A BILL FOR AN ACT

CONCERNING ADDITIONAL PUBLIC WELFARE PROTECTIONS REGARDING THE CONDUCT OF OIL AND GAS OPERATIONS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill enhances local governments' ability to protect public health, safety, and welfare and the environment by clarifying, reinforcing, and establishing their regulatory authority over the surface impacts of oil and gas development.

Current law specifies that local governments have so-called "House Bill 1041" powers, which are a type of land use authority over oil
and gas mineral extraction areas, only if the Colorado oil and gas conservation commission (commission) has identified a specific area for designation. Sections 1 and 2 of the bill repeal that limitation.

Section 3 directs the air quality control commission to adopt rules to:

! Require an oil and gas operator of an oil and gas facility to install continuous emission monitoring equipment at the facility to monitor for hazardous air pollutants as specified by the commission by rule, as well as for methane and volatile organic compounds; and

! Minimize emissions of methane and other hydrocarbons and nitrogen oxides from the entire oil and gas fuel cycle.

Section 4 clarifies that local governments have land use authority to regulate the siting of oil and gas locations and to regulate land use and surface impacts, including the ability to inspect oil and gas facilities; impose fines for leaks, spills, and emissions; and impose fees on operators or owners to cover the reasonably foreseeable direct and indirect costs of permitting and regulation and the costs of any monitoring and inspection program necessary to address the impacts of development and enforce local governmental requirements.

Section 5 repeals an exemption for oil and gas production from counties' authority to regulate noise.

The remaining substantive sections of the bill amend the "Oil and Gas Conservation Act" (Act). The legislative declaration for the Act states that it is in the public interest to "foster" the development of oil and gas resources in a manner "consistent" with the protection of public health, safety, and welfare, including protection of the environment and wildlife resources; this has been construed to impose a balancing test between fostering oil and gas development and protecting the public health, safety, and welfare. Section 6 states that the public interest is to "regulate" oil and gas development to "protect" those values.

Currently, the Act defines "waste" to include a diminution in the quantity of oil or gas that ultimately may be produced. Section 7 excludes from that definition the nonproduction of oil or gas as necessary to protect public health, safety, and welfare or the environment. Section 7 also repeals the requirement that the commission take into consideration cost-effectiveness and technical feasibility with regard to actions and decisions taken to minimize adverse impacts to wildlife resources.

The 9-member commission currently includes 3 members who must have substantial experience in the oil and gas industry and one member who must have training or experience in environmental or wildlife protection. Section 8 reduces the number of industry members to one and requires one member with training or substantial experience in wildlife protection; one member with training or substantial experience in environmental protection; one member with training or substantial
experience in soil conservation or reclamation; one member who is an active agricultural producer or a royalty owner; and one member with training or substantial experience in public health. **Section 9** requires the director of the commission to hire up to 2 deputy directors.

The Act currently specifies that the commission has exclusive authority relating to the conservation of oil or gas. **Section 10** clarifies that nothing in the Act alters, impairs, or negates the authority of:

- The air quality control commission to regulate the air pollution associated with oil and gas operations;
- The water quality control commission to regulate the discharge of water pollutants from oil and gas operations;
- The state board of health to regulate the disposal of naturally occurring radioactive materials and technologically enhanced naturally occurring radioactive materials from oil and gas operations;
- The solid and hazardous waste commission to regulate the disposal of hazardous waste and exploration and production waste from oil and gas operations; or
- A local government to regulate land use related to oil and gas operations, including specifically the siting of an oil and gas location.

Currently, an operator first gets a permit from the commission to drill one or more wells within a drilling unit, which is located within a defined area, and then notifies the applicable local government of the proposed development and seeks any necessary local government approval. **Section 11** requires operators to file, with the application for a permit to drill, either: Proof that the operator has already filed an application with the affected local government to approve the siting of the proposed oil and gas location and of the local government's disposition of the application; or proof that the affected local government does not regulate the siting of oil and gas locations. Section 11 also specifies that the commission and the director shall not issue a permit until the commission has promulgated every rule required to be adopted by oil and gas bills enacted in 2019 and the rules have become effective; except that the director may issue a permit if the director determines that the permit does not require additional analysis to ensure the protection of public health, safety, and welfare or the environment or require additional local government or other state agency consultation.

Pursuant to commission rule, an operator may submit a statewide blanket financial assurance of $60,000 for fewer than 100 wells or $100,000 for 100 or more wells. Section 11 directs the commission to adopt rules that require financial assurance sufficient to provide adequate coverage for all applicable requirements of the Act. Current law allows the commission to set numerous fees used to administer the Act and sets a $200 or $100 cap on the fees. Section 11 eliminates the caps and
requires the commission to set a permit application fee in an amount sufficient to recover the commission's reasonably foreseeable direct and indirect costs in conducting the analysis necessary to assure that permitted operations will be conducted in compliance with all applicable requirements of the Act.

Current law gives the commission the authority to regulate oil and gas operations so as to prevent and mitigate "significant" adverse environmental impacts to the extent necessary to protect public health, safety, and welfare, taking into consideration cost-effectiveness and technical feasibility. Section 11 requires the commission to protect and minimize adverse impacts to public health, safety, and welfare, the environment, and wildlife resources and protect against adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations. Section 11 also requires the commission to adopt rules that require alternate location analyses for oil and gas facilities that are proposed to be located near populated areas and that evaluate and address the cumulative impacts of oil and gas development. Finally, section 11 directs the commission to promulgate rules to:

- Ensure proper wellhead integrity of all oil and gas production wells, including the use of nondestructive testing of well joints and requiring certification of oil and gas field welders;
- Allow public disclosure of flowline information and to evaluate and determine when a deactivated flowline must be inspected before being reactivated; and
- Evaluate and determine when inactive and shut-in wells must be inspected before being put into production or used for injection.

Current law authorizes "forced" or "statutory" pooling, a process by which "any interested person", typically an operator who has at least one lease or royalty interest, may apply to the commission for an order to pool oil and gas resources located within a particularly identified drilling unit. After giving notice to interested parties and holding a hearing, the commission can adopt a pooling order to require an owner of oil and gas resources within the drilling unit who has not consented to the application (nonconsenting owner) to allow the operator to produce the oil and gas within the drilling unit notwithstanding the owner's lack of consent. **Section 12** requires that the owners of more than 50% of the mineral interests to be pooled must have joined in the application for a pooling order and that the application include either: Proof that the applicant has already filed an application with the affected local government to approve the siting of the proposed oil and gas facilities and of the local government's disposition of the application; or proof that the affected local government does not regulate the siting of oil and gas facilities.
Section 12 also specifies that the operator cannot use the surface owned by a nonconsenting owner without permission from the nonconsenting owner.

Current law also sets the royalty that a nonconsenting owner is entitled to receive at 12.5% of the full royalty rate until the consenting owners have been fully reimbursed (out of the remaining 87.5% of the nonconsenting owner's royalty) for their costs. Section 12 raises a nonconsenting owner's royalty rate during this pay-back period from 12.5% to 15% and makes a corresponding reduction of the portion of the nonconsenting owner's royalty from which the consenting owners' costs are paid.

Current law requires the commission to ensure that the 2-year average of the unobligated portion of the oil and gas conservation and environmental response fund does not exceed $6 million and that there is an adequate balance in the environmental response account in the fund to address environmental response needs. Section 13 directs the commission to ensure that the unobligated portion of the fund does not exceed 50% of total appropriations from the fund for the upcoming fiscal year and that there is an adequate balance in the account to support the operations of the commission and to address environmental response needs.

Section 15 amends preemption law by specifying that both state agencies and local governments have authority to regulate oil and gas operations and establishes that, where there is a conflict in the exercise of that authority, the more protective standard as to health, safety, and welfare, the environment, and wildlife resources controls.

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

SECTION 1. In Colorado Revised Statutes, 24-65.1-202, repeal (1)(d) as follows:

24-65.1-202. Criteria for administration of areas of state interest. (1) (d) Unless an activity of state interest has been designated or identified or unless it includes part or all of another area of state interest, an area of oil and gas development shall not be designated as an area of state interest unless the state oil and gas conservation commission identifies such area for designation.

SECTION 2. In Colorado Revised Statutes, 24-65.1-302, repeal (3) as follows:
24-65.1-302. Functions of other state agencies. (3) Pursuant to section 24-65.1-202 (1)(d), the oil and gas conservation commission of the state of Colorado may identify an area of oil and gas development for designation by local government as an area of state interest.

SECTION 3. In Colorado Revised Statutes, 25-7-109, add (10) as follows:

25-7-109. Commission to promulgate emissions control regulations. (10) (a) The commission shall adopt rules to minimize emissions of methane and other hydrocarbons and nitrogen oxides from the entire oil and gas fuel cycle.

(b) (I) An oil and gas operator of an oil and gas facility shall install continuous emission monitoring equipment at the facility to monitor for:

(A) Hazardous air pollutants specified by the commission by rule;

(B) Methane; and

(C) Volatile organic compounds.

(II) The commission may, by rule, phase in the requirement to comply with this subsection (10)(b) on the bases of production capability, type and age of oil and gas facility, and commercial availability of continuous monitoring equipment. If the commission phases in the requirement to comply with this subsection (10)(b), it shall increase the required frequency of inspections at facilities that are subject to the phase-in until the facilities achieve continuous emission monitoring.

(c) Notwithstanding the grant of authority to the oil and gas conservation commission in article 60 of title 34, including
SPECIFICALLY SECTION 34-60-105 (1), THE COMMISSION MAY REGULATE AIR POLLUTION FROM OIL AND GAS OPERATIONS AND OIL AND GAS FACILITIES, INCLUDING DURING CONSTRUCTION, DRILLING, AND COMPLETION ACTIVITIES.

SECTION 4. In Colorado Revised Statutes, 29-20-104, amend (1) introductory portion, (1)(g), and (1)(h); and add (1)(i) and (2) as follows:

29-20-104. Powers of local governments - definition. 
(1) Except as expressly provided in section 29-20-104.5, the power and authority granted by this section shall not limit any power or authority presently exercised or previously granted. Each local government within its respective jurisdiction has the authority to plan for and regulate the use of land by:

(g) Regulating the use of land FOR RESIDENTIAL, COMMERCIAL, RECREATIONAL, INDUSTRIAL, AND OTHER PURPOSES, INCLUDING MINERAL RESOURCE DEVELOPMENT, on the basis of the impact thereof on the community or surrounding areas; and

(h) Otherwise planning for and regulating the use of land so as to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights.

REGULATING OIL AND GAS OPERATIONS TO ADDRESS:

(I) LAND USE;

(II) THE MINIMIZATION OF ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, AND WILDLIFE. FOR PURPOSES OF THIS SUBSECTION (1)(h)(II), "MINIMIZATION OF ADVERSE IMPACTS" MEANS TO:

(A) AVOID ADVERSE IMPACTS FROM OIL AND GAS OPERATIONS;
AND

(B) MINIMIZE AND MITIGATE THE EXTENT AND SEVERITY OF THOSE IMPACTS THAT CANNOT BE AVOIDED;

(III) THE LOCATION AND SITING OF OIL AND GAS FACILITIES AND OIL AND GAS LOCATIONS, AS THOSE TERMS ARE DEFINED IN SECTION 34-60-103 (6.2) AND (6.4);

(IV) IMPACTS TO PUBLIC FACILITIES AND SERVICES;

(V) WATER QUALITY AND SOURCE, NOISE, VIBRATION, ODOR, LIGHT, DUST, AIR EMISSIONS AND AIR QUALITY, LAND DISTURBANCE, RECLAMATION PROCEDURES, CULTURAL RESOURCES, EMERGENCY PREPAREDNESS AND COORDINATION WITH FIRST RESPONDERS, SECURITY, AND TRAFFIC AND TRANSPORTATION IMPACTS;

(VI) FINANCIAL SECURITIES, INDEMNIFICATION, AND INSURANCE AS APPROPRIATE TO ENSURE COMPLIANCE WITH THE REGULATIONS OF THE LOCAL GOVERNMENT; AND

(VII) ALL OTHER NUISANCE-TYPE EFFECTS OF OIL AND GAS DEVELOPMENT; AND

(i) OTHERWISE PLANNING FOR AND REGULATING THE USE OF LAND SO AS TO PROVIDE PLANNED AND ORDERLY USE OF LAND AND PROTECTION OF THE ENVIRONMENT IN A MANNER CONSISTENT WITH CONSTITUTIONAL RIGHTS.

(2) TO IMPLEMENT THE POWERS AND AUTHORITY GRANTED IN SUBSECTION (1)(h) OF THIS SECTION, LOCAL GOVERNMENTS HAVE THE AUTHORITY TO:

(a) INSPECT ALL FACILITIES SUBJECT TO LOCAL GOVERNMENT REGULATION;

(b) IMPOSE FINES FOR LEAKS, SPILLS, AND EMISSIONS; AND
(c) IMPOSE FEES ON OPERATORS OR OWNERS TO COVER THE REASONABLY FORESEEABLE DIRECT AND INDIRECT COSTS OF PERMITTING AND REGULATION AND THE COSTS OF ANY MONITORING AND INSPECTION PROGRAM NECESSARY TO ADDRESS THE IMPACTS OF DEVELOPMENT AND TO ENFORCE LOCAL GOVERNMENTAL REQUIREMENTS.

SECTION 5. In Colorado Revised Statutes, 30-15-401, amend 
(1) introductory portion, (1)(m)(II) introductory portion, and (1)(m)(II)(B) as follows:

30-15-401. General regulations - definitions. (1) In addition to those powers granted by sections 30-11-101 and 30-11-107 and by parts 1, 2, and 3 of this article 15, the board of county commissioners has the power to MAY adopt ordinances for control or licensing of those matters of purely local concern that are described in the following enumerated powers:

(m) (II) Ordinances enacted to regulate noise on public and private property pursuant to subparagraph (I) of this paragraph (m) shall SUBSECTION (1)(m)(I) OF THIS SECTION DO not apply to:

(B) Property used for: Manufacturing, industrial, or commercial business purposes; AND public utilities regulated pursuant to title 40. C.R.S.; and oil and gas production subject to the provisions of article 60 of title 34, C.R.S.

SECTION 6. In Colorado Revised Statutes, 34-60-102, amend 
(1)(a) introductory portion, (1)(a)(I), and (1)(b) as follows:

34-60-102. Legislative declaration. (1) (a) It is declared to be in the public interest AND THE COMMISSION IS DIRECTED to:

(I) Foster REGULATE the responsible, balanced development production, and utilization of the natural resources of oil and gas in the
state of Colorado in a manner consistent with protection of the environment and wildlife resources;

(b) It is not the intent nor the purpose of this article to require or permit the proration or distribution of the production of oil and gas among the fields and pools of Colorado on the basis of market demand. It is the intent and purpose of this article to permit each oil and gas pool in Colorado to produce up to its maximum efficient rate of production, subject to the protection of public health, safety, and welfare, the environment, and wildlife resources and the prevention of waste consistent with the protection of public health, safety, and welfare, including protection of the environment and wildlife resources as set forth in Section 34-60-106 (2.5) and (3)(a), and subject further to the enforcement and protection of the coequal and correlative rights of the owners and producers of a common source of oil and gas, so that each common owner and producer may obtain a just and equitable share of production from the common source.

SECTION 7. In Colorado Revised Statutes, 34-60-103, amend the introductory portion, (5.5), (11), (12), and (13); and add (5.3), (6.2), and (6.4) as follows:

34-60-103. Definitions. As used in this article, unless the context otherwise requires:

(5.3) "LOCAL GOVERNMENT" MEANS, EXCEPT WITH REGARD TO SECTION 34-60-104 (2)(a)(I), A:

(a) MUNICIPALITY OR CITY AND COUNTY WITHIN WHOSE BOUNDARIES AN OIL AND GAS LOCATION IS SITED OR PROPOSED TO BE
(b) COUNTY, IF AN OIL AND GAS LOCATION IS SITED OR PROPOSED
TO BE SITED WITHIN THE BOUNDARIES OF THE COUNTY BUT IS NOT
LOCATED WITHIN A MUNICIPALITY OR CITY AND COUNTY.

(5.5) "Minimize adverse impacts" means to: wherever reasonably
practicable:
(a) Avoid adverse impacts from oil and gas operations; on wildlife
resources; AND
(b) Minimize AND MITIGATE the extent and severity of those
impacts that cannot be avoided.
(c) Mitigate the effects of unavoidable remaining impacts; and
(d) Take into consideration cost-effectiveness and technical
feasibility with regard to actions and decisions taken to minimize adverse
impacts to wildlife resources.

(6.2) "OIL AND GAS FACILITY" MEANS EQUIPMENT OR
IMPROVEMENTS USED OR INSTALLED AT AN OIL AND GAS LOCATION FOR
THE EXPLORATION, PRODUCTION, WITHDRAWAL, TREATMENT, OR
PROCESSING OF CRUDE OIL, CONDENSATE, EXPLORATION AND PRODUCTION
WASTE, OR GAS.

(6.4) "OIL AND GAS LOCATION" MEANS A DEFINABLE AREA WHERE
AN OIL AND GAS OPERATOR HAS DISTURBED OR INTENDS TO DISTURB THE
LAND SURFACE IN ORDER TO LOCATE AN OIL AND GAS FACILITY.

(11) "Waste", as applied to gas:
(a) Includes the escape, blowing, or releasing, directly or
indirectly into the open air, of gas from wells productive of gas only, or
gas in an excessive or unreasonable amount from wells producing oil or
both oil and gas; and the production of gas in quantities or in such manner
as unreasonably reduces reservoir pressure or, SUBJECT TO SUBSECTION
(11)(b) OF THIS SECTION, unreasonably diminishes the quantity of oil or
gas that ultimately may be produced; excepting gas that is reasonably
necessary in the drilling, completing, testing, and in furnishing power for
the production of wells; AND

(b) DOES NOT INCLUDE THE NONPRODUCTION OF GAS FROM A
FORMATION IF NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY, AND
WELFARE, THE ENVIRONMENT, OR WILDLIFE RESOURCES AS DETERMINED
BY THE COMMISSION.

(12) "Waste", as applied to oil:

(a) Includes underground waste; inefficient, excessive, or
improper use or dissipation of reservoir energy, including gas energy and
water drive; surface waste; open-pit storage; and waste incident to the
production of oil in excess of the producer's aboveground storage
facilities and lease and contractual requirements, but excluding storage,
other than open-pit storage, reasonably necessary for building up or
maintaining crude stocks and products thereof of crude stocks for
consumption, use, and sale; AND

(b) DOES NOT INCLUDE THE NONPRODUCTION OF OIL FROM A
FORMATION IF NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY, AND
WELFARE, THE ENVIRONMENT, OR WILDLIFE RESOURCES AS DETERMINED
BY THE COMMISSION.

(13) "Waste", in addition to the meanings as set forth in
subsections (11) and (12) of this section:

(a) Means, SUBJECT TO SUBSECTION (13)(b) OF THIS SECTION:

(α) (I) Physical waste, as that term is generally understood in the
oil and gas industry;
(b) (II) The locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes or tends to cause reduction in quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas; AND

(e)(III) Abuse of the correlative rights of any owner in a pool due to nonuniform, disproportionate, unratable, or excessive withdrawals of oil or gas from the pool, causing reasonably avoidable drainage between tracts of land or resulting in one or more producers or owners in such the pool producing more than his equitable share of the oil or gas from such the pool; AND

(b) DOES NOT INCLUDE THE NONPRODUCTION OF OIL OR GAS FROM A FORMATION IF NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, OR WILDLIFE RESOURCES AS DETERMINED BY THE COMMISSION.

SECTION 8. In Colorado Revised Statutes, 34-60-104, amend (1), (2)(a)(I), and (2)(a)(II) as follows:

34-60-104. Oil and gas conservation commission - report - publication. (1) There is hereby created, in the department of natural resources, the oil and gas conservation commission of the state of Colorado:

(2) (a) (I) Effective July 1, 2007 2019, the commission shall consist of nine members, seven of whom shall be appointed by the governor with the consent of the senate, and two of whom, The executive director of the department of natural resources and the executive director of the department of public health and environment,
shall be OR THE EXECUTIVE DIRECTORS' DESIGNEES, ARE ex officio voting
members. At least two members shall be appointed from west of the
continental divide, and, to the extent possible, consistent with this
paragraph (a) SUBSECTION (2)(a), the other members shall be appointed
taking into account the need for geographical representation of other
areas of the state with high levels of CURRENT OR ANTICIPATED oil and
gas activity or employment. Three members shall ONE MEMBER MUST be
individuals AN INDIVIDUAL with substantial experience in the oil and gas
industry; and at least two of said three members shall have a college
degree in petroleum geology or petroleum engineering; one member shall
MUST be a local government official; one member MUST have formal
training or substantial experience in environmental or wildlife
protection; one member MUST have formal training or substantial experience in
WILDLIFE PROTECTION; ONE MEMBER MUST HAVE FORMAL TRAINING OR
SUBSTANTIAL EXPERIENCE IN soil conservation or reclamation; and one
member shall MUST be actively engaged in agricultural production and
also OR be a royalty owner; AND ONE MEMBER MUST HAVE FORMAL
TRAINING OR SUBSTANTIAL EXPERIENCE IN PUBLIC HEALTH. Excluding the
executive directors from consideration, no more than four members of the
commission shall MAY be members of the same political party.

(II) Subject to paragraph (b) of this subsection (2) SUBSECTION
(2)(b) OF THIS SECTION, nothing in this paragraph (a) shall be construed
to require SUBSECTION (2)(a) REQUIRES a holdover member of the
commission holding office on July 1, 2007 2019, to comply with the
provisions of this paragraph (a) THIS SUBSECTION (2)(a), as amended,
unless such THE person is reappointed to the commission for another term
of office. Nothing in this subparagraph (II) shall alter, impair, or negate
SUBSECTION (2)(a) ALTERS, IMPAIRS, OR NEGATES the authority of the
governor to remove or appoint members of the commission pursuant to
paragraph (b) of this subsection (2) SUBSECTION (2)(b) OF THIS SECTION.

SECTION 9. In Colorado Revised Statutes, 34-60-104.5, amend
(2)(d) as follows:

34-60-104.5. Director of commission - duties. (2) The director
of the commission shall:

(d) (I) Appoint, pursuant to section 13 of article XII of the state
constitution, such clerical and professional staff and consultants as may
be necessary for the efficient and effective operation of the commission,
INCLUDING AT LEAST ONE AND UP TO TWO DEPUTY DIRECTORS; and shall

(II) Exercise general supervisory control over said THE staff; and

SECTION 10. In Colorado Revised Statutes, 34-60-105, amend
(1) as follows:

34-60-105. Powers of commission. (1) (a) The commission has
jurisdiction over all persons and property, public and private, necessary
to enforce the provisions of this article, and has THIS ARTICLE 60, the
power to make and enforce rules regulations, and orders pursuant to this
article ARTICLE 60, and to do whatever may reasonably be necessary to
carry out the provisions of this article THIS ARTICLE 60.

(b) Any delegation of authority to any other state officer, board,
or commission to administer any other laws of this state relating to the
conservation of oil or gas, or either of them, is hereby rescinded and
withdrawn, and such THAT authority is unqualifiedly conferred upon the
commission, as provided in this section; EXCEPT THAT, AS FURTHER
SPECIFIED IN SECTION 34-60-131, NOTHING IN THIS ARTICLE 60 ALTERS,
IMPAIRS, OR NEGATES THE AUTHORITY OF:
(I) The Air Quality Control Commission to regulate, pursuant to Article 7 of Title 25, the emission of air pollutants from oil and gas operations;

(II) The Water Quality Control Commission to regulate, pursuant to Article 8 of Title 25, the discharge of water pollutants from oil and gas operations;

(III) The State Board of Health to regulate, pursuant to Section 25-11-104, the disposal of naturally occurring radioactive materials and technologically enhanced naturally occurring radioactive materials from oil and gas operations;

(IV) The Solid and Hazardous Waste Commission to:

(A) Regulate, pursuant to Article 15 of Title 25, the disposal of hazardous waste from oil and gas operations; or

(B) Regulate, pursuant to Section 30-20-109 (1.5), the disposal of exploration and production waste from oil and gas operations; and

(V) A local government to regulate oil and gas operations pursuant to Section 29-20-104;

(c) Any person, or the attorney general on behalf of the state, may apply for any a hearing before the commission, or the commission may initiate proceedings, upon any question relating to the administration of this article, ARTICLE 60, and jurisdiction is conferred upon the commission to hear and determine the same question and enter its rule regulation; or order with respect thereto to the question.

SECTION 11. In Colorado Revised Statutes, 34-60-106, amend (1) introductory portion, (1)(f), (2) introductory portion, (2)(b), (2)(c), (7), (13), and (15); repeal (2)(d); and add (2.5), (11)(c), (18), and (19) as
follows:

**34-60-106. Additional powers of commission - rules - repeal.**

(1) The commission also has authority to SHALL require:

(f) (I) That no operations for the drilling of a well for oil and gas shall be commenced without first:

(A) Giving to the commission notice of intention APPLYING FOR a permit to drill, WHICH MUST INCLUDE PROOF EITHER THAT: THE operator has filed an application with all affected local governments to approve the siting of the proposed oil and gas location and the local governments' disposition of the application; or no affected local government regulates the siting of oil and gas locations; and without first

(B) Obtaining a permit from the commission, under such rules and regulations as may be prescribed by the commission; and

(II) Paying to the commission a filing and service fee to be established by the commission for the purpose of paying the expense of administering this article ARTICLE 60 as provided in section 34-60-122, which fee may be transferable or refundable, at the option of the commission, if such the permit is not used; but no such fee shall exceed two hundred dollars; AND

(III) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW BUT SUBJECT TO SUBSECTION (1)(f)(III)(B) OF THIS SECTION, UNTIL THE COMMISSION HAS PROMULGATED EVERY RULE REQUIRED TO BE ADOPTED BY LEGISLATION ENACTED IN 2019 THAT AMENDS THIS ARTICLE 60 AND EACH RULE SPECIFIED IN THIS SUBSECTION (1)(f)(III)(A) HAS BECOME EFFECTIVE, THE DIRECTOR MAY REFUSE TO ISSUE A PERMIT IF THE DIRECTOR DETERMINES THAT THE PERMIT REQUIRES ADDITIONAL
ANALYSIS TO ENSURE THE PROTECTION OF PUBLIC HEALTH, SAFETY, AND
WELFARE OR THE ENVIRONMENT OR REQUIRE ADDITIONAL LOCAL
GOVERNMENT OR OTHER STATE AGENCY CONSULTATION.

(B) THIS SUBSECTION (1)(f)(III) WILL BE REPEALED IF THE RULES
SPECIFIED IN SUBSECTION (1)(f)(III)(A) OF THIS SECTION HAVE BECOME
EFFECTIVE. THE DIRECTOR SHALL NOTIFY THE VISOR OF STATUTES IN
WRITING OF THE DATE ON WHICH ALL RULES SPECIFIED IN SUBSECTION
(1)(f)(III)(A) OF THIS SECTION HAVE BECOME EFFECTIVE BY E-MAILING
THE NOTICE TO VISOROFSTATUTES.GA@STATE.CO.US. THIS SUBSECTION
(1)(f)(III) IS REPEALED, EFFECTIVE UPON THE DATE IDENTIFIED IN THE
NOTICE THAT THE RULES SPECIFIED IN SUBSECTION (1)(f)(III)(A) OF THIS
SECTION HAVE BECOME EFFECTIVE OR, IF THE NOTICE DOES NOT SPECIFY
THAT DATE, UPON THE DATE OF THE NOTICE TO THE VISOR OF STATUTES.

(2) The commission has the authority to MAY regulate:
(b) The shooting and chemical treatment of wells; AND
(c) The spacing AND NUMBER of wells ALLOWED IN A DRILLING
UNIT. and
(d) Oil and gas operations so as to prevent and mitigate significant
adverse environmental impacts on any air, water, soil, or biological
resource resulting from oil and gas operations to the extent necessary to
protect public health, safety, and welfare, including protection of the
environment and wildlife resources, taking into consideration
cost-effectiveness and technical feasibility.

(2.5) (a) IN EXERCISING THE AUTHORITY GRANTED BY THIS
ARTICLE 60, THE COMMISSION SHALL REGULATE OIL AND GAS OPERATIONS
SO AS TO PROTECT AND MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH,
SAFETY, AND WELFARE, THE ENVIRONMENT, AND WILDLIFE RESOURCES
AND SHALL PROTECT AGAINST AdVERSE ENVIRONMENTAL IMPACTS ON
ANY AIR, WATER, SOIL, OR BIOLOGICAL RESOURCE RESULTING FROM OIL
AND GAS OPERATIONS.

(b) THE NONPRODUCTION OF OIL AND GAS RESULTING FROM A
CONDITIONAL APPROVAL OR DENIAL AUTHORIZED BY THIS SUBSECTION
(2.5) DOES NOT CONSTITUTE WASTE.

(7) (a) The commission has the authority to MAY establish, charge,
and collect docket fees for the filing of applications, petitions, protests,
responses, and other pleadings. No such fees shall exceed two hundred
dollars for any application, petition, or other pleading initiating a
proceeding nor one hundred dollars for any protest or other responsive
pleadings, and any party to any commission proceeding shall pay no more
than one such fee for each proceeding in which it is a party. All such fees
shall be deposited in the oil and gas conservation and environmental
response fund established by section 34-60-122 and shall be subject
to appropriations by the general assembly for the purposes of this article
ARTICLE 60.

(b) THE COMMISSION SHALL BY RULE ESTABLISH THE FEES FOR THE
FILING OF APPLICATIONS IN AMOUNTS SUFFICIENT TO RECOVER THE
COMMISSION'S REASONABLY FORESEEABLE DIRECT AND INDIRECT COSTS
IN CONDUCTING THE ANALYSIS, INCLUDING THE ANNUAL REVIEW OF
FINANCIAL ASSURANCE PURSUANT TO SUBSECTION (13) OF THIS SECTION,
NECESSARY TO ASSURE THAT PERMITTED OPERATIONS WILL BE
CONDUCTED IN COMPLIANCE WITH ALL APPLICABLE REQUIREMENTS OF
THIS ARTICLE 60.

(11) (c) THE COMMISSION SHALL ADOPT RULES THAT:

(I) ADOPT AN ALTERNATIVE LOCATION ANALYSIS PROCESS AND
SPECIFY CRITERIA USED TO IDENTIFY OIL AND GAS LOCATIONS AND
FACILITIES PROPOSED TO BE LOCATED NEAR POPULATED AREAS THAT WILL
BE SUBJECT TO THE ALTERNATIVE LOCATION ANALYSIS PROCESS; AND

(II) IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC HEALTH
AND ENVIRONMENT, EVALUATE AND ADDRESS THE POTENTIAL
CUMULATIVE IMPACTS OF OIL AND GAS DEVELOPMENT.

(13) The commission shall require every operator to provide
assurance that it is financially capable of fulfilling any obligation
imposed under subsections (11), (12), and (17) of this section BY THIS
ARTICLE 60 AS SPECIFIED IN RULES ADOPTED ON OR AFTER THE EFFECTIVE
DATE OF THIS SUBSECTION (13), AS AMENDED. THE RULE-MAKING MUST
CONSIDER: INCREASING FINANCIAL ASSURANCE FOR INACTIVE WELLS AND
FOR WELLS TRANSFERRED TO A NEW OWNER; REQUIRING A FINANCIAL
ASSURANCE ACCOUNT, WHICH MUST REMAIN TIED TO THE WELL IN THE
EVENT OF A TRANSFER OF OWNERSHIP, TO BE FULLY FUNDED IN THE INITIAL
YEARS OF OPERATION FOR EACH NEW WELL TO COVER FUTURE COSTS TO
PLUG, RECLAIM, AND REMEDIATE THE WELL; AND CREATING A POOLED
FUND TO ADDRESS ORPHANED WELLS FOR WHICH NO OWNER, OPERATOR,
OR RESPONSIBLE PARTY IS CAPABLE OF COVERING THE COSTS OF
PLUGGING, RECLAMATION, AND REMEDIATION. For purposes of this
subsection (13), references to "operator" shall include an operator of an
underground natural gas storage cavern and an applicant for a certificate
of closure under subsection (17) of this section. In complying with this
requirement, an operator may submit for commission approval, without
limitation, one or more of the following:

(a) A guarantee of performance where the operator can
demonstrate to the commission's satisfaction that it has sufficient net
worth to guarantee performance of any EVERY obligation imposed by rule under subsections (11), (12), and (17) of this section. Such THIS ARTICLE 60. THE COMMISSION SHALL ANNUALLY REVIEW THE guarantee and demonstration of net worth. shall be annually reviewed by the commission:

(b) A certificate of general liability insurance in a form acceptable to the commission which THAT names the state as an additional insured and which covers occurrences during the policy period of a nature relevant to an obligation imposed by rule under subsections (11), (12), and (17) of this section THIS ARTICLE 60;

(c) A bond or other surety instrument;

(d) A letter of credit, certificate of deposit, or other financial instrument;

(e) An escrow account or sinking fund dedicated to the performance of any EVERY obligation imposed by rule under subsections (11), (12), and (17) of this section THIS ARTICLE 60;

(f) A lien or other security interest in real or personal property of the operator. Such THE lien or security interest shall MUST be in a form and priority acceptable to the commission in its sole discretion. and shall be reviewed annually by The commission SHALL ANNUALLY REVIEW THE LIEN OR SECURITY.

(15) The commission may, as it deems appropriate, assign its inspection and monitoring function, but not its enforcement authority, through intergovernmental agreement or by private contract; except that no such AN assignment shall MUST NOT allow for the imposition of any new tax or fee by the assignee in order to conduct such THE assigned inspection and monitoring and no such assignment shall MUST NOT
provide for compensation contingent on the number or nature of alleged violations referred to the commission by the assignee. No local government may charge a tax or fee to conduct inspections or monitoring of oil and gas operations with regard to matters that are subject to rule, regulation, order, or permit condition administered by the commission. Nothing in this subsection (15) shall affect the ability of a local government to charge a reasonable and nondiscriminatory fee for inspection and monitoring for road damage and compliance with local fire codes, land use permit conditions, and local building codes.

(18) The commission shall promulgate rules to ensure proper wellhead integrity of oil and gas production wells. The rules must address the use of nondestructive testing of well joints and require the certification of oil and gas field welders.

(19) The commission shall review and, if necessary, amend its flowline and inactive, temporarily abandoned, and shut-in well rules to ensure that the rules protect and minimize adverse impacts to public health, safety, and welfare and the environment, including by:

(a) Allowing public disclosure of flowline information and evaluating and determining when a deactivated flowline must be inspected before being reactivated; and

(b) Evaluating and determining when inactive, temporarily abandoned, and shut-in wells must be inspected before being put into production or used for injection.

SECTION 12. In Colorado Revised Statutes, 34-60-116, amend (1), (3), (6), (7)(a)(II), (7)(a)(III), (7)(c), and (7)(d)(I); and add (7)(a)(IV) as follows:
34-60-116. Drilling units - pooling interests. (1) (a) To prevent or to assist in preventing waste, to avoid the drilling of unnecessary wells, or to protect correlative rights, the commission, upon its own motion or on a proper application of an interested party, but after notice and hearing as provided in this section, may establish one or more drilling units of specified size and shape covering any pool or portion of a pool.

(b) The application must include proof that either:

(I) The applicant has filed an application with all affected local governments to approve the siting of the proposed oil and gas location and the local governments' disposition of the application; or

(II) No affected local government regulates the siting of oil and gas locations.

(3) The order establishing a drilling unit:

(a) Is subject to section 34-60-106 (2.5); and

(b) May authorize one or more wells to be drilled and produced from the common source of supply on a drilling unit.

(6) (a) When two or more separately owned tracts are embraced within a drilling unit, or when there are separately owned interests in all or a part of the drilling unit, then persons owning such interests may pool their interests for the development and operation of the drilling unit.

(b) (I) In the absence of voluntary pooling, the commission, upon the application of any interested person, a person who owns, or has secured the consent of the owners of, more than fifty percent of the mineral interests to be pooled, may enter an order pooling all interests in the drilling unit for the development and operation thereof.

Each such of the drilling unit.
(II) The pooling order shall be made after notice and hearing and shall be upon terms and conditions that are just and reasonable and that afford to the owner of each tract or interest in the drilling unit the opportunity to recover or receive, without unnecessary expense, his just and equitable share.

(c) Operations incident to the drilling of a well upon any portion of a unit covered by a pooling order shall be deemed for all purposes to be the conduct of such operations upon each separately owned tract in the unit by the several owners thereof of each separately owned tract. That portion of the production allocated or applicable to each tract included in a unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from such tract by a well drilled thereon on it.

(7) (a) Each pooling order must:

(II) Determine the interest of each owner in the unit and provide that each consenting owner is entitled to receive, subject to royalty or similar obligations, the share of the production from the wells applicable to the owner’s interest in the wells and, unless the owner has agreed otherwise, a proportionate part of the nonconsenting owner’s share of the production until costs are recovered and that each nonconsenting owner is entitled to own and to receive the share of the production applicable to the owner’s interest in the unit after the consenting owners have recovered the nonconsenting owner’s share of the costs out of production; and

(III) Specify that a nonconsenting owner is immune from liability for costs arising from spills, releases, damage, or injury resulting from oil and gas operations on the drilling unit; and

(IV) Prohibit the operator from using the surface owned
BY A NONCONSENTING OWNER WITHOUT PERMISSION FROM THE NONCONSENTING OWNER.

(c) A nonconsenting owner of a tract in a drilling unit that is not subject to any lease or other contract for the development thereof for oil and gas development shall be deemed to have a landowner's proportionate royalty of twelve and one-half percent until such time as the consenting owners recover, only out of the nonconsenting owner's proportionate seven-eighths share of production, the costs specified in subsection (7)(b) of this section. After recovery of the costs, the nonconsenting owner then owns his or her full proportionate share of the wells, surface facilities, and production and then is liable for further costs as if the NONCONSENTING owner had originally agreed to drilling of the wells.

(d) (1) THE COMMISSION SHALL NOT ENTER an order pooling an unleased nonconsenting mineral owner shall not be entered by the commission under subsection (6) of this section over protest of the owner unless the commission has received evidence that the unleased mineral owner has been tendered, no less than sixty days before the hearing, a reasonable offer, MADE IN GOOD FAITH, to lease upon terms no less favorable than those currently prevailing in the area at the time application for the order is made and that such the unleased mineral owner has been furnished in writing the owner's share of the estimated drilling and completion cost of the wells, the location and objective depth of the wells, and the estimated spud date for the wells or range of time within which spudding is to occur. The offer must include a copy of or link to a brochure supplied by the commission that clearly and concisely describes the pooling procedures specified in this section and the mineral
owner's options pursuant to those procedures.

SECTION 13. In Colorado Revised Statutes, 34-60-122, amend (1)(b) as follows:

34-60-122. Expenses - fund created. (1) (b) On and after July 1, 2014, the commission shall ensure that the two-year average of the unobligated portion of the fund does not exceed six million dollars.

FIFTY PERCENT OF TOTAL APPROPRIATIONS FROM THE FUND FOR THE UPCOMING FISCAL YEAR and that there is an adequate balance in the environmental response account created pursuant to subsection (5) of this section to support the operations of the commission and to address environmental response needs.

SECTION 14. In Colorado Revised Statutes, 34-60-128, repeal (4) as follows:

34-60-128. Habitat stewardship - rules. (4) Nothing in this section shall establish, alter, impair, or negate the authority of local and county governments to regulate land use related to oil and gas operations.

SECTION 15. In Colorado Revised Statutes, add 34-60-131 as follows:

34-60-131. No land use preemption - most protective standard controls. (1) (a) NOTHING IN THIS ARTICLE IMPAIRS OR NEGATES THE AUTHORITY OF A LOCAL GOVERNMENT TO REGULATE LAND USE AND THE SITING OF OIL AND GAS LOCATIONS AND FACILITIES.

(b) AN OPERATOR IS SUBJECT TO LOCAL GOVERNMENTS' LAND USE AND SITING AUTHORITY AS PROVIDED BY LAW AND SHALL ENSURE THAT THE LOCATION OF OIL AND GAS LOCATIONS AND FACILITIES COMPLIES WITH LOCAL GOVERNMENT LAND USE AND SITING REGULATIONS.

(2) LOCAL GOVERNMENTS AND STATE AGENCIES, INCLUDING THE
COMMISSION AND AGENCIES LISTED IN SECTION 34-60-105 (1)(b), HAVE
REGULATORY AUTHORITY OVER OIL AND GAS DEVELOPMENT, INCLUDING
AS SPECIFIED IN SECTION 34-60-105 (1)(b). IF THERE IS A CONFLICT
BETWEEN THE REGULATIONS OR STANDARDS OF A LOCAL GOVERNMENT
AND A STATE AGENCY, INCLUDING THE COMMISSION, OR BETWEEN STATE
AGENCIES REGARDING AN EXERCISE OF AUTHORITY, THE REGULATION OR
STANDARD THAT IS RATIONALLY DESIGNED TO BE MORE PROTECTIVE OF
PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, OR WILDLIFE
RESOURCES CONTROLS.

SECTION 16. Applicability. This act applies to conduct
occurring on or after the effective date of this act, including
determinations of applications pending on the effective date.

SECTION 17. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate
preservation of the public peace, health, and safety.