

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. 23-0789.02 Sarah Lozano x3858

SENATE BILL 23-285

SENATE SPONSORSHIP

Priola and Hansen, Gonzales

HOUSE SPONSORSHIP

McCormick and Dickson,

Senate Committees

Agriculture & Natural Resources
Appropriations

House Committees

Energy & Environment
Appropriations

A BILL FOR AN ACT

101 **CONCERNING ENERGY AND CARBON MANAGEMENT REGULATION IN**
102 **COLORADO, AND, IN CONNECTION THEREWITH, CHANGING THE**
103 **NAME OF THE OIL AND GAS CONSERVATION COMMISSION TO THE**
104 **ENERGY AND CARBON MANAGEMENT COMMISSION, BROADENING**
105 **THE COMMISSION'S REGULATORY AUTHORITY TO INCLUDE THE**
106 **REGULATION OF CERTAIN GEOTHERMAL RESOURCE OPERATIONS**
107 **AND INTRASTATE UNDERGROUND NATURAL GAS STORAGE**
108 **FACILITIES, AND MAKING AN APPROPRIATION.**

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

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.*

SENATE
3rd Reading Unamended
April 25, 2023

SENATE
Amended 2nd Reading
April 24, 2023

<http://leg.colorado.gov>.)

Effective July 1, 2023, the bill changes the name of the oil and gas conservation commission to the energy and carbon management commission (commission) and expands the commission's regulatory authority to include the authority to regulate a broader scope of energy and carbon management areas beyond oil and gas (**section 1** of the bill). The bill also changes the name of the oil and gas conservation and environmental response fund to the energy and carbon management cash fund (fund) and allows the fund to also be used by the commission for the purposes of administering the expanded regulatory areas (**section 2**).

Current law states that the property right to the natural heat of the earth (geothermal resource) that lacks sufficient fluid associated with the geothermal resource (geothermal fluid) to transport commercial amounts of energy to the surface is an incident of ownership of the overlying surface unless expressly severed. **Section 6** states that, as to property rights acquired on or after July 1, 2023, the property right to a geothermal resource associated with nontributary groundwater (allocated geothermal resource) is also an incident of ownership of the overlying surface unless expressly severed.

Current law requires, prior to constructing a well to explore for or produce geothermal resources, the operator of the well to obtain a permit from the state engineer. **Section 7** defines different types of geothermal operations and bifurcates regulation of the different operations between the commission and the state engineer. Specifically, the commission is granted the exclusive authority to regulate operations (deep geothermal operations) for the exploration for or production of:

- An allocated geothermal resource; or
- A geothermal resource that is deeper than 2,500 feet below the surface.

The state engineer retains the exclusive authority to regulate operations that are not deep geothermal operations (shallow geothermal operations).

Prior to obtaining a permit from the commission to construct a well for deep geothermal operations, the applicant must provide evidence of any applicable siting application to the local government with jurisdiction over the deep geothermal operations, unless the local government does not regulate the siting of such operations. The commission and the state engineer may adopt rules for the assessment of fees for the processing and granting of a permit to construct a well for deep geothermal operations or shallow geothermal operations, as applicable. Any fees collected by the commission will be deposited by the state treasurer into the fund.

Current law requires, prior to the production of geothermal fluid from a well, the operator of the well to obtain a permit from the state engineer. **Section 8** instead requires:

- A permit from the state engineer prior to the use of a geothermal resource that is not an allocated geothermal resource (distributed geothermal resource);
- The state engineer to issue the permit for the use of a distributed geothermal resource after a determination that the proposed use is in accordance with applicable requirements for groundwater wells;
- A permit from the state engineer prior to the use of an allocated geothermal resource; and
- The state engineer to issue a permit for the use of an allocated geothermal resource after a finding that any associated geothermal fluid is nontributary.

Current law allows the state engineer to adopt procedures that establish geothermal management districts for the management of geothermal operations within the district. **Section 9** limits the scope of geothermal management districts to distributed geothermal resources. The state engineer is also required to notify the commission of any application for a geothermal management district that is anticipated to affect deep geothermal operations.

Section 10 allows the commission to adopt procedures by rule to establish geothermal resource units for allocated geothermal resources.

Section 12 grants the commission the exclusive authority to regulate any intrastate facility that stores natural gas in an underground facility that is not a pipeline facility subject to regulation by the public utilities commission (UNGS facility). If the commission submits a certification to, or enters into an agreement with, the federal secretary of transportation pursuant to applicable federal law, any rules regulating UNGS facilities must be at least as stringent as the applicable federal requirements. Before commencing construction of a new UNGS facility, the operator of the facility must provide evidence of any applicable siting application to a local government with jurisdiction over the UNGS facility, if applicable.

The commission may assess and collect fees from operators of UNGS facilities in an amount and frequency determined by the commission by rule. Any fees collected will be deposited into the fund.

The bill directs the commission to conduct the following studies, prepare reports summarizing the findings of the studies, and submit the reports to the general assembly:

- A technical study of the state's geothermal resources (**section 10**);
- A study, in collaboration with the state engineer, that evaluates the state regulatory structure for geothermal resources and whether any changes to law or rules are necessary (**section 10**);
- A study concerning the regulation and permitting of

- hydrogen (**section 18**); and
 - A study, in coordination with the public utilities commission, examining the siting and regulation of interstate pipelines (**section 18**).
- Sections 19 through 42** make conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 34-60-104.3, **amend**
3 (1); and add (6) as follows:

4 **34-60-104.3. Energy and carbon management commission -**
5 **report - publication.** (1) There is created, in the department of natural
6 resources, the ~~oil and gas conservation~~ ENERGY AND CARBON
7 MANAGEMENT commission. The ~~oil and gas conservation~~ commission is
8 a **type 1** entity, as defined in section 24-1-105.

9 (6) THE REVISOR OF STATUTES IS AUTHORIZED TO CHANGE ALL
10 REFERENCES TO THE OIL AND GAS CONSERVATION COMMISSION THAT
11 APPEAR IN THE COLORADO REVISED STATUTES TO THE ENERGY AND
12 CARBON MANAGEMENT COMMISSION.

13 **SECTION 2.** In Colorado Revised Statutes, 34-60-122, **amend**
14 (1) and (5)(a); and **add (5)(d)** as follows:

15 **34-60-122. Expenses - energy and carbon management cash**
16 **fund created.** (1) (a) In addition to the filing and service fee required to
17 be paid under section 34-60-106 (1)(f) and the fees authorized for other
18 services provided by the commission by section 34-60-106 (16), there is
19 imposed on the market value at the well of all oil and natural gas
20 produced, saved, and sold or transported from the field where produced
21 in this state a charge not to exceed one and seven-tenths mills on the
22 dollar. The commission shall, by order, fix the amount of such charge in
23 the first instance and may, from time to time, reduce or increase the

1 amount thereof as, in its judgment, the expenses chargeable against the
2 ~~oil and gas conservation and environmental response~~ ENERGY AND
3 CARBON MANAGEMENT CASH fund specified in subsection (5) of this
4 section may require.

5 (b) On and after July 1, 2019, the commission shall ensure that the
6 unobligated portion of the fund does not exceed fifty percent of total
7 appropriations from the fund for the upcoming fiscal year and that there
8 is an adequate balance in the fund to support the operations of the
9 commission, ~~and~~ to address environmental response needs, AND TO FUND
10 THE PURPOSES IDENTIFIED IN SECTION 34-60-124 (10).

11 (5) (a) The commission shall collect all charges and penalties
12 under this article 60 and remit ~~them~~ THE CHARGES AND PENALTIES to the
13 state treasurer for deposit in the ~~oil and gas conservation and~~
14 ~~environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund,
15 which fund is hereby created in the state treasury.

16 (d) THE REVISOR OF STATUTES IS AUTHORIZED TO CHANGE ALL
17 REFERENCES TO THE OIL AND GAS CONSERVATION AND ENVIRONMENTAL
18 RESPONSE FUND THAT APPEAR IN THE COLORADO REVISED STATUTES TO
19 THE ENERGY AND CARBON MANAGEMENT CASH FUND.

20 **SECTION 3.** In Colorado Revised Statutes, 34-60-106, **amend**
21 **(7)(a); and add (22) as follows:**

22 **34-60-106. Additional powers of commission - rules -**
23 **definitions - repeal.** (7) (a) The commission may establish, charge, and
24 collect docket fees for the filing of applications, petitions, protests,
25 responses, and other pleadings. All fees shall be deposited in the ~~oil and~~
26 ~~gas conservation and environmental response~~ ENERGY AND CARBON
27 MANAGEMENT CASH fund established by section 34-60-122 CREATED IN

1 SECTION 34-60-122 (5) and are subject to appropriations by the general
2 assembly for the purposes of this article 60.

3 (22) THE COMMISSION SHALL CREATE AND MAINTAIN A WEBSITE
4 THAT SERVES AS THE STATE PORTAL FOR INFORMATION AND DATA
5 REGARDING THE COMMISSION'S REGULATORY ACTIVITIES.

6 **SECTION 4.** In Colorado Revised Statutes, 37-90-137, **amend**
7 (1) and (7)(a) as follows:

8 **37-90-137. Permits to construct wells outside designated**
9 **basins - fees - permit no groundwater right - evidence - time**
10 **limitation - well permits - rules.** (1) (a) On and after May 17, 1965, ~~no~~
11 A new ~~wells~~ WELL shall NOT be constructed outside the boundaries of a
12 designated groundwater basin ~~nor~~ AND the supply of water from existing
13 wells outside the boundaries of a designated groundwater basin SHALL
14 NOT BE increased or extended unless the user makes an application in
15 writing to the state engineer for a permit to construct a well, in a form ~~to~~
16 **be** prescribed by the state engineer.

17 (b) The applicant shall specify IN THE APPLICATION DESCRIBED IN
18 SUBSECTION (1)(a) OF THIS SECTION:

19 (I) The particular aquifer from which the water is to be diverted;

20 (II) The PROPOSED beneficial use ~~to which it is proposed to apply~~
21 **such** FOR THE water;

22 (III) The location of the proposed well;

23 (IV) The name of the owner of the land on which ~~such~~ THE
24 PROPOSED well will be located;

25 (V) The average annual amount of water applied for in acre-feet
26 per year;

27 (VI) The proposed maximum pumping rate in gallons per minute;

1 and

2 (VII) If the proposed use is agricultural irrigation, a description
3 of the land to be irrigated, ~~and the name of the owner thereof, together~~
4 ~~with such~~ OF THE LAND, AND ANY other reasonable information ~~as~~ THAT
5 the state engineer ~~may designate~~ DESIGNATES on the form prescribed.

6 (c) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION
7 (1) TO THE CONTRARY, THE REQUIREMENTS OF THIS SUBSECTION (1) DO
8 NOT APPLY TO WELLS CONSTRUCTED PURSUANT TO AN OPERATIONS
9 PERMIT ISSUED BY THE ENERGY AND CARBON MANAGEMENT COMMISSION
10 PURSUANT TO SECTION 37-90.5-106 (1)(b).

11

12 (7) In the case of dewatering of geologic formations by
13 withdrawing nontributary groundwater to facilitate or permit mining of
14 minerals:

15 (a) (I) Except for coal bed methane wells, ~~no~~ A well permit is NOT
16 required unless the nontributary groundwater being removed will be
17 beneficially used.

18 (II) Except for coal bed methane wells, ~~no~~ A well permit is NOT
19 required if the nontributary groundwater being removed to facilitate or
20 permit the mining of minerals will be used only by operators within the
21 geologic basin where the groundwater is removed to facilitate or permit
22 the mining of minerals, including:

23 (A) Injection into a properly permitted disposal well;

24 (B) Evaporation or percolation in a properly permitted pit;

25 (C) Disposal at a properly permitted commercial facility;

26 (D) Roadspreading or reuse for enhanced recovery, drilling, well
27 stimulation, well maintenance, pressure control, pump operations, dust

1 control on-site or off-site, pipeline and equipment testing, equipment
2 washing, or fire suppression;

3 (E) Discharge into state waters in accordance with the "Colorado
4 Water Quality Control Act", article 8 of title 25, ~~C.R.S.~~, and the rules
5 promulgated under that act; ~~or~~

6 (F) Evaporation at a properly permitted centralized exploration
7 and production waste management facility; OR

8 (G) GENERATING ENERGY OR OTHERWISE USING HEAT FROM
9 GROUNDWATER FOR THE MINING OF MINERALS.

10 **SECTION 5.** In Colorado Revised Statutes, 37-90.5-102, **amend**
11 (1)(a) and (1)(b); and repeal (1)(c) as follows:

12 **37-90.5-102. Legislative declaration.** (1) The general assembly
13 hereby declares that:

14 (a) The development of geothermal resources is in the public
15 interest because it enhances local economies and provides an alternative
16 to conventional fuel sources; AND

17 (b) The development of geothermal resources should be
18 undertaken in such a manner as to safeguard life, health, property, public
19 welfare, and the environment, ~~and to~~ INCLUDING WILDLIFE RESOURCES;
20 encourage the maximum economic recovery of ~~the~~ EACH resource and
21 prevent its waste; AND PROTECT ASSOCIATED CORRELATIVE RIGHTS.

22 (c) While the doctrine of prior appropriation is, and always has
23 been, expressly recognized with respect to geothermal resources, such
24 doctrine should be modified to permit the full economic development of
25 the resource.

26 **SECTION 6.** In Colorado Revised Statutes, **amend** 37-90.5-103
27 as follows:

1 **37-90.5-103. Definitions.** As used in this ~~article~~ ARTICLE 90.5,
2 unless the context otherwise requires:

3 ~~(1) "Direct use" means the utilization of geothermal resources for~~
4 ~~commercial, residential, agricultural, public facilities, or other energy~~
5 ~~needs other than the commercial production of electricity.~~

6 (1) (a) "ALLOCATED GEOTHERMAL RESOURCE" MEANS ANY
7 GEOTHERMAL RESOURCE THAT IS ASSOCIATED WITH NONTRIBUTARY
8 GROUNDWATER.

9 (b) "ALLOCATED GEOTHERMAL RESOURCE" DOES NOT INCLUDE
10 GROUNDWATER IN THE DENVER BASIN AQUIFERS.

11 (2) "COMMISSION" MEANS THE ENERGY AND CARBON
12 MANAGEMENT COMMISSION CREATED IN SECTION 34-60-104.3 (1).

13 (3) (a) "DEEP GEOTHERMAL OPERATION" MEANS ANY
14 EXPLORATION FOR OR PRODUCTION OF:

15 (I) ALLOCATED GEOTHERMAL RESOURCES; OR

16 (II) GEOTHERMAL RESOURCES THAT ARE DEEPER THAN TWO
17 THOUSAND FIVE HUNDRED FEET BELOW THE SURFACE.

18 (b) (I) "DEEP GEOTHERMAL OPERATION" INCLUDES THE
19 FOLLOWING ACTIVITIES RELATED TO THE OPERATION OF A WELL:

20 (A) CONDUCTING GEOPHYSICAL OPERATIONS;

21 (B) DRILLING TEST BORES AND MONITORING WELLS;

22 (C) SITING;

23 (D) INSTALLING AND OPERATING FLOWLINES;

24 (E) DRILLING;

25 (F) DEEPENING;

26 (G) RECOMPLETING;

27 (H) REWORKING;

1 (I) REPURPOSING; AND

2 (J) ABANDONING.

3 (II) "DEEP GEOTHERMAL OPERATION" ALSO INCLUDES ANY
4 CONSTRUCTING, SITE PREPARING, DISPOSING OF GEOTHERMAL WASTES, OR
5 RECLAIMING ACTIVITIES ASSOCIATED WITH THE ACTIVITIES DESCRIBED IN
6 SUBSECTION (3)(b)(I) OF THIS SECTION.

7 (c) "DEEP GEOTHERMAL OPERATION" DOES NOT INCLUDE:

8 (I) ANY EXPLORATION OR PRODUCTION ACTIVITIES ASSOCIATED
9 WITH THE GROUNDWATER IN THE DENVER BASIN AQUIFERS; OR

10 (II) THE USE OF ANY HEAT EXTRACTED WITH PRODUCED FLUIDS IN
11 AN OIL AND GAS OPERATION IF THE HEAT IS ONLY UTILIZED TO REDUCE
12 EMISSIONS FROM THE OPERATION IN THE SAME LOCATION AS THE WELL
13 FROM WHICH IT WAS PRODUCED AND WOULD OTHERWISE NOT BE
14 ECONOMICALLY FEASIBLE AS A STANDALONE GEOTHERMAL RESOURCE
15 PROJECT.

16 (4) "DENVER BASIN AQUIFERS" MEANS THE DAWSON, DENVER,
17 ARAPAHOE, AND LARAMIE-FOX HILLS AQUIFERS, AS DESCRIBED IN THE
18 RULES ADOPTED BY THE STATE ENGINEER PURSUANT TO SECTION
19 37-90-137 (9)(a) AND (9)(b).

20 (5) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE
21 MEANING SET FORTH IN SECTION 24-4-109 (2)(b)(II).

22 (6) "DISTRIBUTED GEOTHERMAL RESOURCE" MEANS ANY
23 GEOTHERMAL RESOURCE THAT IS NOT AN ALLOCATED GEOTHERMAL
24 RESOURCE.

25 ~~(1.5)~~ (7) "Geothermal by-products" means dissolved or entrained
26 minerals and gases that may be obtained from the material medium,
27 excluding hydrocarbon substances and carbon dioxide.

1 (2) (8) "Geothermal fluid" means naturally occurring
2 groundwater, brines, vapor, and steam associated with a geothermal
3 resource.

4 (3) (9) "Geothermal resource" means the natural heat of the earth
5 and includes:

6 (a) The energy that may be extracted from that natural heat;

7 (b) The material medium used to extract the energy from a
8 geothermal resource; and

9 (c) Geothermal by-products.

10 (4) (10) "Hot dry rock" means a geothermal resource ~~which~~ THAT
11 lacks sufficient geothermal fluid to transport commercial amounts of
12 energy to the surface and ~~which~~ THAT is not ~~in association~~ ASSOCIATED
13 with an economically useful groundwater resource.

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

16 (5) (12) "Material medium" means geothermal fluid as well as any
17 other substance used to transfer energy from a geothermal resource.

18 (13) "NONCONSUMPTIVE GEOTHERMAL OPERATION" MEANS AN
19 OPERATION USING GEOTHERMAL RESOURCES IN WHICH THE VOLUME OF
20 GEOTHERMAL FLUID EXTRACTED FROM AN AQUIFER OR FORMATION IS NO
21 MORE THAN THE VOLUME OF THE GEOTHERMAL FLUID REINJECTED IN THE
22 SAME AQUIFER OR FORMATION OVER A REASONABLE TIME FRAME AND
23 DISTANCE.

24 (14) "NONTRIBUTARY GROUNDWATER" HAS THE MEANING SET
25 FORTH IN SECTION 37-90-103 (10.5).

26 (15) "SHALLOW GEOTHERMAL OPERATION" MEANS ANY
27 GEOTHERMAL OPERATION THAT IS NOT A DEEP GEOTHERMAL OPERATION.

1 (16) "WATER RIGHT" HAS THE MEANING SET FORTH IN SECTION
2 37-92-103 (12).

3 **SECTION 7.** In Colorado Revised Statutes, 37-90.5-104, **amend**
4 (2) and (4); and **add (5)** as follows:

5 **37-90.5-104. Ownership declaration.** (2) The property right to
6 a hot dry rock resource OR A GEOTHERMAL RESOURCE ASSOCIATED WITH
7 NONTRIBUTARY GROUNDWATER is an incident of the ownership of the
8 overlying surface, unless THE PROPERTY RIGHT IS severed, reserved, or
9 transferred with the subsurface estate expressly.

10 (4) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
11 CONTRARY, nothing in this section: ~~shall be~~

12 (a) ~~deemed to derogate~~ DEROGATES the rights of a landowner to
13 nontributary groundwater; OR

14 (b) AFFECTS ANY OWNERSHIP OR RIGHTS TO A GEOTHERMAL
15 RESOURCE ASSOCIATED WITH NONTRIBUTARY GROUNDWATER, WHICH
16 RESOURCE IS ACQUIRED BEFORE JULY 1, 2023.

17 (5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
18 CONTRARY, GEOTHERMAL RESOURCES ASSOCIATED WITH NONTRIBUTARY
19 GROUNDWATER SHALL NOT BE TRANSFERRED SEPARATELY FROM THE
20 NONTRIBUTARY GROUNDWATER.

21 **SECTION 8.** In Colorado Revised Statutes, **repeal and reenact,**
22 **with amendments,** 37-90.5-106 as follows:

23 **37-90.5-106. Regulation of geothermal resource operations -**
24 **reinjection - fees - rules.** (1) (a) (I) THE STATE ENGINEER HAS THE
25 EXCLUSIVE AUTHORITY TO REGULATE SHALLOW GEOTHERMAL
26 OPERATIONS AND MAY ADOPT RULES THAT REGULATE SHALLOW
27 GEOTHERMAL OPERATIONS.

1 (II) PRIOR TO CONSTRUCTING A TEST BORE, MONITORING WELL, OR
2 PRODUCTION WELL OR REWORKING AN EXISTING WELL ASSOCIATED WITH
3 SHALLOW GEOTHERMAL OPERATIONS, AN OPERATIONS PERMIT MUST BE
4 OBTAINED FROM THE STATE ENGINEER.

5 (III) THE STATE ENGINEER MAY ADOPT RULES FOR THE
6 ASSESSMENT OF REASONABLE FEES FOR THE PROCESSING AND ISSUANCE
7 OF A PERMIT PURSUANT TO SUBSECTION (1)(a)(II) OF THIS SECTION.

8 (b) (I) THE COMMISSION HAS THE EXCLUSIVE AUTHORITY TO
9 REGULATE DEEP GEOTHERMAL OPERATIONS AND MAY ADOPT RULES THAT
10 REGULATE DEEP GEOTHERMAL OPERATIONS.

11 (II) PRIOR TO CONSTRUCTING A WELL ASSOCIATED WITH DEEP
12 GEOTHERMAL OPERATIONS, THE OWNER OR OPERATOR OF THE WELL SHALL
13 OBTAIN AN OPERATIONS PERMIT FROM THE COMMISSION.

14 (III) IN ISSUING AN OPERATIONS PERMIT PURSUANT TO SUBSECTION
15 (1)(b)(II) OF THIS SECTION, THE COMMISSION MAY ALLOW FOR THE USE OF
16 GROUNDWATER AS PART OF NONCONSUMPTIVE GEOTHERMAL OPERATIONS
17 AS A MATERIAL MEDIUM FOR ALLOCATED GEOTHERMAL RESOURCES THAT
18 HAVE BEEN DETERMINED TO BE NONTRIBUTARY PURSUANT TO SECTION
19 37-90.5-107 (1)(b).

20 (IV) THE COMMISSION MAY ADOPT RULES FOR THE ASSESSMENT OF
21 REASONABLE FEES FOR THE PROCESSING AND ISSUANCE OF A PERMIT
22 PURSUANT TO SUBSECTION (1)(b)(II) OF THIS SECTION.

23 (2) (a) IN EXERCISING ITS REGULATORY AUTHORITY PURSUANT TO
24 SUBSECTION (1)(b) OF THIS SECTION, THE COMMISSION SHALL ADOPT
25 RULES THAT:

26 (I) PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE, INCLUDING
27 THE PROTECTION OF THE ENVIRONMENT AND WILDLIFE RESOURCES; AND

1 (II) AVOID, MINIMIZE, OR MITIGATE ADVERSE IMPACTS ON
2 DISPROPORTIONATELY IMPACTED COMMUNITIES.

3 (b) (I) THE COMMISSION SHALL NOT ISSUE AN OPERATIONS PERMIT
4 PURSUANT TO SUBSECTION (1)(b)(II) OF THIS SECTION UNLESS THE
5 APPLICANT PROVIDES EVIDENCE TO THE COMMISSION THAT:

6 (A) THE APPLICANT HAS FILED AN APPLICATION WITH THE LOCAL
7 GOVERNMENT WITH JURISDICTION TO APPROVE THE SITING OF THE
8 PROPOSED DEEP GEOTHERMAL OPERATIONS, INCLUDING THE LOCAL
9 GOVERNMENT'S DISPOSITION OF THE APPLICATION; OR

10 (B) THE LOCAL GOVERNMENT WITH JURISDICTION TO APPROVE THE
11 SITING OF THE PROPOSED DEEP GEOTHERMAL OPERATIONS DOES NOT
12 REGULATE THE SITING OF DEEP GEOTHERMAL OPERATIONS.

13 (II) UPON REQUEST BY A LOCAL GOVERNMENT, THE COMMISSION
14 SHALL PROVIDE TECHNICAL SUPPORT TO THE LOCAL GOVERNMENT
15 CONCERNING THE IMPLEMENTATION OF THE COMMISSION'S RULES
16 PURSUANT TO THIS SECTION OR THE IMPLEMENTATION BY THE LOCAL
17 GOVERNMENT OF THE COMMISSION'S RULES.

18 (3) WHERE THE MAINTENANCE OF UNDERGROUND PRESSURES, THE
19 PREVENTION OF SUBSIDENCE, OR THE DISPOSAL OF BRINES IS NECESSARY,
20 REINJECTION OF GEOTHERMAL FLUID MAY BE REQUIRED BY THE STATE
21 ENGINEER OR THE COMMISSION.

22 (4) THE COMMISSION SHALL TRANSFER ALL FEES COLLECTED FOR
23 PERMITS ISSUED BY THE COMMISSION PURSUANT TO SUBSECTION
24 (1)(b)(IV) OF THIS SECTION TO THE STATE TREASURER, WHO SHALL CREDIT
25 THE FEES TO THE ENERGY AND CARBON MANAGEMENT CASH FUND
26 CREATED IN SECTION 34-60-122 (5).

27 (5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE

1 CONTRARY, NOTHING IN THIS SECTION AFFECTS THE OWNERSHIP,
2 ADMINISTRATION, OR DETERMINATION OF WATER RIGHTS OR RIGHTS TO
3 NONTRIBUTARY GROUNDWATER.

4 (6) (a) ON AND AFTER JULY 1, 2023, EXCEPT AS SET FORTH IN
5 SUBSECTION (6)(b)(II) OF THIS SECTION, THE COMMISSION IS RESPONSIBLE
6 FOR ADMINISTERING AND ENFORCING ANY PERMITS ISSUED BY THE STATE
7 ENGINEER PURSUANT TO THIS SECTION THAT COVER DEEP GEOTHERMAL
8 OPERATIONS.

9 (b) THE _____ POWERS, DUTIES, FUNCTIONS, AND OBLIGATIONS
10 CONCERNING PERMITS ISSUED BY THE STATE ENGINEER PURSUANT TO THIS
11 SECTION THAT COVER DEEP GEOTHERMAL OPERATIONS ARE TRANSFERRED,
12 EFFECTIVE JULY 1, 2023, TO THE COMMISSION. THE STATE ENGINEER
13 RETAINS ANY _____ POWERS, DUTIES, FUNCTIONS, AND OBLIGATIONS
14 NECESSARY TO ISSUE, ADMINISTER, AND ENFORCE ANY PERMITS THAT
15 COVER:

16 (I) SHALLOW GEOTHERMAL OPERATIONS; AND

17 (II) THE USE OF GEOTHERMAL FLUID IN DEEP GEOTHERMAL
18 OPERATIONS PURSUANT TO SECTION 37-90.5-107, EXCEPT FOR
19 NONCONSUMPTIVE GEOTHERMAL OPERATIONS.

20 (c) THE RULES OF THE STATE ENGINEER PERTAINING TO THE _____
21 POWERS, DUTIES, FUNCTIONS, AND OBLIGATIONS TRANSFERRED TO THE
22 COMMISSION PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION CONTINUE
23 IN EFFECT AND APPLY TO THE COMMISSION UNTIL THE RULES ARE
24 REPLACED BY RULES ADOPTED BY THE COMMISSION PURSUANT TO
25 SUBSECTION (1)(b)(I) OF THIS SECTION.

26 (d) THE COMMISSION AND THE STATE ENGINEER SHALL ENTER INTO
27 MEMORANDA OF UNDERSTANDING, INTERAGENCY AGREEMENTS, OR BOTH,

1 AS APPROPRIATE, TO PROVIDE FOR THE TIMELY TRANSFER OF THE _____
2 POWERS, DUTIES, FUNCTIONS, AND OBLIGATIONS TRANSFERRED TO THE
3 COMMISSION PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION.

4 **SECTION 9.** In Colorado Revised Statutes, **amend** 37-90.5-107
5 as follows:

6 **37-90.5-107. Permits for the use of geothermal resources -**
7 **rules.** (1) (a) AFTER RECEIPT OF THE NECESSARY APPLICATION, THE STATE
8 ENGINEER SHALL ISSUE A USE PERMIT TO USE DISTRIBUTED GEOTHERMAL
9 RESOURCES CONSISTENT WITH THE REQUIREMENTS DESCRIBED IN SECTION
10 37-90-137.

11 (b) AFTER RECEIPT OF THE NECESSARY APPLICATION, THE STATE
12 ENGINEER SHALL ISSUE A USE PERMIT TO USE ALLOCATED GEOTHERMAL
13 RESOURCES CONSISTENT WITH THE REQUIREMENTS DESCRIBED IN SECTION
14 37-90-137 AND AFTER A DETERMINATION THAT ANY ASSOCIATED
15 GEOTHERMAL FLUID IS NONTRIBUTARY GROUNDWATER. FOR THE
16 PURPOSES OF THIS SECTION, THIS DETERMINATION MUST RELY ON THE
17 DEFINITION OF NONTRIBUTARY GROUNDWATER PURSUANT TO SECTION
18 37-90-103 (10.5) AS DETERMINED BY:

19 (I) A DECREE OF THE WATER COURT;

20 (II) A PERMIT TO CONSTRUCT A WELL TO WITHDRAW
21 NONTRIBUTARY GROUNDWATER ISSUED BY THE STATE ENGINEER
22 PURSUANT TO SECTION 37-90-137;

23 (III) RULES ADOPTED BY THE STATE ENGINEER PURSUANT TO
24 SECTION 37-90-137 (7)(c) FOR PRODUCED WATER THAT APPLY TO USE
25 PERMITS THAT ARE LIMITED TO THE USE OF WATER AS A MATERIAL
26 MEDIUM AS THE ONLY BENEFICIAL USE OF WATER; OR

27 (IV) RULES ADOPTED BY THE STATE ENGINEER PURSUANT TO

1 SUBSECTION (6)(a) OF THIS SECTION.

2 ~~(1) (2) The use of water as a material medium is recognized as a~~
3 ~~beneficial use. of such water. All applications to appropriate groundwater~~
4 ~~in order to utilize its geothermal energy shall be considered an application~~
5 ~~to appropriate geothermal fluid.~~

6 ~~(2) (3) (a) Prior to the production of geothermal fluid from a well,~~
7 ~~other than for flow-testing purposes, a permit to appropriate shall be~~
8 ~~obtained from the state engineer. This requirement shall not apply to~~
9 ~~Nondiversionary utilization methods DO NOT REQUIRE A USE PERMIT~~
10 ~~PURSUANT TO SUBSECTION (1) OF THIS SECTION BUT ARE SUBJECT TO THE~~
11 ~~RULES ADOPTED PURSUANT TO SECTION 37-90.5-106 (1)(a)(I) AND~~
12 ~~(1)(b)(I); however, such exemption shall not prevent~~ NOTHING IN THIS
13 SUBSECTION (3)(a) PREVENTS the developer of a geothermal resource
14 from establishing a ~~property~~ WATER right based on ~~his~~ THE DEVELOPER'S
15 actual utilization.

16 (b) THE REQUIREMENT TO ISSUE A USE PERMIT PURSUANT TO
17 SUBSECTION (1)(b) OF THIS SECTION DOES NOT APPLY TO OPERATIONS
18 THAT ARE SOLELY NONCONSUMPTIVE GEOTHERMAL OPERATIONS USING
19 ALLOCATED GEOTHERMAL RESOURCES.

20 ~~(b) (c) The USE permit to appropriate required by this subsection~~
21 ~~(2) ISSUED PURSUANT TO SUBSECTION (1) OF THIS SECTION may be waived~~
22 ~~by the state engineer for a diversionary utilization method which is~~
23 ~~nonconsumptive and which will~~ THAT DOES not impair valid, prior water
24 rights.

25 ~~(c) (d) The USE permit to appropriate required by this subsection~~
26 ~~(2) ISSUED PURSUANT TO SUBSECTION (1) OF THIS SECTION may allow for~~
27 nonconsumptive secondary uses of geothermal fluid, including the

1 recovery of geothermal by-products, and may allow for consumptive
2 secondary uses of geothermal fluid, including sale, which will DO not
3 impair valid, prior water rights.

4 (e) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (3) TO
5 THE CONTRARY, A WATER RIGHT TO USE A DISTRIBUTED GEOTHERMAL
6 RESOURCE ASSOCIATED WITH TRIBUTARY GROUNDWATER MAY BE
7 OBTAINED ONLY IN WATER COURT AND IS SUBJECT TO ARTICLE 92 OF THIS
8 TITLE 37. THE BENEFICIAL USE OF ENERGY EXTRACTED FROM
9 GEOTHERMAL FLUID ASSOCIATED WITH A DISTRIBUTED GEOTHERMAL
10 RESOURCE IS THE BASIS, MEASURE, AND LIMIT OF THE WATER RIGHT, AND
11 EFFICIENT APPLICATION METHODS MUST BE USED FOR THE USE OF ENERGY
12 TO QUALIFY AS A BENEFICIAL USE.

13 ~~(3) The state engineer shall grant a permit to appropriate~~
14 ~~geothermal fluids within one hundred eighty-two days after the filing of~~
15 ~~an application upon a finding that:~~

16 (a) ~~The proposed appropriation will not materially injure a valid,~~
17 ~~prior water or geothermal right;~~

18 (b) ~~The applicant has acquired or purchased an option to acquire~~
19 ~~adequate water rights to offset any material injury; or~~

20 (c) ~~The applicant has obtained and offered to provide to any~~
21 ~~affected party an equivalent amount of replacement water of comparable~~
22 ~~quality.~~

23 (4) ~~The appropriation of a geothermal fluid that is nontributary~~
24 ~~groundwater shall be in accordance with section 37-90-137 (4).~~

25 (5) ~~The essence of the water right granted by a permit to~~
26 ~~appropriate geothermal fluid is the ability to extract geothermal energy~~
27 ~~from such fluid. The beneficial use of such energy is the basis, measure,~~

1 ~~and limit of the right and requires that efficient application methods be~~
2 ~~utilized.~~

3 (4) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
4 CONTRARY, SECTION 37-90-137 (4) APPLIES TO ANY CONSUMPTIVE USE OF
5 ALLOCATED GEOTHERMAL RESOURCES.

6 ~~(6)~~ (5) The provisions of articles 90 and 92 of this ~~title~~ TITLE 37
7 relating to notice, hearings, appeals, and the administration of water rights
8 ~~shall govern~~ APPLY TO all ~~matters arising under this section~~ PERMITTING
9 ACTIONS BY THE STATE ENGINEER PURSUANT TO THIS SECTION.

10 ~~(7) Any application to appropriate a geothermal fluid pending on~~
11 ~~June 10, 1983, shall be processed and evaluated under existing law prior~~
12 ~~to June 10, 1983.~~

13 (8) For purposes of this section, "materially injure" and "material
14 injury" ~~include any diminution or alteration in the quantity, temperature,~~
15 ~~or quality of any valid, prior water or geothermal right, except that, with~~
16 ~~regard to a geothermal right, "materially injure" and "material injury"~~
17 ~~include a diminution or alteration in the temperature of water only if the~~
18 ~~diminution or alteration adversely affects the valid, prior geothermal~~
19 ~~right.~~

20 (6) (a) (I) THE STATE ENGINEER MAY ADOPT RULES FOR THE
21 ADMINISTRATION OF THIS SECTION, INCLUDING RULES AND PROCEDURES
22 FOR THE DETERMINATIONS DESCRIBED IN SUBSECTION (1)(b) OF THIS
23 SECTION.

24 (II) THE STATE ENGINEER'S RULE-MAKING AUTHORITY PURSUANT
25 TO SUBSECTION (6)(a)(I) OF THIS SECTION INCLUDES THE AUTHORITY TO
26 ADOPT RULES:

27 (A) PURSUANT TO WHICH GEOTHERMAL FLUID, IN WHOLE OR IN

1 PART, IS DETERMINED TO BE NONTRIBUTARY PURSUANT TO SUBSECTION
2 (1)(b) OF THIS SECTION; AND

3 (B) THAT PROVIDE RULE-MAKING AND ADJUDICATORY
4 PROCEDURES FOR THE DETERMINATIONS DESCRIBED IN SUBSECTION
5 (6)(a)(II)(A) OF THIS SECTION THAT ARE MADE AFTER THE INITIAL
6 RULE-MAKING CONDUCTED PURSUANT TO SUBSECTION (1)(b) OF THIS
7 SECTION.

8 (b) IN ANY RULE-MAKING PROCEEDING CONDUCTED PURSUANT TO
9 THIS SECTION, ANY INTERESTED PERSON HAS THE RIGHT OF
10 CROSS-EXAMINATION. JUDICIAL REVIEW OF ANY RULES ADOPTED
11 PURSUANT TO THIS SECTION AND ANY NONTRIBUTARY GROUNDWATER
12 DETERMINATIONS MADE PURSUANT TO SUBSECTION (1)(b) OF THIS
13 SECTION MUST BE IN ACCORDANCE WITH SECTION 24-4-106; EXCEPT THAT
14 VENUE MUST BE EXCLUSIVELY IN THE WATER COURT FOR THE WATER
15 DIVISION OR DIVISIONS WHERE THE GROUNDWATER THAT IS THE SUBJECT
16 OF ANY APPLICABLE RULE OR DETERMINATION IS LOCATED.

17 (c) IN ANY JUDICIAL ACTION SEEKING TO CURTAIL OR DECLARE
18 UNLAWFUL THE WITHDRAWAL, USE, OR DISPOSAL OF GROUNDWATER
19 PURSUANT TO THIS SECTION, THERE IS A REBUTTABLE PRESUMPTION THAT
20 ANY DETERMINATION MADE BY THE STATE ENGINEER PURSUANT TO
21 SUBSECTION (1)(b) OF THIS SECTION IS VALID.

22 (d) ANY RULES ADOPTED PURSUANT TO THIS SECTION MUST NOT
23 CONFLICT WITH EXISTING LAWS AND DO NOT AFFECT THE VALIDITY OF
24 GROUNDWATER WELL PERMITS EXISTING PRIOR TO THE ADOPTION OF THE
25 RULES.

26 **SECTION 10.** In Colorado Revised Statutes, 37-90.5-108,
27 **amend** (1) introductory portion, (1)(b), and (1)(c); and **add** (3) as

1 follows:

2 **37-90.5-108. Geothermal management districts.** (1) The state
3 engineer may adopt procedures ~~under which~~ THAT ESTABLISH geothermal
4 management districts ~~may be established~~ APPLICABLE TO DISTRIBUTED
5 GEOTHERMAL RESOURCES. In ~~such~~ GEOTHERMAL MANAGEMENT districts,
6 the state engineer ~~has the authority to~~ MAY:

7 (b) Control the quantity of geothermal fluid extracted from
8 DISTRIBUTED geothermal resources by ~~such~~ methods and procedures ~~as he~~
9 THAT THE STATE ENGINEER deems appropriate, including requirements to
10 reinject; AND

11 (c) Adopt a comprehensive plan for the most efficient use of
12 DISTRIBUTED geothermal resources, guided by the principles of equitable
13 apportionment, maximum economic recovery, and prevention of waste.

14 (3) THE STATE ENGINEER SHALL NOTIFY THE COMMISSION OF ANY
15 APPLICATION FOR A GEOTHERMAL MANAGEMENT DISTRICT THAT IS
16 ANTICIPATED TO AFFECT DEEP GEOTHERMAL OPERATIONS.

17 **SECTION 11.** In Colorado Revised Statutes, **add** 37-90.5-109,
18 37-90.5-110, and 37-90.5-111 as follows:

19 **37-90.5-109. Geothermal resource units - rules.** (1) THE
20 COMMISSION MAY ADOPT PROCEDURES BY RULE TO ESTABLISH
21 GEOTHERMAL RESOURCE UNITS APPLICABLE TO ALLOCATED GEOTHERMAL
22 RESOURCES. IN ITS REGULATION OF GEOTHERMAL RESOURCE UNITS, THE
23 COMMISSION MAY:

24 (a) CONTROL WELL-SPACING AND PRODUCTION RATES;

25 (b) CONTROL THE QUANTITY OF GEOTHERMAL FLUID EXTRACTED
26 FROM ALLOCATED GEOTHERMAL RESOURCES BY METHODS AND
27 PROCEDURES THAT THE COMMISSION DEEMS APPROPRIATE, INCLUDING

1 REQUIREMENTS TO REINJECT;

2 (c) ADOPT A COMPREHENSIVE UNIT PLAN THAT ENCOURAGES
3 SUSTAINABLE USE OF ALLOCATED GEOTHERMAL RESOURCES; AND

4 (d) REQUIRE EQUITABLE COMPENSATION TO ANY IMPACTED OWNER
5 OF AN ALLOCATED GEOTHERMAL RESOURCE.

6 (2) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
7 CONTRARY, NOTHING IN THIS SECTION AFFECTS THE OWNERSHIP,
8 ADMINISTRATION, AGGREGATION, OR DETERMINATION OF WATER RIGHTS.

9 **37-90.5-110. Geothermal resource studies - report - repeal.**

10 (1)(a) THE COMMISSION SHALL FUND A TECHNICAL STUDY OF THE STATE'S
11 GEOTHERMAL RESOURCES THAT INCLUDES:

12 (I) A RESOURCE EVALUATION;

13 (II) A DESCRIPTION OF POTENTIAL APPLICATIONS OF EMERGING
14 TECHNOLOGIES;

15 (III) AN EVALUATION OF POTENTIAL IMPACTS, INCLUDING
16 ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS, AND A CONSIDERATION
17 OF:

18 (A) POTENTIAL IMPACTS TO OZONE NONATTAINMENT AREAS FROM
19 THE DEVELOPMENT OF GEOTHERMAL RESOURCES; AND

20 (B) POTENTIAL OZONE MITIGATION MEASURES.

21 (IV) AN ECONOMIC ANALYSIS; AND

22 (V) A DESCRIPTION OF ANY POTENTIAL OPPORTUNITIES TO UTILIZE
23 EXISTING INFRASTRUCTURE.

24 (b) ON OR BEFORE JULY 1, 2024, THE COMMISSION SHALL POST THE
25 RESULTS OF THE STUDY ON THE COMMISSION'S WEBSITE.

26 (2) (a) THE COMMISSION AND THE STATE ENGINEER SHALL
27 COLLABORATE ON A STUDY THAT EVALUATES THE STATE REGULATORY

1 STRUCTURE FOR GEOTHERMAL RESOURCES IN THE STATE AND WHETHER
2 ANY CHANGES TO STATE LAW OR RULES ARE NECESSARY.

3 (b) ON OR BEFORE DECEMBER 31, 2024, THE COMMISSION SHALL:

4 (I) DRAFT A REPORT DESCRIBING THE RESULTS OF THE STUDY AND
5 POST THE REPORT ON THE COMMISSION'S WEBSITE; AND

6 (II) SUBMIT THE REPORT TO THE GENERAL ASSEMBLY.

7 (3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

8 **37-90.5-111. Coordination between the commission and the
9 state engineer.** (1) WHEN AN OPERATIONS PERMIT IS ISSUED BY THE

10 COMMISSION PURSUANT TO SECTION 37-90.5-106 (1)(b)(II) AND A USE
11 PERMIT IS ISSUED BY THE STATE ENGINEER PURSUANT TO SECTION
12 37-90.5-107 (1), THE COMMISSION AND THE STATE ENGINEER SHALL
13 COORDINATE TO:

14 (a) ENSURE THAT ANY APPLICABLE REQUIREMENTS OF THE
15 COMMISSION AND THE STATE ENGINEER ARE MET; AND

16 (b) DETERMINE WHETHER AN ACCOUNTING FOR THE USE AND
17 REINJECTION OF GEOTHERMAL FLUID PURSUANT TO THE APPLICABLE
18 PERMIT MAY BE SUBMITTED TO ONLY THE COMMISSION OR ONLY THE
19 STATE ENGINEER.

20 **SECTION 12.** In Colorado Revised Statutes, 34-64-102, **amend**
21 the introductory portion and (1); and **add** (1.3), (1.5), (3.5), and (3.7) as
22 follows:

23 **34-64-102. Definitions.** As used in this ~~article~~ ARTICLE 64, unless
24 the context otherwise requires:

25 (1) "Commission" means the ~~oil and gas conservation~~ ENERGY
26 AND CARBON MANAGEMENT ~~commission of the state of Colorado~~
27 CREATED IN SECTION 34-60-104.3 (1).

1 (1.3) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY
2 COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

3 (1.5) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE
4 MEANING SET FORTH IN SECTION 24-4-109 (2)(b)(II).

5 (3.5) (a) "UNDERGROUND NATURAL GAS STORAGE FACILITY"
6 MEANS A FACILITY THAT STORES NATURAL GAS IN AN UNDERGROUND
7 FACILITY, INCLUDING A DEPLETED HYDROCARBON RESERVOIR, AN AQUIFER
8 RESERVOIR, OR A SOLUTION-MINED SALT CAVERN RESERVOIR.

9 (b) "UNDERGROUND NATURAL GAS STORAGE FACILITY" INCLUDES
10 ANY OF THE FOLLOWING EQUIPMENT ASSOCIATED WITH THE STORAGE OF
11 NATURAL GAS IN AN UNDERGROUND FACILITY:

12 (I) INJECTION, WITHDRAWAL, MONITORING, AND OBSERVATION
13 WELLS;

14 (II) WELLBORES AND DOWNHOLE COMPONENTS;

15 (III) WELLHEADS AND ASSOCIATED WELLHEAD PIPING;

16 (IV) WING-VALVE ASSEMBLIES THAT ISOLATE THE WELLHEAD
17 FROM CONNECTED PIPING BEYOND THE WING-VALVE ASSEMBLIES; AND

18 (V) ANY OTHER EQUIPMENT, FACILITY, RIGHT-OF-WAY, OR
19 BUILDING USED IN THE STORAGE OF NATURAL GAS IN AN UNDERGROUND
20 FACILITY.

21 (c) "UNDERGROUND NATURAL GAS STORAGE FACILITY" DOES NOT
22 INCLUDE ANY PIPELINE FACILITIES OR EQUIPMENT SUBJECT TO REGULATION
23 BY THE PUBLIC UTILITIES COMMISSION.

24 (3.7) "UNDERGROUND NATURAL GAS STORAGE FACILITY IMPACTS"
25 MEANS, FOR AN UNDERGROUND NATURAL GAS STORAGE FACILITY
26 PROPOSED TO BE SITED IN AN AREA THAT WOULD AFFECT A
27 DISPROPORTIONATELY IMPACTED COMMUNITY, THE EFFECT ON PUBLIC

1 HEALTH AND THE ENVIRONMENT, INCLUDING AIR, WATER, SOIL, AND THE
2 CLIMATE, CAUSED BY THE INCREMENTAL IMPACTS THAT A PROPOSED NEW
3 UNDERGROUND NATURAL GAS STORAGE FACILITY WOULD HAVE WHEN
4 ADDED TO THE IMPACTS FROM DEVELOPMENT IN THE AFFECTED AREA.

5 SECTION 13. In Colorado Revised Statutes, add 34-64-108 as
6 follows:

7 **34-64-108. Regulation of intrastate underground natural gas**
8 **storage facilities - fees - rules.** (1) (a) NOTWITHSTANDING SECTION
9 40-2-115, THE COMMISSION HAS THE EXCLUSIVE AUTHORITY TO REGULATE
10 ALL INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITIES IN
11 THE STATE. THE COMMISSION MAY ADOPT RULES FOR THE PERMITTING AND
12 REGULATION OF INTRASTATE UNDERGROUND NATURAL GAS STORAGE
13 FACILITIES.

14 (b) THE COMMISSION MAY SUBMIT A CERTIFICATION TO, OR ENTER
15 INTO AN AGREEMENT WITH, THE UNITED STATES SECRETARY OF
16 TRANSPORTATION UNDER 49 U.S.C. SECS. 60105 AND 60106, AS
17 AMENDED, TO AUTHORIZE THE COMMISSION TO ENFORCE THE RULES OF
18 THE UNITED STATES DEPARTMENT OF TRANSPORTATION CONCERNING
19 INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITIES
20 PROMULGATED UNDER 49 U.S.C. SEC. 60101 ET SEQ., AS AMENDED.

21 (c) IF THE COMMISSION SUBMITS A CERTIFICATION TO THE UNITED
22 STATES SECRETARY OF TRANSPORTATION OR ENTERS INTO AN AGREEMENT
23 WITH THE UNITED STATES SECRETARY OF TRANSPORTATION PURSUANT TO
24 SUBSECTION (1)(b) OF THIS SECTION, ANY RULES ADOPTED BY THE
25 COMMISSION PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION MUST BE
26 AT LEAST AS STRINGENT AS THE APPLICABLE FEDERAL REQUIREMENTS.

27 (2) IN EXERCISING ITS REGULATORY AUTHORITY PURSUANT TO

1 SUBSECTION (1) OF THIS SECTION, THE COMMISSION:

2 (a) SHALL REGULATE INTRASTATE UNDERGROUND NATURAL GAS
3 STORAGE FACILITIES IN A MANNER THAT PROTECTS PUBLIC HEALTH,
4 SAFETY, AND WELFARE, INCLUDING THE PROTECTION OF THE
5 ENVIRONMENT AND WILDLIFE RESOURCES;

6 [REDACTED]
7 (b) MAY ASSESS AND COLLECT REGULATORY AND PERMITTING
8 FEES FROM THE OPERATORS OF INTRASTATE UNDERGROUND NATURAL GAS
9 STORAGE FACILITIES IN AN AMOUNT AND FREQUENCY DETERMINED BY THE
10 COMMISSION BY RULE;

11 (c) SHALL, IF AN UNDERGROUND NATURAL GAS STORAGE FACILITY
12 IS PROPOSED TO BE SITED IN AN AREA THAT WOULD AFFECT A
13 DISPROPORTIONATELY IMPACTED COMMUNITY, EVALUATE AND ADDRESS
14 ANY UNDERGROUND NATURAL GAS STORAGE FACILITY IMPACTS FROM THE
15 PROPOSAL TO ENSURE THAT THE TERMS AND CONDITIONS OF ANY PERMIT
16 ISSUED UNDER THIS SECTION ARE SUFFICIENT TO ENSURE THAT ANY
17 UNDERGROUND NATURAL GAS STORAGE FACILITY IMPACTS ARE AVOIDED,
18 MINIMIZED TO THE EXTENT PRACTICABLE, OR, TO THE EXTENT THAT ANY
19 UNDERGROUND NATURAL GAS STORAGE FACILITY IMPACTS REMAIN, THE
20 REMAINING UNDERGROUND NATURAL GAS STORAGE FACILITY IMPACTS
21 ARE MITIGATED; AND

22 (d) SHALL, IF ANY UNDERGROUND NATURAL GAS STORAGE
23 FACILITY IMPACTS ARE EVALUATED AND ADDRESSED PURSUANT TO
24 SUBSECTION (2)(c) OF THIS SECTION, PROVIDE A PLAIN LANGUAGE
25 SUMMARY OF HOW THE UNDERGROUND NATURAL GAS STORAGE FACILITY
26 IMPACTS ARE AVOIDED, MINIMIZED IF NOT AVOIDED, MITIGATED IF NOT
27 MINIMIZED, AND ANY UNDERGROUND NATURAL GAS STORAGE FACILITY

1 IMPACTS THAT CANNOT BE AVOIDED, MINIMIZED, OR MITIGATED.

2 (3) AN OPERATOR OF AN INTRASTATE UNDERGROUND NATURAL
3 GAS STORAGE FACILITY SHALL NOT CONSTRUCT A NEW FACILITY UNLESS
4 THE OPERATOR PROVIDES EVIDENCE TO THE COMMISSION THAT:

5 (a) THE OPERATOR HAS FILED AN APPLICATION WITH THE LOCAL
6 GOVERNMENT WITH JURISDICTION TO APPROVE THE SITING OF THE
7 PROPOSED INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITY,
8 INCLUDING THE LOCAL GOVERNMENT'S DISPOSITION OF THE APPLICATION;
9 OR

10 (b) THE LOCAL GOVERNMENT WITH JURISDICTION TO APPROVE THE
11 SITING OF THE PROPOSED INTRASTATE UNDERGROUND NATURAL GAS
12 STORAGE FACILITY DOES NOT REGULATE THE SITING OF SUCH FACILITIES.

13 (4) THE COMMISSION SHALL TRANSFER ALL FEES COLLECTED
14 UNDER THIS SECTION TO THE STATE TREASURER, WHO SHALL CREDIT THE
15 FEES TO THE ENERGY AND CARBON MANAGEMENT CASH FUND CREATED IN
16 SECTION 34-60-122 (5).

17 (5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
18 CONTRARY, NOTHING IN THIS SECTION ESTABLISHES, ALTERS, IMPAIRS, OR
19 NEGATES THE ABILITY OF A LOCAL GOVERNMENT TO REGULATE LAND USE
20 RELATED TO INTRASTATE UNDERGROUND NATURAL GAS STORAGE
21 FACILITIES.

22 **SECTION 14.** In Colorado Revised Statutes, 40-2-115, **amend**
23 (1)(d)(II)(C) and (2)(b); and **add** (1)(f) and (2)(c) as follows:

24 **40-2-115. Cooperation with other states and with the United**
25 **States - rules - definitions.** (1) (d) (II) The commission's gas pipeline
26 safety rules must address, and may be more stringent than required by
27 federal standards with regard to:

1 (C) Mapping of all pipelines within the commission's jurisdiction.
2 For this purpose, the commission may incorporate information from any
3 existing flowline maps or other maps prepared by the ~~oil and gas~~
4 ~~conservation~~ ENERGY AND CARBON MANAGEMENT commission CREATED
5 IN SECTION 34-60-104.3 (1) and showing pipelines subject to the
6 jurisdiction of that agency. The public utilities commission's mapping
7 requirements for pipelines within its jurisdiction must incorporate the
8 same standards for confidentiality, security, and public access and
9 limitations on the scale of publicly available images as adopted by the ~~oil~~
10 ~~and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission in
11 2 CCR 404-1, rule 1101.e.

12 (f) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
13 CONTRARY, THE COMMISSION SHALL NOT ADOPT ANY RULES THAT
14 REGULATE UNDERGROUND NATURAL GAS STORAGE FACILITIES.

15 (2) As used in this section:

16 (b) "Transportation of gas" or "transporting gas" means the
17 gathering, transmission, or distribution of gas by pipeline, as defined in
18 49 CFR 192.3. ~~or its storage.~~

19 (c) "UNDERGROUND NATURAL GAS STORAGE FACILITY" HAS THE
20 MEANING SET FORTH IN SECTION 34-64-102 (3.5).

21 **SECTION 15.** In Colorado Revised Statutes, 25-15-101, **amend**
22 the introductory portion and (6)(b)(IX) as follows:

23 **25-15-101. Definitions.** As used in this ~~article~~ ARTICLE 15, unless
24 the context otherwise requires:

25 (6) (b) "Hazardous waste" does not include:

26 (IX) Waste from oil and gas ~~activities~~ OPERATIONS, AS DEFINED IN
27 SECTION 34-60-103 (6.5), OR FROM DEEP GEOTHERMAL OPERATIONS, AS

1 DEFINED IN SECTION 37-90.5-103 (3), including, but not limited to, drilling
2 fluids, produced water, and other wastes associated with the exploration,
3 development, or production of crude oil, natural gas, or geothermal
4 ~~energy, which~~ RESOURCES, THAT is disposed of in accordance with the
5 requirements of the ~~oil and gas~~ ENERGY AND CARBON MANAGEMENT
6 commission pursuant to ARTICLE 90.5 OF TITLE 37 AND article 60 of title
7 34, ~~C.R.S.~~ AS APPLICABLE.

8 **SECTION 16.** In Colorado Revised Statutes, 29-20-104, **amend**
9 (1)(h) introductory portion, (1)(h)(II), and (1)(h)(VI) as follows:

10 **29-20-104. Powers of local governments - definition.**

11 (1) Except as expressly provided in section 29-20-104.5, the power and
12 authority granted by this section does not limit any power or authority
13 presently exercised or previously granted. Each local government within
14 its respective jurisdiction has the authority to plan for and regulate the use
15 of land by:

16 (h) Regulating the surface impacts of oil and gas operations, AS
17 DEFINED IN SECTION 34-60-103 (6.5), DEEP GEOTHERMAL OPERATIONS, AS
18 DEFINED IN SECTION 37-90.5-103 (3), AND INTRASTATE NATURAL GAS
19 STORAGE FACILITIES, AS DEFINED IN SECTION 34-64-102 (3.5), in a
20 reasonable manner to address matters specified in this subsection (1)(h)
21 and to protect and minimize adverse impacts to public health, safety, and
22 welfare and the environment. Nothing in this subsection (1)(h) is intended
23 to alter, expand, or diminish the authority of local governments to
24 regulate air quality under section 25-7-128. ~~For purposes of~~ AS USED IN
25 this subsection (1)(h), "minimize adverse impacts" means, to the extent
26 necessary and reasonable, to protect public health, safety, and welfare and
27 the environment by avoiding adverse impacts from ~~oil and gas~~ THE

1 operations DESCRIBED IN THIS SUBSECTION (1)(h) and minimizing and
2 mitigating the extent and severity of those impacts that cannot be avoided.

3 The following matters are covered by this subsection (1)(h):

4 (II) The location and siting of ~~oil and gas facilities and oil and gas~~
5 ~~locations, as those terms are defined in section 34-60-103 (6.2) and (6.4)~~

6 THE OPERATIONS DESCRIBED IN THIS SUBSECTION (1)(h);

7 (VI) All other nuisance-type effects of ~~oil and gas development~~
8 THE OPERATIONS DESCRIBED IN THIS SUBSECTION (1)(h); and

9 **SECTION 17.** In Colorado Revised Statutes, 34-60-103, **amend**
10 (2) and (4.5) as follows:

11 **34-60-103. Definitions.** As used in this article 60, unless the
12 context otherwise requires:

13 (2) "Commission" means the ~~oil and gas conservation~~ ENERGY
14 AND CARBON MANAGEMENT ~~commission~~ CREATED IN SECTION
15 34-60-104.3 (1).

16 (4.5) "Exploration and production waste" means those wastes that
17 are generated during the drilling of and production from oil and gas wells,
18 DURING THE DRILLING OF AND PRODUCTION FROM WELLS REGULATED BY
19 THE COMMISSION PURSUANT TO ARTICLE 90.5 OF TITLE 37, or during
20 primary field operations and that are exempt from regulation as hazardous
21 wastes under subtitle c of the federal "Resource Conservation and
22 Recovery Act of 1976", 42 U.S.C. ~~sec.~~ SECS. 6901 to 6934, as amended.

23 **SECTION 18.** In Colorado Revised Statutes, 34-60-124, **amend**
24 (1) introductory portion, (1)(f), (2), (3), (4) introductory portion, (4)(a)
25 introductory portion, (4)(b), (5), (8), and (10); and **add (1)(g), (4)(d), and**
26 **(4)(e)** as follows:

27 **34-60-124. Energy and carbon management cash fund -**

1 **definitions - repeal.** (1) ~~The following moneys shall be credited~~ STATE
2 TREASURER SHALL CREDIT THE FOLLOWING MONEY to the ~~oil and gas~~
3 ~~conservation and environmental response~~ fund:

4 (f) ~~Moneys~~ MONEY recovered from the sale of salvaged
5 equipment, as provided for in ~~paragraph (c) of subsection (6)~~ SUBSECTION
6 (6)(c) of this section; AND

7 (g) MONEY CREDITED TO THE FUND PURSUANT TO SECTIONS
8 34-64-108 (4) AND 37-90.5-106 (4).

9 (2) ~~The moneys~~ MONEY in the ~~oil and gas conservation and~~
10 ~~environmental response~~ fund ~~shall~~ DOES not revert to the general fund at
11 the end of any fiscal year.

12 (3) ~~The moneys~~ MONEY in the ~~oil and gas conservation and~~
13 ~~environmental response~~ fund ~~shall be~~ IS subject to annual appropriation
14 by the general assembly; except that ~~moneys~~ MONEY deposited in the fund
15 constituting forfeited security or other financial assurance provided by
16 operators in accordance with section 34-60-106 (3.5) and (13) ~~shall be~~ IS
17 continuously appropriated to the commission for the purpose of fulfilling
18 obligations under this ~~article~~ ARTICLE 60 upon which an operator has
19 defaulted.

20 (4) ~~The oil and gas conservation and environmental response~~ fund
21 may be expended:

22 (a) By the commission, or by the director at the commission's
23 direction, prior to, during, or after the conduct of ~~oil and gas~~ ANY
24 operations SUBJECT TO THE AUTHORITY OF THE COMMISSION to:

25 (b) For purposes authorized by section 23-41-114 (4); ~~C.R.S.~~

26 (d) (I) TO CONDUCT THE STUDIES DESCRIBED IN SECTIONS
27 34-60-134, 34-60-135, AND 37-90.5-110;

1 (II) THIS SUBSECTION (4)(d) IS REPEALED, EFFECTIVE JULY 1, 2025.

2 (e) TO CREATE AND MAINTAIN THE WEBSITE DESCRIBED IN SECTION
3 34-60-106 (22).

4 (5) The director of the ~~oil and gas conservation~~ commission shall
5 prepare an annual report for the executive director of the department of
6 natural resources and the governor regarding the operations of and
7 disbursements from the fund.

8 (8) ~~(a) For purposes of AS USED IN this section:~~

9 (a) "FUND" MEANS THE ENERGY AND CARBON MANAGEMENT CASH
10 FUND CREATED IN SECTION 34-60-122 (5).

11 (b) (I) "Responsible party" means any person who conducts an oil
12 and gas operation in a manner ~~which is in contravention of~~ THAT
13 VIOLATES any then-applicable provision of this ~~article~~ ARTICLE 60, or of
14 any rule ~~regulation~~, or order of the commission, or of any permit that
15 threatens to cause, or actually causes, a significant adverse environmental
16 impact to any air, water, soil, or biological resource. "Responsible party"
17 includes any person who disposes of any ~~other~~ waste by mixing it with
18 exploration and production waste that threatens to cause, or actually
19 causes, a significant adverse environmental impact to any air, water, soil,
20 or biological resource.

21 ~~(b) (II) Except as otherwise provided in paragraph (a) of this~~
22 ~~subsection (8)~~ SUBSECTION (8)(b)(I) OF THIS SECTION, "responsible party"
23 does not include any landowner, whether of the surface estate, mineral
24 estate, or both, who does not engage in, or assume responsibility for, the
25 conduct of oil and gas operations.

26 (10) The ~~fund shall be expended by the commission or by the~~
27 ~~director~~ COMMISSION OR THE DIRECTOR OF THE COMMISSION SHALL

1 EXPEND THE MONEY IN THE FUND for the purposes of administering the
2 provisions of this ~~article~~ ARTICLE 60 AND SECTIONS 34-64-108 AND
3 37-90.5-106 (1)(b), including staffing, overhead, enforcement, and the
4 payment of environmental responses costs, and for paying expenses in
5 connection with the interstate oil and gas compact commission.

6 **SECTION 19.** In Colorado Revised Statutes, ~~add~~ 34-60-134 and
7 34-60-135 as follows:

8 **34-60-134. Hydrogen study - report - repeal.** (1) THE
9 COMMISSION SHALL CONDUCT A STUDY AND DEVELOP RECOMMENDATIONS
10 CONCERNING THE REGULATION AND PERMITTING OF THE UNDERGROUND
11 STORAGE OF HYDROGEN, THE TRANSPORTATION OF HYDROGEN THROUGH
12 PIPELINES, AND ANY OTHER UNDERGROUND HYDROGEN OPERATIONS
13 RELATED TO OR INTERCONNECTED WITH THE COMMISSION'S DIRECTIVE
14 AND REGULATORY AUTHORITY IN THE STATE. THE COMMISSION SHALL
15 DEVELOP RECOMMENDATIONS THAT:

16 (a) PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE, INCLUDING
17 PROTECTION OF THE ENVIRONMENT AND WILDLIFE RESOURCES; ■

18 (b) AVOID ADVERSE IMPACTS ON DISPROPORTIONATELY IMPACTED
19 COMMUNITIES, AS DEFINED IN SECTION 24-4-109 (2)(b)(II); AND

20 (c) CONSIDER ANY POTENTIAL CUMULATIVE IMPACTS, INCLUDING
21 IMPACTS ON AIR, WATER, SOIL, AND THE CLIMATE, ASSOCIATED WITH THE
22 DEVELOPMENT OF THE STATE'S HYDROGEN RESOURCES.

23 (2) IN CONDUCTING THE STUDY, THE COMMISSION SHALL CONSULT
24 WITH OTHER STATE AGENCIES, LOCAL GOVERNMENTS, ENVIRONMENTAL
25 JUSTICE ORGANIZATIONS, AND OTHER RELEVANT STAKEHOLDERS.

26 (3) NO LATER THAN JULY 1, 2024, THE COMMISSION SHALL:

27 (a) PREPARE A REPORT SUMMARIZING THE FINDINGS OF THE STUDY,

1 INCLUDING THE RECOMMENDATIONS DESCRIBED IN SUBSECTION (1) OF
2 THIS SECTION;

3 (b) POST THE REPORT ON THE COMMISSION'S WEBSITE; AND

4 (c) SUBMIT THE REPORT TO THE GENERAL ASSEMBLY.

5 (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

6 **34-60-135. Pipeline study - report - repeal.** (1) THE
7 COMMISSION SHALL COORDINATE WITH THE PUBLIC UTILITIES COMMISSION
8 TO CONDUCT A STUDY EXAMINING THE EXISTING ADMINISTRATIVE
9 STRUCTURE FOR INTRASTATE PIPELINE SITING AND SAFETY REGULATION IN
10 THE STATE, INCLUDING IDENTIFYING ANY EXISTING JURISDICTIONAL GAPS,
11 ANALYZING EXISTING SAFETY RULES, REVIEWING JURISDICTIONAL
12 STRATEGIES FOR THE STATE, AND EVALUATING RESOURCE NEEDS FOR SAFE
13 AND PROTECTIVE REGULATION. BASED ON THE FINDINGS OF THE STUDY,
14 THE COMMISSION SHALL DEVELOP RECOMMENDATIONS THAT:

15 (a) PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE, INCLUDING
16 PROTECTION OF THE ENVIRONMENT AND WILDLIFE RESOURCES; ■

17 (b) AVOID ADVERSE IMPACTS ON DISPROPORTIONATELY IMPACTED
18 COMMUNITIES, AS DEFINED IN SECTION 24-4-109 (2)(b)(II); AND

19 (c) CONSIDER ANY POTENTIAL CUMULATIVE IMPACTS ARISING OUT
20 OF THE USE AND SITING OF PIPELINES FOR CURRENT AND EMERGING
21 TECHNOLOGIES.

22 (2) IN CONDUCTING THE STUDY, THE COMMISSION AND THE PUBLIC
23 UTILITIES COMMISSION SHALL CONSULT WITH OTHER STATE AGENCIES,
24 LOCAL GOVERNMENTS, ENVIRONMENTAL JUSTICE ORGANIZATIONS, AND
25 OTHER RELEVANT STAKEHOLDERS.

26 (3) NO LATER THAN DECEMBER 1, 2024, THE COMMISSION SHALL:

27 (a) COORDINATE WITH THE PUBLIC UTILITIES COMMISSION TO

1 PREPARE A REPORT SUMMARIZING THE FINDINGS OF THE STUDY,
2 INCLUDING THE RECOMMENDATIONS DESCRIBED IN SUBSECTION (1) OF
3 THIS SECTION;

4 (b) POST THE REPORT ON THE COMMISSION'S WEBSITE; AND

5 (c) SUBMIT THE REPORT TO THE GENERAL ASSEMBLY.

6 (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

7 **SECTION 20.** In Colorado Revised Statutes, 2-3-128, **amend**
8 (1)(a) as follows:

9 **2-3-128. Oil and gas - performance audit - report - definitions**
10 **- repeal.** (1) As used in this section, unless the context otherwise
11 requires:

12 (a) "Commission" means the ~~oil and gas conservation~~ ENERGY
13 AND CARBON MANAGEMENT commission created in section 34-60-104.3
14 (1).

15 **SECTION 21.** In Colorado Revised Statutes, 23-41-114, **amend**
16 (4)(b)(I)(B), (4)(b)(II)(B), (4)(b)(II)(C), (4)(b)(III)(B), (4)(b)(III)(C),
17 (4)(b)(IV)(B), (4)(b)(IV)(C), (4)(b)(V)(B), (4)(b)(VI)(B), and
18 (4)(b)(VI)(C) as follows:

19 **23-41-114. Colorado energy research institute - creation.**
20 (4) The institute shall conduct:

21 (b) The following specific research and educational programs
22 designed to meet the information needs of the department of natural
23 resources, other agencies of the state's executive branch, the legislature,
24 and the public:

25 (I) (B) For the purposes authorized by this ~~subparagraph (I)~~
26 SUBSECTION (4)(b)(I), up to five hundred thousand dollars of the
27 unencumbered balance available in the ~~oil and gas conservation and~~

1 ~~environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund
2 created in section 34-60-122 (5) ~~€:R:S.~~, may be expended.

3 (II) (B) For the purpose authorized by this ~~subparagraph (H)~~
4 SUBSECTION (4)(b)(II), up to one million dollars of the unencumbered
5 balance available in the ~~oil and gas conservation and environmental~~
6 ~~response~~ ENERGY AND CARBON MANAGEMENT CASH fund created in
7 section 34-60-122 (5) ~~€:R:S.~~, may be expended.

8 (C) Of the amount specified in ~~sub-subparagraph (B) of this~~
9 ~~subparagraph (H)~~ SUBSECTION (4)(b)(II)(B) OF THIS SECTION: Five
10 hundred thousand dollars may be expended in the state fiscal year
11 beginning July 1, 2005; and five hundred thousand dollars may be
12 expended in the state fiscal year beginning July 1, 2006, if an estimate
13 made on or about May 1, 2006, of the projected unencumbered balance
14 that will be available in the ~~oil and gas conservation and environmental~~
15 ~~response~~ ENERGY AND CARBON MANAGEMENT CASH fund on July 1, 2006,
16 exceeds two and one-half million dollars.

17 (III) (B) For the purpose authorized by this ~~subparagraph (H)~~
18 SUBSECTION (4)(b)(III), up to three hundred seventy-five thousand dollars
19 of the unencumbered balance available in the ~~oil and gas conservation~~
20 ~~and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH
21 fund created in section 34-60-122 (5) ~~€:R:S.~~, may be expended.

22 (C) Of the amount specified in ~~sub-subparagraph (B) of this~~
23 ~~subparagraph (H)~~ SUBSECTION (4)(b)(III)(B) OF THIS SECTION: One
24 hundred seventy-five thousand dollars may be expended in the state fiscal
25 year beginning July 1, 2005; and two hundred thousand dollars may be
26 expended in the state fiscal year beginning July 1, 2006, if an estimate
27 made on or about May 1, 2006, of the projected unencumbered balance

1 that will be available in the ~~oil and gas conservation and environmental~~
2 ~~response~~ ENERGY AND CARBON MANAGEMENT CASH fund on July 1, 2006,
3 exceeds two and one-half million dollars.

4 (IV) (B) For the purpose authorized by this ~~subparagraph (IV)~~
5 SUBSECTION (4)(b)(IV), up to one million dollars of the unencumbered
6 balance available in the ~~oil and gas conservation and environmental~~
7 ~~response~~ ENERGY AND CARBON MANAGEMENT CASH fund created in
8 section 34-60-122 (5) ~~C.R.S.~~, may be expended.

9 (C) Of the amount specified in ~~sub-subparagraph (B) of this~~
10 ~~subparagraph (IV)~~ SUBSECTION (4)(b)(IV)(B) OF THIS SECTION: Five
11 hundred thousand dollars may be expended in the state fiscal year
12 beginning July 1, 2005; and five hundred thousand dollars may be
13 expended in the state fiscal year beginning July 1, 2006, if an estimate
14 made on or about May 1, 2006, of the projected unencumbered balance
15 that will be available in the ~~oil and gas conservation and environmental~~
16 ~~response~~ ENERGY AND CARBON MANAGEMENT CASH fund on July 1, 2006,
17 exceeds two and one-half million dollars.

18 (V) (B) For the purpose authorized by this ~~subparagraph (V)~~
19 SUBSECTION (4)(b)(V)(B), up to fifty-six thousand dollars of the
20 unencumbered balance available in the ~~oil and gas conservation and~~
21 ~~environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund
22 created in section 34-60-122 (5) ~~C.R.S.~~, may be expended.

23 (VI) (B) For the purpose authorized by this ~~subparagraph (VI)~~
24 SUBSECTION (4)(b)(VI), up to one hundred twenty-five thousand dollars
25 of the unencumbered balance available in the ~~oil and gas conservation~~
26 ~~and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH
27 fund created in section 34-60-122 (5) ~~C.R.S.~~, may be expended.

1 (C) Of the amount specified in ~~sub-subparagraph (B) of this~~
2 ~~subparagraph (VI)~~ SUBSECTION (4)(b)(VI)(B) OF THIS SECTION:
3 Seventy-five thousand dollars may be expended in the state fiscal year
4 beginning July 1, 2005; and fifty thousand dollars may be expended in the
5 state fiscal year beginning July 1, 2006, if an estimate made on or about
6 May 1, 2006, of the projected unencumbered balance that will be
7 available in the ~~oil and gas conservation and environmental response~~
8 ENERGY AND CARBON MANAGEMENT CASH fund on July 1, 2006, exceeds
9 two and one-half million dollars.

10 **SECTION 22.** In Colorado Revised Statutes, 24-1-124, **amend**
11 (3)(f) as follows:

12 **24-1-124. Department of natural resources - creation -**
13 **divisions.** (3) The department of natural resources consists of the
14 following divisions:

15 (f) The ~~oil and gas conservation~~ ENERGY AND CARBON
16 MANAGEMENT commission ~~of the state of Colorado~~ CREATED IN SECTION
17 34-60-104.3 (1) and the office of the director ~~thereof~~ OF THE COMMISSION,
18 created in article 60 of title 34. The ~~oil and gas conservation~~ commission
19 ~~of the state of Colorado~~ and the office of the director are **type 1** entities,
20 as defined in section 24-1-105, and exercise their powers and perform
21 their duties and functions under the department of natural resources as a
22 division ~~thereof~~ OF THE DEPARTMENT.

23 **SECTION 23.** In Colorado Revised Statutes, 24-33-104, **amend**
24 (1)(f) as follows:

25 **24-33-104. Composition of the department.** (1) The department
26 of natural resources consists of the following commissions, divisions,
27 boards, offices, and councils:

1 (f) The ~~oil and gas conservation~~ ENERGY AND CARBON
2 MANAGEMENT commission of the state of Colorado CREATED IN SECTION
3 34-60-104.3 (1);

4 **SECTION 24**. In Colorado Revised Statutes, 24-35-115, **amend**
5 (3) as follows:

6 **24-35-115. Mineral audit program.** (3) The cost of each of the
7 following audits shall be paid by an appropriation from the general fund:
8 Severance tax revenues, revenues accruing to leases managed by the state
9 board of land commissioners authorized in section 36-1-113, ~~C.R.S.~~; and
10 revenues accruing to the ~~oil and gas conservation and environmental~~
11 ~~response~~ ENERGY AND CARBON MANAGEMENT CASH fund created in
12 section 34-60-122 (5). ~~C.R.S.~~ At the end of each fiscal year, beginning
13 with the fiscal year starting July 1, 1986, the ~~oil and gas conservation~~
14 ENERGY AND CARBON MANAGEMENT commission and the state board of
15 land commissioners shall each repay, from the ~~oil and gas conservation~~
16 ~~and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH
17 fund created by section 34-60-122 (5) ~~C.R.S.~~, and the state land board
18 TRUST administration fund created by section 36-1-145 (2)(a), ~~C.R.S.~~, to
19 the general fund the cost of such audits performed on their respective
20 fund, which reimbursement shall not exceed the dollar amount of the
21 collections received by each agency from such audits.

22 **SECTION 25**. In Colorado Revised Statutes, 24-65.5-102,
23 **amend** the introductory portion and (2.5) as follows:

24 **24-65.5-102. Definitions - legislative declaration.** As used in this
25 ~~article~~ ARTICLE 65.5, unless the context otherwise requires:

26 (2.5) "Commission" means the ~~Colorado oil and gas conservation~~
27 ENERGY AND CARBON MANAGEMENT commission created in ~~section~~

1 ~~34-60-104, C.R.S.~~ SECTION 34-60-104.3 (1).

2 **SECTION 26.** In Colorado Revised Statutes, 24-75-402, **amend**
3 (5)(ii) as follows:

4 **24-75-402. Cash funds - limit on uncommitted reserves -**
5 **reduction in the amount of fees - exclusions - definitions.**

6 (5) Notwithstanding any provision of this section to the contrary, the
7 following cash funds are excluded from the limitations specified in this
8 section:

9 (ii) ~~The oil and gas conservation and environmental response~~
10 ENERGY AND CARBON MANAGEMENT CASH fund created in section
11 34-60-122 (5); ~~C.R.S.;~~

12 **SECTION 27.** In Colorado Revised Statutes, 25-7-109, **amend**
13 (10)(c) as follows:

14 **25-7-109. Commission to promulgate emission control**
15 **regulation.** (10) (c) Notwithstanding the grant of authority to the ~~oil and~~
16 ~~gas conservation~~ ENERGY AND CARBON MANAGEMENT commission in
17 article 60 of title 34, including specifically section 34-60-105 (1), the
18 commission may regulate air pollution from oil and gas facilities listed in
19 subsection (10)(a) of this section, including during preproduction
20 activities, drilling, and completion.

21 **SECTION 28.** In Colorado Revised Statutes, 25-7-133, **amend**
22 (7)(d)(III) as follows:

23 **25-7-133. Legislative review and approval of state**
24 **implementation plans and rules - legislative declaration - definition.**

25 (7) (d) (III) The regulated entity shall deliver the notice required pursuant
26 to ~~subparagraph (H) of this paragraph (d)~~ SUBSECTION (7)(d)(II) OF THIS
27 SECTION to the local government designee, if any, registered with the

1 ~~Colorado oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT
2 commission CREATED IN SECTION 34-60-104.3 (1) for receipt of
3 information relating to oil and gas operations within a local jurisdiction
4 and shall include a phone number for a contact person. If the local
5 jurisdiction does not have a local government designee, the REGULATED
6 ENTITY SHALL DELIVER THE notice ~~shall be provided~~ to the municipal
7 clerk.

8 **SECTION 29.** In Colorado Revised Statutes, 25-8-202, **amend**
9 (7) introductory portion as follows:

10 **25-8-202. Duties of commission - rules.** (7) The commission and
11 the division shall recognize water quality responsibilities of the following
12 state agencies, referred to in this subsection (7) as the "implementing
13 agencies": The office of mined land reclamation; the state engineer; the
14 ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission
15 CREATED IN SECTION 34-60-104.3 (1); and the state agency responsible for
16 activities related to the federal "Resource Conservation and Recovery Act
17 of 1976", 42 U.S.C. SEC. 6901 ET SEQ., as amended, and related state
18 programs. Activities subject to the jurisdiction of the implementing
19 agencies that result in discharge to state waters shall be regulated as
20 follows:

21 **SECTION 30.** In Colorado Revised Statutes, 25-8-205, **amend**
22 (4) as follows:

23 **25-8-205. Control regulations.** (4) The commission shall
24 coordinate and cooperate with the state engineer, the Colorado water
25 conservation board, the ~~oil and gas conservation~~ ENERGY AND CARBON
26 MANAGEMENT commission CREATED IN SECTION 34-60-104.3 (1), the state
27 board of health, and other state agencies having regulatory powers in

1 order to avoid adopting control regulations that would be either redundant
2 or unnecessary.

3 **SECTION 31.** In Colorado Revised Statutes, 29-20-104, **amend**
4 (3)(a) as follows:

5 **29-20-104. Powers of local governments - definition.** (3) (a) To
6 provide a local government with technical expertise regarding whether a
7 preliminary or final determination of the location of an oil and gas facility
8 or oil and gas location within its respective jurisdiction could affect oil
9 and gas resource recovery:

10 (I) Once an operator, as defined in section 34-60-103 (6.8), files
11 an application for the location and siting of an oil and gas facility or oil
12 and gas location and the local government has made either a preliminary
13 or final determination regarding the application, the local government
14 having land use jurisdiction may ask the director of the ~~oil and gas~~
15 ~~conservation~~ ENERGY AND CARBON MANAGEMENT commission pursuant
16 to section 34-60-104.5 (3) to appoint a technical review board to conduct
17 a technical review of the preliminary or final determination and issue a
18 report that contains the board's conclusions.

19 (II) Once a local government has made a final determination
20 regarding an application specified in subsection (3)(a)(I) of this section
21 or if the local government has not made a final determination on an
22 application within two hundred ten days after filing by the operator, the
23 operator may ask the director of the ~~oil and gas conservation~~ ENERGY AND
24 CARBON MANAGEMENT commission pursuant to section 34-60-104.5 (3)
25 to appoint a technical review board to conduct a technical review of the
26 final determination and issue a report that contains the board's
27 conclusions.

1 **SECTION 32.** In Colorado Revised Statutes, 30-20-109, **amend**
2 (1.5)(d)(I) as follows:

3 **30-20-109. Commission to promulgate rules - definitions.**

4 (1.5) (d) The department shall:

5 (I) Coordinate with the ~~Colorado oil and gas conservation~~ ENERGY
6 AND CARBON MANAGEMENT commission created in ~~section 34-60-104,~~
7 ~~C.R.S.~~ SECTION 34-60-104.3 (1), governing bodies having jurisdiction,
8 and the federal bureau of land management to identify potential EP waste
9 disposal sites that are located reasonably close to oil and gas operation
10 areas on either federal or nonfederal land and that meet the set-back
11 requirements of this subsection (1.5); and

12 **SECTION 33.** In Colorado Revised Statutes, 30-20-120, **amend**
13 (5) as follows:

14 **30-20-120. Imminent and substantial endangerment from solid**
15 **waste - definitions.** (5) The provisions of this section ~~shall~~ DO not apply
16 to sites regulated by the ~~oil and gas conservation~~ ENERGY AND CARBON
17 MANAGEMENT commission created by ~~section 34-60-104, C.R.S.,~~ IN
18 SECTION 34-60-104.3 (1) or BY the oil inspection section of the
19 department of labor and employment pursuant to article 20 of title 8.
20 ~~C.R.S.~~

21 **SECTION 34.** In Colorado Revised Statutes, 34-60-102, **amend**
22 (2) as follows:

23 **34-60-102. Legislative declaration.** (2) It is further declared to
24 be in the public interest to assure that producers and consumers of natural
25 gas are afforded the protection and benefits of those laws and regulations
26 of the United States ~~which~~ THAT affect the price and allocation of natural
27 gas and crude oil, including the federal "Natural Gas Policy Act of 1978",

1 15 U.S.C. sec. 3301 ET SEQ., AS AMENDED, and particularly that the ~~oil~~
2 ~~and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission
3 ~~established by section 34-60-104~~, CREATED IN SECTION 34-60-104.3 (1)
4 be empowered to exercise such powers and authorities as may be
5 delegated to it by the laws or regulations of the United States, including
6 said "Natural Gas Policy Act of 1978", and, in the exercise of such
7 powers and authorities, to make such rules ~~and regulations~~ and to execute
8 such agreements and waivers as are reasonably required to implement
9 such power and authority.

10

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11 **SECTION 35.** In Colorado Revised Statutes, 34-60-118.5,
12 **amend** (5) introductory portion, (5.5), (6), and (8)(a) as follows:

13 **34-60-118.5. Payment of proceeds - definitions.** (5) Absent a
14 bona fide dispute over the interpretation of a contract for payment, the ~~oil~~
15 ~~and gas conservation~~ commission ~~shall have~~ HAS jurisdiction to determine
16 the following:

17 (5.5) Before hearing the merits of any proceeding regarding
18 payment of proceeds pursuant to this section, the ~~oil and gas conservation~~
19 commission shall determine whether a bona fide dispute exists regarding
20 the interpretation of a contract defining the rights and obligations of the
21 payer and payee. If the commission finds that such a dispute exists, the
22 commission shall decline jurisdiction over the dispute and the parties may
23 seek resolution of the matter in district court.

24 (6) The commission may assign to the parties the costs of any
25 administrative proceeding pursuant to this section in such proportions as
26 it deems appropriate and may award reasonable attorney fees and costs to
27 the prevailing party. The ~~moneys~~ MONEY received by the commission to

1 cover the costs of such administrative proceedings shall be transmitted to
2 the state treasurer, who shall credit ~~such moneys~~ THE MONEY to the ~~oil~~
3 ~~and gas conservation and environmental response~~ ENERGY AND CARBON
4 MANAGEMENT CASH fund created in ~~section 34-60-122~~ SECTION
5 34-60-122 (5).

6 (8) (a) Nothing in this section shall be construed to alter existing
7 substantive rights or obligations nor to impose upon the ~~oil and gas~~
8 ~~conservation~~ commission any duty to interpret a contract from which the
9 obligation to pay proceeds arises.

10 **SECTION 36.** In Colorado Revised Statutes, 34-60-121, **amend**
11 (1)(d) as follows:

12 **34-60-121. Violations - penalties - rules - legislative**
13 **declaration.** (1) (d) An operator subject to a penalty order shall pay the
14 amount due within thirty days after its imposition unless the operator files
15 a judicial appeal. The commission may recover penalties owed under this
16 section in a civil action brought by the attorney general at the request of
17 the commission in the second judicial district. ~~Moneys~~ MONEY collected
18 through the imposition of penalties shall be credited first to any legal
19 costs and attorney fees incurred by the attorney general in the recovery
20 action and then to the environmental response account in the ~~oil and gas~~
21 ~~conservation and environmental response~~ ENERGY AND CARBON
22 MANAGEMENT CASH fund created in ~~section 34-60-122~~ SECTION
23 34-60-122 (5).

24 **SECTION 37.** In Colorado Revised Statutes, **amend** 34-61-101
25 as follows:

26 **34-61-101. Boreholes penetrating coal seams.** It is the duty of
27 the owner, or person in charge of any borehole ~~which~~ THAT penetrates any

1 workable coal seam or any accessible or inaccessible coal mine
2 excavation, to notify the ~~state oil and gas conservation~~ ENERGY AND
3 CARBON MANAGEMENT commission CREATED IN SECTION 34-60-104.3 (1)
4 of the location of ~~such~~ THE borehole by designating the particular
5 five-acre subdivision of the land section on which ~~such~~ THE borehole is
6 situated, and the depth and thickness of every workable coal seam or
7 accessible or inaccessible coal mine excavation penetrated by ~~such~~ THE
8 borehole. On receipt of such notification, the ~~state oil and gas~~
9 ~~conservation~~ ENERGY AND CARBON MANAGEMENT commission shall at
10 once notify the COAL MINING REGULATORY AUTHORITY.

11 **SECTION 38**. In Colorado Revised Statutes, 37-90-103, **amend**
12 the introductory portion and (10.9) as follows:

13 **37-90-103. Definitions - repeal.** As used in this ~~article~~ ARTICLE
14 90, unless the context otherwise requires:

15 (10.9) "Oil and gas well" means a well permitted by the ~~Colorado~~
16 ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission
17 CREATED IN SECTION 34-60-104.3 (1) or a well authorized by a federal or
18 tribal entity for the primary purpose of mining, including exploration or
19 production, of petroleum products.

20 **SECTION 39**. In Colorado Revised Statutes, 37-91-102, **amend**
21 the introductory portion and (16)(b)(I) as follows:

22 **37-91-102. Definitions.** As used in this ~~article~~ ARTICLE 91, unless
23 the context otherwise requires:

24 (16) (b) (I) "Well" does not include:

25 (A) Certain types of monitoring and observation wells, dewatering
26 wells, and test holes that the board specifies in rules ~~and regulations~~ in
27 order to allow for their construction, utilization, and abandonment by

1 other than a well construction contractor; ~~nor does such term include~~

2 (B) An excavation made for the purpose of obtaining or
3 prospecting for minerals or those wells subject to the jurisdiction of the
4 ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT
5 commission, as provided in article 60 of title 34; ~~C.R.S.~~; or

6 (C) ~~those~~ Wells subject to the jurisdiction of the office of mined
7 land reclamation, as provided in article 33 of title 34. ~~C.R.S.~~

8 **SECTION 40.** In Colorado Revised Statutes, 37-92-103, **amend**
9 (5.5) as follows:

10 **37-92-103. Definitions.** As used in this article 92, unless the
11 context otherwise requires:

12 (5.5) "Coal bed methane well" means a well permitted by the
13 ~~Colorado oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT
14 commission CREATED IN SECTION 34-60-104.3 (1) or a well authorized by
15 a federal or tribal entity and constructed for the primary purpose of
16 producing methane gas from a coal bed.

17 **SECTION 41.** In Colorado Revised Statutes, 38-35.7-108,
18 **amend** (1)(a) as follows:

19 **38-35.7-108. Disclosure of oil and gas activity - rules.**
20 (1) (a) By January 1, 2016, the real estate commission created in section
21 12-10-206 shall promulgate a rule requiring each contract of sale or
22 seller's property disclosure for residential real property that is subject to
23 the commission's jurisdiction to disclose the following or substantially
24 similar information:

25 **THE SURFACE ESTATE OF THE PROPERTY MAY BE**
26 **OWNED SEPARATELY FROM THE UNDERLYING MINERAL**
27 **ESTATE, AND TRANSFER OF THE SURFACE ESTATE MAY**

1 NOT INCLUDE TRANSFER OF THE MINERAL ESTATE. THIRD
2 PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OR
3 OTHER MINERALS UNDER THE SURFACE, AND THEY MAY
4 ENTER AND USE THE SURFACE ESTATE TO ACCESS THE
5 MINERAL ESTATE.

6 THE USE OF THE SURFACE ESTATE TO ACCESS THE
7 MINERALS MAY BE GOVERNED BY A SURFACE USE
8 AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF
9 WHICH MAY BE RECORDED WITH THE COUNTY CLERK
10 AND RECORDER.

11 THE OIL AND GAS ACTIVITY THAT MAY OCCUR ON
12 OR ADJACENT TO THIS PROPERTY MAY INCLUDE, BUT IS
13 NOT LIMITED TO, SURVEYING, DRILLING, WELL
14 COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR
15 PRODUCTION FACILITIES, PRODUCING WELLS,
16 REWORKING OF CURRENT WELLS, AND GAS GATHERING
17 AND PROCESSING FACILITIES.

18 THE BUYER IS ENCOURAGED TO SEEK ADDITIONAL
19 INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR
20 ADJACENT TO THIS PROPERTY, INCLUDING DRILLING
21 PERMIT APPLICATIONS. THIS INFORMATION MAY BE
22 AVAILABLE FROM THE ~~COLORADO OIL AND GAS~~
23 ~~CONSERVATION~~ ENERGY AND CARBON MANAGEMENT
24 COMMISSION.

25 SECTION 42. In Colorado Revised Statutes, 39-29-109.3,
26 amend (1)(a) as follows:

27 39-29-109.3. Severance tax operational fund - core reserve -

1 **grant program reserve - definitions - repeal.** (1) The executive director
2 of the department of natural resources shall submit with the department's
3 budget request for each fiscal year a list and description of the programs
4 the executive director recommends to be funded from the severance tax
5 operational fund created in section 39-29-109 (2)(b), referred to in this
6 section as the "operational fund". The general assembly may appropriate
7 money from the total money available in the operational fund to fund
8 recommended programs as follows:

9 (a) (I) For programs or projects within the ~~Colorado oil and gas~~
10 ~~conservation~~ ENERGY AND CARBON MANAGEMENT commission CREATED
11 IN SECTION 34-60-104.3 (1), up to thirty-five percent of the ~~moneys~~
12 MONEY in the operational fund for fiscal years commencing on or after
13 July 1, 2009.

14 (II) ~~Moneys~~ MONEY appropriated for programs or projects
15 pursuant to ~~subparagraph (I) of this paragraph (a)~~ SUBSECTION (1)(a)(I)
16 OF THIS SECTION shall be used by the ~~Colorado oil and gas conservation~~
17 ENERGY AND CARBON MANAGEMENT commission for plugging and
18 abandonment projects, for well-site location reclamation projects, or for
19 regulatory and environmental programs or projects as specifically
20 appropriated by the general assembly for use on such programs or
21 projects; except that, if the commission determines that an emergency
22 exists, the commission may expend any ~~moneys~~ MONEY received for the
23 emergency without any further appropriation. In determining the uses of
24 ~~these moneys~~ THIS MONEY, the commission shall give priority to uses that
25 reduce industry fees and mill levies.

26 **SECTION 43. Appropriation.** (1) For the 2023-24 state fiscal
27 year, \$1,200,480 is appropriated to the department of natural resources.

1 This appropriation is from the energy and carbon management cash fund
2 created in section 34-60-122 (5)(a), C.R.S. To implement this act, the
3 department may use this appropriation as follows:

4 (a) \$1,108,857 for use by the energy and carbon management
5 commission for program costs, which amount is based on an assumption
6 that the commission will require an additional 7.0 FTE;

7 (b) \$7,031 for use by the division of water resources for water
8 administration related to division operations; and

9 (c) \$84,592 for the purchase of legal services.

10 (2) For the 2023-24 state fiscal year, \$7,031 is appropriated to the
11 department of natural resources for use by the division of water resources.

12 This appropriation is from reappropriated funds received from the
13 department of natural resources under subsection (1)(b) of this section. To
14 implement this act, the division may use this appropriation for water
15 administration related to division operations.

16 (3) For the 2023-24 state fiscal year, \$84,592 is appropriated to
17 the department of law. This appropriation is from reappropriated funds
18 received from the department of natural resources under subsection (1)(c)
19 of this section and is based on an assumption that the department of law
20 will require an additional 0.4 FTE. To implement this act, the department
21 of law may use this appropriation to provide legal services for the
22 department of natural resources.

23 **SECTION 44. Effective date.** This act takes effect July 1, 2023.

24 **SECTION 45. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, or safety.