

Received
Legislative Council Staff
3/20/20, 8:00am

Be it enacted by the People of the State of Colorado:

SECTION 1. In the constitution of the state of Colorado, **add** section 17 to article XVIII as follows:

COLORADO INDEPENDENT OIL AND GAS BOARD

(1) **DECLARATION OF THE PEOPLE.** THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT:

(a) OIL AND GAS DEVELOPMENT SHOULD BE RIGOROUSLY AND COMPREHENSIVELY REGULATED BY AN INDEPENDENT BOARD, AS FAR REMOVED FROM PARTISAN, POLITICAL, AND INTEREST GROUP PRESSURE AS IS PRACTICABLE, IN A MANNER THAT PROTECTS THE PUBLIC HEALTH, SAFETY AND WELFARE OF CITIZENS IN BALANCE WITH THE RESPONSIBLE DEVELOPMENT OF OIL, GAS AND MINERAL RESOURCES;

(b) OIL AND GAS REGULATION ATTAINED THROUGH OVERLY POLITICAL PROCESSES LEADS TO IRRATIONAL AND ARBITRARY SWINGS IN POLICY THAT NEITHER PROTECT PUBLIC HEALTH NOR PROMOTE REGULATORY CERTAINTY FOR PROPERTY OWNERS, COMMUNITIES, OR PRODUCERS. THE RESPONSIBILITY TO REGULATE OIL AND GAS DEVELOPMENT SHOULD BE REMOVED FROM THE GOVERNOR, HIS POLITICAL APPOINTEES AND THE LEGISLATURE, AND TRANSFERRED TO AN INDEPENDENT OIL AND GAS BOARD THAT WILL BALANCE THE PUBLIC HEALTH, SAFETY AND WELFARE OF CITIZENS WITH RESPONSIBLE DEVELOPMENT OF OIL, GAS AND MINERAL RESOURCES THROUGH THE ISSUANCE AND ENFORCEMENT OF RULES, REGULATIONS AND OTHER DECISIONS AND ACTIONS THAT ARE REASONABLE;

(c) THE INDEPENDENT OIL AND GAS BOARD SHOULD CONSIST OF MEMBERS WITH EXPERTISE IN APPLICABLE FIELDS OF SCIENCE, ENGINEERING, ENVIRONMENTAL AND NATURAL RESOURCE MANAGEMENT, SELECTED THROUGH PROCESSES WITH CHECKS AND BALANCES THAT WOULD PREVENT ANY ONE PERSON, ANY ONE POLITICAL PARTY, OR ANY ONE INTEREST GROUP FROM EXERTING CONTROL OR UNDUE INFLUENCE OVER THE DECISIONS OF THE INDEPENDENT BOARD. BOARD MEMBERS SHOULD BE SELECTED THROUGH A MERIT-BASED, FAIR AND NEUTRAL PROCESS THAT AVOIDS APPOINTMENT OF APPLICANTS WHO ARE BIASED, UNQUALIFIED, OR WHO HAVE A CONFLICT OF INTEREST, INSTEAD ELEVATING THE VALUES OF SOUND SCIENCE, ENGINEERING PRINCIPLES, AND COLLABORATIVE DECISION MAKING THAT PRIORITIZE BALANCED AND REASONABLE REGULATORY ACTION;

(d) THE INDEPENDENT BOARD SHALL ESTABLISH RULES, REGULATIONS, DECISIONS AND ACTIONS THROUGH THE APPLICATION OF BEST AVAILABLE SCIENCE AND ENGINEERING PRINCIPLES, CONSIDERATION OF LOCAL INPUT, AND SEEKING TO RESOLVE CONFLICTING FACTORS AND VALUES IN A BALANCED, REASONABLE AND JUDICIOUS MANNER;

(e) STATE OIL AND GAS REGULATORS SHOULD HAVE COMPREHENSIVE AUTHORITY TO MONITOR AND CONSISTENTLY ENFORCE STRINGENT DEVELOPMENT LAWS AND REGULATIONS; AND

(f) OIL AND GAS DEVELOPMENT POLICY AND RELATED HEALTH AND SAFETY ISSUES ARE COMPLEX AND REQUIRE PROFESSIONAL EXPERTISE AND IMPARTIAL DECISION-MAKING, AND, TO THAT END,

THE STATE'S OIL AND GAS REGULATORS SHOULD BE EMPOWERED TO ACT IN A PROFESSIONAL AND INDEPENDENT MANNER THAT IS FREE FROM PARTISAN POLITICS, SO THAT NO POLITICAL PARTY, NO SPECIAL INTEREST GROUP, AND NO SINGLE POLITICIAN HAS CONTROL OR UNDUE INFLUENCE.

(2) THERE IS HEREBY CREATED THE COLORADO INDEPENDENT OIL AND GAS BOARD.

(3)(a) EFFECTIVE JULY 1, 2021, THE INDEPENDENT BOARD SHALL CONSIST OF NINE MEMBERS, AND EACH SHALL HAVE THE FOLLOWING MINIMUM QUALIFICATIONS:

(I) HAS BEEN UNAFFILIATED WITH ANY POLITICAL PARTY OR HAS BEEN AFFILIATED WITH THE SAME POLITICAL PARTY FOR A CONSECUTIVE PERIOD OF NO LESS THAN FIVE YEARS AT THE TIME OF THE APPLICATION;

(II) HAS AT LEAST TEN YEARS OF PROFESSIONAL EXPERIENCE RELEVANT TO THE INDEPENDENT BOARD'S ACTIVITIES AND JURISDICTION, INCLUDING EXPERTISE IN PUBLIC HEALTH, THE ENVIRONMENT, WILDLIFE PROTECTION, LAND USE PLANNING, OR SUBSTANTIAL ENGINEERING EXPERIENCE IN THE OIL AND GAS INDUSTRY; AND

(III) HAS A PROFESSIONAL BACKGROUND DEMONSTRATING AN ABILITY TO CONTRIBUTE TO THE INDEPENDENT BOARD'S BODY OF EXPERTISE THAT WILL AID THE INDEPENDENT BOARD IN MAKING SOUND, IMPARTIAL, FACT-BASED DECISIONS RELATED TO SAFE AND RESPONSIBLE OIL AND GAS DEVELOPMENT.

(b) NO PERSON MAY BE APPOINTED TO SERVE ON THE INDEPENDENT BOARD OR HOLD THE OFFICE OF BOARD MEMBER IF THE PERSON HAS A CONFLICT OF INTEREST WITH OIL AND GAS DEVELOPMENT IN COLORADO. EXAMPLES OF CONFLICTS OF INTEREST INCLUDE BEING REGISTERED AS A LOBBYIST AT THE LOCAL OR STATE LEVELS, SERVING IN THE GENERAL ASSEMBLY WITHIN THE PRIOR THREE YEARS, SERVING AS A PAID POLITICAL PARTY EMPLOYEE WITHIN THE PRIOR THREE YEARS, OR SERVING IN AN OFFICIAL CAPACITY WITH AN ENTITY THAT EDUCATES OR ADVOCATES FOR OR AGAINST OIL AND GAS ACTIVITY. THIS SUBSECTION SHALL BE CONSTRUED REASONABLY WITH THE OBJECTIVE OF DISQUALIFYING FROM THE INDEPENDENT BOARD ANY PERSON WHO MIGHT HAVE AN IMMEDIATE CONFLICT OF INTEREST OR WHO MAY NOT BE ABLE TO MAKE BALANCED DECISIONS ABOUT OIL AND GAS REGULATION IN COLORADO. A LOCAL GOVERNMENT OFFICIAL OR PERSON WHO HAS WORKED WITH OR FOR AN ENERGY OR ENVIRONMENTAL ENTITY NEED NOT BE DISQUALIFIED IF THE PERSON'S EXPERIENCE SHOWS SUBJECT MATTER KNOWLEDGE COUPLED WITH AN ABILITY TO RENDER INFORMED, THOROUGH, AND BALANCED DECISION-MAKING.

(4)(a) AFTER HOLDING ONE OR MORE PUBLIC HEARINGS, NONPARTISAN STAFF SHALL PREPARE AN APPLICATION FORM THAT WILL ALLOW APPOINTING AUTHORITIES TO EVALUATE A PERSON'S EXPERIENCE AND QUALIFICATIONS. NONPARTISAN STAFF SHALL MAKE SUCH APPLICATION AVAILABLE ON THE GENERAL ASSEMBLY'S WEBSITE OR COMPARABLE MEANS OF COMMUNICATING WITH THE PUBLIC. THE APPLICATION SHALL BE PREPARED BY FEBRUARY 1, 2021. AFTER JULY 1, 2021, THE DIRECTOR OF THE INDEPENDENT BOARD MAY AMEND THE APPLICATION AT ANY TIME FOR VACANCY APPOINTMENTS AS THE DIRECTOR DEEMS APPROPRIATE.

(I) TO REQUEST APPLICATIONS FOR THE INITIAL APPOINTMENT OF MEMBERS WITH TERMS EFFECTIVE JULY 1, 2021, NONPARTISAN STAFF SHALL POST NOTICE BY FEBRUARY 1, 2021, ON THE GENERAL ASSEMBLY'S WEBSITE OR COMPARABLE MEANS OF COMMUNICATING WITH THE PUBLIC.

(II) TO REQUEST APPLICATIONS FOR ANY VACANCY ON THE BOARD OCCURRING AT THE END OF A TERM OR OTHERWISE, THE DIRECTOR OF THE INDEPENDENT BOARD SHALL POST NOTICE OF VACANCY AT LEAST NINETY DAYS PRIOR TO THE END OF A BOARD MEMBER'S TERM OR WITHIN FIVE DAYS AFTER ANY OTHER VACANCY ON THE BOARD'S WEBSITE OR COMPARABLE MEANS OF COMMUNICATING WITH THE PUBLIC.

(b) THE APPLICATION FORM MUST CLEARLY STATE THE QUALIFICATIONS REQUIRED OF POTENTIAL APPOINTEES. INFORMATION REQUIRED OF APPLICANTS MUST INCLUDE, BUT IS NOT NECESSARILY LIMITED TO, PROFESSIONAL BACKGROUND, PARTY AFFILIATION, A DESCRIPTION OF PAST POLITICAL ACTIVITY, A LIST OF ALL POLITICAL AND CIVIC ORGANIZATIONS TO WHICH THE APPLICANT HAS BELONGED WITHIN THE PREVIOUS FIVE YEARS, AND WHETHER THE APPLICANT MEETS THE QUALIFICATIONS STATED IN SUBSECTION (3) OF THIS SECTION. IN ADDITION, THE APPLICATION FORM MUST REQUIRE THE APPLICANTS TO EXPLAIN WHY THEY WANT TO SERVE ON THE BOARD AND THE APPLICATION MUST AFFORD THE APPLICANTS AN OPPORTUNITY TO MAKE A STATEMENT ABOUT HOW THEY WILL PROMOTE CONSENSUS AMONG COMMISSIONERS IF APPOINTED TO THE COMMISSION. AN APPLICANT MAY CHOOSE TO INCLUDE UP TO FOUR LETTERS OF RECOMMENDATION WITH THEIR APPLICATION.

(c) FOR PURPOSES OF THIS SECTION, "NONPARTISAN STAFF" SHALL MEAN THE STAFF OF THE GENERAL ASSEMBLY'S LEGISLATIVE COUNCIL AND OFFICE OF LEGISLATIVE LEGAL SERVICES, OR THEIR SUCCESSOR OFFICES, WHO ARE ASSIGNED TO ASSIST THE BOARD. THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL AND THE DIRECTOR OF THE OFFICE OF LEGISLATIVE LEGAL SERVICES, OR THE DIRECTORS OF SUCCESSOR NONPARTISAN OFFICES OF THE GENERAL ASSEMBLY, SHALL APPOINT STAFF FROM THEIR RESPECTIVE OFFICES AS NEEDED TO ASSIST THE BOARD AND THE PANEL OF JUDGES AS DESCRIBED IN THIS SECTION.

(5)(a) THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT SHALL DESIGNATE A PANEL TO REVIEW APPLICATIONS FOR THE INITIAL APPOINTMENT OF MEMBERS AND SHALL DESIGNATE A PANEL AS NEEDED TO FILL ANY VACANCY. THE PANEL MUST CONSIST OF THE THREE JUSTICES OR JUDGES WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS, APPOINTED SEQUENTIALLY STARTING WITH THE MOST RECENT JUSTICE OR JUDGE TO RETIRE WHO HAS BEEN AFFILIATED WITH THE SAME POLITICAL PARTY OR UNAFFILIATED WITH ANY POLITICAL PARTY FOR THE TWO YEARS PRIOR TO APPOINTMENT; EXCEPT THAT NO APPOINTEE, WITHIN TWO YEARS PRIOR TO APPOINTMENT, SHALL HAVE BEEN AFFILIATED WITH THE SAME POLITICAL PARTY AS A JUSTICE OR JUDGE ALREADY APPOINTED TO THE PANEL. IF ANY OF THE THREE JUSTICES OR JUDGES WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS IS UNABLE OR UNWILLING TO SERVE ON THE PANEL OR HAS BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH A POLITICAL PARTY ALREADY REPRESENTED ON THE PANEL, THEN THE CHIEF JUSTICE SHALL APPOINT THE NEXT JUSTICE OR JUDGE WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS AND WHO HAS NOT BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT

WITH THE SAME POLITICAL PARTY AS ANY JUSTICE OR JUDGE ALREADY APPOINTED TO THE PANEL. IF, AFTER CONSIDERING ALL JUSTICES AND JUDGES WHO HAVE RETIRED FROM THE COLORADO SUPREME COURT AND THE COLORADO COURT OF APPEALS, FEWER THAN THREE ELIGIBLE PARTICIPANTS FOR THE PANEL HAVE BEEN IDENTIFIED WHO ARE ABLE AND WILLING TO SERVE, THE CHIEF JUSTICE SHALL APPOINT THE MOST RECENTLY RETIRED DISTRICT COURT JUDGE WHO HAS NOT BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH THE SAME POLITICAL PARTY AS A PREVIOUS APPOINTEE TO THE PANEL AND WHO ACCEPTS SUCH APPOINTMENT.

(b) ALL DECISIONS OF THE PANEL REGARDING THE SELECTION OF APPLICANTS PURSUANT TO THIS SECTION REQUIRE THE AFFIRMATIVE APPROVAL OF ALL THREE MEMBERS OF THE PANEL.

(c) THE GENERAL ASSEMBLY SHALL PRESCRIBE BY LAW THE COMPENSATION OF MEMBERS OF THE PANEL. NONPARTISAN STAFF SHALL ASSIST THE PANEL IN CARRYING OUT ITS DUTIES.

(6) THE PROCESS FOR APPOINTING BOARD MEMBERS IS AS FOLLOWS:

(a) ANY PERSON WHO SEEKS TO SERVE ON THE INDEPENDENT BOARD MUST SUBMIT A COMPLETED APPLICATION. ALL APPLICATIONS ARE PUBLIC RECORDS AND SHALL BE POSTED ON THE GENERAL ASSEMBLY'S WEBSITE OR COMPARABLE MEANS OF COMMUNICATING WITH THE PUBLIC.

(I) FOR THE INITIAL APPOINTMENT OF MEMBERS WITH TERMS EFFECTIVE JULY 1, 2021, COMPLETED APPLICATIONS SHALL BE SUBMITTED TO NONPARTISAN STAFF AND ARE DUE BY MARCH 1, 2021.

(II) FOR ANY VACANCY ON THE BOARD OCCURRING AT THE END OF A TERM OR OTHERWISE, COMPLETED APPLICATIONS SHALL BE SUBMITTED TO THE DIRECTOR OF THE INDEPENDENT BOARD AND ARE DUE AT LEAST SIXTY DAYS PRIOR TO THE END OF A BOARD MEMBER'S TERM OR WITHIN THIRTY-FIVE DAYS AFTER ANY OTHER VACANCY.

(b)(I) FOR THE INITIAL APPOINTMENT OF MEMBERS WITH TERMS EFFECTIVE JULY 1, 2021, THE PANEL DESIGNATED PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION SHALL BE ESTABLISHED NO LATER THAN MARCH 15, 2021.

(II) FOR ANY VACANCY ON THE BOARD OCCURRING AT THE END OF A TERM OR OTHERWISE, THE PANEL DESIGNATED PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION SHALL BE ESTABLISHED NO LATER THAN THIRTY DAYS PRIOR TO THE END OF ANY BOARD MEMBER'S TERM, OR SIXTY-FIVE DAYS AFTER ANY OTHER VACANCY.

(c) AS PROVIDED IN THIS SUBSECTION, OFFICIALS SHALL NOMINATE APPLICANTS THAT THEY DEEM QUALIFIED PURSUANT TO SUBSECTION (3) OF THIS SECTION AND THAT THEY BELIEVE TO BEST DEMONSTRATE RELEVANT EXPERIENCE, SKILLS AND THE ABILITY TO BE IMPARTIAL.

(I) BY MARCH 15, 2021, FOR THE INITIAL APPOINTMENT OF MEMBERS WITH TERMS EFFECTIVE JULY 1, 2021:

(i) THE GOVERNOR AND THE HIGHEST-RANKING STATE HOUSE OF REPRESENTATIVES OFFICER AFFILIATED WITH A DIFFERENT POLITICAL PARTY THAN THE GOVERNOR SHALL AGREE TO NOMINATE FIFTEEN APPLICANTS, WHICH MUST CONSIST OF FIVE APPLICANTS AFFILIATED WITH THE

STATE'S LARGEST POLITICAL PARTY, FIVE APPLICANTS AFFILIATED WITH THE STATE'S SECOND LARGEST POLITICAL PARTY, AND FIVE APPLICANTS WHO ARE UNAFFILIATED.

(ii) THE MAJORITY LEADER OF THE STATE SENATE AND THE MINORITY LEADER OF THE STATE SENATE SHALL AGREE TO NOMINATE FIFTEEN APPLICANTS, WHICH MUST CONSIST OF FIVE APPLICANTS AFFILIATED WITH THE STATE'S LARGEST POLITICAL PARTY, FIVE APPLICANTS AFFILIATED WITH THE STATE'S SECOND LARGEST POLITICAL PARTY, AND FIVE APPLICANTS WHO ARE UNAFFILIATED.

(II) NO LATER THAN THIRTY DAYS PRIOR TO THE END OF ANY BOARD MEMBER'S TERM, OR SIXTY-FIVE DAYS AFTER ANY OTHER VACANCY, FOR ANY VACANCY ON THE BOARD OCCURRING AT THE END OF A TERM OR OTHERWISE, THE OFFICIALS IN THIS SUBSECTION SHALL MAKE NOMINATIONS AS FOLLOWS:

(i) THE GOVERNOR AND THE HIGHEST-RANKING STATE HOUSE OF REPRESENTATIVES OFFICER AFFILIATED WITH A DIFFERENT POLITICAL PARTY THAN THE GOVERNOR SHALL AGREE TO NOMINATE THREE APPLICANTS WHO HAVE THE SAME POLITICAL AFFILIATION AS THE MEMBER THAT HAS CREATED OR WILL CREATE THE VACANCY.

(ii) THE MAJORITY LEADER OF THE STATE SENATE AND THE MINORITY LEADER OF THE STATE SENATE SHALL AGREE TO NOMINATE THREE APPLICANTS WHO HAVE THE SAME POLITICAL AFFILIATION AS THE MEMBER THAT HAS CREATED OR WILL CREATE THE VACANCY.

(III) IF THERE IS AN INSUFFICIENT NUMBER OF APPLICANTS DEEMED QUALIFIED PURSUANT TO THIS SECTION FOR OFFICIALS TO MAKE THE NOMINATIONS REQUIRED IN THIS SUBSECTION, THEN THE OFFICIALS MAY NOMINATE ONLY QUALIFIED APPLICANTS.

(IV) IF ANY OF THE OFFICIALS IN THIS SUBSECTION FAIL TO AGREE ON NOMINEES BY THE REQUIRED DATE, SUCH OFFICIALS SHALL FORFEIT THE OPPORTUNITY TO NOMINATE APPLICANTS.

(d) THE PANEL SHALL APPOINT AS BOARD MEMBERS INDIVIDUALS FROM THE POOL OF NOMINEES ESTABLISHED ACCORDING TO SUBSECTION (6)(c) OF THIS SECTION, EXCEPT THAT, IF NONE OF THE OFFICIALS IN SUBSECTION 6(c) CAN AGREE ON APPLICANTS TO NOMINATE BY THE REQUIRED DATE, THE PANEL MAY APPOINT AS A BOARD MEMBER ANY INDIVIDUAL WHO SUBMITTED AN APPLICATION. THE PANEL MAY INTERVIEW NOMINEES OR APPLICANTS BEFORE MAKING THE APPOINTMENTS.

(I) FOR THE INITIAL APPOINTMENT OF MEMBERS WITH TERMS EFFECTIVE JULY 1, 2021, THE PANEL SHALL APPOINT NINE MEMBERS, IN SUCH ORDER AS THE PANEL DETERMINES, BY MAY 1, 2021.

(II) FOR ANY VACANCY ON THE BOARD OCCURRING AT THE END OF A TERM OR OTHERWISE, THE PANEL SHALL APPOINT ONE INDIVIDUAL TO FILL THE VACANCY NO LATER THAN FIFTEEN DAYS PRIOR TO THE END OF ANY BOARD MEMBER'S TERM, OR EIGHTY DAYS AFTER ANY OTHER VACANCY.

(e) THE INDEPENDENT BOARD SHALL COMPRISE THREE MEMBERS WHO ARE NOT AFFILIATED WITH ANY POLITICAL PARTY, THREE MEMBERS WHO ARE AFFILIATED WITH THE STATE'S LARGEST POLITICAL PARTY, AND THREE MEMBERS WHO ARE AFFILIATED WITH THE STATE'S SECOND LARGEST POLITICAL PARTY. THE PANEL SHALL MAKE APPOINTMENTS ACCORDINGLY.

(f) THE PANEL SHALL ONLY APPOINT AN INDIVIDUAL AS A BOARD MEMBER IF THE PERSON MEETS THE QUALIFICATIONS SET FORTH IN SUBSECTION (3) OF THIS SECTION AND DEMONSTRATES RELEVANT EXPERIENCE, SKILLS AND THE ABILITY TO BE IMPARTIAL.

(g) IN SELECTING APPLICANTS TO APPOINT TO AN INITIAL TERM OR TO FILL A VACANCY, THE PANEL SHALL CONSIDER APPLICANTS' QUALIFICATIONS AND, TO THE EXTENT POSSIBLE, ENDEAVOR TO APPOINT BOARD MEMBERS THAT:

(I) REFLECT COLORADO'S RACIAL, ETHNIC, GENDER, AND GEOGRAPHIC DIVERSITY; AND

(II) REPRESENT A VARIETY OF RELEVANT EXPERTISE, INCLUDING BUT NOT LIMITED TO SUBSTANTIAL TRAINING OR EXPERIENCE IN PUBLIC HEALTH, ENVIRONMENTAL REGULATION, WILDLIFE PROTECTION, LAND USE PLANNING, EARTH SCIENCE, ENGINEERING, AGRICULTURAL STEWARDSHIP, WATER CONSERVATION AND WATER RESOURCE MANAGEMENT.

(h) FOR PURPOSES OF THIS SECTION, THE STATE'S TWO LARGEST POLITICAL PARTIES SHALL BE DETERMINED BY THE NUMBER OF REGISTERED ELECTORS AFFILIATED WITH EACH POLITICAL PARTY IN THE STATE ACCORDING TO VOTER REGISTRATION DATA PUBLISHED BY THE SECRETARY OF STATE FOR THE EARLIEST DAY IN JANUARY OF YEAR OF APPOINTMENT FOR WHICH SUCH DATA IS PUBLISHED.

(7)(a) BOARD MEMBERS SHALL SERVE TERMS OF FOUR YEARS EACH, EXCEPT THAT, FOR THE INITIAL MEMBERS WITH TERMS EFFECTIVE JULY 1, 2021, THE PANEL SHALL APPOINT FOUR OF THE MEMBERS FOR INITIAL TERMS OF TWO YEARS EACH. IF A BOARD MEMBER IS APPOINTED TO FILL AN UNEXPIRED TERM, THAT MEMBER SHALL SERVE FOR THE REMAINDER OF THE UNEXPIRED TERM. MEMBERS MAY BE APPOINTED TO SERVE SUCCESSIVE TERMS BUT SHALL NOT SERVE FOR MORE THAN TEN TOTAL YEARS ON THE INDEPENDENT BOARD.

(b) A MEMBER'S POSITION ON THE INDEPENDENT BOARD WILL BE DEEMED VACANT IF THE MEMBER, HAVING BEEN APPOINTED AS A REGISTERED ELECTOR WHO IS NOT AFFILIATED WITH A POLITICAL PARTY, AFFILIATES WITH A POLITICAL PARTY DURING THE MEMBER'S TERM. A MEMBER'S POSITION ON THE INDEPENDENT BOARD WILL ALSO BE DEEMED VACANT IF THE MEMBER, HAVING BEEN AFFILIATED WITH ONE OF THE STATE'S TWO LARGEST POLITICAL PARTIES AT THE TIME OF APPOINTMENT, AFFILIATES WITH A DIFFERENT POLITICAL PARTY OR BECOMES UNAFFILIATED WITH ANY POLITICAL PARTY DURING THE MEMBER'S TERM.

(c) A MEMBER MAY BE REMOVED FOR INCOMPETENCY, NEGLECT OF DUTY, OR MALFEASANCE IN OFFICE BY THE VOTE OF A MAJORITY OF THE BOARD MEMBERS.

(8) THE MEMBERS OF THE INDEPENDENT BOARD SHALL DEVOTE THEIR ENTIRE TIME TO THE DUTIES OF THEIR OFFICES TO THE EXCLUSION OF ANY OTHER EMPLOYMENT AND ARE ENTITLED TO RECEIVE COMPENSATION EQUIVALENT TO THE COMPENSATION PAID TO A COLORADO DISTRICT COURT

JUDGE. THE BOARD MEMBERS SHALL BE EXEMPT FROM THE STATE PERSONNEL SYSTEM IN SECTION 13 OF ARTICLE XII OF THIS CONSTITUTION. EACH BOARD MEMBER, BEFORE ENTERING UPON THE DUTIES OF OFFICE, SHALL TAKE THE CONSTITUTIONAL OATH OF OFFICE.

(9) A MAJORITY OF THE INDEPENDENT BOARD SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF ITS BUSINESS. THE INDEPENDENT BOARD SHALL APPOINT A CHAIR AND VICE CHAIR OF THE INDEPENDENT BOARD WHO SHALL POSSESS SUCH QUALIFICATIONS AS MAY BE ESTABLISHED BY THE INDEPENDENT BOARD.

(10) THE INDEPENDENT BOARD SHALL APPOINT A DIRECTOR TO SERVE AS THE EXECUTIVE OFFICER OF THE INDEPENDENT BOARD. THE DIRECTOR SHALL HAVE THE QUALIFICATIONS AS MAY BE DEEMED APPROPRIATE BY THE INDEPENDENT BOARD. THE DIRECTOR SHALL BE EXEMPT FROM THE STATE PERSONNEL SYSTEM IN SECTION 13 OF ARTICLE XII OF THIS CONSTITUTION, SHALL SERVE AT THE PLEASURE OF THE INDEPENDENT BOARD, AND SHALL RECEIVE SUCH COMPENSATION AS MAY BE DETERMINED BY THE INDEPENDENT BOARD. BEFORE ENTERING UPON OFFICIAL DUTIES, THE DIRECTOR SHALL SUBSCRIBE TO AN OATH OF OFFICE, WHICH OATH SHALL BE FILED WITH THE SECRETARY OF STATE.

(11)(a) PROFESSIONALS MUST REGULATE OIL AND GAS DEVELOPMENT AND OPERATIONS BASED ON SCIENCE AND DATA AND FREE FROM PARTISAN INFLUENCES AND SPECIAL INTERESTS. THEREFORE, ALL POWER AND JURISDICTION OVER OIL AND GAS DEVELOPMENT AND OPERATIONS ARE HEREBY VESTED IN THE COLORADO INDEPENDENT OIL AND GAS BOARD.

(b) IN THE EXECUTION OF THE POWERS VESTED IN THE INDEPENDENT BOARD, AND IN CARRYING OUT THE PROVISIONS OF THIS SECTION, THE INDEPENDENT BOARD SHALL REGULATE OIL AND GAS OPERATIONS IN A REASONABLE MANNER TO PROTECT AND MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, AND WILDLIFE RESOURCES AND SHALL PROTECT AGAINST ADVERSE ENVIRONMENTAL IMPACTS ON ANY AIR, WATER, SOIL, OR BIOLOGICAL RESOURCE RESULTING FROM OIL AND GAS OPERATIONS.

(c) THE INDEPENDENT BOARD SHALL ENSURE THAT OPPORTUNITIES FOR PUBLIC COMMENT ARE MEANINGFUL AND REASONABLE.

(d) THE INDEPENDENT BOARD SHALL ADOPT AS ITS INITIAL RULES AND POLICIES THE COLORADO OIL AND GAS CONSERVATION COMMISSION RULES AND POLICIES AS THEY EXISTED ON THE EFFECTIVE DATE OF THIS SECTION.

(12) THE INDEPENDENT BOARD'S AUTHORITY SUPERSEDES PRIOR GRANTS OF AUTHORITY CONCERNING OIL AND GAS DEVELOPMENT IN THE STATE, EXCEPT AS PROVIDED IN 34-60-105(4) AS OF THE DATE OF ENACTMENT OF THIS SECTION, AND EXCEPT THAT, BECAUSE THE FOLLOWING AREAS OF REGULATION ARE OF SUCH IMPORTANCE IN BALANCING THE PUBLIC HEALTH, SAFETY AND WELFARE OF CITIZENS WITH RESPONSIBLE DEVELOPMENT THAT REVIEW AND OVERSIGHT BY MORE THAN ONE AUTHORITY IS WARRANTED, THE INDEPENDENT BOARD SHALL SHARE REGULATORY AUTHORITY AND NEW RULES SHALL BECOME EFFECTIVE UPON JOINT AGREEMENT OF THE INDEPENDENT BOARD AND THE:

(a) THE AIR QUALITY CONTROL COMMISSION FOR RULES PURSUANT TO ARTICLE 7 OF TITLE 25, THE EMISSION OF AIR POLLUTANTS FROM OIL AND GAS OPERATIONS;

(b) THE WATER QUALITY CONTROL COMMISSION FOR RULES PURSUANT TO ARTICLE 8 OF TITLE 25, THE DISCHARGE OF WATER POLLUTANTS FROM OIL AND GAS OPERATIONS;

(c) THE STATE BOARD OF HEALTH FOR RULES PURSUANT TO SECTION 25-11-104, THE DISPOSAL OF NATURALLY OCCURRING RADIOACTIVE MATERIALS AND TECHNOLOGICALLY ENHANCED NATURALLY OCCURRING RADIOACTIVE MATERIALS FROM OIL AND GAS OPERATIONS; AND

(d) THE SOLID AND HAZARDOUS WASTE COMMISSION FOR RULES PURSUANT TO:

(I) ARTICLE 15 OF TITLE 25, THE DISPOSAL OF HAZARDOUS WASTE FROM OIL AND GAS OPERATIONS;
OR

(II) SECTION 30-20-109(1.5), THE DISPOSAL OF EXPLORATION AND PRODUCTION WASTE FROM OIL AND GAS OPERATIONS.

(13) NOTHING IN THIS SECTION ALTERS, IMPAIRS, OR NEGATES THE AUTHORITY OF A LOCAL GOVERNMENT TO REGULATE OIL AND GAS OPERATIONS PURSUANT TO ARTICLE 65.1 OF TITLE 24 AND SECTIONS 29-20-104 AND 34-60-131.

(14) THE GENERAL ASSEMBLY SHALL APPROPRIATE REASONABLE AND NECESSARY FUNDS TO COVER STAFF AND ADMINISTRATIVE EXPENSES TO ALLOW THE INDEPENDENT BOARD TO CARRY OUT ITS DUTIES PURSUANT TO THIS SECTION.

SECTION 2. In the constitution of the state of Colorado, section 13 of article XII, **amend**

(2)(a)(I) as follows:

(2)(a) The state personnel system shall comprise all appointive public officers and employees of the state, except the following:

(I) Members of the public utilities commission, the industrial commission of Colorado, the state board of land commissioners, the Colorado tax commission, the state parole board, ~~and~~ the state personnel board, AND THE COLORADO INDEPENDENT OIL AND GAS BOARD;

SECTION 3. In Colorado Revised Statutes, 34-60-103, **amend** (2) as follows:

34-60-103. Definitions.

As used in this article 60, unless the context otherwise requires:

(2) "~~Commission~~" ~~means the oil and gas conservation commission~~ "BOARD" AND "INDEPENDENT BOARD" MEAN THE COLORADO INDEPENDENT OIL AND GAS BOARD ESTABLISHED IN SECTION 17 OF ARTICLE XVIII OF THE STATE CONSTITUTION.

SECTION 4. In Colorado Revised Statutes, **repeal** 34-60-104.

SECTION 5. In Colorado Revised Statutes, **repeal** 34-60-104.3.

SECTION 6. In Colorado Revised Statutes, 34-60-104.5, **repeal** (1) as follows:

34-60-104.5. Director of ~~commission~~ INDEPENDENT BOARD- duties. (1) ~~Pursuant to section 13 of article XII of the state constitution, the executive director of the department of natural resources shall appoint a director of the commission who shall possess such qualifications as may be established by the executive director, the commission, and the state personnel board.~~

SECTION 7. In Colorado Revised Statutes, **add** 34-60-104.7 as follows:

34-60-104.7. Independent board transfer.

(1)(a) ON AND AFTER JULY 1, 2021, THE COLORADO OIL AND GAS CONSERVATION COMMISSION'S POWERS, DUTIES, AND FUNCTIONS ARE TRANSFERRED BY A TYPE 3 TRANSFER TO THE COLORADO INDEPENDENT OIL AND GAS BOARD, PURSUANT TO THE PROVISIONS OF SECTION 17 OF ARTICLE XVIII OF THE COLORADO CONSTITUTION, AND THE COLORADO OIL AND GAS CONSERVATION COMMISSION IS ABOLISHED.

(b) EXCEPT FOR THE DIRECTOR, THE OFFICERS AND EMPLOYEES OF THE COLORADO OIL AND GAS CONSERVATION COMMISSION WHOSE DUTIES AND FUNCTIONS CONCERNED THE DUTIES AND FUNCTIONS GRANTED TO THE INDEPENDENT BOARD SHALL BE TRANSFERRED TO THE INDEPENDENT BOARD. ANY SUCH EMPLOYEES WHO ARE CLASSIFIED EMPLOYEES IN THE STATE PERSONNEL SYSTEM SHALL RETAIN ALL RIGHTS TO THE PERSONNEL SYSTEM AND RETIREMENT BENEFITS PURSUANT TO THE LAWS OF THIS STATE, AND THEIR SERVICES SHALL BE DEEMED TO HAVE BEEN CONTINUOUS. ALL TRANSFERS AND ANY ABOLISHMENT OF POSITIONS IN THE STATE PERSONNEL SYSTEM SHALL BE MADE AND PROCESSED IN ACCORDANCE WITH STATE PERSONNEL SYSTEM LAWS AND REGULATIONS.

(2) ON JULY 1, 2021, ALL ITEMS OF PROPERTY, REAL AND PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS, DOCUMENTS, AND RECORDS OF THE COLORADO OIL AND GAS CONSERVATION COMMISSION PRIOR TO SAID DATE PERTAINING TO THE DUTIES AND FUNCTIONS GRANTED TO THE INDEPENDENT BOARD PURSUANT TO THIS SECTION, ARE TRANSFERRED TO THE INDEPENDENT BOARD AND BECOME THE PROPERTY THEREOF.

(3) WHENEVER THE COLORADO OIL AND GAS CONSERVATION IS REFERRED TO OR DESIGNATED BY A CONTRACT OR OTHER DOCUMENT IN CONNECTION WITH THE DUTIES AND FUNCTIONS GRANTED TO THE INDEPENDENT BOARD PURSUANT TO THIS SECTION, SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED TO APPLY TO THE INDEPENDENT BOARD. ALL CONTRACTS ENTERED INTO BY THE COLORADO OIL AND GAS CONSERVATION COMMISSION PRIOR TO JULY 1, 2021, IN CONNECTION WITH THE DUTIES AND FUNCTIONS GRANTED TO THE INDEPENDENT BOARD PURSUANT TO THIS SECTION ARE HEREBY VALIDATED, WITH THE INDEPENDENT BOARD SUCCEEDING TO ALL THE RIGHTS AND OBLIGATIONS OF SUCH CONTRACTS. ANY APPROPRIATIONS OF FUNDS FROM PRIOR FISCAL YEARS OPEN TO SATISFY OBLIGATIONS INCURRED PURSUANT TO SUCH CONTRACTS ARE HEREBY TRANSFERRED AND APPROPRIATED TO THE INDEPENDENT BOARD FOR THE PAYMENT OF SUCH OBLIGATIONS.

SECTION 8. In Colorado Revised Statutes, 34-60-105, **repeal** (1)(b) as follows:

34-60-105. Powers of commission.

~~(1)(b) Any delegation of authority to any other state officer, board, or commission to administer any other laws of this state relating to the conservation of oil or gas, or either of them, is hereby rescinded and withdrawn, and that authority is unqualifiedly conferred upon the commission, as provided in this section; except that, as further specified in section 34-60-131, nothing in this article 60 alters, impairs, or negates the authority of:~~

~~(I) The air quality control commission to regulate, pursuant to article 7 of title 25, the emission of air pollutants from oil and gas operations;~~

~~(II) The water quality control commission to regulate, pursuant to article 8 of title 25, the discharge of water pollutants from oil and gas operations;~~

~~(III) The state board of health to regulate, pursuant to section 25-11-104, the disposal of naturally occurring radioactive materials and technologically enhanced naturally occurring radioactive materials from oil and gas operations;~~

~~(IV) The solid and hazardous waste commission to:~~

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

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

~~(V) A local government to regulate oil and gas operations pursuant to section 29-20-104.~~

SECTION 9. In Colorado Revised Statutes, 34-60-131, **amend** as follows:

34-60-131. No land use preemption.

Local governments, THE COLORADO INDEPENDENT OIL AND GAS BOARD, and state agencies, ~~including the commission and agencies listed in section 34-60-105(1)(b),~~ AS PROVIDED IN PARAGRAPH (12) OF SECTION 17 OF ARTICLE XVIII OF THE COLORADO CONSTITUTION, have regulatory authority over oil and gas development, ~~including as specified in section 34-60-105(1)(b).~~ A local government's regulations may be more protective or stricter than state requirements.

SECTION 10. In Colorado Revised Statutes, **add** 34-60-133 as follows:

34-60-133. Independent board ethics.

(1) MEMBERS OF THE INDEPENDENT BOARD ARE GUARDIANS OF THE PUBLIC TRUST AND ARE SUBJECT TO ANTIBRIBERY AND ABUSE OF PUBLIC OFFICE REQUIREMENTS AS PROVIDED IN PARTS 3 AND 4 OF ARTICLE 8 OF TITLE 18.

(2) TO ENSURE TRANSPARENCY IN THE OIL AND GAS REGULATORY PROCESS:

(a) THE INDEPENDENT BOARD IS SUBJECT TO OPEN MEETINGS REQUIREMENTS AS PROVIDED IN PART 4 OF ARTICLE 6 OF TITLE 24;

(b) THE INDEPENDENT BOARD, EACH BOARD MEMBER, AND BOARD STAFF ARE SUBJECT TO OPEN RECORDS REQUIREMENTS AS PROVIDED IN PART 1 OF ARTICLE 72 OF TITLE 24; AND

(c) THE BOARD MEMBERS, BOARD DIRECTOR, AND BOARD STAFF ARE “COVERED OFFICIALS” UNDER 24-6-301(1.7)(b) AND PART 3 OF ARTICLE 6 OF TITLE 24 SHALL APPLY.

SECTION 11. In Colorado Revised Statutes, 39-29-109.3, **repeal** (1)(a) and **add** (1.8) as follows:

39-29-109.3. Severance tax operational fund--core reserve--grant program reserve--definitions—repeal.

(1) For fiscal years commencing on and after July 1, 1997, the executive director of the department of natural resources shall submit with the department's budget request for each fiscal year a list and description of the programs the executive director recommends to be funded from the severance tax operational fund created in section 39-29-109(2)(b), referred to in this section as the “operational fund”. The general assembly may appropriate moneys from the total moneys available in the operational fund to fund recommended programs as follows:

~~(a)(I) For programs or projects within the Colorado oil and gas conservation commission, up to thirty-five percent of the moneys in the operational fund for fiscal years commencing on or after July 1, 2009.~~

~~(II) Moneys appropriated for programs or projects pursuant to subparagraph (I) of this paragraph (a) shall be used by the Colorado oil and gas conservation commission for plugging and abandonment projects, for well-site location reclamation projects, or for regulatory and environmental programs or projects as specifically appropriated by the general assembly for use on such programs or projects; except that, if the commission determines that an emergency exists, the commission may expend any moneys received for the emergency without any further appropriation. In determining the uses of these moneys, the commission shall give priority to uses that reduce industry fees and mill levies.~~

(1.8) (a) FOR PROGRAMS OR PROJECTS WITHIN THE COLORADO INDEPENDENT OIL AND GAS BOARD, THE GENERAL ASSEMBLY MAY APPROPRIATE UP TO THIRTY-FIVE PERCENT OF THE MONEY IN THE OPERATIONAL FUND FOR FISCAL YEARS COMMENCING ON OR AFTER JULY 1, 2021.

(b) MONEY APPROPRIATED FOR PROGRAMS OR PROJECTS PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1.8) SHALL BE USED BY THE COLORADO INDEPENDENT OIL AND GAS BOARD FOR PLUGGING AND ABANDONMENT PROJECTS, FOR WELL-SITE LOCATION RECLAMATION PROJECTS, OR FOR REGULATORY AND ENVIRONMENTAL PROGRAMS OR PROJECTS AS SPECIFICALLY APPROPRIATED BY THE GENERAL ASSEMBLY FOR USE ON SUCH PROGRAMS OR PROJECTS; EXCEPT THAT, IF THE INDEPENDENT BOARD DETERMINES THAT AN EMERGENCY EXISTS, THE INDEPENDENT BOARD MAY EXPEND ANY MONEY RECEIVED FOR THE EMERGENCY WITHOUT ANY FURTHER APPROPRIATION. IN DETERMINING THE USES OF THIS MONEY, THE INDEPENDENT BOARD SHALL GIVE PRIORITY TO USES THAT REDUCE INDUSTRY FEES AND MILL LEVIES.

SECTION 12. The revisor of statutes is authorized to change all references to the Colorado oil and gas conservation commission and sections 34-60-104 and 104.3, C.R.S., in the Colorado Revised Statutes to refer to the Colorado independent oil and gas board and section 17 of article XVIII of the state constitution.

SECTION 13. Severability.

If any provision of this initiative or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the initiative that can be given effect without the invalid provision or application, and to this end the provisions of this initiative are declared to be severable.

SECTION 14. Effective date.

Sections 1 and 2 of this act take effect upon the proclamation of the Governor. All other sections of this act take effect on July 1, 2021.