

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 21-0365.01 Jennifer Berman x3286

SENATE BILL 21-103

SENATE SPONSORSHIP

Fenberg and Winter, Bridges, Buckner, Fields, Garcia, Ginal, Gonzales, Hansen, Jaquez
Lewis, Kolker, Lee, Moreno, Pettersen, Story

HOUSE SPONSORSHIP

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Senate Committees

Transportation & Energy
Appropriations

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Energy & Environment
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE OFFICE OF CONSUMER**
102 **COUNSEL, AND, IN CONNECTION THEREWITH, IMPLEMENTING**
103 **THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET**
104 **REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES**
105 **REGARDING THE OFFICE OF CONSUMER COUNSEL AND THE**
106 **UTILITY CONSUMERS' BOARD, AND MAKING AN APPROPRIATION.**

Bill Summary

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

Sunset Process - Senate Transportation and Energy

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
April 28, 2021

SENATE
Amended 2nd Reading
April 27, 2021

Committee. The bill implements the recommendations of the department of regulatory agencies' (department) sunset review and report regarding the office of consumer counsel (office) and the utility consumers' board (board) by:

- Continuing the office and the board for 7 years, to 2028 (**sections 1 and 2** of the bill);
- Clarifying that, in addition to being authorized to appear before and participate in the public utilities commission's proceedings, the office is authorized to appear before and participate in other agencies' proceedings (**sections 6 and 8**);
- Changing the name of the office to the office of the utility consumer advocate and the name of the head of the office from the consumer counsel to the director (**sections 1 and 4 to 10**);
- Changing the board from a **type 1** transfer to a **type 2** transfer (**sections 4 and 10**);
- Repealing requirements that the board annually review the office's performance and confer with the executive director of the department regarding hiring and performance evaluation matters (**section 4**); and
- Repealing the requirement that members of the board represent all 7 of the state's congressional districts and instead requiring that appointing authorities ensure that the board's membership reflect the greatest degree of diversity possible (**section 4**).

Sections 3 and 11 to 13 make conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-104, **repeal**
3 (21)(a)(V); and **add** (29)(a)(XIII) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for repeal, continuation, or reestablishment - legislative**
6 **declaration - repeal.** (21) (a) The following agencies, functions, or both,
7 will repeal on September 1, 2021:

8 (V) ~~The office of consumer counsel created in article 6.5 of title~~
9 ~~40, C.R.S.;~~

10 (29) (a) The following agencies, functions, or both, are scheduled

1 for repeal on September 1, 2028:

2 (XIII) NOTWITHSTANDING SUBSECTION (7)(a) OF THIS SECTION,
3 THE OFFICE OF THE UTILITY CONSUMER ADVOCATE AND THE UTILITY
4 CONSUMERS' BOARD CREATED IN ARTICLE 6.5 OF TITLE 40.

5 **SECTION 2.** In Colorado Revised Statutes, **repeal and reenact,**
6 **with amendments,** 40-6.5-108 as follows:

7 **40-6.5-108. Repeal of article - office of the utility consumer**
8 **advocate subject to termination.** THIS ARTICLE 6.5 IS REPEALED,
9 EFFECTIVE SEPTEMBER 1, 2028. BEFORE THE REPEAL, THIS ARTICLE 6.5 IS
10 SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

11 **SECTION 3.** In Colorado Revised Statutes, 40-6.5-101, **amend**
12 the introductory portion; and **add** (1.3), (2.2), (2.4), (2.8), and (6) as
13 follows:

14 **40-6.5-101. Definitions.** As used in this ~~article~~ ARTICLE 6.5,
15 unless the context otherwise requires:

16 (1.3) "BOARD" MEANS THE UTILITY CONSUMERS' BOARD CREATED
17 IN SECTION 40-6.5-102 (3)(a).

18 (2.2) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE,
19 APPOINTED PURSUANT TO SECTION 40-6.5-102 (1).

20 (2.4) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
21 THE DEPARTMENT OF REGULATORY AGENCIES, APPOINTED PURSUANT TO
22 SECTION 24-34-101 (1)(a).

23 (2.8) "OFFICE" MEANS THE OFFICE OF THE UTILITY CONSUMER
24 ADVOCATE CREATED IN SECTION 40-6.5-102 (1).

25 (6) "TELECOMMUNICATIONS SERVICE" MEANS THE OFFERING OF
26 TELECOMMUNICATIONS FOR A FEE DIRECTLY TO THE PUBLIC, OR TO SUCH
27 CLASSES OF USERS AS TO BE EFFECTIVELY AVAILABLE DIRECTLY TO THE

1 PUBLIC, REGARDLESS OF THE FACILITIES USED.

2 **SECTION 4.** In Colorado Revised Statutes, **amend** 40-6.5-102
3 as follows:

4 **40-6.5-102. Office of the utility consumer advocate and utility**
5 **consumers' board - creation - appointment - attorney general to**
6 **represent.** (1) There is hereby created, as a division within the
7 department of regulatory agencies, the office of ~~consumer counsel~~ THE
8 UTILITY CONSUMER ADVOCATE, the head of which ~~shall be the consumer~~
9 ~~counsel~~ IS THE DIRECTOR, who shall be appointed by the executive
10 director ~~of the department of regulatory agencies~~ pursuant to section 13
11 of article XII of the state constitution.

12 (2) (a) The office ~~of consumer counsel~~ shall exercise its powers
13 and perform its duties and functions specified in this ~~article~~ ARTICLE 6.5
14 under the department of regulatory agencies as if the same were
15 transferred to the department by a **type 1** transfer, as such transfer is
16 defined in the "Administrative Organization Act of 1968", article 1 of title
17 24. ~~C.R.S.~~

18 (b) ~~Repealed.~~

19 (3) (a) The utility consumers' board, which is hereby created, shall
20 guide the policy of the office. ~~of consumer counsel.~~ The board shall
21 exercise its powers and perform its duties and functions specified in this
22 ~~article~~ ARTICLE 6.5 under the department of regulatory agencies and the
23 executive director ~~of the department of regulatory agencies~~ as if the same
24 were transferred to the department by a ~~type 1~~ **TYPE 2** transfer, as such
25 transfer is defined in the "Administrative Organization Act of 1968",
26 article 1 of title 24. ~~C.R.S.~~

27 (b) (I) The board consists of eleven members, seven of whom the

1 governor ~~shall appoint~~ APPOINTS. The governor shall appoint at least one
2 member who is actively engaged in agriculture as a business and at least
3 two members who are owners of small businesses with one hundred or
4 fewer employees. In making appointments to the board, the governor
5 shall ensure that the membership of the board represents each of the seven
6 congressional districts of the state and that no more than four of the
7 governor's appointments are affiliated with the same political party. The
8 president of the senate, the speaker of the house of representatives, the
9 minority leader of the senate, and the minority leader of the house of
10 representatives shall each appoint one member of the board.

11 (II) Members of the board ~~shall be appointed for~~ SERVE terms of
12 four years. If a person has any conflict of interest with the duties required
13 of a member of the board, the ~~person~~ APPOINTING AUTHORITY shall not ~~be~~
14 ~~appointed~~ APPOINT THE PERSON as a member of the board. The official
15 who appointed a board member may remove that board member for
16 misconduct, incompetence, or neglect of duty. Board members serve
17 without compensation, but members who reside outside the counties of
18 Denver, Jefferson, Adams, Arapahoe, Boulder, Broomfield, and Douglas
19 are entitled to reimbursement for reasonable AND actual expenses to
20 attend board meetings in Denver. The board shall meet at least six times
21 per year.

22 (c) It is the duty of the board to represent the public interest of
23 Colorado utility users, and, specifically, the interests of residential,
24 agricultural, and small business users, by providing general policy
25 guidance and oversight for the office ~~of consumer counsel~~ and the
26 ~~consumer counsel~~ DIRECTOR in the performance of their statutory duties
27 and responsibilities as specified in this ~~article~~ ARTICLE 6.5. The powers

1 and duties of the board shall include ~~but not be limited to~~, the following:

2 (I) Providing general policy guidance to the office ~~of consumer~~
3 ~~counsel~~ regarding rule-making matters, legislative projects, general
4 activities, and priorities of the office; AND

5 (II) Gathering data and information and formulating policy
6 positions to advise the office ~~of consumer counsel~~ in preparing analysis
7 and testimony in legislative hearings on proposed legislation affecting the
8 interests of residential, small business, and agricultural utility users.

9 ~~(III) Reviewing the performance of the office of consumer~~
10 ~~counsel annually;~~

11 ~~(IV) Conferring with the executive director of the department of~~
12 ~~regulatory agencies on the hiring of the consumer counsel and consulting~~
13 ~~with such executive director on the annual performance evaluation of the~~
14 ~~office of consumer counsel and the consumer counsel.~~

15 (4) It is the duty of the attorney general to advise the office ~~of~~
16 ~~consumer counsel~~ and the board in all legal matters and to provide
17 representation in proceedings in which the office ~~of consumer counsel~~
18 participates.

19 **SECTION 5.** In Colorado Revised Statutes, **amend** 40-6.5-103
20 as follows:

21 **40-6.5-103. Qualifications of the director - conflict of interest.**

22 The ~~consumer counsel shall~~ DIRECTOR MUST have at least five years of
23 experience in consumer-related utility issues or in the operation,
24 management, or regulation of utilities as either an attorney, an engineer,
25 an economist, an accountant, a financial analyst, or an administrator or
26 any combination ~~thereof. No~~ OF THOSE ROLES. THE EXECUTIVE DIRECTOR
27 SHALL NOT APPOINT AS DIRECTOR A ~~person owning~~ WHO OWNS stocks or

1 bonds in a corporation subject in whole or in part to regulation by the
2 commission or who has any pecuniary interest in such corporation. ~~shall~~
3 ~~be appointed as consumer counsel.~~

4 **SECTION 6.** In Colorado Revised Statutes, **amend** 40-6.5-104
5 as follows:

6 **40-6.5-104. Representation by director - powers of the office.**

7 (1) The ~~consumer counsel~~ DIRECTOR shall represent the public interest
8 and, to the extent consistent therewith, the specific interests of residential
9 consumers, agricultural consumers, and small business consumers by
10 appearing in proceedings before the commission and appeals therefrom
11 in matters which THAT involve proposed changes in a public utility's rates
12 and charges; in matters involving rule-making which THAT have an
13 impact on the charges, the provision of services, or the rates to
14 consumers; and in matters which THAT involve certificates of public
15 convenience and necessity for facilities employed in the provision of
16 utility service, the construction of which would have a material effect on
17 the utility's rates and charges.

18 (2) In ~~exercising his discretion~~ DETERMINING whether ~~or not~~ to
19 appear in a proceeding OF THE COMMISSION, the ~~consumer counsel~~
20 DIRECTOR shall consider the importance and the extent of the public
21 interest involved. In evaluating the public interest, INCLUDING THE IMPACT
22 ON RATES AND CHARGES TO CONSUMERS, the ~~consumer counsel~~ DIRECTOR
23 shall give due consideration to STATUTORY DECARBONIZATION GOALS SET
24 FORTH IN SECTIONS 40-2-125.5 (3) AND 25-7-102 (2)(g), JUST TRANSITION
25 IN ACCORDANCE WITH SECTION 40-2-133, ENVIRONMENTAL JUSTICE, AND
26 the short- and long-term ~~impact~~ EFFECT of the proceedings upon various
27 classes of consumers, so as not to jeopardize the interest of one class in

1 an action by another. If the ~~consumer counsel~~ DIRECTOR determines that
2 there may be inconsistent interests among the various classes of the
3 consumers ~~he~~ THAT THE DIRECTOR represents in a particular matter, ~~he~~
4 THE DIRECTOR may choose to represent one of the interests or to represent
5 no interest. Nothing in this section ~~shall be construed to limit~~ LIMITS the
6 right of any person ~~firm, or corporation~~ to petition or make complaint to
7 the commission ___ or otherwise intervene in proceedings or other matters
8 before the commission.

9 (3) The ~~consumer counsel~~ DIRECTOR shall be served with notices
10 of all proposed gas and electric tariffs, and ~~he or she~~ THE DIRECTOR shall
11 be served with copies of all orders of the commission ___ affecting the
12 charges of agricultural consumers, residential consumers, and small
13 business consumers.

14 (4) THE OFFICE MAY INTERVENE IN MATTERS BEFORE THE
15 COMMISSION THAT RELATE TO A TELECOMMUNICATIONS SERVICE
16 PROCEEDING, INCLUDING A RULE-MAKING PROCEEDING, THAT HAS AN
17 IMPACT ON THE PROVISION OR QUALITY OF TELECOMMUNICATIONS
18 SERVICE.

19 (5) THE OFFICE SHALL NOT RECOMMEND THAT THE COMMISSION
20 TAKE ANY ACTION THAT WOULD INTERFERE WITH THE ADMINISTRATION OR
21 DETERMINATION OF EMPLOYEES' WAGES, HEALTH INSURANCE, OR
22 RETIREMENT BENEFITS NEGOTIATED BETWEEN A REGULATED UTILITY AND
23 A LABOR UNION THROUGH COLLECTIVE BARGAINING.

24 (6) THE OFFICE SHALL CONDUCT ITS OWN LEGISLATIVE AFFAIRS,
25 INCLUDING LOBBYING AS DEFINED IN SECTION 24-6-301 (3.5), IN MATTERS
26 THAT INVOLVE PROPOSED CHANGES TO OR THAT WOULD AFFECT:

27 (a) A PUBLIC UTILITY'S RATES AND CHARGES, INCLUDING

- 1 RULE-MAKING MATTERS OR OTHER ACTIONS THAT WOULD HAVE AN
2 IMPACT ON RATES AND CHARGES;
- 3 (b) THE PROVISION OF SERVICES;
- 4 (c) CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR
5 FACILITIES:
- 6 (I) THAT ARE OR WOULD BE USED IN PROVIDING UTILITY SERVICE;
7 AND
- 8 (II) THE CONSTRUCTION OF WHICH WOULD HAVE A MATERIAL
9 EFFECT ON THE PUBLIC UTILITY'S RATES AND CHARGES; AND
- 10 (d) OTHER MATTERS THAT AFFECT THE PUBLIC INTEREST OF THE
11 CONSTITUENTS THAT THE OFFICE REPRESENTS.

12 SECTION 7. In Colorado Revised Statutes, 40-6.5-105, amend
13 (1) introductory portion and (1)(a) as follows:

14 **40-6.5-105. Intervenor other than the office of the utility**
15 **consumer advocate.** (1) If the office of ~~consumer counsel~~ intervenes and
16 there are other intervenors in proceedings before the commission, the
17 determination of said commission with regard to the payment of expenses
18 of intervenors, other than the office, ~~of consumer counsel~~, and the
19 amounts thereof shall be based on the following considerations:

20 (a) Any reimbursements may be awarded only for expenses
21 related to issues not substantially addressed by the office; ~~of consumer~~
22 ~~counsel~~;

23 SECTION 8. In Colorado Revised Statutes, 40-6.5-106, amend
24 (1) introductory portion, (1)(a), (1)(c), (2), (2.5), and (3)(a); and add
25 (1)(e) as follows:

26 **40-6.5-106. Powers of the director.** (1) The ~~consumer counsel~~
27 DIRECTOR:

1 (a) May employ such attorneys, engineers, economists,
2 accountants, or other employees as may be necessary to carry out his THE
3 DIRECTOR'S duties; and shall employ a maximum of sixteen full-time
4 employees or the equivalent thereof;

5 (c) May contract for the services of technically qualified persons
6 to perform research and to appear as expert witnesses before the
7 commission. such persons to be paid. THE DIRECTOR SHALL PAY ANY
8 PERSON CONTRACTED WITH PURSUANT TO THIS SUBSECTION (1)(c) from
9 funds appropriated for the DIRECTOR'S use. ~~of the consumer counsel;~~

10 (e) MAY INSPECT THE RECORDS, DOCUMENTS, AND OPERATIONS OF
11 A PUBLIC UTILITY AND CONDUCT DEPOSITIONS UNDER OATH OF ANY
12 OFFICER, AGENT, OR EMPLOYEE OF A PUBLIC UTILITY IN RELATION TO THE
13 PUBLIC UTILITY'S BUSINESS AND AFFAIRS. TO EXERCISE THIS AUTHORITY,
14 THE DIRECTOR SHALL PETITION THE COMMISSION, PURSUANT TO THE
15 COMMISSION'S AUTHORITY UNDER SECTION 40-6-103 (1), TO:

16 (I) ISSUE A SUBPOENA ON A PUBLIC UTILITY REQUIRING THE PUBLIC
17 UTILITY TO PRODUCE RECORDS OR DOCUMENTS, OR FOR RECORDS OR
18 DOCUMENTS KEPT OUTSIDE OF THE STATE, TO PRODUCE VERIFIED COPIES
19 OF RECORDS OR DOCUMENTS, FOR INSPECTION BY THE OFFICE AT SUCH
20 TIME AND PLACE THAT THE COMMISSION DESIGNATES; OR

21 (II) ISSUE A SUBPOENA FOR THE ATTENDANCE OF WITNESSES AT A
22 DEPOSITION TO BE CONDUCTED BY THE DIRECTOR OR THE DIRECTOR'S
23 DESIGNEE AT SUCH TIME AND PLACE THAT THE COMMISSION DESIGNATES.
24 THE DIRECTOR OR THE DIRECTOR'S DESIGNEE HAS THE AUTHORITY TO
25 ADMINISTER OATHS OF WITNESSES AT A DEPOSITION HELD PURSUANT TO
26 THIS SUBSECTION (1)(e).

27 (2) The ~~consumer counsel~~ DIRECTOR may petition for, request,

1 initiate, and appear and intervene as a party in any COMMISSION _____
2 proceeding, ~~before the commission concerning~~ INCLUDING A
3 RULE-MAKING PROCEEDING, THAT CONCERNS OR AFFECTS UTILITY rate
4 changes, ~~rule-making~~, charges, tariffs, modifications of service, and
5 matters involving certificates of public convenience and necessity.
6 Notwithstanding any provision of this ~~article~~ ARTICLE 6.5 to the contrary,
7 the ~~consumer counsel~~ DIRECTOR shall not be a party to any individual
8 complaint between a utility and an individual.

9 (2.5) The ~~consumer counsel~~ DIRECTOR may petition for, request,
10 initiate, or seek to intervene in any proceeding before a federal agency
11 ~~which~~ THAT regulates utility rates or service or BEFORE A federal court
12 when the matter before ~~such~~ THE agency or court will affect a rate,
13 charge, tariff, or term of service for a utility product or service for a
14 residential, small business, or agricultural utility consumer in the state of
15 Colorado. The phrase "federal agency ~~which~~ THAT regulates utility rates
16 or service" does not include any federal lending agency.

17 (3) (a) The ~~consumer counsel~~ DIRECTOR and any member of ~~his~~
18 ~~or her~~ THE DIRECTOR'S staff directly involved in a specific adjudicatory
19 proceeding before the commission shall refrain from ex parte
20 communications with members of the commission. The ~~counsel or his or~~
21 ~~her staff shall~~ DIRECTOR AND THE DIRECTOR'S STAFF have all rights and ~~be~~
22 ARE governed by the same ex parte rules as all other intervenors.

23 **SECTION 9.** In Colorado Revised Statutes, **amend** 40-6.5-107
24 as follows:

25 **40-6.5-107. Financing of office.** At each regular session, the
26 general assembly shall determine the ~~amounts~~ AMOUNT to be expended
27 by the office ~~of consumer counsel~~ for the direct and indirect costs of

1 administration in performing its duties and responsibilities required by
2 this ~~article~~ ARTICLE 6.5 and shall appropriate THE AMOUNT to the office
3 ~~of consumer counsel~~ from the public utilities commission fixed utility
4 fund created in section 40-2-114. ~~the full amount so determined. No~~ THE
5 GENERAL ASSEMBLY SHALL NOT APPROPRIATE MONEY FROM THE general
6 fund ~~moneys shall be appropriated~~ to the office of ~~consumer counsel~~ for
7 the performance of its duties and responsibilities under this ~~article~~
8 ARTICLE 6.5.

9 **SECTION 10.** In Colorado Revised Statutes, 24-1-122, **amend**
10 (2) introductory portion and (2)(a.5) as follows:

11 **24-1-122. Department of regulatory agencies - creation.**

12 (2) The department of regulatory agencies ~~shall consist~~ CONSISTS of the
13 following divisions:

14 (a.5) The office of ~~consumer counsel~~ THE UTILITY CONSUMER
15 ADVOCATE and the utility consumers' board, created ~~by~~ IN article 6.5 of
16 title 40. ~~C.R.S.~~ The office of ~~consumer counsel~~ THE UTILITY CONSUMER
17 ADVOCATE and its powers, duties, and functions are transferred by a **type**
18 **1** transfer to the department of regulatory agencies as a division ~~thereof~~
19 OF THE DEPARTMENT. The utility consumers' board shall exercise its
20 powers and perform its duties and functions under the department as if
21 the same were transferred to the department by a ~~type 1~~ **TYPE 2** transfer
22 and allocated to the office of ~~consumer counsel~~ THE UTILITY CONSUMER
23 ADVOCATE.

24 **SECTION 11.** In Colorado Revised Statutes, 40-2-114, **amend**
25 (2) as follows:

26 **40-2-114. Disposition of fees collected - telecommunications**
27 **utility fund - fixed utility fund.** (2) ~~Moneys~~ MONEY in the funds created

1 in subsection (1) of this section shall be expended only to defray the full
2 amount determined by the general assembly for the administrative
3 expenses of the commission for the supervision and regulation of the
4 public utilities paying the fees and for the financing of the office of
5 ~~consumer counsel~~ THE UTILITY CONSUMER ADVOCATE created in article
6 6.5 of this ~~title~~ TITLE 40. The state treasurer shall retain any unexpended
7 balance remaining in either fund at the end of any fiscal year to defray the
8 administrative expenses of the commission during subsequent fiscal
9 years, and the executive director of the department of revenue shall take
10 any such unexpended balance into account when computing the
11 percentage upon which fees for the ensuing fiscal year will be based.

12 **SECTION 12.** In Colorado Revised Statutes, 40-2-122, **amend**
13 (3)(c) introductory portion, (3)(c)(XI), (5), and (10) as follows:

14 **40-2-122. Natural gas - deregulation of supply - voluntary**
15 **separation of service offerings - consumer protection - legislative**
16 **declaration.** (3) (c) The commission shall not approve a plan submitted
17 pursuant to ~~paragraph (a) of this subsection (3)~~ SUBSECTION (3)(a) OF THIS
18 SECTION unless the price charged for natural gas delivery services does
19 not subsidize natural gas supply service under the plan and, in addition,
20 the plan:

21 (XI) Provides for funding of the commission and the office of
22 ~~consumer counsel~~ THE UTILITY CONSUMER ADVOCATE based upon a
23 charge to end-use customers, as determined by the commission, as a part
24 of the natural gas delivery function, regardless of the identity of the
25 natural gas supplier. Such new funding method ~~shall~~ MUST be
26 competitively neutral and shall be designed to generate annual revenues
27 equivalent to the average annual revenues generated under sections

1 40-2-109 to 40-2-114 during calendar years 1994 to 1998 associated with
2 the sale of natural gas service from the geographic area or group of
3 customers affected by the plan. Whenever such new funding method is
4 instituted for any specific geographic area or group of customers, the
5 natural gas public utilities serving ~~such~~ THE area or group shall no longer
6 pay the fees that would otherwise have been required under ~~said~~ THE
7 sections.

8 (5) The department of revenue is hereby authorized to collect
9 funding for the commission and the office of ~~consumer counsel~~ THE
10 UTILITY CONSUMER ADVOCATE in accordance with ~~subparagraph (XI) of~~
11 ~~paragraph (c) of subsection (3)~~ SUBSECTION (3)(c)(XI) of this section.

12 (10) The general assembly determines that a new funding formula
13 should be devised to adequately fund the commission's and office of
14 ~~consumer counsel's~~ THE UTILITY CONSUMER ADVOCATE'S administrative
15 expenses. On or before December 1, 2000, the commission and the office
16 ~~of consumer counsel~~ shall recommend to the general assembly those
17 legislative changes needed to develop appropriate funding mechanisms
18 for the public utilities commission and the office. ~~of consumer counsel.~~
19 This provision is intended to provide a comprehensive replacement for
20 the funding method contained in the utility plan under ~~subparagraph (XI)~~
21 ~~of paragraph (c) of subsection (3)~~ SUBSECTION (3)(c)(XI) of this section.

22 **SECTION 13.** In Colorado Revised Statutes, 40-3-104.3, **amend**
23 (1)(b) and (1)(e) as follows:

24 **40-3-104.3. Manner of regulation - competitive responses -**
25 **definitions - repeal.** (1) (b) (I) Following a notice period of five days
26 after the filing of an application under this section, the commission shall
27 approve or deny the application within thirty days. All applications filed

1 with the commission pursuant to this section shall be placed at the head
2 of the commission's docket and shall be disposed of promptly within the
3 time periods set forth in this ~~paragraph (b)~~ SUBSECTION (1)(b)(I); except
4 that, for good cause shown, the commission may extend the period in
5 which it must act for an additional fifteen days, or, in extraordinary
6 circumstances, including ~~but not limited to~~ the existence of numerous
7 pending applications under this section, the commission may extend the
8 period in which it must act for an additional thirty days beyond the fifteen
9 days provided for in this ~~paragraph (b)~~ SUBSECTION (1)(b)(I).

10 (II) Whenever ~~such~~ THE application is continued as provided in
11 ~~this paragraph (b)~~ SUBSECTION (1)(b)(I) OF THIS SECTION, the commission
12 shall enter an order making ~~such~~ THE continuance and stating fully the
13 facts necessitating the continuance. If the commission has not approved
14 or denied ~~any such~~ AN application within the time periods set forth in ~~this~~
15 ~~paragraph (b)~~ SUBSECTION (1)(b)(I) OF THIS SECTION, the application shall
16 be deemed approved. If the commission denies ~~any such~~ AN application
17 for approval within the permitted period, the subject contract ~~shall~~ DOES
18 not become effective.

19 (III) Any contract submitted pursuant to this section shall be filed
20 under seal and treated as confidential by the commission; except that, at
21 the time the applicant files an application or contract with the
22 commission, the applicant shall also furnish a copy of the application to
23 any public utility then providing electric, gas, or steam service in the state
24 of Colorado to the customer, and also furnish a copy to the office of
25 ~~consumer counsel~~, and the UTILITY CONSUMER ADVOCATE, WHICH office
26 ~~of consumer counsel~~ shall also treat ~~said~~ THE contract as confidential.

27 (e) Within ten days after the execution of ~~such~~ THE contract, the

1 public utility shall file with the commission under seal and as a
2 confidential document the final contract or other description of the price
3 and terms of service, together with any additional information required by
4 the commission. The applicant shall also furnish a copy of ~~such~~ THE
5 information to the office of ~~consumer counsel, who~~ THE UTILITY
6 CONSUMER ADVOCATE, WHICH OFFICE shall treat the information as
7 confidential. The commission ~~shall have~~ HAS no authority to disapprove
8 the contract if the contract complies with the conditions contained in
9 ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION,
10 but the commission may consider the contract for general regulatory
11 purposes and to ensure compliance with the requirements of this section.

12 **SECTION 14. Appropriation.** (1) For the 2021-22 state fiscal
13 year, \$453,941 is appropriated to the department of regulatory agencies.
14 This appropriation is from the fixed utility fund created in section
15 40-2-114 (1)(b)(II), C.R.S. To implement this act, the department may use
16 this appropriation as follows:

17 (a) \$265,311 for use by the office of the utility consumer advocate
18 for personal services, which amount is based on an assumption that the
19 office will require an additional 3.2 FTE;

20 (b) \$29,120 for use by the office of the utility consumer advocate
21 for operating expenses; and

22 (c) \$159,510 for the purchase of legal services.

23 (2) For the 2021-22 state fiscal year, \$159,510 is appropriated to
24 the department of law. This appropriation is from reappropriated funds
25 received from the department of regulatory agencies under subsection
26 (1)(c) of this section and is based on an assumption that the department
27 of law will require an additional 0.8 FTE. To implement this act, the

1 department of law may use this appropriation to provide legal services for
2 the department of regulatory agencies.

3 **SECTION 15. Effective date.** This act takes effect September 1,
4 2021.

5 **SECTION 16. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, or safety.