

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0336.02 Sarah Lozano x3858

SENATE BILL 23-295

SENATE SPONSORSHIP

Roberts and Will, Bridges, Pelton B., Rich

HOUSE SPONSORSHIP

McCluskie and Catlin, Holtorf, Lukens, McCormick, McLachlan, Soper, Velasco

Senate Committees
Agriculture & Natural Resources
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE COLORADO RIVER DROUGHT**
102 **TASK FORCE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the Colorado river drought task force (task force). The members of the task force must, to the extent practicable, reflect the racial and ethnic diversity of the state and have experience with a wide range of water issues. The task force must begin meeting no later than July 31, 2023, and may hold up to 12 meetings in the 2023 legislative interim.

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

The purpose of the task force is to develop recommendations for state legislation that provides additional tools for the Colorado water conservation board to collaborate with the Colorado river water conservation district, the southwestern water conservation district, and other relevant stakeholders in the development of programs that address drought in the Colorado river basin and interstate commitments related to the Colorado river and its tributaries through conservation of the waters of the Colorado river and its tributaries (recommendations).

No later than December 15, 2023, the task force must submit a written report that includes the recommendations and a summary of the task force's work to the water resources and agriculture review committee.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Since 2000, the Colorado river basin, including the Colorado
5 river and its tributaries in Colorado, has experienced unprecedented
6 drought conditions that have contributed to decreased water supplies;

7 (b) Climate change, drier conditions, and depleted snowpack may
8 further reduce water available in Colorado's surface streams for beneficial
9 uses and threaten Colorado's significant interests in the Colorado river
10 and its tributaries; and

11 (c) Dry hydrology continues to reduce water supplies across the
12 western slope of Colorado and the Colorado river basin and threatens the
13 security of available water resources.

14 (2) The general assembly therefore determines that it is in the best
15 interest of Colorado to form a task force to provide recommendations for
16 programs to assist Colorado in addressing drought in the Colorado river
17 basin and the state's interstate commitments related to the Colorado river
18 and its tributaries.

19 **SECTION 2.** In Colorado Revised Statutes, **add 37-98-105** as

1 follows:

2 **37-98-105. Colorado river drought task force - created -**
3 **appointments - report - definitions - repeal.** (1) AS USED IN THIS
4 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

5 (a) "BOARD" MEANS THE COLORADO WATER CONSERVATION
6 BOARD CREATED IN SECTION 37-60-102.

7 (b) "COLORADO RIVER WATER CONSERVATION DISTRICT" MEANS
8 THE COLORADO RIVER WATER CONSERVATION DISTRICT CREATED IN
9 SECTION 37-46-103.

10 (c) "COMMITTEE" MEANS THE WATER RESOURCES AND
11 AGRICULTURE REVIEW COMMITTEE CREATED IN SECTION 37-98-102
12 (1)(a)(I).

13 (d) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL
14 RESOURCES CREATED IN SECTION 24-1-124 (1).

15 (e) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY
16 COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

17 (f) "PROGRAMS" MEANS THE PROGRAMS DESCRIBED IN SUBSECTION
18 (4)(a) OF THIS SECTION.

19 (g) "SOUTHWESTERN WATER CONSERVATION DISTRICT" MEANS
20 THE SOUTHWESTERN WATER CONSERVATION DISTRICT CREATED IN
21 SECTION 37-47-103.

22 (h) "SUB-TASK FORCE" MEANS THE SUB-TASK FORCE ESTABLISHED
23 PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION.

24 (i) "TASK FORCE" MEANS THE COLORADO RIVER DROUGHT TASK
25 FORCE CREATED IN SUBSECTION (2) OF THIS SECTION.

26 (j) "WATER RIGHT" HAS THE MEANING SET FORTH IN SECTION
27 37-92-103 (12).

4 (I) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE
5 EXECUTIVE DIRECTOR'S DESIGNEE;

8 (III) A REPRESENTATIVE OF THE UTE MOUNTAIN UTE TRIBE,
9 APPOINTED BY THE UTE MOUNTAIN UTE TRIBE;

10 (IV) A REPRESENTATIVE OF THE SOUTHERN UTE INDIAN TRIBE,
11 APPOINTED BY THE SOUTHERN UTE INDIAN TRIBE;

12 (V) A REPRESENTATIVE OF THE COLORADO RIVER WATER
13 CONSERVATION DISTRICT, APPOINTED BY THE BOARD OF DIRECTORS OF THE
14 COLORADO RIVER WATER CONSERVATION DISTRICT;

15 (VI) A REPRESENTATIVE OF THE SOUTHWESTERN WATER
16 CONSERVATION DISTRICT, APPOINTED BY THE BOARD OF DIRECTORS OF THE
17 SOUTHWESTERN WATER CONSERVATION DISTRICT;

21 (VIII) A REPRESENTATIVE OF THE NORTHERN COLORADO WATER
22 CONSERVANCY DISTRICT, APPOINTED BY THE BOARD OF DIRECTORS OF THE
23 NORTHERN COLORADO WATER CONSERVANCY DISTRICT;

24 (IX) THE FOLLOWING MEMBERS APPOINTED BY THE PRESIDENT OF
25 THE SENATE:

26

11

27 (A) A REPRESENTATIVE OF A LOCAL GOVERNMENT LOCATED

1 WITHIN THE BOUNDARIES OF THE SOUTHWESTERN WATER CONSERVATION
2 DISTRICT THAT PROVIDES WATER FOR MUNICIPAL PURPOSES; AND

3 **(B)** A REPRESENTATIVE OF A STATEWIDE ENVIRONMENTAL
4 NONPROFIT ORGANIZATION WITH EXPERTISE IN WATER RIGHTS AND
5 COLORADO RIVER INTERSTATE GOVERNANCE;

6 **(X)** THE FOLLOWING MEMBERS APPOINTED BY THE SPEAKER OF
7 THE HOUSE OF REPRESENTATIVES:

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9 **(A)** A REPRESENTATIVE OF A STATEWIDE AGRICULTURAL
10 ORGANIZATION;

11 **(B)** A REPRESENTATIVE OF A STATEWIDE ENVIRONMENTAL
12 NONPROFIT ORGANIZATION WITH EXPERTISE IN WATER RIGHTS AND
13 COLORADO RIVER INTERSTATE GOVERNANCE;

14 **(C)** AN AGRICULTURAL PRODUCER LOCATED WITHIN THE
15 BOUNDARIES OF THE COLORADO RIVER WATER CONSERVATION DISTRICT;
16 AND

17 **(D)** A REPRESENTATIVE OF A LOCAL GOVERNMENT LOCATED
18 WITHIN THE BOUNDARIES OF THE COLORADO RIVER WATER CONSERVATION
19 DISTRICT THAT PROVIDES WATER FOR MUNICIPAL PURPOSES;

20 **(XI)** AN AGRICULTURAL PRODUCER LOCATED WITHIN THE
21 BOUNDARIES OF THE SOUTHWESTERN WATER CONSERVATION DISTRICT,
22 APPOINTED BY THE MINORITY LEADER OF THE SENATE; AND

23 **(XII)** A REPRESENTATIVE OF AN INDUSTRIAL WATER USER THAT IS
24 LOCATED ON THE WESTERN SLOPE, APPOINTED BY THE MINORITY LEADER
25 OF THE HOUSE OF REPRESENTATIVES.

26 **(b)** THE STATE ENGINEER OR THE STATE ENGINEER'S DESIGNEE
27 SHALL ALSO SERVE ON THE TASK FORCE IN AN ADVISORY, NONVOTING

1 CAPACITY.

2 (c) THE MEMBERS OF THE TASK FORCE MUST, TO THE EXTENT
3 PRACTICABLE, REFLECT THE RACIAL AND ETHNIC DIVERSITY OF THE STATE
4 AND HAVE EXPERIENCE IN A WIDE RANGE OF WATER ISSUES, INCLUDING
5 CONSUMPTIVE USES OF WATER FOR MUNICIPAL, INDUSTRIAL, AND
6 IRRIGATION PURPOSES AND NONCONSUMPTIVE USES OF WATER FOR
7 OUTDOOR RECREATION, FISH AND WILDLIFE, AND HYDROPOWER PURPOSES.

8 (3) (a) NO LATER THAN JUNE 30, 2023:

9 (I) THE APPOINTING AUTHORITIES SHALL MAKE ALL APPOINTMENTS
10 TO THE TASK FORCE; AND

11 (II) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL
12 APPOINT A CHAIR OF THE TASK FORCE.

13 (b) NO LATER THAN JULY 15, 2023, THE EXECUTIVE COMMITTEE OF
14 THE LEGISLATIVE COUNCIL CREATED IN SECTION 2-3-301 (1) SHALL HIRE
15 A FACILITATOR TO SUPPORT THE WORK OF THE TASK FORCE.

16 (c) (I) NO LATER THAN JULY 31, 2023, THE CHAIR OF THE TASK
17 FORCE APPOINTED PURSUANT TO SUBSECTION (3)(a)(II) OF THIS SECTION
18 SHALL CONVENE THE FIRST MEETING OF THE TASK FORCE. THE TASK FORCE
19 MAY HOLD UP TO TWELVE MEETINGS IN THE 2023 LEGISLATIVE INTERIM,
20 WHICH MAY BE IN-PERSON OR VIRTUAL MEETINGS. THE TASK FORCE SHALL
21 TAKE ANY ACTION REQUIRED PURSUANT TO THIS SECTION BY A MAJORITY
22 VOTE.

23 (II) ANY MEETING OF THE TASK FORCE OR SUB-TASK FORCE MUST
24 BE OPEN TO THE PUBLIC. THE TASK FORCE AND SUB-TASK FORCE SHALL
25 ALLOW PUBLIC TESTIMONY DURING AT LEAST ONE MEETING OF THE TASK
26 FORCE AND SUB-TASK FORCE. A TASK FORCE MEMBER, SUB-TASK FORCE
27 MEMBER, OR GOVERNMENTAL ENTITY THAT IS PARTICIPATING IN THE TASK

1 FORCE OR SUB-TASK FORCE IS NOT REQUIRED TO PROVIDE ANY
2 INFORMATION THAT IS PROTECTED FROM DISCLOSURE BY APPLICABLE LAW.

3 (d) (I) THE MEMBERS OF THE TASK FORCE SERVE WITHOUT
4 COMPENSATION BUT MAY BE REIMBURSED FOR ANY REASONABLE
5 EXPENSES THEY INCUR IN THE PERFORMANCE OF THEIR DUTIES PURSUANT
6 TO THIS SECTION.

7 (II) AN APPOINTING AUTHORITY MAY REMOVE A MEMBER OF THE
8 TASK FORCE FROM THE TASK FORCE FOR MALFEASANCE IN OFFICE, FAILURE
9 TO REGULARLY ATTEND MEETINGS, OR ANY CAUSE THAT MAKES THE
10 MEMBER UNABLE OR UNFIT TO FULFILL THE MEMBER'S DUTIES PURSUANT
11 TO THIS SECTION.

12 (III) A MEMBER OF THE TASK FORCE MAY DESIGNATE ANOTHER
13 PERSON THAT MEETS THE MEMBER'S QUALIFICATIONS FOR MEMBERSHIP ON
14 THE TASK FORCE TO ATTEND A MEETING OR MEETINGS OF THE TASK FORCE
15 ON THE MEMBER'S BEHALF IF THE MEMBER IS UNABLE TO ATTEND A
16 MEETING OR MEETINGS.

17 (4) (a) THE PURPOSE OF THE TASK FORCE IS TO PROVIDE
18 RECOMMENDATIONS FOR STATE LEGISLATION THAT WILL PROVIDE
19 ADDITIONAL TOOLS TO THE BOARD TO COLLABORATE WITH THE
20 COLORADO RIVER WATER CONSERVATION DISTRICT, THE SOUTHWESTERN
21 WATER CONSERVATION DISTRICT, AND OTHER RELEVANT STAKEHOLDERS,
22 INCLUDING HOLDERS OF WATER RIGHTS, AGRICULTURAL PRODUCERS,
23 INDUSTRIAL WATER USERS, ENVIRONMENTAL ORGANIZATIONS, THE UTE
24 MOUNTAIN UTE TRIBE, THE SOUTHERN UTE INDIAN TRIBE, AND LOCAL
25 GOVERNMENTS, TO DEVELOP PROGRAMS THAT ADDRESS DROUGHT IN THE
26 COLORADO RIVER BASIN AND INTERSTATE COMMITMENTS RELATED TO THE
27 COLORADO RIVER AND ITS TRIBUTARIES THROUGH THE IMPLEMENTATION

1 OF DEMAND REDUCTION PROJECTS AND THE VOLUNTARY AND
2 COMPENSATED CONSERVATION OF THE WATERS OF THE COLORADO RIVER
3 AND ITS TRIBUTARIES.

4 (b) THE RECOMMENDATIONS MADE PURSUANT TO SUBSECTION
5 (4)(a) OF THIS SECTION MUST, AT A MINIMUM:

6 (I) PROVIDE THAT THE PROGRAMS MUST BE ADOPTED AND
7 IMPLEMENTED IN A MANNER THAT AVOIDS DISPROPORTIONATE NEGATIVE
8 ECONOMIC OR ENVIRONMENTAL IMPACTS TO ANY SINGLE SUBBASIN OR
9 REGION IN THE STATE;

10 (II) PROVIDE THAT ANY PROGRAM THAT SEEKS TO ADMINISTER
11 WATER THROUGH STREAM REACHES WITHIN THE STATE OR TO THE STATE
12 LINE FOR INTERSTATE PURPOSES MUST BE OPERATED CONSISTENT WITH:

13 (A) THE AGREEMENT REGARDING STORAGE AT COLORADO RIVER
14 STORAGE PROJECT ACT RESERVOIRS UNDER AN UPPER BASIN DEMAND
15 MANAGEMENT PROGRAM, ENTERED INTO BY THE STATES OF COLORADO,
16 NEW MEXICO, UTAH, AND WYOMING AND THE FEDERAL SECRETARY OF
17 THE INTERIOR ON MAY 20, 2019; AND

18 (B) PRINCIPLE FOUR OF COLORADO'S CONCEPTUAL FRAMEWORK,
19 REFERENCED ON PAGE SEVENTY-FIVE OF THE COLORADO WATER PLAN,
20 WHICH WAS FINALIZED AND APPROVED BY THE BOARD ON JANUARY 24,
21 2023.

22 (III) REQUIRE THAT ANY ACQUISITION BY THE PROGRAMS OF A
23 WATER RIGHT USED FOR AGRICULTURAL IRRIGATION PURPOSES IS
24 VOLUNTARY, TEMPORARY, AND COMPENSATED;

25 (IV) SPECIFY THE RESPECTIVE ROLES AND OBLIGATIONS OF THE
26 BOARD, THE COLORADO RIVER WATER CONSERVATION DISTRICT, AND THE
27 SOUTHWESTERN WATER CONSERVATION DISTRICT IN THE DEVELOPMENT,

1 IMPLEMENTATION, AND OPERATION OF THE PROGRAMS WHILE
2 MAINTAINING THE AUTHORITY OF THE STATE ENGINEER TO ADMINISTER
3 WATER RIGHTS FOR INTERSTATE COMPLIANCE;

4 (V) EVALUATE SOURCES OF REVENUE TO APPROPRIATELY
5 COMPENSATE PARTICIPANTS IN THE PROGRAMS AND TO SUPPORT
6 REASONABLE ADMINISTRATIVE COSTS OF THE PROGRAMS; AND

7 (VI) PROVIDE THE STATE ENGINEER WITH THE APPROPRIATE LEGAL
8 AUTHORITY AND DIRECTION NECESSARY TO FULFILL THE PURPOSES OF THE
9 PROGRAMS IN A MANNER THAT, WITHOUT MINIMIZING THE PRIMARY
10 PURPOSE OF THE PROGRAMS TO REDUCE OR MITIGATE INTERSTATE
11 COMMITMENTS RELATED TO THE COLORADO RIVER AND ITS TRIBUTARIES,
12 PROVIDES BENEFITS TO RECREATION AND THE ENVIRONMENT.

13 (5) (a) THE TASK FORCE SHALL ESTABLISH A SUB-TASK FORCE TO
14 STUDY TRIBAL MATTERS. THE SUB-TASK FORCE CONSISTS OF:

15 (I) THE REPRESENTATIVE OF THE SOUTHERN UTE INDIAN TRIBE
16 APPOINTED PURSUANT TO SUBSECTION (2)(a)(IV) OF THIS SECTION;

17 (II) THE REPRESENTATIVE OF THE UTE MOUNTAIN UTE TRIBE
18 APPOINTED PURSUANT TO SUBSECTION (2)(a)(V) OF THIS SECTION;

19 (III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE
20 DIRECTOR'S DESIGNEE; AND

21 (IV) TWO OTHER MEMBERS JOINTLY APPOINTED BY THE SOUTHERN
22 UTE INDIAN TRIBE, THE UTE MOUNTAIN UTE TRIBE, AND THE
23 DEPARTMENT.

24 (b) THE PURPOSE OF THE SUB-TASK FORCE IS TO PROVIDE
25 RECOMMENDATIONS FOR STATE LEGISLATION THAT WILL:

26 (I) PROVIDE FOR FULL TRIBAL PARTICIPATION IN THE PROGRAMS IN
27 A MANNER THAT RECOGNIZES THE UNIQUE NATURE OF TRIBAL WATER

1 RIGHTS AND TRIBAL WATER USE, SPECIFICALLY IN REGARD TO
2 FORBEARANCE AND DEMAND MANAGEMENT OPPORTUNITIES;

3 (II) PROVIDE FOR TRIBAL PARTICIPATION IN THE PROGRAMS IN A
4 MANNER THAT IS VOLUNTARY, TEMPORARY, AND COMPENSATED; AND
5 (III) EVALUATE SOURCES OF REVENUE TO APPROPRIATELY
6 COMPENSATE THE SOUTHERN UTE INDIAN TRIBE AND THE UTE MOUNTAIN
7 UTE TRIBE FOR PARTICIPATION IN THE PROGRAMS.

8 (6) ANY STATE AGENCY WITH ACCESS TO INFORMATION RELEVANT
9 TO THE TASK FORCE'S DUTIES SHALL PROMPTLY PROVIDE THE
10 INFORMATION TO THE TASK FORCE UPON THE REQUEST OF THE TASK
11 FORCE, EXCEPT FOR PROPRIETARY INFORMATION A STATE AGENCY HAS
12 RECEIVED FROM THE SOUTHERN UTE INDIAN TRIBE AND THE UTE
13 MOUNTAIN UTE TRIBE.

14 (7) (a) BEFORE THE SUBMISSION OF THE FINAL REPORT PURSUANT
15 TO SUBSECTION (7)(b) OF THIS SECTION, THE TASK FORCE SHALL PROVIDE
16 AT LEAST ONE UPDATE TO THE COMMITTEE ON THE PROGRESS OF THE TASK
17 FORCE'S DUTIES PURSUANT TO THIS SECTION.

18 (b) NO LATER THAN DECEMBER 15, 2023, THE TASK FORCE AND
19 SUB-TASK FORCE SHALL SUBMIT A FINAL REPORT TO THE COMMITTEE THAT
20 PROVIDES:

21 (I) THE RECOMMENDATIONS OF THE TASK FORCE AND SUB-TASK
22 FORCE PURSUANT TO SUBSECTIONS (4)(a) AND (5)(b) OF THIS SECTION;

23 (II) A SUMMARY OF THE TASK FORCE'S AND SUB-TASK FORCE'S
24 WORK PURSUANT TO THIS SECTION, INCLUDING ANY RECOMMENDATIONS
25 CONSIDERED BUT NOT APPROVED BY THE TASK FORCE AND SUB-TASK
26 FORCE AND A DESCRIPTION OF WHY THE RECOMMENDATIONS WERE NOT
27 APPROVED; AND

1 (III) ANY OTHER INFORMATION THAT THE TASK FORCE AND
2 SUB-TASK FORCE DETERMINES TO BE RELEVANT.

3 (8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2024.

4 **SECTION 3. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, or safety.