

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

PREAMENDED

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

LLS NO. 19-0973.01 Thomas Morris x4218

SENATE BILL 19-181

SENATE SPONSORSHIP

Fenberg,

HOUSE SPONSORSHIP

Becker,

Senate Committees

Transportation & Energy
Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING ADDITIONAL PUBLIC WELFARE PROTECTIONS REGARDING**
102 **THE CONDUCT OF OIL AND GAS OPERATIONS.**

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 "House Bill 1041" powers, which are a type of land use authority over oil

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.

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**
11 (3) as follows:

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

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

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

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

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

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

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

27 (II) THE COMMISSION MAY, BY RULE, PHASE IN THE REQUIREMENT

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

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

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

17 **29-20-104. Powers of local governments - definition.**
18 (1) Except as expressly provided in section 29-20-104.5, the power and
19 authority granted by this section ~~shall~~ DOES not limit any power or
20 authority presently exercised or previously granted. Each local
21 government within its respective jurisdiction has the authority to plan for
22 and regulate the use of land by:

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

25 (h) ~~Otherwise planning for and regulating the use of land so as to~~
26 ~~provide planned and orderly use of land and protection of the~~
27 ~~environment in a manner consistent with constitutional rights.~~

1 REGULATING OIL AND GAS OPERATIONS TO ADDRESS:
2 (I) LAND USE;
3 (II) THE MINIMIZATION OF ADVERSE IMPACTS TO PUBLIC HEALTH,
4 SAFETY, AND WELFARE, THE ENVIRONMENT, AND WILDLIFE. FOR PURPOSES
5 OF THIS SUBSECTION (1)(h)(II), "MINIMIZATION OF ADVERSE IMPACTS"
6 MEANS TO:
7 (A) AVOID ADVERSE IMPACTS FROM OIL AND GAS OPERATIONS;
8 AND
9 (B) MINIMIZE AND MITIGATE THE EXTENT AND SEVERITY OF THOSE
10 IMPACTS THAT CANNOT BE AVOIDED;
11 (III) THE LOCATION AND SITING OF OIL AND GAS FACILITIES AND
12 OIL AND GAS LOCATIONS, AS THOSE TERMS ARE DEFINED IN SECTION
13 34-60-103 (6.2) AND (6.4);
14 (IV) IMPACTS TO PUBLIC FACILITIES AND SERVICES;
15 (V) WATER QUALITY AND SOURCE, NOISE, VIBRATION, ODOR,
16 LIGHT, DUST, AIR EMISSIONS AND AIR QUALITY, LAND DISTURBANCE,
17 RECLAMATION PROCEDURES, CULTURAL RESOURCES, EMERGENCY
18 PREPAREDNESS AND COORDINATION WITH FIRST RESPONDERS, SECURITY,
19 AND TRAFFIC AND TRANSPORTATION IMPACTS;
20 (VI) FINANCIAL SECURITIES, INDEMNIFICATION, AND INSURANCE
21 AS APPROPRIATE TO ENSURE COMPLIANCE WITH THE REGULATIONS OF THE
22 LOCAL GOVERNMENT; AND
23 (VII) ALL OTHER NUISANCE-TYPE EFFECTS OF OIL AND GAS
24 DEVELOPMENT; AND
25 (i) OTHERWISE PLANNING FOR AND REGULATING THE USE OF LAND
26 SO AS TO PROVIDE PLANNED AND ORDERLY USE OF LAND AND PROTECTION
27 OF THE ENVIRONMENT IN A MANNER CONSISTENT WITH CONSTITUTIONAL

1 RIGHTS.

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

5 (a) INSPECT ALL FACILITIES SUBJECT TO LOCAL GOVERNMENT
6 REGULATION;

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

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

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

16 **30-15-401. General regulations - definitions.** (1) In addition to
17 those powers granted by sections 30-11-101 and 30-11-107 and by parts
18 1, 2, and 3 of this article 15, the board of county commissioners ~~has the~~
19 ~~power to~~ MAY adopt ordinances for control or licensing of those matters
20 of purely local concern that are described in the following enumerated
21 powers:

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

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

1 of title 34, C.R.S.

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

4 **34-60-102. Legislative declaration.** (1) (a) It is declared to be in
5 the public interest AND THE COMMISSION IS DIRECTED to:

6 (I) ~~Foster~~ REGULATE the ~~responsible, balanced~~ development
7 ~~production, and utilization~~ of the natural resources of oil and gas in the
8 state of Colorado in a manner ~~consistent with protection of~~ THAT
9 PROTECTS public health, safety, and welfare, including protection of the
10 environment and wildlife resources;

11 (b) It is ~~not~~ NEITHER the intent nor the purpose of this ~~article~~
12 ARTICLE 60 to require or permit the proration or distribution of the
13 production of oil and gas among the fields and pools of Colorado on the
14 basis of market demand. It is the intent and purpose of this ~~article~~
15 ARTICLE 60 to permit each oil and gas pool in Colorado to produce up to
16 its maximum efficient rate of production, subject to the PROTECTION OF
17 PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, AND
18 WILDLIFE RESOURCES AND THE prevention of waste ~~consistent with the~~
19 ~~protection of public health, safety, and welfare, including protection of~~
20 ~~the environment and wildlife resources~~ AS SET FORTH IN SECTION
21 34-60-106 (2.5) AND (3)(a), and subject further to the enforcement and
22 protection of the coequal and correlative rights of the owners and
23 producers of a common source of oil and gas, so that each common owner
24 and producer may obtain a just and equitable share of production
25 ~~therefrom~~ FROM THE COMMON SOURCE.

26 **SECTION 7.** In Colorado Revised Statutes, 34-60-103, **amend**
27 the introductory portion, (5.5), (11), (12), and (13); and **add** (5.3), (6.2),

1 and (6.4) as follows:

2 **34-60-103. Definitions.** As used in this ~~article~~ ARTICLE 60, unless
3 the context otherwise requires:

4 (5.3) "LOCAL GOVERNMENT" MEANS, EXCEPT WITH REGARD TO
5 SECTION 34-60-104 (2)(a)(I), A:

6 (a) MUNICIPALITY OR CITY AND COUNTY WITHIN WHOSE
7 BOUNDARIES AN OIL AND GAS LOCATION IS SITED OR PROPOSED TO BE
8 SITED; OR

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

12 (5.5) "Minimize adverse impacts" means to: ~~wherever reasonably~~
13 ~~practicable:~~

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

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

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

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

22 (6.2) "OIL AND GAS FACILITY" MEANS EQUIPMENT OR
23 IMPROVEMENTS USED OR INSTALLED AT AN OIL AND GAS LOCATION FOR
24 THE EXPLORATION, PRODUCTION, WITHDRAWAL, TREATMENT, OR
25 PROCESSING OF CRUDE OIL, CONDENSATE, EXPLORATION AND PRODUCTION
26 WASTE, OR GAS.

27 (6.4) "OIL AND GAS LOCATION" MEANS A DEFINABLE AREA WHERE

1 AN OIL AND GAS OPERATOR HAS DISTURBED OR INTENDS TO DISTURB THE
2 LAND SURFACE IN ORDER TO LOCATE AN OIL AND GAS FACILITY.

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

4 (a) Includes the escape, blowing, or releasing, directly or
5 indirectly into the open air, of gas from wells productive of gas only, or
6 gas in an excessive or unreasonable amount from wells producing oil or
7 both oil and gas; and the production of gas in quantities or in such manner
8 as unreasonably reduces reservoir pressure or, SUBJECT TO SUBSECTION
9 (11)(b) OF THIS SECTION, unreasonably diminishes the quantity of oil or
10 gas that ultimately may be produced; excepting gas that is reasonably
11 necessary in the drilling, completing, testing, and in furnishing power for
12 the production of wells; AND

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

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

18 (a) Includes underground waste; inefficient, excessive, or
19 improper use or dissipation of reservoir energy, including gas energy and
20 water drive; surface waste; open-pit storage; and waste incident to the
21 production of oil in excess of the producer's aboveground storage
22 facilities and lease and contractual requirements, but excluding storage,
23 other than open-pit storage, reasonably necessary for building up or
24 maintaining crude stocks and products ~~thereof~~ OF CRUDE STOCKS for
25 consumption, use, and sale; AND

26 (b) DOES NOT INCLUDE THE NONPRODUCTION OF OIL FROM A
27 FORMATION IF NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY, AND

1 WELFARE, THE ENVIRONMENT, OR WILDLIFE RESOURCES AS DETERMINED
2 BY THE COMMISSION.

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

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

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

8 ~~(b)~~ (II) The locating, spacing, drilling, equipping, operating, or
9 producing of any oil or gas well or wells in a manner ~~which~~ THAT causes
10 or tends to cause reduction in quantity of oil or gas ultimately recoverable
11 from a pool under prudent and proper operations or ~~which~~ THAT causes
12 or tends to cause unnecessary or excessive surface loss or destruction of
13 oil or gas; AND

14 ~~(c)~~ (III) Abuse of the correlative rights of any owner in a pool due
15 to nonuniform, disproportionate, unratable, or excessive withdrawals of
16 oil or gas ~~therefrom~~ FROM THE POOL, causing reasonably avoidable
17 drainage between tracts of land or resulting in one or more producers or
18 owners in ~~such~~ THE pool producing more than ~~his~~ AN equitable share of
19 the oil or gas from ~~such~~ THE pool; AND

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

24 **SECTION 8.** In Colorado Revised Statutes, 34-60-104, **amend**
25 (1), (2)(a)(I), and (2)(a)(II) as follows:

26 **34-60-104. Oil and gas conservation commission - report -**
27 **publication.** (1) There is hereby created, in the department of natural

1 resources, the oil and gas conservation commission. ~~of the state of~~
2 ~~Colorado.~~

3 (2) (a) (I) Effective July 1, ~~2007~~ 2019, the commission ~~shall~~
4 ~~consist~~ CONSISTS of nine members, seven of whom shall be appointed by
5 the governor with the consent of the senate. ~~and two of whom,~~ The
6 executive director of the department of natural resources and the
7 executive director of the department of public health and environment,
8 ~~shall be~~ OR THE EXECUTIVE DIRECTORS' DESIGNEES, ARE ex officio voting
9 members. At least two members shall be appointed from west of the
10 continental divide, and, to the extent possible, consistent with this
11 ~~paragraph (a)~~ SUBSECTION (2)(a), the other members shall be appointed
12 taking into account the need for geographical representation of ~~other~~
13 areas of the state with high levels of CURRENT OR ANTICIPATED oil and
14 gas activity or employment. ~~Three members shall~~ ONE MEMBER MUST be
15 ~~individuals~~ AN INDIVIDUAL with substantial experience in the oil and gas
16 industry; ~~and at least two of said three members shall have a college~~
17 ~~degree in petroleum geology or petroleum engineering;~~ one member shall
18 MUST be a local government official; one member shall MUST have formal
19 training or substantial experience in environmental ~~or wildlife~~ protection;
20 one member shall MUST have formal training or substantial experience in
21 WILDLIFE PROTECTION; ONE MEMBER MUST HAVE FORMAL TRAINING OR
22 SUBSTANTIAL EXPERIENCE IN soil conservation or reclamation; ~~and~~ one
23 member shall MUST be actively engaged in agricultural production ~~and~~
24 ~~also~~ OR be a royalty owner; AND ONE MEMBER MUST HAVE FORMAL
25 TRAINING OR SUBSTANTIAL EXPERIENCE IN PUBLIC HEALTH. Excluding the
26 executive directors from consideration, no more than four members of the
27 commission shall MAY be members of the same political party.

1 (II) Subject to ~~paragraph (b) of this subsection (2)~~ SUBSECTION
2 (2)(b) OF THIS SECTION, nothing in this ~~paragraph (a) shall be construed~~
3 ~~to require~~ SUBSECTION (2)(a) REQUIRES a holdover member of the
4 commission holding office on July 1, ~~2007~~ 2019, to comply with ~~the~~
5 ~~provisions of this paragraph (a)~~ THIS SUBSECTION (2)(a), as amended,
6 unless ~~such~~ THE person is reappointed to the commission for another term
7 of office. Nothing in this ~~subparagraph (II) shall alter, impair, or negate~~
8 SUBSECTION (2)(a) ALTERS, IMPAIRS, OR NEGATES the authority of the
9 governor to remove or appoint members of the commission pursuant to
10 ~~paragraph (b) of this subsection (2)~~ SUBSECTION (2)(b) OF THIS SECTION.

11 **SECTION 9.** In Colorado Revised Statutes, 34-60-104.5, **amend**
12 (2)(d) as follows:

13 **34-60-104.5. Director of commission - duties.** (2) The director
14 of the commission shall:

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

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

20 **SECTION 10.** In Colorado Revised Statutes, 34-60-105, **amend**
21 (1) as follows:

22 **34-60-105. Powers of commission.** (1) (a) The commission has
23 jurisdiction over all persons and property, public and private, necessary
24 to enforce ~~the provisions of this article, and has~~ THIS ARTICLE 60, the
25 power to make and enforce rules ~~regulations~~, and orders pursuant to this
26 ~~article~~ ARTICLE 60, and to do whatever may reasonably be necessary to
27 carry out ~~the provisions of this article~~ THIS ARTICLE 60.

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

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

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

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

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

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

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

24 (V) A LOCAL GOVERNMENT TO REGULATE OIL AND GAS
25 OPERATIONS PURSUANT TO SECTION 29-20-104;

26 (c) Any person, or the attorney general on behalf of the state, may
27 apply for ~~any~~ A hearing before the commission, or the commission may

1 initiate proceedings, upon any question relating to the administration of
2 this ~~article~~ ARTICLE 60, and jurisdiction is conferred upon the commission
3 to hear and determine the ~~same~~ QUESTION and enter its rule ~~regulation~~, or
4 order with respect ~~thereto~~ TO THE QUESTION.

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

9 **34-60-106. Additional powers of commission - rules - repeal.**

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

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

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

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

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

1 (III) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW BUT
2 SUBJECT TO SUBSECTION (1)(f)(III)(B) OF THIS SECTION, UNTIL THE
3 COMMISSION HAS PROMULGATED EVERY RULE REQUIRED TO BE ADOPTED
4 BY LEGISLATION ENACTED IN 2019 THAT AMENDS THIS ARTICLE 60 AND
5 EACH RULE SPECIFIED IN THIS SUBSECTION (1)(f)(III)(A) HAS BECOME
6 EFFECTIVE, THE DIRECTOR MAY REFUSE TO ISSUE A PERMIT IF THE
7 DIRECTOR DETERMINES THAT THE PERMIT REQUIRES ADDITIONAL
8 ANALYSIS TO ENSURE THE PROTECTION OF PUBLIC HEALTH, SAFETY, AND
9 WELFARE OR THE ENVIRONMENT OR REQUIRE ADDITIONAL LOCAL
10 GOVERNMENT OR OTHER STATE AGENCY CONSULTATION.

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

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

1 ~~protect public health, safety, and welfare, including protection of the~~
2 ~~environment and wildlife resources, taking into consideration~~
3 ~~cost-effectiveness and technical feasibility.~~

4 (2.5) (a) IN EXERCISING THE AUTHORITY GRANTED BY THIS
5 ARTICLE 60, THE COMMISSION SHALL REGULATE OIL AND GAS OPERATIONS
6 SO AS TO PROTECT AND MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH,
7 SAFETY, AND WELFARE, THE ENVIRONMENT, AND WILDLIFE RESOURCES
8 AND SHALL PROTECT AGAINST ADVERSE ENVIRONMENTAL IMPACTS ON
9 ANY AIR, WATER, SOIL, OR BIOLOGICAL RESOURCE RESULTING FROM OIL
10 AND GAS OPERATIONS.

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

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

25 (b) THE COMMISSION SHALL BY RULE ESTABLISH THE FEES FOR THE
26 FILING OF APPLICATIONS IN AMOUNTS SUFFICIENT TO RECOVER THE
27 COMMISSION'S REASONABLY FORESEEABLE DIRECT AND INDIRECT COSTS

1 IN CONDUCTING THE ANALYSIS, INCLUDING THE ANNUAL REVIEW OF
2 FINANCIAL ASSURANCE PURSUANT TO SUBSECTION (13) OF THIS SECTION,
3 NECESSARY TO ASSURE THAT PERMITTED OPERATIONS WILL BE
4 CONDUCTED IN COMPLIANCE WITH ALL APPLICABLE REQUIREMENTS OF
5 THIS ARTICLE 60.

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

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

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

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

1 subsection (13), references to "operator" shall include an operator of an
2 underground natural gas storage cavern and an applicant for a certificate
3 of closure under subsection (17) of this section. In complying with this
4 requirement, an operator may submit for commission approval, without
5 limitation, one or more of the following:

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

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

18 (c) A bond or other surety instrument;

19 (d) A letter of credit, certificate of deposit, or other financial
20 instrument;

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

24 (f) A lien or other security interest in real or personal property of
25 the operator. ~~Such~~ THE lien or security interest ~~shall~~ MUST be in a form
26 and priority acceptable to the commission in its sole discretion. ~~and shall~~
27 ~~be reviewed annually by~~ The commission SHALL ANNUALLY REVIEW THE

1 LIEN OR SECURITY.

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

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

22 (a) ADDRESS THE PERMITTING, CONSTRUCTION, OPERATION, AND
23 CLOSURE OF PRODUCTION WELLS;

24 (b) REQUIRE THAT WELLS ARE CONSTRUCTED USING CURRENT
25 PRACTICES AND STANDARDS THAT PROTECT WATER ZONES AND PREVENT
26 BLOWOUTS;

27 (c) ENHANCE SAFETY AND ENVIRONMENTAL PROTECTIONS DURING

1 OPERATIONS SUCH AS DRILLING AND HYDRAULIC FRACTURING;

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

5 (e) ADDRESS THE USE OF NONDESTRUCTIVE TESTING OF WELL
6 JOINTS.

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

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

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

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

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

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

26 (c) THE HANDLING OF HAZARDOUS MATERIALS;

27 (d) WELDERS WORKING ON OIL AND GAS PROCESS LINES,

1 INCLUDING:

2 (I) KNOWLEDGE OF THE FLOWLINE RULES PROMULGATED
3 PURSUANT TO SUBSECTION (19) OF THIS SECTION;

4 (II) A MINIMUM OF SEVEN THOUSAND HOURS OF DOCUMENTED
5 ON-THE-JOB TRAINING; AND

6 (III) PASSAGE OF THE INTERNATIONAL CODE COUNCIL EXAM F31,
7 NATIONAL STANDARD JOURNEYMAN MECHANICAL, OR AN ANALOGOUS
8 SUCCESSOR EXAM, FOR ANY PERSON WORKING ON PRESSURIZED PROCESS
9 LINES IN UPSTREAM AND MIDSTREAM OPERATIONS.

10 **SECTION 12.** In Colorado Revised Statutes, 34-60-116, **amend**
11 (1), (3), (6), (7)(a)(II), (7)(a)(III), (7)(c), and (7)(d)(I); and **add** (7)(a)(IV)
12 as follows:

13 **34-60-116. Drilling units - pooling interests.** (1) (a) To prevent
14 or to assist in preventing waste, to avoid the drilling of unnecessary wells,
15 or to protect correlative rights, the commission, upon its own motion or
16 on a proper application of an interested party, but after notice and hearing
17 as provided in this section, may establish one or more drilling units of
18 specified size and shape covering any pool or portion of a pool.

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

20 (I) THE APPLICANT HAS FILED AN APPLICATION WITH ALL AFFECTED
21 LOCAL GOVERNMENTS TO APPROVE THE SITING OF THE PROPOSED OIL AND
22 GAS LOCATION AND THE LOCAL GOVERNMENTS' DISPOSITION OF THE
23 APPLICATION; OR

24 (II) NO AFFECTED LOCAL GOVERNMENT REGULATES THE SITING OF
25 OIL AND GAS LOCATIONS.

26 (3) The order establishing a drilling unit:

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

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

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

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

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

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

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

27 (II) Determine the interest of each owner in the unit and provide

1 that each consenting owner is entitled to receive, subject to royalty or
2 similar obligations, the share of the production from the wells applicable
3 to the owner's interest in the wells and, unless the owner has agreed
4 otherwise, a proportionate part of the nonconsenting owner's share of the
5 production until costs are recovered and that each nonconsenting owner
6 is entitled to own and to receive the share of the production applicable to
7 the owner's interest in the unit after the consenting owners have recovered
8 the nonconsenting owner's share of the costs out of production; and

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

12 (IV) PROHIBIT THE OPERATOR FROM USING THE SURFACE OWNED
13 BY A NONCONSENTING OWNER WITHOUT PERMISSION FROM THE
14 NONCONSENTING OWNER.

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

26 (d) (I) THE COMMISSION SHALL NOT ENTER an order pooling an
27 unleased nonconsenting mineral owner ~~shall not be entered by the~~

1 ~~commission~~ under subsection (6) of this section over protest of the owner
2 unless the commission has received evidence that the unleased mineral
3 owner has been tendered, no less than sixty days before the hearing, a
4 reasonable offer, MADE IN GOOD FAITH, to lease upon terms no less
5 favorable than those currently prevailing in the area at the time
6 application for the order is made and that ~~such~~ THE unleased mineral
7 owner has been furnished in writing the owner's share of the estimated
8 drilling and completion cost of the wells, the location and objective depth
9 of the wells, and the estimated spud date for the wells or range of time
10 within which spudding is to occur. The offer must include a copy of or
11 link to a brochure supplied by the commission that clearly and concisely
12 describes the pooling procedures specified in this section and the mineral
13 owner's options pursuant to those procedures.

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

16 **34-60-122. Expenses - fund created.** (1) (b) On and after July
17 1, ~~2014~~ 2019, the commission shall ensure that the ~~two-year average of~~
18 ~~the~~ unobligated portion of the fund does not exceed ~~six million dollars~~
19 FIFTY PERCENT OF TOTAL APPROPRIATIONS FROM THE FUND FOR THE
20 UPCOMING FISCAL YEAR and that there is an adequate balance in the
21 ~~environmental response account created pursuant to subsection (5) of this~~
22 ~~section~~ FUND TO SUPPORT THE OPERATIONS OF THE COMMISSION AND to
23 address environmental response needs.

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

26 **34-60-128. Habitat stewardship - rules.** (4) ~~Nothing in this~~
27 ~~section shall establish, alter, impair, or negate the authority of local and~~

1 ~~county governments to regulate land use related to oil and gas operations.~~

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

4 **34-60-131. No land use preemption - most protective standard**
5 **controls.** (1) (a) NOTHING IN THIS ARTICLE 60 IMPAIRS OR NEGATES THE
6 AUTHORITY OF A LOCAL GOVERNMENT TO REGULATE LAND USE AND THE
7 SITING OF OIL AND GAS LOCATIONS AND FACILITIES.

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

12 (2) LOCAL GOVERNMENTS AND STATE AGENCIES, INCLUDING THE
13 COMMISSION AND AGENCIES LISTED IN SECTION 34-60-105 (1)(b), HAVE
14 REGULATORY AUTHORITY OVER OIL AND GAS DEVELOPMENT, INCLUDING
15 AS SPECIFIED IN SECTION 34-60-105 (1)(b). IF THERE IS A CONFLICT
16 BETWEEN THE REGULATIONS OR STANDARDS OF A LOCAL GOVERNMENT
17 AND A STATE AGENCY, INCLUDING THE COMMISSION, OR BETWEEN STATE
18 AGENCIES REGARDING AN EXERCISE OF AUTHORITY, THE REGULATION OR
19 STANDARD THAT IS RATIONALLY DESIGNED TO BE MORE PROTECTIVE OF
20 PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, OR WILDLIFE
21 RESOURCES CONTROLS.

22 **SECTION 16. Applicability.** This act applies to conduct
23 occurring on or after the effective date of this act, including
24 determinations of applications pending on the effective date.

25 **SECTION 17. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.