALLY AUTHORIZED REPRESENTATIVES SHALL PERIODICALLY
19 EXAMINE THE ACCOUNTS AND BOOKS OF THE AUTHORITY, INCLUDING ITS
20 RECEIPTS, DISBURSEMENTS, CONTRACTS, LEASES, FUNDS, INVESTMENTS,
21 AND ANY OTHER RECORDS AND PAPERS RELATING TO ITS FINANCIAL
22 STANDING. THE AUTHORITY SHALL PAY A REASONABLE FEE FOR THE
23 EXAMINATION AS DETERMINED BY THE STATE AUDITOR IN ACCORDANCE
24 WITH PART 1 OF ARTICLE 3 OF TITLE 2.

25 (c) MONEY IN THE BONDING FUND IS PLEDGED FOR THE PAYMENT
26 OF PRINCIPAL AND INTEREST ON BONDS ISSUED PURSUANT TO THIS ARTICLE
27 42. MONEY IN ANY SEPARATE ACCOUNT MAY BE PLEDGED SOLELY TO

1 PAYMENT OF THE BONDS FOR WHICH THE SEPARATE ACCOUNT WAS
2 CREATED. THE AUTHORITY MAY EXPEND MONEY IN THE BONDING FUND OR
3 A SEPARATE ACCOUNT FOR THE PURPOSE OF PAYING DEBT SERVICE,
4 INCLUDING REDEMPTION PREMIUMS, ON BONDS AND EXPENSES INCURRED
5 IN THE ISSUANCE, PAYMENT, AND ADMINISTRATION OF THE BONDS.

6 (4) TWICE ANNUALLY THE AUTHORITY SHALL ESTIMATE THE
7 AMOUNTS NEEDED TO MAKE DEBT SERVICE AND OTHER PAYMENTS ON
8 BONDS DURING THE NEXT TWELVE MONTHS FROM THE BONDING FUND AND
9 FROM ANY SEPARATE ACCOUNT CREATED IN THE BONDING FUND PLUS THE
10 AMOUNT THAT MAY BE NEEDED FOR ANY REQUIRED RESERVES OR OTHER
11 REQUIREMENTS AS MAY BE SET FORTH IN THE TRUST INDENTURE RELATED
12 TO THE BONDS. THE AUTHORITY SHALL TRANSFER TO THE ELECTRIC
13 TRANSMISSION AUTHORITY OPERATIONAL FUND ANY BALANCE IN THE
14 BONDING FUND OR ANY SEPARATE ACCOUNT CREATED IN THE BONDING
15 FUND ABOVE THE ESTIMATED AMOUNTS. PAYMENTS FOR ADMINISTRATIVE
16 COSTS SHALL BE DEPOSITED IN THE OPERATIONAL FUND.

17 (5) BONDS ARE PAYABLE SOLELY FROM THE BONDING FUND OR
18 FROM ANY SEPARATE ACCOUNT CREATED WITHIN THE BONDING FUND OR,
19 WITH THE APPROVAL OF THE BONDHOLDERS, SUCH OTHER SPECIAL FUNDS
20 AS MAY BE PROVIDED BY LAW, AND THE BONDS DO NOT CREATE AN
21 OBLIGATION OR INDEBTEDNESS OF THE STATE WITHIN THE MEANING OF
22 ANY CONSTITUTIONAL PROVISION OR LAW. A BREACH OF A CONTRACTUAL
23 OBLIGATION INCURRED PURSUANT TO THIS ARTICLE 42 DOES NOT IMPOSE
24 A PECUNIARY LIABILITY OR A CHARGE UPON THE GENERAL CREDIT OR
25 TAXING POWER OF THE STATE.

26 (6) THE STATE PLEDGES THAT THE BONDING FUND, INCLUDING ANY
27 SEPARATE ACCOUNT WITHIN THE BONDING FUND, SHALL BE USED ONLY

1 FOR THE PURPOSES SPECIFIED IN THIS SECTION AND IS PLEDGED FIRST TO
2 REPAY BONDS ISSUED PURSUANT TO THIS ARTICLE 42. THE STATE FURTHER
3 PLEDGES THAT ANY LAW REQUIRING THE DEPOSIT OF REVENUE IN THE
4 BONDING FUND OR AUTHORIZING EXPENDITURES FROM THE BONDING FUND
5 SHALL NOT BE AMENDED OR REPEALED OR OTHERWISE MODIFIED SO AS TO
6 IMPAIR THE BONDS TO WHICH THE BONDING FUND IS DEDICATED AS
7 PROVIDED IN THIS SECTION.

8 **40-42-106. Electric transmission authority operational fund -**
9 **creation.** THE ELECTRIC TRANSMISSION AUTHORITY OPERATIONAL FUND
10 IS CREATED IN THE AUTHORITY. THE OPERATIONAL FUND CONSISTS OF
11 MONEY TRANSFERRED TO THE OPERATIONAL FUND PURSUANT TO SECTION
12 40-42-105 (4), ANY OTHER MONEY THAT THE AUTHORITY MAY TRANSFER
13 TO THE OPERATIONAL FUND, AND INTEREST AND INCOME DERIVED FROM
14 THE DEPOSIT AND INVESTMENT OF MONEY IN THE OPERATIONAL FUND. THE
15 AUTHORITY MAY EXPEND MONEY FROM THE OPERATIONAL FUND FOR THE
16 PURPOSE OF CARRYING OUT THIS ARTICLE 42, AND THE AUTHORITY MAY
17 ESTABLISH PROCEDURES TO ADMINISTER THE OPERATIONAL FUND IN
18 ACCORDANCE WITH THIS ARTICLE 42 AND ANY OTHER APPLICABLE
19 PROVISION OF STATE LAW.

20 **40-42-107. Report to general assembly.** COMMENCING IN 2022,
21 THE AUTHORITY SHALL SUBMIT A REPORT OF ITS ACTIVITIES TO THE
22 ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF
23 REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE
24 OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, NOT LATER THAN
25 DECEMBER 1 OF EACH YEAR. THE REPORT SHALL SET FORTH A COMPLETE
26 OPERATING AND FINANCIAL STATEMENT COVERING THE OPERATIONS OF
27 THE AUTHORITY FOR THE PREVIOUS STATE FISCAL YEAR.

1 NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO
2 SUBMIT THE REPORT CONTINUES INDEFINITELY.

3 **SECTION 5.** In Colorado Revised Statutes, 24-77-102, **amend**
4 the introductory portion; and **add** (15)(b)(XIX) as follows:

5 **24-77-102. Definitions.** As used in this ~~article~~ ARTICLE 77, unless
6 the context otherwise requires:

7 (15) (b) "Special purpose authority" includes, but is not limited to:

8 (XIX) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
9 CREATED IN SECTION 40-42-103 (1).

10 **SECTION 6.** In Colorado Revised Statutes, 38-1-202, **amend**
11 (1)(f)(XXXIX) and (1)(f)(XL); and **add** (1)(f)(XLI) as follows:

12 **38-1-202. Governmental entities, corporations, and persons**
13 **authorized to use eminent domain.** (1) The following governmental
14 entities, types of governmental entities, and public corporations, in
15 accordance with all procedural and other requirements specified in this
16 article 1 and articles 2 to 7 of this title 38 and to the extent and within any
17 time frame specified in the applicable authorizing statute, may exercise
18 the power of eminent domain:

19 (f) The following types of single purpose districts, special
20 districts, authorities, boards, commissions, and other governmental
21 entities that serve limited governmental purposes or that may exercise
22 eminent domain for limited purposes on behalf of a county, city and
23 county, city, or town:

24 (XXXIX) A regional transportation authority created pursuant to
25 section 43-4-603 ~~C.R.S.~~, as authorized in section 43-4-604 (1)(a)(IV);
26 ~~C.R.S.~~; and

27 (XL) The Colorado aeronautical board created in section

1 43-10-104 ~~C.R.S.~~, as authorized in section 43-10-106 (1); ~~C.R.S.~~ AND
2 (XLI) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
3 CREATED IN SECTION 40-42-103 (1) AS AUTHORIZED IN SECTION 40-42-104
4 (1)(q).

5 **SECTION 7.** In Colorado Revised Statutes, 38-5-104, **amend** (1)
6 as follows:

7 **38-5-104. Right-of-way across private lands.** (1) (a) ~~Such~~ A
8 telegraph, telephone, electric light, power, gas, or pipeline company or
9 ~~such~~ A city or town ~~shall be~~ IS entitled to the right-of-way over or under
10 the land, property, privileges, rights-of-way, and easements of other
11 persons and corporations and to the right to erect its poles, wires, pipes,
12 regulator stations, substations, systems, and offices upon making just
13 compensation therefor in the manner provided by law. WHEN A
14 RIGHT-OF-WAY IS TAKEN UNDER THIS SECTION FOR AN INTERSTATE
15 ELECTRIC TRANSMISSION LINE, THE COURT SHALL EVALUATE PUBLIC
16 PURPOSE IN LIGHT OF THE TRANSMISSION SYSTEM AS A WHOLE, INCLUDING
17 PUBLIC USE AND BENEFITS OCCURRING BOTH WITHIN COLORADO AND AT
18 A REGIONAL LEVEL.

19 (b) (I) The rights granted by this section and section 38-5-105 to
20 ~~such~~ electric light, power, gas, or pipeline companies ~~or~~ AND to ~~such~~
21 cities and towns ~~shall~~ DO not extend to the taking of any portion of the
22 right-of-way of a railroad company, except to the extent of acquiring any
23 necessary easement to cross the same or to serve ~~such~~ THE railroad
24 company with electric light, power, or gas service.

25 (II) The rights granted by this section and section 38-5-105 to
26 telegraph or telephone companies ~~shall~~ DO not extend to the taking of any
27 portion of the right-of-way of a railroad company, except to the extent of

1 acquiring any easement ~~which~~ THAT does not materially interfere with the
2 existing use by the railroad company, or except to the extent of acquiring
3 any necessary easement to cross the same or to serve ~~such~~ THE railroad
4 company with telegraph or telephone service.

5 **SECTION 8.** In Colorado Revised Statutes, 40-2-114, **amend** (2)
6 as follows:

7 **40-2-114. Disposition of fees collected - telecommunications**
8 **utility fund - fixed utility fund.** (2) (a) ~~Moneys~~ MONEY in the funds
9 created in subsection (1) of this section shall be expended only to defray
10 the full amount determined by the general assembly for:

11 (I) The administrative expenses of the commission for the
12 supervision and regulation of the public utilities paying the fees; ~~and for~~

13 (II) The financing of the office of consumer counsel created in
14 article 6.5 of this ~~title~~ TITLE 40; AND

15 (III) WITH REGARD ONLY TO EXPENDITURES FROM THE PUBLIC
16 UTILITY COMMISSION FIXED UTILITY FUND CREATED IN SUBSECTION
17 (1)(a)(I) OF THIS SECTION, THE ADMINISTRATIVE EXPENSES, NOT TO
18 EXCEED FIVE HUNDRED THOUSAND DOLLARS ANNUALLY, INCURRED BY
19 THE COLORADO ELECTRIC TRANSMISSION AUTHORITY IN CARRYING OUT
20 ITS DUTIES UNDER ARTICLE 42 OF THIS TITLE 40.

21 (b) The state treasurer shall retain any unexpended balance
22 remaining in either fund at the end of any fiscal year to defray the
23 administrative expenses of the commission during subsequent fiscal
24 years, and the executive director of the department of revenue shall take
25 any such unexpended balance into account when computing the
26 percentage upon which fees for the ensuing fiscal year will be based.

27 **SECTION 9. Applicability.** This act applies to conduct occurring

1 on or after the effective date of this act.

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