

**First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**REVISED**

*This Version Includes All Amendments Adopted  
on Second Reading in the Second House*

LLS NO. 19-0973.01 Thomas Morris x4218

**SENATE BILL 19-181**

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**SENATE SPONSORSHIP**

**Fenberg and Foote**, Gonzales, Lee, Moreno, Story, Williams A., Winter

**HOUSE SPONSORSHIP**

**Becker and Caraveo**,

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**Senate Committees**

Transportation & Energy  
Finance  
Appropriations

**House Committees**

Energy & Environment  
Finance  
Appropriations

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**A BILL FOR AN ACT**

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

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**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  
Amended 2nd Reading  
March 28, 2019

SENATE  
3rd Reading Unamended  
March 13, 2019

SENATE  
Amended 2nd Reading  
March 12, 2019

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

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

4 **24-65.1-202. Criteria for administration of areas of state**  
5 **interest.** (1) (d) ~~Unless an activity of state interest has been designated~~  
6 ~~or identified or unless it includes part or all of another area of state~~  
7 ~~interest, an area of oil and gas development shall not be designated as an~~  
8 ~~area of state interest unless the state oil and gas conservation commission~~  
9 ~~identifies such area for designation.~~

10 **SECTION 2.** In Colorado Revised Statutes, 24-65.1-302, **repeal**

1 (3) as follows:

2 **24-65.1-302. Functions of other state agencies.** (3) Pursuant to  
3 ~~section 24-65.1-202 (1)(d), the oil and gas conservation commission of~~  
4 ~~the state of Colorado may identify an area of oil and gas development for~~  
5 ~~designation by local government as an area of state interest.~~

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

8 **25-7-109. Commission to promulgate emissions control**  
9 **regulations.** (10) (a) THE COMMISSION SHALL ADOPT RULES TO MINIMIZE  
10 EMISSIONS OF METHANE AND OTHER HYDROCARBONS, VOLATILE ORGANIC  
11 COMPOUNDS, AND OXIDES OF NITROGEN FROM OIL AND NATURAL GAS  
12 EXPLORATION AND PRODUCTION FACILITIES AND NATURAL GAS FACILITIES  
13 IN THE PROCESSING, GATHERING AND BOOSTING, STORAGE, AND  
14 TRANSMISSION SEGMENTS OF THE NATURAL GAS SUPPLY CHAIN.

15 (b) (I) THE COMMISSION SHALL REVIEW ITS RULES FOR OIL AND  
16 NATURAL GAS WELL PRODUCTION FACILITIES AND COMPRESSOR STATIONS  
17 AND SPECIFICALLY CONSIDER ADOPTING MORE STRINGENT PROVISIONS,  
18 INCLUDING:

19 (A) A REQUIREMENT THAT LEAK DETECTION AND REPAIR  
20 INSPECTIONS OCCUR AT ALL WELL PRODUCTION FACILITIES ON, AT A  
21 MINIMUM, A SEMIANNUAL BASIS OR THAT AN ALTERNATIVE APPROVED  
22 INSTRUMENT MONITORING METHOD IS IN PLACE PURSUANT TO EXISTING  
23 RULES.

24 (B) A REQUIREMENT THAT OWNERS AND OPERATORS OF OIL AND  
25 GAS TRANSMISSION PIPELINES AND COMPRESSOR STATIONS MUST INSPECT  
26 AND MAINTAIN ALL EQUIPMENT AND PIPELINES ON A REGULAR BASIS;

27 (C) A REQUIREMENT THAT OIL AND NATURAL GAS OPERATORS

1 MUST INSTALL AND OPERATE CONTINUOUS METHANE EMISSIONS MONITORS  
2 AT FACILITIES WITH LARGE EMISSIONS POTENTIAL, AT MULTI-WELL  
3 FACILITIES, AND AT FACILITIES IN CLOSE PROXIMITY TO OCCUPIED  
4 DWELLINGS; AND

5 (D) A REQUIREMENT TO REDUCE EMISSIONS FROM PNEUMATIC  
6 DEVICES. THE COMMISSION SHALL CONSIDER REQUIRING OIL AND GAS  
7 OPERATORS, UNDER APPROPRIATE CIRCUMSTANCES, TO USE PNEUMATIC  
8 DEVICES THAT DO NOT VENT NATURAL GAS.

9 (II) THE COMMISSION MAY, BY RULE, PHASE IN THE REQUIREMENT  
10 TO COMPLY WITH THIS SUBSECTION (10)(b) ON THE BASES OF PRODUCTION  
11 CAPABILITY, TYPE AND AGE OF OIL AND GAS FACILITY, AND COMMERCIAL  
12 AVAILABILITY OF CONTINUOUS MONITORING EQUIPMENT. IF THE  
13 COMMISSION PHASES IN THE REQUIREMENT TO COMPLY WITH THIS  
14 SUBSECTION (10)(b), IT SHALL INCREASE THE REQUIRED FREQUENCY OF  
15 INSPECTIONS AT FACILITIES THAT ARE SUBJECT TO THE PHASE-IN UNTIL  
16 THE FACILITIES ACHIEVE CONTINUOUS EMISSION MONITORING.

17 (c) NOTWITHSTANDING THE GRANT OF AUTHORITY TO THE OIL AND  
18 GAS CONSERVATION COMMISSION IN ARTICLE 60 OF TITLE 34, INCLUDING  
19 SPECIFICALLY SECTION 34-60-105 (1), THE COMMISSION MAY REGULATE  
20 AIR POLLUTION FROM OIL AND GAS FACILITIES LISTED IN SUBSECTION  
21 (10)(a) OF THIS SECTION, INCLUDING DURING PRE-PRODUCTION ACTIVITIES,  
22 DRILLING, AND COMPLETION.

23 **SECTION 4.** In Colorado Revised Statutes, 29-20-104, **amend**  
24 (1) introductory portion, (1)(g), and (1)(h); and **add** (1)(i), (2), and (3) as  
25 follows:

26 **29-20-104. Powers of local governments - definition.**  
27 (1) Except as expressly provided in section 29-20-104.5, the power and

1 authority granted by this section ~~shall~~ DOES not limit any power or  
2 authority presently exercised or previously granted. Each local  
3 government within its respective jurisdiction has the authority to plan for  
4 and regulate the use of land by:

5 (g) Regulating the use of land on the basis of the impact thereof  
6 OF THE USE on the community or surrounding areas; and

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

10 REGULATING THE SURFACE IMPACTS OF OIL AND GAS OPERATIONS IN A  
11 REASONABLE MANNER TO ADDRESS MATTERS SPECIFIED IN THIS  
12 SUBSECTION (1)(h) AND TO PROTECT AND MINIMIZE ADVERSE IMPACTS TO  
13 PUBLIC HEALTH, SAFETY, AND WELFARE AND THE ENVIRONMENT. NOTHING  
14 IN THIS SUBSECTION (1)(h) IS INTENDED TO ALTER, EXPAND, OR DIMINISH  
15 THE AUTHORITY OF LOCAL GOVERNMENTS TO REGULATE AIR QUALITY  
16 UNDER SECTION 25-7-128. FOR PURPOSES OF THIS SUBSECTION (1)(h),  
17 "MINIMIZE ADVERSE IMPACTS" MEANS, TO THE EXTENT NECESSARY AND  
18 REASONABLE, TO PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE AND  
19 THE ENVIRONMENT BY AVOIDING ADVERSE IMPACTS FROM OIL AND GAS  
20 OPERATIONS AND MINIMIZING AND MITIGATING THE EXTENT AND SEVERITY  
21 OF THOSE IMPACTS THAT CANNOT BE AVOIDED. THE FOLLOWING MATTERS  
22 ARE COVERED BY THIS SUBSECTION (1)(h):

23 (I) LAND USE;

24 == ==

25 (II) THE LOCATION AND SITING OF OIL AND GAS FACILITIES AND OIL  
26 AND GAS LOCATIONS, AS THOSE TERMS ARE DEFINED IN SECTION 34-60-103  
27 (6.2) AND (6.4);



1           (III) IMPACTS TO PUBLIC FACILITIES AND SERVICES;

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

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

10          (VI) ALL OTHER NUISANCE-TYPE EFFECTS OF OIL AND GAS  
11 DEVELOPMENT; AND

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

16           (2) TO IMPLEMENT THE POWERS AND AUTHORITY GRANTED IN  
17 SUBSECTION (1)(h) OF THIS SECTION, A LOCAL GOVERNMENT WITHIN ITS  
18 RESPECTIVE JURISDICTION HAS THE AUTHORITY TO:

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

21           (b) IMPOSE FINES FOR LEAKS, SPILLS, AND EMISSIONS; AND

22           (c) IMPOSE FEES ON OPERATORS OR OWNERS TO COVER THE  
23 REASONABLY FORESEEABLE DIRECT AND INDIRECT COSTS OF PERMITTING  
24 AND REGULATION AND THE COSTS OF ANY MONITORING AND INSPECTION  
25 PROGRAM NECESSARY TO ADDRESS THE IMPACTS OF DEVELOPMENT AND  
26 TO ENFORCE LOCAL GOVERNMENTAL REQUIREMENTS.

27           (3) (a) TO PROVIDE A LOCAL GOVERNMENT WITH TECHNICAL

1 EXPERTISE REGARDING WHETHER A PRELIMINARY OR FINAL  
2 DETERMINATION OF THE LOCATION OF AN OIL AND GAS FACILITY OR OIL  
3 AND GAS LOCATION WITHIN ITS RESPECTIVE JURISDICTION COULD AFFECT  
4 OIL AND GAS RESOURCE RECOVERY:

5 (I) ONCE AN OPERATOR, AS DEFINED IN SECTION 34-60-103 (6.8),  
6 FILES AN APPLICATION FOR THE LOCATION AND SITING OF AN OIL AND GAS  
7 FACILITY OR OIL AND GAS LOCATION AND THE LOCAL GOVERNMENT HAS  
8 MADE EITHER A PRELIMINARY OR FINAL DETERMINATION REGARDING THE  
9 APPLICATION, THE LOCAL GOVERNMENT HAVING LAND USE JURISDICTION  
10 MAY ASK THE DIRECTOR OF THE OIL AND GAS CONSERVATION COMMISSION  
11 PURSUANT TO SECTION 34-60-104.5 (3) TO APPOINT A TECHNICAL REVIEW  
12 BOARD TO CONDUCT A TECHNICAL REVIEW OF THE PRELIMINARY OR FINAL  
13 DETERMINATION AND ISSUE A REPORT THAT CONTAINS THE BOARD'S  
14 CONCLUSIONS.

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

24 (b) A LOCAL GOVERNMENT MAY FINALIZE ITS PRELIMINARY  
25 DETERMINATION WITHOUT ANY CHANGES BASED ON THE TECHNICAL  
26 REVIEW REPORT, FINALIZE ITS PRELIMINARY DETERMINATION WITH  
27 CHANGES BASED ON THE REPORT, OR RECONSIDER OR DO NOTHING WITH

1 REGARD TO ITS ALREADY FINALIZED DETERMINATION.

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

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

12 **30-15-401. General regulations - definitions.** (1) In addition to  
13 those powers granted by sections 30-11-101 and 30-11-107 and by parts  
14 1, 2, and 3 of this article 15, the board of county commissioners ~~has the~~  
15 ~~power to~~ MAY adopt ordinances for control or licensing of those matters  
16 of purely local concern that are described in the following enumerated  
17 powers:

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

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

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

27 **34-60-102. Legislative declaration.** (1) (a) It is declared to be in

1 the public interest AND THE COMMISSION IS DIRECTED to:

2 (I) ~~Foster~~ REGULATE the ~~responsible, balanced~~ development AND  
3 ~~production and utilization~~ of the natural resources of oil and gas in the  
4 state of Colorado in a manner ~~consistent with protection of~~ THAT  
5 PROTECTS public health, safety, and welfare, including protection of the  
6 environment and wildlife resources;

7 (b) It is ~~not~~ NEITHER the intent nor the purpose of this ~~article~~  
8 ARTICLE 60 to require or permit the proration or distribution of the  
9 production of oil and gas among the fields and pools of Colorado on the  
10 basis of market demand. It is the intent and purpose of this ~~article~~  
11 ARTICLE 60 to permit each oil and gas pool in Colorado to produce up to  
12 its maximum efficient rate of production, subject to the PROTECTION OF  
13 PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, AND  
14 WILDLIFE RESOURCES AND THE prevention of waste ~~consistent with the~~  
15 ~~protection of public health, safety, and welfare, including protection of~~  
16 ~~the environment and wildlife resources~~ AS SET FORTH IN SECTION  
17 34-60-106 (2.5) AND (3)(a), and subject further to the enforcement and  
18 protection of the coequal and correlative rights of the owners and  
19 producers of a common source of oil and gas, so that each common owner  
20 and producer may obtain a just and equitable share of production  
21 ~~therefrom~~ FROM THE COMMON SOURCE.

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

25 **34-60-103. Definitions.** As used in this ~~article~~ ARTICLE 60, unless  
26 the context otherwise requires:

27 (5.3) "LOCAL GOVERNMENT" MEANS, EXCEPT WITH REGARD TO

1 SECTION 34-60-104 (2)(a)(I), A:

2 (a) MUNICIPALITY OR CITY AND COUNTY WITHIN WHOSE  
3 BOUNDARIES AN OIL AND GAS LOCATION IS SITED OR PROPOSED TO BE  
4 SITED; OR

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

8 (5.5) "Minimize adverse impacts" means, to wherever reasonably  
9 practicable THE EXTENT NECESSARY AND REASONABLE TO PROTECT  
10 PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, AND  
11 WILDLIFE RESOURCES, TO:

12 (a) Avoid adverse impacts from oil and gas operations; ~~on wildlife~~  
13 ~~resources;~~ AND

14 (b) Minimize AND MITIGATE the extent and severity of those  
15 impacts that cannot be avoided.

16 ~~(c) Mitigate the effects of unavoidable remaining impacts; and~~

17 ~~(d) Take into consideration cost-effectiveness and technical~~  
18 ~~feasibility with regard to actions and decisions taken to minimize adverse~~  
19 ~~impacts to wildlife resources.~~

20 (6.2) "OIL AND GAS FACILITY" MEANS EQUIPMENT OR  
21 IMPROVEMENTS USED OR INSTALLED AT AN OIL AND GAS LOCATION FOR  
22 THE EXPLORATION, PRODUCTION, WITHDRAWAL, TREATMENT, OR  
23 PROCESSING OF CRUDE OIL, CONDENSATE, EXPLORATION AND PRODUCTION  
24 WASTE, OR GAS.

25 (6.4) "OIL AND GAS LOCATION" MEANS A DEFINABLE AREA WHERE  
26 AN OIL AND GAS OPERATOR HAS DISTURBED OR INTENDS TO DISTURB THE  
27 LAND SURFACE IN ORDER TO LOCATE AN OIL AND GAS FACILITY.

1 (11) "Waste", as applied to gas:

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

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

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

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

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

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

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

4 ~~(a)~~ (I) Physical waste, as that term is generally understood in the  
5 oil and gas industry;

6 ~~(b)~~ (II) The locating, spacing, drilling, equipping, operating, or  
7 producing of any oil or gas well or wells in a manner ~~which~~ THAT causes  
8 or tends to cause reduction in quantity of oil or gas ultimately recoverable  
9 from a pool under prudent and proper operations or ~~which~~ THAT causes  
10 or tends to cause unnecessary or excessive surface loss or destruction of  
11 oil or gas; AND

12 ~~(c)~~ (III) Abuse of the correlative rights of any owner in a pool due  
13 to nonuniform, disproportionate, unratable, or excessive withdrawals of  
14 oil or gas ~~therefrom~~ FROM THE POOL, causing reasonably avoidable  
15 drainage between tracts of land or resulting in one or more producers or  
16 owners in ~~such~~ THE pool producing more than ~~his~~ AN equitable share of  
17 the oil or gas from ~~such~~ THE pool; AND

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

22 **SECTION 8.** In Colorado Revised Statutes, 34-60-104, **amend**  
23 (1), (2)(a)(I), and (2)(a)(II) as follows:

24 **34-60-104. Oil and gas conservation commission - report -**  
25 **publication - repeal.** (1) (a) There is hereby created, in the department  
26 of natural resources, the oil and gas conservation commission. ~~of the state~~  
27 ~~of Colorado.~~

1 (b) THIS SECTION IS REPEALED ON THE EARLIER OF JULY 1, 2020,  
2 OR THE DATE ON WHICH ALL RULES REQUIRED TO BE ADOPTED BY SECTION  
3 34-60-106 (2.5)(a), (11)(c), AND (19) HAVE BECOME EFFECTIVE. THE  
4 DIRECTOR SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE  
5 DATE ON WHICH THE CONDITION SPECIFIED IN THIS SUBSECTION (1)(b) HAS  
6 OCCURRED BY E-MAILING THE NOTICE TO  
7 REVISOROFSTATUTES.GA@STATE.CO.US.

8 (2) (a) (I) Effective July 1, 2007 ON THE EFFECTIVE DATE OF THIS  
9 SECTION (2)(a)(I), AS AMENDED, the commission ~~shall consist~~ CONSISTS  
10 of nine members, seven of whom shall be appointed by the governor with  
11 the consent of the senate. ~~and two of whom,~~ The executive director of the  
12 department of natural resources and the executive director of the  
13 department of public health and environment, ~~shall be~~ OR THE EXECUTIVE  
14 DIRECTORS' DESIGNEES, ARE ex officio voting members. At least two  
15 members shall be appointed from west of the continental divide, and, to  
16 the extent possible, consistent with this ~~paragraph (a)~~ SUBSECTION (2)(a),  
17 the other members shall be appointed taking into account the need for  
18 geographical representation of ~~other~~ areas of the state with high levels of  
19 CURRENT OR ANTICIPATED oil and gas activity or employment. ~~Three~~  
20 ~~members shall~~ ONE MEMBER MUST be ~~individuals~~ AN INDIVIDUAL with  
21 substantial experience in the oil and gas industry; ~~and at least two of said~~  
22 ~~three members shall have a college degree in petroleum geology or~~  
23 ~~petroleum engineering;~~ one member ~~shall~~ MUST be a local government  
24 official; one member ~~shall~~ MUST have formal training or substantial  
25 experience in environmental ~~or wildlife~~ protection; one member ~~shall~~  
26 MUST have formal training or substantial experience in WILDLIFE  
27 PROTECTION; ONE MEMBER MUST HAVE TECHNICAL EXPERTISE RELEVANT



1 TO THE ISSUES CONSIDERED BY THE COMMISSION OR FORMAL TRAINING OR  
2 SUBSTANTIAL EXPERIENCE IN soil conservation or reclamation; and one  
3 member shall MUST be actively engaged in agricultural production and  
4 also OR be a royalty owner; AND ONE MEMBER MUST HAVE FORMAL  
5 TRAINING OR SUBSTANTIAL EXPERIENCE IN PUBLIC HEALTH. Excluding the  
6 executive directors from consideration, no more than four members of the  
7 commission shall MAY be members of the same political party.

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

18 SECTION 9. In Colorado Revised Statutes, add 34-60-104.3 as  
19 follows:

20 34-60-104.3. Oil and gas conservation commission - report -  
21 publication. (1) THERE IS HEREBY CREATED, IN THE DEPARTMENT OF  
22 NATURAL RESOURCES, THE OIL AND GAS CONSERVATION COMMISSION.

23 (2) (a) THE COMMISSION CONSISTS OF SEVEN MEMBERS, FIVE OF  
24 WHOM SHALL BE APPOINTED BY THE GOVERNOR WITH THE CONSENT OF  
25 THE SENATE. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL  
26 RESOURCES AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF  
27 PUBLIC HEALTH AND ENVIRONMENT, OR THE EXECUTIVE DIRECTORS'

1 DESIGNEEES, ARE EX OFFICIO NONVOTING MEMBERS. A MAJORITY OF THE  
2 VOTING COMMISSIONERS CONSTITUTE A QUORUM FOR THE TRANSACTION  
3 OF ITS BUSINESS.

4 (b) EACH APPOINTED COMMISSIONER MUST BE A QUALIFIED  
5 ELECTOR OF THIS STATE. EACH APPOINTED COMMISSIONER, BEFORE  
6 ENTERING UPON THE DUTIES OF OFFICE, SHALL TAKE THE CONSTITUTIONAL  
7 OATH OF OFFICE. EXCLUDING THE EXECUTIVE DIRECTORS FROM  
8 CONSIDERATION, NO MORE THAN THREE MEMBERS OF THE COMMISSION  
9 MAY BE MEMBERS OF THE SAME POLITICAL PARTY. TO THE EXTENT  
10 POSSIBLE, CONSISTENT WITH THIS SUBSECTION (2), THE MEMBERS SHALL  
11 BE APPOINTED TAKING INTO ACCOUNT THE NEED FOR GEOGRAPHICAL  
12 REPRESENTATION OF AREAS OF THE STATE WITH HIGH LEVELS OF CURRENT  
13 OR ANTICIPATED OIL AND GAS ACTIVITY OR EMPLOYMENT. THE APPOINTED  
14 MEMBERS OF THE COMMISSION SHALL DEVOTE THEIR ENTIRE TIME TO THE  
15 DUTIES OF THEIR OFFICES TO THE EXCLUSION OF ANY OTHER EMPLOYMENT  
16 AND ARE ENTITLED TO RECEIVE COMPENSATION AS DESIGNATED BY LAW.

17 (c) ONE APPOINTED MEMBER MUST BE AN INDIVIDUAL WITH  
18 SUBSTANTIAL EXPERIENCE IN THE OIL AND GAS INDUSTRY; ONE APPOINTED  
19 MEMBER MUST HAVE SUBSTANTIAL EXPERTISE IN PLANNING OR LAND USE;  
20 ONE APPOINTED MEMBER MUST HAVE FORMAL TRAINING OR SUBSTANTIAL  
21 EXPERIENCE IN ENVIRONMENTAL PROTECTION, WILDLIFE PROTECTION, OR  
22 RECLAMATION; ONE APPOINTED MEMBER MUST HAVE PROFESSIONAL  
23 EXPERIENCE DEMONSTRATING AN ABILITY TO CONTRIBUTE TO THE  
24 COMMISSION'S BODY OF EXPERTISE THAT WILL AID THE COMMISSION IN  
25 MAKING SOUND, BALANCED DECISIONS; AND ONE APPOINTED MEMBER  
26 MUST HAVE FORMAL TRAINING OR SUBSTANTIAL EXPERIENCE IN PUBLIC  
27 HEALTH.

1 (d) NO PERSON MAY BE APPOINTED TO SERVE ON THE COMMISSION  
2 OR HOLD THE OFFICE OF COMMISSIONER IF THE PERSON HAS A CONFLICT OF  
3 INTEREST WITH OIL AND GAS DEVELOPMENT IN COLORADO. EXAMPLES OF  
4 CONFLICTS OF INTEREST INCLUDE BEING REGISTERED AS A LOBBYIST AT  
5 THE LOCAL OR STATE LEVELS, SERVING IN THE GENERAL ASSEMBLY WITHIN  
6 THE PRIOR THREE YEARS, OR SERVING IN AN OFFICIAL CAPACITY WITH AN  
7 ENTITY THAT EDUCATES OR ADVOCATES FOR OR AGAINST OIL AND GAS  
8 ACTIVITY. THIS SUBSECTION (2)(d) SHALL BE CONSTRUED REASONABLY  
9 WITH THE OBJECTIVE OF DISQUALIFYING FROM THE COMMISSION ANY  
10 PERSON WHO MIGHT HAVE AN IMMEDIATE CONFLICT OF INTEREST OR WHO  
11 MAY NOT BE ABLE TO MAKE BALANCED DECISIONS ABOUT OIL AND GAS  
12 REGULATION IN COLORADO. A PERSON WHO HAS WORKED WITH OR FOR AN  
13 ENERGY OR ENVIRONMENTAL ENTITY NEED NOT BE DISQUALIFIED IF THE  
14 PERSON'S EXPERIENCE SHOWS SUBJECT MATTER KNOWLEDGE COUPLED  
15 WITH AN ABILITY TO RENDER INFORMED, THOROUGH, AND BALANCED  
16 DECISION-MAKING.

17 (e) MEMBERS OF THE COMMISSION SHALL BE APPOINTED FOR  
18 TERMS OF FOUR YEARS EACH. THE GOVERNOR SHALL DESIGNATE ONE  
19 MEMBER OF THE COMMISSION AS CHAIR OF THE COMMISSION. THE CHAIR  
20 SHALL DELEGATE ROLES AND RESPONSIBILITIES TO COMMISSIONERS AND  
21 THE DIRECTOR. THE GOVERNOR MAY AT ANY TIME REMOVE ANY  
22 APPOINTED MEMBER OF THE COMMISSION, AND BY APPOINTMENT THE  
23 GOVERNOR SHALL FILL ANY VACANCY ON THE COMMISSION. IN CASE ONE  
24 OR MORE VACANCIES OCCUR ON THE SAME DAY, THE GOVERNOR SHALL  
25 DESIGNATE THE ORDER OF FILLING VACANCIES.

26 (3) THE COMMISSION SHALL REPORT TO THE EXECUTIVE DIRECTOR  
27 OF THE DEPARTMENT OF NATURAL RESOURCES AT SUCH TIMES AND ON

1 SUCH MATTERS AS THE EXECUTIVE DIRECTOR MAY REQUIRE.

2 (4) PUBLICATIONS OF THE COMMISSION CIRCULATED IN QUANTITY  
3 OUTSIDE THE EXECUTIVE BRANCH ARE SUBJECT TO THE APPROVAL AND  
4 CONTROL OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL  
5 RESOURCES.

6 (5) THIS SECTION TAKES EFFECT ON THE EARLIER OF JULY 1, 2020,  
7 OR THE DATE ON WHICH ALL RULES REQUIRED TO BE ADOPTED BY SECTION  
8 34-60-106 (2.5)(a), (11)(c), AND (19) HAVE BECOME EFFECTIVE. THE  
9 DIRECTOR SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE  
10 DATE ON WHICH THE CONDITION SPECIFIED IN THIS SUBSECTION (5) HAS  
11 OCCURRED BY E-MAILING THE NOTICE TO  
12 REVISOROFSTATUTES.GA@STATE.CO.US.

13 **SECTION 10.** In Colorado Revised Statutes, 34-60-104.5,  
14 **amend (2)(d); and add (3)** as follows:

15 **34-60-104.5. Director of commission - duties.** (2) The director  
16 of the commission shall:

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

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

22   
23 (3) (a) UPON RECEIPT OF REQUEST FOR TECHNICAL REVIEW FILED  
24 PURSUANT TO SECTION 29-20-104 (3)(a), THE DIRECTOR OF THE  
25 COMMISSION SHALL APPOINT TECHNICAL REVIEW BOARD MEMBERS. THE  
26 MEMBERSHIP OF THE TECHNICAL REVIEW BOARD MUST INCLUDE SUBJECT  
27 MATTER EXPERTS IN LOCAL LAND USE PLANNING AND OIL AND GAS

1 EXPLORATION AND PRODUCTION AND MAY INCLUDE SUBJECT MATTER  
2 EXPERTS IN ENVIRONMENTAL SCIENCES, PUBLIC HEALTH SCIENCES, OR  
3 OTHER DISCIPLINES RELEVANT TO THE DISPUTED ISSUES, AS DETERMINED  
4 BY THE DIRECTOR. THE TECHNICAL REVIEW BOARD SHALL CONDUCT A  
5 TECHNICAL REVIEW OF THE PRELIMINARY OR FINAL SITING  
6 DETERMINATION PURSUANT TO THE CRITERIA SPECIFIED IN SUBSECTION  
7 (3)(b) OF THIS SECTION AND, AT ITS DISCRETION, MAY MEET TO CONFER  
8 INFORMALLY WITH THE PARTIES. THE TECHNICAL REVIEW MUST BE  
9 COMPLETED BY ISSUANCE OF A REPORT WITHIN SIXTY DAYS AFTER THE  
10 DIRECTOR APPOINTS THE EXPERTS.

11 (b) A TECHNICAL REVIEW:

12 (I) MUST ADDRESS THE ISSUES IN DISPUTE AS IDENTIFIED BY THE  
13 OPERATOR AND THE LOCAL GOVERNMENT, WHICH MAY INCLUDE IMPACTS  
14 TO THE RECOVERY OF THE RESOURCE BY THE PRELIMINARY OR FINAL  
15 SITING DETERMINATION OF THE LOCAL GOVERNMENT; WHETHER THE  
16 LOCAL GOVERNMENT'S DETERMINATION WOULD REQUIRE TECHNOLOGIES  
17 THAT ARE NOT AVAILABLE OR ARE IMPRACTICABLE GIVEN THE CONTEXT  
18 OF THE PERMIT APPLICATION; AND WHETHER THE OPERATOR IS PROPOSING  
19 TO USE BEST MANAGEMENT PRACTICES; AND

20 (II) MUST NOT ADDRESS THE ECONOMIC EFFECTS OF THE  
21 PRELIMINARY OR FINAL DETERMINATION AND MUST RESULT IN THE  
22 ISSUANCE OF A REPORT.

23 **SECTION 11.** In Colorado Revised Statutes, 34-60-105, **amend**  
24 **(1); and add (4)** as follows:

25 **34-60-105. Powers of commission.** (1) (a) The commission has  
26 jurisdiction over all persons and property, public and private, necessary  
27 to enforce ~~the provisions of this article, and has~~ THIS ARTICLE 60, the

1 power to make and enforce rules ~~regulations~~, and orders pursuant to this  
2 ~~article~~ ARTICLE 60, and to do whatever may reasonably be necessary to  
3 carry out ~~the provisions of this article~~ THIS ARTICLE 60.

4 (b) Any delegation of authority to any other state officer, board,  
5 or commission to administer any other laws of this state relating to the  
6 conservation of oil or gas, or either of them, is hereby rescinded and  
7 withdrawn, and ~~such~~ THAT authority is unqualifiedly conferred upon the  
8 commission, as provided in this section; EXCEPT THAT, AS FURTHER  
9 SPECIFIED IN SECTION 34-60-131, NOTHING IN THIS ARTICLE 60 ALTERS,  
10 IMPAIRS, OR NEGATES THE AUTHORITY OF:

11 (I) THE AIR QUALITY CONTROL COMMISSION TO REGULATE,  
12 PURSUANT TO ARTICLE 7 OF TITLE 25, THE EMISSION OF AIR POLLUTANTS  
13 FROM OIL AND GAS OPERATIONS;

14 (II) THE WATER QUALITY CONTROL COMMISSION TO REGULATE,  
15 PURSUANT TO ARTICLE 8 OF TITLE 25, THE DISCHARGE OF WATER  
16 POLLUTANTS FROM OIL AND GAS OPERATIONS;

17 (III) THE STATE BOARD OF HEALTH TO REGULATE, PURSUANT TO  
18 SECTION 25-11-104, THE DISPOSAL OF NATURALLY OCCURRING  
19 RADIOACTIVE MATERIALS AND TECHNOLOGICALLY ENHANCED NATURALLY  
20 OCCURRING RADIOACTIVE MATERIALS FROM OIL AND GAS OPERATIONS;

21 (IV) THE SOLID AND HAZARDOUS WASTE COMMISSION TO:

22 (A) REGULATE, PURSUANT TO ARTICLE 15 OF TITLE 25, THE  
23 DISPOSAL OF HAZARDOUS WASTE FROM OIL AND GAS OPERATIONS; OR

24 (B) REGULATE, PURSUANT TO SECTION 30-20-109 (1.5), THE  
25 DISPOSAL OF EXPLORATION AND PRODUCTION WASTE FROM OIL AND GAS  
26 OPERATIONS; AND

27 (V) A LOCAL GOVERNMENT TO REGULATE OIL AND GAS

1 OPERATIONS PURSUANT TO SECTION 29-20-104;

2 (c) Any person, or the attorney general on behalf of the state, may  
3 apply for ~~any~~ A hearing before the commission, or the commission may  
4 initiate proceedings, upon any question relating to the administration of  
5 this ~~article~~ ARTICLE 60, and jurisdiction is conferred upon the commission  
6 to hear and determine the ~~same~~ QUESTION and enter its rule ~~regulation~~, or  
7 order with respect ~~thereto~~ TO THE QUESTION.

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

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

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

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

1 WHETHER THE LANDS ARE COMMUNITIZED OR POOLED WITH INDIAN  
2 MINERAL LANDS.

3 (c) NOTHING IN THIS ARTICLE 60 ALTERS THE AUTHORITY FOR THE  
4 REGULATION OF AIR POLLUTION ON THE SOUTHERN UTE INDIAN  
5 RESERVATION AS SET FORTH IN ARTICLE 62 OF TITLE 24 AND PART 13 OF  
6 ARTICLE 7 OF TITLE 25.

7 **SECTION 12.** In Colorado Revised Statutes, 34-60-106, **amend**  
8 (1) introductory portion, (1)(f), (2) introductory portion, (2)(b), (2)(c), (6),  
9 (7), (13), and (15); **repeal** (2)(d); and **add** (2.5), (11)(c), (18), (19), and  
10 (20) as follows:

11 **34-60-106. Additional powers of commission - rules - repeal.**

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

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

15 (A) ~~Giving to the commission notice of intention~~ APPLYING FOR  
16 A PERMIT to drill, WHICH MUST INCLUDE PROOF EITHER THAT: THE  
17 OPERATOR HAS FILED AN APPLICATION WITH THE LOCAL GOVERNMENT  
18 WITH JURISDICTION TO APPROVE THE SITING OF THE PROPOSED OIL AND  
19 GAS LOCATION AND THE LOCAL GOVERNMENT'S DISPOSITION OF THE  
20 APPLICATION; OR THE LOCAL GOVERNMENT WITH JURISDICTION DOES NOT  
21 REGULATE THE SITING OF OIL AND GAS LOCATIONS; and ~~without first~~

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

24 (II) Paying to the commission a filing and service fee to be  
25 established by the commission for the purpose of paying the expense of  
26 administering this ~~article~~ ARTICLE 60 as provided in section 34-60-122,  
27 which fee may be transferable or refundable, at the option of the



1 commission, if ~~such~~ THE permit is not used; ~~but no such fee shall exceed~~  
2 ~~two hundred dollars~~; AND

3 (III) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW,  
4 INCLUDING SUBSECTION (11) OF THIS SECTION, UNTIL THE COMMISSION  
5 HAS PROMULGATED ANY RULES REQUIRED TO BE ADOPTED BY  
6 SUBSECTIONS (2.5)(a), (11)(c), AND (19) OF THIS SECTION AND EACH RULE  
7 SPECIFIED IN THIS SUBSECTION (1)(f)(III)(A) HAS BECOME EFFECTIVE, THE  
8 DIRECTOR MAY DELAY THE FINAL DETERMINATION REGARDING A PERMIT  
9 APPLICATION IF THE DIRECTOR DETERMINES, PURSUANT TO OBJECTIVE  
10 CRITERIA TO BE PUBLISHED BY THE DIRECTOR WITHIN THIRTY DAYS AFTER  
11 THE EFFECTIVE DATE OF THIS SUBSECTION (1)(f)(III) AND FOLLOWING A  
12 PUBLIC COMMENT PERIOD, THAT THE PERMIT REQUIRES ADDITIONAL  
13 ANALYSIS TO ENSURE THE PROTECTION OF PUBLIC HEALTH, SAFETY, AND  
14 WELFARE OR THE ENVIRONMENT OR REQUIRES ADDITIONAL LOCAL  
15 GOVERNMENT OR OTHER STATE AGENCY CONSULTATION. \_\_\_

16 (B) THIS SUBSECTION (1)(f)(III) WILL BE REPEALED IF THE RULES  
17 SPECIFIED IN SUBSECTION (1)(f)(III)(A) OF THIS SECTION HAVE BECOME  
18 EFFECTIVE. THE DIRECTOR SHALL NOTIFY THE REVISOR OF STATUTES IN  
19 WRITING OF THE DATE ON WHICH ALL RULES SPECIFIED IN SUBSECTION  
20 (1)(f)(III)(A) OF THIS SECTION HAVE BECOME EFFECTIVE BY E-MAILING  
21 THE NOTICE TO REVISOROFSTATUTES.GA@STATE.CO.US. THIS SUBSECTION  
22 (1)(f)(III) IS REPEALED, EFFECTIVE UPON THE DATE IDENTIFIED IN THE  
23 NOTICE THAT THE RULES SPECIFIED IN SUBSECTION (1)(f)(III)(A) OF THIS  
24 SECTION HAVE BECOME EFFECTIVE OR, IF THE NOTICE DOES NOT SPECIFY  
25 THAT DATE, UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

26 (2) The commission ~~has the authority to~~ MAY regulate:

27 (b) The ~~shooting~~ STIMULATING and chemical treatment of wells;

1 AND

2 (c) The spacing AND NUMBER of wells ALLOWED IN A DRILLING  
3 UNIT. and

4 (d) ~~Oil and gas operations so as to prevent and mitigate significant  
5 adverse environmental impacts on any air, water, soil, or biological  
6 resource resulting from oil and gas operations to the extent necessary to  
7 protect public health, safety, and welfare, including protection of the  
8 environment and wildlife resources, taking into consideration  
9 cost-effectiveness and technical feasibility.~~

10 (2.5) (a) IN EXERCISING THE AUTHORITY GRANTED BY THIS  
11 ARTICLE 60, THE COMMISSION SHALL REGULATE OIL AND GAS OPERATIONS  
12 IN A REASONABLE MANNER TO PROTECT AND MINIMIZE ADVERSE IMPACTS  
13 TO PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, AND  
14 WILDLIFE RESOURCES AND SHALL PROTECT AGAINST ADVERSE  
15 ENVIRONMENTAL IMPACTS ON ANY AIR, WATER, SOIL, OR BIOLOGICAL  
16 RESOURCE RESULTING FROM OIL AND GAS OPERATIONS.

17 (b) THE NONPRODUCTION OF OIL AND GAS RESULTING FROM A  
18 CONDITIONAL APPROVAL OR DENIAL AUTHORIZED BY THIS SUBSECTION  
19 (2.5) DOES NOT CONSTITUTE WASTE.

20 (6) The commission has the authority, as it deems necessary and  
21 convenient, to conduct any hearings or to make any determinations it is  
22 otherwise empowered to conduct or make by means of an appointed  
23 ADMINISTRATIVE LAW JUDGE OR hearing officer, but recommended  
24 findings, determinations, or orders of any ADMINISTRATIVE LAW JUDGE OR  
25 hearing officer shall not become final until adopted by the commission IN  
26 ACCORDANCE WITH SECTION 34-60-108 (9). Upon appointment by the  
27 commission, a member of the commission may act as a hearing officer.

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

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

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

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

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

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

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

27           (b) A certificate of general liability insurance in a form acceptable

1 to the commission ~~which~~ THAT names the state as an additional insured  
2 and ~~which~~ covers occurrences during the policy period of a nature  
3 relevant to an obligation imposed by ~~rule under subsections (11), (12),~~  
4 ~~and (17) of this section~~ THIS ARTICLE 60;

5 (c) A bond or other surety instrument;

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

8 (e) An escrow account or sinking fund dedicated to the  
9 performance of ~~any~~ EVERY obligation imposed by ~~rule under subsections~~  
10 ~~(11), (12), and (17) of this section~~ THIS ARTICLE 60;

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

16 (15) The commission may, as it deems appropriate, assign its  
17 inspection and monitoring function, but not its enforcement authority,  
18 through intergovernmental agreement or by private contract; except that  
19 ~~no such~~ AN assignment ~~shall~~ MUST NOT allow for the imposition of any  
20 new tax or fee by the assignee in order to conduct ~~such~~ THE assigned  
21 inspection and monitoring and ~~no such assignment shall~~ MUST NOT  
22 provide for compensation contingent on the number or nature of alleged  
23 violations referred to the commission by the assignee. ~~No local~~  
24 ~~government may charge a tax or fee to conduct inspections or monitoring~~  
25 ~~of oil and gas operations with regard to matters that are subject to rule,~~  
26 ~~regulation, order, or permit condition administered by the commission.~~  
27 ~~Nothing in this subsection (15) shall affect the ability of a local~~

1 ~~government to charge a reasonable and nondiscriminatory fee for~~  
2 ~~inspection and monitoring for road damage and compliance with local fire~~  
3 ~~codes, land use permit conditions, and local building codes.~~

4 (18) THE COMMISSION SHALL PROMULGATE RULES TO ENSURE  
5 PROPER WELLBORE INTEGRITY OF ALL OIL AND GAS PRODUCTION WELLS.  
6 IN PROMULGATING THE RULES, THE COMMISSION SHALL CONSIDER  
7 INCORPORATING RECOMMENDATIONS FROM THE STATE OIL AND GAS  
8 REGULATORY EXCHANGE AND SHALL INCLUDE PROVISIONS TO:

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

11 (b) REQUIRE THAT WELLS ARE CONSTRUCTED USING CURRENT  
12 PRACTICES AND STANDARDS THAT PROTECT WATER ZONES AND PREVENT  
13 BLOWOUTS;

14 (c) ENHANCE SAFETY AND ENVIRONMENTAL PROTECTIONS DURING  
15 OPERATIONS SUCH AS DRILLING AND HYDRAULIC FRACTURING;

16 (d) REQUIRE REGULAR INTEGRITY ASSESSMENTS FOR ALL OIL AND  
17 GAS PRODUCTION WELLS, SUCH AS SURFACE PRESSURE MONITORING  
18 DURING PRODUCTION; AND

19 (e) ADDRESS THE USE OF NONDESTRUCTIVE TESTING OF WELD  
20 JOINTS.

21 (19) THE COMMISSION SHALL REVIEW AND AMEND ITS FLOWLINE  
22 AND INACTIVE, TEMPORARILY ABANDONED, AND SHUT-IN WELL RULES TO  
23 THE EXTENT NECESSARY TO ENSURE THAT THE RULES PROTECT AND  
24 MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY, AND WELFARE  
25 AND THE ENVIRONMENT, INCLUDING BY:

26 (a) ALLOWING PUBLIC DISCLOSURE OF FLOWLINE INFORMATION  
27 AND EVALUATING AND DETERMINING WHEN A DEACTIVATED FLOWLINE

1 MUST BE INSPECTED BEFORE BEING REACTIVATED; AND

2 (b) EVALUATING AND DETERMINING WHEN INACTIVE,  
3 TEMPORARILY ABANDONED, AND SHUT-IN WELLS MUST BE INSPECTED  
4 BEFORE BEING PUT INTO PRODUCTION OR USED FOR INJECTION.

5 (20) THE COMMISSION SHALL ADOPT RULES TO REQUIRE  
6 CERTIFICATION FOR WORKERS IN THE FOLLOWING FIELDS:

7 (a) COMPLIANCE OFFICERS WITH REGARD TO THE FEDERAL  
8 "OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970", 29 U.S.C. SEC. 651  
9 ET SEQ., INCLUDING SPECIFICALLY WORKING IN CONFINED SPACES;

10 (b) COMPLIANCE OFFICERS WITH REGARD TO CODES PUBLISHED BY  
11 THE AMERICAN PETROLEUM INSTITUTE AND AMERICAN SOCIETY OF  
12 MECHANICAL ENGINEERS, OR THEIR SUCCESSOR ORGANIZATIONS;

13 (c) THE HANDLING OF HAZARDOUS MATERIALS;

14 (d) WELDERS WORKING ON OIL AND GAS PROCESS LINES,  
15 INCLUDING:

16 (I) KNOWLEDGE OF THE FLOWLINE RULES PROMULGATED  
17 PURSUANT TO SUBSECTION (19) OF THIS SECTION;

18 (II) A MINIMUM OF SEVEN THOUSAND HOURS OF DOCUMENTED  
19 ON-THE-JOB TRAINING, WHICH REQUIREMENT CAN BE MET BY AN  
20 EMPLOYEE WORKING UNDER THE SUPERVISION OF A PERSON WITH THE  
21 REQUISITE SEVEN THOUSAND HOURS OF TRAINING; AND

22 (III) PASSAGE OF THE INTERNATIONAL CODE COUNCIL EXAM F31,  
23 NATIONAL STANDARD JOURNEYMAN MECHANICAL, OR AN ANALOGOUS  
24 SUCCESSOR EXAM, FOR ANY PERSON WORKING ON PRESSURIZED PROCESS  
25 LINES IN UPSTREAM AND MIDSTREAM OPERATIONS.

26 **SECTION 13.** In Colorado Revised Statutes, 34-60-108, **add** (9)  
27 as follows:

1           **34-60-108. Rules - hearings - process.** (9) WHENEVER ANY  
2 HEARING OR OTHER PROCEEDING IS ASSIGNED TO AN ADMINISTRATIVE LAW  
3 JUDGE, HEARING OFFICER, OR INDIVIDUAL COMMISSIONER FOR HEARING,  
4 THE ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR COMMISSIONER,  
5 AFTER THE CONCLUSION OF THE HEARING, SHALL PROMPTLY TRANSMIT TO  
6 THE COMMISSION AND THE PARTIES THE RECORD AND EXHIBITS OF THE  
7 PROCEEDING AND A WRITTEN RECOMMENDED DECISION THAT CONTAINS  
8 THE FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDED ORDER. A  
9 PARTY MAY FILE AN EXCEPTION TO THE RECOMMENDED ORDER; BUT IF NO  
10 EXCEPTIONS ARE FILED WITHIN TWENTY DAYS AFTER SERVICE UPON THE  
11 PARTIES, OR UNLESS THE COMMISSION STAYS THE RECOMMENDED ORDER  
12 WITHIN THAT TIME UPON ITS OWN MOTION, THE RECOMMENDED ORDER  
13 BECOMES THE DECISION OF THE COMMISSION AND SUBJECT TO SECTION  
14 34-60-111. THE COMMISSION UPON ITS OWN MOTION MAY AND, WHERE  
15 EXCEPTIONS ARE FILED SHALL, CONDUCT A DE NOVO REVIEW OF THE  
16 MATTER UPON THE SAME RECORD, AND THE RECOMMENDED ORDER IS  
17 STAYED PENDING THE COMMISSION'S FINAL DETERMINATION OF THE  
18 MATTER. THE COMMISSION MAY ADOPT, REJECT, OR MODIFY THE  
19 RECOMMENDED ORDER.

20           **SECTION 14.** In Colorado Revised Statutes, 34-60-116, **amend**  
21 (1), (3), (6), (7)(a)(II), (7)(a)(III), (7)(c), and (7)(d)(I); and **add** (7)(a)(IV)  
22 as follows:

23           **34-60-116. Drilling units - pooling interests.** (1) (a) To prevent  
24 or to assist in preventing waste, to avoid the drilling of unnecessary wells,  
25 or to protect correlative rights, the commission, upon its own motion or  
26 on a proper application of an interested party, but after notice and hearing  
27 as provided in this section, may establish one or more drilling units of



1 specified size and shape covering any pool or portion of a pool.

2 (b) THE APPLICATION MUST INCLUDE PROOF THAT EITHER:

3 (I) THE APPLICANT HAS FILED AN APPLICATION WITH THE LOCAL  
4 GOVERNMENT HAVING JURISDICTION TO APPROVE THE SITING OF THE  
5 PROPOSED OIL AND GAS LOCATION AND THE LOCAL GOVERNMENT'S  
6 DISPOSITION OF THE APPLICATION; OR

7 (II) THE LOCAL GOVERNMENT HAVING JURISDICTION DOES NOT  
8 REGULATE THE SITING OF OIL AND GAS LOCATIONS.

9 (3) The order establishing a drilling unit:

10 (a) IS SUBJECT TO SECTION 34-60-106 (2.5); AND

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

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

17 (b) (I) In the absence of voluntary pooling, the commission, upon  
18 the application of ~~any interested person~~ A PERSON WHO OWNS, OR HAS  
19 SECURED THE CONSENT OF THE OWNERS OF, MORE THAN FORTY-FIVE  
20 PERCENT OF THE MINERAL INTERESTS TO BE POOLED, may enter an order  
21 pooling all interests in the drilling unit for the development and operation  
22 ~~thereof. Each such~~ OF THE DRILLING UNIT. MINERAL INTERESTS THAT ARE  
23 OWNED BY A PERSON WHO CANNOT BE LOCATED THROUGH REASONABLE  
24 DILIGENCE ARE EXCLUDED FROM THE CALCULATION.

25 (II) THE pooling order shall be made after notice and A hearing  
26 and ~~shall~~ MUST be upon terms and conditions that are just and reasonable  
27 and that afford to the owner of each tract or interest in the drilling unit the

1 opportunity to recover or receive, without unnecessary expense, his A just  
2 and equitable share.

3 (c) Operations incident to the drilling of a well upon any portion  
4 of a unit covered by a pooling order shall be deemed for all purposes to  
5 be the conduct of such operations upon each separately owned tract in the  
6 unit by the several owners thereof OF EACH SEPARATELY OWNED TRACT.  
7 That portion of the production allocated or applicable to each tract  
8 included in a unit covered by a pooling order shall, when produced, be  
9 deemed for all purposes to have been produced from such THE tract by a  
10 well drilled thereon ON IT.

11 (7) (a) Each pooling order must:

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

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

24 (IV) PROHIBIT THE OPERATOR FROM USING THE SURFACE OWNED  
25 BY A NONCONSENTING OWNER WITHOUT PERMISSION FROM THE  
26 NONCONSENTING OWNER.

27 (c) (I) A nonconsenting owner of a tract in a drilling unit that is

1 not subject to any lease or other contract for the development thereof for  
2 oil and gas DEVELOPMENT shall be deemed to have a landowner's  
3 proportionate royalty of:

4 (A) ~~twelve and one-half~~ FOR A GAS WELL, THIRTEEN percent until  
5 ~~such time as~~ the consenting owners recover, only out of the  
6 nonconsenting owner's proportionate ~~seven-eighths~~  
7 EIGHTY-SEVEN-PERCENT share of production, the costs specified in  
8 subsection (7)(b) of this section; OR

9 (B) FOR AN OIL WELL, SIXTEEN PERCENT UNTIL THE CONSENTING  
10 OWNERS RECOVER, ONLY OUT OF THE NONCONSENTING OWNER'S  
11 PROPORTIONATE EIGHTY-FOUR-PERCENT SHARE OF PRODUCTION, THE  
12 COSTS SPECIFIED IN SUBSECTION (7)(b) OF THIS SECTION.

13 (II) After recovery of the costs, the nonconsenting owner then  
14 owns his or her full proportionate share of the wells, surface facilities,  
15 and production and then is liable for further costs as if the  
16 NONCONSENTING owner had originally agreed to drilling of the wells.

17 (d) (I) THE COMMISSION SHALL NOT ENTER an order pooling an  
18 unleased nonconsenting mineral owner ~~shall not be entered by the~~  
19 ~~commission~~ under subsection (6) of this section over protest of the owner  
20 unless the commission has received evidence that the unleased mineral  
21 owner has been tendered, no less than sixty days before the hearing, a  
22 reasonable offer, MADE IN GOOD FAITH, to lease upon terms no less  
23 favorable than those currently prevailing in the area at the time  
24 application for the order is made and that ~~such~~ THE unleased mineral  
25 owner has been furnished in writing the owner's share of the estimated  
26 drilling and completion cost of the wells, the location and objective depth  
27 of the wells, and the estimated spud date for the wells or range of time

1 within which spudding is to occur. The offer must include a copy of or  
2 link to a brochure supplied by the commission that clearly and concisely  
3 describes the pooling procedures specified in this section and the mineral  
4 owner's options pursuant to those procedures.

5 **SECTION 15.** In Colorado Revised Statutes, 34-60-122, **amend**  
6 (1)(b) as follows:

7 **34-60-122. Expenses - fund created.** (1) (b) On and after July  
8 1, ~~2014~~ 2019, the commission shall ensure that the ~~two-year average of~~  
9 ~~the~~ unobligated portion of the fund does not exceed ~~six million dollars~~  
10 FIFTY PERCENT OF TOTAL APPROPRIATIONS FROM THE FUND FOR THE  
11 UPCOMING FISCAL YEAR and that there is an adequate balance in the  
12 ~~environmental response account created pursuant to subsection (5) of this~~  
13 ~~section~~ FUND TO SUPPORT THE OPERATIONS OF THE COMMISSION AND to  
14 address environmental response needs.

15 **SECTION 16.** In Colorado Revised Statutes, 34-60-128, **amend**  
16 (3)(b); and **repeal** (4) as follows:

17 **34-60-128. Habitat stewardship - rules.** (3) In order to  
18 minimize adverse impacts to wildlife resources, the commission shall:

19 (b) Provide for commission consultation and consent of the  
20 affected surface owner, or the surface owner's appointed tenant, on  
21 permit-specific conditions for wildlife habitat protection THAT DIRECTLY  
22 IMPACT THE AFFECTED SURFACE OWNER'S PROPERTY OR USE OF THAT  
23 PROPERTY. Such PERMIT-SPECIFIC conditions FOR WILDLIFE HABITAT  
24 PROTECTION shall be discontinued when final reclamation has occurred.  
25 PERMIT-SPECIFIC CONDITIONS FOR WILDLIFE HABITAT PROTECTION THAT  
26 DO NOT DIRECTLY IMPACT THE AFFECTED SURFACE OWNER'S PROPERTY OR  
27 USE OF THAT PROPERTY, SUCH AS OFF-SITE COMPENSATORY MITIGATION

1 REQUIREMENTS, DO NOT REQUIRE THE CONSENT OF THE SURFACE OWNER  
2 OR THE SURFACE OWNER'S APPOINTED TENANT.

3 (4) Nothing in this section shall establish, alter, impair, or negate  
4 the authority of local and county governments to regulate land use related  
5 to oil and gas operations.

6 SECTION 17. In Colorado Revised Statutes, add 34-60-131 as  
7 follows:

8 **34-60-131. No land use preemption.** LOCAL GOVERNMENTS AND  
9 STATE AGENCIES, INCLUDING THE COMMISSION AND AGENCIES LISTED IN  
10 SECTION 34-60-105 (1)(b), HAVE REGULATORY AUTHORITY OVER OIL AND  
11 GAS DEVELOPMENT, INCLUDING AS SPECIFIED IN SECTION 34-60-105 (1)(b).  
12 A LOCAL GOVERNMENT'S REGULATIONS MAY BE MORE PROTECTIVE OR  
13 STRICTER THAN STATE REQUIREMENTS.

14 SECTION 18. Appropriation. (1) For the 2019-20 state fiscal  
15 year, \$851,010 is appropriated to the department of natural resources.  
16 This appropriation consists of \$763,180 cash funds from the oil and gas  
17 conservation and environmental response fund created in section  
18 34-60-122 (5)(a), C.R.S., and \$87,830 cash funds from the wildlife cash  
19 fund created in section 33-1-112 (1)(a), C.R.S. To implement this act, the  
20 department may use this appropriation as follows:

21 (a) \$535,508 from the oil and gas conservation and environmental  
22 response fund for use by the oil and gas conservation commission for  
23 program costs, which amount is based on an assumption that the oil and  
24 gas conservation commission will require an additional 5.0 FTE;

25 (b) \$83,930 from the wildlife cash fund for wildlife operations,  
26 which amount is based on an assumption that the division of parks and  
27 wildlife will require an additional 1.0 FTE;

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

4 (d) \$39,000 from the oil and gas conservation and environmental  
5 response fund for leased space; and

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

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

15 **SECTION 19. Applicability.** This act applies to conduct  
16 occurring on or after the effective date of this act, including  
17 determinations of applications pending on the effective date.

18 **SECTION 20. Safety clause.** The general assembly hereby finds,  
19 determines, and declares that this act is necessary for the immediate  
20 preservation of the public peace, health, and safety.