

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

April 23, 2026
Date

Committee on Agriculture, Water & Natural Resources.

After consideration on the merits, the Committee recommends the following:

HB26-1340 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 37-92-305, add
4 (4.7) as follows:

5 **37-92-305. Standards with respect to rulings of the referee and**
6 **decisions of the water judge - definitions.**

7 (4.7) (a) NOTWITHSTANDING SUBSECTION (4.5) OF THIS SECTION,
8 THE TERMS AND CONDITIONS APPLICABLE TO CHANGES OF USE OF WATER
9 RIGHTS FROM AGRICULTURAL IRRIGATION PURPOSES TO OTHER BENEFICIAL
10 USES IN WATER DIVISION 2 DECREED ON OR AFTER JANUARY 1, 2027, ARE
11 DESIGNED TO ACCOMPLISH REVEGETATION OR CONVERSION TO DRYLAND
12 FARMING, EROSION CONTROL, AND WEED MANAGEMENT ON LAND FROM
13 WHICH IRRIGATION WATER IS PERMANENTLY REMOVED FOR OTHER
14 BENEFICIAL USES. THE WATER COURT SHALL APPLY REVEGETATION OR
15 CONVERSION TO DRYLAND FARMING TERMS AND CONDITIONS IN A DECREE
16 APPROVING A SUBSEQUENT CHANGE OF USE OF A PREVIOUSLY CHANGED
17 AGRICULTURAL IRRIGATION WATER RIGHT ONLY IF THE PRIOR DECREE
18 CHANGING THE SAME AGRICULTURAL IRRIGATION WATER RIGHT DID NOT
19 INCLUDE REVEGETATION OR CONVERSION TO DRYLAND FARMING TERMS
20 OR CONDITIONS. THE WATER RIGHT OWNER SHALL COMPLY WITH SUCH
21 TERMS AND CONDITIONS. THE TERMS AND CONDITIONS APPLICABLE TO
22 WATER DIVISION 2 INCLUDE:

23 (I) (A) WHEN APPLYING TO THE WATER COURT FOR A CHANGE OF
24 USE OF A WATER RIGHT PURSUANT TO THIS SUBSECTION (4.7)(a), THE
25 WATER RIGHT OWNER SHALL IDENTIFY FOR THE WATER COURT'S
26 CONSIDERATION SITE-SPECIFIC CRITERIA AND AN ASSOCIATED SCIENTIFIC
27 AND OBJECTIVE EVALUATION METHODOLOGY TO MEASURE AND

1 DETERMINE THE EXTENT TO WHICH REVEGETATION OR CONVERSION TO
2 DRYLAND FARMING IS SUCCESSFULLY ESTABLISHED ON THE FORMERLY
3 IRRIGATED AGRICULTURAL LAND. THE WATER COURT SHALL INCLUDE
4 SITE-SPECIFIC CRITERIA AND AN ASSOCIATED SCIENTIFIC AND OBJECTIVE
5 EVALUATION METHODOLOGY IN THE DECREE APPROVING THE CHANGE OF
6 USE OF THE WATER RIGHT.

7 (B) THE SITE-SPECIFIC CRITERIA IDENTIFIED PURSUANT TO
8 SUBSECTION (4.7)(a)(I)(A) OF THIS SECTION MUST INCLUDE WEED
9 MANAGEMENT PROVISIONS DESIGNED TO PROTECT THE SOIL RESOURCE,
10 PREVENT WEED INFESTATIONS, AND PROTECT THE AVAILABLE SOIL
11 MOISTURE. AT A MINIMUM, SUCH PROVISIONS MUST INCLUDE
12 REQUIREMENTS THAT WEED INFESTATIONS BE CONTROLLED BY METHODS
13 SUCH AS MOWING, HERBICIDE APPLICATION, OR BIOLOGICAL CONTROL OR
14 BY A COMBINATION OF MOWING, HERBICIDE APPLICATION, BIOLOGICAL
15 CONTROL, AND OTHER APPROPRIATE METHODS. NOXIOUS WEEDS MUST BE
16 CONTROLLED PURSUANT TO THE "COLORADO NOXIOUS WEED ACT",
17 ARTICLE 5.5 OF TITLE 35.

18 (II) (A) IF, PRIOR TO APPLYING TO THE WATER COURT FOR THE
19 CHANGE OF USE OF THE WATER RIGHT, THE WATER RIGHT OWNER HAS,
20 PURSUANT TO SECTION 24-65.1-501, OBTAINED A PERMIT FROM OR
21 ENTERED INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE LOCAL
22 LAND USE AUTHORITY WHERE THE FORMERLY IRRIGATED AGRICULTURAL
23 LAND IS LOCATED, WHICH PERMIT OR AGREEMENT REQUIRES
24 REVEGETATION OR CONVERSION TO DRYLAND FARMING AND INCLUDES
25 SITE-SPECIFIC CRITERIA AND AN ASSOCIATED SCIENTIFIC AND OBJECTIVE
26 EVALUATION METHODOLOGY, THE COURT SHALL USE THE SITE-SPECIFIC
27 CRITERIA AND ASSOCIATED SCIENTIFIC AND OBJECTIVE EVALUATION
28 METHODOLOGY SET FORTH IN THE PERMIT OR INTERGOVERNMENTAL
29 AGREEMENT.

30 (B) IF THE WATER RIGHT OWNER HAS NOT OBTAINED A PERMIT OR
31 ENTERED INTO AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO
32 SECTION 24-65.1-501 AND THE LOCAL LAND USE AUTHORITY WHERE THE
33 FORMERLY IRRIGATED AGRICULTURAL LAND IS LOCATED HAS ADOPTED
34 SITE-SPECIFIC CRITERIA AND A SCIENTIFIC AND OBJECTIVE EVALUATION
35 METHODOLOGY FOR REVEGETATION OR CONVERSION TO DRYLAND
36 FARMING, THE WATER COURT SHALL USE THAT CRITERIA AND EVALUATION
37 METHODOLOGY.

38 (III) (A) UPON ISSUING A CHANGE-OF-USE DECREE PURSUANT TO
39 THIS SUBSECTION (4.7)(a), THE WATER COURT SHALL APPOINT, AND THE
40 WATER RIGHT OWNER SHALL PAY FOR THE SERVICES OF, A NEUTRAL
41 THIRD-PARTY REVEGETATION OR DRYLAND FARMING EXPERT WHO SHALL
42 EVALUATE THE PROGRESS OF THE REVEGETATION OR CONVERSION TO
43 DRYLAND FARMING ON THE FORMERLY IRRIGATED AGRICULTURAL LAND,

1 ON A FIELD-BY-FIELD BASIS, AND DETERMINE WHEN AND TO WHAT EXTENT
2 THE REVEGETATION OR CONVERSION TO DRYLAND FARMING IS
3 SUCCESSFULLY ESTABLISHED.

4 (B) THE THIRD-PARTY EXPERT SHALL CONDUCT AN ANNUAL FIELD
5 REVIEW OF THE FORMERLY IRRIGATED AGRICULTURAL LAND AND PRODUCE
6 FIELD-BY-FIELD STATUS REPORTS ANNUALLY UNTIL REVEGETATION OR
7 CONVERSION TO DRYLAND FARMING IS SUCCESSFULLY ESTABLISHED, AS
8 APPROVED BY THE WATER COURT.

9 (C) AT LEAST TWENTY DAYS PRIOR TO THE FIELD REVIEW, THE
10 WATER RIGHT OWNER SHALL GIVE NOTICE OF THE OCCURRENCE OF THE
11 THIRD-PARTY EXPERT'S FIELD REVIEW TO THE OWNER OF THE FIELD WITHIN
12 THE FORMERLY IRRIGATED AGRICULTURAL LAND AND THE PARTIES TO THE
13 CHANGE OF USE OF THE WATER RIGHT PROCEEDING, AND THE PARTIES
14 SHALL HAVE AN OPPORTUNITY TO PARTICIPATE IN THE FIELD REVIEW.

15 (D) THE THIRD-PARTY EXPERT SHALL STATE IN EACH STATUS
16 REPORT THE PERCENTAGE OF THE FORMERLY IRRIGATED FIELD ON WHICH
17 REVEGETATION OR CONVERSION TO DRYLAND FARMING IS SUCCESSFULLY
18 ESTABLISHED.

19 (E) THE THIRD-PARTY EXPERT SHALL PROVIDE THE STATUS REPORT
20 TO THE WATER RIGHT OWNER, AND THE WATER RIGHT OWNER SHALL
21 SUBMIT THE STATUS REPORT TO THE OWNER OF THE FORMERLY IRRIGATED
22 FIELD, THE WATER COURT, THE DIVISION OF WATER RESOURCES, AS
23 DESCRIBED IN SECTION 24-33-104 (1)(e), AND THE PARTIES TO THE
24 CHANGE OF USE OF THE WATER RIGHT PROCEEDING WITHIN TWENTY DAYS
25 AFTER RECEIVING THE STATUS REPORT FROM THE THIRD-PARTY EXPERT.
26 THE WATER COURT SHALL GIVE THE PARTIES SIXTY DAYS TO COMMENT ON
27 OR REBUT THE STATUS REPORT OR THE STATUS OF THE FORMERLY
28 IRRIGATED FIELD.

29 (IV) (A) ONCE THE WATER COURT RECEIVES THE THIRD-PARTY
30 EXPERT'S STATUS REPORT INDICATING THAT REVEGETATION OR
31 CONVERSION TO DRYLAND FARMING IS SUCCESSFULLY ESTABLISHED ON A
32 FIELD, AND IF THE WATER COURT AGREES, THEN A FIVE-YEAR
33 MAINTENANCE PERIOD BEGINS, DURING WHICH THE WATER RIGHT OWNER
34 SHALL MAINTAIN THE SUCCESSFUL REVEGETATION OR CONVERSION TO
35 DRYLAND FARMING ACHIEVED ON THE FORMERLY IRRIGATED FIELD.

36 (B) WITHIN NINETY DAYS BEFORE NOVEMBER 1 OF THE FINAL
37 YEAR OF THE MAINTENANCE PERIOD FOR A FIELD, THE THIRD-PARTY
38 EXPERT OR, IF THAT PERSON IS NO LONGER AVAILABLE, A DIFFERENT
39 THIRD-PARTY EXPERT APPOINTED BY THE WATER COURT SHALL CONDUCT
40 A FIELD REVIEW OF THE FORMERLY IRRIGATED FIELD. THE THIRD-PARTY
41 EXPERT SHALL PRODUCE A MAINTENANCE REPORT. THE MAINTENANCE
42 REPORT MUST INDICATE THE EXTENT TO WHICH REVEGETATION OR
43 CONVERSION TO DRYLAND FARMING CONTINUES TO BE SUCCESSFULLY

1 ESTABLISHED ON THE FIELD AND IDENTIFY ANY PORTIONS OF THE FIELD ON
2 WHICH REVEGETATION OR CONVERSION TO DRYLAND FARMING IS NO
3 LONGER SUCCESSFULLY ESTABLISHED.

4 (C) THE THIRD-PARTY EXPERT SHALL PROVIDE THE MAINTENANCE
5 REPORT TO THE WATER RIGHT OWNER ON OR BEFORE DECEMBER 1 OF THE
6 FINAL YEAR OF THE MAINTENANCE PERIOD, AND THE WATER RIGHT OWNER
7 SHALL SUBMIT THE MAINTENANCE REPORT TO THE OWNER OF THE
8 FORMERLY IRRIGATED FIELD, THE WATER COURT, THE DIVISION OF WATER
9 RESOURCES, AS DESCRIBED IN SECTION 24-33-104 (1)(e), AND THE PARTIES
10 TO THE CHANGE OF USE OF THE WATER RIGHT PROCEEDING WITHIN
11 TWENTY DAYS AFTER RECEIVING THE MAINTENANCE REPORT FROM THE
12 THIRD-PARTY EXPERT. THE WATER COURT SHALL GIVE THE PARTIES SIXTY
13 DAYS TO COMMENT ON OR REBUT THE MAINTENANCE REPORT OR THE
14 STATUS OF THE FORMERLY IRRIGATED FIELD.

15 (D) IF, AT THE CONCLUSION OF THE MAINTENANCE PERIOD AND
16 AFTER THE WATER COURT'S REVIEW OF THE THIRD-PARTY EXPERT'S
17 MAINTENANCE REPORT, THE WATER COURT DETERMINES THAT
18 REVEGETATION OR CONVERSION TO DRYLAND FARMING HAS BEEN
19 SUCCESSFULLY ESTABLISHED ON A FIELD, THE WATER COURT SHALL DEEM
20 THE TERMS AND CONDITIONS SET FORTH IN THIS SUBSECTION (4.7)(a)
21 SATISFIED AS TO THAT FIELD.

22 (E) IF, AT THE CONCLUSION OF THE MAINTENANCE PERIOD AND
23 AFTER THE WATER COURT'S REVIEW OF THE THIRD-PARTY EXPERT'S
24 MAINTENANCE REPORT, THE WATER COURT DETERMINES THAT
25 REVEGETATION OR CONVERSION TO DRYLAND FARMING IS NO LONGER
26 SUCCESSFULLY ESTABLISHED ON A FIELD, THE WATER COURT MAY ORDER
27 ADDITIONAL SUBSEQUENT MAINTENANCE PERIODS OR MAY LIMIT THE
28 PERCENTAGE OF THE WATER SUBJECT TO THE CHANGED WATER RIGHT
29 AVAILABLE FOR THE NEW BENEFICIAL USE TO THE PERCENTAGE OF THE
30 FORMERLY IRRIGATED FIELD ON WHICH THE WATER COURT DETERMINES
31 THAT REVEGETATION OR CONVERSION TO DRYLAND FARMING IS
32 SUCCESSFULLY ESTABLISHED.

33 (V) A WATER RIGHT OWNER IMPLEMENTING A DECREED CHANGE
34 OF USE OF A WATER RIGHT PURSUANT TO THIS SUBSECTION (4.7)(a) SHALL
35 COMPLY WITH THE TERMS AND CONDITIONS DECREED BY THE WATER
36 COURT TO ENSURE REVEGETATION OR CONVERSION TO DRYLAND FARMING
37 IS SUCCESSFULLY ESTABLISHED. THE WATER COURT SHALL IMPOSE TERMS
38 AND CONDITIONS SUFFICIENT TO ENSURE REVEGETATION OR CONVERSION
39 TO DRYLAND FARMING IS SUCCESSFULLY ESTABLISHED AND ORDER THAT
40 SUCH TERMS AND CONDITIONS REMAIN IN EFFECT UNTIL THE APPLICABLE
41 REQUIREMENTS OF THIS SUBSECTION (4.7)(a) ARE FULLY SATISFIED. THE
42 COURT SHALL ALSO DO ONE OF THE FOLLOWING:

43 (A) ORDER THE WATER RIGHT OWNER TO PROVIDE FINANCIAL

1 ASSURANCE, SUCH AS A PERFORMANCE BOND OR OTHER FINANCIAL
2 SECURITY, TO THE LOCAL LAND USE AUTHORITY WHERE THE FORMERLY
3 IRRIGATED AGRICULTURAL LAND IS LOCATED IN AN AMOUNT SUFFICIENT
4 TO COVER THE REASONABLY ANTICIPATED TOTAL COST TO ACHIEVE
5 SUCCESSFULLY ESTABLISHED REVEGETATION OR CONVERSION TO
6 DRYLAND FARMING ON THE FORMERLY IRRIGATED AGRICULTURAL LAND;

7 (B) PLACE LIMITATIONS ON THE TIMING OR PERCENTAGE OF WATER
8 SUBJECT TO THE WATER RIGHT THAT MAY BE USED FOR THE NEW
9 BENEFICIAL USE WHILE ALLOWING THE CONTINUED EXERCISE OF EXISTING
10 DECREED USES OF THE WATER AND, IN ESTABLISHING SUCH LIMITATIONS,
11 CONSIDER THE SITE-SPECIFIC CRITERIA AND OTHER FACTORS RELEVANT TO
12 THE SUCCESSFUL ESTABLISHMENT OF REVEGETATION OR CONVERSION TO
13 DRYLAND FARMING; OR

14 (C) IF THE WATER RIGHT OWNER HAS OBTAINED A PERMIT OR
15 ENTERED INTO AN INTERGOVERNMENTAL AGREEMENT PURSUANT TO
16 SECTION 24-65.1-501 THAT ESTABLISHES REQUIREMENTS THAT GOVERN
17 THE TIMING OF USE OR PERCENTAGE OF WATER SUBJECT TO THE WATER
18 RIGHT THAT MAY BE USED FOR THE NEW BENEFICIAL USE WHILE
19 SIMULTANEOUSLY ACHIEVING SUCCESSFULLY ESTABLISHED
20 REVEGETATION OR CONVERSION TO DRYLAND FARMING, ADOPT AND
21 INCORPORATE THOSE REQUIREMENTS INTO THE CHANGE-OF-USE DECREE
22 AND NOT IMPOSE EITHER OF THE REQUIREMENTS SET FORTH IN
23 SUBSECTIONS (4.7)(a)(V)(A) AND (4.7)(a)(V)(B) OF THIS SECTION.

24 (VI) IF, FOLLOWING A CHANGE OF USE OF A WATER RIGHT
25 PURSUANT TO THIS SUBSECTION (4.7)(a), THE WATER COURT FINDS THAT
26 A WATER RIGHT OWNER OR A LANDOWNER, WITHIN A REASONABLE
27 AMOUNT OF TIME, IS IRRIGATING THE FORMERLY IRRIGATED
28 AGRICULTURAL LAND WITH ANOTHER SOURCE OF WATER; IS
29 RE-IRRIGATING THE LAND WITH THE WATER FROM THE SAME WATER RIGHT,
30 AS AUTHORIZED BY THE WATER COURT; OR IS CONVERTING THE LAND
31 FROM IRRIGATED AGRICULTURAL LAND TO ANOTHER USE IN WHICH WEEDS
32 AND SOIL EROSION ARE ADEQUATELY CONTROLLED, THE WATER COURT
33 SHALL DEEM THE TERMS AND CONDITIONS SET FORTH IN THIS SUBSECTION
34 (4.7)(a) SATISFIED.

35 (b) AS USED IN SUBSECTION (4.7)(a) OF THIS SECTION,
36 "SUCCESSFULLY ESTABLISHED" OR "SUCCESSFUL ESTABLISHMENT" MEANS
37 THAT REVEGETATION OR CONVERSION TO DRYLAND FARMING IS
38 ACCOMPLISHED AND WEEDS AND SOIL EROSION ARE ADEQUATELY
39 CONTROLLED ON THE FORMERLY IRRIGATED AGRICULTURAL LAND IN
40 ACCORDANCE WITH THE SITE-SPECIFIC CRITERIA AND ASSOCIATED
41 SCIENTIFIC AND OBJECTIVE EVALUATION METHODOLOGY INCLUDED IN THE
42 WATER COURT'S DECREE PURSUANT TO SUBSECTION (4.7)(a)(I)(A) OF THIS
43 SECTION.

1 **SECTION 2. Act subject to petition - effective date.** This act
2 takes effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly (August
4 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
5 referendum petition is filed pursuant to section 1 (3) of article V of the
6 state constitution against this act or an item, section, or part of this act
7 within such period, then the act, item, section, or part will not take effect
8 unless approved by the people at the general election to be held in
9 November 2026 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor."

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