

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 19-0973.01 Thomas Morris x4218

SENATE BILL 19-181

SENATE SPONSORSHIP

Fenberg and Foote, Gonzales, Lee, Moreno, Story, Williams A., Winter

HOUSE SPONSORSHIP

Becker,

Senate Committees

Transportation & Energy
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING ADDITIONAL PUBLIC WELFARE PROTECTIONS REGARDING**
102 **THE CONDUCT OF OIL AND GAS OPERATIONS, AND, IN**
103 **CONNECTION THEREWITH, 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 <http://leg.colorado.gov>.)

The bill enhances local governments' ability to protect public health, safety, and welfare and the environment by clarifying, reinforcing, and establishing their regulatory authority over the surface impacts of oil and gas development.

Current law specifies that local governments have so-called

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

SENATE
3rd Reading Unamended
March 13, 2019

SENATE
Amended 2nd Reading
March 12, 2019

"House Bill 1041" powers, which are a type of land use authority over oil and gas mineral extraction areas, only if the Colorado oil and gas conservation commission (commission) has identified a specific area for designation. **Sections 1 and 2** of the bill repeal that limitation.

Section 3 directs the air quality control commission to adopt rules to:

- ! Require an oil and gas operator of an oil and gas facility to install continuous emission monitoring equipment at the facility to monitor for hazardous air pollutants as specified by the commission by rule, as well as for methane and volatile organic compounds; and
- ! Minimize emissions of methane and other hydrocarbons and nitrogen oxides from the entire oil and gas fuel cycle.

Section 4 clarifies that local governments have land use authority to regulate the siting of oil and gas locations and to regulate land use and surface impacts, including the ability to inspect oil and gas facilities; impose fines for leaks, spills, and emissions; and impose fees on operators or owners to cover the reasonably foreseeable direct and indirect costs of permitting and regulation and the costs of any monitoring and inspection program necessary to address the impacts of development and enforce local governmental requirements.

Section 5 repeals an exemption for oil and gas production from counties' authority to regulate noise.

The remaining substantive sections of the bill amend the "Oil and Gas Conservation Act" (Act). The legislative declaration for the Act states that it is in the public interest to "foster" the development of oil and gas resources in a manner "consistent" with the protection of public health, safety, and welfare, including protection of the environment and wildlife resources; this has been construed to impose a balancing test between fostering oil and gas development and protecting the public health, safety, and welfare. **Section 6** states that the public interest is to "regulate" oil and gas development to "protect" those values.

Currently, the Act defines "waste" to include a diminution in the quantity of oil or gas that ultimately may be produced. **Section 7** excludes from that definition the nonproduction of oil or gas as necessary to protect public health, safety, and welfare or the environment. Section 7 also repeals the requirement that the commission take into consideration cost-effectiveness and technical feasibility with regard to actions and decisions taken to minimize adverse impacts to wildlife resources.

The 9-member commission currently includes 3 members who must have substantial experience in the oil and gas industry and one member who must have training or experience in environmental or wildlife protection. **Section 8** reduces the number of industry members to one and requires one member with training or substantial experience in wildlife protection; one member with training or substantial experience

in environmental protection; one member with training or substantial experience in soil conservation or reclamation; one member who is an active agricultural producer or a royalty owner; and one member with training or substantial experience in public health. **Section 9** requires the director of the commission to hire up to 2 deputy directors.

The Act currently specifies that the commission has exclusive authority relating to the conservation of oil or gas. **Section 10** clarifies that nothing in the Act alters, impairs, or negates the authority of:

- ! The air quality control commission to regulate the air pollution associated with oil and gas operations;
- ! The water quality control commission to regulate the discharge of water pollutants from oil and gas operations;
- ! The state board of health to regulate the disposal of naturally occurring radioactive materials and technologically enhanced naturally occurring radioactive materials from oil and gas operations;
- ! The solid and hazardous waste commission to regulate the disposal of hazardous waste and exploration and production waste from oil and gas operations; or
- ! A local government to regulate land use related to oil and gas operations, including specifically the siting of an oil and gas location.

Currently, an operator first gets a permit from the commission to drill one or more wells within a drilling unit, which is located within a defined area, and then notifies the applicable local government of the proposed development and seeks any necessary local government approval. **Section 11** requires operators to file, with the application for a permit to drill, either: Proof that the operator has already filed an application with the affected local government to approve the siting of the proposed oil and gas location and of the local government's disposition of the application; or proof that the affected local government does not regulate the siting of oil and gas locations. Section 11 also specifies that the commission and the director shall not issue a permit until the commission has promulgated every rule required to be adopted by oil and gas bills enacted in 2019 and the rules have become effective; except that the director may issue a permit if the director determines that the permit does not require additional analysis to ensure the protection of public health, safety, and welfare or the environment or require additional local government or other state agency consultation.

Pursuant to commission rule, an operator may submit a statewide blanket financial assurance of \$60,000 for fewer than 100 wells or \$100,000 for 100 or more wells. Section 11 directs the commission to adopt rules that require financial assurance sufficient to provide adequate coverage for all applicable requirements of the Act. Current law allows the commission to set numerous fees used to administer the Act and sets

a \$200 or \$100 cap on the fees. Section 11 eliminates the caps and requires the commission to set a permit application fee in an amount sufficient to recover the commission's reasonably foreseeable direct and indirect costs in conducting the analysis necessary to assure that permitted operations will be conducted in compliance with all applicable requirements of the Act.

Current law gives the commission the authority to regulate oil and gas operations so as to prevent and mitigate "significant" adverse environmental impacts to the extent necessary to protect public health, safety, and welfare, taking into consideration cost-effectiveness and technical feasibility. Section 11 requires the commission to protect and minimize adverse impacts to public health, safety, and welfare, the environment, and wildlife resources and protect against adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations. Section 11 also requires the commission to adopt rules that require alternate location analyses for oil and gas facilities that are proposed to be located near populated areas and that evaluate and address the cumulative impacts of oil and gas development. Finally, section 11 directs the commission to promulgate rules to:

- ! Ensure proper wellhead integrity of all oil and gas production wells, including the use of nondestructive testing of well joints and requiring certification of oil and gas field welders;
- ! Allow public disclosure of flowline information and to evaluate and determine when a deactivated flowline must be inspected before being reactivated; and
- ! Evaluate and determine when inactive and shut-in wells must be inspected before being put into production or used for injection.

Current law authorizes "forced" or "statutory" pooling, a process by which "any interested person", typically an operator who has at least one lease or royalty interest, may apply to the commission for an order to pool oil and gas resources located within a particularly identified drilling unit. After giving notice to interested parties and holding a hearing, the commission can adopt a pooling order to require an owner of oil and gas resources within the drilling unit who has not consented to the application (nonconsenting owner) to allow the operator to produce the oil and gas within the drilling unit notwithstanding the owner's lack of consent. **Section 12** requires that the owners of more than 50% of the mineral interests to be pooled must have joined in the application for a pooling order and that the application include either: Proof that the applicant has already filed an application with the affected local government to approve the siting of the proposed oil and gas facilities and of the local government's disposition of the application; or proof that the affected

local government does not regulate the siting of oil and gas facilities. Section 12 also specifies that the operator cannot use the surface owned by a nonconsenting owner without permission from the nonconsenting owner.

Current law also sets the royalty that a nonconsenting owner is entitled to receive at 12.5% of the full royalty rate until the consenting owners have been fully reimbursed (out of the remaining 87.5% of the nonconsenting owner's royalty) for their costs. Section 12 raises a nonconsenting owner's royalty rate during this pay-back period from 12.5% to 15% and makes a corresponding reduction of the portion of the nonconsenting owner's royalty from which the consenting owners' costs are paid.

Current law requires the commission to ensure that the 2-year average of the unobligated portion of the oil and gas conservation and environmental response fund does not exceed \$6 million and that there is an adequate balance in the environmental response account in the fund to address environmental response needs. **Section 13** directs the commission to ensure that the unobligated portion of the fund does not exceed 50% of total appropriations from the fund for the upcoming fiscal year and that there is an adequate balance in the account to support the operations of the commission and to address environmental response needs.

Section 15 amends preemption law by specifying that both state agencies and local governments have authority to regulate oil and gas operations and establishes that, where there is a conflict in the exercise of that authority, the more protective standard as to health, safety, and welfare, the environment, and wildlife resources controls.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-65.1-202, **repeal**
3 (1)(d) as follows:

4 **24-65.1-202. Criteria for administration of areas of state**
5 **interest.** (1) (d) ~~Unless an activity of state interest has been designated~~
6 ~~or identified or unless it includes part or all of another area of state~~
7 ~~interest, an area of oil and gas development shall not be designated as an~~
8 ~~area of state interest unless the state oil and gas conservation commission~~
9 ~~identifies such area for designation.~~

10 **SECTION 2.** In Colorado Revised Statutes, 24-65.1-302, **repeal**

1 (3) as follows:

2 **24-65.1-302. Functions of other state agencies.** (3) Pursuant to
3 ~~section 24-65.1-202 (1)(d), the oil and gas conservation commission of~~
4 ~~the state of Colorado may identify an area of oil and gas development for~~
5 ~~designation by local government as an area of state interest.~~

6 **SECTION 3.** In Colorado Revised Statutes, 25-7-109, **add** (10)
7 as follows:

8 **25-7-109. Commission to promulgate emissions control**
9 **regulations.** (10) (a) THE COMMISSION SHALL ADOPT RULES TO MINIMIZE
10 EMISSIONS OF METHANE AND OTHER HYDROCARBONS, VOLATILE ORGANIC
11 COMPOUNDS, AND OXIDES OF NITROGEN FROM FACILITIES IN ALL
12 SEGMENTS OF THE OIL AND NATURAL GAS SUPPLY CHAIN.

13 (b) (I) THE COMMISSION SHALL REVIEW ITS LEAK DETECTION AND
14 REPAIR RULES FOR OIL AND NATURAL GAS WELL PRODUCTION FACILITIES
15 AND COMPRESSOR STATIONS AND SPECIFICALLY CONSIDER ADOPTING
16 MORE STRINGENT PROVISIONS, INCLUDING:

17 (A) A REQUIREMENT THAT ALL OIL AND NATURAL GAS WELL
18 PRODUCTION FACILITIES MUST CONDUCT, AT A MINIMUM, SEMI-ANNUAL
19 LEAK DETECTION AND REPAIR INSPECTIONS;

20 (B) A REQUIREMENT THAT OWNERS AND OPERATORS OF OIL AND
21 GAS TRANSMISSION PIPELINES AND COMPRESSOR STATIONS MUST INSPECT
22 AND MAINTAIN ALL EQUIPMENT AND PIPELINES ON A REGULAR BASIS; AND

23 (C) A REQUIREMENT THAT OIL AND NATURAL GAS OPERATORS
24 MUST INSTALL AND OPERATE CONTINUOUS METHANE EMISSIONS MONITORS
25 AT FACILITIES WITH LARGE EMISSIONS POTENTIAL, AT MULTI-WELL
26 FACILITIES, AND AT FACILITIES IN CLOSE PROXIMITY TO OCCUPIED
27 DWELLINGS.

1 (II) THE COMMISSION MAY, BY RULE, PHASE IN THE REQUIREMENT
2 TO COMPLY WITH THIS SUBSECTION (10)(b) ON THE BASES OF PRODUCTION
3 CAPABILITY, TYPE AND AGE OF OIL AND GAS FACILITY, AND COMMERCIAL
4 AVAILABILITY OF CONTINUOUS MONITORING EQUIPMENT. IF THE
5 COMMISSION PHASES IN THE REQUIREMENT TO COMPLY WITH THIS
6 SUBSECTION (10)(b), IT SHALL INCREASE THE REQUIRED FREQUENCY OF
7 INSPECTIONS AT FACILITIES THAT ARE SUBJECT TO THE PHASE-IN UNTIL
8 THE FACILITIES ACHIEVE CONTINUOUS EMISSION MONITORING.

9 (c) NOTWITHSTANDING THE GRANT OF AUTHORITY TO THE OIL AND
10 GAS CONSERVATION COMMISSION IN ARTICLE 60 OF TITLE 34, INCLUDING
11 SPECIFICALLY SECTION 34-60-105 (1), THE COMMISSION MAY REGULATE
12 AIR POLLUTION FROM OIL AND GAS OPERATIONS AND OIL AND GAS
13 FACILITIES, INCLUDING DURING CONSTRUCTION, DRILLING, AND
14 COMPLETION ACTIVITIES.

15 **SECTION 4.** In Colorado Revised Statutes, 29-20-104, **amend**
16 (1) introductory portion, (1)(g), and (1)(h); and **add (1)(i), (2), and (3)** as
17 follows:

18 **29-20-104. Powers of local governments - definition.**
19 (1) Except as expressly provided in section 29-20-104.5, the power and
20 authority granted by this section ~~shall~~ DOES not limit any power or
21 authority presently exercised or previously granted. Each local
22 government within its respective jurisdiction has the authority to plan for
23 and regulate the use of land by:

24 (g) Regulating the use of land on the basis of the impact thereof
25 OF THE USE on the community or surrounding areas; and

26 (h) ~~Otherwise planning for and regulating the use of land so as to~~
27 ~~provide planned and orderly use of land and protection of the~~

1 ~~environment in a manner consistent with constitutional rights.~~
2 REGULATING OIL AND GAS OPERATIONS TO ADDRESS MATTERS SPECIFIED
3 IN THIS SUBSECTION (1)(h) AND TO PROTECT AND MINIMIZE ADVERSE
4 IMPACTS TO PUBLIC HEALTH, SAFETY, AND WELFARE AND THE
5 ENVIRONMENT. FOR PURPOSES OF THIS SUBSECTION (1)(h), "MINIMIZE
6 ADVERSE IMPACTS" MEANS, TO THE EXTENT NECESSARY AND
7 REASONABLE, TO PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE AND
8 THE ENVIRONMENT BY AVOIDING ADVERSE IMPACTS FROM OIL AND GAS
9 OPERATIONS AND MINIMIZING AND MITIGATING THE EXTENT AND SEVERITY
10 OF THOSE IMPACTS THAT CANNOT BE AVOIDED. THE FOLLOWING MATTERS
11 ARE COVERED BY THIS SUBSECTION (1)(h):

12 (I) LAND USE;

13 == ==

14 (II) THE LOCATION AND SITING OF OIL AND GAS FACILITIES AND OIL
15 AND GAS LOCATIONS, AS THOSE TERMS ARE DEFINED IN SECTION 34-60-103
16 (6.2) AND (6.4);

17 (III) IMPACTS TO PUBLIC FACILITIES AND SERVICES;

18 (IV) WATER QUALITY AND SOURCE, NOISE, VIBRATION, ODOR,
19 LIGHT, DUST, AIR EMISSIONS AND AIR QUALITY, LAND DISTURBANCE,
20 RECLAMATION PROCEDURES, CULTURAL RESOURCES, EMERGENCY
21 PREPAREDNESS AND COORDINATION WITH FIRST RESPONDERS, SECURITY,
22 AND TRAFFIC AND TRANSPORTATION IMPACTS;

23 (V) FINANCIAL SECURITIES, INDEMNIFICATION, AND INSURANCE AS
24 APPROPRIATE TO ENSURE COMPLIANCE WITH THE REGULATIONS OF THE
25 LOCAL GOVERNMENT; AND

26 (VI) ALL OTHER NUISANCE-TYPE EFFECTS OF OIL AND GAS
27 DEVELOPMENT; AND

1 (i) OTHERWISE PLANNING FOR AND REGULATING THE USE OF LAND
2 SO AS TO PROVIDE PLANNED AND ORDERLY USE OF LAND AND PROTECTION
3 OF THE ENVIRONMENT IN A MANNER CONSISTENT WITH CONSTITUTIONAL
4 RIGHTS.

5 (2) TO IMPLEMENT THE POWERS AND AUTHORITY GRANTED IN
6 SUBSECTION (1)(h) OF THIS SECTION, LOCAL GOVERNMENTS HAVE THE
7 AUTHORITY TO:

8 (a) INSPECT ALL FACILITIES SUBJECT TO LOCAL GOVERNMENT
9 REGULATION;

10 (b) IMPOSE FINES FOR LEAKS, SPILLS, AND EMISSIONS; AND

11 (c) IMPOSE FEES ON OPERATORS OR OWNERS TO COVER THE
12 REASONABLY FORESEEABLE DIRECT AND INDIRECT COSTS OF PERMITTING
13 AND REGULATION AND THE COSTS OF ANY MONITORING AND INSPECTION
14 PROGRAM NECESSARY TO ADDRESS THE IMPACTS OF DEVELOPMENT AND
15 TO ENFORCE LOCAL GOVERNMENTAL REQUIREMENTS.

16 (3) (a) TO PROVIDE A LOCAL GOVERNMENT WITH TECHNICAL
17 EXPERTISE REGARDING WHETHER A PRELIMINARY OR FINAL
18 DETERMINATION OF THE LOCATION OF AN OIL AND GAS FACILITY OR OIL
19 AND GAS LOCATION COULD AFFECT OIL AND GAS RESOURCE RECOVERY:

20 (I) ONCE AN OPERATOR, AS DEFINED IN SECTION 34-60-103 (6.8),
21 FILES AN APPLICATION FOR THE LOCATION AND SITING OF AN OIL AND GAS
22 FACILITY OR OIL AND GAS LOCATION AND THE LOCAL GOVERNMENT HAS
23 MADE EITHER A PRELIMINARY OR FINAL DETERMINATION REGARDING THE
24 APPLICATION, THE LOCAL GOVERNMENT MAY ASK THE DIRECTOR OF THE
25 OIL AND GAS CONSERVATION COMMISSION PURSUANT TO SECTION
26 34-60-104.5 (3) TO APPOINT A TECHNICAL REVIEW BOARD TO CONDUCT A
27 TECHNICAL REVIEW OF THE PRELIMINARY OR FINAL DETERMINATION AND

1 ISSUE A REPORT THAT CONTAINS THE BOARD'S CONCLUSIONS.

2 (II) ONCE A LOCAL GOVERNMENT HAS MADE A FINAL
3 DETERMINATION REGARDING AN APPLICATION SPECIFIED IN SUBSECTION
4 (3)(a)(I) OF THIS SECTION OR IF THE LOCAL GOVERNMENT HAS NOT MADE
5 A FINAL DETERMINATION ON AN APPLICATION WITHIN TWO HUNDRED TEN
6 DAYS AFTER FILING BY THE OPERATOR, THE OPERATOR MAY ASK THE
7 DIRECTOR OF THE OIL AND GAS CONSERVATION COMMISSION PURSUANT TO
8 SECTION 34-60-104.5 (3) TO APPOINT A TECHNICAL REVIEW BOARD TO
9 CONDUCT A TECHNICAL REVIEW OF THE FINAL DETERMINATION AND ISSUE
10 A REPORT THAT CONTAINS THE BOARD'S CONCLUSIONS.

11 (b) A LOCAL GOVERNMENT MAY FINALIZE ITS PRELIMINARY
12 DETERMINATION WITHOUT ANY CHANGES BASED ON THE TECHNICAL
13 REVIEW REPORT, FINALIZE ITS PRELIMINARY DETERMINATION WITH
14 CHANGES BASED ON THE REPORT, OR RECONSIDER OR DO NOTHING WITH
15 REGARD TO ITS ALREADY FINALIZED DETERMINATION.

16 (c) IF AN APPLICANT OR LOCAL GOVERNMENT REQUESTS A
17 TECHNICAL REVIEW PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION,
18 THE PERIOD TO APPEAL A LOCAL GOVERNMENT'S DETERMINATION
19 PURSUANT TO RULE 106 (a)(4) OF THE COLORADO RULES OF CIVIL
20 PROCEDURE IS TOLLED UNTIL THE REPORT SPECIFIED IN SUBSECTION (3)(a)
21 OF THIS SECTION HAS BEEN ISSUED, AND THE APPLICANT IS AFFORDED THE
22 FULL PERIOD TO APPEAL THEREAFTER.

23 **SECTION 5.** In Colorado Revised Statutes, 30-15-401, **amend**
24 (1) introductory portion, (1)(m)(II) introductory portion, and (1)(m)(II)(B)
25 as follows:

26 **30-15-401. General regulations - definitions.** (1) In addition to
27 those powers granted by sections 30-11-101 and 30-11-107 and by parts

1 1, 2, and 3 of this article 15, the board of county commissioners ~~has the~~
2 ~~power to~~ MAY adopt ordinances for control or licensing of those matters
3 of purely local concern that are described in the following enumerated
4 powers:

5 (m) (II) Ordinances enacted to regulate noise on public and
6 private property pursuant to ~~subparagraph (I) of this paragraph (m) shall~~
7 SUBSECTION (1)(m)(I) OF THIS SECTION DO not apply to:

8 (B) Property used for: Manufacturing, industrial, or commercial
9 business purposes; AND public utilities regulated pursuant to title 40.
10 C.R.S.; and oil and gas production subject to the provisions of article 60
11 of title 34, C.R.S.

12 **SECTION 6.** In Colorado Revised Statutes, 34-60-102, **amend**
13 (1)(a) introductory portion, (1)(a)(I), and (1)(b) as follows:

14 **34-60-102. Legislative declaration.** (1) (a) It is declared to be in
15 the public interest AND THE COMMISSION IS DIRECTED to:

16 (I) ~~Foster~~ REGULATE the ~~responsible, balanced~~ development
17 ~~production, and utilization~~ of the natural resources of oil and gas in the
18 state of Colorado in a manner ~~consistent with protection of~~ THAT
19 PROTECTS public health, safety, and welfare, including protection of the
20 environment and wildlife resources;

21 (b) It is ~~not~~ NEITHER the intent nor the purpose of this ~~article~~
22 ARTICLE 60 to require or permit the proration or distribution of the
23 production of oil and gas among the fields and pools of Colorado on the
24 basis of market demand. It is the intent and purpose of this ~~article~~
25 ARTICLE 60 to permit each oil and gas pool in Colorado to produce up to
26 its maximum efficient rate of production, subject to the PROTECTION OF
27 PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, AND

1 WILDLIFE RESOURCES AND THE prevention of waste ~~consistent with the~~
2 ~~protection of public health, safety, and welfare, including protection of~~
3 ~~the environment and wildlife resources~~ AS SET FORTH IN SECTION
4 34-60-106 (2.5) AND (3)(a), and subject further to the enforcement and
5 protection of the coequal and correlative rights of the owners and
6 producers of a common source of oil and gas, so that each common owner
7 and producer may obtain a just and equitable share of production
8 ~~therefrom~~ FROM THE COMMON SOURCE.

9 **SECTION 7.** In Colorado Revised Statutes, 34-60-103, **amend**
10 the introductory portion, (5.5), (11), (12), and (13); and **add** (5.3), (6.2),
11 and (6.4) as follows:

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

14 (5.3) "LOCAL GOVERNMENT" MEANS, EXCEPT WITH REGARD TO
15 SECTION 34-60-104 (2)(a)(I), A:

16 (a) MUNICIPALITY OR CITY AND COUNTY WITHIN WHOSE
17 BOUNDARIES AN OIL AND GAS LOCATION IS SITED OR PROPOSED TO BE
18 SITED; OR

19 (b) COUNTY, IF AN OIL AND GAS LOCATION IS SITED OR PROPOSED
20 TO BE SITED WITHIN THE BOUNDARIES OF THE COUNTY BUT IS NOT
21 LOCATED WITHIN A MUNICIPALITY OR CITY AND COUNTY.

22 (5.5) "Minimize adverse impacts" means, to wherever reasonably
23 practicable THE EXTENT NECESSARY AND REASONABLE TO PROTECT
24 PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, AND
25 WILDLIFE RESOURCES, TO:

26 (a) Avoid adverse impacts from oil and gas operations; ~~on wildlife~~
27 ~~resources~~; AND

1 (b) Minimize AND MITIGATE the extent and severity of those
2 impacts that cannot be avoided.

3 ~~(c) Mitigate the effects of unavoidable remaining impacts; and~~

4 ~~(d) Take into consideration cost-effectiveness and technical~~
5 ~~feasibility with regard to actions and decisions taken to minimize adverse~~
6 ~~impacts to wildlife resources.~~

7 (6.2) "OIL AND GAS FACILITY" MEANS EQUIPMENT OR
8 IMPROVEMENTS USED OR INSTALLED AT AN OIL AND GAS LOCATION FOR
9 THE EXPLORATION, PRODUCTION, WITHDRAWAL, TREATMENT, OR
10 PROCESSING OF CRUDE OIL, CONDENSATE, EXPLORATION AND PRODUCTION
11 WASTE, OR GAS.

12 (6.4) "OIL AND GAS LOCATION" MEANS A DEFINABLE AREA WHERE
13 AN OIL AND GAS OPERATOR HAS DISTURBED OR INTENDS TO DISTURB THE
14 LAND SURFACE IN ORDER TO LOCATE AN OIL AND GAS FACILITY.

15 (11) "Waste", as applied to gas:

16 (a) Includes the escape, blowing, or releasing, directly or
17 indirectly into the open air, of gas from wells productive of gas only, or
18 gas in an excessive or unreasonable amount from wells producing oil or
19 both oil and gas; and the production of gas in quantities or in such manner
20 as unreasonably reduces reservoir pressure or, SUBJECT TO SUBSECTION
21 (11)(b) OF THIS SECTION, unreasonably diminishes the quantity of oil or
22 gas that ultimately may be produced; excepting gas that is reasonably
23 necessary in the drilling, completing, testing, and in furnishing power for
24 the production of wells; AND

25 (b) DOES NOT INCLUDE THE NONPRODUCTION OF GAS FROM A
26 FORMATION IF NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY, AND
27 WELFARE, THE ENVIRONMENT, OR WILDLIFE RESOURCES AS DETERMINED

1 BY THE COMMISSION.

2 (12) "Waste", as applied to oil:

3 (a) Includes underground waste; inefficient, excessive, or
4 improper use or dissipation of reservoir energy, including gas energy and
5 water drive; surface waste; open-pit storage; and waste incident to the
6 production of oil in excess of the producer's aboveground storage
7 facilities and lease and contractual requirements, but excluding storage,
8 other than open-pit storage, reasonably necessary for building up or
9 maintaining crude stocks and products ~~thereof~~ OF CRUDE STOCKS for
10 consumption, use, and sale; AND

11 (b) DOES NOT INCLUDE THE NONPRODUCTION OF OIL FROM A
12 FORMATION IF NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY, AND
13 WELFARE, THE ENVIRONMENT, OR WILDLIFE RESOURCES AS DETERMINED
14 BY THE COMMISSION.

15 (13) "Waste", in addition to the meanings as set forth in
16 subsections (11) and (12) of this section:

17 (a) Means, SUBJECT TO SUBSECTION (13)(b) OF THIS SECTION:

18 ~~(a)~~ (I) Physical waste, as that term is generally understood in the
19 oil and gas industry;

20 ~~(b)~~ (II) The locating, spacing, drilling, equipping, operating, or
21 producing of any oil or gas well or wells in a manner ~~which~~ THAT causes
22 or tends to cause reduction in quantity of oil or gas ultimately recoverable
23 from a pool under prudent and proper operations or ~~which~~ THAT causes
24 or tends to cause unnecessary or excessive surface loss or destruction of
25 oil or gas; AND

26 ~~(c)~~ (III) Abuse of the correlative rights of any owner in a pool due
27 to nonuniform, disproportionate, unratable, or excessive withdrawals of

1 oil or gas ~~therefrom~~ FROM THE POOL, causing reasonably avoidable
2 drainage between tracts of land or resulting in one or more producers or
3 owners in ~~such~~ THE pool producing more than ~~his~~ AN equitable share of
4 the oil or gas from ~~such~~ THE pool; AND

5 (b) DOES NOT INCLUDE THE NONPRODUCTION OF OIL OR GAS FROM
6 A FORMATION IF NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY, AND
7 WELFARE, THE ENVIRONMENT, OR WILDLIFE RESOURCES AS DETERMINED
8 BY THE COMMISSION.

9 **SECTION 8.** In Colorado Revised Statutes, 34-60-104, **amend**
10 (1), (2)(a)(I), and (2)(a)(II) as follows:

11 **34-60-104. Oil and gas conservation commission - report -**
12 **publication.** (1) There is hereby created, in the department of natural
13 resources, the oil and gas conservation commission. ~~of the state of~~
14 ~~Colorado.~~

15 (2) (a) (I) Effective July 1, ~~2007~~ 2019, the commission ~~shall~~
16 ~~consist~~ CONSISTS of nine members, seven of whom shall be appointed by
17 the governor with the consent of the senate. ~~and two of whom,~~ The
18 executive director of the department of natural resources and the
19 executive director of the department of public health and environment,
20 ~~shall be~~ OR THE EXECUTIVE DIRECTORS' DESIGNEES, ARE ex officio voting
21 members. At least two members shall be appointed from west of the
22 continental divide, and, to the extent possible, consistent with this
23 ~~paragraph (a)~~ SUBSECTION (2)(a), the other members shall be appointed
24 taking into account the need for geographical representation of ~~other~~
25 areas of the state with high levels of CURRENT OR ANTICIPATED oil and
26 gas activity or employment. ~~Three members shall~~ ONE MEMBER MUST be
27 ~~individuals~~ AN INDIVIDUAL with substantial experience in the oil and gas

1 industry; ~~and at least two of said three members shall have a college~~
2 ~~degree in petroleum geology or petroleum engineering;~~ one member shall
3 MUST be a local government official; one member shall MUST have formal
4 training or substantial experience in environmental ~~or wildlife~~ protection;
5 one member shall MUST have formal training or substantial experience in
6 WILDLIFE PROTECTION; ONE MEMBER MUST HAVE FORMAL TRAINING OR
7 SUBSTANTIAL EXPERIENCE IN TECHNICAL EXPERTISE RELEVANT TO THE
8 ISSUES CONSIDERED BY THE COMMISSION OR soil conservation or
9 reclamation; ~~and~~ one member shall MUST be actively engaged in
10 agricultural production ~~and also~~ OR be a royalty owner; AND ONE MEMBER
11 MUST HAVE FORMAL TRAINING OR SUBSTANTIAL EXPERIENCE IN PUBLIC
12 HEALTH. Excluding the executive directors from consideration, no more
13 than four members of the commission shall MAY be members of the same
14 political party.

15 (II) Subject to ~~paragraph (b) of this subsection (2)~~ SUBSECTION
16 (2)(b) OF THIS SECTION, nothing in this ~~paragraph (a) shall be construed~~
17 ~~to require~~ SUBSECTION (2)(a) REQUIRES a holdover member of the
18 commission holding office on July 1, ~~2007~~ 2019, to comply with ~~the~~
19 ~~provisions of this paragraph (a)~~ THIS SUBSECTION (2)(a), as amended,
20 unless ~~such~~ THE person is reappointed to the commission for another term
21 of office. Nothing in this ~~subparagraph (H) shall alter, impair, or negate~~
22 SUBSECTION (2)(a) ALTERS, IMPAIRS, OR NEGATES the authority of the
23 governor to remove or appoint members of the commission pursuant to
24 ~~paragraph (b) of this subsection (2)~~ SUBSECTION (2)(b) OF THIS SECTION.

25 **SECTION 9.** In Colorado Revised Statutes, 34-60-104.5, **amend**
26 (2)(d); and **add (3)** as follows:

27 **34-60-104.5. Director of commission - duties - repeal.** (2) The

1 director of the commission shall:

2 (d) (I) Appoint, pursuant to section 13 of article XII of the state
3 constitution, such clerical and professional staff and consultants as may
4 be necessary for the efficient and effective operation of the commission,
5 INCLUDING AT LEAST ONE AND UP TO TWO DEPUTY DIRECTORS; and ~~shall~~

6 (II) Exercise general supervisory control over ~~said~~ THE staff; and

7 (3) (a) THE DIRECTOR OF THE COMMISSION SHALL SUBMIT A
8 REPORT TO THE GENERAL ASSEMBLY BY JANUARY 1, 2021, REGARDING
9 ANY RECOMMENDED STRUCTURAL CHANGES TO THE COMMISSION,
10 INCLUDING MAKING COMMISSION MEMBERSHIP A FULL-TIME PAID POSITION
11 AND EVALUATING THE USE OF ADDITIONAL ADMINISTRATIVE LAW JUDGES
12 AND HEARING OFFICERS TO ALLOW THE COMMISSION TO DEVOTE MORE OF
13 ITS TIME AND EFFORTS TO SETTING POLICY AND PROMULGATING RULES.

14 (b) THE DIRECTOR'S REPORT MUST INCLUDE THE FOLLOWING
15 INFORMATION:

16 (I) A SUMMARY OF ANY RELEVANT INFORMATION LEARNED FROM
17 A REVIEW OF THE STRUCTURE OF OTHER STATES' PROFESSIONAL AND
18 NONPROFESSIONAL OIL AND GAS COMMISSIONS; AND

19 (II) AN ANALYSIS AS TO WHETHER AND TO WHAT EXTENT THE
20 COMMISSION HAS ADEQUATE SCIENTIFIC EXPERTISE IN THE AREAS OF OIL
21 AND GAS MINERAL RESOURCE DEVELOPMENT, INCLUDING GEOLOGISTS,
22 PETROLEUM GEOLOGISTS, AND PETROLEUM ENGINEERS.

23 (c) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE SEPTEMBER 1,
24 2022.

25 (3) (a) UPON RECEIPT OF REQUEST FOR TECHNICAL REVIEW FILED
26 PURSUANT TO SECTION 29-20-104 (3)(a), THE DIRECTOR OF THE
27 COMMISSION SHALL APPOINT TECHNICAL REVIEW BOARD MEMBERS. THE

1 MEMBERSHIP OF THE TECHNICAL REVIEW BOARD MUST INCLUDE SUBJECT
2 MATTER EXPERTS IN LOCAL LAND USE PLANNING AND OIL AND GAS
3 EXPLORATION AND PRODUCTION AND MAY INCLUDE SUBJECT MATTER
4 EXPERTS IN ENVIRONMENTAL SCIENCES, PUBLIC HEALTH SCIENCES, OR
5 OTHER DISCIPLINES RELEVANT TO THE DISPUTED ISSUES, AS DETERMINED
6 BY THE DIRECTOR. THE TECHNICAL REVIEW BOARD SHALL CONDUCT A
7 TECHNICAL REVIEW OF THE PRELIMINARY OR FINAL SITING
8 DETERMINATION PURSUANT TO THE CRITERIA SPECIFIED IN SUBSECTION
9 (3)(b) OF THIS SECTION AND, AT ITS DISCRETION, MAY MEET TO CONFER
10 INFORMALLY WITH THE PARTIES. THE TECHNICAL REVIEW MUST BE
11 COMPLETED BY ISSUANCE OF A REPORT WITHIN SIXTY DAYS AFTER THE
12 DIRECTOR APPOINTS THE EXPERTS.

13 (b) A TECHNICAL REVIEW:

14 (I) MUST ADDRESS THE ISSUES IN DISPUTE AS IDENTIFIED BY THE
15 OPERATOR AND THE LOCAL GOVERNMENT, WHICH MAY INCLUDE IMPACTS
16 TO THE RECOVERY OF THE RESOURCE BY THE PRELIMINARY OR FINAL
17 SITING DETERMINATION OF THE LOCAL GOVERNMENT; WHETHER THE
18 LOCAL GOVERNMENT'S DETERMINATION WOULD REQUIRE TECHNOLOGIES
19 THAT ARE NOT AVAILABLE OR ARE IMPRACTICABLE GIVEN THE CONTEXT
20 OF THE PERMIT APPLICATION; AND WHETHER THE OPERATOR IS PROPOSING
21 TO USE BEST MANAGEMENT PRACTICES; AND

22 (II) MUST RESULT IN THE ISSUANCE OF A REPORT.

23 **SECTION 10.** In Colorado Revised Statutes, 34-60-105, **amend**
24 (1); and add (4) as follows:

25 **34-60-105. Powers of commission.** (1) (a) The commission has
26 jurisdiction over all persons and property, public and private, necessary
27 to enforce ~~the provisions of this article, and has~~ THIS ARTICLE 60, the

1 power to make and enforce rules ~~regulations~~, and orders pursuant to this
2 ~~article~~ ARTICLE 60, and to do whatever may reasonably be necessary to
3 carry out ~~the provisions of this article~~ THIS ARTICLE 60.

4 (b) Any delegation of authority to any other state officer, board,
5 or commission to administer any other laws of this state relating to the
6 conservation of oil or gas, or either of them, is hereby rescinded and
7 withdrawn, and ~~such~~ THAT authority is unqualifiedly conferred upon the
8 commission, as provided in this section; EXCEPT THAT, AS FURTHER
9 SPECIFIED IN SECTION 34-60-131, NOTHING IN THIS ARTICLE 60 ALTERS,
10 IMPAIRS, OR NEGATES THE AUTHORITY OF:

11 (I) THE AIR QUALITY CONTROL COMMISSION TO REGULATE,
12 PURSUANT TO ARTICLE 7 OF TITLE 25, THE EMISSION OF AIR POLLUTANTS
13 FROM OIL AND GAS OPERATIONS;

14 (II) THE WATER QUALITY CONTROL COMMISSION TO REGULATE,
15 PURSUANT TO ARTICLE 8 OF TITLE 25, THE DISCHARGE OF WATER
16 POLLUTANTS FROM OIL AND GAS OPERATIONS;

17 (III) THE STATE BOARD OF HEALTH TO REGULATE, PURSUANT TO
18 SECTION 25-11-104, THE DISPOSAL OF NATURALLY OCCURRING
19 RADIOACTIVE MATERIALS AND TECHNOLOGICALLY ENHANCED NATURALLY
20 OCCURRING RADIOACTIVE MATERIALS FROM OIL AND GAS OPERATIONS;

21 (IV) THE SOLID AND HAZARDOUS WASTE COMMISSION TO:

22 (A) REGULATE, PURSUANT TO ARTICLE 15 OF TITLE 25, THE
23 DISPOSAL OF HAZARDOUS WASTE FROM OIL AND GAS OPERATIONS; OR

24 (B) REGULATE, PURSUANT TO SECTION 30-20-109 (1.5), THE
25 DISPOSAL OF EXPLORATION AND PRODUCTION WASTE FROM OIL AND GAS
26 OPERATIONS; AND

27 (V) A LOCAL GOVERNMENT TO REGULATE OIL AND GAS

1 OPERATIONS PURSUANT TO SECTION 29-20-104;

2 (c) Any person, or the attorney general on behalf of the state, may
3 apply for ~~any~~ A hearing before the commission, or the commission may
4 initiate proceedings, upon any question relating to the administration of
5 this ~~article~~ ARTICLE 60, and jurisdiction is conferred upon the commission
6 to hear and determine the ~~same~~ QUESTION and enter its rule ~~regulation~~, or
7 order with respect ~~thereto~~ TO THE QUESTION.

8 (4) (a) EXCEPT AS SPECIFIED IN SUBSECTION (4)(b) OF THIS
9 SECTION, NOTHING IN THIS ARTICLE 60 AUTHORIZES THE STATE OR ITS
10 LOCAL GOVERNMENTS, INCLUDING THE COMMISSION, BOARDS OF COUNTY
11 COMMISSIONERS, AND MUNICIPALITIES, TO REGULATE THE ACTIVITIES OF:

12 (I) FEDERALLY RECOGNIZED INDIAN TRIBES, THEIR POLITICAL
13 SUBDIVISIONS, OR TRIBALLY CONTROLLED AFFILIATES, UNDERTAKEN OR
14 TO BE UNDERTAKEN WITH RESPECT TO MINERAL EVALUATION,
15 EXPLORATION, OR DEVELOPMENT ON LANDS WITHIN THE EXTERIOR
16 BOUNDARIES OF AN INDIAN RESERVATION LOCATED WITHIN THE STATE; OR

17 (II) THIRD PARTIES, UNDERTAKEN OR TO BE UNDERTAKEN WITH
18 RESPECT TO MINERAL EVALUATION, EXPLORATION, OR DEVELOPMENT ON
19 INDIAN TRUST LANDS WITHIN THE EXTERIOR BOUNDARIES OF AN INDIAN
20 RESERVATION LOCATED WITHIN THE STATE.

21 (b) REGULATION BY THE STATE OR ITS LOCAL GOVERNMENTS,
22 INCLUDING THE COMMISSION, BOARDS OF COUNTY COMMISSIONERS, AND
23 MUNICIPALITIES, APPLICABLE TO NON-INDIANS CONDUCTING OIL AND GAS
24 OPERATIONS ON LANDS WITHIN THE EXTERIOR BOUNDARIES OF THE
25 SOUTHERN UTE INDIAN RESERVATION MAY APPLY TO LANDS WHERE BOTH
26 THE SURFACE AND THE OIL AND GAS ESTATES ARE OWNED IN FEE BY A
27 PERSON OTHER THAN THE SOUTHERN UTE INDIAN TRIBE, REGARDLESS OF

1 WHETHER THE LANDS ARE COMMUNITIZED OR POOLED WITH INDIAN
2 MINERAL LANDS.

3 **SECTION 11.** In Colorado Revised Statutes, 34-60-106, **amend**
4 (1) introductory portion, (1)(f), (2) introductory portion, (2)(b), (2)(c), (7),
5 (13), and (15); **repeal** (2)(d); and **add** (2.5), (11)(c), (18), (19), and (20)
6 as follows:

7 **34-60-106. Additional powers of commission - rules - repeal.**

8 (1) The commission also ~~has authority to~~ SHALL require:

9 (f) (I) That no operations for the drilling of a well for oil and gas
10 shall be commenced without first:

11 (A) ~~Giving to the commission notice of intention~~ APPLYING FOR
12 A PERMIT to drill, WHICH MUST INCLUDE PROOF EITHER THAT: THE
13 OPERATOR HAS FILED AN APPLICATION WITH ALL AFFECTED LOCAL
14 GOVERNMENTS TO APPROVE THE SITING OF THE PROPOSED OIL AND GAS
15 LOCATION AND THE LOCAL GOVERNMENTS' DISPOSITION OF THE
16 APPLICATION; OR NO AFFECTED LOCAL GOVERNMENT REGULATES THE
17 SITING OF OIL AND GAS LOCATIONS; and ~~without first~~

18 (B) Obtaining a permit from the commission, under ~~such rules and~~
19 ~~regulations as may be~~ prescribed by the commission; and

20 (II) Paying to the commission a filing and service fee to be
21 established by the commission for the purpose of paying the expense of
22 administering this ~~article~~ ARTICLE 60 as provided in section 34-60-122,
23 which fee may be transferable or refundable, at the option of the
24 commission, if ~~such~~ THE permit is not used; ~~but no such fee shall exceed~~
25 ~~two hundred dollars~~; AND

26 (III) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW BUT
27 SUBJECT TO SUBSECTION (1)(f)(III)(B) OF THIS SECTION, UNTIL THE

1 COMMISSION HAS PROMULGATED ANY RULES REQUIRED TO BE ADOPTED BY
2 SUBSECTIONS (2.5)(a), (11)(c), AND (19) OF THIS SECTION AND EACH RULE
3 SPECIFIED IN THIS SUBSECTION (1)(f)(III)(A) HAS BECOME EFFECTIVE, THE
4 DIRECTOR MAY REFUSE TO ISSUE A PERMIT IF THE DIRECTOR DETERMINES,
5 PURSUANT TO OBJECTIVE CRITERIA TO BE PUBLISHED BY THE DIRECTOR
6 WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION
7 (1)(f)(III) AND FOLLOWING A PUBLIC COMMENT PERIOD, THAT THE PERMIT
8 REQUIRES ADDITIONAL ANALYSIS TO ENSURE THE PROTECTION OF PUBLIC
9 HEALTH, SAFETY, AND WELFARE OR THE ENVIRONMENT OR REQUIRES
10 ADDITIONAL LOCAL GOVERNMENT OR OTHER STATE AGENCY
11 CONSULTATION. ==

12 (B) THIS SUBSECTION (1)(f)(III) WILL BE REPEALED IF THE RULES
13 SPECIFIED IN SUBSECTION (1)(f)(III)(A) OF THIS SECTION HAVE BECOME
14 EFFECTIVE. THE DIRECTOR SHALL NOTIFY THE REVISOR OF STATUTES IN
15 WRITING OF THE DATE ON WHICH ALL RULES SPECIFIED IN SUBSECTION
16 (1)(f)(III)(A) OF THIS SECTION HAVE BECOME EFFECTIVE BY E-MAILING
17 THE NOTICE TO REVISOROFSTATUTES.GA@STATE.CO.US. THIS SUBSECTION
18 (1)(f)(III) IS REPEALED, EFFECTIVE UPON THE DATE IDENTIFIED IN THE
19 NOTICE THAT THE RULES SPECIFIED IN SUBSECTION (1)(f)(III)(A) OF THIS
20 SECTION HAVE BECOME EFFECTIVE OR, IF THE NOTICE DOES NOT SPECIFY
21 THAT DATE, UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

- 22 (2) The commission ~~has the authority to~~ MAY regulate:
- 23 (b) The shooting and chemical treatment of wells; AND
- 24 (c) The spacing AND NUMBER of wells ALLOWED IN A DRILLING
25 UNIT. ~~and~~
- 26 (d) ~~Oil and gas operations so as to prevent and mitigate significant~~
27 ~~adverse environmental impacts on any air, water, soil, or biological~~

1 ~~resource resulting from oil and gas operations to the extent necessary to~~
2 ~~protect public health, safety, and welfare, including protection of the~~
3 ~~environment and wildlife resources, taking into consideration~~
4 ~~cost-effectiveness and technical feasibility.~~

5 (2.5) (a) IN EXERCISING THE AUTHORITY GRANTED BY THIS
6 ARTICLE 60, THE COMMISSION SHALL NOT ACT ARBITRARILY OR
7 CAPRICIOUSLY IN REGULATING OIL AND GAS OPERATIONS SO AS TO
8 PROTECT AND MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY,
9 AND WELFARE, THE ENVIRONMENT, AND WILDLIFE RESOURCES AND SHALL
10 PROTECT AGAINST ADVERSE ENVIRONMENTAL IMPACTS ON ANY AIR,
11 WATER, SOIL, OR BIOLOGICAL RESOURCE RESULTING FROM OIL AND GAS
12 OPERATIONS.

13 (b) THE NONPRODUCTION OF OIL AND GAS RESULTING FROM A
14 CONDITIONAL APPROVAL OR DENIAL AUTHORIZED BY THIS SUBSECTION
15 (2.5) DOES NOT CONSTITUTE WASTE.

16 (7) (a) The commission ~~has the authority to~~ MAY establish, charge,
17 and collect docket fees for the filing of applications, petitions, protests,
18 responses, and other pleadings. ~~No such fees shall exceed two hundred~~
19 ~~dollars for any application, petition, or other pleading initiating a~~
20 ~~proceeding nor one hundred dollars for any protest or other responsive~~
21 ~~pleadings, and any party to any commission proceeding shall pay no more~~
22 ~~than one such fee for each proceeding in which it is a party.~~ All such fees
23 shall be deposited in the oil and gas conservation and environmental
24 response fund established by section 34-60-122 and ~~shall be~~ ARE subject
25 to appropriations by the general assembly for the purposes of this ~~article~~
26 ARTICLE 60.

27 (b) THE COMMISSION SHALL BY RULE ESTABLISH THE FEES FOR THE

1 FILING OF APPLICATIONS IN AMOUNTS SUFFICIENT TO RECOVER THE
2 COMMISSION'S REASONABLY FORESEEABLE DIRECT AND INDIRECT COSTS
3 IN CONDUCTING THE ANALYSIS, INCLUDING THE ANNUAL REVIEW OF
4 FINANCIAL ASSURANCE PURSUANT TO SUBSECTION (13) OF THIS SECTION,
5 NECESSARY TO ASSURE THAT PERMITTED OPERATIONS WILL BE
6 CONDUCTED IN COMPLIANCE WITH ALL APPLICABLE REQUIREMENTS OF
7 THIS ARTICLE 60.

8 (11) (c) THE COMMISSION SHALL ADOPT RULES THAT:

9 (I) ADOPT AN ALTERNATIVE LOCATION ANALYSIS PROCESS AND
10 SPECIFY CRITERIA USED TO IDENTIFY OIL AND GAS LOCATIONS AND
11 FACILITIES PROPOSED TO BE LOCATED NEAR POPULATED AREAS THAT WILL
12 BE SUBJECT TO THE ALTERNATIVE LOCATION ANALYSIS PROCESS; AND

13 (II) IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC HEALTH
14 AND ENVIRONMENT, EVALUATE AND ADDRESS THE POTENTIAL
15 CUMULATIVE IMPACTS OF OIL AND GAS DEVELOPMENT.

16 (13) The commission shall require every operator to provide
17 assurance that it is financially capable of fulfilling ~~any~~ EVERY obligation
18 imposed ~~under subsections (11), (12), and (17) of this section~~ BY THIS
19 ARTICLE 60 AS SPECIFIED IN RULES ADOPTED ON OR AFTER THE EFFECTIVE
20 DATE OF THIS SUBSECTION (13), AS AMENDED. THE RULE-MAKING MUST
21 CONSIDER: INCREASING FINANCIAL ASSURANCE FOR INACTIVE WELLS AND
22 FOR WELLS TRANSFERRED TO A NEW OWNER; REQUIRING A FINANCIAL
23 ASSURANCE ACCOUNT, WHICH MUST REMAIN TIED TO THE WELL IN THE
24 EVENT OF A TRANSFER OF OWNERSHIP, TO BE FULLY FUNDED IN THE INITIAL
25 YEARS OF OPERATION FOR EACH NEW WELL TO COVER FUTURE COSTS TO
26 PLUG, RECLAIM, AND REMEDIATE THE WELL; AND CREATING A POOLED
27 FUND TO ADDRESS ORPHANED WELLS FOR WHICH NO OWNER, OPERATOR,

1 OR RESPONSIBLE PARTY IS CAPABLE OF COVERING THE COSTS OF
2 PLUGGING, RECLAMATION, AND REMEDIATION. For purposes of this
3 subsection (13), references to "operator" shall include an operator of an
4 underground natural gas storage cavern and an applicant for a certificate
5 of closure under subsection (17) of this section. In complying with this
6 requirement, an operator may submit for commission approval, without
7 limitation, one or more of the following:

8 (a) A guarantee of performance where the operator can
9 demonstrate to the commission's satisfaction that it has sufficient net
10 worth to guarantee performance of ~~any~~ EVERY obligation imposed by ~~rule~~
11 ~~under subsections (11), (12), and (17) of this section.~~ ~~Such~~ THIS ARTICLE
12 60. THE COMMISSION SHALL ANNUALLY REVIEW THE guarantee and
13 demonstration of net worth. ~~shall be annually reviewed by the~~
14 ~~commission.~~

15 (b) A certificate of general liability insurance in a form acceptable
16 to the commission ~~which~~ THAT names the state as an additional insured
17 and ~~which~~ covers occurrences during the policy period of a nature
18 relevant to an obligation imposed by ~~rule under subsections (11), (12),~~
19 ~~and (17) of this section~~ THIS ARTICLE 60;

20 (c) A bond or other surety instrument;

21 (d) A letter of credit, certificate of deposit, or other financial
22 instrument;

23 (e) An escrow account or sinking fund dedicated to the
24 performance of ~~any~~ EVERY obligation imposed by ~~rule under subsections~~
25 ~~(11), (12), and (17) of this section~~ THIS ARTICLE 60;

26 (f) A lien or other security interest in real or personal property of
27 the operator. ~~Such~~ THE lien or security interest ~~shall~~ MUST be in a form

1 and priority acceptable to the commission in its sole discretion. ~~and shall~~
2 ~~be reviewed annually by~~ The commission SHALL ANNUALLY REVIEW THE
3 LIEN OR SECURITY.

4 (15) The commission may, as it deems appropriate, assign its
5 inspection and monitoring function, but not its enforcement authority,
6 through intergovernmental agreement or by private contract; except that
7 ~~no such~~ AN assignment shall MUST NOT allow for the imposition of any
8 new tax or fee by the assignee in order to conduct ~~such~~ THE assigned
9 inspection and monitoring and ~~no such assignment shall~~ MUST NOT
10 provide for compensation contingent on the number or nature of alleged
11 violations referred to the commission by the assignee. ~~No local~~
12 ~~government may charge a tax or fee to conduct inspections or monitoring~~
13 ~~of oil and gas operations with regard to matters that are subject to rule,~~
14 ~~regulation, order, or permit condition administered by the commission.~~
15 ~~Nothing in this subsection (15) shall affect the ability of a local~~
16 ~~government to charge a reasonable and nondiscriminatory fee for~~
17 ~~inspection and monitoring for road damage and compliance with local fire~~
18 ~~codes, land use permit conditions, and local building codes.~~

19 (18) THE COMMISSION SHALL PROMULGATE RULES TO ENSURE
20 PROPER WELLBORE INTEGRITY OF ALL OIL AND GAS PRODUCTION WELLS.
21 IN PROMULGATING THE RULES, THE COMMISSION SHALL CONSIDER
22 INCORPORATING RECOMMENDATIONS FROM THE STATE OIL AND GAS
23 REGULATORY EXCHANGE AND SHALL INCLUDE PROVISIONS TO:

24 (a) ADDRESS THE PERMITTING, CONSTRUCTION, OPERATION, AND
25 CLOSURE OF PRODUCTION WELLS;

26 (b) REQUIRE THAT WELLS ARE CONSTRUCTED USING CURRENT
27 PRACTICES AND STANDARDS THAT PROTECT WATER ZONES AND PREVENT

1 BLOWOUTS;

2 (c) ENHANCE SAFETY AND ENVIRONMENTAL PROTECTIONS DURING
3 OPERATIONS SUCH AS DRILLING AND HYDRAULIC FRACTURING;

4 (d) REQUIRE REGULAR INTEGRITY ASSESSMENTS FOR ALL OIL AND
5 GAS PRODUCTION WELLS, SUCH AS PRESSURE MONITORING DURING
6 PRODUCTION; AND

7 (e) ADDRESS THE USE OF NONDESTRUCTIVE TESTING OF WELL
8 JOINTS.

9 (19) THE COMMISSION SHALL REVIEW AND AMEND ITS FLOWLINE
10 AND INACTIVE, TEMPORARILY ABANDONED, AND SHUT-IN WELL RULES TO
11 THE EXTENT NECESSARY TO ENSURE THAT THE RULES PROTECT AND
12 MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY, AND WELFARE
13 AND THE ENVIRONMENT, INCLUDING BY:

14 (a) ALLOWING PUBLIC DISCLOSURE OF FLOWLINE INFORMATION
15 AND EVALUATING AND DETERMINING WHEN A DEACTIVATED FLOWLINE
16 MUST BE INSPECTED BEFORE BEING REACTIVATED; AND

17 (b) EVALUATING AND DETERMINING WHEN INACTIVE,
18 TEMPORARILY ABANDONED, AND SHUT-IN WELLS MUST BE INSPECTED
19 BEFORE BEING PUT INTO PRODUCTION OR USED FOR INJECTION.

20 (20) THE COMMISSION SHALL ADOPT RULES TO REQUIRE
21 CERTIFICATION FOR WORKERS IN THE FOLLOWING FIELDS:

22 (a) COMPLIANCE OFFICERS WITH REGARD TO THE FEDERAL
23 "OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970", 29 U.S.C. SEC. 651
24 ET SEQ., INCLUDING SPECIFICALLY WORKING IN CONFINED SPACES;

25 (b) COMPLIANCE OFFICERS WITH REGARD TO CODES PUBLISHED BY
26 THE AMERICAN PETROLEUM INSTITUTE AND AMERICAN SOCIETY OF
27 MECHANICAL ENGINEERS, OR THEIR SUCCESSOR ORGANIZATIONS;

- 1 (c) THE HANDLING OF HAZARDOUS MATERIALS;
2 (d) WELDERS WORKING ON OIL AND GAS PROCESS LINES,
3 INCLUDING:
4 (I) KNOWLEDGE OF THE FLOWLINE RULES PROMULGATED
5 PURSUANT TO SUBSECTION (19) OF THIS SECTION;
6 (II) A MINIMUM OF SEVEN THOUSAND HOURS OF DOCUMENTED
7 ON-THE-JOB TRAINING, WHICH REQUIREMENT CAN BE MET BY AN
8 EMPLOYEE WORKING UNDER THE SUPERVISION OF A PERSON WITH THE
9 REQUISITE SEVEN THOUSAND HOURS OF TRAINING; AND
10 (III) PASSAGE OF THE INTERNATIONAL CODE COUNCIL EXAM F31,
11 NATIONAL STANDARD JOURNEYMAN MECHANICAL, OR AN ANALOGOUS
12 SUCCESSOR EXAM, FOR ANY PERSON WORKING ON PRESSURIZED PROCESS
13 LINES IN UPSTREAM AND MIDSTREAM OPERATIONS.

14 **SECTION 12.** In Colorado Revised Statutes, 34-60-116, **amend**
15 (1), (3), (6), (7)(a)(II), (7)(a)(III), (7)(c), and (7)(d)(I); and **add** (7)(a)(IV)
16 as follows:

17 **34-60-116. Drilling units - pooling interests.** (1) (a) To prevent
18 or to assist in preventing waste, to avoid the drilling of unnecessary wells,
19 or to protect correlative rights, the commission, upon its own motion or
20 on a proper application of an interested party, but after notice and hearing
21 as provided in this section, may establish one or more drilling units of
22 specified size and shape covering any pool or portion of a pool.

23 (b) THE APPLICATION MUST INCLUDE PROOF THAT EITHER:

24 (I) THE APPLICANT HAS FILED AN APPLICATION WITH THE LOCAL
25 GOVERNMENT WITH JURISDICTION TO APPROVE THE SITING OF THE
26 PROPOSED OIL AND GAS LOCATION AND THE LOCAL GOVERNMENT'S
27 DISPOSITION OF THE APPLICATION; OR

1 (II) THE LOCAL GOVERNMENT WITH JURISDICTION DOES NOT
2 REGULATE THE SITING OF OIL AND GAS LOCATIONS.

3 (3) The order establishing a drilling unit:

4 (a) IS SUBJECT TO SECTION 34-60-106 (2.5); AND

5 (b) May authorize one or more wells to be drilled and produced
6 from the common source of supply on a drilling unit.

7 (6) (a) When two or more separately owned tracts are embraced
8 within a drilling unit, or when there are separately owned interests in all
9 or a part of the drilling unit, then persons owning ~~such~~ THE interests may
10 pool their interests for the development and operation of the drilling unit.

11 (b) (I) In the absence of voluntary pooling, the commission, upon
12 the application of ~~any interested person~~ A PERSON WHO OWNS, OR HAS
13 SECURED THE CONSENT OF THE OWNERS OF, MORE THAN FIFTY PERCENT OF
14 THE MINERAL INTERESTS TO BE POOLED, may enter an order pooling all
15 interests in the drilling unit for the development and operation ~~thereof~~.
16 ~~Each such~~ OF THE DRILLING UNIT.

17 (II) THE pooling order shall be made after notice and A hearing
18 and ~~shall~~ MUST be upon terms and conditions that are just and reasonable
19 and that afford to the owner of each tract or interest in the drilling unit the
20 opportunity to recover or receive, without unnecessary expense, ~~his~~ A just
21 and equitable share.

22 (c) Operations incident to the drilling of a well upon any portion
23 of a unit covered by a pooling order shall be deemed for all purposes to
24 be the conduct of ~~such~~ operations upon each separately owned tract in the
25 unit by the several owners ~~thereof~~ OF EACH SEPARATELY OWNED TRACT.
26 That portion of the production allocated or applicable to each tract
27 included in a unit covered by a pooling order shall, when produced, be

1 deemed for all purposes to have been produced from ~~such~~ THE tract by a
2 well drilled ~~thereon~~ ON IT.

3 (7) (a) Each pooling order must:

4 (II) Determine the interest of each owner in the unit and provide
5 that each consenting owner is entitled to receive, subject to royalty or
6 similar obligations, the share of the production from the wells applicable
7 to the owner's interest in the wells and, unless the owner has agreed
8 otherwise, a proportionate part of the nonconsenting owner's share of the
9 production until costs are recovered and that each nonconsenting owner
10 is entitled to own and to receive the share of the production applicable to
11 the owner's interest in the unit after the consenting owners have recovered
12 the nonconsenting owner's share of the costs out of production; ~~and~~

13 (III) Specify that a nonconsenting owner is immune from liability
14 for costs arising from spills, releases, damage, or injury resulting from oil
15 and gas operations on the drilling unit; AND

16 (IV) PROHIBIT THE OPERATOR FROM USING THE SURFACE OWNED
17 BY A NONCONSENTING OWNER WITHOUT PERMISSION FROM THE
18 NONCONSENTING OWNER.

19 (c) A nonconsenting owner of a tract in a drilling unit that is not
20 subject to any lease or other contract for ~~the development thereof~~ for oil
21 and gas DEVELOPMENT shall be deemed to have a landowner's
22 proportionate royalty of ~~twelve and one-half~~ THIRTEEN percent until ~~such~~
23 ~~time as~~ the consenting owners recover, only out of the nonconsenting
24 owner's proportionate ~~seven-eighths~~ EIGHTY-SEVEN PERCENT share of
25 production, the costs specified in subsection (7)(b) of this section. After
26 recovery of the costs, the nonconsenting owner then owns his or her full
27 proportionate share of the wells, surface facilities, and production and

1 then is liable for further costs as if the NONCONSENTING owner had
2 originally agreed to drilling of the wells.

3 (d) (I) THE COMMISSION SHALL NOT ENTER an order pooling an
4 unleased nonconsenting mineral owner ~~shall not be entered by the~~
5 ~~commission~~ under subsection (6) of this section over protest of the owner
6 unless the commission has received evidence that the unleased mineral
7 owner has been tendered, no less than sixty days before the hearing, a
8 reasonable offer, MADE IN GOOD FAITH, to lease upon terms no less
9 favorable than those currently prevailing in the area at the time
10 application for the order is made and that ~~such~~ THE unleased mineral
11 owner has been furnished in writing the owner's share of the estimated
12 drilling and completion cost of the wells, the location and objective depth
13 of the wells, and the estimated spud date for the wells or range of time
14 within which spudding is to occur. The offer must include a copy of or
15 link to a brochure supplied by the commission that clearly and concisely
16 describes the pooling procedures specified in this section and the mineral
17 owner's options pursuant to those procedures.

18 **SECTION 13.** In Colorado Revised Statutes, 34-60-122, **amend**
19 (1)(b) as follows:

20 **34-60-122. Expenses - fund created.** (1) (b) On and after July
21 1, ~~2014~~ 2019, the commission shall ensure that the ~~two-year average of~~
22 ~~the~~ unobligated portion of the fund does not exceed ~~six million dollars~~
23 FIFTY PERCENT OF TOTAL APPROPRIATIONS FROM THE FUND FOR THE
24 UPCOMING FISCAL YEAR and that there is an adequate balance in the
25 ~~environmental response account created pursuant to subsection (5) of this~~
26 ~~section~~ FUND TO SUPPORT THE OPERATIONS OF THE COMMISSION AND to
27 address environmental response needs.

1 **SECTION 14.** In Colorado Revised Statutes, 34-60-128, **repeal**
2 (4) as follows:

3 **34-60-128. Habitat stewardship - rules.** (4) ~~Nothing in this~~
4 ~~section shall establish, alter, impair, or negate the authority of local and~~
5 ~~county governments to regulate land use related to oil and gas operations.~~

6 **SECTION 15.** In Colorado Revised Statutes, **add** 34-60-131 as
7 follows:

8 **34-60-131. No land use preemption.** (1) (a) NOTHING IN THIS
9 ARTICLE 60 IMPAIRS OR NEGATES THE AUTHORITY OF A LOCAL
10 GOVERNMENT TO REGULATE LAND USE AND THE SITING OF OIL AND GAS
11 LOCATIONS AND FACILITIES.

12 (b) AN OPERATOR IS SUBJECT TO LOCAL GOVERNMENTS' LAND USE
13 AND SITING AUTHORITY AS PROVIDED BY LAW AND SHALL ENSURE THAT
14 THE LOCATION OF OIL AND GAS LOCATIONS AND FACILITIES COMPLIES WITH
15 LOCAL GOVERNMENT LAND USE AND SITING REGULATIONS.

16 (2) LOCAL GOVERNMENTS AND STATE AGENCIES, INCLUDING THE
17 COMMISSION AND AGENCIES LISTED IN SECTION 34-60-105 (1)(b), HAVE
18 REGULATORY AUTHORITY OVER OIL AND GAS DEVELOPMENT, INCLUDING
19 AS SPECIFIED IN SECTION 34-60-105 (1)(b). A LOCAL GOVERNMENT'S
20 REGULATIONS MAY BE MORE PROTECTIVE OR STRICTER THAN STATE
21 REQUIREMENTS.

22 **SECTION 16. Appropriation.** (1) For the 2019-20 state fiscal
23 year, \$770,959 is appropriated to the department of natural resources.
24 This appropriation consists of \$678,431 cash funds from the oil and gas
25 conservation and environmental response fund created in section
26 34-60-122 (5)(a), C.R.S., and \$92,528 cash funds from the wildlife cash
27 fund created in section 33-1-112 (1)(a), C.R.S. To implement this act, the

1 department may use this appropriation as follows:

2 (a) \$489,759 from the oil and gas conservation and environmental
3 response fund for use by the oil and gas conservation commission for
4 program costs, which amount is based on an assumption that the oil and
5 gas conservation commission will require an additional 5.0 FTE;

6 (b) \$88,628 from the wildlife cash fund for wildlife operations,
7 which amount is based on an assumption that the division of wildlife will
8 require an additional 1.0 FTE;

9 (c) \$6,038, which consists of \$3,900 from the wildlife cash fund
10 and \$2,138 from the oil and gas conservation and environmental response
11 fund, for vehicle lease payments; and

12 (d) \$186,534 from the oil and gas conservation and environmental
13 response fund for the purchase of legal services.

14 (2) For the 2019-20 state fiscal year, \$186,534 is appropriated to
15 the department of law. This appropriation is from reappropriated funds
16 received from the department of natural resources under subsection (1)(d)
17 of this section and is based on an assumption that the department of law
18 will require an additional 1.0 FTE. To implement this act, the department
19 of law may use this appropriation to provide legal services for the
20 department of natural resources.

21 **SECTION 17. Applicability.** This act applies to conduct
22 occurring on or after the effective date of this act, including
23 determinations of applications pending on the effective date.

24 **SECTION 18. 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, and safety.