

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
10.11.19

BILL 2

LLS NO. 20-0336.01 Jason Gelender x4330

INTERIM COMMITTEE BILL

Energy Legislation Review Interim Study Committee

BILL TOPIC: "Create Colorado Electric Transmission Authority"

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE COLORADO ELECTRIC**
102 **TRANSMISSION AUTHORITY.**

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/>.)

Energy Legislation Review Interim Study Committee. The bill creates the Colorado electric transmission authority as an independent special purpose authority and specifies the composition and manner of appointment of the board of directors that governs the authority. The authority is authorized to finance or plan, acquire, maintain, and operate eligible electric transmission and interconnected storage facilities

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

(eligible facilities).

The authority is granted various powers necessary to accomplish its purposes of financing or planning, acquiring, maintaining, and operating eligible facilities, 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. The authority 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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-77-102, **amend**
3 the introductory portion; and **add** (15)(b)(XIX) as follows:

4 **24-77-102. Definitions.** As used in this ~~article~~ ARTICLE 77, unless
5 the context otherwise requires:

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

7 (XIX) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
8 CREATED PURSUANT TO ARTICLE 42 OF TITLE 40.

9 **SECTION 2.** In Colorado Revised Statutes, 38-1-202, **add**
10 (1)(f)(XLI) as follows:

11 **38-1-202. Governmental entities, corporations, and persons**
12 **authorized to use eminent domain.** (1) The following governmental
13 entities, types of governmental entities, and public corporations, in
14 accordance with all procedural and other requirements specified in this
15 article 1 and articles 2 to 7 of this title 38 and to the extent and within any
16 time frame specified in the applicable authorizing statute, may exercise
17 the power of eminent domain:

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

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

9 **SECTION 3.** In Colorado Revised Statutes, **add** article 42 to title
10 40 as follows:

11 **ARTICLE 42**

12 **Colorado Electric Transmission Authority Act**

13 **40-42-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 42 IS
14 THE "COLORADO ELECTRIC TRANSMISSION AUTHORITY ACT".

15 **40-42-102. Definitions.** AS USED IN THIS ARTICLE 42, UNLESS THE
16 CONTEXT OTHERWISE REQUIRES:

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

21 (2) "AUTHORITY" MEANS THE COLORADO ELECTRIC TRANSMISSION
22 AUTHORITY.

23 (3) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE
24 AUTHORITY.

25 (4) "BONDS" MEANS ELECTRIC TRANSMISSION BONDS ISSUED AS
26 AUTHORIZED BY THIS ARTICLE 42 AND INCLUDES NOTES, WARRANTS,
27 BONDS, TEMPORARY BONDS, AND ANTICIPATION NOTES ISSUED BY THE

1 AUTHORITY.

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

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

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

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

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

16 (10) "FACILITIES" MEANS ELECTRIC TRANSMISSION AND
17 INTERCONNECTED STORAGE FACILITIES AND ALL RELATED STRUCTURES,
18 PROPERTIES, AND SUPPORTING INFRASTRUCTURE, INCLUDING ANY
19 INTERESTS THEREIN.

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

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

1 (13) (a) "RENEWABLE ENERGY" MEANS ELECTRIC ENERGY THAT IS:

2 (I) GENERATED BY USE OF LOW- OR ZERO-EMISSIONS GENERATION
3 TECHNOLOGY WITH SUBSTANTIAL LONG-TERM PRODUCTION POTENTIAL;

4 OR

5 (II) GENERATED BY USE OF RENEWABLE ENERGY RESOURCES,
6 INCLUDING:

7 (A) SOLAR, WIND, HYDROELECTRIC, AND GEOTHERMAL
8 RESOURCES;

9 (B) FUEL CELLS THAT DO NOT USE FOSSIL FUEL; AND

10 (C) BIOMASS RESOURCES, SUCH AS AGRICULTURAL OR ANIMAL
11 WASTE, SMALL-DIAMETER TIMBER, SALT CEDAR AND OTHER
12 PHREATOPHYTE OR WOODY VEGETATION REMOVED FROM RIVER BASINS OR
13 WATERSHEDS IN COLORADO, LANDFILL GAS, AND ANAEROBICALLY
14 DIGESTED WASTE BIOMASS.

15 (b) "RENEWABLE ENERGY" DOES NOT INCLUDE ELECTRIC ENERGY
16 GENERATED BY USE OF FOSSIL FUEL OR NUCLEAR ENERGY.

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

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

21 (b) FACILITATE THE DISPATCHING OF ELECTRICITY; OR

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

23 **40-42-103. Authority - creation - board - open meetings and**
24 **open records.** (1) THE COLORADO ELECTRIC TRANSMISSION AUTHORITY
25 IS HEREBY CREATED AS AN INDEPENDENT PUBLIC BODY POLITIC AND
26 CORPORATE. THE AUTHORITY IS A PUBLIC INSTRUMENTALITY, AND ITS
27 EXERCISE OF THE POWERS AS AUTHORIZED BY THIS ARTICLE 42 IS THE

1 PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION. THE AUTHORITY IS A
2 POLITICAL SUBDIVISION OF THE STATE, IS NOT AN AGENCY OF STATE
3 GOVERNMENT, AND IS NOT SUBJECT TO ADMINISTRATIVE DIRECTION BY
4 ANY DEPARTMENT, COMMISSION, BOARD, OR AGENCY OF THE STATE.

5 (2) (a) THE POWERS OF THE AUTHORITY ARE VESTED IN A BOARD
6 OF DIRECTORS, WHICH CONSISTS OF THE FOLLOWING NINE MEMBERS:

7 (I) ONE MEMBER APPOINTED BY THE GOVERNOR WITH THE
8 CONSENT OF THE SENATE;

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

11 (III) THE STATE TREASURER OR THE STATE TREASURER'S
12 DESIGNEE;

13 (IV) THE DIRECTOR OF THE OFFICE OF ECONOMIC DEVELOPMENT
14 OR THE DIRECTOR'S DESIGNEE;

15 (V) THE DIRECTOR OF THE COMMISSION OR THE DIRECTOR'S
16 DESIGNEE;

17 (VI) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF
18 REPRESENTATIVES;

19 (VII) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE;

20 (VIII) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE
21 HOUSE OF REPRESENTATIVES; AND

22 (IX) ONE MEMBER APPOINTED BY THE MINORITY LEADER OF THE
23 SENATE.

24 (b) THE APPOINTED MEMBERS OF THE BOARD MUST HAVE THE
25 FOLLOWING QUALIFICATIONS:

26 (I) THE MEMBER APPOINTED BY THE GOVERNOR MUST HAVE
27 EXPERTISE IN FINANCIAL MATTERS INVOLVING THE FINANCING OF MAJOR

1 ELECTRIC TRANSMISSION PROJECTS; AND

2 (II) THE OTHER APPOINTED MEMBERS OF THE BOARD MUST HAVE:

3 (A) SPECIAL KNOWLEDGE OF THE PUBLIC UTILITY INDUSTRY, AS
4 EVIDENCED BY COLLEGE DEGREES OR BY EXPERIENCE, AT LEAST FIVE
5 YEARS OF WHICH MUST BE IN THE PUBLIC UTILITY INDUSTRY; AND

6 (B) KNOWLEDGE OF RENEWABLE ENERGY DEVELOPMENT.

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

9 (d) OF THE APPOINTED MEMBERS INITIALLY APPOINTED TO THE
10 BOARD, THE MEMBERS APPOINTED BY THE GOVERNOR, THE SPEAKER OF
11 THE HOUSE OF REPRESENTATIVES, AND THE MINORITY LEADER OF THE
12 SENATE SHALL SERVE INITIAL TERMS OF FOUR YEARS AND THE MEMBERS
13 APPOINTED BY THE PRESIDENT OF THE SENATE AND THE MINORITY LEADER
14 OF THE HOUSE OF REPRESENTATIVES SHALL SERVE INITIAL TERMS OF TWO
15 YEARS. THEREAFTER, ALL APPOINTED MEMBERS OF THE BOARD SHALL
16 SERVE FOUR-YEAR TERMS. A VACANCY IN THE MEMBERSHIP OF THE BOARD
17 MUST BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT
18 FOR THE REMAINDER OF THE EXPIRED TERM ONLY.

19 (e) AN APPOINTED MEMBER OF THE BOARD IS ELIGIBLE FOR
20 REAPPOINTMENT. AN APPOINTING AUTHORITY MAY REMOVE A MEMBER OF
21 THE BOARD FOR CAUSE, AFTER A PUBLIC HEARING, AND MAY SUSPEND THE
22 MEMBER FROM THE BOARD PENDING THE COMPLETION OF THE HEARING.

23 (f) BOARD MEMBERS SHALL NOT RECEIVE COMPENSATION FOR
24 THEIR SERVICES BUT SHALL BE REIMBURSED FOR THEIR REASONABLE AND
25 NECESSARY TRAVEL AND OTHER EXPENSES INCURRED IN THE
26 PERFORMANCE OF THEIR OFFICIAL DUTIES.

27 (3) THE MEMBERS OF THE BOARD SHALL ELECT A CHAIR AND A

1 VICE-CHAIR. FIVE MEMBERS OF THE BOARD CONSTITUTE A QUORUM.

2 (4) THE AUTHORITY IS SUBJECT TO THE OPEN MEETINGS
3 PROVISIONS OF THE COLORADO SUNSHINE LAW CONTAINED IN PART 4 OF
4 ARTICLE 6 OF TITLE 24 AND THE "COLORADO OPEN RECORDS ACT",
5 ARTICLE 72 OF TITLE 24. HOWEVER, INFORMATION OBTAINED BY THE
6 AUTHORITY THAT IS PROPRIETARY TECHNICAL OR BUSINESS INFORMATION
7 IS CONFIDENTIAL AND IS NOT SUBJECT TO INSPECTION PURSUANT TO THE
8 "COLORADO OPEN RECORDS ACT". PROPRIETARY CONFIDENTIAL
9 INFORMATION INCLUDES POWER PURCHASE AGREEMENTS, COSTS OF
10 PRODUCTION, COSTS OF TRANSMISSION, TRANSMISSION SERVICE
11 AGREEMENTS, CREDIT REVIEWS, DETAILED POWER MODELS, AND
12 FINANCING STATEMENTS.

13 **40-42-104. General and specific powers and duties of the**
14 **authority.** (1) EXCEPT AS OTHERWISE LIMITED BY THIS ARTICLE 42, THE
15 AUTHORITY, ACTING THROUGH THE BOARD, HAS THE POWER TO:

16 (a) HOLD AND EXERCISE ALL RIGHTS, DUTIES, PRIVILEGES,
17 IMMUNITIES, LIABILITIES, AND DISABILITIES OF A BODY CORPORATE AND
18 A POLITICAL SUBDIVISION OF THE STATE;

19 (b) SUE AND BE SUED;

20 (c) HAVE AN OFFICIAL SEAL AND TO ALTER THE SAME AT THE
21 BOARD'S PLEASURE;

22 (d) ESTABLISH REASONABLE ADMINISTRATIVE AND PROCEDURAL
23 BYLAWS FOR ITS ORGANIZATION AND INTERNAL MANAGEMENT AND FOR
24 THE CONDUCT OF ITS AFFAIRS AND BUSINESS;

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

27 (f) ACQUIRE, HOLD, USE, AND DISPOSE OF REAL AND PERSONAL

1 PROPERTY AND ITS INCOME, REVENUE, FUNDS, AND MONEY;

2 (g) SOLICIT AND RECEIVE AND EXPEND GIFTS, GRANTS, AND
3 DONATIONS;

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

8 (I) CONTRACTS FOR THE LEASE AND OPERATION BY THE
9 AUTHORITY OF ELIGIBLE FACILITIES OWNED BY AN ELECTRIC UTILITY OR
10 OTHER PRIVATE PERSON; AND

11 (II) CONTRACTS FOR LEASING ELIGIBLE FACILITIES OWNED BY THE
12 AUTHORITY, SUBJECT TO THE REQUIREMENT THAT THE AUTHORITY
13 DEPOSIT ANY REVENUE DERIVED PURSUANT TO THE LEASE INTO THE
14 ELECTRIC TRANSMISSION BONDING FUND;

15 (i) UNLESS OTHERWISE SPECIFICALLY PROHIBITED BY THIS ARTICLE
16 42, DEPOSIT MONEY OF THE AUTHORITY IN ANY BANKING INSTITUTION
17 WITHIN OR OUTSIDE THE STATE;

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

20 (k) HIRE A CHIEF EXECUTIVE OFFICER OF THE AUTHORITY AND
21 AUTHORIZE THE CHIEF EXECUTIVE OFFICER TO HIRE OTHER STAFF AS
22 NECESSARY FOR THE OPERATION OF THE AUTHORITY;

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

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

26 (n) IDENTIFY AND ESTABLISH CORRIDORS FOR THE TRANSMISSION
27 OF ELECTRICITY WITHIN THE STATE;

1 (o) THROUGH PARTICIPATION IN APPROPRIATE REGIONAL
2 TRANSMISSION FORUMS, COORDINATE, INVESTIGATE, PLAN, PRIORITIZE,
3 AND NEGOTIATE WITH ENTITIES WITHIN AND OUTSIDE COLORADO FOR THE
4 ESTABLISHMENT OF INTERSTATE TRANSMISSION CORRIDORS;

5 (p) SUBJECT TO THE REQUIREMENTS OF SUBSECTION (2) OF THIS
6 SECTION, FINANCE OR PLAN, ACQUIRE, MAINTAIN, AND OPERATE ELIGIBLE
7 FACILITIES NECESSARY OR USEFUL FOR THE ACCOMPLISHMENT OF THE
8 PURPOSES OF THIS ARTICLE 42;

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

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

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

19 (II) SAFE WORK PRACTICES; AND

20 (III) EMERGENCY PROCEDURES;

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

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

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

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

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

20 (b) ANY PERSON WITH AN INTEREST THAT MAY BE AFFECTED BY
21 THE PROPOSED PROJECT HAS THIRTY DAYS AFTER THE DATE OF THE LAST
22 PRINTED PUBLICATION OF THE INITIAL NOTICE TO CHALLENGE, IN WRITING,
23 THE PROPOSED PROJECT. IF A CHALLENGE IS RECEIVED BY THE AUTHORITY
24 WITHIN THE THIRTY DAYS, THE AUTHORITY SHALL HOLD A PUBLIC HEARING
25 NO SOONER THAN THIRTY DAYS AFTER RECEIVING THE CHALLENGE AND
26 AFTER A MINIMUM OF TWO WEEKS AFTER NOTICE IN THE SAME
27 NEWSPAPERS IN WHICH AND WEB PAGE ON WHICH THE INITIAL NOTICE WAS

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

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

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

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

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

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

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

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

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

24 (a) THE FACILITIES ARE LEASED TO OR HELD FOR LEASE OR SALE TO
25 AN ELECTRIC UTILITY OR AN OTHER PERSON APPROVED BY THE
26 COMMISSION;

27 (b) THE OPERATION, MAINTENANCE, AND USE OF THE FACILITIES

1 ARE VESTED BY LEASE OR OTHER CONTRACT IN AN ELECTRIC UTILITY OR
2 ANOTHER PERSON APPROVED BY THE COMMISSION;

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

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

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

23 (b) COSTS ASSOCIATED WITH A PROJECT UNDERTAKEN PURSUANT
24 TO THIS ARTICLE 42 ARE NOT RECOVERABLE FROM RETAIL UTILITY
25 CUSTOMERS EXCEPT TO THE EXTENT THE COSTS ARE PRUDENTLY
26 INCURRED AND THE PROJECT IS USED AND USEFUL IN SERVING THOSE
27 CUSTOMERS AS DETERMINED BY THE COMMISSION.

1 **40-42-105. Electric transmission bonds - conditions of issuance**
2 **- electric transmission bonding fund creation - auditor examination**
3 **- payment from bonding fund - exemption from taxation. (1) THE**

4 AUTHORITY IS AUTHORIZED TO ISSUE AND SELL ELECTRIC TRANSMISSION
5 BONDS, PAYABLE SOLELY FROM THE ELECTRIC TRANSMISSION BONDING
6 FUND, IN COMPLIANCE WITH THIS ARTICLE 42 FOR THE PURPOSE OF
7 ENTERING INTO A PROJECT WHEN THE AUTHORITY DETERMINES THAT THE
8 PROJECT IS NEEDED. THIS ARTICLE 42 IS, WITHOUT REFERENCE TO ANY
9 OTHER LAW, FULL AUTHORITY FOR THE ISSUANCE AND SALE OF BONDS.
10 BONDS HAVE ALL THE QUALITIES OF INVESTMENT SECURITIES UNDER THE
11 "UNIFORM COMMERCIAL CODE", TITLE 4, AND SHALL NOT BE DEEMED
12 INVALID FOR ANY IRREGULARITY OR DEFECT OR BE CONTESTABLE IN THE
13 HANDS OF BONA FIDE PURCHASERS OR HOLDERS OF THE BONDS FOR VALUE.

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

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

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

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

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

21 (B) RECEIVE BIDS OR PROPOSALS;

22 (C) AWARD AND SELL BONDS;

23 (D) FIX INTEREST RATES; AND

24 (E) TAKE ALL OTHER ACTION NECESSARY TO SELL AND DELIVER
25 THE BONDS.

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

1 (IV) ALL BONDS AND ANY INTEREST COUPONS APPLICABLE
2 THERETO ARE DECLARED TO BE NEGOTIABLE INSTRUMENTS.

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

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

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

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

16 (A) REVENUE RECEIVED BY THE AUTHORITY FROM OPERATING OR
17 LEASING ELIGIBLE FACILITIES;

18 (B) FEES AND SERVICE CHARGES COLLECTED;

19 (C) BOND PROCEEDS;

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

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

25 (II) THE AUTHORITY MAY CREATE SEPARATE ACCOUNTS WITHIN
26 THE BONDING FUND IN CONNECTION WITH ANY ISSUANCE OF BONDS AND
27 MAY DEPOSIT IN THE SEPARATE ACCOUNTS REVENUE RECEIVED BY THE

1 AUTHORITY FROM THE FINANCING OR LEASING OF ELIGIBLE FACILITIES.
2 ANY SEPARATE ACCOUNT SHALL BE HELD BY A TRUSTEE ACTING UNDER A
3 TRUST INDENTURE RELATING TO THE BONDS CONNECTED TO THE
4 ACCOUNT. INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
5 INVESTMENT OF MONEY IN A SEPARATE ACCOUNT SHALL BE CREDITED TO
6 THE ACCOUNT.

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

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

22 (c) MONEY IN THE BONDING FUND IS PLEDGED FOR THE PAYMENT
23 OF PRINCIPAL AND INTEREST ON BONDS ISSUED PURSUANT TO THIS ARTICLE
24 42. MONEY IN ANY SEPARATE ACCOUNT MAY BE PLEDGED SOLELY TO
25 PAYMENT OF THE BONDS FOR WHICH THE SEPARATE ACCOUNT WAS
26 CREATED. THE AUTHORITY MAY EXPEND MONEY IN THE BONDING FUND OR
27 A SEPARATE ACCOUNT FOR THE PURPOSE OF PAYING DEBT SERVICE,

1 INCLUDING REDEMPTION PREMIUMS, ON BONDS AND EXPENSES INCURRED
2 IN THE ISSUANCE, PAYMENT, AND ADMINISTRATION OF THE BONDS.

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

14 (5) BONDS ARE PAYABLE SOLELY FROM THE ELECTRIC
15 TRANSMISSION BONDING FUND OR FROM ANY SEPARATE ACCOUNT,
16 CREATED WITHIN THE BONDING FUND OR, WITH THE APPROVAL OF THE
17 BONDHOLDERS, SUCH OTHER SPECIAL FUNDS AS MAY BE PROVIDED BY LAW
18 AND DO NOT CREATE AN OBLIGATION OR INDEBTEDNESS OF THE STATE
19 WITHIN THE MEANING OF ANY CONSTITUTIONAL PROVISION OR LAW. NO
20 BREACH OF ANY CONTRACTUAL OBLIGATION INCURRED PURSUANT TO THIS
21 ARTICLE 42 IMPOSES A PECUNIARY LIABILITY OR A CHARGE UPON THE
22 GENERAL CREDIT OR TAXING POWER OF THE STATE.

23 (6) THE STATE PLEDGES THAT THE ELECTRONIC TRANSMISSION
24 BONDING FUND, INCLUDING ANY SEPARATE ACCOUNT WITHIN THE
25 BONDING FUND, SHALL BE USED ONLY FOR THE PURPOSES SPECIFIED IN THIS
26 SECTION AND IS PLEDGED FIRST TO REPAY BONDS ISSUED PURSUANT TO
27 THIS ARTICLE 42. THE STATE FURTHER PLEDGES THAT ANY LAW REQUIRING

1 THE DEPOSIT OF REVENUE IN THE BONDING FUND OR AUTHORIZING
2 EXPENDITURES FROM THE BONDING FUND SHALL NOT BE AMENDED OR
3 REPEALED OR OTHERWISE MODIFIED SO AS TO IMPAIR THE BONDS TO
4 WHICH THE BONDING FUND IS DEDICATED AS PROVIDED IN THIS SECTION.

5 **40-42-106. Electric transmission authority operational fund -**
6 **creation.** THE ELECTRIC TRANSMISSION AUTHORITY OPERATIONAL FUND
7 IS CREATED IN THE AUTHORITY. THE OPERATIONAL FUND CONSISTS OF
8 MONEY TRANSFERRED TO THE OPERATIONAL FUND PURSUANT TO SECTION
9 40-42-105 (4), ANY OTHER MONEY THAT THE AUTHORITY MAY TRANSFER
10 TO THE OPERATIONAL FUND, AND INTEREST AND INCOME DERIVED FROM
11 THE DEPOSIT AND INVESTMENT OF MONEY IN THE OPERATIONAL FUND. THE
12 AUTHORITY MAY EXPEND MONEY FROM THE OPERATIONAL FUND FOR THE
13 PURPOSE OF CARRYING OUT THE PURPOSES OF THIS ARTICLE 42, AND THE
14 AUTHORITY MAY ESTABLISH PROCEDURES TO ADMINISTER THE
15 OPERATIONAL FUND IN ACCORDANCE WITH THIS ARTICLE 42 AND ANY
16 OTHER APPLICABLE PROVISION OF STATE LAW.

17 **40-42-107. Report to general assembly.** COMMENCING IN 2021,
18 THE AUTHORITY SHALL SUBMIT A REPORT OF ITS ACTIVITIES TO THE
19 ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF
20 REPRESENTATIVES AND THE TRANSPORTATION AND ENERGY COMMITTEE
21 OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, NOT LATER THAN
22 DECEMBER 1 OF EACH YEAR. THE REPORT SHALL SET FORTH A COMPLETE
23 OPERATING AND FINANCIAL STATEMENT COVERING THE OPERATIONS OF
24 THE AUTHORITY FOR THE PREVIOUS STATE FISCAL YEAR.
25 NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO
26 SUBMIT THE REPORT CONTINUES INDEFINITELY.

27 **SECTION 4. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly (August
3 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
4 referendum petition is filed pursuant to section 1 (3) of article V of the
5 state constitution against this act or an item, section, or part of this act
6 within such period, then the act, item, section, or part will not take effect
7 unless approved by the people at the general election to be held in
8 November 2020 and, in such case, will take effect on the date of the
9 official declaration of the vote thereon by the governor.