

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

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 and Caraveo,

Senate Committees

Transportation & Energy
Finance
Appropriations

House Committees

Energy & Environment
Finance
Appropriations

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.

HOUSE
Amended 3rd Reading
March 29, 2019

HOUSE
Amended 2nd Reading
March 28, 2019

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 OIL AND NATURAL GAS
12 EXPLORATION AND PRODUCTION FACILITIES AND NATURAL GAS FACILITIES
13 IN THE PROCESSING, GATHERING AND BOOSTING, STORAGE, AND
14 TRANSMISSION SEGMENTS OF THE NATURAL GAS SUPPLY CHAIN.

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

19 (A) A REQUIREMENT THAT LEAK DETECTION AND REPAIR
20 INSPECTIONS OCCUR AT ALL WELL PRODUCTION FACILITIES ON, AT A
21 MINIMUM, A SEMIANNUAL BASIS OR THAT AN ALTERNATIVE APPROVED
22 INSTRUMENT MONITORING METHOD IS IN PLACE PURSUANT TO EXISTING
23 RULES.

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

27 (C) A REQUIREMENT THAT OIL AND NATURAL GAS OPERATORS

1 MUST INSTALL AND OPERATE CONTINUOUS METHANE EMISSIONS MONITORS
2 AT FACILITIES WITH LARGE EMISSIONS POTENTIAL, AT MULTI-WELL
3 FACILITIES, AND AT FACILITIES IN CLOSE PROXIMITY TO OCCUPIED
4 DWELLINGS; AND

5 (D) A REQUIREMENT TO REDUCE EMISSIONS FROM PNEUMATIC
6 DEVICES. THE COMMISSION SHALL CONSIDER REQUIRING OIL AND GAS
7 OPERATORS, UNDER APPROPRIATE CIRCUMSTANCES, TO USE PNEUMATIC
8 DEVICES THAT DO NOT VENT NATURAL GAS.

9 (II) THE COMMISSION MAY, BY RULE, PHASE IN THE REQUIREMENT
10 TO COMPLY WITH THIS SUBSECTION (10)(b) ON THE BASES OF PRODUCTION
11 CAPABILITY, TYPE AND AGE OF OIL AND GAS FACILITY, AND COMMERCIAL
12 AVAILABILITY OF CONTINUOUS MONITORING EQUIPMENT. IF THE
13 COMMISSION PHASES IN THE REQUIREMENT TO COMPLY WITH THIS
14 SUBSECTION (10)(b), IT SHALL INCREASE THE REQUIRED FREQUENCY OF
15 INSPECTIONS AT FACILITIES THAT ARE SUBJECT TO THE PHASE-IN UNTIL
16 THE FACILITIES ACHIEVE CONTINUOUS EMISSION MONITORING.

17 (c) NOTWITHSTANDING THE GRANT OF AUTHORITY TO THE OIL AND
18 GAS CONSERVATION COMMISSION IN ARTICLE 60 OF TITLE 34, INCLUDING
19 SPECIFICALLY SECTION 34-60-105 (1), THE COMMISSION MAY REGULATE
20 AIR POLLUTION FROM OIL AND GAS FACILITIES LISTED IN SUBSECTION
21 (10)(a) OF THIS SECTION, INCLUDING DURING PRE-PRODUCTION ACTIVITIES,
22 DRILLING, AND COMPLETION.

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

26 **29-20-104. Powers of local governments - definition.**

27 (1) Except as expressly provided in section 29-20-104.5, the power and

1 authority granted by this section ~~shall~~ DOES not limit any power or
2 authority presently exercised or previously granted. Each local
3 government within its respective jurisdiction has the authority to plan for
4 and regulate the use of land by:

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

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

10 REGULATING THE SURFACE IMPACTS OF OIL AND GAS OPERATIONS IN A
11 REASONABLE MANNER TO ADDRESS MATTERS SPECIFIED IN THIS
12 SUBSECTION (1)(h) AND TO PROTECT AND MINIMIZE ADVERSE IMPACTS TO
13 PUBLIC HEALTH, SAFETY, AND WELFARE AND THE ENVIRONMENT. NOTHING
14 IN THIS SUBSECTION (1)(h) IS INTENDED TO ALTER, EXPAND, OR DIMINISH
15 THE AUTHORITY OF LOCAL GOVERNMENTS TO REGULATE AIR QUALITY
16 UNDER SECTION 25-7-128. FOR PURPOSES OF THIS SUBSECTION (1)(h),
17 "MINIMIZE ADVERSE IMPACTS" MEANS, TO THE EXTENT NECESSARY AND
18 REASONABLE, TO PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE AND
19 THE ENVIRONMENT BY AVOIDING ADVERSE IMPACTS FROM OIL AND GAS
20 OPERATIONS AND MINIMIZING AND MITIGATING THE EXTENT AND SEVERITY
21 OF THOSE IMPACTS THAT CANNOT BE AVOIDED. THE FOLLOWING MATTERS
22 ARE COVERED BY THIS SUBSECTION (1)(h):

23 (I) LAND USE;

24 == ==

25 (II) THE LOCATION AND SITING OF OIL AND GAS FACILITIES AND OIL
26 AND GAS LOCATIONS, AS THOSE TERMS ARE DEFINED IN SECTION 34-60-103
27 (6.2) AND (6.4);

1 (III) IMPACTS TO PUBLIC FACILITIES AND SERVICES;

2 (IV) WATER QUALITY AND SOURCE, NOISE, VIBRATION, ODOR,
3 LIGHT, DUST, AIR EMISSIONS AND AIR QUALITY, LAND DISTURBANCE,
4 RECLAMATION PROCEDURES, CULTURAL RESOURCES, EMERGENCY
5 PREPAREDNESS AND COORDINATION WITH FIRST RESPONDERS, SECURITY,
6 AND TRAFFIC AND TRANSPORTATION IMPACTS;

7 (V) FINANCIAL SECURITIES, INDEMNIFICATION, AND INSURANCE AS
8 APPROPRIATE TO ENSURE COMPLIANCE WITH THE REGULATIONS OF THE
9 LOCAL GOVERNMENT; AND

10 (VI) ALL OTHER NUISANCE-TYPE EFFECTS OF OIL AND GAS
11 DEVELOPMENT; AND

12 (i) OTHERWISE PLANNING FOR AND REGULATING THE USE OF LAND
13 SO AS TO PROVIDE PLANNED AND ORDERLY USE OF LAND AND PROTECTION
14 OF THE ENVIRONMENT IN A MANNER CONSISTENT WITH CONSTITUTIONAL
15 RIGHTS.

16 (2) TO IMPLEMENT THE POWERS AND AUTHORITY GRANTED IN
17 SUBSECTION (1)(h) OF THIS SECTION, A LOCAL GOVERNMENT WITHIN ITS
18 RESPECTIVE JURISDICTION HAS THE AUTHORITY TO:

19 (a) INSPECT ALL FACILITIES SUBJECT TO LOCAL GOVERNMENT
20 REGULATION;

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

22 (c) IMPOSE FEES ON OPERATORS OR OWNERS TO COVER THE
23 REASONABLY FORESEEABLE DIRECT AND INDIRECT COSTS OF PERMITTING
24 AND REGULATION AND THE COSTS OF ANY MONITORING AND INSPECTION
25 PROGRAM NECESSARY TO ADDRESS THE IMPACTS OF DEVELOPMENT AND
26 TO ENFORCE LOCAL GOVERNMENTAL REQUIREMENTS.

27 (3) (a) TO PROVIDE A LOCAL GOVERNMENT WITH TECHNICAL

1 EXPERTISE REGARDING WHETHER A PRELIMINARY OR FINAL
2 DETERMINATION OF THE LOCATION OF AN OIL AND GAS FACILITY OR OIL
3 AND GAS LOCATION WITHIN ITS RESPECTIVE JURISDICTION COULD AFFECT
4 OIL AND GAS RESOURCE RECOVERY:

5 (I) ONCE AN OPERATOR, AS DEFINED IN SECTION 34-60-103 (6.8),
6 FILES AN APPLICATION FOR THE LOCATION AND SITING OF AN OIL AND GAS
7 FACILITY OR OIL AND GAS LOCATION AND THE LOCAL GOVERNMENT HAS
8 MADE EITHER A PRELIMINARY OR FINAL DETERMINATION REGARDING THE
9 APPLICATION, THE LOCAL GOVERNMENT HAVING LAND USE JURISDICTION
10 MAY ASK THE DIRECTOR OF THE OIL AND GAS CONSERVATION COMMISSION
11 PURSUANT TO SECTION 34-60-104.5 (3) TO APPOINT A TECHNICAL REVIEW
12 BOARD TO CONDUCT A TECHNICAL REVIEW OF THE PRELIMINARY OR FINAL
13 DETERMINATION AND ISSUE A REPORT THAT CONTAINS THE BOARD'S
14 CONCLUSIONS.

15 (II) ONCE A LOCAL GOVERNMENT HAS MADE A FINAL
16 DETERMINATION REGARDING AN APPLICATION SPECIFIED IN SUBSECTION
17 (3)(a)(I) OF THIS SECTION OR IF THE LOCAL GOVERNMENT HAS NOT MADE
18 A FINAL DETERMINATION ON AN APPLICATION WITHIN TWO HUNDRED TEN
19 DAYS AFTER FILING BY THE OPERATOR, THE OPERATOR MAY ASK THE
20 DIRECTOR OF THE OIL AND GAS CONSERVATION COMMISSION PURSUANT TO
21 SECTION 34-60-104.5 (3) TO APPOINT A TECHNICAL REVIEW BOARD TO
22 CONDUCT A TECHNICAL REVIEW OF THE FINAL DETERMINATION AND ISSUE
23 A REPORT THAT CONTAINS THE BOARD'S CONCLUSIONS.

24 (b) A LOCAL GOVERNMENT MAY FINALIZE ITS PRELIMINARY
25 DETERMINATION WITHOUT ANY CHANGES BASED ON THE TECHNICAL
26 REVIEW REPORT, FINALIZE ITS PRELIMINARY DETERMINATION WITH
27 CHANGES BASED ON THE REPORT, OR RECONSIDER OR DO NOTHING WITH

1 REGARD TO ITS ALREADY FINALIZED DETERMINATION.

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

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

12 **30-15-401. General regulations - definitions.** (1) In addition to
13 those powers granted by sections 30-11-101 and 30-11-107 and by parts
14 1, 2, and 3 of this article 15, the board of county commissioners ~~has the~~
15 ~~power to~~ MAY adopt ordinances for control or licensing of those matters
16 of purely local concern that are described in the following enumerated
17 powers:

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

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

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

27 **34-60-102. Legislative declaration.** (1) (a) It is declared to be in

1 the public interest AND THE COMMISSION IS DIRECTED to:

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

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

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

25 **34-60-103. Definitions.** As used in this ~~article~~ ARTICLE 60, unless
26 the context otherwise requires:

27 (5.3) "LOCAL GOVERNMENT" MEANS, EXCEPT WITH REGARD TO

1 SECTION 34-60-104 (2)(a)(I), A:

2 (a) MUNICIPALITY OR CITY AND COUNTY WITHIN WHOSE
3 BOUNDARIES AN OIL AND GAS LOCATION IS SITED OR PROPOSED TO BE
4 SITED; OR

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

8 (5.5) "Minimize adverse impacts" means, to wherever reasonably
9 practicable THE EXTENT NECESSARY AND REASONABLE TO PROTECT
10 PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, AND
11 WILDLIFE RESOURCES, TO:

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

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

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

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

20 (6.2) "OIL AND GAS FACILITY" MEANS EQUIPMENT OR
21 IMPROVEMENTS USED OR INSTALLED AT AN OIL AND GAS LOCATION FOR
22 THE EXPLORATION, PRODUCTION, WITHDRAWAL, TREATMENT, OR
23 PROCESSING OF CRUDE OIL, CONDENSATE, EXPLORATION AND PRODUCTION
24 WASTE, OR GAS.

25 (6.4) "OIL AND GAS LOCATION" MEANS A DEFINABLE AREA WHERE
26 AN OIL AND GAS OPERATOR HAS DISTURBED OR INTENDS TO DISTURB THE
27 LAND SURFACE IN ORDER TO LOCATE AN OIL AND GAS FACILITY.

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

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

11 (b) DOES NOT INCLUDE THE NONPRODUCTION OF GAS 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 (12) "Waste", as applied to oil:

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

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

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

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

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

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

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

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

22 **SECTION 8.** In Colorado Revised Statutes, 34-60-104, **amend**
23 (1), (2)(a)(I), and (2)(a)(II) as follows:

24 **34-60-104. Oil and gas conservation commission - report -**
25 **publication - repeal.** (1) (a) There is hereby created, in the department
26 of natural resources, the oil and gas conservation commission. ~~of the state~~
27 ~~of Colorado.~~

1 (b) THIS SECTION IS REPEALED ON THE EARLIER OF JULY 1, 2020,
2 OR THE DATE ON WHICH ALL RULES REQUIRED TO BE ADOPTED BY SECTION
3 34-60-106 (2.5)(a), (11)(c), AND (19) HAVE BECOME EFFECTIVE. THE
4 DIRECTOR SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE
5 DATE ON WHICH THE CONDITION SPECIFIED IN THIS SUBSECTION (1)(b) HAS
6 OCCURRED BY E-MAILING THE NOTICE TO
7 REVISOROFSTATUTES.GA@STATE.CO.US.

8 (2) (a) (I) Effective July 1, 2007 ON THE EFFECTIVE DATE OF THIS
9 SECTION (2)(a)(I), AS AMENDED, the commission ~~shall consist~~ CONSISTS
10 of nine members, seven of whom shall be appointed by the governor with
11 the consent of the senate. ~~and two of whom,~~ The executive director of the
12 department of natural resources and the executive director of the
13 department of public health and environment, ~~shall be~~ OR THE EXECUTIVE
14 DIRECTORS' DESIGNEES, ARE ex officio voting members. At least two
15 members shall be appointed from west of the continental divide, and, to
16 the extent possible, consistent with this ~~paragraph (a)~~ SUBSECTION (2)(a),
17 the other members shall be appointed taking into account the need for
18 geographical representation of ~~other~~ areas of the state with high levels of
19 CURRENT OR ANTICIPATED oil and gas activity or employment. ~~Three~~
20 ~~members shall~~ ONE MEMBER MUST be ~~individuals~~ AN INDIVIDUAL with
21 substantial experience in the oil and gas industry; ~~and at least two of said~~
22 ~~three members shall have a college degree in petroleum geology or~~
23 ~~petroleum engineering;~~ one member ~~shall~~ MUST be a local government
24 official; one member ~~shall~~ MUST have formal training or substantial
25 experience in environmental ~~or wildlife~~ protection; one member ~~shall~~
26 MUST have formal training or substantial experience in WILDLIFE
27 PROTECTION; ONE MEMBER MUST HAVE TECHNICAL EXPERTISE RELEVANT

1 TO THE ISSUES CONSIDERED BY THE COMMISSION OR FORMAL TRAINING OR
2 SUBSTANTIAL EXPERIENCE IN soil conservation or reclamation; and one
3 member shall MUST be actively engaged in agricultural production and
4 also OR be a royalty owner; AND ONE MEMBER MUST HAVE FORMAL
5 TRAINING OR SUBSTANTIAL EXPERIENCE IN PUBLIC HEALTH. Excluding the
6 executive directors from consideration, no more than four members of the
7 commission shall MAY be members of the same political party.

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

18 SECTION 9. In Colorado Revised Statutes, add 34-60-104.3 as
19 follows:

20 34-60-104.3. Oil and gas conservation commission - report -
21 publication. (1) THERE IS HEREBY CREATED, IN THE DEPARTMENT OF
22 NATURAL RESOURCES, THE OIL AND GAS CONSERVATION COMMISSION.

23 (2) (a) THE COMMISSION CONSISTS OF SEVEN MEMBERS, FIVE OF
24 WHOM SHALL BE APPOINTED BY THE GOVERNOR WITH THE CONSENT OF
25 THE SENATE. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL
26 RESOURCES AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
27 PUBLIC HEALTH AND ENVIRONMENT, OR THE EXECUTIVE DIRECTORS'

1 DESIGNEEES, ARE EX OFFICIO NONVOTING MEMBERS. A MAJORITY OF THE
2 VOTING COMMISSIONERS CONSTITUTE A QUORUM FOR THE TRANSACTION
3 OF ITS BUSINESS.

4 (b) EACH APPOINTED COMMISSIONER MUST BE A QUALIFIED
5 ELECTOR OF THIS STATE. EACH APPOINTED COMMISSIONER, BEFORE
6 ENTERING UPON THE DUTIES OF OFFICE, SHALL TAKE THE CONSTITUTIONAL
7 OATH OF OFFICE. EXCLUDING THE EXECUTIVE DIRECTORS FROM
8 CONSIDERATION, NO MORE THAN THREE MEMBERS OF THE COMMISSION
9 MAY BE MEMBERS OF THE SAME POLITICAL PARTY. TO THE EXTENT
10 POSSIBLE, CONSISTENT WITH THIS SUBSECTION (2), THE MEMBERS SHALL
11 BE APPOINTED TAKING INTO ACCOUNT THE NEED FOR GEOGRAPHICAL
12 REPRESENTATION OF AREAS OF THE STATE WITH HIGH LEVELS OF CURRENT
13 OR ANTICIPATED OIL AND GAS ACTIVITY OR EMPLOYMENT. THE APPOINTED
14 MEMBERS OF THE COMMISSION SHALL DEVOTE THEIR ENTIRE TIME TO THE
15 DUTIES OF THEIR OFFICES TO THE EXCLUSION OF ANY OTHER EMPLOYMENT
16 AND ARE ENTITLED TO RECEIVE COMPENSATION AS DESIGNATED BY LAW.

17 (c) ONE APPOINTED MEMBER MUST BE AN INDIVIDUAL WITH
18 SUBSTANTIAL EXPERIENCE IN THE OIL AND GAS INDUSTRY; ONE APPOINTED
19 MEMBER MUST HAVE SUBSTANTIAL EXPERTISE IN PLANNING OR LAND USE;
20 ONE APPOINTED MEMBER MUST HAVE FORMAL TRAINING OR SUBSTANTIAL
21 EXPERIENCE IN ENVIRONMENTAL PROTECTION, WILDLIFE PROTECTION, OR
22 RECLAMATION; ONE APPOINTED MEMBER MUST HAVE PROFESSIONAL
23 EXPERIENCE DEMONSTRATING AN ABILITY TO CONTRIBUTE TO THE
24 COMMISSION'S BODY OF EXPERTISE THAT WILL AID THE COMMISSION IN
25 MAKING SOUND, BALANCED DECISIONS; AND ONE APPOINTED MEMBER
26 MUST HAVE FORMAL TRAINING OR SUBSTANTIAL EXPERIENCE IN PUBLIC
27 HEALTH.

1 (d) NO PERSON MAY BE APPOINTED TO SERVE ON THE COMMISSION
2 OR HOLD THE OFFICE OF COMMISSIONER IF THE PERSON HAS A CONFLICT OF
3 INTEREST WITH OIL AND GAS DEVELOPMENT IN COLORADO. EXAMPLES OF
4 CONFLICTS OF INTEREST INCLUDE BEING REGISTERED AS A LOBBYIST AT
5 THE LOCAL OR STATE LEVELS, SERVING IN THE GENERAL ASSEMBLY WITHIN
6 THE PRIOR THREE YEARS, OR SERVING IN AN OFFICIAL CAPACITY WITH AN
7 ENTITY THAT EDUCATES OR ADVOCATES FOR OR AGAINST OIL AND GAS
8 ACTIVITY. THIS SUBSECTION (2)(d) SHALL BE CONSTRUED REASONABLY
9 WITH THE OBJECTIVE OF DISQUALIFYING FROM THE COMMISSION ANY
10 PERSON WHO MIGHT HAVE AN IMMEDIATE CONFLICT OF INTEREST OR WHO
11 MAY NOT BE ABLE TO MAKE BALANCED DECISIONS ABOUT OIL AND GAS
12 REGULATION IN COLORADO. A PERSON WHO HAS WORKED WITH OR FOR AN
13 ENERGY OR ENVIRONMENTAL ENTITY NEED NOT BE DISQUALIFIED IF THE
14 PERSON'S EXPERIENCE SHOWS SUBJECT MATTER KNOWLEDGE COUPLED
15 WITH AN ABILITY TO RENDER INFORMED, THOROUGH, AND BALANCED
16 DECISION-MAKING.

17 (e) MEMBERS OF THE COMMISSION SHALL BE APPOINTED FOR
18 TERMS OF FOUR YEARS EACH; EXCEPT THAT THE INITIAL TERMS OF TWO
19 MEMBERS ARE TWO YEARS. THE GOVERNOR SHALL DESIGNATE ONE
20 MEMBER OF THE COMMISSION AS CHAIR OF THE COMMISSION. THE CHAIR
21 SHALL DELEGATE ROLES AND RESPONSIBILITIES TO COMMISSIONERS AND
22 THE DIRECTOR. THE GOVERNOR MAY AT ANY TIME REMOVE ANY
23 APPOINTED MEMBER OF THE COMMISSION, AND BY APPOINTMENT THE
24 GOVERNOR SHALL FILL ANY VACANCY ON THE COMMISSION. IN CASE ONE
25 OR MORE VACANCIES OCCUR ON THE SAME DAY, THE GOVERNOR SHALL
26 DESIGNATE THE ORDER OF FILLING VACANCIES.

27 (3) THE COMMISSION SHALL REPORT TO THE EXECUTIVE DIRECTOR

1 OF THE DEPARTMENT OF NATURAL RESOURCES AT SUCH TIMES AND ON
2 SUCH MATTERS AS THE EXECUTIVE DIRECTOR MAY REQUIRE.

3 (4) PUBLICATIONS OF THE COMMISSION CIRCULATED IN QUANTITY
4 OUTSIDE THE EXECUTIVE BRANCH ARE SUBJECT TO THE APPROVAL AND
5 CONTROL OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL
6 RESOURCES.

7 (5) THIS SECTION TAKES EFFECT ON THE EARLIER OF JULY 1, 2020,
8 OR THE DATE ON WHICH ALL RULES REQUIRED TO BE ADOPTED BY SECTION
9 34-60-106 (2.5)(a), (11)(c), AND (19) HAVE BECOME EFFECTIVE. THE
10 DIRECTOR SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE
11 DATE ON WHICH THE CONDITION SPECIFIED IN THIS SUBSECTION (5) HAS
12 OCCURRED BY E-MAILING THE NOTICE TO
13 REVISOROFSTATUTES.GA@STATE.CO.US.

14 **SECTION 10.** In Colorado Revised Statutes, 34-60-104.5,
15 **amend (2)(d); and add (3)** as follows:

16 **34-60-104.5. Director of commission - duties.** (2) The director
17 of the commission shall:

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

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

23
24 (3) (a) UPON RECEIPT OF REQUEST FOR TECHNICAL REVIEW FILED
25 PURSUANT TO SECTION 29-20-104 (3)(a), THE DIRECTOR OF THE
26 COMMISSION SHALL APPOINT TECHNICAL REVIEW BOARD MEMBERS. THE
27 MEMBERSHIP OF THE TECHNICAL REVIEW BOARD MUST INCLUDE SUBJECT

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

12 (b) A TECHNICAL REVIEW:

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

21 (II) MUST NOT ADDRESS THE ECONOMIC EFFECTS OF THE
22 PRELIMINARY OR FINAL DETERMINATION AND MUST RESULT IN THE
23 ISSUANCE OF A REPORT.

24 **SECTION 11.** In Colorado Revised Statutes, 34-60-105, **amend**
25 (1); and add (4) as follows:

26 **34-60-105. Powers of commission.** (1) (a) The commission has
27 jurisdiction over all persons and property, public and private, necessary

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 PERSON OTHER THAN THE SOUTHERN UTE INDIAN TRIBE, REGARDLESS OF
2 WHETHER THE LANDS ARE COMMUNITIZED OR POOLED WITH INDIAN
3 MINERAL LANDS.

4 (c) NOTHING IN THIS ARTICLE 60 ALTERS THE AUTHORITY FOR THE
5 REGULATION OF AIR POLLUTION ON THE SOUTHERN UTE INDIAN
6 RESERVATION AS SET FORTH IN ARTICLE 62 OF TITLE 24 AND PART 13 OF
7 ARTICLE 7 OF TITLE 25.

8 **SECTION 12.** In Colorado Revised Statutes, 34-60-106, **amend**
9 (1) introductory portion, (1)(f), (2) introductory portion, (2)(b), (2)(c), (6),
10 (7), (13), and (15); **repeal** (2)(d); and **add** (2.5), (11)(c), (18), (19), and
11 (20) as follows:

12 **34-60-106. Additional powers of commission - rules - repeal.**

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

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

16 (A) ~~Giving to the commission notice of intention~~ APPLYING FOR
17 A PERMIT to drill, WHICH MUST INCLUDE PROOF EITHER THAT: THE
18 OPERATOR HAS FILED AN APPLICATION WITH THE LOCAL GOVERNMENT
19 WITH JURISDICTION TO APPROVE THE SITING OF THE PROPOSED OIL AND
20 GAS LOCATION AND THE LOCAL GOVERNMENT'S DISPOSITION OF THE
21 APPLICATION; OR THE LOCAL GOVERNMENT WITH JURISDICTION DOES NOT
22 REGULATE THE SITING OF OIL AND GAS LOCATIONS; and ~~without first~~

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

25 (II) Paying to the commission a filing and service fee to be
26 established by the commission for the purpose of paying the expense of
27 administering this ~~article~~ ARTICLE 60 as provided in section 34-60-122,

1 which fee may be transferable or refundable, at the option of the
2 commission, if ~~such~~ THE permit is not used; ~~but no such fee shall exceed~~
3 ~~two hundred dollars~~; AND

4 (III) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
5 INCLUDING SUBSECTION (11) OF THIS SECTION, UNTIL THE COMMISSION
6 HAS PROMULGATED ANY RULES REQUIRED TO BE ADOPTED BY
7 SUBSECTIONS (2.5)(a), (11)(c), AND (19) OF THIS SECTION AND EACH RULE
8 SPECIFIED IN THIS SUBSECTION (1)(f)(III)(A) HAS BECOME EFFECTIVE, THE
9 DIRECTOR MAY DELAY THE FINAL DETERMINATION REGARDING A PERMIT
10 APPLICATION IF THE DIRECTOR DETERMINES, PURSUANT TO OBJECTIVE
11 CRITERIA TO BE PUBLISHED BY THE DIRECTOR WITHIN THIRTY DAYS AFTER
12 THE EFFECTIVE DATE OF THIS SUBSECTION (1)(f)(III) AND FOLLOWING A
13 PUBLIC COMMENT PERIOD, THAT THE PERMIT REQUIRES ADDITIONAL
14 ANALYSIS TO ENSURE THE PROTECTION OF PUBLIC HEALTH, SAFETY, AND
15 WELFARE OR THE ENVIRONMENT OR REQUIRES ADDITIONAL LOCAL
16 GOVERNMENT OR OTHER STATE AGENCY CONSULTATION.

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

27 (2) The commission ~~has the authority to~~ MAY regulate:

1 (b) The ~~shooting~~ STIMULATING and chemical treatment of wells;

2 AND

3 (c) The spacing AND NUMBER of wells ALLOWED IN A DRILLING
4 UNIT. ~~and~~

5 (d) ~~Oil and gas operations so as to prevent and mitigate significant
6 adverse environmental impacts on any air, water, soil, or biological
7 resource resulting from oil and gas operations to the extent necessary to
8 protect public health, safety, and welfare, including protection of the
9 environment and wildlife resources, taking into consideration
10 cost-effectiveness and technical feasibility.~~

11 (2.5) (a) IN EXERCISING THE AUTHORITY GRANTED BY THIS
12 ARTICLE 60, THE COMMISSION SHALL REGULATE OIL AND GAS OPERATIONS
13 IN A REASONABLE MANNER TO PROTECT AND MINIMIZE ADVERSE IMPACTS
14 TO PUBLIC HEALTH, SAFETY, AND WELFARE, THE ENVIRONMENT, AND
15 WILDLIFE RESOURCES AND SHALL PROTECT AGAINST ADVERSE
16 ENVIRONMENTAL IMPACTS ON ANY AIR, WATER, SOIL, OR BIOLOGICAL
17 RESOURCE RESULTING FROM OIL AND GAS OPERATIONS.

18 (b) THE NONPRODUCTION OF OIL AND GAS RESULTING FROM A
19 CONDITIONAL APPROVAL OR DENIAL AUTHORIZED BY THIS SUBSECTION
20 (2.5) DOES NOT CONSTITUTE WASTE.

21 (6) The commission has the authority, as it deems necessary and
22 convenient, to conduct any hearings or to make any determinations it is
23 otherwise empowered to conduct or make by means of an appointed
24 ADMINISTRATIVE LAW JUDGE OR hearing officer, but recommended
25 findings, determinations, or orders of any ADMINISTRATIVE LAW JUDGE OR
26 hearing officer shall not become final until adopted by the commission IN
27 ACCORDANCE WITH SECTION 34-60-108 (9). Upon appointment by the

1 ~~commission, a member of the commission may act as a hearing officer.~~

2 (7) (a) The commission ~~has the authority to~~ MAY establish, charge,
3 and collect docket fees for the filing of applications, petitions, protests,
4 responses, and other pleadings. ~~No such fees shall exceed two hundred~~
5 ~~dollars for any application, petition, or other pleading initiating a~~
6 ~~proceeding nor one hundred dollars for any protest or other responsive~~
7 ~~pleadings, and any party to any commission proceeding shall pay no more~~
8 ~~than one such fee for each proceeding in which it is a party.~~ All such fees
9 shall be deposited in the oil and gas conservation and environmental
10 response fund established by section 34-60-122 and ~~shall be~~ ARE subject
11 to appropriations by the general assembly for the purposes of this ~~article~~
12 ARTICLE 60.

13 (b) THE COMMISSION SHALL BY RULE ESTABLISH THE FEES FOR THE
14 FILING OF APPLICATIONS IN AMOUNTS SUFFICIENT TO RECOVER THE
15 COMMISSION'S REASONABLY FORESEEABLE DIRECT AND INDIRECT COSTS
16 IN CONDUCTING THE ANALYSIS, INCLUDING THE ANNUAL REVIEW OF
17 FINANCIAL ASSURANCE PURSUANT TO SUBSECTION (13) OF THIS SECTION,
18 NECESSARY TO ASSURE THAT PERMITTED OPERATIONS WILL BE
19 CONDUCTED IN COMPLIANCE WITH ALL APPLICABLE REQUIREMENTS OF
20 THIS ARTICLE 60.

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

22 (I) ADOPT AN ALTERNATIVE LOCATION ANALYSIS PROCESS AND
23 SPECIFY CRITERIA USED TO IDENTIFY OIL AND GAS LOCATIONS AND
24 FACILITIES PROPOSED TO BE LOCATED NEAR POPULATED AREAS THAT WILL
25 BE SUBJECT TO THE ALTERNATIVE LOCATION ANALYSIS PROCESS; AND

26 (II) IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC HEALTH
27 AND ENVIRONMENT, EVALUATE AND ADDRESS THE POTENTIAL

1 CUMULATIVE IMPACTS OF OIL AND GAS DEVELOPMENT.

2 (13) The commission shall require every operator to provide
3 assurance that it is financially capable of fulfilling ~~any~~ EVERY obligation
4 imposed ~~under subsections (11), (12), and (17) of this section~~ BY THIS
5 ARTICLE 60 AS SPECIFIED IN RULES ADOPTED ON OR AFTER THE EFFECTIVE
6 DATE OF THIS SUBSECTION (13), AS AMENDED. THE RULE-MAKING MUST
7 CONSIDER: INCREASING FINANCIAL ASSURANCE FOR INACTIVE WELLS AND
8 FOR WELLS TRANSFERRED TO A NEW OWNER; REQUIRING A FINANCIAL
9 ASSURANCE ACCOUNT, WHICH MUST REMAIN TIED TO THE WELL IN THE
10 EVENT OF A TRANSFER OF OWNERSHIP, TO BE FULLY FUNDED IN THE INITIAL
11 YEARS OF OPERATION FOR EACH NEW WELL TO COVER FUTURE COSTS TO
12 PLUG, RECLAIM, AND REMEDIATE THE WELL; AND CREATING A POOLED
13 FUND TO ADDRESS ORPHANED WELLS FOR WHICH NO OWNER, OPERATOR,
14 OR RESPONSIBLE PARTY IS CAPABLE OF COVERING THE COSTS OF
15 PLUGGING, RECLAMATION, AND REMEDIATION. For purposes of this
16 subsection (13), references to "operator" ~~shall~~ include an operator of an
17 underground natural gas storage cavern and an applicant for a certificate
18 of closure under subsection (17) of this section. In complying with this
19 requirement, an operator may submit for commission approval, without
20 limitation, one or more of the following:

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

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

6 (c) A bond or other surety instrument;

7 (d) A letter of credit, certificate of deposit, or other financial
8 instrument;

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

12 (f) A lien or other security interest in real or personal property of
13 the operator. ~~Such~~ THE lien or security interest ~~shall~~ MUST be in a form
14 and priority acceptable to the commission in its sole discretion. ~~and shall~~
15 ~~be reviewed annually by~~ The commission SHALL ANNUALLY REVIEW THE
16 LIEN OR SECURITY.

17 (15) The commission may, as it deems appropriate, assign its
18 inspection and monitoring function, but not its enforcement authority,
19 through intergovernmental agreement or by private contract; except that
20 ~~no such~~ AN assignment ~~shall~~ MUST NOT allow for the imposition of any
21 new tax or fee by the assignee in order to conduct ~~such~~ THE assigned
22 inspection and monitoring and ~~no such assignment shall~~ MUST NOT
23 provide for compensation contingent on the number or nature of alleged
24 violations referred to the commission by the assignee. ~~No local~~
25 ~~government may charge a tax or fee to conduct inspections or monitoring~~
26 ~~of oil and gas operations with regard to matters that are subject to rule,~~
27 ~~regulation, order, or permit condition administered by the commission.~~

1 ~~Nothing in this subsection (15) shall affect the ability of a local~~
2 ~~government to charge a reasonable and nondiscriminatory fee for~~
3 ~~inspection and monitoring for road damage and compliance with local fire~~
4 ~~codes, land use permit conditions, and local building codes.~~

5 (18) THE COMMISSION SHALL PROMULGATE RULES TO ENSURE
6 PROPER WELLBORE INTEGRITY OF ALL OIL AND GAS PRODUCTION WELLS.
7 IN PROMULGATING THE RULES, THE COMMISSION SHALL CONSIDER
8 INCORPORATING RECOMMENDATIONS FROM THE STATE OIL AND GAS
9 REGULATORY EXCHANGE AND SHALL INCLUDE PROVISIONS TO:

10 (a) ADDRESS THE PERMITTING, CONSTRUCTION, OPERATION, AND
11 CLOSURE OF PRODUCTION WELLS;

12 (b) REQUIRE THAT WELLS ARE CONSTRUCTED USING CURRENT
13 PRACTICES AND STANDARDS THAT PROTECT WATER ZONES AND PREVENT
14 BLOWOUTS;

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

17 (d) REQUIRE REGULAR INTEGRITY ASSESSMENTS FOR ALL OIL AND
18 GAS PRODUCTION WELLS, SUCH AS SURFACE PRESSURE MONITORING
19 DURING PRODUCTION; AND

20 (e) ADDRESS THE USE OF NONDESTRUCTIVE TESTING OF WELD
21 JOINTS.

22 (19) THE COMMISSION SHALL REVIEW AND AMEND ITS FLOWLINE
23 AND INACTIVE, TEMPORARILY ABANDONED, AND SHUT-IN WELL RULES TO
24 THE EXTENT NECESSARY TO ENSURE THAT THE RULES PROTECT AND
25 MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY, AND WELFARE
26 AND THE ENVIRONMENT, INCLUDING BY:

27 (a) ALLOWING PUBLIC DISCLOSURE OF FLOWLINE INFORMATION

1 AND EVALUATING AND DETERMINING WHEN A DEACTIVATED FLOWLINE
2 MUST BE INSPECTED BEFORE BEING REACTIVATED; AND

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

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

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

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

14 (c) THE HANDLING OF HAZARDOUS MATERIALS;

15 (d) WELDERS WORKING ON OIL AND GAS PROCESS LINES,
16 INCLUDING:

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

19 (II) A MINIMUM OF SEVEN THOUSAND HOURS OF DOCUMENTED
20 ON-THE-JOB TRAINING, WHICH REQUIREMENT CAN BE MET BY AN
21 EMPLOYEE WORKING UNDER THE SUPERVISION OF A PERSON WITH THE
22 REQUISITE SEVEN THOUSAND HOURS OF TRAINING; AND

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

27 **SECTION 13.** In Colorado Revised Statutes, 34-60-108, **add** (9)

1 as follows:

2 **34-60-108. Rules - hearings - process.** (9) WHENEVER ANY
3 HEARING OR OTHER PROCEEDING IS ASSIGNED TO AN ADMINISTRATIVE LAW
4 JUDGE, HEARING OFFICER, OR INDIVIDUAL COMMISSIONER FOR HEARING,
5 THE ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR COMMISSIONER,
6 AFTER THE CONCLUSION OF THE HEARING, SHALL PROMPTLY TRANSMIT TO
7 THE COMMISSION AND THE PARTIES THE RECORD AND EXHIBITS OF THE
8 PROCEEDING AND A WRITTEN RECOMMENDED DECISION THAT CONTAINS
9 THE FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDED ORDER. A
10 PARTY MAY FILE AN EXCEPTION TO THE RECOMMENDED ORDER; BUT IF NO
11 EXCEPTIONS ARE FILED WITHIN TWENTY DAYS AFTER SERVICE UPON THE
12 PARTIES, OR UNLESS THE COMMISSION STAYS THE RECOMMENDED ORDER
13 WITHIN THAT TIME UPON ITS OWN MOTION, THE RECOMMENDED ORDER
14 BECOMES THE DECISION OF THE COMMISSION AND SUBJECT TO SECTION
15 34-60-111. THE COMMISSION UPON ITS OWN MOTION MAY AND, WHERE
16 EXCEPTIONS ARE FILED SHALL, CONDUCT A DE NOVO REVIEW OF THE
17 MATTER UPON THE SAME RECORD, AND THE RECOMMENDED ORDER IS
18 STAYED PENDING THE COMMISSION'S FINAL DETERMINATION OF THE
19 MATTER. THE COMMISSION MAY ADOPT, REJECT, OR MODIFY THE
20 RECOMMENDED ORDER.

21 **SECTION 14.** In Colorado Revised Statutes, 34-60-116, **amend**
22 (1), (3), (6), (7)(a)(II), (7)(a)(III), (7)(c), and (7)(d)(I); and **add** (7)(a)(IV)
23 as follows:

24 **34-60-116. Drilling units - pooling interests.** (1) (a) To prevent
25 or to assist in preventing waste, to avoid the drilling of unnecessary wells,
26 or to protect correlative rights, the commission, upon its own motion or
27 on a proper application of an interested party, but after notice and hearing

1 as provided in this section, may establish one or more drilling units of
2 specified size and shape covering any pool or portion of a pool.

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

4 (I) THE APPLICANT HAS FILED AN APPLICATION WITH THE LOCAL
5 GOVERNMENT HAVING JURISDICTION TO APPROVE THE SITING OF THE
6 PROPOSED OIL AND GAS LOCATION AND THE LOCAL GOVERNMENT'S
7 DISPOSITION OF THE APPLICATION; OR

8 (II) THE LOCAL GOVERNMENT HAVING JURISDICTION DOES NOT
9 REGULATE THE SITING OF OIL AND GAS LOCATIONS.

10 (3) The order establishing a drilling unit:

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

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

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

18 (b) (I) In the absence of voluntary pooling, the commission, upon
19 the application of ~~any interested person~~ A PERSON WHO OWNS, OR HAS
20 SECURED THE CONSENT OF THE OWNERS OF, MORE THAN FORTY-FIVE
21 PERCENT OF THE MINERAL INTERESTS TO BE POOLED, may enter an order
22 pooling all interests in the drilling unit for the development and operation
23 ~~thereof. Each such~~ OF THE DRILLING UNIT. MINERAL INTERESTS THAT ARE
24 OWNED BY A PERSON WHO CANNOT BE LOCATED THROUGH REASONABLE
25 DILIGENCE ARE EXCLUDED FROM THE CALCULATION.

26 (II) THE pooling order shall be made after notice and A hearing
27 and ~~shall~~ MUST be upon terms and conditions that are just and reasonable

1 and that afford to the owner of each tract or interest in the drilling unit the
2 opportunity to recover or receive, without unnecessary expense, ~~his~~ A just
3 and equitable share.

4 (c) Operations incident to the drilling of a well upon any portion
5 of a unit covered by a pooling order shall be deemed for all purposes to
6 be the conduct of ~~such~~ operations upon each separately owned tract in the
7 unit by the several owners ~~thereof~~ OF EACH SEPARATELY OWNED TRACT.
8 That portion of the production allocated or applicable to each tract
9 included in a unit covered by a pooling order shall, when produced, be
10 deemed for all purposes to have been produced from ~~such~~ THE tract by a
11 well drilled ~~thereon~~ ON IT.

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

13 (II) Determine the interest of each owner in the unit and provide
14 that each consenting owner is entitled to receive, subject to royalty or
15 similar obligations, the share of the production from the wells applicable
16 to the owner's interest in the wells and, unless the owner has agreed
17 otherwise, a proportionate part of the nonconsenting owner's share of the
18 production until costs are recovered and that each nonconsenting owner
19 is entitled to own and to receive the share of the production applicable to
20 the owner's interest in the unit after the consenting owners have recovered
21 the nonconsenting owner's share of the costs out of production; ~~and~~

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

25 (IV) PROHIBIT THE OPERATOR FROM USING THE SURFACE OWNED
26 BY A NONCONSENTING OWNER WITHOUT PERMISSION FROM THE
27 NONCONSENTING OWNER.

1 (c) (I) A nonconsenting owner of a tract in a drilling unit that is
2 not subject to any lease or other contract for the development thereof for
3 oil and gas DEVELOPMENT shall be deemed to have a landowner's
4 proportionate royalty of:

5 (A) ~~twelve and one-half~~ FOR A GAS WELL, THIRTEEN percent until
6 ~~such time as~~ the consenting owners recover, only out of the
7 nonconsenting owner's proportionate ~~seven-eighths~~
8 EIGHTY-SEVEN-PERCENT share of production, the costs specified in
9 subsection (7)(b) of this section; OR

10 (B) FOR AN OIL WELL, SIXTEEN PERCENT UNTIL THE CONSENTING
11 OWNERS RECOVER, ONLY OUT OF THE NONCONSENTING OWNER'S
12 PROPORTIONATE EIGHTY-FOUR-PERCENT SHARE OF PRODUCTION, THE
13 COSTS SPECIFIED IN SUBSECTION (7)(b) OF THIS SECTION.

14 (II) After recovery of the costs, the nonconsenting owner then
15 owns his or her full proportionate share of the wells, surface facilities,
16 and production and then is liable for further costs as if the
17 NONCONSENTING owner had originally agreed to drilling of the wells.

18 (d) (I) THE COMMISSION SHALL NOT ENTER an order pooling an
19 unleased nonconsenting mineral owner ~~shall not be entered by the~~
20 ~~commission~~ under subsection (6) of this section over protest of the owner
21 unless the commission has received evidence that the unleased mineral
22 owner has been tendered, no less than sixty days before the hearing, a
23 reasonable offer, MADE IN GOOD FAITH, to lease upon terms no less
24 favorable than those currently prevailing in the area at the time
25 application for the order is made and that ~~such~~ THE unleased mineral
26 owner has been furnished in writing the owner's share of the estimated
27 drilling and completion cost of the wells, the location and objective depth

1 of the wells, and the estimated spud date for the wells or range of time
2 within which spudding is to occur. The offer must include a copy of or
3 link to a brochure supplied by the commission that clearly and concisely
4 describes the pooling procedures specified in this section and the mineral
5 owner's options pursuant to those procedures.

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

8 **34-60-122. Expenses - fund created.** (1) (b) On and after July
9 1, ~~2014~~ 2019, the commission shall ensure that the ~~two-year average of~~
10 ~~the~~ unobligated portion of the fund does not exceed ~~six million dollars~~
11 FIFTY PERCENT OF TOTAL APPROPRIATIONS FROM THE FUND FOR THE
12 UPCOMING FISCAL YEAR and that there is an adequate balance in the
13 ~~environmental response account created pursuant to subsection (5) of this~~
14 ~~section~~ FUND TO SUPPORT THE OPERATIONS OF THE COMMISSION AND to
15 address environmental response needs.

16 **SECTION 16.** In Colorado Revised Statutes, 34-60-128, **amend**
17 (3)(b); and **repeal** (4) as follows:

18 **34-60-128. Habitat stewardship - rules.** (3) In order to
19 minimize adverse impacts to wildlife resources, the commission shall:

20 (b) Provide for commission consultation and consent of the
21 affected surface owner, or the surface owner's appointed tenant, on
22 permit-specific conditions for wildlife habitat protection THAT DIRECTLY
23 IMPACT THE AFFECTED SURFACE OWNER'S PROPERTY OR USE OF THAT
24 PROPERTY. Such PERMIT-SPECIFIC conditions FOR WILDLIFE HABITAT
25 PROTECTION shall be discontinued when final reclamation has occurred.
26 PERMIT-SPECIFIC CONDITIONS FOR WILDLIFE HABITAT PROTECTION THAT
27 DO NOT DIRECTLY IMPACT THE AFFECTED SURFACE OWNER'S PROPERTY OR

1 USE OF THAT PROPERTY, SUCH AS OFF-SITE COMPENSATORY MITIGATION
2 REQUIREMENTS, DO NOT REQUIRE THE CONSENT OF THE SURFACE OWNER
3 OR THE SURFACE OWNER'S APPOINTED TENANT.

4 (4) Nothing in this section shall establish, alter, impair, or negate
5 the authority of local and county governments to regulate land use related
6 to oil and gas operations.

7 SECTION 17. In Colorado Revised Statutes, add 34-60-131 as
8 follows:

9 34-60-131. No land use preemption. LOCAL GOVERNMENTS AND
10 STATE AGENCIES, INCLUDING THE COMMISSION AND AGENCIES LISTED IN
11 SECTION 34-60-105 (1)(b), HAVE REGULATORY AUTHORITY OVER OIL AND
12 GAS DEVELOPMENT, INCLUDING AS SPECIFIED IN SECTION 34-60-105 (1)(b).
13 A LOCAL GOVERNMENT'S REGULATIONS MAY BE MORE PROTECTIVE OR
14 STRICTER THAN STATE REQUIREMENTS.

15 SECTION 18. Appropriation. (1) For the 2019-20 state fiscal
16 year, \$851,010 is appropriated to the department of natural resources.
17 This appropriation consists of \$763,180 cash funds from the oil and gas
18 conservation and environmental response fund created in section
19 34-60-122 (5)(a), C.R.S., and \$87,830 cash funds from the wildlife cash
20 fund created in section 33-1-112 (1)(a), C.R.S. To implement this act, the
21 department may use this appropriation as follows:

22 (a) \$535,508 from the oil and gas conservation and environmental
23 response fund for use by the oil and gas conservation commission for
24 program costs, which amount is based on an assumption that the oil and
25 gas conservation commission will require an additional 5.0 FTE;

26 (b) \$83,930 from the wildlife cash fund for wildlife operations,
27 which amount is based on an assumption that the division of parks and

1 wildlife will require an additional 1.0 FTE;

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

5 (d) \$39,000 from the oil and gas conservation and environmental
6 response fund for leased space; and

7 (e) \$186,534 from the oil and gas conservation and environmental
8 response fund for the purchase of legal services.

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

16 **SECTION 19. Applicability.** This act applies to conduct
17 occurring on or after the effective date of this act, including
18 determinations of applications pending on the effective date.

19 **SECTION 20. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.