SENATE BILL 19-181

A BILL FOR AN ACT

CONCERNING ADDITIONAL PUBLIC WELFARE PROTECTIONS REGARDING
THE CONDUCT OF OIL AND GAS OPERATIONS, AND, IN
CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.
"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:

1. The air quality control commission to regulate the air pollution associated with oil and gas operations;
2. The water quality control commission to regulate the discharge of water pollutants from oil and gas operations;
3. 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;
4. The solid and hazardous waste commission to regulate the disposal of hazardous waste and exploration and production waste from oil and gas operations; or
5. 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.

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, volatile organic compounds, and oxides of nitrogen from facilities in all segments of the oil and natural gas supply chain.

(b) (1) The commission shall review its leak detection and repair rules for oil and natural gas well production facilities and compressor stations and specifically consider adopting more stringent provisions, including:

(A) A requirement that all oil and natural gas well production facilities must conduct, at a minimum, semi-annual leak detection and repair inspections;

(B) A requirement that owners and operators of oil and gas transmission pipelines and compressor stations must inspect and maintain all equipment and pipelines on a regular basis; and

(C) A requirement that oil and natural gas operators must install and operate continuous methane emissions monitors at facilities with large emissions potential, at multi-well facilities, and at facilities in close proximity to occupied dwellings.
(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), (2), and (3) 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 on the basis of the impact thereof OF THE USE 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 MATTERS SPECIFIED IN THIS SUBSECTION (1)(h) AND TO PROTECT AND MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY, AND WELFARE AND THE ENVIRONMENT. FOR PURPOSES OF THIS SUBSECTION (1)(h), "MINIMIZE ADVERSE IMPACTS" MEANS, TO THE EXTENT NECESSARY AND REASONABLE, TO PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE AND THE ENVIRONMENT BY AVOIDING ADVERSE IMPACTS FROM OIL AND GAS OPERATIONS AND MINIMIZING AND MITIGATING THE EXTENT AND SEVERITY OF THOSE IMPACTS THAT CANNOT BE AVOIDED. THE FOLLOWING MATTERS ARE COVERED BY THIS SUBSECTION (1)(h):

(I) LAND USE;

(II) 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);

(III) IMPACTS TO PUBLIC FACILITIES AND SERVICES;

(IV) 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;

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

(VI) 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.

(3) (a) To provide a local government with technical
expertise regarding whether a preliminary or final
determination of the location of an oil and gas facility or oil
and gas location could affect oil and gas resource recovery:

(I) Once an operator, as defined in section 34-60-103 (6.8),
files an application for the location and siting of an oil and gas
facility or oil and gas location and the local government has
made either a preliminary or final determination regarding the
application, the local government may ask the director of the
oil and gas conservation commission pursuant to section
34-60-104.5 (3) to appoint a technical review board to conduct a
technical review of the preliminary or final determination and
ISSUE A REPORT THAT CONTAINS THE BOARD’S CONCLUSIONS.

(II) ONCE A LOCAL GOVERNMENT HAS MADE A FINAL DETERMINATION REGARDING AN APPLICATION SPECIFIED IN SUBSECTION (3)(a)(I) OF THIS SECTION OR IF THE LOCAL GOVERNMENT HAS NOT MADE A FINAL DETERMINATION ON AN APPLICATION WITHIN TWO HUNDRED TEN DAYS AFTER FILING BY THE OPERATOR, THE OPERATOR MAY ASK THE DIRECTOR OF THE OIL AND GAS CONSERVATION COMMISSION PURSUANT TO SECTION 34-60-104.5 (3) TO APPOINT A TECHNICAL REVIEW BOARD TO CONDUCT A TECHNICAL REVIEW OF THE FINAL DETERMINATION AND ISSUE A REPORT THAT CONTAINS THE BOARD’S CONCLUSIONS.

(b) A LOCAL GOVERNMENT MAY FINALIZE ITS PRELIMINARY DETERMINATION WITHOUT ANY CHANGES BASED ON THE TECHNICAL REVIEW REPORT, FINALIZE ITS PRELIMINARY DETERMINATION WITH CHANGES BASED ON THE REPORT, OR RECONSIDER OR DO NOTHING WITH REGARD TO ITS ALREADY FINALIZED DETERMINATION.

(c) IF AN APPLICANT OR LOCAL GOVERNMENT REQUESTS A TECHNICAL REVIEW PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION, THE PERIOD TO APPEAL A LOCAL GOVERNMENT’S DETERMINATION PURSUANT TO RULE 106 (a)(4) OF THE COLORADO RULES OF CIVIL PROCEDURE IS TOLLED UNTIL THE REPORT SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION HAS BEEN ISSUED, AND THE APPLICANT IS AFFORDED THE FULL PERIOD TO APPEAL THEREAFTER.

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 THAT PROTECTS public health, safety, and welfare, including protection of the environment and wildlife resources;
   (b) It is not NEITHER the intent nor the purpose of this article ARTICLE 60 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 ARTICLE 60 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 therefrom 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 ARTICLE 60, 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 SITED; OR

(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 THE EXTENT NECESSARY AND REASONABLE TO PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, AND WILDLIFE RESOURCES, TO:

(a) Avoid adverse impacts from oil and gas operations; ON WILDLIFE RESOURCES; AND
Minimize AND MITIGATE the extent and severity of those impacts that cannot be avoided.

Mitigate the effects of unavoidable remaining impacts; and

Take into consideration cost-effectiveness and technical feasibility with regard to actions and decisions taken to minimize adverse impacts to wildlife resources.

"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.

"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.

"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
"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.

"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:

(aa) (I) Physical waste, as that term is generally understood in the oil and gas industry;

(bb) (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

(cc) (III) Abuse of the correlative rights of any owner in a pool due to nonuniform, disproportionate, unratable, or excessive withdrawals of
oil or gas therefrom 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 AN 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 CONSISTS 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 shall MUST have formal training or substantial experience in environmental or wildlife protection; one member shall MUST have formal training or substantial experience in WILDLIFE PROTECTION; one member MUST HAVE FORMAL TRAINING OR SUBSTANTIAL EXPERIENCE IN TECHNICAL EXPERTISE RELEVANT TO THE ISSUES CONSIDERED BY THE COMMISSION OR 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); and add (3) as follows:

34-60-104.5. Director of commission - duties - repeal. (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

   (3) (a) THE DIRECTOR OF THE COMMISSION SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY BY JANUARY 1, 2021, REGARDING ANY RECOMMENDED STRUCTURAL CHANGES TO THE COMMISSION, INCLUDING MAKING COMMISSION MEMBERSHIP A FULL-TIME PAID POSITION AND EVALUATING THE USE OF ADDITIONAL ADMINISTRATIVE LAW JUDGES AND HEARING OFFICERS TO ALLOW THE COMMISSION TO DEVOTE MORE OF ITS TIME AND EFFORTS TO SETTING POLICY AND PROMULGATING RULES.

   (b) THE DIRECTOR'S REPORT MUST INCLUDE THE FOLLOWING INFORMATION:

   (I) A SUMMARY OF ANY RELEVANT INFORMATION LEARNED FROM A REVIEW OF THE STRUCTURE OF OTHER STATES' PROFESSIONAL AND NONPROFESSIONAL OIL AND GAS COMMISSIONS; AND

   (II) AN ANALYSIS AS TO WHETHER AND TO WHAT EXTENT THE COMMISSION HAS ADEQUATE SCIENTIFIC EXPERTISE IN THE AREAS OF OIL AND GAS MINERAL RESOURCE DEVELOPMENT, INCLUDING GEOLOGISTS, PETROLEUM GEOLOGISTS, AND PETROLEUM ENGINEERS.

   (c) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

   (3) (a) UPON RECEIPT OF REQUEST FOR TECHNICAL REVIEW FILED PURSUANT TO SECTION 29-20-104 (3)(a), THE DIRECTOR OF THE COMMISSION SHALL APPOINT TECHNICAL REVIEW BOARD MEMBERS.
MEMBERSHIP OF THE TECHNICAL REVIEW BOARD MUST INCLUDE SUBJECT MATTER EXPERTS IN LOCAL LAND USE PLANNING AND OIL AND GAS EXPLORATION AND PRODUCTION AND MAY INCLUDE SUBJECT MATTER EXPERTS IN ENVIRONMENTAL SCIENCES, PUBLIC HEALTH SCIENCES, OR OTHER DISCIPLINES RELEVANT TO THE DISPUTED ISSUES, AS DETERMINED BY THE DIRECTOR. THE TECHNICAL REVIEW BOARD SHALL CONDUCT A TECHNICAL REVIEW OF THE PRELIMINARY OR FINAL SITING DETERMINATION PURSUANT TO THE CRITERIA SPECIFIED IN SUBSECTION (3)(b) OF THIS SECTION AND, AT ITS DISCRETION, MAY MEET TO CONFER INFORMALLY WITH THE PARTIES. THE TECHNICAL REVIEW MUST BE COMPLETED BY ISSUANCE OF A REPORT WITHIN SIXTY DAYS AFTER THE DIRECTOR APPOINTS THE EXPERTS.

(b) A TECHNICAL REVIEW:

(I) MUST ADDRESS THE ISSUES IN DISPUTE AS IDENTIFIED BY THE OPERATOR AND THE LOCAL GOVERNMENT, WHICH MAY INCLUDE IMPACTS TO THE RECOVERY OF THE RESOURCE BY THE PRELIMINARY OR FINAL SITING DETERMINATION OF THE LOCAL GOVERNMENT; WHETHER THE LOCAL GOVERNMENT’S DETERMINATION WOULD REQUIRE TECHNOLOGIES THAT ARE NOT AVAILABLE OR ARE IMPRACTICABLE GIVEN THE CONTEXT TO USE BEST MANAGEMENT PRACTICES; AND

(II) MUST RESULT IN THE ISSUANCE OF A REPORT.

SECTION 10. In Colorado Revised Statutes, 34-60-105, amend (1); and add (4) 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
power to make and enforce rules and orders pursuant to this article, and to do whatever may reasonably be necessary to carry out the provisions of this article.

(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 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 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.

(4) (a) EXCEPT AS SPECIFIED IN SUBSECTION (4)(b) OF THIS
SECTION, NOTHING IN THIS ARTICLE 60 AUTHORIZES THE STATE OR ITS
LOCAL GOVERNMENTS, INCLUDING THE COMMISSION, BOARDS OF COUNTY
COMMISSIONERS, AND MUNICIPALITIES, TO REGULATE THE ACTIVITIES OF:

(I) FEDERALLY RECOGNIZED INDIAN TRIBES, THEIR POLITICAL
SUBDIVISIONS, OR TRIBALLY CONTROLLED AFFILIATES, UNDERTAKEN OR
TO BE UNDERTAKEN WITH RESPECT TO MINERAL EVALUATION,
EXPLORATION, OR DEVELOPMENT ON LANDS WITHIN THE EXTERIOR
BOUNDARIES OF AN INDIAN RESERVATION LOCATED WITHIN THE STATE; OR

(II) THIRD PARTIES, UNDERTAKEN OR TO BE UNDERTAKEN WITH
RESPECT TO MINERAL EVALUATION, EXPLORATION, OR DEVELOPMENT ON
INDIAN TRUST LANDS WITHIN THE EXTERIOR BOUNDARIES OF AN INDIAN
RESERVATION LOCATED WITHIN THE STATE.

(b) REGULATION BY THE STATE OR ITS LOCAL GOVERNMENTS,
INCLUDING THE COMMISSION, BOARDS OF COUNTY COMMISSIONERS, AND
MUNICIPALITIES, APPLICABLE TO NON-INDIANS CONDUCTING OIL AND GAS
OPERATIONS ON LANDS WITHIN THE EXTERIOR BOUNDARIES OF THE
SOUTHERN UTE INDIAN RESERVATION MAY APPLY TO LANDS WHERE BOTH
THE SURFACE AND THE OIL AND GAS ESTATES ARE OWNED IN FEE BY A
PERSON OTHER THAN THE SOUTHERN UTE INDIAN TRIBE, REGARDLESS OF
WHETHER THE LANDS ARE COMMUNITIZED OR POOLED WITH INDIAN MINERAL LANDS.

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), (19), and (20) as follows:

(1) The commission also 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) (A) Notwithstanding any other provision of law but subject to subsection (1)(f)(III)(B) of this section, until the

COMMISSION HAS PROMULGATED ANY RULES REQUIRED TO BE ADOPTED BY
SUBSECTIONS (2.5)(a), (11)(c), AND (19) OF THIS SECTION 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,
PURSUANT TO OBJECTIVE CRITERIA TO BE PUBLISHED BY THE DIRECTOR
WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION
(1)(f)(III) AND FOLLOWING A PUBLIC COMMENT PERIOD, THAT THE PERMIT
REQUIRES ADDITIONAL ANALYSIS TO ENSURE THE PROTECTION OF PUBLIC
HEALTH, SAFETY, AND WELFARE OR THE ENVIRONMENT OR REQUIRES
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 REVISOR 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 REVISOROFSTATUTES.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 REVISOR 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 not act arbitrarily or
capriciously in regulating 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 every 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 EVERY obligation imposed by rule under subsections (11), (12), and (17) of this section. Such 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 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.

(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 EVERY obligation imposed by rule under subsections (11), (12), and (17) of this section;

(f) A lien or other security interest in real or personal property of the operator. Such lien or security interest shall 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 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 WELLBORE INTEGRITY OF ALL OIL AND GAS PRODUCTION WELLS. IN PROMULGATING THE RULES, THE COMMISSION SHALL CONSIDER INCORPORATING RECOMMENDATIONS FROM THE STATE OIL AND GAS REGULATORY EXCHANGE AND SHALL INCLUDE PROVISIONS TO:

(a) ADDRESS THE PERMITTING, CONSTRUCTION, OPERATION, AND CLOSURE OF PRODUCTION WELLS;

(b) REQUIRE THAT WELLS ARE CONSTRUCTED USING CURRENT PRACTICES AND STANDARDS THAT PROTECT WATER ZONES AND PREVENT
BLOWOUTS:

(c) Enhance safety and environmental protections during operations such as drilling and hydraulic fracturing;

(d) Require regular integrity assessments for all oil and gas production wells, such as pressure monitoring during production; and

(e) Address the use of nondestructive testing of well joints.

(19) The commission shall review and amend its flowline and inactive, temporarily abandoned, and shut-in well rules to the extent necessary 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.

(20) The commission shall adopt rules to require certification for workers in the following fields:

(a) Compliance officers with regard to the federal "Occupational Safety and Health Act of 1970", 29 U.S.C. sec. 651 et seq., including specifically working in confined spaces;

(b) Compliance officers with regard to codes published by The American Petroleum Institute and American Society of Mechanical Engineers, or their successor organizations.
(c) THE HANDLING OF HAZARDOUS MATERIALS;
(d) WELDERS WORKING ON OIL AND GAS PROCESS LINES, INCLUDING:
   (I) KNOWLEDGE OF THE FLOWLINE RULES PROMULGATED PURSUANT TO SUBSECTION (19) OF THIS SECTION;
   (II) A MINIMUM OF SEVEN THOUSAND HOURS OF DOCUMENTED ON-THE-JOB TRAINING, WHICH REQUIREMENT CAN BE MET BY AN EMPLOYEE WORKING UNDER THE SUPERVISION OF A PERSON WITH THE REQUISITE SEVEN THOUSAND HOURS OF TRAINING; AND
   (III) PASSAGE OF THE INTERNATIONAL CODE COUNCIL EXAM F31, NATIONAL STANDARD JOURNEYMAN MECHANICAL, OR AN ANALOGOUS SUCCESSOR EXAM, FOR ANY PERSON WORKING ON PRESSURIZED PROCESS LINES IN UPSTREAM AND MIDSTREAM OPERATIONS.

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 THE LOCAL GOVERNMENT WITH JURISDICTION TO APPROVE THE SITING OF THE PROPOSED OIL AND GAS LOCATION AND THE LOCAL GOVERNMENT'S DISPOSITION OF THE APPLICATION; OR

   (II) THE APPLICANT HAS COMPLETED SEVEN THOUSAND HOURS OF DOCUMENTED ON-THE-JOB TRAINING, WHICH REQUIREMENT CAN BE MET BY AN EMPLOYEE WORKING UNDER THE SUPERVISION OF A PERSON WITH THE REQUISITE SEVEN THOUSAND HOURS OF TRAINING; AND

   (III) PASSAGE OF THE INTERNATIONAL CODE COUNCIL EXAM F31, NATIONAL STANDARD JOURNEYMAN MECHANICAL, OR AN ANALOGOUS SUCCESSOR EXAM, FOR ANY PERSON WORKING ON PRESSURIZED PROCESS LINES IN UPSTREAM AND MIDSTREAM OPERATIONS.
(II) The local government with jurisdiction does not regulate 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 interest of the drilling unit.

(II) The pooling order shall be made after notice and a 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 THE 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 THIRTEEN percent until such time as the consenting owners recover, only out of the nonconsenting owner's proportionate seven-eighths EIGHTY-SEVEN PERCENT 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

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then is liable for further costs as if the NONCONSENTING owner had originally agreed to drilling of the wells.

(d) (I) 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 2019, the commission shall ensure that the two-year average of the unobligated portion of the fund does not exceed 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 FUND 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. (1) (a) Nothing in this Article 60 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). A local government’s regulations may be more protective or stricter than state requirements.

SECTION 16. Appropriation. (1) For the 2019-20 state fiscal year, $770,959 is appropriated to the department of natural resources. This appropriation consists of $678,431 cash funds from the oil and gas conservation and environmental response fund created in section 34-60-122 (5)(a), C.R.S., and $92,528 cash funds from the wildlife cash fund created in section 33-1-112 (1)(a), C.R.S. To implement this act, the
department may use this appropriation as follows:

   (a) $489,759 from the oil and gas conservation and environmental
response fund for use by the oil and gas conservation commission for
program costs, which amount is based on an assumption that the oil and
gas conservation commission will require an additional 5.0 FTE;

   (b) $88,628 from the wildlife cash fund for wildlife operations,
which amount is based on an assumption that the division of wildlife will
require an additional 1.0 FTE;

   (c) $6,038, which consists of $3,900 from the wildlife cash fund
and $2,138 from the oil and gas conservation and environmental response
fund, for vehicle lease payments; and

   (d) $186,534 from the oil and gas conservation and environmental
response fund for the purchase of legal services.

   (2) For the 2019-20 state fiscal year, $186,534 is appropriated to
the department of law. This appropriation is from reappropriated funds
received from the department of natural resources under subsection (1)(d)
of this section and is based on an assumption that the department of law
will require an additional 1.0 FTE. To implement this act, the department
of law may use this appropriation to provide legal services for the
department of natural resources.

SECTION 17. 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 18. 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.