

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

**REVISED**

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

LLS NO. 21-0365.01 Jennifer Berman x3286

**SENATE BILL 21-103**

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**SENATE SPONSORSHIP**

**Fenberg and Winter**, Bridges, Buckner, Fields, Garcia, Ginal, Gonzales, Hansen, Jaquez  
Lewis, Kolker, Lee, Moreno, Pettersen, Story

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**Senate Committees**

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**A BILL FOR AN ACT**

101        **CONCERNING THE CONTINUATION OF THE OFFICE OF CONSUMER**  
102                **COUNSEL, AND, IN CONNECTION THEREWITH, IMPLEMENTING**  
103                **THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET**  
104                **REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES**  
105                **REGARDING THE OFFICE OF CONSUMER COUNSEL AND THE**  
106                **UTILITY CONSUMERS' BOARD, AND 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/>.)*

**Sunset Process - Senate Transportation and Energy**

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  
June 4, 2021

SENATE  
3rd Reading Unamended  
April 28, 2021

SENATE  
Amended 2nd Reading  
April 27, 2021

**Committee.** The bill implements the recommendations of the department of regulatory agencies' (department) sunset review and report regarding the office of consumer counsel (office) and the utility consumers' board (board) by:

- Continuing the office and the board for 7 years, to 2028 (**sections 1 and 2** of the bill);
- Clarifying that, in addition to being authorized to appear before and participate in the public utilities commission's proceedings, the office is authorized to appear before and participate in other agencies' proceedings (**sections 6 and 8**);
- Changing the name of the office to the office of the utility consumer advocate and the name of the head of the office from the consumer counsel to the director (**sections 1 and 4 to 10**);
- Changing the board from a **type 1** transfer to a **type 2** transfer (**sections 4 and 10**);
- Repealing requirements that the board annually review the office's performance and confer with the executive director of the department regarding hiring and performance evaluation matters (**section 4**); and
- Repealing the requirement that members of the board represent all 7 of the state's congressional districts and instead requiring that appointing authorities ensure that the board's membership reflect the greatest degree of diversity possible (**section 4**).

**Sections 3 and 11 to 13** make conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-104, **repeal**  
3 (21)(a)(V); and **add** (29)(a)(XIII) as follows:

4 **24-34-104. General assembly review of regulatory agencies**  
5 **and functions for repeal, continuation, or reestablishment - legislative**  
6 **declaration - repeal.** (21) (a) The following agencies, functions, or both,  
7 will repeal on September 1, 2021:

8 (V) ~~The office of consumer counsel created in article 6.5 of title~~  
9 ~~40, C.R.S.;~~

10 (29) (a) The following agencies, functions, or both, are scheduled

1 for repeal on September 1, 2028:

2 (XIII) NOTWITHSTANDING SUBSECTION (7)(a) OF THIS SECTION,  
3 THE OFFICE OF THE UTILITY CONSUMER ADVOCATE AND THE UTILITY  
4 CONSUMERS' BOARD CREATED IN ARTICLE 6.5 OF TITLE 40.

5 **SECTION 2.** In Colorado Revised Statutes, **repeal and reenact,**  
6 **with amendments,** 40-6.5-108 as follows:

7 **40-6.5-108. Repeal of article - office of the utility consumer**  
8 **advocate subject to termination.** THIS ARTICLE 6.5 IS REPEALED,  
9 EFFECTIVE SEPTEMBER 1, 2028. BEFORE THE REPEAL, THIS ARTICLE 6.5 IS  
10 SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

11 **SECTION 3.** In Colorado Revised Statutes, 40-6.5-101, **amend**  
12 the introductory portion; and **add** (1.3), (2.2), (2.4), (2.8), and (6) as  
13 follows:

14 **40-6.5-101. Definitions.** As used in this ~~article~~ ARTICLE 6.5,  
15 unless the context otherwise requires:

16 (1.3) "BOARD" MEANS THE UTILITY CONSUMERS' BOARD CREATED  
17 IN SECTION 40-6.5-102 (3)(a).

18 (2.2) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE,  
19 APPOINTED PURSUANT TO SECTION 40-6.5-102 (1).

20 (2.4) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF  
21 THE DEPARTMENT OF REGULATORY AGENCIES, APPOINTED PURSUANT TO  
22 SECTION 24-34-101 (1)(a).

23 (2.8) "OFFICE" MEANS THE OFFICE OF THE UTILITY CONSUMER  
24 ADVOCATE CREATED IN SECTION 40-6.5-102 (1).

25 (6) "TELECOMMUNICATIONS SERVICE" MEANS THE OFFERING OF  
26 TELECOMMUNICATIONS FOR A FEE DIRECTLY TO THE PUBLIC, OR TO SUCH  
27 CLASSES OF USERS AS TO BE EFFECTIVELY AVAILABLE DIRECTLY TO THE

1 PUBLIC, REGARDLESS OF THE FACILITIES USED.

2 **SECTION 4.** In Colorado Revised Statutes, **amend** 40-6.5-102  
3 as follows:

4 **40-6.5-102. Office of the utility consumer advocate and utility**  
5 **consumers' board - creation - appointment - attorney general to**  
6 **represent.** (1) There is hereby created, as a division within the  
7 department of regulatory agencies, the office of ~~consumer counsel~~ THE  
8 UTILITY CONSUMER ADVOCATE, the head of which ~~shall be the consumer~~  
9 ~~counsel~~ IS THE DIRECTOR, who shall be appointed by the executive  
10 director of the ~~department of regulatory agencies~~ pursuant to section 13  
11 of article XII of the state constitution.

12 (2) (a) The office of ~~consumer counsel~~ shall exercise its powers  
13 and perform its duties and functions specified in this ~~article~~ ARTICLE 6.5  
14 under the department of regulatory agencies as if the same were  
15 transferred to the department by a **type 1** transfer, as such transfer is  
16 defined in the "Administrative Organization Act of 1968", article 1 of title  
17 24. ~~C.R.S.~~

18 (b) ~~Repealed.~~

19 (3) (a) The utility consumers' board, which is hereby created, shall  
20 guide the policy of the office. ~~of consumer counsel.~~ The board shall  
21 exercise its powers and perform its duties and functions specified in this  
22 ~~article~~ ARTICLE 6.5 under the department of regulatory agencies and the  
23 executive director of the ~~department of regulatory agencies~~ as if the same  
24 were transferred to the department by a ~~type 1~~ **TYPE 2** transfer, as such  
25 transfer is defined in the "Administrative Organization Act of 1968",  
26 article 1 of title 24. ~~C.R.S.~~

27 (b) (I) The board consists of eleven members, seven of whom the

1 governor ~~shall appoint~~ APPOINTS. The governor shall appoint at least one  
2 member who is actively engaged in agriculture as a business and at least  
3 two members who are owners of small businesses with one hundred or  
4 fewer employees. In making appointments to the board, the governor  
5 shall ensure that the membership of the board represents each of the seven  
6 congressional districts of the state and that no more than four of the  
7 governor's appointments are affiliated with the same political party. The  
8 president of the senate, the speaker of the house of representatives, the  
9 minority leader of the senate, and the minority leader of the house of  
10 representatives shall each appoint one member of the board.

11 (II) Members of the board ~~shall be appointed for~~ SERVE terms of  
12 four years. If a person has any conflict of interest with the duties required  
13 of a member of the board, the ~~person~~ APPOINTING AUTHORITY shall not ~~be~~  
14 ~~appointed~~ APPOINT THE PERSON as a member of the board. The official  
15 who appointed a board member may remove that board member for  
16 misconduct, incompetence, or neglect of duty. Board members serve  
17 without compensation, but members who reside outside the counties of  
18 Denver, Jefferson, Adams, Arapahoe, Boulder, Broomfield, and Douglas  
19 are entitled to reimbursement for reasonable AND actual expenses to  
20 attend board meetings in Denver. The board shall meet at least six times  
21 per year.

22 (c) It is the duty of the board to represent the public interest of  
23 Colorado utility users, and, specifically, the interests of residential,  
24 agricultural, and small business users, by providing general policy  
25 guidance and oversight for the office ~~of consumer counsel~~ and the  
26 ~~consumer counsel~~ DIRECTOR in the performance of their statutory duties  
27 and responsibilities as specified in this ~~article~~ ARTICLE 6.5. The powers

1 and duties of the board shall include ~~but not be limited to~~, the following:

2 (I) Providing general policy guidance to the office ~~of consumer~~  
3 ~~counsel~~ regarding rule-making matters, legislative projects, general  
4 activities, and priorities of the office; AND

5 (II) Gathering data and information and formulating policy  
6 positions to advise the office ~~of consumer counsel~~ in preparing analysis  
7 and testimony in legislative hearings on proposed legislation affecting the  
8 interests of residential, small business, and agricultural utility users.

9 ~~(III) Reviewing the performance of the office of consumer~~  
10 ~~counsel annually;~~

11 ~~(IV) Conferring with the executive director of the department of~~  
12 ~~regulatory agencies on the hiring of the consumer counsel and consulting~~  
13 ~~with such executive director on the annual performance evaluation of the~~  
14 ~~office of consumer counsel and the consumer counsel.~~

15 (4) It is the duty of the attorney general to advise the office ~~of~~  
16 ~~consumer counsel~~ and the board in all legal matters and to provide  
17 representation in proceedings in which the office ~~of consumer counsel~~  
18 participates.

19 **SECTION 5.** In Colorado Revised Statutes, **amend** 40-6.5-103  
20 as follows:

21 **40-6.5-103. Qualifications of the director - conflict of interest.**

22 The ~~consumer counsel shall~~ DIRECTOR MUST have at least five years of  
23 experience in consumer-related utility issues or in the operation,  
24 management, or regulation of utilities as either an attorney, an engineer,  
25 an economist, an accountant, a financial analyst, or an administrator or  
26 any combination ~~thereof.~~ ~~No~~ OF THOSE ROLES. THE EXECUTIVE DIRECTOR  
27 SHALL NOT APPOINT AS DIRECTOR A ~~person owning~~ WHO OWNS stocks or

1 bonds in a corporation subject in whole or in part to regulation by the  
2 commission or who has any pecuniary interest in such corporation. ~~shall~~  
3 ~~be appointed as consumer counsel.~~

4 **SECTION 6.** In Colorado Revised Statutes, **amend** 40-6.5-104  
5 as follows:

6 **40-6.5-104. Representation by director - powers of the office.**

7 (1) The ~~consumer counsel~~ DIRECTOR shall represent the public interest  
8 and, to the extent consistent therewith, the specific interests of residential  
9 consumers, agricultural consumers, and small business consumers by  
10 appearing in proceedings before the commission and appeals therefrom  
11 in matters which THAT involve proposed changes in a public utility's rates  
12 and charges; in matters involving rule-making which THAT have an  
13 impact on the charges, the provision of services, or the rates to  
14 consumers; and in matters which THAT involve certificates of public  
15 convenience and necessity for facilities employed in the provision of  
16 utility service, the construction of which would have a material effect on  
17 the utility's rates and charges.

18 (2) In ~~exercising his discretion~~ DETERMINING whether ~~or not~~ to  
19 appear in a proceeding OF THE COMMISSION, the ~~consumer counsel~~  
20 DIRECTOR shall consider the importance and the extent of the public  
21 interest involved. In evaluating the public interest, INCLUDING THE IMPACT  
22 ON RATES AND CHARGES TO CONSUMERS, the ~~consumer counsel~~ DIRECTOR  
23 shall give due consideration to STATUTORY DECARBONIZATION GOALS SET  
24 FORTH IN SECTIONS 40-2-125.5 (3) AND 25-7-102 (2)(g), JUST TRANSITION  
25 IN ACCORDANCE WITH SECTION 40-2-133, ENVIRONMENTAL JUSTICE, AND  
26 the short- and long-term ~~impact~~ EFFECT of the proceedings upon various  
27 classes of consumers, so as not to jeopardize the interest of one class in

1 an action by another. If the ~~consumer counsel~~ DIRECTOR determines that  
2 there may be inconsistent interests among the various classes of the  
3 consumers ~~he~~ THAT THE DIRECTOR represents in a particular matter, ~~he~~  
4 THE DIRECTOR may choose to represent one of the interests or to represent  
5 no interest. Nothing in this section ~~shall be construed to limit~~ LIMITS the  
6 right of any person ~~firm, or corporation~~ to petition or make complaint to  
7 the commission \_\_\_ or otherwise intervene in proceedings or other matters  
8 before the commission.

9 (3) The ~~consumer counsel~~ DIRECTOR shall be served with notices  
10 of all proposed gas and electric tariffs, and ~~he or she~~ THE DIRECTOR shall  
11 be served with copies of all orders of the commission \_\_\_ affecting the  
12 charges of agricultural consumers, residential consumers, and small  
13 business consumers.

14 (4) THE OFFICE MAY INTERVENE IN MATTERS BEFORE THE  
15 COMMISSION THAT RELATE TO A TELECOMMUNICATIONS SERVICE  
16 PROCEEDING, INCLUDING A RULE-MAKING PROCEEDING, THAT HAS AN  
17 IMPACT ON THE PROVISION OR QUALITY OF TELECOMMUNICATIONS  
18 SERVICE.

19 (5) THE OFFICE SHALL NOT RECOMMEND THAT THE COMMISSION  
20 TAKE ANY ACTION THAT WOULD INTERFERE WITH THE ADMINISTRATION OR  
21 DETERMINATION OF EMPLOYEES' WAGES, HEALTH INSURANCE, OR  
22 RETIREMENT BENEFITS NEGOTIATED BETWEEN A REGULATED UTILITY AND  
23 A LABOR UNION THROUGH COLLECTIVE BARGAINING.

24 **SECTION 7.** In Colorado Revised Statutes, 40-6.5-105, **amend**  
25 (1) introductory portion and (1)(a) as follows:

26 **40-6.5-105. Intervenors other than the office of the utility**  
27 **consumer advocate.** (1) If the office of ~~consumer counsel~~ intervenes and



1 there are other intervenors in proceedings before the commission, the  
2 determination of said commission with regard to the payment of expenses  
3 of intervenors, other than the office, ~~of consumer counsel~~, and the  
4 amounts thereof shall be based on the following considerations:

5 (a) Any reimbursements may be awarded only for expenses  
6 related to issues not substantially addressed by the office; ~~of consumer~~  
7 ~~counsel~~;

8 **SECTION 8.** In Colorado Revised Statutes, 40-6.5-106, **amend**  
9 (1) introductory portion, (1)(a), (1)(c), (2), (2.5), and (3)(a); and **add**  
10 (1)(e) and (4) as follows:

11 **40-6.5-106. Powers of the director.** (1) The ~~consumer counsel~~  
12 DIRECTOR:

13 (a) May employ such attorneys, engineers, economists,  
14 accountants, or other employees as may be necessary to carry out his THE  
15 DIRECTOR'S duties; and shall employ a maximum of sixteen full-time  
16 employees or the equivalent thereof;

17 (c) May contract for the services of technically qualified persons  
18 to perform research and to appear as expert witnesses before the  
19 commission. such persons to be paid. THE DIRECTOR SHALL PAY ANY  
20 PERSON CONTRACTED WITH PURSUANT TO THIS SUBSECTION (1)(c) from  
21 funds appropriated for the DIRECTOR'S use. ~~of the consumer counsel~~;

22 (e) (I) MAY INSPECT THE RECORDS AND DOCUMENTS OF ANY  
23 PUBLIC UTILITY AND CONDUCT DEPOSITIONS UNDER OATH OF ANY OFFICER,  
24 AGENT, OR EMPLOYEE OF A PUBLIC UTILITY IN RELATION TO THE PUBLIC  
25 UTILITY'S BUSINESS AND AFFAIRS. TO EXERCISE THIS AUTHORITY, THE  
26 DIRECTOR SHALL REQUEST THAT THE COMMISSION ISSUE A SUBPOENA  
27 PURSUANT TO THE COMMISSION'S AUTHORITY UNDER SECTION 40-6-103 (1)

1 TO:

2 (A) ISSUE A SUBPOENA ON A PUBLIC UTILITY REQUIRING THE  
3 PUBLIC UTILITY TO PRODUCE RECORDS OR DOCUMENTS, OR, FOR RECORDS  
4 OR DOCUMENTS KEPT OUTSIDE OF THE STATE, TO PRODUCE VERIFIED  
5 COPIES OF RECORDS OR DOCUMENTS, FOR INSPECTION BY THE OFFICE AT  
6 SUCH TIME AND PLACE THAT THE COMMISSION DESIGNATES; OR

7 (B) ISSUE A SUBPOENA FOR THE ATTENDANCE OF WITNESSES AT A  
8 DEPOSITION TO BE CONDUCTED BY THE DIRECTOR OR THE DIRECTOR'S  
9 DESIGNEE AT SUCH TIME AND PLACE THAT THE COMMISSION DESIGNATES.  
10 THE DIRECTOR OR THE DIRECTOR'S DESIGNEE HAS THE AUTHORITY TO  
11 ADMINISTER OATHS OF WITNESSES AT A DEPOSITION HELD PURSUANT TO  
12 THIS SUBSECTION (1)(e)(I).

13 (II) WITH RESPECT TO THE GOOD CAUSE SHOWN REQUIREMENT SET  
14 FORTH IN SECTION 40-6-103 (1) FOR THE ISSUANCE OF A SUBPOENA, GOOD  
15 CAUSE IS SHOWN FOR A REQUEST MADE PURSUANT TO THIS SUBSECTION  
16 (1)(e) IF THE DIRECTOR'S REQUEST STATES WITH SPECIFICITY THE  
17 TESTIMONY, RECORDS, OR DOCUMENTS SOUGHT PURSUANT TO THIS  
18 SUBSECTION (1)(e).

19 (2) The ~~consumer counsel~~ DIRECTOR may petition for, request,  
20 initiate, and appear and intervene as a party in any COMMISSION \_\_\_\_\_  
21 proceeding, ~~before the commission concerning~~ INCLUDING A  
22 RULE-MAKING PROCEEDING, THAT CONCERNS OR AFFECTS UTILITY rate  
23 changes, ~~rule-making~~, charges, tariffs, modifications of service, and  
24 matters involving certificates of public convenience and necessity.  
25 Notwithstanding any provision of this ~~article~~ ARTICLE 6.5 to the contrary,  
26 the ~~consumer counsel~~ DIRECTOR shall not be a party to any individual  
27 complaint between a utility and an individual.

1           (2.5) The ~~consumer counsel~~ DIRECTOR may petition for, request,  
2 initiate, or seek to intervene in any proceeding before a federal agency  
3 ~~which~~ THAT regulates utility rates or service or BEFORE A federal court  
4 when the matter before ~~such~~ THE agency or court will affect a rate,  
5 charge, tariff, or term of service for a utility product or service for a  
6 residential, small business, or agricultural utility consumer in the state of  
7 Colorado. The phrase "federal agency ~~which~~ THAT regulates utility rates  
8 or service" does not include any federal lending agency.

9           (3) (a) The ~~consumer counsel~~ DIRECTOR and any member of ~~his~~  
10 ~~or her~~ THE DIRECTOR'S staff directly involved in a specific adjudicatory  
11 proceeding before the commission shall refrain from ex parte  
12 communications with members of the commission. The ~~counsel or his or~~  
13 ~~her staff shall~~ DIRECTOR AND THE DIRECTOR'S STAFF have all rights and ~~be~~  
14 ARE governed by the same ex parte rules as all other intervenors.

15           (4) (a) THE DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL  
16 PROVIDE POLICY ANALYSIS TO THE EXECUTIVE DIRECTOR ON LEGISLATIVE  
17 MATTERS PENDING BEFORE THE GENERAL ASSEMBLY THAT DIRECTLY  
18 RELATE TO THE OFFICE'S MISSION.

19           (b) THE OFFICE MAY PROVIDE PRESENTATIONS AND OTHER FORMS  
20 OF EDUCATION TO THE GENERAL ASSEMBLY ON THE TYPES OF MATTERS  
21 THAT INVOLVE:

22           (I) PUBLIC UTILITIES' RATES AND CHARGES;

23           (II) THE PROVISION OF SERVICES;

24           (III) CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR  
25 FACILITIES:

26           (A) THAT ARE OR WOULD BE USED IN PROVIDING UTILITY SERVICE;

27           AND

1 (B) THE CONSTRUCTION OF WHICH WOULD HAVE MATERIAL EFFECT  
2 ON A PUBLIC UTILITY'S RATES AND CHARGES; AND

3 (IV) OTHER MATTERS THAT AFFECT THE PUBLIC INTEREST OF THE  
4 CONSTITUENTS THAT THE OFFICE REPRESENTS.

5 (c) THE DEPARTMENT OF REGULATORY AGENCIES SHALL  
6 ANNUALLY REPORT ON THE OFFICE AS PART OF ITS PRESENTATION TO ITS  
7 COMMITTEES OF REFERENCE AT A HEARING HELD PURSUANT TO SECTION  
8 2-7-203 (2)(a) OF THE "STATE MEASUREMENT FOR ACCOUNTABLE,  
9 RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT",  
10 INCLUDING REPORTING ON THE FOLLOWING:

11 (I) A SUMMARY OF MATTERS IN WHICH THE OFFICE INTERVENED IN  
12 THE PRECEDING YEAR AND THE RESOLUTION, IF ANY, OF THOSE MATTERS;  
13 AND

14 (II) A SUMMARY OF THE OFFICE'S OTHER WORK IN THE PRECEDING  
15 YEAR.

16 SECTION 9. In Colorado Revised Statutes, **amend** 40-6.5-107  
17 as follows:

18 **40-6.5-107. Financing of office.** At each regular session, the  
19 general assembly shall determine the ~~amounts~~ AMOUNT to be expended  
20 by the office ~~of consumer counsel~~ for the direct and indirect costs of  
21 administration in performing its duties and responsibilities required by  
22 this ~~article~~ ARTICLE 6.5 and shall appropriate THE AMOUNT to the office  
23 ~~of consumer counsel~~ from the public utilities commission fixed utility  
24 fund AND THE TELECOMMUNICATIONS UTILITY FUND created in section  
25 40-2-114. ~~the full amount so determined. No~~ THE GENERAL ASSEMBLY  
26 SHALL NOT APPROPRIATE MONEY FROM THE general fund ~~moneys shall be~~  
27 ~~appropriated~~ to the office ~~of consumer counsel~~ for the performance of its

1 duties and responsibilities under this ~~article~~ ARTICLE 6.5.

2 **SECTION 10.** In Colorado Revised Statutes, 24-1-122, **amend**  
3 (2) introductory portion and (2)(a.5) as follows:

4 **24-1-122. Department of regulatory agencies - creation.**

5 (2) The department of regulatory agencies ~~shall consist~~ CONSISTS of the  
6 following divisions:

7 (a.5) The office of ~~consumer counsel~~ THE UTILITY CONSUMER  
8 ADVOCATE and the utility consumers' board, created ~~by~~ IN article 6.5 of  
9 title 40. ~~C.R.S.~~ The office of ~~consumer counsel~~ THE UTILITY CONSUMER  
10 ADVOCATE and its powers, duties, and functions are transferred by a **type**  
11 **1** transfer to the department of regulatory agencies as a division ~~thereof~~  
12 OF THE DEPARTMENT. The utility consumers' board shall exercise its  
13 powers and perform its duties and functions under the department as if  
14 the same were transferred to the department by a ~~type 1~~ **TYPE 2** transfer  
15 and allocated to the office of ~~consumer counsel~~ THE UTILITY CONSUMER  
16 ADVOCATE.

17 **SECTION 11.** In Colorado Revised Statutes, 40-2-114, **amend**  
18 (2) as follows:

19 **40-2-114. Disposition of fees collected - telecommunications**  
20 **utility fund - fixed utility fund.** (2) ~~Moneys~~ MONEY in the funds created  
21 in subsection (1) of this section shall be expended only to defray the full  
22 amount determined by the general assembly for the administrative  
23 expenses of the commission for the supervision and regulation of the  
24 public utilities paying the fees and for the financing of the office of  
25 ~~consumer counsel~~ THE UTILITY CONSUMER ADVOCATE created in article  
26 6.5 of this ~~title~~ TITLE 40. The state treasurer shall retain any unexpended  
27 balance remaining in either fund at the end of any fiscal year to defray the

1 administrative expenses of the commission during subsequent fiscal  
2 years, and the executive director of the department of revenue shall take  
3 any such unexpended balance into account when computing the  
4 percentage upon which fees for the ensuing fiscal year will be based.

5 **SECTION 12.** In Colorado Revised Statutes, 40-2-122, **amend**  
6 (3)(c) introductory portion, (3)(c)(XI), (5), and (10) as follows:

7 **40-2-122. Natural gas - deregulation of supply - voluntary**  
8 **separation of service offerings - consumer protection - legislative**  
9 **declaration.** (3) (c) The commission shall not approve a plan submitted  
10 pursuant to ~~paragraph (a) of this subsection (3)~~ SUBSECTION (3)(a) OF THIS  
11 SECTION unless the price charged for natural gas delivery services does  
12 not subsidize natural gas supply service under the plan and, in addition,  
13 the plan:

14 (XI) Provides for funding of the commission and the office of  
15 ~~consumer counsel~~ THE UTILITY CONSUMER ADVOCATE based upon a  
16 charge to end-use customers, as determined by the commission, as a part  
17 of the natural gas delivery function, regardless of the identity of the  
18 natural gas supplier. Such new funding method ~~shall~~ MUST be  
19 competitively neutral and shall be designed to generate annual revenues  
20 equivalent to the average annual revenues generated under sections  
21 40-2-109 to 40-2-114 during calendar years 1994 to 1998 associated with  
22 the sale of natural gas service from the geographic area or group of  
23 customers affected by the plan. Whenever such new funding method is  
24 instituted for any specific geographic area or group of customers, the  
25 natural gas public utilities serving ~~such~~ THE area or group shall no longer  
26 pay the fees that would otherwise have been required under ~~said~~ THE  
27 sections.

1 (5) The department of revenue is hereby authorized to collect  
2 funding for the commission and the office of ~~consumer counsel~~ THE  
3 UTILITY CONSUMER ADVOCATE in accordance with ~~subparagraph (XI) of~~  
4 ~~paragraph (c) of subsection (3)~~ SUBSECTION (3)(c)(XI) of this section.

5 (10) The general assembly determines that a new funding formula  
6 should be devised to adequately fund the commission's and office of  
7 ~~consumer counsel's~~ THE UTILITY CONSUMER ADVOCATE'S administrative  
8 expenses. On or before December 1, 2000, the commission and the office  
9 ~~of consumer counsel~~ shall recommend to the general assembly those  
10 legislative changes needed to develop appropriate funding mechanisms  
11 for the public utilities commission and the office. ~~of consumer counsel.~~  
12 This provision is intended to provide a comprehensive replacement for  
13 the funding method contained in the utility plan under ~~subparagraph (XI)~~  
14 ~~of paragraph (c) of subsection (3)~~ SUBSECTION (3)(c)(XI) of this section.

15 **SECTION 13.** In Colorado Revised Statutes, 40-3-104.3, **amend**  
16 (1)(b) and (1)(e) as follows:

17 **40-3-104.3. Manner of regulation - competitive responses -**  
18 **definitions - repeal.** (1) (b) (I) Following a notice period of five days  
19 after the filing of an application under this section, the commission shall  
20 approve or deny the application within thirty days. All applications filed  
21 with the commission pursuant to this section shall be placed at the head  
22 of the commission's docket and shall be disposed of promptly within the  
23 time periods set forth in this ~~paragraph (b)~~ SUBSECTION (1)(b)(I); except  
24 that, for good cause shown, the commission may extend the period in  
25 which it must act for an additional fifteen days, or, in extraordinary  
26 circumstances, including ~~but not limited to~~ the existence of numerous  
27 pending applications under this section, the commission may extend the

1 period in which it must act for an additional thirty days beyond the fifteen  
2 days provided for in this ~~paragraph (b)~~ SUBSECTION (1)(b)(I).

3 (II) Whenever ~~such~~ THE application is continued as provided in  
4 ~~this paragraph (b)~~ SUBSECTION (1)(b)(I) OF THIS SECTION, the commission  
5 shall enter an order making ~~such~~ THE continuance and stating fully the  
6 facts necessitating the continuance. If the commission has not approved  
7 or denied ~~any such~~ AN application within the time periods set forth in ~~this~~  
8 ~~paragraph (b)~~ SUBSECTION (1)(b)(I) OF THIS SECTION, the application shall  
9 be deemed approved. If the commission denies ~~any such~~ AN application  
10 for approval within the permitted period, the subject contract ~~shall~~ DOES  
11 not become effective.

12 (III) Any contract submitted pursuant to this section shall be filed  
13 under seal and treated as confidential by the commission; except that, at  
14 the time the applicant files an application or contract with the  
15 commission, the applicant shall also furnish a copy of the application to  
16 any public utility then providing electric, gas, or steam service in the state  
17 of Colorado to the customer, and also furnish a copy to the office of  
18 ~~consumer counsel, and~~ the UTILITY CONSUMER ADVOCATE, WHICH office  
19 ~~of consumer counsel~~ shall also treat ~~said~~ THE contract as confidential.

20 (e) Within ten days after the execution of ~~such~~ THE contract, the  
21 public utility shall file with the commission under seal and as a  
22 confidential document the final contract or other description of the price  
23 and terms of service, together with any additional information required by  
24 the commission. The applicant shall also furnish a copy of ~~such~~ THE  
25 information to the office of ~~consumer counsel, who~~ THE UTILITY  
26 CONSUMER ADVOCATE, WHICH OFFICE shall treat the information as  
27 confidential. The commission ~~shall have~~ HAS no authority to disapprove



1 the contract if the contract complies with the conditions contained in  
2 ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION,  
3 but the commission may consider the contract for general regulatory  
4 purposes and to ensure compliance with the requirements of this section.

5 **SECTION 14. Appropriation.** (1) For the 2021-22 state fiscal  
6 year, \$453,941 is appropriated to the department of regulatory agencies.  
7 This appropriation is from the fixed utility fund created in section  
8 40-2-114 (1)(b)(II), C.R.S. To implement this act, the department may use  
9 this appropriation as follows:

10 (a) \$265,311 for use by the office of the utility consumer advocate  
11 for personal services, which amount is based on an assumption that the  
12 office will require an additional 3.2 FTE;

13 (b) \$29,120 for use by the office of the utility consumer advocate  
14 for operating expenses; and

15 (c) \$159,510 for the purchase of legal services.

16 (2) For the 2021-22 state fiscal year, \$159,510 is appropriated to  
17 the department of law. This appropriation is from reappropriated funds  
18 received from the department of regulatory agencies under subsection  
19 (1)(c) of this section and is based on an assumption that the department  
20 of law will require an additional 0.8 FTE. To implement this act, the  
21 department of law may use this appropriation to provide legal services for  
22 the department of regulatory agencies.

23 **SECTION 15. Effective date.** This act takes effect September 1,  
24 2021.

25 **SECTION 16. Safety clause.** The general assembly hereby finds,  
26 determines, and declares that this act is necessary for the immediate  
27 preservation of the public peace, health, or safety.