A BILL FOR AN ACT

CONCERNING ENERGY ASSET MANAGEMENT, AND, IN CONNECTION THERewith, AUTHORIZING THE ISSUANCE OF LOW-COST RATEPAYER-BACKED BONDS AND CREATING THE COLORADO ENERGY IMPACT ASSISTANCE AUTHORITY TO MITIGATE THE IMPACTS OF POWER PLANT RETIREMENTS ON COLORADO WORKERS AND COMMUNITIES.

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 applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill, known as the "Colorado Energy Impact Assistance Act",

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.
authorizes any electric utility (utility) to apply to the public utilities commission (PUC) for a financing order that will authorize the utility to issue low-cost Colorado energy impact assistance bonds (bonds) to lower the cost to electric utility customers (ratepayers) when the retirement of a power plant occurs. A portion of bond proceeds will provide transition assistance for Colorado workers and communities directly affected by the retirement of the facilities (transition assistance). To repay the bonds at the lowest cost to ratepayers, the PUC is authorized to review and approve a financing order and authorize a special energy impact assistance charge that is separate and apart from the utility's base rates on all ratepayer bills. The establishment and ongoing adjustment of the separate charge will allow bonds to achieve the highest possible credit rating, at least AA/Aa2, from the national independent credit rating agencies and will therefore allow bonds to be issued at the lowest possible interest rate and lowest subsequent cost to ratepayers.

Before issuing a financing order, the PUC must hold a public hearing, receive testimony from affected groups, and make specified determinations concerning the necessity, prudence, justness, reasonableness, and quantifiable benefits to utility ratepayers of issuing the financing order. After the public hearing process, if a financing order is approved by the PUC, it must include specific information and instructions for the utility to which it applies relating to the amount of bonds to be issued and the imposition of the energy impact assistance charge and must require the utility to pay a specified percentage of the net present value of the savings to a newly created Colorado energy impact assistance authority (authority) for the payment of transition assistance by the authority and the authority's reasonable and necessary administrative and operating costs. As an alternative to the financing order and bond issuance process, upon the closure of an electric generating facility, a Colorado electric utility may transfer to the authority an amount of up to 15% of the net present value of operational savings created by the closure of the electric generating facility, and such a transfer shall be deemed by the PUC to be a prudent action by the utility.

The bill specifies that the authority is governed by a 7-member board of directors appointed by the governor and specifies mandatory and suggested occupational experience for the directors. The authority is authorized to receive bond proceeds from a utility to which a financing order applies and use the bond proceeds to provide transition assistance and pay its reasonable and necessary administrative and operating costs. Transition assistance is defined to include payment of retraining costs, including costs of apprenticeship programs and skilled worker retraining programs, for and financial assistance to directly displaced Colorado facility workers, compensation to Colorado local governments for lost property tax revenue directly resulting from the retirement of a facility, and similar payments, job retraining, assistance, and
compensation for directly displaced Colorado workers and local
governments in areas that produce fuel used in the retired facility directly
resulting from the elimination of the need for fuel at the facility. The
authority must disburse at least 50% of the transition assistance that it
provides directly to Colorado workers. In addition, when determining
how best to provide transition assistance to a local community, the
authority must, in conjunction with each board of county commissioners,
municipal governing body, and school district that includes all or a
portion of the impacted community, establish and take into consideration
the advice of a local advisory committee. The authority is subject to open
meeting and open records requirements and is required to submit a report
to specified committees of the general assembly that sets forth a complete
and detailed financial and operating statement of the authority for any
fiscal year for which the authority has provided transition assistance.

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

SECTION 1. In Colorado Revised Statutes, add article 41 to title
40 as follows:

ARTICLE 41
Colorado Energy Impact Assistance Act

PART 1
ENERGY IMPACT ASSISTANCE BONDS

40-41-101. Short title. The short title of this article 41 is
the "Colorado Energy Impact Assistance Act".

40-41-102. Legislative declaration. (1) The general assembly
hereby finds and declares that:

(a) Colorado's electric utilities will continue to face the
need to retire existing electric generating facilities to reduce
electricity rates for customers and ensure the health and
well-being of Colorado's natural environment and residents;

(b) The closure of electric generating facilities may have
direct economic impacts on Colorado communities where the
FACILITIES ARE LOCATED, ELECTRIC GENERATING FACILITY WORKERS, AND COMMUNITIES WHERE FUELS FOR THE FACILITIES ARE PRODUCED;

(c) Customers of Colorado’s electric utilities have an interest in ensuring that their utilities are providing efficient and cost-effective electric generation;

(d) Colorado communities and workers may be directly affected by the closure of electric generating facilities, and it is in the best interest of the state to ensure that Colorado’s workforce is able to adapt to the state’s changing energy portfolio;

(e) There are alternative financing mechanisms used by more than twenty other states since 1997 that will result in lower costs to electric utility customers, and the use of these mechanisms can ensure that both the costs of retiring electric generating facilities located in the state and transition costs for directly affected Colorado communities and electric generating facility workers can be financed in a way that reduces the total amount of costs being included in customer rates;

(f) Customer costs of alternative financing mechanisms can be minimized by achieving the highest possible credit rating from independent credit rating agencies, which requires special procedures and conditions including:

(I) The use of limited purpose bankruptcy-remote financing entities to issue ratepayer-backed bonds;

(II) The creation of a properly structured and implemented adjustment mechanism to adjust the charge
DEDICATED TO THE REPAYMENT OF THE BONDS TO ENABLE CONSISTENT, ACCURATE, AND TIMELY REMITTANCES TO THE FINANCING ENTITIES FOR THE BENEFIT OF BONDHOLDERS; AND

(III) A STATE PLEDGE THAT CONSTITUTES AN ENFORCEABLE PROMISE THAT THE STATE WILL NOT TAKE ANY ACTION THAT WOULD PREVENT, OBSTRUCT, IMPAIR, OR LIMIT THE PAYMENT OF PRINCIPAL AND INTEREST ON SECURITIZED ELECTRIC UTILITY RATEPAYER-BACKED BONDS AS THOSE AMOUNTS BECOME LEGALLY DUE AND OWING; AND

(g) To implement this alternative financing mechanism, it is necessary to authorize the Public Utilities Commission to review and approve one or more financing orders that advance these goals if it deems such approval appropriate and in the interest of ratepayers.

(2) The General Assembly further finds and declares that:

(a) It is the policy of the state to assist Colorado Electric Generating Facility workers who are directly impacted by the retirement of electric generating facilities, the communities where the facilities are located, and the communities where fuels for the facilities are produced;

(b) It is therefore in the interest of the state and its citizens to encourage and facilitate the use of securitized ratepayer-backed bonds as a method for enabling electric utilities to lower the cost of financing the retirement of electric generating facilities under certain conditions and to empower the Public Utilities Commission to review such securitization mechanisms to determine whether they are consistent with the public interest and worthy of approval;
(c) The primary purpose of this Act is to authorize the issuance of low-cost securitized ratepayer-backed bonds, the proceeds of which must be used solely:

(I) To provide transition assistance to Colorado communities and electric generating facility workers that are directly impacted by the retirement of electric generating facilities;

(II) To lower rates paid by electric utility customers by reducing financing costs of certain retired electric generating facilities; and

(III) To make available capital investment for modernized facilities and services including least-cost electric generating facilities and other supply-side and demand-side resources; and

(d) An additional purpose of this Act is to create the Colorado energy impact assistance authority to assist with the administration of the portion of securitized ratepayer-backed bond proceeds that is dedicated to transition assistance for directly impacted Colorado communities and electric generating facility workers.

40-41-103. Definitions. As used in this article 41 and for use by the Commission, and in the course of the review by independent credit rating agencies that is necessary to achieve the highest possible bond ratings, unless the context otherwise requires:

(1) "Ancillary agreement" means any bond, insurance policy, letter of credit, reserve account, surety bond, interest rate lock or swap arrangement, hedging arrangement, liquidity
OR CREDIT SUPPORT ARRANGEMENT, OR OTHER FINANCIAL ARRANGEMENT
ENTERED INTO IN CONNECTION WITH CO-EIA BONDS THAT IS DESIGNED TO
PROMOTE THE CREDIT QUALITY AND MARKETABILITY OF THE CO-EIA
BONDS OR TO MITIGATE THE RISK OF AN INCREASE IN INTEREST RATES.

(2) "ASSIGNEE" MEANS ANY PERSON TO WHICH AN INTEREST IN
CO-EIA PROPERTY IS SOLD, ASSIGNED, TRANSFERRED, OR CONVEYED,
OTHER THAN AS SECURITY, AND ANY SUCCESSOR TO OR SUBSEQUENT
ASSIGNEE OF SUCH A PERSON.

(3) "AUTHORITY" MEANS THE COLORADO ENERGY IMPACT
ASSISTANCE AUTHORITY CREATED IN SECTION 40-41-201 (1).

(4) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE AUTHORITY
CREATED IN SECTION 40-41-201 (2)(a).

(5) "BONDHOLDER" MEANS ANY HOLDER OR OWNER OF CO-EIA
BONDS.

(6) "CO-EIA" MEANS COLORADO ENERGY IMPACT ASSISTANCE.

(7) "CO-EIA BONDS" MEANS LOW-COST CORPORATE SECURITIES,
SUCH AS SENIOR SECURED BONDS, DEBENTURES, NOTES, CERTIFICATES OF
PARTICIPATION, CERTIFICATES OF BENEFICIAL INTEREST, CERTIFICATES OF
OWNERSHIP, OR OTHER EVIDENCES OF INDEBTEDNESS OR OWNERSHIP THAT
HAVE A SCHEDULED MATURITY OF NO LONGER THAN THIRTY YEARS AND
A FINAL LEGAL MATURITY DATE THAT IS NOT LATER THAN THIRTY-TWO
YEARS FROM THE ISSUE DATE, THAT ARE RATED AA OR AA2 OR BETTER BY
AT LEAST ONE MAJOR INDEPENDENT CREDIT RATING AGENCY AT THE TIME
OF ISSUANCE, AND THAT ARE ISSUED BY AN ELECTRIC UTILITY OR AN
ASSIGNEE PURSUANT TO A FINANCING ORDER, THE PROCEEDS OF WHICH
ARE USED TO RECOVER, FINANCE, OR REFINANCE COMMISSION-APPROVED
CO-EIA COSTS AND FINANCING COSTS, INCLUDING ASSISTANCE TO
AFFECTED WORKERS AND COMMUNITIES, AND THAT ARE SECURED BY OR
PAYABLE FROM CO-EIA PROPERTY. IF CERTIFICATES OF PARTICIPATION OR
OWNERSHIP ARE ISSUED, REFERENCES IN THIS SECTION TO PRINCIPAL,
INTEREST, OR PREMIUM REFER TO COMPARABLE AMOUNTS UNDER THOSE
CERTIFICATES.

(8) "CO-EIA CHARGE" MEANS A CHARGE IN AN AMOUNT
DETERMINED APPROPRIATE BY THE COMMISSION AND AUTHORIZED BY THE
COMMISSION IN A FINANCING ORDER IN ORDER TO PROVIDE A SOURCE OF
REVENUE SOLELY TO REPAY, FINANCE, OR REFINANCE CO-EIA COSTS AND
FINANCING COSTS THAT ARE IMPOSED ON AND ARE A PART OF ALL
CUSTOMER BILLS AND ARE COLLECTED IN FULL BY THE ELECTRIC UTILITY
TO WHICH THE FINANCING ORDER APPLIES, ITS SUCCESSORS OR ASSIGNEES,
OR A COLLECTION AGENT THROUGH A NONBYPASSABLE CHARGE THAT IS
SEPARATE AND APART FROM THE ELECTRIC UTILITY'S BASE RATES.

(9) (a) "CO-EIA COSTS" MEANS:

(I) (A) AT THE OPTION OF AND UPON PETITION BY AN ELECTRIC
UTILITY, AND AS APPROVED BY THE COMMISSION PURSUANT TO SECTION
40-41-105, THE PRETAX COSTS THAT THE ELECTRIC UTILITY HAS INCURRED
OR WILL INCUR THAT ARE CAUSED BY, ASSOCIATED WITH, OR REMAIN AS
A RESULT OF THE RETIREMENT OF AN ELECTRIC GENERATING FACILITY
LOCATED IN THE STATE.

(B) AS USED IN THIS SUBSECTION (9), "PRETAX COSTS", IF
APPROVED BY THE COMMISSION, INCLUDE, BUT ARE NOT LIMITED TO, THE
UNRECOVERED CAPITALIZED COST OF A RETIRED ELECTRIC GENERATING
FACILITY, COSTS OF DECOMMISSIONING AND RESTORING THE SITE OF THE
ELECTRIC GENERATING FACILITY, AND OTHER APPLICABLE CAPITAL AND
OPERATING COSTS, ACCRUED CARRYING CHARGES, DEFERRED EXPENSES,
REDUCTIONS FOR APPLICABLE INSURANCE AND SALVAGE PROCEEDS AND THE COSTS OF RETIRING ANY EXISTING INDEBTEDNESS, FEES, COSTS, AND EXPENSES TO MODIFY EXISTING DEBT AGREEMENTS OR FOR WAIVERS OR CONSENTS RELATED TO EXISTING DEBT AGREEMENTS.

(II) AMOUNTS REQUIRED TO BE TRANSFERRED TO THE AUTHORITY FOR TRANSITION ASSISTANCE AND THE PAYMENT OF THE AUTHORITY’S REASONABLE AND NECESSARY ADMINISTRATIVE AND OPERATING COSTS AS REQUIRED BY A FINANCING ORDER.

(III) PRETAX COSTS THAT AN ELECTRIC UTILITY HAS PREVIOUSLY INCURRED RELATED TO THE COMMISSION-APPROVED CLOSURE OF AN ELECTRIC GENERATING FACILITY OCCURRING BEFORE THE EFFECTIVE DATE OF THIS SECTION.

(b) "CO-EIA COSTS" DO NOT INCLUDE ANY MONETARY PENALTY, FINE, OR FORFEITURE ASSESSED AGAINST AN ELECTRIC UTILITY BY A GOVERNMENT AGENCY OR COURT UNDER A FEDERAL OR STATE ENVIRONMENTAL STATUTE, RULE, OR REGULATION.

(10) "CO-EIA PROPERTY" MEANS:

(a) ALL RIGHTS AND INTERESTS OF AN ELECTRIC UTILITY OR SUCCESSOR OR ASSIGNEE OF AN ELECTRIC UTILITY UNDER A FINANCING ORDER FOR THE RIGHT TO IMPOSE, BILL, COLLECT, AND RECEIVE CO-EIA CHARGES AS IT IS AUTHORIZED TO DO SOLELY UNDER THE FINANCING ORDER AND TO OBTAIN PERIODIC ADJUSTMENTS TO SUCH CO-EIA CHARGES AS PROVIDED IN THE FINANCING ORDER; AND

(b) ALL REVENUE, COLLECTIONS, CLAIMS, RIGHTS TO PAYMENTS, PAYMENTS, MONEY, OR PROCEEDS ARISING FROM THE RIGHTS AND INTERESTS SPECIFIED IN SUBSECTION (10)(a) OF THIS SECTION, REGARDLESS OF WHETHER SUCH REVENUE, COLLECTIONS, CLAIMS, RIGHTS
TO PAYMENT, PAYMENTS, MONEY, OR PROCEEDS ARE IMPOSED, BILLED, RECEIVED, COLLECTED, OR MAINTAINED TOGETHER WITH OR COMMINGLED WITH OTHER REVENUE, COLLECTIONS, RIGHTS TO PAYMENT, PAYMENTS, MONEY, OR PROCEEDS.

(11) "CO-EIA REVENUE" MEANS ALL REVENUE, RECEIPTS, COLLECTIONS, PAYMENTS, MONEY, CLAIMS, OR OTHER PROCEEDS ARISING FROM CO-EIA PROPERTY.

(12) "COMMISSION" MEANS THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO.

(13) "CUSTOMER" MEANS A PERSON THAT TAKES ELECTRIC DISTRIBUTION OR ELECTRIC TRANSMISSION SERVICE FROM AN ELECTRIC UTILITY FOR CONSUMPTION OF ELECTRICITY IN THE STATE.

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

(15) "FINANCING COSTS" MEANS, IF APPROVED BY THE COMMISSION IN A FINANCING ORDER, COSTS TO ISSUE, SERVICE, REPAY, OR REFINANCE CO-EIA BONDS, WHETHER INCURRED OR PAID UPON ISSUANCE OF THE CO-EIA BONDS OR OVER THE LIFE OF THE CO-EIA BONDS, AND INCLUDES:

(a) PRINCIPAL, INTEREST, AND REDEMPTION PREMIUMS THAT ARE PAYABLE ON CO-EIA BONDS;

(b) ANY PAYMENT REQUIRED UNDER AN ANCILLARY AGREEMENT AND ANY AMOUNT REQUIRED TO FUND OR REPLENISH A RESERVE ACCOUNT
OR OTHER ACCOUNTS ESTABLISHED UNDER THE TERMS OF ANY INDENTURE, ANCILLARY AGREEMENT, OR OTHER FINANCING DOCUMENT PERTAINING TO CO-EIA BONDS;

(c) ANY OTHER DEMONSTRABLE COSTS RELATED TO ISSUING, SUPPORTING, REPAYING, REFUNDING, AND SERVICING CO-EIA BONDS, INCLUDING, BUT NOT LIMITED TO, SERVICING FEES, ACCOUNTING AND AUDITING FEES, TRUSTEE FEES, LEGAL FEES, CONSULTING FEES, FINANCIAL ADVISOR FEES, ADMINISTRATIVE FEES, PLACEMENT AND UNDERWRITING FEES, CAPITALIZED INTEREST, RATING AGENCY FEES, STOCK EXCHANGE LISTING AND COMPLIANCE FEES, SECURITY REGISTRATION FEES, FILING FEES, INFORMATION TECHNOLOGY PROGRAMMING COSTS, AND ANY OTHER DEMONSTRABLE COSTS NECESSARY TO OTHERWISE ENSURE AND GUARANTEE THE TIMELY PAYMENT OF CO-EIA BONDS OR OTHER AMOUNTS OR CHARGES PAYABLE IN CONNECTION WITH CO-EIA BONDS;

(d) ANY TAXES AND LICENSE FEES IMPOSED ON THE REVENUE GENERATED FROM THE COLLECTION OF A CO-EIA CHARGE;

(e) ANY STATE AND LOCAL TAXES, INCLUDING FRANCHISE, SALES AND USE, AND OTHER TAXES OR SIMILAR CHARGES, INCLUDING, BUT NOT LIMITED TO, REGULATORY ASSESSMENT FEES, WHETHER PAID, PAYABLE, OR ACCRUED; AND

(f) ANY COSTS INCURRED BY AN ELECTRIC UTILITY TO PAY THE COMMISSION’S COSTS OF ENGAGING SPECIALIZED COUNSEL AND EXPERT CONSULTANTS EXPERIENCED IN SECURITIZED ELECTRIC UTILITY RATEPAYER-BACKED BOND FINANCING SIMILAR TO CO-EIA BONDS AS AUTHORIZED BY SECTION 40-41-108 (4).

(16) "FINANCING ORDER" MEANS AN ORDER OF THE COMMISSION ISSUED PURSUANT TO SECTION 40-41-105 THAT GRANTS, IN WHOLE OR IN
PART, AN APPLICATION FILED PURSUANT TO SECTION 40-41-104 AND THAT
AUTHORIZES THE ISSUANCE OF CO-EIA BONDS IN ONE OR MORE SERIES,
THE IMPOSITION, CHARGING, AND COLLECTION OF CO-EIA CHARGES, AND
THE CREATION OF CO-EIA PROPERTY. IN A FINANCING ORDER, THE
COMMISSION MAY INCLUDE ANY CONDITIONS THAT ARE NECESSARY TO
PROMOTE THE PUBLIC INTEREST AND MAY GRANT RELIEF THAT IS
DIFFERENT FROM THAT WHICH WAS REQUESTED IN THE APPLICATION SO
LONG AS THE RELIEF IS WITHIN THE SCOPE OF THE MATTERS ADDRESSED IN
THE COMMISSION'S NOTICE OF THE APPLICATION.

(17) "FINANCING PARTY" MEANS HOLDERS OF CO-EIA BONDS AND
TRUSTEES, COLLATERAL AGENTS, ANY PARTY UNDER AN ANCILLARY
AGREEMENT, OR ANY OTHER PERSON ACTING FOR THE BENEFIT OF
HOLDERS OF CO-EIA BONDS.

(18) "FINANCING STATEMENT" HAS THE SAME MEANING AS SET
FORTH IN SECTION 4-9-102 (39).

(19) "NONBYPASSABLE" MEANS THAT THE PAYMENT OF A CO-EIA
CHARGE REQUIRED TO REPAY BONDS AND RELATED COSTS MAY NOT BE
AVOİDED BY ANY CUSTOMER LOCATED WITHIN AN ELECTRIC UTILITY
SERVICE AREA, BUT MUST BE PAID BY:

(a) ALL EXISTING AND FUTURE CUSTOMERS RECEIVING RETAIL
ELECTRICITY USING UTILITY TRANSMISSION OR DISTRIBUTION FACILITIES
FROM THE ELECTRIC UTILITY OR ITS SUCCESSORS OR ASSIGNEES UNDER
COMMISSION-APPROVED RATE SCHEDULES OR UNDER SPECIAL CONTRACTS,
EVEN IF A CUSTOMER ELECTS TO PURCHASE ELECTRICITY FROM AN
ELECTRIC SUPPLIER OTHER THAN THE UTILITY; AND

(b) ANY PERSON LOCATED WITHIN THE ELECTRIC UTILITY SERVICE
AREA THAT MAY SUBSEQUENTLY RECEIVE RETAIL ELECTRICITY USING
UTILITY TRANSMISSION OR DISTRIBUTION FACILITIES FROM ANOTHER ELECTRIC UTILITY OPERATING IN THE SAME SERVICE AREA.

(20) "Successor" means, with respect to any legal entity, another legal entity that succeeds by operation of law to the rights and obligations of the first legal entity pursuant to any bankruptcy, reorganization, restructuring, other insolvency proceeding, merger, acquisition, consolidation, or sale or transfer of assets, whether any of these occur due to a restructuring of the electric power industry or otherwise; except that "successor" does not include any municipally-owned electric utility established before the date on which CO-EIA bonds are issued pursuant to a financing order relating to electric generating facilities that serve or previously served the service area of the municipally-owned electric utility.

(21) "Transition assistance" means assistance provided by or directed by the authority using CO-EIA bond proceeds transferred by an electric utility to the authority pursuant to the terms of a financing order to assist Colorado communities that are directly impacted by the retirement of an electric generating facility and may include, without limitation:

(a) Payment of retraining costs, including costs of any apprenticeship program, as defined in section 8-83-303 (2), or skilled worker training program, as defined in section 8-83-303 (10), for directly displaced electric generating facility workers;

(b) Financial assistance for directly displaced electric generating facility workers;
(c) For a period of no more than five years, compensation
to local governments for losses of property tax revenue
resulting directly from the retirement of the electric
generating facility, which compensation may be reduced
annually during the period during which it is provided;

(d) Payment of retraining costs, including costs of any
apprenticeship program, as defined in section 8-83-303 (2), or
skilled worker training program, as defined in section 8-83-303
(10), and provision of financial assistance, including wage
support or supplemental retirement support, for Colorado
workers and assistance to local governments with losses of tax
revenue directly related to production of fuel previously used
in the retired facilities; and

(e) Job retraining and education for workers who are
Colorado residents who were directly involved in the transport
of fuel to a retired Colorado electric generating facility and
who are laid off or experience reduced work schedules
resulting from the retirement of the electric generating
facility.

40-41-104. Financing orders - application requirements.

(1) An electric utility, in its sole discretion, may apply to the
commission for a financing order as authorized by this section.

(2) (a) An investor-owned or other regulated electric
utility may file an application for approval to issue CO-EIA
bonds in one or more series, impose, charge, and collect CO-EIA
charges, and create CO-EIA property related to the retirement
of an electric generating facility in Colorado that has
PREVIOUSLY BEEN APPROVED BY THE COMMISSION.

(b) An electric utility that is not regulated may file an application for approval to issue CO-EIA bonds in one or more series, impose, charge, and collect CO-EIA charges, and create CO-EIA property related to the retirement of an electric generating facility in Colorado.

(c) The commission shall take final action to approve, deny, or modify any application for a financing order as described in subsection (2)(a) or (2)(b) of this section in a final order issued in accordance with the commission’s rules for addressing applications.

(3) In addition to any other information required by the commission, an application for a financing order must include the following information:

(a) An estimated schedule for the retirement;

(b) A specification of the effects of the proposed CO-EIA bond financing on the retirement;

(c) A proposed methodology for allocating the revenue requirement for the CO-EIA charge among customer classes;

(d) A description of the nonbypassable CO-EIA charge required to be paid by customers within the electric utility’s service area for recovery of CO-EIA costs;

(e) An estimate of the net present value of electric utility customer savings expected to result if the financing order is issued as determined by a net present value comparison between the costs to customers that are expected to result from the financing of the undepreciated balances of electric generating
FACILITIES WITH CO-EIA BONDS AND THE COSTS THAT WOULD RESULT
FROM THE APPLICATION OF TRADITIONAL ELECTRIC UTILITY FINANCING
MECHANISMS TO THE SAME UNDEPRECIATED BALANCES;

(f) One or more alternative financing scenarios in
addition to the preferred scenario contained in the application;

AND

(g) A workforce transition plan, which must include, to
the extent feasible, estimates of:

(I) The number of workers employed by the electric
utility or a contractor of the electric utility at the electric
generating facility, which number must include all workers
that directly deliver fuel to the electric generating facility;

(II) The total number of workers whose existing jobs will
be retained and the total number of workers whose existing jobs
will be eliminated due to the retirement of the electric
generating facility;

(III) With respect to the workers whose existing jobs will
be eliminated due to the retirement of the electric generating
facility, the total number and number by job classification of
workers:

(A) Whose employment will end without them being
offered other employment;

(B) Who will retire as planned, be offered early
retirement, or leave on their own;

(C) Who will be retained by being transferred to other
electric generating facilities or offered other employment by
the electric utility; and
(D) Who will be retrained to continue to work for the electric utility in a new job classification; and

(IV) If the electric utility is replacing the electric generating facility being retired with a new electric generating facility:

(A) The number of workers from the old electric generating facility who will be employed at the new electric generating facility; and

(B) The number of jobs at the new electric generating facility that will be outsourced to subcontractors.

40-41-105. Issuance of financing orders. (1) Following notice and hearing on an application for a financing order as required by the commission's rules, practice, and procedure, the commission may issue a financing order if the commission finds that:

(a) The CO-EIA costs described in the application related to the retirement of the electric generating facilities are reasonable;

(b) The proposed issuance of CO-EIA bonds and the imposition and collection of CO-EIA charges:

(I) Are just and reasonable;

(II) Are consistent with the public interest;

(III) Constitute a prudent and reasonable mechanism for the financing of the CO-EIA costs described in the application; and

(IV) Will provide substantial, tangible, and quantifiable benefits to customers that are greater than the benefits that
WOULD HAVE BEEN ACHIEVED ABSENT THE ISSUANCE OF CO-EIA BONDS; AND

(c) THE PROPOSED STRUCTURING, MARKETING, AND PRICING OF THE CO-EIA BONDS WILL:

(I) SIGNIFICANTLY LOWER OVERALL COSTS TO CUSTOMERS OR SIGNIFICANTLY MITIGATE RATE IMPACTS TO CUSTOMERS RELATIVE TO TRADITIONAL METHODS OF FINANCING; AND

(II) ACHIEVE THE MAXIMUM NET PRESENT VALUE OF CUSTOMER SAVINGS, AS DETERMINED BY THE COMMISSION IN A FINANCING ORDER, CONSISTENT WITH MARKET CONDITIONS AT THE TIME OF SALE AND THE TERMS OF THE FINANCING ORDER.

(2) THE FINANCING ORDER MUST:

(a) DETERMINE THE MAXIMUM AMOUNT OF CO-EIA COSTS THAT MAY BE FINANCED FROM PROCEEDS OF CO-EIA BONDS AUTHORIZED TO BE ISSUED BY THE FINANCING ORDER;

(b) NOTWITHSTANDING THE LIMITATION ON THE USE OF RATEPAYER FUNDS SET FORTH IN SECTION 40-3-114, PROVIDE THAT AN AMOUNT OF CO-EIA BOND PROCEEDS EQUAL TO FIFTEEN PERCENT OF THE NET PRESENT VALUE OF ELECTRIC UTILITY CUSTOMER SAVINGS ESTIMATED PURSUANT TO SECTION 40-41-104 (3)(e) BE TRANSFERRED TO THE AUTHORITY BY THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER APPLIES FOR USE BY THE AUTHORITY IN PROVIDING TRANSITION ASSISTANCE AS REQUIRED BY SECTION 40-41-202 AND PAYING ITS REASONABLE AND NECESSARY ADMINISTRATIVE AND OPERATING COSTS AS AUTHORIZED BY SECTION 40-41-201 (3)(f); EXCEPT THAT THE COMMISSION MAY CONSIDER, AND IF DETERMINED AS PART OF AN EVIDENTIARY PROCEEDING TO BE APPROPRIATE, APPROVE THE USE OF UP TO AN
ADDITIONAL TEN PERCENT OF THE NET PRESENT VALUE FOR SUCH USE BY
THE AUTHORITY IF THE COMMISSION FINDS THAT FIFTEEN PERCENT IS NOT
ADEQUATE TO MEET THE SCOPE OF LOCAL NEEDS;

(c) DESCRIBE THE PROPOSED CUSTOMER BILLING MECHANISM FOR
CO-EIA CHARGES AND INCLUDE A FINDING THAT THE MECHANISM IS JUST
AND REASONABLE;

(d) DESCRIBE THE FINANCING COSTS THAT MAY BE RECOVERED
THROUGH CO-EIA CHARGES AND THE PERIOD OVER WHICH THE COSTS
MAY BE RECOVERED, WHICH MUST END NO EARLIER THAN THE DATE OF
FINAL LEGAL MATURITY OF THE CO-EIA BONDS;

(e) DESCRIBE THE CO-EIA PROPERTY THAT IS CREATED AND THAT
MAY BE USED TO PAY, AND SECURE THE PAYMENT OF, THE CO-EIA BONDS
AND FINANCING COSTS AUTHORIZED IN THE FINANCING ORDER;

(f) AUTHORIZE THE APPLICANT ELECTRIC UTILITY TO FINANCE
CO-EIA COSTS THROUGH THE ISSUANCE OF ONE OR MORE SERIES OF
CO-EIA BONDS. AN ELECTRIC UTILITY IS NOT REQUIRED TO SECURE A
SEPARATE FINANCING ORDER FOR EACH ISSUANCE OF CO-EIA BONDS OR
FOR EACH SCHEDULED PHASE OF THE PREVIOUSLY APPROVED RETIREMENT
OF ELECTRIC GENERATING FACILITIES APPROVED IN THE FINANCING ORDER.

(g) INCLUDE AN ADJUSTMENT MECHANISM FOR MAKING
EXPEDITIOUS PERIODIC ADJUSTMENTS IN THE CO-EIA CHARGES THAT
CUSTOMERS ARE REQUIRED TO PAY PURSUANT TO THE FINANCING ORDER
AND FOR MAKING ANY ADJUSTMENTS THAT ARE NECESSARY TO CORRECT
FOR ANY OVER COLLECTION OR UNDER COLLECTION OF THE CO-EIA
CHARGES IN PAST PERIODS OR TO OTHERWISE GUARANTEE THE TIMELY
PAYMENT OF CO-EIA BONDS AND FINANCING COSTS AND OTHER
REQUIRED AMOUNTS AND CHARGES PAYABLE IN CONNECTION WITH
CO-EIA BONDS;

(h) Include any additional findings or conclusions deemed appropriate by the Commission;

(i) Specify the degree of flexibility afforded to the electric utility in establishing the terms and conditions of the CO-EIA bonds, including, but not limited to, repayment schedules, expected interest rates, and other financing costs;

(j) Specify the timing of actions required by the order so that:

(I) The CO-EIA bonds are issued as soon as feasible following the issuance of the financing order, independent of the schedule of closing and decommissioning of the electric generating facility;

(II) The energy assistance funds are transferred to the authority as soon as feasible, but no later than the date on which the electric generating facility ceases operation; and

(III) The applicant electric utility files to reduce its rates as required in subsection (4) of this section simultaneously with the inception of the CO-EIA charges and independently of the schedule of closing and decommissioning of the electric generating facility; and

(k) Specify a future ratemaking process to reconcile any difference between the projected pretax costs included in the amount financed by CO-EIA bonds and the final actual pretax costs incurred by the electric utility in retiring the electric generating facility. The reconciliation may affect the electric utility’s base rates or any rider adopted pursuant to subsection
(4) Of this section, but shall not affect the amount of the bonds or the associated CO-EIA charges paid by customers.

(3) A financing order issued to an electric utility must permit and may require the creation of an electric utility's CO-EIA property pursuant to subsection (2)(e) of this section to be conditioned upon, and simultaneous with, the sale or other transfer of the CO-EIA property to an assignee and the pledge of the CO-EIA property to secure CO-EIA bonds.

(4) A financing order shall require the applicant electric utility, simultaneously with the inception of the collection of CO-EIA charges, to reduce its rates through a reduction in base rates or by a negative rider on customer bills in an amount equal to the revenue requirement associated with the utility assets being financed by CO-EIA bonds.

40-41-106. Effect of financing order. (1) A financing order remains in effect until the CO-EIA bonds issued as authorized by the financing order have been paid in full and all financing costs relating to the CO-EIA bonds have been paid in full.

(2) A financing order remains in effect and unabated notwithstanding the bankruptcy, reorganization, or insolvency of the electric utility to which the financing order applies or any affiliate of the electric utility or successor entity or assignee.

(3) Subject to judicial review as provided for in section 40-41-109, a financing order is irrevocable. Therefore, notwithstanding section 40-6-112 (1), the commission may not reduce, impair, postpone, or terminate CO-EIA charges approved
IN A FINANCING ORDER OR IMPAIR CO-EIA PROPERTY OR THE COLLECTION
OR RECOVERY OF CO-EIA REVENUE.

(4) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, UPON ITS
OWN MOTION OR AT THE REQUEST OF AN ELECTRIC UTILITY OR ANY OTHER
PERSON, THE COMMISSION MAY COMMENCE A PROCEEDING AND ISSUE A
SUBSEQUENT FINANCING ORDER THAT PROVIDES FOR REFINANCING,
RETIRING, OR REFUNDING CO-EIA BONDS ISSUED PURSUANT TO THE
ORIGINAL FINANCING ORDER IF:

(a) THE COMMISSION MAKES ALL OF THE FINDINGS SPECIFIED IN
SECTION 40-41-105 (1) WITH RESPECT TO THE SUBSEQUENT FINANCING
ORDER; AND

(b) THE MODIFICATION PROVIDED FOR IN THE SUBSEQUENT
FINANCING ORDER DOES NOT IMPAIR IN ANY WAY THE COVENANTS AND
TERMS OF THE CO-EIA BONDS TO BE REFINANCED, RETIRED, OR
REFUNDED.

40-41-107. Effect on commission jurisdiction. (1) EXCEPT AS
OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, IF THE
COMMISSION ISSUES A FINANCING ORDER TO AN ELECTRIC UTILITY, THE
COMMISSION SHALL NOT, IN EXERCISING ITS POWERS AND CARRYING OUT
ITS DUTIES PURSUANT TO THIS ARTICLE 41:

(a) CONSIDER THE CO-EIA BONDS ISSUED PURSUANT TO THE
FINANCING ORDER TO BE DEBT OF THE ELECTRIC UTILITY OTHER THAN FOR
INCOME TAX PURPOSES UNLESS IT IS NECESSARY TO CONSIDER THE
CO-EIA BONDS TO BE SUCH DEBT TO ACHIEVE CONSISTENCY WITH
PREVAILING UTILITY DEBT RATING METHODOLOGIES;

(b) CONSIDER THE CO-EIA CHARGES PAID UNDER THE FINANCING
ORDER TO BE REVENUE OF THE ELECTRIC UTILITY;
(c) Consider the CO-EIA costs or financing costs specified in the financing order to be the regulated costs or assets of the electric utility; or

(d) Determine any prudent action taken by an electric utility that is consistent with the financing order to be unjust or unreasonable.

(2) Nothing in subsection (1) of this section:

(a) Affects the authority of the Commission to apply or modify any billing mechanism designed to recover CO-EIA charges;

(b) Prevents or precludes the Commission from investigating the compliance of an electric utility with the terms and conditions of a financing order and requiring compliance with the financing order; or

(c) Prevents or precludes the Commission from imposing regulatory sanctions against a regulated electric utility for failure to comply with the terms and conditions of a financing order or the requirements of this Article 41.

(3) The Commission may not refuse to allow the recovery of any costs associated with the retirement of electric generating facilities by an electric utility solely because the electric utility has elected to finance those activities through a financing mechanism other than CO-EIA bonds.
SUBSTANTIAL BENEFITS TO COLORADO ELECTRIC UTILITY CUSTOMERS AND TO COLORADO ELECTRIC GENERATING FACILITY WORKERS AND COLORADO COMMUNITIES THAT ARE DIRECTLY IMPACTED BY THE RETIREMENT OF ELECTRIC GENERATING FACILITIES; AND

(b) Because, subject to judicial review as provided for in section 40-41-109, the Commission’s approval of a financing order is irrevocable, typically addresses very large amounts of financing undertaken pursuant to this Article 41, and can only be superseded by the Commission through the issuance of a subsequent financing order to the limited extent and in the limited circumstances specified in sections 40-41-106 (4) and 40-41-114 (3), in addition to its other powers and duties, the Commission has the duty to perform and authority required to perform comprehensive due diligence in its evaluation of an application for a financing order and has the duty and authority to oversee the process used to structure, market, and price CO-EIA BONDS.

(2) In addition to any other authority of the Commission:

(a) The Commission may attach such conditions to the approval of a financing order as the Commission deems appropriate to maximize the financial benefits or minimize the financial risks of the transaction to customers and to directly impacted Colorado workers and communities;

(b) The Commission may specify details of the process used to structure, market, and price CO-EIA bonds, including the selection of the underwriter or underwriters;

(c) The Commission shall review and determine the
REASONABLENESS OF ALL PROPOSED UP-FRONT AND ONGOING FINANCING COSTS; AND

(d) The Commission shall ensure that the structuring, marketing, and pricing of CO-EIA bonds maximizes net present value customer savings, consistent with market conditions and the terms of the financing order.

(3) Within one hundred twenty days after the issuance of CO-EIA bonds, the applicant electric utility shall file with the Commission information regarding the actual up-front and ongoing financing costs of the CO-EIA bonds. The Commission shall review the prudence of the electric utility’s action to determine whether the costs resulted in the lowest overall costs that were reasonably consistent with both market conditions at the time of the issuance and the terms of the financing order. If the Commission determines that the electric utility’s actions were not prudent or were inconsistent with the financing order, the Commission may apply any remedies that are available to it under Article 7 of this title 40; except that the Commission shall not apply any remedy that has the effect, directly or indirectly, of impairing the security for the CO-EIA bonds.

(4) In performing its responsibilities under this Article 41, the Commission may engage outside consultants and counsel, selected by the Commission, who are experienced in securitized electric utility ratepayer-backed bond financing similar to CO-EIA bonds. These outside consultants and counsel have a duty of loyalty solely to the Commission and shall not be
INVOLVED, EITHER DIRECTLY OR INDIRECTLY THROUGH AFFILIATES, IN TRADING DEBT OR EQUITY SECURITIES ISSUED BY OR ON BEHALF OF ANY ELECTRIC UTILITY THAT HAS APPLIED FOR A FINANCING ORDER. THE EXPENSES ASSOCIATED WITH ANY ENGAGEMENT SHALL BE PAID BY THE APPLICANT UTILITY AS THEY ARE INCURRED, SHALL BE INCLUDED AS FINANCING COSTS AND INCLUDED IN THE CO-EIA CHARGE, ARE NOT AN OBLIGATION OF THE STATE, AND ARE ASSIGNED SOLELY TO THE TRANSACTION.

(5) IF AN ELECTRIC UTILITY'S APPLICATION FOR A FINANCING ORDER IS DENIED OR WITHDRAWN OR FOR ANY REASON NO CO-EIA BONDS ARE ISSUED, ANY COSTS OF RETAINING EXPERT CONSULTANTS AND COUNSEL ON BEHALF OF THE COMMISSION, AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION, SHALL BE PAID BY THE APPLICANT ELECTRIC UTILITY AND SHALL BE CONSIDERED BY THE COMMISSION AS A PRUDENT DEFERRED EXPENSE FOR RECOVERY IN THE ELECTRIC UTILITY'S FUTURE RATES.


40-41-110. Electric utilities - duties. (1) THE ELECTRIC BILLS OF
AN ELECTRIC UTILITY THAT HAS OBTAINED A FINANCING ORDER AND CAUSED CO-EIA BONDS TO BE ISSUED:

(a) MUST EXPLICITLY REFLECT THAT A PORTION OF THE CHARGES ON THE BILL REPRESENTS CO-EIA CHARGES APPROVED IN A FINANCING ORDER ISSUED TO THE ELECTRIC UTILITY AND, IF THE CO-EIA PROPERTY HAS BEEN TRANSFERRED TO AN ASSIGNEE, MUST INCLUDE A STATEMENT THAT THE ASSIGNEE IS THE OWNER OF THE RIGHTS TO CO-EIA CHARGES AND THAT THE ELECTRIC UTILITY OR OTHER ENTITY, IF APPLICABLE, IS ACTING AS A COLLECTION AGENT OR SERVICER FOR THE ASSIGNEE;

(b) MUST INCLUDE THE CO-EIA CHARGE ON EACH CUSTOMER'S BILL AS A SEPARATE LINE ITEM TITLED "ENERGY IMPACT ASSISTANCE CHARGE" AND MAY INCLUDE BOTH THE RATE AND THE AMOUNT OF THE CHARGE ON EACH BILL. THE FAILURE OF AN ELECTRIC UTILITY TO COMPLY WITH THIS SUBSECTION (1) DOES NOT INVALIDATE, IMPAIR, OR AFFECT ANY FINANCING ORDER, CO-EIA PROPERTY, CO-EIA CHARGE, OR CO-EIA BONDS, BUT DOES SUBJECT THE ELECTRIC UTILITY TO PENALTIES UNDER APPLICABLE COMMISSION RULES; AND

(c) MUST EXPLAIN TO CUSTOMERS IN AN ANNUAL FILING WITH THE COMMISSION THE RATE IMPACT THAT FINANCING THE RETIREMENT OF ELECTRIC GENERATING FACILITIES HAS HAD ON CUSTOMER RATES.

(2) AN ELECTRIC UTILITY THAT HAS OBTAINED A FINANCING ORDER AND CAUSED CO-EIA BONDS TO BE ISSUED MUST DEMONSTRATE IN AN ANNUAL FILING WITH THE COMMISSION THAT CO-EIA REVENUES ARE APPLIED SOLELY TO THE REPAYMENT OF CO-EIA BONDS AND OTHER FINANCING COSTS.

40-41-111. CO-EIA property. (1) CO-EIA property that is described in a financing order constitutes an existing present
PROPERTY RIGHT OR INTEREST IN AN EXISTING PRESENT PROPERTY RIGHT
EVEN THOUGH THE IMPOSITION AND COLLECTION OF CO-EIA CHARGES
DEPENDS ON THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER IS
ISSUED PERFORMING ITS SERVICING FUNCTIONS RELATING TO THE
COLLECTION OF CO-EIA CHARGES AND ON FUTURE ELECTRICITY
CONSUMPTION. THE PROPERTY RIGHT OR INTEREST EXISTS REGARDLESS OF
WHETHER THE REVENUES OR PROCEEDS ARISING FROM THE CO-EIA
PROPERTY HAVE BEEN BILLED, HAVE ACCRUED, OR HAVE BEEN COLLECTED
AND NOTWITHSTANDING THE FACT THAT THE VALUE OR AMOUNT OF THE
PROPERTY RIGHT OR INTEREST IS DEPENDENT ON THE FUTURE PROVISION
OF SERVICE TO CUSTOMERS BY THE ELECTRIC UTILITY OR A SUCCESSOR OR
ASSIGNEE OF THE ELECTRIC UTILITY.

(2) CO-EIA PROPERTY DESCRIBED IN A FINANCING ORDER EXISTS
UNTIL ALL CO-EIA BONDS ISSUED PURSUANT TO THE FINANCING ORDER
ARE PAID IN FULL AND ALL FINANCING COSTS AND OTHER COSTS OF THE
CO-EIA BONDS HAVE BEEN RECOVERED IN FULL.

(3) ALL OR ANY PORTION OF CO-EIA PROPERTY DESCRIBED IN A
FINANCING ORDER ISSUED TO AN ELECTRIC UTILITY MAY BE TRANSFERRED,
SOLD, CONVEYED, OR ASSIGNED TO A SUCCESSOR OR ASSIGNEE THAT IS
WHOLLY OWNED, DIRECTLY OR INDIRECTLY, BY THE ELECTRIC UTILITY
AND IS CREATED FOR THE LIMITED PURPOSE OF ACQUIRING, OWNING, OR
ADMINISTERING CO-EIA PROPERTY OR ISSUING CO-EIA BONDS AS
AUTHORIZED BY THE FINANCING ORDER. ALL OR ANY PORTION OF CO-EIA
PROPERTY MAY BE PLEDGED TO SECURE CO-EIA BONDS ISSUED PURSUANT
TO A FINANCING ORDER, AMOUNTS PAYABLE TO FINANCING PARTIES AND
TO COUNTERPARTIES UNDER ANY ANCILLARY AGREEMENTS, AND OTHER
FINANCING COSTS. EACH TRANSFER, SALE, CONVEYANCE, ASSIGNMENT, OR
PLEDGE BY AN ELECTRIC UTILITY OR AN AFFILIATE OF AN ELECTRIC
UTILITY IS A TRANSACTION IN THE NORMAL COURSE OF BUSINESS FOR
PURPOSES OF SECTION 40-5-105 (1)(a).

(4) If an electric utility defaults on any required payment
of charges arising from CO-EIA property described in a financing
order, a court, upon application by an interested party and
without limiting any other remedies available to the applying
party, shall order the sequestration and payment of the
revenue arising from the CO-EIA property to the financing
parties. Any such financing order remains in full force and
effect notwithstanding any reorganization, bankruptcy, or
other insolvency proceedings with respect to the electric
utility or its successors or assignees.

(5) The interest of a transferee, purchaser, acquirer,
assignee, or pledgee in CO-EIA property specified in a financing
order issued to an electric utility, and in the revenue and
collections arising from that property, is not subject to setoff,
counterclaim, surcharge, or defense by the electric utility or
any other person or in connection with the reorganization,
bankruptcy, or other insolvency of the electric utility or any
other entity.

(6) A successor to an electric utility, whether pursuant
to any reorganization, bankruptcy, or other insolvency
proceeding or whether pursuant to any merger or acquisition,
sale, other business combination, or transfer by operation of
law, as a result of electric utility restructuring or otherwise,
must perform and satisfy all obligations of, and has the same
DUTIES AND RIGHTS UNDER A FINANCING ORDER AS THE ELECTRIC UTILITY TO WHICH THE FINANCING ORDER APPLIES AND SHALL PERFORM THE DUTIES AND EXERCISE THE RIGHTS IN THE SAME MANNER AND TO THE SAME EXTENT AS THE ELECTRIC UTILITY, INCLUDING COLLECTING AND PAYING TO ANY PERSON ENTITLED TO RECEIVE THEM THE REVENUES, COLLECTIONS, PAYMENTS, OR PROCEEDS OF CO-EIA PROPERTY DESCRIBED IN THE FINANCING ORDER.

40-41-112. CO-EIA bonds - legal investments - not public debt

- pledge of state. (1) Banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any money within their control in CO-EIA bonds. Public entities, as defined in section 24-75-601 (1), may invest public funds in CO-EIA bonds only if the CO-EIA bonds satisfy the investment requirements established in part 6 of article 75 of title 24.

(2) CO-EIA bonds issued as authorized by a financing order are not debt of or a pledge of the faith and credit or taxing power of the state, any agency of the state, or any county, municipality, or other political subdivision of the state. Holders of CO-EIA bonds have no right to have taxes levied by the state or by any county, municipality, or other political subdivision of the state for the payment of the principal or interest on CO-EIA bonds. The issuance of CO-EIA bonds does not directly, indirectly, or contingently obligate the state or a political subdivision of the state to levy any tax or make any appropriation for payment of principal or interest on the CO-EIA bonds.
(3) (a) The state pledges to and agrees with holders of CO-EIA bonds, any assignee, and any financing parties that the state will not:

(I) Take or permit any action that impairs the value of CO-EIA property; or

(II) Reduce, alter, or impair CO-EIA charges that are imposed, collected, and remitted for the benefit of holders of CO-EIA bonds, any assignee, and any financing parties, until any principal, interest, and redemption premium payable on CO-EIA bonds, all financing costs, and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid in full.

(b) A person who issues CO-EIA bonds may include the pledge specified in subsection (3)(a) of this section in the CO-EIA bonds, ancillary agreements, and documentation related to the issuance and marketing of the CO-EIA bonds.

40-41-113. Assignee or financing party not automatically subject to commission regulation. An electric utility, assignee, or financing party that is not already regulated by the commission does not become subject to commission regulation solely as a result of engaging in any transaction authorized by or described in this article 41.

40-41-114. Effect of other laws and judicial decisions. (1) If any provision of this article 41 conflicts with any other law regarding the attachment, assignment, perfection, effect of perfection, or priority of any security interest in or transfer of CO-EIA property, the provision of this article 41 governs to the
EXTENT OF THE CONFLICT.

(2) Effective on the date that CO-EIA bonds are first issued, if any provision of this Article 41 is held to be invalid or is invalidated, superseeded, replaced, repealed, or expires, that occurrence does not affect any action allowed under this Article 41 that was lawfully taken by the Commission, an electric utility, an assignee, a collection agent, a financing party, a bondholder, or a party to an ancillary agreement before the occurrence, and any such action remains in full force and effect.

(3) Nothing in Subsection (1) or (2) of this section precludes an electric utility for which the Commission has initially issued a financing order from applying to the Commission for:

(a) A subsequent financing order amending the financing order as authorized by Section 40-41-106 (4); or

(b) Approval of the issuance of CO-EIA bonds to refund all or a portion of an outstanding series of CO-EIA bonds.

40-41-115. Choice of law. The laws of the state govern the validity, enforceability, attachment, perfection, priority, and exercise of remedies with respect to the transfer of an interest or right or creation of a security interest in any CO-EIA property, CO-EIA charge, or financing order.

40-41-116. Security interests in CO-EIA property. (1) The creation, perfection, and enforcement of any security interest in CO-EIA property to secure the repayment of the principal of and interest on CO-EIA bonds, amounts payable under any
ANCILLARY AGREEMENT, AND OTHER FINANCING COSTS ARE GOVERNED BY

(2) The description or indication of CO-EIA property in a
transfer or security agreement and a financing statement is
sufficient only if the description or indication refers to this
article 41 and the financing order creating the CO-EIA
property.

(3) (a) A security interest in CO-EIA property is created,
valid, and binding as soon as all of the following events have
occurred:

(I) The financing order that describes the CO-EIA
property is issued;

(II) A security agreement is executed and delivered; and

(III) Value is received for the CO-EIA bonds.

(b) Once a security interest in CO-EIA property is created
under subsection (3)(a) of this section, the security interest
attaches without any physical delivery of collateral or any
other act. The lien of the security interest is valid, binding, and
perfected against all parties having claims of any kind in tort,
contract or otherwise against the person granting the security
interest, regardless of whether such parties have notice of the
lien, upon the filing of a financing statement with the secretary
of state. The secretary of state shall maintain a financing
statement filed pursuant to this subsection (3)(b) in the same
manner in which the secretary maintains and in the same
record-keeping system in which the secretary maintains
financing statements filed pursuant to article 9 of title 4. The
FILING OF ANY FINANCING STATEMENT PURSUANT TO THIS SUBSECTION (3)(b) IS GOVERNED BY ARTICLE 9 OF TITLE 4 REGARDING THE FILING OF FINANCING STATEMENTS.

(4) A SECURITY INTEREST IN CO-EIA PROPERTY IS A CONTINUOUSLY PERFECTED SECURITY INTEREST AND HAS PRIORITY OVER ANY OTHER LIEN, CREATED BY OPERATION OF LAW OR OTHERWISE, WHICH MAY SUBSEQUENTLY ATTACH TO THE CO-EIA PROPERTY UNLESS THE HOLDER OF THE SECURITY INTEREST HAS AGREED IN WRITING OTHERWISE.

(5) THE PRIORITY OF A SECURITY INTEREST IN CO-EIA PROPERTY IS NOT AFFECTED BY THE COMINGLING OF CO-EIA PROPERTY OR CO-EIA REVENUE WITH OTHER MONEY. AN ASSIGNEE, BONDHOLDER, OR FINANCING PARTY HAS A PERFECTED SECURITY INTEREST IN THE AMOUNT OF ALL CO-EIA PROPERTY OR CO-EIA REVENUE THAT IS PLEDGED FOR THE PAYMENT OF CO-EIA BONDS EVEN IF THE CO-EIA PROPERTY OR CO-EIA REVENUE IS DEPOSITED IN A CASH OR DEPOSIT ACCOUNT OF THE ELECTRIC UTILITY IN WHICH THE CO-EIA REVENUE IS COMINGLED WITH OTHER MONEY, AND ANY OTHER SECURITY INTEREST THAT APPLIES TO THE OTHER MONEY DOES NOT APPLY TO THE CO-EIA REVENUE.

(6) NEITHER A SUBSEQUENT ORDER OF THE COMMISSION AMENDING A FINANCING ORDER AS AUTHORIZED BY SECTION 40-41-106 (4), NOR APPLICATION OF AN ADJUSTMENT MECHANISM AS AUTHORIZED BY SECTION 40-41-105 (2)(g), AFFECTS THE VALIDITY, PERFECTION, OR PRIORITY OF A SECURITY INTEREST IN OR TRANSFER OF CO-EIA PROPERTY.

40-41-117. Sales of CO-EIA property. (1) (a) A SALE, ASSIGNMENT, OR TRANSFER OF CO-EIA PROPERTY IS AN ABSOLUTE TRANSFER AND TRUE SALE OF, AND NOT A PLEDGE OF OR SECURED TRANSACTION RELATING TO, THE SELLER'S RIGHT, TITLE AND INTEREST IN,
TO, AND UNDER THE CO-EIA PROPERTY IF THE DOCUMENTS GOVERNING
THE TRANSACTION EXPRESSLY STATE THAT THE TRANSACTION IS A SALE
OR OTHER ABSOLUTE TRANSFER. A TRANSFER OF AN INTEREST IN CO-EIA
PROPERTY MAY BE CREATED ONLY WHEN ALL OF THE FOLLOWING HAVE
OCCURRED:

   (I) THE FINANCING ORDER CREATING AND DESCRIBING THE
CO-EIA PROPERTY HAS BECOME EFFECTIVE;

   (II) THE DOCUMENTS EVIDENCING THE TRANSFER OF THE CO-EIA
PROPERTY HAVE BEEN EXECUTED AND DELIVERED TO THE ASSIGNEE; AND

   (III) VALUE IS RECEIVED.

(b) UPON THE FILING OF A FINANCING STATEMENT WITH THE
SECRETARY OF STATE, A TRANSFER OF AN INTEREST IN CO-EIA PROPERTY
IS PERFECTED AGAINST ALL THIRD PERSONS, INCLUDING ANY JUDICIAL LIEN
OR OTHER LIEN CREDITORS OR ANY CLAIMS OF THE SELLER OR CREDITORS
OF THE SELLER, OTHER THAN CREDITORS HOLDING A PRIOR SECURITY
INTEREST, OWNERSHIP INTEREST, OR ASSIGNMENT IN THE CO-EIA
PROPERTY PREVIOUSLY PERFECTED IN ACCORDANCE WITH THIS
SUBSECTION (1) OR SECTION 40-41-116. THE SECRETARY OF STATE SHALL
MAINTAIN A FINANCING STATEMENT FILED PURSUANT TO THIS SUBSECTION
(1)(b) IN THE SAME MANNER IN WHICH THE SECRETARY MAINTAINS AND IN
THE SAME RECORD-KEEPING SYSTEM IN WHICH THE SECRETARY MAINTAINS
FINANCING STATEMENTS FILED PURSUANT TO ARTICLE 9 OF TITLE 4. THE
FILING OF ANY FINANCING STATEMENT PURSUANT TO THIS SUBSECTION
(1)(b) IS GOVERNED BY ARTICLE 9 OF TITLE 4 REGARDING THE FILING OF
FINANCING STATEMENTS.

(2) THE CHARACTERIZATION OF A SALE, ASSIGNMENT, OR
TRANSFER AS AN ABSOLUTE TRANSFER AND TRUE SALE AND THE
CORRESPONDING CHARACTERIZATION OF THE PROPERTY INTEREST OF THE
ASSIGNEE IS NOT AFFECTED OR IMPAIRED BY THE EXISTENCE OR
OCURRENCE OF ANY OF THE FOLLOWING;

(a) COMINGLING OF CO-EIA REVENUE WITH OTHER MONEY;

(b) THE RETENTION BY THE SELLER OF:
(1) A PARTIAL OR RESIDUAL INTEREST, INCLUDING AN EQUITY
INTEREST, IN THE CO-EIA PROPERTY, WHETHER DIRECT OR INDIRECT, OR
WHETHER SUBORDINATE OR OTHERWISE; OR
(II) THE RIGHT TO RECOVER COSTS ASSOCIATED WITH TAXES,
FRANCHISE FEES, OR LICENSE FEES IMPOSED ON THE COLLECTION OF
CO-EIA REVENUE;

(c) ANY RECOOURSE THAT THE PURCHASER MAY HAVE AGAINST THE
SELLER;

(d) ANY INDEMNIFICATION RIGHTS, OBLIGATIONS, OR REPURCHASE
RIGHTS MADE OR PROVIDED BY THE SELLER;

(e) AN OBLIGATION OF THE SELLER TO COLLECT CO-EIA
REVENUES ON BEHALF OF AN ASSIGNEE;

(f) THE TREATMENT OF THE SALE, ASSIGNMENT, OR TRANSFER FOR
TAX, FINANCIAL REPORTING, OR OTHER PURPOSES;

(g) ANY SUBSEQUENT FINANCING ORDER AMENDING A FINANCING
ORDER AS AUTHORIZED BY SECTION 40-41-106 (4); OR

(h) ANY APPLICATION OF AN ADJUSTMENT MECHANISM AS
AUTHORIZED BY SECTION 40-41-105 (2)(g).

40-41-118. Replacement resources - definitions. (1) An
ELECTRIC UTILITY THAT ISSUES CO-EIA BONDS IN CONJUNCTION WITH THE
RETIREMENT OF AN ELECTRIC GENERATING FACILITY MAY SEEK
AUTHORIZATION FROM THE COMMISSION TO REPLACE THE RETIRED
ELECTRIC GENERATING FACILITY WITH COST-EFFECTIVE GENERATION
RESOURCES OR ENERGY STORAGE FACILITIES BY FILING WITH THE
COMMISSION FOR ITS APPROVAL:

(a) An electric resource plan application under the rules
of the commission;

(b) An amendment to the electric utility's most recently
approved electric resource plan; or

(c) A separate application that is consistent with the
electric resource planning rules of the commission and that
utilizes a competitive acquisition process for resource
acquisition.

(2) When considering an application filed as authorized by
subsection (1) of this section for approval to replace an electric
generating facility retired in conjunction with CO-EIA bonds,
the commission shall:

(a) Use its regular process for consideration of
applications;

(b) Determine whether the replacement resources are
needed to serve load and are consistent with the electric
utility's most recently approved electric resource plan; and

(c) Determine the relative levels of electric utility
ownership and non-utility ownership as follows:

(I) The electric utility shall be permitted to own
replacement facilities with a value that is no less than the
utility-owned replacement minimum; and

(II) The utility shall not be permitted to own replacement
facilities with a value greater than the utility-owned
REPLACEMENT MAXIMUM.

(3) For any application filed as authorized by subsection (1) of this section, the electric utility, subject to commission approval, shall use a competitive acquisition process to acquire cost-effective resources, regardless of ownership of such resources, for all acquisition of generation or energy storage resources to replace electric generating facilities that were retired in conjunction with a financing order.

(4) For purposes of this section:

(a) "Utility-owned replacement maximum" means the value of replacement generation resources with total capacity that is equal to the nameplate capacity of the electric generating facility being retired.

(b) "Utility-owned replacement minimum" means the value of electric utility investments in existing or new electric generation capacity or energy storage facilities that is the lesser of:

(I) The value of the proceeds of the associated CO-EIA bonds; or

(II) The undepreciated accounting value at the time of retirement of the electric generating facilities retired pursuant to this article 41.

PART 2

COLORADO ENERGY IMPACT ASSISTANCE AUTHORITY

40-41-201. Colorado energy impact assistance authority - creation - board - general powers and duties. (1) The Colorado energy impact assistance authority is hereby created. The
AUTHORITY IS AN INDEPENDENT PUBLIC BODY POLITIC AND CORPORATE, 
is not an agency of state government, and is not subject to 
administrative direction by any department, commission, board, 
or agency of the state. The authority is a public 
instrumentality, and its exercise of its powers and execution of 
the duties as specified in this article 41 is the performance of an 
esential public function.

(2) (a) The authority is governed by a board of directors, 
which consists of seven directors appointed by the governor as 
follows:

(I) One director who has professional job training 
experience;

(II) One director who has professional experience in rural 
economic development;

(III) One director who has electrical trades labor 
experience; and

(IV) Four directors appointed without occupational 
requirements, but the governor shall strongly consider 
appointing a director who is licensed to practice law in 
Colorado, a director who has professional finance experience, 
and at least one director who resides in an area directly 
impacted by the retirement of one or more electric generating 
facilities.

(b) The governor shall appoint the initial directors of the 
board for terms beginning September 1, 2019. Directors serve for 
five-year terms; except that two of the directors shall serve 
initial terms of three years. The governor may remove a
DIRECTOR FOR MISFEASANCE, MALFEASANCE, WILLFUL NEGLECT OF DUTY, OR OTHER CAUSE AFTER NOTICE AND A PUBLIC HEARING UNLESS THE DIRECTOR BEING REMOVED EXPRESSLY WAIVES IN WRITING HIS OR HER RIGHT TO NOTICE AND A PUBLIC HEARING. THE GOVERNOR SHALL FILL ANY VACANCY ON THE BOARD BY THE APPOINTMENT OF A NEW DIRECTOR FOR THE REMAINDER OF THE UNEXPIRED TERM OF THE DIRECTOR WHOSE DEPARTURE CAUSED THE VACANCY.

(c) DIRECTORS OF THE BOARD SERVE WITHOUT COMPENSATION BUT ARE ENTITLED TO REIMBURSEMENT FOR ALL NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES UNDER THIS ARTICLE 41. REIMBURSEMENT OF DIRECTORS MUST BE PAID BY THE AUTHORITY.

(3) THE PURPOSE AND MISSION OF THE AUTHORITY IS TO EXPEND MONEY RECEIVED FROM ELECTRIC UTILITIES THAT ARE ISSUING CO-EIA BONDS AS AUTHORIZED BY FINANCING ORDERS AND FROM OTHER SOURCES FOR THE PURPOSE OF MITIGATING DIRECT IMPacts TO COLORADO WORKERS AND COMMUNITIES RESULTING FROM THE RETIREMENT OF ELECTRIC GENERATING FACILITIES. IN FURTHERANCE OF ITS MISSION, AND IN ADDITION TO ANY OTHER POWERS AND DUTIES GRANTED TO THE AUTHORITY BY THIS ARTICLE 41, THE AUTHORITY HAS THE FOLLOWING GENERAL POWERS:

(a) TO HAVE THE DUTIES, PRIVILEGES, IMMUNITIES, RIGHTS, LIABILITIES, AND DISABILITIES OF A BODY CORPORATE AND POLITICAL SUBDIVISION OF THE STATE;

(b) TO HAVE PERPETUAL EXISTENCE AND SUCCESSION;

(c) TO ADOPT, HAVE, AND USE A SEAL AND TO ALTER THE SAME AT ITS PLEASURE;

(d) TO ADOPT RULES, BYLAWS, ORDERS, AND RESOLUTIONS

(e) To fix the time and place of board meetings, which must be held at least four times per year and, consistent with the open meetings law under Part 4 of Article 6 of Title 24, the method of providing notice of board meetings. At least one board meeting per year must be held in-person, and other meetings may be held using audio or video telecommunication technology.

(f) To pay its reasonable and necessary administrative and operating costs from any revenue that it receives;

(g) To sue and be sued;

(h) To appoint, hire, retain, and terminate officers and employees and contract with agents, attorneys, accountants, auditors, financial advisers, investment bankers, and other professional consultants to the extent needed to exercise its powers and perform its duties under this Article 41;

(i) To enter into contracts and agreements, including memorandums of understanding or intergovernmental agreements with one or more agencies or political subdivisions of the state or another state or with the federal government, not inconsistent with this Article 41 or any other laws of the state. The authority may enter into a contract or agreement with an appropriate state agency to help the authority administer the distribution of its money as transition assistance, and, if it does so, the money administered remains money of the
AUTHORITY UNTIL IT IS DISTRIBUTED AND IS NOT MONEY OR REVENUE OF
THE STATE.

(j) To acquire space, including office space, equipment,
services, supplies, and insurance necessary to execute its
powers, duties, and mission under this article 41;

(k) To deposit its money in any banking institution within
the state or in any depository authorized in section 24-75-603, to
appoint, for the purpose of making such deposits, one or more
persons, who shall give surety bonds in such amounts and form
and for such purposes as the board requires, to act as
custodians of its money, and to otherwise deposit and invest its
money as permitted by part 6 of article 75 of title 24; and

(l) To have and exercise any other powers necessary or
incidental to or implied from the specific powers and duties
granted in this section.

40-41-202. Mitigation of impacts - specific powers and duties
of authority - local advisory committees. (1) In order to mitigate
the direct impacts to Colorado workers and local communities
resulting from the retirement of electric generating facilities,
the authority has the following specific powers and duties:

(a) To determine the direct impacts that the retirement of
an electric generating facility owned by an electric utility will
have on Colorado workers and communities and to consult with
the department of local affairs, local governments, electric
utilities, labor unions, and any other persons who possess
relevant information in making any such determination;

(b) To receive payments from electric utilities required to
MAKE PAYMENTS TO THE AUTHORITY PURSUANT TO THE PROVISIONS OF A
FINANCING ORDER AND MAINTAIN A BALANCING ACCOUNT TO HOLD ANY
EXCESS MONEY NOT NEEDED IN THE SHORT RUN THAT HAS SEPARATE
SUBACCOUNTS FOR EACH ELECTRIC UTILITY THAT MAKES PAYMENTS TO
THE AUTHORITY;

(c) (I) To provide transition assistance, which the
authority may either provide directly or, except as otherwise
provided in subsection (1)(c)(II) of this section, may provide
indirectly by disbursing money to the department of local
affairs, to any local government or agency of local
government, to any nonprofit corporation or educational
institution, to any for-profit corporation, to any community
development agency, or to any eligible applicant, as defined in
section 8-83-303(4), for its use in mitigating direct impacts to
workers and local communities resulting from the retirement
of electric generating facilities.

(II) Unless fifteen or fewer Colorado workers are
directly impacted by the retirement of an electric generating
facility in accordance with a financing order issued pursuant to
section 40-41-105, the authority shall disburse at least fifty
percent of all transition assistance directly to Colorado
workers; except that, if the local advisory committee
established by the authority pursuant to subsection (2) of this
section determines that the disbursement of fifty percent of all
transition assistance directly to Colorado workers would be
excessive based on the amount of transition assistance
available and the amount of need for such direct assistance and
RECOMMENDS THAT A LOWER PERCENTAGE OF ALL TRANSITION ASSISTANCE BE DISBURSED DIRECTLY TO COLORADO WORKERS, THE AUTHORITY MAY REDUCE THE PERCENTAGE OF ALL TRANSITION ASSISTANCE DISBURSED DIRECTLY TO COLORADO WORKERS BELOW FIFTY PERCENT TO ANY PERCENTAGE NOT LESS THAN THIRTY PERCENT. THE AUTHORITY SHALL NOT DISBURSE MONEY AS TRANSITION ASSISTANCE TO THE DEPARTMENT OF LOCAL AFFAIRS OR A LOCAL GOVERNMENT OR AGENCY OF LOCAL GOVERNMENT IF THE RECEIPT OF THE MONEY WOULD TRIGGER OR INCREASE THE AMOUNT OF ANY REFUND OF EXCESS STATE OR LOCAL GOVERNMENT REVENUE REQUIRED BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, BUT MAY COMPENSATE THE DEPARTMENT OR A LOCAL GOVERNMENT OR AGENCY OF LOCAL GOVERNMENT FOR SERVICES CONTRACTED FOR PURSUANT TO SECTION 40-41-201 (3)(i);

(d) If the authority believes that it can allocate sufficient transition assistance directly to Colorado workers described in Section 40-41-103 (21)(a), (21)(b), (21)(d), and (21)(e) who are directly impacted by the retirement of an electric generating facility as authorized by a financing order without spending all of the money allocated for such transition assistance, to, if and to the extent authorized by the commission, retain any unspent money allocated for such transition assistance to pay transition assistance directly to Colorado workers who are directly impacted by the future retirement of other electric generating facilities as authorized by financing orders; and

(e) To develop standardized worker assistance programs to ensure that transition assistance provided for worker
RETRAINING, RETIREMENT ASSISTANCE, WAGE ASSISTANCE, AND OTHER FORMS OF WORKER ASSISTANCE IS PROVIDED AS FAIRLY AND EQUITABLY AS POSSIBLE ACROSS ALL WORKFORCES DIRECTLY IMPACTED BY THE RETIREMENT ELECTRIC GENERATING FACILITIES RETIRED AS AUTHORIZED BY FINANCING ORDERS.

(2) WHEN DETERMINING HOW BEST TO ADDRESS THE DIRECT IMPACTS TO A LOCAL COMMUNITY RESULTING FROM THE RETIREMENT OF ELECTRIC GENERATING FACILITIES AND PROVIDE TRANSITION ASSISTANCE, THE AUTHORITY SHALL TAKE INTO CONSIDERATION THE ADVICE OF A LOCAL ADVISORY COMMITTEE, WHICH THE AUTHORITY SHALL ESTABLISH IN CONJUNCTION WITH EACH BOARD OF COUNTY COMMISSIONERS, MUNICIPAL GOVERNING BODY, AND SCHOOL DISTRICT THAT INCLUDES ALL OR A PORTION OF THE IMPACTED COMMUNITY. BOTH THE AUTHORITY AND THE LOCAL ADVISORY COMMITTEE SHALL CONSIDER THE WORKFORCE TRANSITION PLAN SUBMITTED TO THE COMMISSION AS REQUIRED BY SECTION 40-41-104 (3)(g) WHEN DETERMINING WHICH WORKERS MOST NEED TRANSITION ASSISTANCE AND HOW TRANSITION ASSISTANCE SHOULD BE AlLOCATED. A LOCAL ADVISORY COMMITTEE:

(a) CONSISTS OF ONE MEMBER APPOINTED BY EACH PARTICIPATING BOARD OF COUNTY COMMISSIONERS, MUNICIPAL GOVERNING BODY, SCHOOL DISTRICT, AND LOCAL LABOR UNION FOR AFFECTED WORKERS;

(b) SHALL ADVISE THE AUTHORITY WITH RESPECT TO THE NATURE AND SCOPE OF THE DIRECT IMPACTS TO THE COMMUNITY RESULTING FROM THE RETIREMENT OF AN ELECTRIC Generating FACILITY AND THE DEVELOPMENT OF A TRANSITION ASSISTANCE PLAN FOR THE COMMUNITY;

and

(c) MAY EITHER BE DISSOLVED BY THE AUTHORITY WHEN THE
TRANSITION ASSISTANCE IS COMPLETED OR MAINTAINED TO ADVISE THE
AUTHORITY REGARDING THE IMPLEMENTATION OF THE TRANSITION
ASSISTANCE.

40-41-203. Voluntary contributions to authority by utilities.

(1) NOTWITHSTANDING THE LIMITATION ON THE USE OF RATEPAINTER
FUNDS SET FORTH IN SECTION 40-3-114, UPON THE RETIREMENT OF AN
ELECTRIC GENERATING FACILITY, AN ELECTRIC UTILITY MAY, AT ITS SOLE
DISCRETION, TRANSFER TO THE AUTHORITY AN AMOUNT OF UP TO FIFTEEN
PERCENT OF THE NET PRESENT VALUE OF OPERATIONAL SAVINGS CREATED
BY THE RETIREMENT OF THE ELECTRIC GENERATING FACILITY, WHETHER
OR NOT THE ELECTRIC UTILITY HAS OBTAINED A FINANCING ORDER AND
ISSUED CO-EIA BONDS IN CONNECTION WITH THE RETIREMENT OF THE
ELECTRIC GENERATING FACILITY. A DECISION BY A COLORADO ELECTRIC
UTILITY TO TRANSFER A PERCENTAGE OF THE NET PRESENT VALUE OF
OPERATING SAVINGS TO THE AUTHORITY SHALL BE DEEMED BY THE
COMMISSION TO BE A PRUDENT ACTION BY THE UTILITY.

(2) FOR PURPOSES OF THIS SECTION, THE NET PRESENT VALUE OF
OPERATIONAL SAVINGS CREATED BY THE RETIREMENT OF AN ELECTRIC
GENERATING FACILITY IS THE NET PRESENT VALUE OF THE ANNUAL
DIFERENCES BETWEEN THE ESTIMATED COST TO RATEPAYERS OF THE
CONTINUED OPERATION OF THE ELECTRIC GENERATING FACILITY MINUS
THE ESTIMATED COST OF ENERGY GENERATED OR PURCHASED TO REPLACE
THE ENERGY PREVIOUSLY GENERATED BY THE FACILITY.

40-41-204. Reporting to general assembly. NOTWITHSTANDING
SECTION 24-1-136 (11), FOR ANY FISCAL YEAR IN WHICH THE AUTHORITY
HAS PROVIDED TRANSITION ASSISTANCE, THE AUTHORITY, NO LATER THAN
FEBRUARY 15 OF THE FOLLOWING FISCAL YEAR, SHALL SUBMIT TO THE

40-41-205. Authority subject to open meetings and open records laws. The authority is subject to the open meetings provisions of part 4 of article 6 of title 24 and the "Colorado Open Records Act", part 2 of article 72 of title 24.

SECTION 2. In Colorado Revised Statutes, 24-77-102, amend the introductory portion; and add (15)(b)(XIX) as follows:

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

(15) (b) "Special purpose authority" includes, but is not limited to:
(XIX) The Colorado Energy Impact Assistance Authority created pursuant to section 40-41-201 (1).

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in
November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.