A BILL FOR AN ACT

CONCERNING THE EXPANSION OF ELECTRIC TRANSMISSION FACILITIES

TO ENABLE COLORADO TO MEET ITS CLEAN ENERGY GOALS,
AND, IN CONNECTION THEREWITH, CREATING THE COLORADO
ELECTRIC TRANSMISSION AUTHORITY, REQUIRING
TRANSMISSION UTILITIES TO JOIN REGIONAL TRANSMISSION
ORGANIZATIONS, AND ALLOWING ADDITIONAL CLASSES OF
TRANSMISSION UTILITIES TO OBTAIN REVENUE THROUGH THE
COLOCATION OF BROADBAND FACILITIES WITHIN THEIR
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.)
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.

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

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

40-2-126. Transmission facilities - biennial review - energy resource zones - definition - plans - approval - cost recovery. (3) The commission may, consistent with its authority, approve a utility's application for a certificate of public convenience and necessity for the cost-effective construction or expansion of transmission facilities pursuant to paragraph (b) of subsection (2) of this section if the commission finds that:

(a) The construction or expansion:

(I) Is required to:

(A) Ensure the reliable delivery of electricity to Colorado consumers, or to either alone or in combination with the
CONSUMERS OF OTHER STATES SERVED BY A REGIONAL TRANSMISSION
ORGANIZATION AS DEFINED IN SECTION 40-5-108 (1)(a); OR

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

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

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

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

(a) THE DESIGN, PLANNING, OR ENGINEERING OF THE
TRANSMISSION FACILITIES;
(b) MANAGEMENT FUNCTIONS TO OPERATE THE TRANSMISSION
FACILITIES; OR
(c) ANY WORK INCLUDED IN A WARRANTY.

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

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

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

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

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

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

(IV) IMPROVES SERVICE RELIABILITY WITHIN COLORADO;

(V) ACHIEVES THE OBJECTIVES OF AN OPEN AND COMPETITIVE
ELECTRIC GENERATION MARKETPLACE, ELIMINATION OF BARRIERS TO
MARKET ENTRY, AND PRECLUSION OF CONTROL OF BOTTLENECK ELECTRIC
TRANSMISSION FACILITIES IN THE PROVISION OF RETAIL ELECTRIC SERVICE;
(VI) is of sufficient scope or otherwise operates to substantially increase economical supply options for customers;

(VII) has a structure of governance or control that is independent of the users of the transmission facilities, and no member of its board of directors has an affiliation with a user or with an affiliate of a user during the member's tenure on the board so as to unduly affect the RTO's performance. As used in this subsection (1)(a)(VII), "user" means any entity or affiliate of that entity that buys or sells electric energy in the RTO's region or in a neighboring region.

(VIII) operates under policies that promote positive performance designed to satisfy the electricity requirements of customers;

(IX) has an inclusive and open stakeholder process that does not place unreasonable burdens on, or preclude meaningful participation by, any stakeholder group;

(X) promotes and assists new economic development in Colorado; and

(XI) is capable of maintaining real-time reliability of the electric transmission system, ensuring comparable and nondiscriminatory transmission access and necessary services, minimizing system congestion, and further addressing real or potential transmission constraints.

(b) "Transmission utility" means an investor-owned public utility that:

(I) is a wholesale or retail electricity supplier; and
II. OWNS AND OPERATES ELECTRIC TRANSMISSION LINES CAPABLE
OF TRANSMITTING ELECTRIC ENERGY AT A VOLTAGE OF ONE HUNDRED
KILOVOLTS OR MORE.

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

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

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

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

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

(3) THE COMMISSION SHALL CONSIDER ALLOWING, AND MAY
ALLOW, A TRANSMISSION UTILITY THAT JOINS AN RTO TO RECOVER RTO
SUBSCRIPTION FEES AND OTHER COSTS OF PARTICIPATION IN THE RTO
THROUGH RATES OR THROUGH A TRANSMISSION RIDER IF THOSE FEES AND
COSTS EXCEED THE NET REDUCTION IN COSTS ACHIEVED BY PARTICIPATION IN THE RTO.

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

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

(6) "Electric utility" means:

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

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

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

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

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

ARTICLE 42

Colorado Electric Transmission Authority Act

40-42-101. Short title. The short title of this article 42 is the "COLORADO ELECTRIC TRANSMISSION AUTHORITY ACT".

40-42-102. Definitions. As used in this article 42, unless the context otherwise requires:

(1) "ACQUIRE" MEANS TO OBTAIN ELIGIBLE FACILITIES BY LEASE, CONSTRUCTION, RECONSTRUCTION, PURCHASE, OR, AS AUTHORIZED BY SECTION 40-42-104 (1)(q) AND SUBJECT TO THE REQUIREMENTS OF
ARTICLES 1 TO 7 OF TITLE 38, THE EXERCISE OF THE POWER OF EMINENT

(2) "Authority" means the Colorado Electric Transmission

authority created in section 40-42-103.

(3) "Board" means the board of directors of the

authority.

(4) "Bonds" means electric transmission bonds issued as

authorized by this article 42 and includes notes, warrants,

bonds, temporary bonds, and anticipation notes issued by the

authority.

(5) "Commission" means the public utilities commission

created in section 40-2-101.

(6) "Electric transmission authority operational fund" or

"operational fund" means the fund created in section 40-42-106.

(7) "Electric transmission bonding fund" or "bonding

fund" means the fund created in section 40-42-105 (3).

(8) "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.

(9) "Eligible facilities" means facilities that are financed

or acquired by the authority.

(10) "Facilities" means electric transmission and

interconnected storage facilities and all related structures,

properties, and supporting infrastructure, including any
(11) "FERC" MEANS THE FEDERAL ENERGY REGULATORY COMMISSION.

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

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

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

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

(b) FACILITATE THE DISPATCHING OF ELECTRICITY; OR

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

40-42-103. Authority - creation - board - open meetings and open records. (1) The Colorado electric transmission authority is hereby created as an independent public body politic and corporate. The authority is a public instrumentality, and its exercise of the powers as authorized by this article 42 is the performance of an essential public function. The authority is a political subdivision of the state, is not an agency of state government, and is not subject to administrative direction by any department, commission, board, or agency of the state.

(2) (a) The powers of the authority are vested in a board
OF DIRECTORS, WHICH CONSISTS OF THE FOLLOWING SEVEN MEMBERS:

(I) Two members appointed by the governor with the consent of the senate;

(II) The director of the Colorado energy office created in section 24-38.5-101 or the director's designee;

(III) Two members appointed by the speaker of the house of representatives; and

(IV) Two members appointed by the president of the senate.

(b) The appointed members of the board must have the following qualifications:

(I) Of the members appointed by the governor, one must have expertise in financial matters involving the financing of major electric transmission projects and the other must represent the interests of electric utility customers residing west of the continental divide;

(II) Of the members appointed by the speaker of the house of representatives and the president of the senate:

(A) One must represent the interests of organized labor;

(B) One must represent the interests of residential customers of electric utilities;

(C) One must represent the interests of commercial or industrial customers of electric utilities; and

(D) One must have knowledge of renewable energy development.

(c) A member of the board shall not represent a person that owns or operates facilities.

(d) Board members shall serve four-year terms; except
THAT, OF THE APPOINTED MEMBERS INITIALLY APPOINTED TO THE BOARD,
ONE OF THE MEMBERS APPOINTED BY THE GOVERNOR AND ONE OF THE

(e) An appointed member of the board is eligible for reappointment. An appointing authority may remove a member of the board for cause.

(f) Board members shall not receive compensation for their services but shall be reimbursed for their reasonable and necessary travel and other expenses incurred in the performance of their official duties.

(3) The members of the board shall elect a chair and a vice-chair. Four members of the board constitute a quorum.

(4) The authority is subject to the open meetings provisions of the "Colorado Sunshine Act of 1972", article 6 of title 24, and to the "Colorado Open Records Act", part 2 of article 72 of title 24. However, information obtained by the authority that is proprietary technical or business information is confidential and is not subject to inspection pursuant to the
"COLORADO OPEN RECORDS ACT". PROPRIETARY CONFIDENTIAL INFORMATION INCLUDES POWER PURCHASE AGREEMENTS, COSTS OF PRODUCTION, COSTS OF TRANSMISSION, TRANSMISSION SERVICE AGREEMENTS, CREDIT REVIEWS, DETAILED POWER MODELS, AND FINANCING STATEMENTS.

40-42-104. General and specific powers and duties of the authority. (1) Except as otherwise limited by this Article 42, the authority, acting through the board, has the power to:

(a) Hold and exercise all rights, duties, privileges, immunities, liabilities, and disabilities of a body corporate and a political subdivision of the state;

(b) Sue and be sued;

(c) Have an official seal and alter the seal at the board's pleasure;

(d) Establish reasonable administrative and procedural bylaws for its organization and internal management and for the conduct of its affairs and business;

(e) Maintain an office at any place in Colorado that it may determine;

(f) Acquire, hold, use, and dispose of real and personal property and its income, revenue, funds, and money;

(g) Solicit and receive and expend gifts, grants, and donations;

(h) Make and enter into all contracts, leases, and agreements, including intergovernmental agreements, that are necessary or incidental to the performance of its duties and the exercise of its powers under this Article 42, including:
(I) Contracts for the lease and operation by the Authority of eligible facilities owned by an electric utility or other private person; and

(II) Contracts for leasing eligible facilities owned by the Authority, subject to the requirement that the Authority deposit any revenue derived pursuant to the lease into the electric transmission bonding fund;

(i) Unless otherwise specifically prohibited by this article 42, deposit money of the Authority in any banking institution within or outside the state;

(j) Fix the time and place or places at which its regular and special meetings are to be held;

(k) Hire a chief executive officer of the Authority and authorize the chief executive officer to hire other staff as necessary for the operation of the Authority;

(l) Use the services of executive departments of the state upon mutually agreeable terms and conditions;

(m) Enter into partnerships with public or private entities;

(n) Identify and establish corridors for the transmission of electricity within the state;

(o) Through participation in appropriate regional transmission forums and other organizations, including regional transmission organizations, as defined in section 40-5-108 (1)(a), coordinate, investigate, plan, prioritize, and negotiate with entities within and outside Colorado for the establishment of interstate transmission corridors and engage in other transmission planning activities;
(p) Subject to the requirements of subsection (2) of this section, conduct a transparent and competitive process to select a qualified transmission operator to assume the responsibility to carry out all required financing, planning, acquisition, maintenance, and operation of eligible facilities necessary or useful for the accomplishment of the purposes of this Article 42;

(q) Subject to the requirements of Articles 1 to 7 of Title 38, exercise the power of eminent domain for acquiring property or rights-of-way when needed for projects if the commission determines that doing so does not involve a taking of the property of an electric utility or materially diminish electric service reliability of the transmission system in Colorado;

(r) For any project, provide information and training to employees of the project regarding:

(I) Any unique hazards that may be posed by the project;

(II) Safe work practices; and

(III) Emergency procedures;

(s) Issue bonds as necessary to undertake a project;

(t) Collect payments of reasonable rates, fees, interest, or other charges from persons using eligible facilities to finance eligible facilities and for other services rendered by the authority, subject to the requirement that any revenue derived from payments made to the authority shall be deposited in the electric transmission bonding fund;

(u) Make determinations about the efficient use of existing rights-of-way as a precondition to pioneering new
RIGHTS-OF-WAY; AND

(v) Do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this Article 42.

(2) Except as provided in this subsection (2), the Authority shall not enter into a project if electric utilities or other private persons are willing to provide funds for and own new infrastructure to meet an identified need and market and already are performing the acts, are constructing or have constructed the facilities, or are providing the services contemplated by the Authority. Before the Authority enters into a project, the following procedural requirements must be met:

(a) The Authority shall provide to each electric utility and the Commission and publish at least once in a newspaper of general circulation in Colorado, at least once in a newspaper of general circulation in the area where the eligible facilities will be located, and continuously on a publicly accessible web page maintained by the Authority an initial notice describing the project that the Authority is considering.

(b) Any person with an interest that may be affected by the proposed project has thirty days after the date of the last printed publication of the initial notice to submit a written challenge concerning the proposed project to the Authority. If the Authority receives a challenge within the thirty days, the Authority shall hold a public hearing no sooner than thirty days after receiving the challenge and at least two weeks after...
POSTING NOTICE OF THE HEARING IN THE SAME NEWSPAPERS IN WHICH AND
WEB PAGE ON WHICH THE INITIAL NOTICE WAS GIVEN. FOLLOWING THE
PUBLIC HEARING, THE AUTHORITY SHALL MAKE A FINAL DETERMINATION
ON WHETHER THE AUTHORITY WILL IMPLEMENT THE PROPOSED PROJECT
AND GIVE NOTICE OF THE DETERMINATION IN THE SAME NEWSPAPERS AND
ON THE SAME WEB PAGE AS THE INITIAL NOTICE GIVEN. ANY PERSON OR
GOVERNMENTAL ENTITY PARTICIPATING IN THE HEARING MAY APPEAL THE
FINAL DETERMINATION BY FILING A NOTICE OF APPEAL WITH THE DISTRICT
COURT FOR THE CITY AND COUNTY OF DENVER WITHIN THIRTY-FIVE DAYS
AFTER THE DATE OF THE FINAL DETERMINATION.

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

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

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

(d) ABSENT NOTIFICATION BY AN ELECTRIC UTILITY OR OTHER
PERSON PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION, OR IF A
PERSON, HAVING GIVEN NOTICE OF INTENTION TO PROVIDE MONEY FOR,
ACQUIRE, MAINTAIN, AND OPERATE THE ELIGIBLE FACILITIES
CONTEMPLATED BY THE AUTHORITY, FAILS TO MAKE A GOOD-FAITH
EFFORT TO BEGIN TO DO SO WITHIN SIX MONTHS AFTER THE DATE THE
PERSON NOTIFIED THE AUTHORITY OF ITS INTENTION, THE AUTHORITY MAY
PROCEED TO FINANCE, PLAN, ACQUIRE, MAINTAIN, AND OPERATE THE
ELIGIBLE FACILITIES ORIGINALLY CONTEMPLATED. HOWEVER, A PERSON
THAT, WITHIN THE TIME REQUIRED, HAS MADE NECESSARY APPLICATIONS
TO ACQUIRE FEDERAL, STATE, LOCAL, OR PRIVATE PERMITS, CERTIFICATES,
OR OTHER APPROVALS NECESSARY TO ACQUIRE THE ELIGIBLE FACILITIES
IS DEEMED TO HAVE COMMENCED THE ACQUISITION AS LONG AS THE
PERSON DILIGENTLY PURSUES THE PERMITS, CERTIFICATES, OR OTHER
APPROVALS.

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

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

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

(a) THE FACILITIES ARE LEASED TO OR HELD FOR LEASE OR SALE TO
AN ELECTRIC UTILITY OR ANOTHER PERSON APPROVED BY THE
(b) The operation, maintenance, and use of the facilities are vested by lease or other contract in an electric utility or another person approved by the commission;

(c) The facilities are owned or controlled for a period of not more than one hundred eighty days after termination of a lease or contract described in subsection (5)(a) or (5)(b) of this section or after the authority gains possession of the facilities following a breach of such a lease or contract or as a result of bankruptcy proceedings; or

(d) The facilities do not affect in-state retail rates or electric service reliability.

(6) (a) An electric utility that is subject to regulation by the commission may recover the capital cost of a project undertaken pursuant to this article 42 from its retail customers only if the project has received a certificate of public convenience and necessity from the commission. An electric utility that is a municipally owned utility exempt from regulation by the commission may recover such costs only if the project has been approved by the governing body of the municipality. A cooperative electric association exempt from regulation by the commission may recover such costs only if the project has been approved by the board of directors of the cooperative electric association.

(b) Costs associated with a project undertaken pursuant to this article 42 are not recoverable from retail utility customers except to the extent the costs are prudently
INCURRED AND THE PROJECT IS USED AND USEFUL IN SERVING THOSE CUSTOMERS.

40-42-105. Electric transmission bonds - conditions of issuance
- electric transmission bonding fund creation - auditor examination
- payment from bonding fund - exemption from taxation. (1) The authority may issue and sell electric transmission bonds, payable solely from the electric transmission bonding fund, in compliance with this article 42 for the purpose of entering into a project when the authority determines that the project is needed. This article 42 is, without reference to any other law, full authority for the issuance and sale of bonds. Bonds have all the qualities of investment securities under the "Uniform Commercial Code", title 4, and shall not be deemed invalid for any irregularity or defect or be contestable in the hands of bona fide purchasers or holders of the bonds for value.

(2) (a) Bonds may be executed and delivered by the authority at such times; may be in such form and denominations and include such terms and maturities; may be subject to optional or mandatory redemption prior to maturity with or without a premium; may be in fully registered form or bearer form registrable as to principal or interest or both; may bear such conversion privileges; may be payable in such installments and at such times not exceeding thirty years; may be payable at such place or places whether within or without the state; may bear interest at such rate or rates per annum, which may be fixed or vary according to index, procedure, or formula or as determined by the authority or its agents, without regard to
ANY INTEREST RATE LIMITATION APPEARING IN ANY OTHER LAW OF THE
STATE; MAY BE SUBJECT TO PURCHASE AT THE OPTION OF THE HOLDER OR
THE AUTHORITY; MAY BE EVIDENCED IN SUCH MANNER; MAY BE EXECUTED
BY SUCH OFFICERS OF THE AUTHORITY, INCLUDING THE USE OF ONE OR
MORE FACSIMILE SIGNATURES SO LONG AS AT LEAST ONE MANUAL
SIGNATURE APPEARS ON THE BONDS, WHICH MAY BE EITHER OF AN OFFICER
OF THE AUTHORITY OR OF AN AGENT AUTHENTICATING THE SAME; MAY BE
IN THE FORM OF COUPON BONDS THAT HAVE ATTACHED INTEREST
COUPONS BEARING A MANUAL OR FACSIMILE SIGNATURE OF AN OFFICER OF
THE AUTHORITY; AND MAY CONTAIN SUCH PROVISIONS NOT INCONSISTENT
WITH THIS ARTICLE 42, ALL AS PROVIDED IN THE RESOLUTION OF THE
AUTHORITY UNDER WHICH THE BONDS ARE AUTHORIZED TO BE ISSUED OR
AS PROVIDED IN A TRUST INDENTURE BETWEEN THE AUTHORITY AND ANY
COMMERCIAL BANK OR TRUST COMPANY HAVING FULL TRUST POWERS.

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

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

(A) FIX THE DATE OF SALE OF BONDS;

(B) RECEIVE BIDS OR PROPOSALS;

(C) AWARD AND SELL BONDS;

(D) FIX INTEREST RATES; AND

(E) TAKE ALL OTHER ACTION NECESSARY TO SELL AND DELIVER
BONDS.
(III) The authority may refund any outstanding bonds pursuant to Article 56 of Title 11.

(IV) All bonds and any interest coupons applicable to the bonds are declared to be negotiable instruments.

(c) Bonds are exempt from taxation by the state and any county, city and county, municipality, or other political subdivision of the state.

(d) Public entities, as defined in section 24-75-601 (1), may invest public money in bonds so long as the bonds satisfy the investment requirements established in part 6 of article 75 of title 24.

(e) Neither a member of the board nor an employee of the authority nor any person executing bonds is liable personally on the bonds or subject to any personal liability by reason of the issuance of the bonds.

(3) (a) (I) The electric transmission bonding fund is created in the authority. The bonding fund consists of:

(A) Revenue received by the authority from operating or leasing eligible facilities;

(B) Fees and service charges collected;

(C) Bond proceeds;

(D) Money from payments of principal and interest on loans if the authority has provided financing for eligible facilities; and

(E) All interest and income derived from the deposit and investment of money in the bonding fund.

(II) The authority may create separate accounts within
THE BONDING FUND IN CONNECTION WITH ANY ISSUANCE OF BONDS AND
MAY DEPOSIT IN THE SEPARATE ACCOUNTS REVENUE RECEIVED BY THE
AUTHORITY FROM THE FINANCING OR LEASING OF ELIGIBLE FACILITIES.
ANY SEPARATE ACCOUNT SHALL BE HELD BY A TRUSTEE ACTING UNDER A
TRUST INDENTURE RELATING TO THE BONDS CONNECTED TO THE
ACCOUNT. INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
INVESTMENT OF MONEY IN A SEPARATE ACCOUNT SHALL BE CREDITED TO
THE ACCOUNT.

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

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

(c) MONEY IN THE BONDING FUND IS PLEDGED FOR THE PAYMENT
OF PRINCIPAL AND INTEREST ON BONDS ISSUED PURSUANT TO THIS ARTICLE
42. MONEY IN ANY SEPARATE ACCOUNT MAY BE PLEDGED SOLELY TO
PAYMENT OF THE BONDS FOR WHICH THE SEPARATE ACCOUNT WAS CREATED. THE AUTHORITY MAY EXPEND MONEY IN THE BONDING FUND OR A SEPARATE ACCOUNT FOR THE PURPOSE OF PAYING DEBT SERVICE, INCLUDING REDEMPTION PREMIUMS, ON BONDS AND EXPENSES INCURRED IN THE ISSUANCE, PAYMENT, AND ADMINISTRATION OF THE BONDS.

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

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

(6) THE STATE PLEDGES THAT THE BONDING FUND, INCLUDING ANY SEPARATE ACCOUNT WITHIN THE BONDING FUND, SHALL BE USED ONLY
FOR THE PURPOSES SPECIFIED IN THIS SECTION AND IS PLEDGED FIRST TO
REPAY BONDS ISSUED PURSUANT TO THIS ARTICLE 42. THE STATE FURTHER
PLEDGES THAT ANY LAW REQUIRING THE DEPOSIT OF REVENUE IN THE
BONDING FUND OR AUTHORIZING EXPENDITURES FROM THE BONDING FUND
SHALL NOT BE AMENDED OR REPEALED OR OTHERWISE MODIFIED SO AS TO
IMPAIR THE BONDS TO WHICH THE BONDING FUND IS DEDICATED AS
PROVIDED IN THIS SECTION.

40-42-106. Electric transmission authority operational fund -
creation. The electric transmission authority operational fund
is created in the authority. The operational fund consists of
money transferred to the operational fund pursuant to section
40-42-105 (4), any other money that the authority may transfer
to the operational fund, and interest and income derived from
the deposit and investment of money in the operational fund. The
authority may expend money from the operational fund for the
purpose of carrying out this article 42, and the authority may
establish procedures to administer the operational fund in
accordance with this article 42 and any other applicable
provision of state law.

40-42-107. Report to general assembly. Commencing in 2022,
the authority shall submit a report of its activities to the
energy and environment committee of the house of
representatives and the transportation and energy committee
of the senate, or any successor committees, not later than
December 1 of each year. The report shall set forth a complete
operating and financial statement covering the operations of
the authority for the previous state fiscal year.
NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO
SUBMIT THE REPORT CONTINUES INDEFINITELY.

SECTION 5. 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 ELECTRIC TRANSMISSION AUTHORITY
CREATED IN SECTION 40-42-103 (1).

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

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

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

(XXXIX) A regional transportation authority created pursuant to
section 43-4-603 ☼, as authorized in section 43-4-604 (1)(a)(IV);

(XXL) The Colorado aeronautical board created in section
43-10-104 C.R.S.; as authorized in section 43-10-106 (1); C.R.S. AND

(XLI) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY CREATED IN SECTION 40-42-103 (1) AS AUTHORIZED IN SECTION 40-42-104 (1)(q).

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

38-5-104. Right-of-way across private lands. (1) (a) Such a telegraph, telephone, electric light, power, gas, or pipeline company or such a city or town shall be entitled to the right-of-way over or under the land, property, privileges, rights-of-way, and easements of other persons and corporations and to the right to erect its poles, wires, pipes, regulator stations, substations, systems, and offices upon making just compensation therefor in the manner provided by law. When a right-of-way is taken under this section 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.

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

(II) The rights granted by this section and section 38-5-105 to telegraph or telephone companies shall do not extend to the taking of any portion of the right-of-way of a railroad company, except to the extent of
acquiring any easement which does not materially interfere with the existing use by the railroad company, or except to the extent of acquiring any necessary easement to cross the same or to serve such railroad company with telegraph or telephone service.

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

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

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

(II) The financing of the office of consumer counsel created in article 6.5 of this title; AND

(III) With regard only to expenditures from the public utility commission fixed utility fund created in subsection (1)(a)(I) of this section, the administrative expenses, not to exceed five hundred thousand dollars annually, incurred by the Colorado electric transmission authority in carrying out its duties under article 42 of this title.

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

SECTION 9. Applicability. This act applies to conduct occurring
on or after the effective date of this act.

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