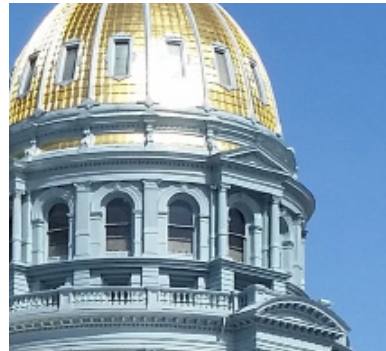


# 2021

Report to the Colorado General Assembly



## Water Resources Review Committee



Prepared by Legislative Council Staff  
Research Publication No. 769  
December 2021

## **Water Resources Review Committee**

### **Members of the Committee**

Senator Kerry Donovan, Chair  
Representative Barbara McLachlan, Vice-Chair

Senator Jeff Bridges	Representative Marc Catlin
Senator Don Coram	Representative Karen McCormick
Senator Sonya Jaquez Lewis	Representative Hugh McKean
Senator Jerry Sonnenberg	Representative Dylan Roberts

### **Legislative Council Staff**

Alexa Kelly, Research Analyst  
Max Nardo, Fiscal Analyst  
Josh Abram, Principal Fiscal Analyst

### **Office of Legislative Legal Services**

Jennifer Berman, Managing Senior Attorney  
Richard Sweetman, Senior Attorney  
Sarah Lozano, Staff Attorney

***December 2021***



# COLORADO GENERAL ASSEMBLY

EXECUTIVE COMMITTEE  
Sen. Leroy Garcia, Chair  
Rep. Alec Garnett, Vice-Chair  
Sen. Stephen Fenberg  
Sen. Chris Holbert  
Rep. Daneya Esgar  
Rep. Hugh McKean

STAFF  
Natalie Mullis, Director  
Elizabeth Burger, Deputy Director  
Manish Jani, Deputy Director



COMMITTEE  
Rep. Adrienne Benavidez  
Sen. James Coleman  
Sen. John Cooke  
Sen. Kerry Donovan  
Rep. Tim Geitner  
Rep. Dominique Jackson  
Rep. Chris Kennedy  
Sen. Paul Lundeen  
Sen. Dominick Moreno  
Rep. Kyle Mullica  
Rep. Rod Pelton  
Sen. Jim Smallwood

## LEGISLATIVE COUNCIL

ROOM 029 STATE CAPITOL  
DENVER, COLORADO 80203-1784  
E-mail: [lcs.ga@state.co.us](mailto:lcs.ga@state.co.us)  
303-866-3521 FAX: 303-866-3855 TDD: 303-866-3472

December 2021

To Members of the Seventy-third General Assembly:

Submitted herewith is the final report of the Water Resources Review Committee. This committee was created pursuant to Article 98 of Title 37, Colorado Revised Statutes. The purpose of this committee is to oversee the conservation, use, development, and financing of Colorado's water resources.

At its meeting on November 15, 2021 the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2022 session was approved.

Sincerely,

/s/ Senator Leroy Garcia  
Chair



## Table of Contents

Committee Charge.....	1
Committee Activities.....	1
Water Anti-Speculation Law.....	1
Colorado River Basin.....	2
Recreational In-Channel Diversion.....	2
Water Efficiency in Agriculture.....	3
Compact Compliance and Groundwater Sustainability.....	3
Alternative Transfer Methods.....	3
Colorado Water Plan.....	3
Waters of the United States and Dredge and Fill Permitting.....	4
Summary of Recommendations.....	5
Bill A — Groundwater Compact Compliance and Sustainability.....	5
Bill B — Investment Water Speculation Prohibition.....	5
Bill C — Expand Water Resources Review Committee to Include Agriculture.....	5
Letter to the Task Force on Economic Relief and Recovery Fund.....	5
Resource Materials.....	7
Meeting Date and Topics Discussed.....	7

*This report is also available online at:*

*<https://leg.colorado.gov/committees/waterresourcesreviewcommittee/2021-regular-session>*



## **Committee Charge**

---

The Water Resources Review Committee (WRRC) was created to contribute to and monitor the conservation, use, development, and financing of Colorado's water resources for the general welfare of the state (Section 37-98-102, C.R.S.). It is also required to review statewide planning for water resources. The WRRC reviews and proposes legislation to further its purpose. In conducting its review, the WRRC consults with experts in the field of water conservation, quality, use, finance, and development. The WRRC was authorized to meet up to eight times in 2021 and to take two field trips.

## **Committee Activities**

---

During the 2021 interim, the WRRC held three meetings and took one field trip to the Colorado Water Congress in Steamboat Springs. The WRRC met with a broad range of water users and government officials, including local water providers, water policy experts, state water planners, and concerned citizens. The committee received briefings on major water issues affecting the state, including:

- anti-speculation law;
- Colorado River Basin demand management;
- recreational in-channel diversion;
- water efficiency in agriculture;
- compact compliance and groundwater challenges;
- alternative transfer methods;
- the Colorado Water Plan;
- the Waters of the United States decision; and
- dredge and fill permitting.

**Field trips.** In August, the committee attended the Colorado Water Congress summer conference in Steamboat Springs, where it held a public meeting about anti-speculation law and Colorado River issues. Committee members and staff also attended presentations about water infrastructure, financing, water planning, ongoing water supply studies, and other water management issues.

## **Water Anti-Speculation Law**

---

Over the last several years, the WRRC has heard presentations regarding water speculation from a variety of water representatives. Water speculation is prohibited under the Colorado Constitution<sup>1</sup> and is generally defined as acquiring water rights explicitly for profit as opposed to using them for beneficial use. In 2019, the WRRC recommended a bill to convene a work group to explore ways to strengthen anti-speculation water law. This bill became Senate Bill 20-048, which was passed during the 2020 Colorado legislative session. As required by the bill, the State Engineer and work group members presented the report on water anti-speculation law from the Department of Natural Resources (DNR).

---

<sup>1</sup>Colo. Const. art XVI, § 5.



**Senate Bill 20-048 report.** Senate Bill 20-048 directed DNR to convene a work group to explore ways to strengthen water anti-speculation law in Colorado and report to the WRRC with any recommendations. The work group included representatives from the agricultural community, environmental and recreational interests, municipal water providers, and water law attorneys. The report contains concepts that can be considered by the committee for future implementation. A copy of the report may be found here:

[https://drive.google.com/file/d/1e3AgL3Ycvey3\\_qiObUWLX8r2RSakmhRk/view](https://drive.google.com/file/d/1e3AgL3Ycvey3_qiObUWLX8r2RSakmhRk/view)

**Presentation at Colorado Water Congress.** The State Engineer and other work group members gave an overview of the report to the committee during the committee's meeting held at Colorado Water Congress. The panelists discussed the definition of water speculation, the ownership of water rights, and other concepts that the work group explored during discussions. The panelists recommended that the committee work with other stakeholders to come up with ways to address anti-speculation.

**Committee recommendations.** As a result of its discussions, the committee recommends Bill B, which concerns prohibiting investment water speculation. The committee also drafted Bill 7, which concerned tying agricultural water rights to land. Bill 7 was not recommended to Legislative Council.

## **Colorado River Basin**

---

The committee heard presentations from the Colorado Water Conservation Board (CWCB) within DNR, the State Engineer, Denver Water, and the Colorado River Water Conservation District regarding demand management programs, measurement rules, and other issues in the Colorado River Basin. The basin is currently using physical measurement devices as a way to track appropriation across the basin. The CWCB discussed the implementation of their drought contingency plan, including the use of water in the Upper and Lower Colorado River Basins. Each basin faces challenges of demand management and water shortage. The Colorado River Water Conservation District has implemented demand management as a means to reduce consumptive use of water and to increase reservoir storage.

## **Recreational In-Channel Diversion**

---

The committee heard presentations from the Colorado River Water Conservation District, Conservation Colorado, American Whitewater, Colorado River District, and Denver Water about the state of recreational in-channel diversion (RICD) water rights. Panelists discussed how water courts evaluate RICD applications and how current RICDs operate within the state. Senate Bill 01-216 defines a RICD water right as the minimum stream flow between physical control structures necessary for a reasonable recreation experience in and on the water.

## **Water Efficiency in Agriculture**

---

The committee heard presentations from agricultural industry representatives, including Colorado Farm Bureau and Colorado farmers. The panelists discussed the different ways that they are working to save water on their farms and the competition for water that exists in their communities. They elaborated on the need to promote efficiency in agriculture as a way to conserve water.

## **Compact Compliance and Groundwater Sustainability**

---

The committee heard presentations from the Rio Grande Water Conservation District, the Republican River Water Conservation District, and the State Engineer about compact compliance in Colorado river basins and the need for groundwater sustainability. Colorado is party to several interstate compacts that require a certain amount of water delivery from Colorado rivers to downstream states. The different river districts have made efforts to conserve water so that they can meet the compact obligations. These efforts include water efficiencies on farms, fees, and demand management. During the presentations, the districts told the committee that the districts are in need of funds to retire wells in overappropriated areas to meet compact obligations. The State Engineer discussed the need for curtailment to meet delivery obligations and the challenges this brings to the different river basins. Panelists discussed the potential for measurement rules to aide in the implementation of interstate compacts.

**Committee recommendations.** As a result of its discussions, the committee recommends Bill A, which concerns the creation of a compact compliance and groundwater sustainability fund. The committee also sent a letter to the Task Force on Economic Recovery and Relief Cash Fund requesting funds to address compact compliance and groundwater issues.

## **Alternative Transfer Methods**

---

The committee heard presentations from Colorado Open Lands, WestWater Research, LLC, and the Rio Grande Water Conservation District about alternative transfer methods (ATMs) and conservation easements. The panelists discussed how ATMs and conservation easements can be used to address some of Colorado's water challenges through the leasing of water rights. The committee discussed the flexibility of conservation easements and the potential for the creation of a water market through ATMs.

## **Colorado Water Plan**

---

The committee heard an update regarding the Colorado Water Plan from CWCB. The panelists told the committee about the groups that contributed to the creation of the latest draft and the individual Basin Implementation Plans. The plan includes goals around vibrant communities, robust agriculture, thriving watersheds, and resilient planning. The creators of the plan are currently working to have more community engagement before the final plan is released in June 2022.

## **Waters of the United States and Dredge and Fill Permitting**

---

The committee heard from the Colorado Department of Public Health and Environment (CDPHE), the Theodore Roosevelt Conservation Partnership, Associated General Contractors, Varra Companies, and Brannan Sand and Gravel Company about the state of dredge and fill permitting in Colorado and the impacts of the most recent Waters of the United States (WOTUS) definition.

**WOTUS.** CDPHE told the committee about its involvement in the federal rulemaking and the current WOTUS definition. The Environmental Protection Agency recently announced that it will use the pre-2015 regulatory regime until further notice, which allows for different protections of ephemeral and intermittent streams.

**Dredge and fill permitting.** CDPHE has the authority to protect state waters using enforcement, but does not have the authority to run a dredge and fill permit program. CDPHE told the committee that at this time CDPHE is not pursuing legislative action around dredge and fill permitting. Industry representatives spoke about their role in the current permitting process and the impacts of the WOTUS definition.

## Summary of Recommendations

As a result of the committee's activities, the committee recommended three bills to the Legislative Council for consideration in the 2022 session. At its meeting on November 15, 2021, the Legislative Council approved all the recommended bills for introduction. The committee also sent a letter to the Task Force on Economic Relief and Recovery Fund. The approved bills and the letter are described below.

### ***Bill A — Groundwater Compact Compliance and Sustainability***

---

Bill A creates the Groundwater Compact Compliance and Sustainability Cash Fund in the DNR. Funding may include appropriations or transfers by the General Assembly, federal funds, and gifts, grants, and donations. The Colorado Water Conservation Board will disburse available funds based on recommendations from the board of directors of either the Rio Grande Water Conservancy District or the Republican River Water Conservation District, after approval by the State Engineer. If all groundwater reduction requirements and all statutorily mandated standards are achieved, the fund is repealed, and any remaining money is transferred to the General Fund.

### ***Bill B — Investment Water Speculation Prohibition***

---

Bill B defines and prohibits investment water speculation and authorizes the State Engineer in the DNR to investigate purchases of agricultural water rights that are suspected of investment water speculation. Persons engaged in water speculation may be subject to a fine not to exceed \$10,000. The State Engineer may refer any frivolous complaints of water speculation to the Attorney General for investigation and prosecution in the courts. Persons who make frivolous complaints to the State Engineer may be subject to a civil fine not to exceed \$1,000.

### ***Bill C — Expand Water Resources Review Committee to Include Agriculture***

---

Bill C expands the scope of inquiry for the WRRC to include the identification, monitoring, and addressing of agricultural issues. The bill also changes the name of the committee to the Water Resources and Agricultural Review Committee.

### ***Letter to the Task Force on Economic Relief and Recovery Fund***

---

The committee unanimously approved and sent a letter to the Task Force on Economic Relief and Recovery Fund regarding the need to address challenges with interstate compact compliance and limited water supply. The letter discussed the need to invest funds from the federal American Rescue Plan of 2021 into water infrastructure and the benefits that the investment could bring to Colorado.



## Resource Materials

Meeting summaries are prepared for each meeting of the commission and subcommittee and contain all handouts provided to each entity. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of commission and subcommittee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

<https://leg.colorado.gov/content/committees>  
<http://leg.colorado.gov/committees/water-resources-review-committee/2021-regular-session>

### Meeting Date and Topics Discussed

---

August 25, 2021

- ◆ Strengthening water anti-speculation law
- ◆ Colorado River issues

September 14, 2021

- Recreational in-channel diversion
- Water efficiency in agriculture
- Compact compliance and groundwater
- Bill draft requests

October 27, 2021

- Alternative transfer methods
- Water Plan update
- Dredge and fill and Waters of the United States
- Consideration of the letter to the Task Force on Economic Relief and Recovery Fund
- Consideration of committee legislation

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

Bill A

LLS NO. 22-0178.01 Jennifer Berman x3286

SENATE BILL

---

SENATE SPONSORSHIP

**Simpson and Sonnenberg**, Bridges, Coram, Donovan, Jaquez Lewis

HOUSE SPONSORSHIP

**Roberts and Catlin**, McCormick, McKean, McLachlan

---

Senate Committees

House Committees

---

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF THE GROUNDWATER COMPACT  
102 COMPLIANCE AND SUSTAINABILITY FUND.

---

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/>.)*

**Water Resources Review Committee.** The bill creates the groundwater compact compliance and sustainability fund to help finance groundwater use reduction efforts in the Rio Grande river basin and the Republican river basin, such as efforts to buy and retire irrigation wells and irrigated acreage in the river basins. The Colorado water conservation board administers the fund and can make expenditures from the fund

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.

based on recommendations from the board of directors of the Rio Grande water conservation district or the Republican river water conservation district. A conservation district's recommendations must first be approved by the state engineer.

---

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

2           **SECTION 1.** In Colorado Revised Statutes, **add** 37-60-134 as  
3 follows:

4           **37-60-134. Groundwater compact compliance and**  
5 **sustainability fund - creation - conservation district**  
6 **recommendations for expenditures - state engineer approval -**  
7 **legislative declaration - repeal.** (1) THE GENERAL ASSEMBLY HEREBY:

8           (a) FINDS AND DETERMINES THAT:

9           (I) GROUNDWATER WELL PUMPING IN CERTAIN AREAS OF THE  
10 STATE PROVIDES THE PRINCIPAL SOURCE OF IRRIGATION WATER SUPPLY  
11 BUT CONSEQUENTLY MAY REDUCE THE QUANTITY OF GROUNDWATER IN  
12 THE AQUIFERS AND MAY IMPACT THE HYDROGEOLOGY OF CONNECTED  
13 SURFACE STREAMS, RESULTING IN REDUCED STREAM FLOWS THAT  
14 THREATEN SENIOR WATER RIGHTS AND THE STATE'S COMPLIANCE WITH  
15 INTERSTATE COMPACTS;

16           (II) GROUNDWATER USE IS EXTENSIVE IN FOUR OF THE EIGHT  
17 MAJOR RIVER BASINS IN COLORADO, NAMELY THE RIO GRANDE,  
18 REPUBLICAN, ARKANSAS, AND SOUTH PLATTE RIVER BASINS, AND SUCH  
19 GROUNDWATER USE IS CLOSELY TIED TO THE AGRICULTURAL ECONOMY IN  
20 THOSE AREAS;

21           (III) PREVIOUS UNITED STATES SUPREME COURT LITIGATION  
22 INITIATED IN NEIGHBORING STATES REGARDING COMPACT COMPLIANCE BY  
23 THE RIO GRANDE, ARKANSAS, AND REPUBLICAN RIVER BASINS HAVE



1 INVOLVED COMPLAINTS REGARDING THE EXTENT OF GROUNDWATER USE  
2 IN THOSE AREAS. SETTLEMENTS OF THE LAWSUITS IN THE RIO GRANDE  
3 AND REPUBLICAN RIVER BASINS RESULTED IN THE CREATION OF WATER  
4 CONSERVATION DISTRICTS TO ADDRESS GROUNDWATER MANAGEMENT  
5 AND CONSERVATION.

6 (IV) DESPITE THE CONSERVATION DISTRICTS' AND THE STATE'S  
7 DILIGENT EFFORTS TO IMPLEMENT STRATEGIES TO REDUCE GROUNDWATER  
8 USE, INCLUDING THE CREATION OF SIX GROUNDWATER MANAGEMENT  
9 SUBDISTRICTS IN THE RIO GRANDE RIVER BASIN AND THE USE OF VARIOUS  
10 FEDERAL, STATE, AND LOCAL FUNDING SOURCES TO INCENTIVIZE THE  
11 PURCHASE AND RETIREMENT OF IRRIGATED ACREAGE, EXTENSIVE  
12 GROUNDWATER USE IN THE RIO GRANDE AND REPUBLICAN RIVER BASINS  
13 CONTINUES TO THREATEN AQUIFER SUSTAINABILITY, SENIOR WATER  
14 RIGHTS, AND COMPACT COMPLIANCE;

15 (V) AS PART OF THE EFFORTS TO REDUCE GROUNDWATER USE, THE  
16 STATE ENTERED INTO A STIPULATION WITH KANSAS AND NEBRASKA IN  
17 2016 IN WHICH THE STATE AGREED TO RETIRE TWENTY-FIVE THOUSAND  
18 ACRES OF IRRIGATED ACREAGE IN THE REPUBLICAN RIVER BASIN BY 2029,  
19 AND, PURSUANT TO STANDARDS FOR GROUNDWATER MANAGEMENT SET  
20 FORTH IN SECTION 37-92-501 (4), THE GROUNDWATER MANAGEMENT  
21 SUBDISTRICT NUMBER 1 CREATED IN THE RIO GRANDE WATER  
22 CONSERVATION DISTRICT IS REQUIRED TO RETIRE FORTY THOUSAND ACRES  
23 OF IRRIGATED ACREAGE BY 2029;

24 (VI) TO DATE, ONLY ABOUT THREE THOUSAND ACRES HAVE BEEN  
25 RETIRED IN THE REPUBLICAN RIVER BASIN AND ONLY ABOUT THIRTEEN  
26 THOUSAND ACRES HAVE BEEN RETIRED IN THE RIO GRANDE RIVER BASIN;  
27 AND

1 (VII) IF THE ACREAGE RETIREMENT REQUIREMENTS IN THE RIO  
2 GRANDE AND REPUBLICAN RIVER BASINS ARE NOT MET, THE STATE MIGHT  
3 BE REQUIRED TO MANDATE GROUNDWATER USE REDUCTIONS FOR  
4 PRODUCTIVE FARMLAND IN THE BASINS TO ACHIEVE COMPACT  
5 COMPLIANCE, THUS THREATENING THE AGRICULTURAL ECONOMIES IN THE  
6 RIVER BASINS; AND

7 (b) DECLARES THAT:

8 (I) GREATER FUNDING IS NEEDED TO INCENTIVIZE THE RETIREMENT  
9 OF IRRIGATION WELLS AND IRRIGATED ACREAGE TO COMPLY WITH THE  
10 GROUNDWATER USE REDUCTION REQUIREMENTS;

11 (II) TO ACCELERATE THE STATE'S PROGRESS IN RETIRING  
12 IRRIGATED ACREAGE IN THE REPUBLICAN AND RIO GRANDE RIVER BASINS  
13 IN ORDER TO MEET STATE-MANDATED DEADLINES, A STATE FUND SHOULD  
14 BE CREATED TO PROVIDE FINANCIAL INCENTIVES AND ASSISTANCE FOR THE  
15 BUYING AND RETIRING OF IRRIGATION WELLS AND IRRIGATED ACREAGE IN  
16 THE BASINS;

17 (III) SUCH USE OF STATE MONEY WOULD ALSO HELP PROMOTE  
18 CONSERVATION AND SUSTAINABILITY OF GROUNDWATER RESOURCES IN  
19 FURTHERANCE OF THE STATE WATER PLAN DEVELOPED PURSUANT TO  
20 SECTION 37-60-106.3; AND

21 (IV) THE BOARD SHOULD ADMINISTER THE FUND AND DISTRIBUTE  
22 MONEY FROM THE FUND BASED ON RECOMMENDATIONS OF THE BOARD OF  
23 DIRECTORS OF THE RIO GRANDE WATER CONSERVATION DISTRICT  
24 APPOINTED PURSUANT TO SECTION 37-48-103 OR THE BOARD OF  
25 DIRECTORS OF THE REPUBLICAN RIVER WATER CONSERVATION DISTRICT  
26 APPOINTED PURSUANT TO SECTION 37-50-104, WHICH RECOMMENDATIONS  
27 THE STATE ENGINEER SHOULD FIRST REVIEW.

1           (2) (a) THE GROUNDWATER COMPACT COMPLIANCE AND  
2 SUSTAINABILITY FUND, REFERRED TO IN THIS SECTION AS THE "FUND", IS  
3 HEREBY CREATED IN THE STATE TREASURY AND CONSISTS OF MONEY THAT  
4 THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND;  
5 MONEY THAT THE STATE MAY RECEIVE FROM FEDERAL SOURCES,  
6 INCLUDING FEDERAL SOURCES OF STIMULUS FUNDING OR RECOVERY  
7 FUNDING; AND ANY GIFTS, GRANTS, OR DONATIONS THAT THE BOARD  
8 SEEKS, ACCEPTS, AND EXPENDS FOR THE PURPOSES SET FORTH IN THIS  
9 SECTION. THE MONEY IN THE FUND IS SUBJECT TO ANNUAL APPROPRIATION  
10 BY THE GENERAL ASSEMBLY.

11           (b) THE BOARD SHALL ADMINISTER THE FUND TO IMPLEMENT THE  
12 GROUNDWATER COMPACT COMPLIANCE AND SUSTAINABILITY PURPOSES  
13 ESTABLISHED IN ACCORDANCE WITH THIS SECTION. THE BOARD MAY USE  
14 UP TO FIVE PERCENT OF THE MONEY ANNUALLY APPROPRIATED TO THE  
15 FUND TO PAY THE BOARD'S DIRECT AND INDIRECT COSTS, AS WELL AS THE  
16 DIRECT AND INDIRECT COSTS INCURRED BY THE RIO GRANDE WATER  
17 CONSERVATION DISTRICT, THE REPUBLICAN RIVER WATER CONSERVATION  
18 DISTRICT, AND THE STATE ENGINEER IN IMPLEMENTING THIS SECTION.

19           (3) THE BOARD MAY DISBURSE MONEY FROM THE FUND FOR  
20 PURPOSES RELATED TO COMPACT COMPLIANCE AND GROUNDWATER  
21 RESOURCE SUSTAINABILITY AND CONSERVATION, INCLUDING THE  
22 FINANCING OF PROGRAMS DIRECTED AT BUYING AND RETIRING IRRIGATED  
23 ACREAGE TO REDUCE GROUNDWATER USE. THE BOARD OF DIRECTORS OF  
24 THE RIO GRANDE WATER CONSERVATION DISTRICT AND THE BOARD OF  
25 DIRECTORS OF THE REPUBLICAN RIVER WATER CONSERVATION DISTRICT,  
26 IN COLLABORATION WITH THE BOARD AND THE STATE ENGINEER, MAY  
27 EACH ESTABLISH ELIGIBILITY AND APPLICATION CRITERIA FOR

1 DISBURSEMENT OF MONEY FROM THE FUND. EACH BOARD OF DIRECTORS  
2 SHALL POST ON ITS WEBSITE ANY CRITERIA ESTABLISHED PURSUANT TO  
3 THIS SUBSECTION (3).

4 (4) THE BOARD SHALL DISBURSE MONEY FROM THE FUND BASED  
5 ON RECOMMENDATIONS FROM THE BOARD OF DIRECTORS OF EITHER THE  
6 RIO GRANDE WATER CONSERVATION DISTRICT OR THE REPUBLICAN RIVER  
7 WATER CONSERVATION DISTRICT, WHICH RECOMMENDATIONS MUST FIRST  
8 BE APPROVED BY THE STATE ENGINEER.

9 (5) IF ALL GROUNDWATER REDUCTION REQUIREMENTS  
10 ESTABLISHED BY FEDERAL OR STATE COURT ORDER OR STIPULATION HAVE  
11 BEEN MET AND ALL STATUTORILY MANDATED GROUNDWATER REDUCTION  
12 STANDARDS HAVE BEEN ACHIEVED, THIS SECTION WILL BE REPEALED. THE  
13 BOARD SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE DATE  
14 WHEN THE CONDITIONS SPECIFIED IN THIS SUBSECTION (5) HAVE  
15 OCCURRED BY EMAILING THE NOTICE TO  
16 REVISOROFSTATUTES.GA@STATE.CO.US. THE BOARD SHALL ALSO SEND A  
17 COPY OF THE NOTICE TO THE STATE TREASURER WHO, WITHIN THREE DAYS  
18 AFTER RECEIVING THE NOTICE, SHALL TRANSFER ANY MONEY REMAINING  
19 IN THE FUND TO THE GENERAL FUND. THIS SECTION IS REPEALED,  
20 EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE OR, IF THE NOTICE  
21 DOES NOT SPECIFY THAT DATE, UPON THE DATE OF THE NOTICE TO THE  
22 REVISOR OF STATUTES.

23 **SECTION 2. Safety clause.** The general assembly hereby finds,  
24 determines, and declares that this act is necessary for the immediate  
25 preservation of the public peace, health, or safety.

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

Bill B

LLS NO. 22-0179.01 Jennifer Berman x3286

SENATE BILL

---

SENATE SPONSORSHIP

Coram and Donovan, Bridges, Jaquez Lewis

HOUSE SPONSORSHIP

McCormick,

---

Senate Committees

House Committees

---

A BILL FOR AN ACT

101 CONCERNING WATER SPECULATION IN THE STATE.

---

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/>.)*

**Water Resources Review Committee. Section 1** of the bill prohibits a purchaser of agricultural water rights that are represented by shares in a mutual ditch company from engaging in investment water speculation. Investment water speculation is the purchase of agricultural water rights that are represented by shares in a mutual ditch company in the state with the intent, at the time of purchase, to profit from an increase in the water's value in a subsequent transaction or by receiving payment from another person for nonuse of all or a portion of the water subject to

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.

the water right.

On or after January 1, 2023, the state engineer or the state engineer's designee (state engineer) may investigate complaints of investment water speculation. If a purchaser holds, or by virtue of a proposed sale or transfer, will hold at least a minimum percent of the shares in a mutual ditch company, about which minimum percent the mutual ditch company must determine and notify the state engineer on or before December 31, 2022, there is a rebuttable presumption that the purchaser is engaged in investment water speculation. The state engineer may fine a purchaser up to \$10,000 for a violation and require, for a period of up to 2 years after a fine has been imposed, that any sale or transfer of shares in a mutual ditch company to the purchaser be subject to approval by the state engineer.

If the state engineer believes that a complaint is frivolous or was filed for the purpose of harassing a seller or purchaser, the state engineer may refer the matter to the attorney general's office for the attorney general or the attorney general's designee (attorney general) to investigate and, if the attorney general determines that enforcement is warranted, bring a civil action in a court of competent jurisdiction alleging the complaint is frivolous or was filed for the purpose of harassment. If the attorney general prevails in the civil action, the court may fine a complainant up to \$1,000, prohibit the complainant from filing any complaints alleging investment water speculation for up to one year, and grant attorney fees and court costs. **Section 3** authorizes the attorney general to bring a civil action against a complainant if the state engineer refers the matter to the attorney general.

**Section 2** requires the board of directors of a mutual ditch company to determine the minimum percent of agricultural water rights held by all of the shareholders in the mutual ditch company that a purchaser holds or, by virtue of the sale or transfer of shares in the mutual ditch company, will hold that creates a rebuttable presumption that the purchaser is engaging in investment water speculation.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 37-92-505 as  
3 follows:

4 **37-92-505. Investment water speculation prohibited -**  
5 **determination - penalties - definitions - rules.** (1) A PURCHASER SHALL  
6 NOT ENGAGE IN INVESTMENT WATER SPECULATION IN THE STATE.

7 (2) (a) ON OR AFTER JANUARY 1, 2023, THE STATE ENGINEER MAY

1 INVESTIGATE ALLEGED VIOLATIONS OF THIS SECTION. IF THE STATE  
2 ENGINEER DECIDES TO INVESTIGATE A SALE OR TRANSFER OF  
3 AGRICULTURAL WATER RIGHTS THAT ARE REPRESENTED BY SHARES IN A  
4 MUTUAL DITCH COMPANY UNDER THIS SECTION, THE STATE ENGINEER  
5 SHALL NOTIFY THE PURCHASER AND, IF THE SALE OR TRANSFER IS NOT  
6 COMPLETE, THE SELLER OF THE AGRICULTURAL WATER RIGHTS OF THE  
7 INVESTIGATION. THE STATE ENGINEER MAY PROMULGATE RULES TO  
8 IMPLEMENT THIS SECTION.

9 (b) (I) UPON A THIRD-PARTY COMPLAINT OR UPON THE STATE  
10 ENGINEER'S OWN MOTION, THE STATE ENGINEER MAY INVESTIGATE A  
11 PROPOSED OR COMPLETED SALE OR TRANSFER OF AGRICULTURAL WATER  
12 RIGHTS THAT ARE REPRESENTED BY SHARES IN A MUTUAL DITCH COMPANY  
13 TO DETERMINE IF THE PURCHASER IS ENGAGING IN INVESTMENT WATER  
14 SPECULATION. THE STATE ENGINEER SHALL MAKE A WRITTEN  
15 DETERMINATION AS TO WHETHER THE PURCHASER IS ENGAGING IN  
16 INVESTMENT WATER SPECULATION WITHIN THIRTY-FIVE DAYS AFTER THE  
17 COMPLAINT IS FILED OR WITHIN THIRTY-FIVE DAYS AFTER THE STATE  
18 ENGINEER, ON THE STATE ENGINEER'S OWN MOTION, DECIDES TO  
19 INVESTIGATE A SALE OR TRANSFER UNDER THIS SECTION AND SHALL SEND  
20 A COPY OF THE DETERMINATION TO THE COMPLAINANT AND THE  
21 PURCHASER. IF THE STATE ENGINEER FAILS TO MAKE A DETERMINATION  
22 WITHIN THIRTY-FIVE DAYS, THE COMPLAINT IS DEEMED DISMISSED  
23 WITHOUT PREJUDICE.

24 (II) THERE IS A REBUTTABLE PRESUMPTION THAT A PURCHASER IS  
25 ENGAGING IN INVESTMENT WATER SPECULATION IF THE PURCHASER  
26 HOLDS, OR BY VIRTUE OF THE SALE OR TRANSFER OF SHARES IN THE  
27 MUTUAL DITCH COMPANY AT ISSUE, WILL HOLD AT LEAST A MINIMUM

1 PERCENT OF THE AGRICULTURAL WATER RIGHTS HELD BY ALL OF THE  
2 SHAREHOLDERS IN THE MUTUAL DITCH COMPANY, ABOUT WHICH MINIMUM  
3 PERCENT THE MUTUAL DITCH COMPANY SHALL DETERMINE AND NOTIFY  
4 THE STATE ENGINEER ON OR BEFORE DECEMBER 31, 2022, IN ACCORDANCE  
5 WITH SECTION 7-42-119. A MUTUAL DITCH COMPANY MAY PERIODICALLY  
6 REVIEW AND UPDATE THE MINIMUM PERCENT DETERMINED PURSUANT TO  
7 SECTION 7-42-119 AND SHALL NOTIFY THE STATE ENGINEER OF ANY  
8 CHANGES TO THE MINIMUM PERCENT DETERMINED. THE PURCHASER MAY  
9 OVERCOME A PRESUMPTION OF ENGAGING IN INVESTMENT WATER  
10 SPECULATION BY PRESENTING EVIDENCE TO THE SATISFACTION OF THE  
11 STATE ENGINEER THAT THE PURCHASER ENGAGED IN OR IS ENGAGING IN A  
12 BONA FIDE PURCHASE OF THE WATER RIGHTS AT ISSUE FOR THE  
13 PURCHASER'S OWN BENEFICIAL USE OF THE WATER SUBJECT TO THE WATER  
14 RIGHTS.

15 (III) IN INVESTIGATING AN ALLEGATION OF INVESTMENT WATER  
16 SPECULATION, THE STATE ENGINEER MAY SEEK TO INSPECT ANY  
17 DOCUMENT, INCLUDING AN ELECTRONIC DOCUMENT, THAT THE STATE  
18 ENGINEER BELIEVES IS RELEVANT TO A DETERMINATION AS TO WHETHER  
19 A SALE OR TRANSFER OF AGRICULTURAL WATER RIGHTS IS INVESTMENT  
20 WATER SPECULATION. THE STATE ENGINEER SHALL SAFEGUARD ANY  
21 TRADE SECRETS, PRIVILEGED INFORMATION, AND CONFIDENTIAL  
22 COMMERCIAL OR FINANCIAL INFORMATION VIEWED OR RECEIVED IN  
23 RESPONSE TO A REQUEST TO INSPECT A DOCUMENT, AND THE STATE  
24 ENGINEER SHALL NOT ALLOW A THIRD PARTY TO INSPECT ANY SUCH  
25 DOCUMENT PURSUANT TO PART 2 OF ARTICLE 72 OF TITLE 24.

26 (3) IF THE STATE ENGINEER BELIEVES THAT A COMPLAINT FILED  
27 PURSUANT TO THIS SECTION IS FRIVOLOUS OR HAS BEEN FILED FOR THE



1 PURPOSE OF HARASSING A SELLER OR PURCHASER, THE STATE ENGINEER  
2 MAY REFER THE MATTER TO THE ATTORNEY GENERAL'S OFFICE FOR THE  
3 ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE TO  
4 INVESTIGATE. IF THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S  
5 DESIGNEE DETERMINES THAT ENFORCEMENT IS WARRANTED, THE  
6 ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE MAY BRING  
7 A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION ALLEGING THE  
8 COMPLAINT IS FRIVOLOUS OR WAS FILED FOR THE PURPOSE OF HARASSING  
9 A SELLER OR PURCHASER. IF THE ATTORNEY GENERAL PREVAILS IN THE  
10 CIVIL ACTION, THE COURT MAY IMPOSE A FINE AGAINST THE COMPLAINANT  
11 IN AN AMOUNT NOT TO EXCEED ONE THOUSAND DOLLARS, MAY PROHIBIT  
12 THE COMPLAINANT FROM FILING ANY COMPLAINTS UNDER THIS SECTION  
13 FOR A PERIOD NOT TO EXCEED ONE YEAR, AND MAY AWARD ATTORNEY  
14 FEES AND COURT COSTS.

15 (4) (a) IF, AFTER INVESTIGATION, THE STATE ENGINEER  
16 DETERMINES THAT A SALE OR TRANSFER OF AGRICULTURAL WATER RIGHTS  
17 THAT ARE REPRESENTED BY SHARES IN A MUTUAL DITCH COMPANY IS  
18 INVESTMENT WATER SPECULATION, THE STATE ENGINEER MAY IMPOSE A  
19 FINE AGAINST THE PURCHASER IN AN AMOUNT NOT TO EXCEED TEN  
20 THOUSAND DOLLARS. ADDITIONALLY, THE STATE ENGINEER MAY REQUIRE  
21 THAT, FOR A PERIOD UP TO TWO YEARS AFTER THE FINE IS IMPOSED, ANY  
22 SALE OR TRANSFER OF SHARES IN A MUTUAL DITCH COMPANY TO THE  
23 PURCHASER BE SUBJECT TO APPROVAL BY THE STATE ENGINEER.

24 (b) A PURCHASER MAY BE FINED ONLY ONCE FOR A SINGLE  
25 PROPOSED OR COMPLETED SALE OR TRANSFER OF AN AGRICULTURAL  
26 WATER RIGHT, REGARDLESS HOW MANY COMPLAINTS HAVE BEEN FILED IN  
27 RELATION TO THE PROPOSED OR COMPLETED SALE OR TRANSFER OF

1 AGRICULTURAL WATER RIGHTS.

2 (5) THE STATE ENGINEER SHALL TRANSMIT ANY FINES IMPOSED  
3 AND COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER,  
4 WHO SHALL CREDIT THE MONEY TO THE COLORADO WATER  
5 CONSERVATION BOARD CONSTRUCTION FUND CREATED IN SECTION  
6 37-60-121 (1)(a).

7 (6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
8 REQUIRES:

9 (a) (I) "INVESTMENT WATER SPECULATION" MEANS THE PURCHASE  
10 OF AGRICULTURAL WATER RIGHTS THAT ARE REPRESENTED BY SHARES IN  
11 A MUTUAL DITCH COMPANY IN THE STATE WITH THE INTENT, AT THE TIME  
12 OF PURCHASE, TO PROFIT FROM AN INCREASE IN THE WATER'S VALUE IN A  
13 SUBSEQUENT TRANSACTION, SUCH AS A SALE OR LEASE OF THE WATER, OR  
14 BY RECEIVING PAYMENT FROM ANOTHER PERSON FOR NONUSE OF ALL OR  
15 A PORTION OF THE WATER SUBJECT TO THE WATER RIGHT; EXCEPT THAT  
16 PAYMENT FOR NONUSE OF A WATER RIGHT IS NOT INVESTMENT WATER  
17 SPECULATION IF IT IS DONE AS PART OF:

18 (A) A STATE OR LOCAL GOVERNMENT'S, MUNICIPAL WATER  
19 PROVIDER'S, WATER CONSERVANCY DISTRICT'S, WATER CONSERVATION  
20 DISTRICT'S, OR NONPROFIT ORGANIZATION'S ESTABLISHED WATER  
21 CONSERVATION PROGRAM; OR

22 (B) THE COLORADO WATER CONSERVATION BOARD'S INSTREAM  
23 FLOW PROGRAM.

24 (II) "INVESTMENT WATER SPECULATION" DOES NOT INCLUDE  
25 PURCHASES OF AGRICULTURAL WATER RIGHTS THAT ARE REPRESENTED BY  
26 SHARES IN A MUTUAL DITCH COMPANY BY THE FOLLOWING PURCHASERS:

27 (A) A MUNICIPALITY OR OTHER WATER PROVIDER THAT PROVIDES

1 DRINKING WATER TO CUSTOMERS LOCATED WITHIN ITS SERVICE AREA;

2 (B) A WATER CONSERVANCY DISTRICT OR WATER CONSERVATION  
3 DISTRICT;

4 (C) THE COLORADO WATER CONSERVATION BOARD OR ANY OTHER  
5 STATE ENTITY; OR

6 (D) A GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR  
7 NONPROFIT ORGANIZATION THAT PURCHASES AGRICULTURAL WATER  
8 RIGHTS THAT ARE REPRESENTED BY SHARES IN A MUTUAL DITCH COMPANY  
9 PRIMARILY FOR A PUBLIC PURPOSE, SUCH AS CONSERVATION OR COMPACT  
10 COMPLIANCE.

11 (b) "PURCHASER" MEANS:

12 (I) A PERSON THAT HAS PURCHASED OR THAT IS IN THE PROCESS OF  
13 NEGOTIATING THE PURCHASE OF AGRICULTURAL WATER RIGHTS THAT ARE  
14 REPRESENTED BY SHARES IN A MUTUAL DITCH COMPANY IN THE STATE; OR

15 (II) A PERSON FOR WHOM ANOTHER ACTS AS AGENT IN  
16 NEGOTIATING THE PURCHASE OF AGRICULTURAL WATER RIGHTS THAT ARE  
17 REPRESENTED BY SHARES IN A MUTUAL DITCH COMPANY IN THE STATE.

18 (c) "STATE ENGINEER" MEANS THE STATE ENGINEER OR THE STATE  
19 ENGINEER'S DESIGNEE.

20 **SECTION 2.** In Colorado Revised Statutes, **add** 7-42-119 as  
21 follows:

22 **7-42-119. Investment water speculation - ditch company**  
23 **determination of amount that creates a rebuttable presumption -**  
24 **definitions.** (1) TO ASSIST THE STATE ENGINEER IN EXERCISING THE  
25 STATE ENGINEER'S AUTHORITY TO INVESTIGATE AND ENFORCE AGAINST  
26 INVESTMENT WATER SPECULATION PURSUANT TO SECTION 37-92-505, ON  
27 OR BEFORE DECEMBER 31, 2022, THE BOARD OF DIRECTORS OF A MUTUAL

1 DITCH COMPANY SHALL DETERMINE THE MINIMUM PERCENT OF  
2 AGRICULTURAL WATER RIGHTS HELD BY ALL OF THE SHAREHOLDERS IN  
3 THE MUTUAL DITCH COMPANY THAT A PURCHASER HOLDS OR, BY VIRTUE  
4 OF THE SALE OR TRANSFER OF SHARES IN THE MUTUAL DITCH COMPANY,  
5 WILL HOLD THAT CREATES A REBUTTABLE PRESUMPTION THAT THE  
6 PURCHASER IS ENGAGING IN INVESTMENT WATER SPECULATION.

7 (2) THE BOARD OF DIRECTORS SHALL NOTIFY THE STATE ENGINEER  
8 OF THE MINIMUM PERCENT DETERMINED PURSUANT TO SUBSECTION (1) OF  
9 THIS SECTION AND OF ANY SUBSEQUENT CHANGES TO THE MINIMUM  
10 PERCENT THAT THE BOARD OF DIRECTORS MAY DETERMINE.

11 (3) A MUTUAL DITCH COMPANY MAY PERIODICALLY REVIEW AND  
12 UPDATE THE MINIMUM PERCENT DETERMINED AND SHALL NOTIFY THE  
13 STATE ENGINEER OF ANY CHANGES TO THE MINIMUM PERCENT  
14 DETERMINED.

15 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
16 REQUIRES:

17 (a) "INVESTMENT WATER SPECULATION" HAS THE MEANING SET  
18 FORTH IN SECTION 37-92-505 (6)(a).

19 (b) "PURCHASER" HAS THE MEANING SET FORTH IN SECTION  
20 37-92-505 (6)(b).

21 (c) "STATE ENGINEER" MEANS THE STATE ENGINEER APPOINTED  
22 PURSUANT TO SECTION 37-80-101 OR THE STATE ENGINEER'S DESIGNEE.

23 **SECTION 3.** In Colorado Revised Statutes, 24-31-101, **add** (5)  
24 as follows:

25 **24-31-101. Powers and duties of attorney general.** (5) THE  
26 ATTORNEY GENERAL MAY BRING A CIVIL ACTION PURSUANT TO SECTION  
27 37-92-505 (3) IF THE STATE ENGINEER REFERS THE MATTER TO THE

1 ATTORNEY GENERAL.

2 **SECTION 4. Act subject to petition - effective date -**

3 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
4 the expiration of the ninety-day period after final adjournment of the  
5 general assembly; except that, if a referendum petition is filed pursuant  
6 to section 1 (3) of article V of the state constitution against this act or an  
7 item, section, or part of this act within such period, then the act, item,  
8 section, or part will not take effect unless approved by the people at the  
9 general election to be held in November 2022 and, in such case, will take  
10 effect on the date of the official declaration of the vote thereon by the  
11 governor.

12 (2) This act applies to purchases of agricultural water rights that  
13 are represented by shares in a mutual ditch company and that are made or  
14 negotiated on or after the applicable effective date of this act.

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

Bill C

LLS NO. 22-0183.01 Sarah Lozano x3858

SENATE BILL

---

SENATE SPONSORSHIP

Donovan and Sonnenberg, Bridges, Coram, Jaquez Lewis

HOUSE SPONSORSHIP

McLachlan and Catlin, McCormick, McKean, Roberts

---

Senate Committees

House Committees

---

A BILL FOR AN ACT

101 CONCERNING THE EXPANSION OF THE WATER RESOURCES REVIEW  
102 COMMITTEE TO THE WATER RESOURCES AND AGRICULTURE  
103 REVIEW COMMITTEE.

---

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/>.)*

**Water Resources Review Committee.** The bill changes the name of the water resources review committee to the water resources and agriculture review committee (committee) and expands the scope of the committee to include agriculture issues.

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.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 37-98-101 as  
3 follows:

4 **37-98-101. Legislative declaration.** (1) The general assembly  
5 finds, determines, and declares that the purpose of this ~~article~~ ARTICLE 98  
6 is to provide an interim committee as a forum through which the general  
7 assembly shall review:

8 (a) The statewide planning, administration, and monitoring of  
9 Colorado's water resources; AND

10 (b) COLORADO AGRICULTURE ISSUES.

11 (2) The general assembly recognizes its mandate to vigorously  
12 protect and defend Colorado's finite supply of water. The general  
13 assembly further recognizes the need to ensure that water issues receive  
14 sufficient legislative scrutiny and public input:

15 (a) To maximize the benefit derived from Colorado's surface  
16 water and groundwater resources;

17 (b) To evaluate the present and future water needs of the state;

18 (c) To ensure effective water rights administration;

19 (d) To protect water quality and water quantity;

20 (e) To ensure that Colorado's interstate water compact agreements  
21 are met and, in relation ~~thereto~~ TO THE AGREEMENTS, that Colorado's  
22 water resources are protected against unwarranted claims; and

23 (f) To continue the studies of the special water committee  
24 pursuant to Senate Bill 96-074.

25 (3) THE GENERAL ASSEMBLY FURTHER RECOGNIZES THAT:

26 (a) AGRICULTURE IS ONE OF THE LARGEST AND MOST SIGNIFICANT

1 ECONOMIC SECTORS IN COLORADO;

2 (b) COLORADO'S AGRICULTURAL PRODUCERS AND WORKERS ARE  
3 OFTEN STEWARDS OF COLORADO'S SURFACE AND GROUNDWATER  
4 RESOURCES;

5 (c) COLORADO'S AGRICULTURAL SECTOR IS A LEADER IN WATER  
6 EFFICIENCY AND CONSERVATION PRACTICES;

7 (d) AGRICULTURE AND WATER RESOURCES ISSUES ARE OFTEN  
8 CLOSELY INTERTWINED WITH ONE ANOTHER; AND

9 (e) EXPANDING THE SCOPE OF THE COMMITTEE TO INCLUDE  
10 AGRICULTURE WOULD BE BENEFICIAL TO THE COMMITTEE'S STUDIES AND  
11 SUPPORT THE COMMITTEE'S EFFORTS IN PROTECTING AND DEFENDING  
12 COLORADO'S WATER SUPPLY.

13 **SECTION 2.** In Colorado Revised Statutes, 37-98-102, **amend**  
14 (1)(a)(I) as follows:

15 **37-98-102. Water resources and agriculture review committee**  
16 **- creation.** (1) (a) (I) For the purposes of contributing to and monitoring  
17 the conservation, use, development, and financing of the water resources  
18 of Colorado for the general welfare of its inhabitants; IDENTIFYING,  
19 MONITORING, AND ADDRESSING COLORADO AGRICULTURE ISSUES; ~~and to~~  
20 ~~review and propose~~ REVIEWING AND PROPOSING water resources AND  
21 AGRICULTURE legislation, there is hereby created the water resources AND  
22 AGRICULTURE review committee, referred to in this article 98 as the  
23 "committee". The committee shall meet at the call of the chair as often as  
24 six times during even-numbered years and eight times during  
25 odd-numbered years to review and to propose water resources AND  
26 AGRICULTURE legislation and RELATED matters. ~~relating thereto.~~ No more  
27 than two of such meetings may occur while the general assembly is in



1 session. In connection with such review, the committee may take up to  
2 two field trips per year in connection with its mandate and shall consult  
3 with experts in the field of water conservation, quality, use, finance, and  
4 development AND THE FIELD OF AGRICULTURE. The department of natural  
5 resources, the state engineer, THE DEPARTMENT OF AGRICULTURE, and the  
6 attorney general, together with the members and staff of the Colorado  
7 water conservation board, the Colorado water resources and power  
8 development authority, the water quality control commission, the  
9 department of public health and environment, ~~the department of~~  
10 ~~agriculture~~, and the great outdoors Colorado program, shall cooperate  
11 with the committee and with any persons assisting the committee in  
12 pursuing its responsibilities pursuant to this section. Further, the  
13 committee may utilize the legislative council staff to assist its members  
14 in researching any matters.

15 **SECTION 3.** In Colorado Revised Statutes, 23-20-141, **amend**  
16 (1)(c) as follows:

17 **23-20-141. Emerging technologies for water management -**  
18 **study - report - legislative declaration - repeal.** (1) (c) On or before  
19 July 15, 2022, and upon request of the water resources AND AGRICULTURE  
20 review committee of the general assembly in any year thereafter, the  
21 universities shall provide live testimony and a written report on the  
22 progress of the feasibility studies and pilot deployments conducted  
23 pursuant to this subsection (1), including any conclusions regarding the  
24 potential of these technologies to improve Colorado water management  
25 and any recommendations for administrative or legislative action to  
26 promote their use, to the water resources AND AGRICULTURE review  
27 committee.

1           **SECTION 4.** In Colorado Revised Statutes, 25-8-205.3, **amend**  
2 (2)(f) introductory portion as follows:

3           **25-8-205.3. Exemption from control regulations for graywater**  
4 **research - definition.** (2) A person collecting, treating, or using  
5 graywater pursuant to this section:

6           (f) On an annual basis, shall report to the water resources AND  
7 AGRICULTURE review committee, created in section 37-98-102, the results  
8 of periodic monitoring of the project conducted to assess:

9           **SECTION 5.** In Colorado Revised Statutes, 37-60-106.3, **amend**  
10 (3)(b) and (4) as follows:

11           **37-60-106.3. State water plan - legislative declaration - grant**  
12 **program.** (3) **Development of plan.** In exercising its authority pursuant  
13 to this section, the board shall:

14           (b) Notify the water resources AND AGRICULTURE review  
15 committee created in section 37-98-102 of any proposed significant  
16 amendments to the plan, as determined by the board, by June 1 of any  
17 year in which the amendment is proposed to be adopted; present the  
18 proposed amendment to the committee by August 1 of that year; and  
19 consider the committee's feedback submitted pursuant to section  
20 37-98-103 (6)(c) by November 1 of that year.

21           (4) **Legislation.** By November 1 of each year following the  
22 submission to the water resources AND AGRICULTURE review committee  
23 of a state water plan or amendment pursuant to this section, any member  
24 of the general assembly may make a request in writing to the chairperson  
25 of the water resources AND AGRICULTURE review committee that the  
26 committee hold one or more hearings to review the plan or amendment  
27 as submitted to the water resources AND AGRICULTURE review committee.

1 Upon receipt of the request, the chairperson of the committee shall  
2 promptly schedule a hearing to conduct the review and provide adequate  
3 notice to the public and the board. The committee, after holding a public  
4 hearing, may recommend the introduction of a bill or bills based on the  
5 results of the review. A bill recommended by the committee for  
6 consideration under this subsection (4) does not count against the number  
7 of bills to which either the committee or the members of the general  
8 assembly are limited by law or joint rule of the senate and the house of  
9 representatives, and a hearing held by the committee pursuant to this  
10 subsection (4) does not count against the number of meetings allowed by  
11 section 37-98-102 (1)(a).

12 **SECTION 6.** In Colorado Revised Statutes, 37-60-115, **amend**  
13 (6)(d), (8)(i), and (10)(f) as follows:

14 **37-60-115. Water studies - rules - repeal. (6) Precipitation**  
15 **harvesting pilot projects.** (d) Each sponsor shall submit an annual  
16 preliminary report to the board and the state engineer summarizing the  
17 information set forth in ~~paragraph (a) of this subsection (6)~~ SUBSECTION  
18 (6)(a) OF THIS SECTION. The board and the state engineer shall brief the  
19 water resources AND AGRICULTURE review committee created in section  
20 37-98-102 on the reported results of the pilot projects by July 1, 2014.  
21 Each sponsor shall submit a final report to the board and the state  
22 engineer by January 15, 2025. The board and the state engineer shall  
23 provide a final briefing to the water resources AND AGRICULTURE review  
24 committee by July 1, 2025.

25 (8) **Fallowing and leasing pilot projects.** (i) The board, in  
26 consultation with the state engineer, shall annually report to the water  
27 resources AND AGRICULTURE review committee, created in section

1 37-98-102, or its successor committee, on the reported results of the pilot  
2 projects. The board, in consultation with the state engineer, shall provide  
3 a final report to the water resources AND AGRICULTURE review committee,  
4 or its successor committee, by July 1, 2034, or the year in which the final  
5 pilot project is completed, if before 2034.

6 (10) **High groundwater administration and management pilot**  
7 **projects - report - repeal.** (f) The board, in consultation with the state  
8 engineer, shall annually report to the water resources AND AGRICULTURE  
9 review committee, created in section 37-98-102, or its successor  
10 committee, on the reported results of the pilot projects. The board, in  
11 consultation with the state engineer, shall provide a final report to the  
12 water resources AND AGRICULTURE review committee or its successor  
13 committee by September 1, 2021.

14 **SECTION 7. Act subject to petition - effective date.** This act  
15 takes effect at 12:01 a.m. on the day following the expiration of the  
16 ninety-day period after final adjournment of the general assembly; except  
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
18 of the state constitution against this act or an item, section, or part of this  
19 act within such period, then the act, item, section, or part will not take  
20 effect unless approved by the people at the general election to be held in  
21 November 2022 and, in such case, will take effect on the date of the  
22 official declaration of the vote thereon by the governor.

Sen. Kerry Donovan, Chair  
Sen. Jeff Bridges  
Rep. Marc Catlin  
Sen. Don Coram  
Sen. Sonya Jaquez Lewis

Rep. Barbara McLachlan, Vice-Chair  
Rep. Karen McCormick  
Rep. Hugh McKean  
Rep. Dylan Roberts  
Sen. Jerry Sonnenberg



## Water Resources Review Committee

State Capitol Building, Room 029  
Denver, Colorado 80203-1784  
(303) 866-3521



October 27, 2021

Senator Dominick Moreno, Chair  
Task Force on Economic Recovery and Relief Cash Fund  
200 East Colfax, #029  
Denver, CO 80203

Dear Members of the Task Force on Economic Recovery and Relief Cash Fund:

On September 14, 2021, the Water Resources Review Committee (WRRC) heard from water experts across the state. These experts discussed the challenges that Colorado is facing when it comes to limited water supply and interstate compact compliance. Colorado is party to numerous interstate compacts and equitable apportionment decrees with downstream states that govern how Colorado must share the water from rivers. This forces Colorado water users to make a variety of efforts to decrease water usage in an effort to maintain compact compliance, putting an economic strain on these communities.

With the increased demand on rivers in Colorado, the state needs to invest additional funding towards water infrastructure to maintain compact compliance, economic viability of river communities, and crucial water resources. Additional funding would allow Colorado to continue to meet state imposed mandates and address challenges associated with soil health, water quality, climate issues, agricultural production, and land use changes. Without increased investment, Colorado may be forced to cut water rights across the state.

The WRRC is requesting that the task force consider Colorado's water needs when making recommendations to the General Assembly and the Governor concerning the investment of funds from the federal American Rescue Plan of 2021. One-time investments towards water infrastructure and protection would help ensure the economic stability of communities and the viability of Colorado's water resources.

This letter was approved unanimously by the committee.

If you have any questions or concerns about the WRRC's request, please contact Alexa Kelly, Legislative Council Staff, at [alexa.kelly@state.co.us](mailto:alexa.kelly@state.co.us) or 303-866-3469.

Sincerely,

A handwritten signature in black ink, consisting of the letters 'K', 'E', and 'D' in a stylized, cursive font. The 'K' and 'E' are connected, and the 'D' is a large, rounded letter with a horizontal stroke extending to the right.

Senator Kerry Donovan  
Chair, Water Resources Review Committee

cc: Water Resources Review Committee Members  
Task Force on Economic Recovery and Relief Cash Fund Members  
Water Resources Review Committee Staff  
Task Force on Economic Recovery and Relief Cash Fund Staff