Amend the Health and Insurance Committee Report, dated April 17, 2019, page 2, strike line 5 and substitute "COMMISSION.

SECTION 5. In Colorado Revised Statutes, add article 41 to title 40 as follows:

ARTICLE 41
Colorado Energy Impact Bond Act

40-41-101. Short title. The short title of this article 41 is the "COLORADO ENERGY IMPACT BOND ACT".

40-41-102. Definitions. As used in this article 41, unless the context otherwise requires:

(1) "ADJUSTMENT MECHANISM" means a formula-based mechanism for making automatic adjustments to CO-EI CHARGES AUTHORIZED IN A FINANCING ORDER AND FOR MAKING ANY ADJUSTMENTS THAT ARE NECESSARY TO CORRECT FOR OVERCOLLECTION OR UNDERCOLLECTION OF SUCH CHARGES OR OTHERWISE ENSURE THE TIMELY AND COMPLETE PAYMENT OF THE CO-EI BONDS AND ALL FINANCING COSTS.

(2) "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-EI BONDS that is designed to promote the credit quality and marketability of the CO-EI BONDS OR TO MITIGATE THE RISK OF AN INCREASE IN INTEREST RATES.

(3) "ASSIGNEE" means any person to which an interest in CO-EI PROPERTY IS SOLD, ASSIGNED, TRANSFERRED, OR CONVEYED, OTHER THAN AS SECURITY, AND ANY SUCCESSOR TO OR SUBSEQUENT ASSIGNEE OF SUCH A PERSON.

(4) "BONDHOLDER" means any holder or owner of CO-EI BONDS.

(5) "CO-EI BONDS" means COLORADO ENERGY IMPACT BONDS THAT ARE 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 DATE AS DETERMINED REASONABLE BY THE COMMISSION BUT NOT LATER THAN THIRTY-TWO YEARS FOLLOWING ISSUANCE, 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,
DIRECTLY OR INDIRECTLY, TO RECOVER, FINANCE, OR REFINANCE COMMISSION-APPROVED CO-EI COSTS AND FINANCING COSTS.

(6) "CO-EI CHARGE" MEANS A CHARGE IN AN AMOUNT AUTHORIZED BY THE COMMISSION IN A FINANCING ORDER IN ORDER TO PROVIDE A SOURCE OF REVENUE SOLELY TO REPAY, FINANCE, OR REFINANCE CO-EI 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.

(7) (a) "CO-EI COSTS" MEANS:

(I) (A) AT THE OPTION OF AND UPON PETITION BY AN ELECTRIC UTILITY, AND AS APPROVED BY THE COMMISSION, ANY OF 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 (7), "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 FOR ASSISTANCE TO AFFECTED WORKERS AND COMMUNITIES IF APPROVED BY THE COMMISSION.

(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-EI 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.

(8) "CO-EI 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-EI CHARGES AS IT IS AUTHORIZED TO DO SOLELY UNDER THE FINANCING
ORDER AND TO OBTAIN PERIODIC ADJUSTMENTS TO SUCH CO-EI 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 (8)(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 COMINGLED WITH OTHER REVENUE, COLLECTIONS, RIGHTS TO PAYMENT, PAYMENTS, MONEY, OR PROCEEDS.

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

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

(11) "CUSTOMER" MEANS A PERSON THAT TAKES ELECTRIC DISTRIBUTION OR ELECTRIC TRANSMISSION SERVICE FROM AN ELECTRIC UTILITY FOR CONSUMPTION OF ELECTRICITY IN THE STATE. THE TERM INCLUDES A CUSTOMER'S SUCCESSORS AND ASSIGNEES.

(12) "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.

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

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

(c) ANY OTHER COSTS RELATED TO ISSUING, SUPPORTING, REPAYING, REFINING, AND SERVICING CO-EI 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-EI BONDS OR OTHER AMOUNTS OR CHARGES PAYABLE IN CONNECTION WITH CO-EI BONDS;

(d) Any taxes and license fees imposed on the revenue generated from the collection of a CO-EI 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-EI bonds as authorized by section 40-41-107 (4).

(14) "Financing order" means an order of the commission issued pursuant to section 40-41-106 that grants, in whole or in part, an application filed pursuant to section 40-41-103 and that authorizes the issuance of CO-EI bonds in one or more series, the imposition, charging, and collection of CO-EI charges, and the creation of CO-EI property.

(15) "Financing party" means a holder of CO-EI bonds and trustees, collateral agents, any party under an ancillary agreement, or any other person acting for the benefit of a holder of CO-EI bonds.

(16) "Financing statement" has the same meaning as set forth in section 4-9-102 (39).

(17) "Nonbypassable" means that the payment of a CO-EI charge may not be avoided by any future or existing customer located within an electric utility service area as such service area existed as of the date of the financing order or, if the financing order so provides, as such service area may be expanded, even if the customer elects to purchase electricity from a supplier other than the electric utility.

(18) "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. Solely for the purpose of implementing this article 41,
"SUCCESSOR" DOES NOT INCLUDE ANY MUNICIPALLY OWNED ELECTRIC
UTILITY ESTABLISHED AND PROVIDING RETAIL ELECTRIC SERVICE BEFORE
THE DATE ON WHICH CO-EI 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.

40-41-103. 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-EI bonds
in one or more series, impose, charge, and collect CO-EI charges,
and create CO-EI 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-EI bonds in one or more
series, impose, charge, and collect CO-EI charges, and create
CO-EI 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) (a) An application for a financing order must include
the following information:
(I) A description of the CO-EI costs that the applicant
proposes to recover with the proceeds of the CO-EI bonds;
(II) An estimate of the financing costs related to the
CO-EI bonds;
(III) An estimate of the CO-EI charges necessary to pay
the CO-EI costs and all financing costs, and the period over
which such costs will be recovered;
(IV) A proposed methodology for allocating the revenue
requirement for the CO-EI charge among customer classes,
including special contract customers;
(V) A description of the nonbypassable CO-EI charge
required to be paid by customers within the electric utility's
service area for recovery of CO-EI costs and a proposed
adjustment mechanism reflecting the allocation methodology
referred to in subsection (3)(a)(IV) of this section;
(VI) An estimate of the timing of the issuance of the CO-EI
BONDS, OR SERIES OF BONDS; AND

(VII) AN ESTIMATE OF THE NET PROJECTED COST SAVINGS OR A
DEMONSTRATION OF HOW THE ISSUANCE OF CO-EI BONDS AND THE
IMPOSITION OF CO-EI CHARGES WOULD AVOID OR SIGNIFICANTLY
MITIGATE RATE IMPACTS TO CUSTOMERS AS COMPARED WITH TRADITIONAL
METHODS OF FINANCING AND RECOVERING CO-EI COSTS FROM
CUSTOMERS.

(b) IN ADDITION TO FURNISHING THE INFORMATION SPECIFIED IN
SUBSECTION (3)(a) OF THIS SECTION, AN APPLICANT SHALL:

(I) SPECIFY A FUTURE RATEMAKING PROCESS TO RECONCILE ANY
DIFFERENCE BETWEEN THE ACTUAL CO-EI COSTS FINANCED BY CO-EI
BONDS AND THE FINAL CO-EI COSTS INCURRED BY THE UTILITY OR THE
ASSIGNEE. THE RECONCILIATION MAY AFFECT THE ELECTRIC UTILITY’S
BASE RATES OR ANY RIDER ADOPTED PURSUANT TO SECTION 40-41-104
(4), BUT SHALL NOT AFFECT THE AMOUNT OF THE BONDS OR THE
ASSOCIATED CO-EI CHARGES PAID BY CUSTOMERS.

(II) PROVIDE DIRECT TESTIMONY SUPPORTING THE APPLICATION.

40-41-104. 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-EI COSTS DESCRIBED IN THE APPLICATION RELATED TO
THE RETIREMENT OF THE ELECTRIC GENERATING FACILITIES ARE
REASONABLE;

(b) THE PROPOSED ISSUANCE OF CO-EI BONDS AND THE
IMPOSITION AND COLLECTION OF CO-EI 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-EI COSTS DESCRIBED IN THE APPLICATION; AND

(IV) WILL PROVIDE SUBSTANTIAL, TANGIBLE, AND QUANTIFIABLE
NET PRESENT VALUE SAVINGS OR OTHER BENEFITS TO CUSTOMERS THAT
ARE GREATER THAN THE BENEFITS THAT WOULD HAVE BEEN ACHIEVED
ABSENT THE ISSUANCE OF CO-EI BONDS; AND

(c) THE PROVISIONS OF THE FINANCING ORDER WILL ENSURE THAT
THE PROPOSED STRUCTURING, MARKETING, AND PRICING OF THE CO-EI
BONDS WILL:

(I) LOWER OVERALL COSTS TO CUSTOMERS OR AVOID OR 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-EI COSTS THAT MAY BE FINANCED FROM PROCEEDS OF CO-EI BONDS AUTHORIZED TO BE ISSUED BY THE FINANCING ORDER;

(b) APPROVE A METHODOLOGY FOR ALLOCATING THE REVENUE REQUIREMENT FOR THE CO-EI CHARGE AMONG CUSTOMER CLASSES;

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

(d) DESCRIBE AND ESTIMATE THE FINANCING COSTS THAT MAY BE RECOVERED THROUGH CO-EI CHARGES AND THE PERIOD OVER WHICH THE COSTS MAY BE RECOVERED, SUBJECT TO SECTION 40-41-105;

(e) DETERMINE WHETHER THE PROPOSED STRUCTURING, EXPECTED PRICING, AND FINANCING COSTS OF CO-EI BONDS HAVE A SIGNIFICANT LIKELIHOOD OF LOWERING OVERALL COSTS TO CUSTOMERS OR AVOIDING OR SIGNIFICANTLY MITIGATING RATE IMPACTS TO CUSTOMERS AS COMPARED WITH TRADITIONAL METHODS OF FINANCING AND RECOVERING CO-EI COSTS FROM CUSTOMERS. A FINANCING ORDER MUST PROVIDE DETAILED FINDINGS OF FACT ADDRESSING COST-EFFECTIVENESS AND ASSOCIATED RATE IMPACTS UPON CUSTOMERS AND CUSTOMER CLASSES.

(f) REQUIRE THE IMPOSITION AND COLLECTION OF THE NON-BYPASSABLE CO-EI CHARGES AUTHORIZED UNDER A FINANCING ORDER FOR THE PERIOD SPECIFIED IN SUBSECTION (2)(d) OF THIS SECTION;

(g) DESCRIBE THE CO-EI PROPERTY THAT MAY BE CREATED IN FAVOR OF THE UTILITY AND ITS SUCCESSORS AND ASSIGNEES AND THAT WILL BE USED TO PAY, AND SECURE THE PAYMENT OF, THE CO-EI BONDS AND FINANCING COSTS AUTHORIZED IN THE FINANCING ORDER;

(h) AUTHORIZE AND APPROVE AN ADJUSTMENT MECHANISM REFLECTING THE ALLOCATION METHODOLOGY SPECIFIED IN SUBSECTION (2)(b) OF THIS SECTION;

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

(j) INCLUDE ANY ADDITIONAL FINDINGS OR CONCLUSIONS DEEMED APPROPRIATE BY THE COMMISSION;

(k) SPECIFY THE DEGREE OF FLEXIBILITY AFFORDED TO THE ELECTRIC UTILITY IN ESTABLISHING THE TERMS AND CONDITIONS OF THE
CO-EI BONDS, INCLUDING, BUT NOT LIMITED TO, REPAYMENT SCHEDULES, EXPECTED INTEREST RATES, AND OTHER FINANCING COSTS;

(I) Specify the timing of actions required by the order, including:

(I) The timing of issuance of the CO-EI bonds, independent of the schedule of retirement of the electric generating facility;

(II) The energy assistance funds, if included in the bond issue, may be transferred to a third-party entity designated by the commission to administer transition assistance on behalf of displaced workers and affected communities 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-EI charges and independently of the schedule of closing and decommissioning of the electric generating facility; and

(m) Specify a future rate-making process to reconcile any difference between the actual CO-EI costs financed by CO-EI bonds and the final CO-EI costs incurred by the utility or the assignee. 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-EI 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-EI property pursuant to subsection (2)(g) of this section to be conditioned upon, and simultaneous with, the sale or other transfer of the CO-EI property to an assignee and the pledge of the CO-EI property to secure CO-EI bonds.

(4) A financing order must require the applicant electric utility, simultaneously with the inception of the collection of CO-EI 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-EI bonds.

(5) 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.
40-41-105. Effect of financing order. (1) A financing order remains in effect until the CO-EI bonds issued as authorized by the financing order have been paid in full and all financing costs relating to the CO-EI 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 40-41-108, a financing order is irrevocable. Therefore, notwithstanding section 40-6-112 (1), the commission may not reduce, impair, postpone, or terminate CO-EI charges approved in a financing order or impair CO-EI property or the collection or recovery of CO-EI revenue.

(4) Notwithstanding subsection (3) of this section, upon the request of an electric utility or at the request of parties in the commission proceeding, the commission may commence a proceeding and issue a subsequent financing order that provides for refinancing, retiring, or refunding CO-EI bonds issued pursuant to the original financing order if:

(a) The commission makes all of the findings specified in section 40-41-104 (1) with respect to the subsequent financing order; and

(b) The subsequent financing order does not impair in any way the covenants and terms of the CO-EI bonds to be refinanced, retired, or refunded.

40-41-106. 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-EI bonds issued pursuant to the financing order to be debt of the electric utility other than for income tax purposes;

(b) Consider the CO-EI charges paid under the financing order to be revenue of the electric utility;

(c) Consider the CO-EI 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) **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

(b) **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-EI bonds, whether or not a financing order with respect to such costs has been applied for by the utility or issued by the Commission.**

**40-41-107. Electric utility customer protection.** (1) 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 benefits and minimize the risks of the transaction to customers, directly impacted Colorado workers and communities, and the electric utility;

(b) The Commission may specify in the financing order a process to structure, market, and price CO-EI bonds, including the selection of the underwriter or underwriters, in a manner consistent with the public interest and the legal obligations of the electric utility;

(c) The Commission shall review and determine the reasonableness of all proposed up-front and ongoing financing costs;

(d) The Commission shall determine how it will engage to ensure that the issuance of the CO-EI bonds maximizes net present value customer savings, consistent with market conditions at the time of issuance and the terms of the financing order; and

(e) The Commission has the authority required to perform comprehensive due diligence in its evaluation of an application for a financing order and has the authority to oversee the process used to structure, market, and price CO-EI bonds.

(2) **Alternative financing mechanisms may result in lower costs to electric utility customers. It is helpful to provide alternative financing mechanisms to be utilized by utilities as**
OPTIONS FOR REDUCING THE TOTAL AMOUNT OF COSTS BEING INCLUDED IN CUSTOMER RATES RESULTING FROM ACCELERATING THE RETIREMENT OF ELECTRIC GENERATING FACILITIES.


(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-EI BONDS. THESE OUTSIDE CONSULTANTS AND COUNSEL HAVE A DUTY OF LOYALTY SOLELY TO THE COMMISSION, MUST NOT HAVE ANY FINANCIAL INTEREST IN THE CO-EI BONDS, AND SHALL NOT PARTICIPATE IN THE UNDERWRITING OR SECONDARY MARKET TRADING OF THE CO-EI BONDS. THE EXPENSES ASSOCIATED WITH ANY ENGAGEMENT SHALL BE PAID BY THE APPLICANT UTILITY AND SHALL BE INCLUDED AS FINANCING COSTS AND INCLUDED IN THE CO-EI 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-EI BONDS ARE ISSUED, ANY COSTS OF RETAINING EXPERT CONSULTANTS AND COUNSEL ON BEHALF OF THE COMMISSION, AS AUTHORIZED BY SUBSECTION (4) OF THIS SECTION AND APPROVED BY THE COMMISSION, SHALL BE PAID BY THE APPLICANT ELECTRIC UTILITY AND SHALL BE ELIGIBLE FOR RECOVERY BY THE ELECTRIC UTILITY, INCLUDING CARRYING COSTS, IN THE ELECTRIC UTILITY'S FUTURE RATES.

THE DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER. IN THE CASE
OF ANY PETITION FOR SUSPENSION AND REVIEW, THE COURT SHALL
PROCEED TO HEAR AND DETERMINE THE ACTION AS EXPEDITIOUSLY AS
PRACTICABLE AND SHALL GIVE THE ACTION PRECEDENCE OVER OTHER
Matters not accorded similar precedence by law.

40-41-109. Electric utilities - duties. (1) The electric bills of
an electric utility that has obtained a financing order and
caused CO-EI bonds to be issued:

(a) Must explicitly reflect that a portion of the charges
on the bill represents CO-EI charges approved in a financing
order issued to the electric utility and, if the CO-EI property
has been transferred to an assignee, must include a statement
that the assignee is the owner of the rights to CO-EI 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-EI 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-EI property, CO-EI charge, or CO-EI bonds,
but may 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 will have on customer rates.

(2) An electric utility that has obtained a financing order
and caused CO-EI bonds to be issued must demonstrate in an
annual filing with the commission that CO-EI bond proceeds are
applied solely to the repayment of CO-EI costs and that CO-EI
revenues are applied solely to the repayment of CO-EI bonds and
other financing costs in accordance with the financing order.
The cost of such annual filing is a financing cost recoverable by
the electric utility from the CO-EI charge.

40-41-110. CO-EI property. (1) CO-EI 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-EI charges
depends on the electric utility to which the financing order is
issued performing its servicing functions relating to the
collection of CO-EI charges and on future electricity
consumption. The property right or interest exists regardless of
whether the revenues or proceeds arising from the CO-EI
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-EI PROPERTY DESCRIBED IN A FINANCING ORDER EXISTS
UNTIL ALL CO-EI BONDS ISSUED PURSUANT TO THE FINANCING ORDER ARE
PAID IN FULL AND ALL FINANCING COSTS AND OTHER COSTS OF THE CO-EI
BONDS HAVE BEEN RECOVERED IN FULL.

(3) ALL OR ANY PORTION OF CO-EI 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-EI PROPERTY OR ISSUING CO-EI BONDS AS
AUTHORIZED BY THE FINANCING ORDER. ALL OR ANY PORTION OF CO-EI
PROPERTY MAY BE PLEDGED TO SECURE CO-EI 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-EI 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-EI 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-EI 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, SHALL 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-EI PROPERTY DESCRIBED IN THE FINANCING ORDER.

40-41-111. CO-EI 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-EI BONDS. PUBLIC ENTITIES, AS DEFINED IN SECTION 24-75-601 (1), MAY INVEST PUBLIC FUNDS IN CO-EI BONDS ONLY IF THE CO-EI BONDS SATISFY THE INVESTMENT REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF TITLE 24.

(2) CO-EI 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-EI 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-EI BONDS. THE ISSUANCE OF CO-EI 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-EI BONDS.

(3) (a) THE STATE PLEDGES TO AND AGREES WITH HOLDERS OF CO-EI BONDS, ANY ASSIGNEE, AND ANY FINANCING PARTIES THAT THE STATE WILL NOT:

(I) TAKE OR PERMIT ANY ACTION THAT IMPAIRS THE VALUE OF CO-EI PROPERTY; OR

(II) REDUCE, ALTER, OR IMPAIR CO-EI CHARGES, EXCEPT THROUGH APPLICATION OF THE ADJUSTMENT MECHANISM, THAT ARE IMPOSED, COLLECTED, AND REMITTED FOR THE BENEFIT OF HOLDERS OF CO-EI BONDS, ANY ASSIGNEE, AND ANY FINANCING PARTIES, UNTIL ANY PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM PAYABLE ON CO-EI 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-EI bonds may include the pledge specified in subsection (3)(a) of this section in the CO-EI bonds, ancillary agreements, and documentation related to the issuance and marketing of the CO-EI bonds.

40-41-112. 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.

40-41-113. 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-EI property, the provision of this article 41 governs to the extent of the conflict.

(2) Effective on the date that CO-EI 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 40-41-105 (4); or

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

40-41-114. Choice of law. The laws of this 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-EI property, CO-EI charge, or financing order.

40-41-115. Security interests in CO-EI property. (1) The creation, perfection, and enforcement of any security interest in CO-EI property to secure the repayment of the principal of and interest on CO-EI bonds, amounts payable under any ancillary agreement, and other financing costs are governed by
THIS SECTION AND NOT BY THE "Uniform Commercial Code", TITLE 4, TO THE EXTENT OF ANY CONFLICT.

(2) The description or indication of CO-EI 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-EI property.

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

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

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

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

(b) Once a security interest in CO-EI 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-EI 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-EI property unless the holder of the security interest has agreed in writing otherwise.

(5) The priority of a security interest in CO-EI property is not affected by the commingling of CO-EI property or CO-EI revenue with other money. An assignee, bondholder, or financing party has a perfected security interest in the amount of all CO-EI property or CO-EI revenue that is pledged for the payment of CO-EI bonds even if the CO-EI property or CO-EI revenue is deposited in a cash or deposit account of the electric utility in which the CO-EI revenue is commingled with other money, and any other security interest that applies to the other
MONEY DOES NOT APPLY TO THE CO-EI REVENUE.

(6) Neither a subsequent order of the Commission amending a financing order as authorized by section 40-41-105 (4), nor application of an adjustment mechanism as authorized by section 40-41-104 (2)(h), affects the validity, perfection, or priority of a security interest in or transfer of CO-EI property.

40-41-116. Sales of CO-EI property. (1) (a) A sale, assignment, or transfer of CO-EI 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-EI 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-EI property may be created only when all of the following have occurred:

(I) The financing order creating and describing the CO-EI property has become effective;

(II) The documents evidencing the transfer of the CO-EI 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-EI 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-EI property previously perfected in accordance with this subsection (1) or section 40-41-115. 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 occurrence of any of the following:

(a) Commingling of CO-EI revenue with other money;

(b) The retention by the seller of:

(I) A partial or residual interest, including an equity
INTEREST, IN THE CO-EI PROPERTY, WHETHER DIRECT OR INDIRECT, OR
WHETHER SUBORDINATE OR OTHERWISE; OR
(I) THE RIGHT TO RECOVER COSTS ASSOCIATED WITH TAXES,
FRANCHISE FEES, OR LICENSE FEES IMPOSED ON THE COLLECTION OF CO-EI
REVENUE;
   (c) ANY RECOISCUE 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-EI 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 40-41-105 (4); OR
   (h) ANY APPLICATION OF AN ADJUSTMENT MECHANISM AS
AUTHORIZED BY SECTION 40-41-104 (2)(h).

SECTION 6. Severability. If any provision of this act or the
application thereof to any person, circumstance, or transaction is held by
a court of competent jurisdiction to be unconstitutional or invalid, the
unconstitutionality or invalidity does not affect the constitutionality or
validity of any other provision of this act or its application or validity to
any person, circumstance, or transaction, including, without limitation,
the irrevocability of a financing order issued pursuant to this act, the
validity of the issuance of CO-EI bonds, the imposition of CO-EI charges,
the transfer or assignment of CO-EI property, or the collection and
recovery of CO-EI charges. To these ends, the general assembly hereby
declares that the provisions of this act are intended to be severable and
that the general assembly would have enacted this section even if any
provision of this act held to be unconstitutional or invalid had not been
included in the act.".

Renumber succeeding sections accordingly.

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