

An Act

SENATE BILL 19-181

BY SENATOR(S) Fenberg and Foote, Court, Gonzales, Lee, Moreno, Story, Williams A., Winter;
also REPRESENTATIVE(S) Becker and Caraveo, Arndt, Benavidez, Bird, Buckner, Duran, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Lontine, McCluskie, Melton, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Sullivan, Tipper, Valdez A., Weissman.

CONCERNING ADDITIONAL PUBLIC WELFARE PROTECTIONS REGARDING THE CONDUCT OF OIL AND GAS OPERATIONS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

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

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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

~~area for designation.~~

SECTION 2. In Colorado Revised Statutes, 24-65.1-302, **repeal** (3) as follows:

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

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

25-7-109. Commission to promulgate emissions control regulations. (10) (a) THE COMMISSION SHALL ADOPT RULES TO MINIMIZE EMISSIONS OF METHANE AND OTHER HYDROCARBONS, VOLATILE ORGANIC COMPOUNDS, AND OXIDES OF NITROGEN FROM OIL AND NATURAL GAS EXPLORATION AND PRODUCTION FACILITIES AND NATURAL GAS FACILITIES IN THE PROCESSING, GATHERING AND BOOSTING, STORAGE, AND TRANSMISSION SEGMENTS OF THE NATURAL GAS SUPPLY CHAIN.

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

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

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

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

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

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

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

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

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

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

(h) ~~Otherwise planning for and regulating the use of land so as to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights.~~ REGULATING THE SURFACE IMPACTS OF OIL AND GAS OPERATIONS IN A REASONABLE MANNER TO ADDRESS MATTERS SPECIFIED IN THIS SUBSECTION (1)(h) AND TO PROTECT AND MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY, AND WELFARE

AND THE ENVIRONMENT. NOTHING IN THIS SUBSECTION (1)(h) IS INTENDED TO ALTER, EXPAND, OR DIMINISH THE AUTHORITY OF LOCAL GOVERNMENTS TO REGULATE AIR QUALITY UNDER SECTION 25-7-128. FOR PURPOSES OF THIS SUBSECTION (1)(h), "MINIMIZE ADVERSE IMPACTS" MEANS, TO THE EXTENT NECESSARY AND REASONABLE, TO PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE AND THE ENVIRONMENT BY AVOIDING ADVERSE IMPACTS FROM OIL AND GAS OPERATIONS AND MINIMIZING AND MITIGATING THE EXTENT AND SEVERITY OF THOSE IMPACTS THAT CANNOT BE AVOIDED. THE FOLLOWING MATTERS ARE COVERED BY THIS SUBSECTION (1)(h):

(I) LAND USE;

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

(III) IMPACTS TO PUBLIC FACILITIES AND SERVICES;

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

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

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

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

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

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

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

(c) 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 TO ENFORCE LOCAL GOVERNMENTAL REQUIREMENTS.

(3) (a) TO PROVIDE A LOCAL GOVERNMENT WITH TECHNICAL EXPERTISE REGARDING WHETHER A PRELIMINARY OR FINAL DETERMINATION OF THE LOCATION OF AN OIL AND GAS FACILITY OR OIL AND GAS LOCATION WITHIN ITS RESPECTIVE JURISDICTION COULD AFFECT OIL AND GAS RESOURCE RECOVERY:

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

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

(b) A LOCAL GOVERNMENT MAY FINALIZE ITS PRELIMINARY DETERMINATION WITHOUT ANY CHANGES BASED ON THE TECHNICAL REVIEW

REPORT, FINALIZE ITS PRELIMINARY DETERMINATION WITH CHANGES BASED ON THE REPORT, OR RECONSIDER OR DO NOTHING WITH REGARD TO ITS ALREADY FINALIZED DETERMINATION.

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

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

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

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

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

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

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

(I) ~~Foster~~ REGULATE the ~~responsible, balanced~~ development AND production ~~and utilization~~ of the natural resources of oil and gas in the state of Colorado in a manner ~~consistent with protection of~~ THAT PROTECTS

public health, safety, and welfare, including protection of the environment and wildlife resources;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) (a) (I) ~~Effective July 1, 2007~~ ON THE EFFECTIVE DATE OF THIS SECTION (2)(a)(I), AS AMENDED, the commission ~~shall consist~~ CONSISTS of nine members, seven of whom shall be appointed by the governor with the consent of the senate. ~~and two of whom;~~ The executive director of the department of natural resources and the executive director of the department of public health and environment, ~~shall be~~ OR THE EXECUTIVE DIRECTORS' DESIGNEES, ARE ex officio voting members. At least two members shall be appointed from west of the continental divide, and, to the extent possible, consistent with this ~~paragraph (a)~~ SUBSECTION (2)(a), the other members shall be appointed taking into account the need for geographical representation of ~~other~~ areas of the state with high levels of CURRENT OR ANTICIPATED oil and gas activity or employment. ~~Three members shall~~ ONE MEMBER MUST be ~~individuals~~ AN INDIVIDUAL with substantial experience in the oil and gas industry; ~~and at least two of said three members shall have a college degree in petroleum geology or petroleum engineering;~~ one member ~~shall~~ MUST be a local government official; one member ~~shall~~ MUST have formal training or substantial experience in environmental ~~or wildlife~~ protection; one member ~~shall~~ MUST have formal training or substantial experience in WILDLIFE PROTECTION; ONE MEMBER MUST HAVE TECHNICAL EXPERTISE RELEVANT TO THE ISSUES CONSIDERED BY THE COMMISSION OR FORMAL TRAINING OR SUBSTANTIAL EXPERIENCE IN soil conservation or reclamation; ~~and~~ one member ~~shall~~ MUST be actively engaged in agricultural production ~~and also~~ OR be a royalty owner; AND ONE MEMBER MUST HAVE FORMAL TRAINING OR SUBSTANTIAL EXPERIENCE IN PUBLIC HEALTH.

Excluding the executive directors from consideration, no more than four members of the commission ~~shall~~ MAY be members of the same political party.

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

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

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

(2) (a) THE COMMISSION CONSISTS OF SEVEN MEMBERS, FIVE OF WHOM SHALL BE APPOINTED BY THE GOVERNOR WITH THE CONSENT OF THE SENATE. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, OR THE EXECUTIVE DIRECTORS' DESIGNEES, ARE EX OFFICIO NONVOTING MEMBERS. A MAJORITY OF THE VOTING COMMISSIONERS CONSTITUTE A QUORUM FOR THE TRANSACTION OF ITS BUSINESS.

(b) EACH APPOINTED COMMISSIONER MUST BE A QUALIFIED ELECTOR OF THIS STATE. EACH APPOINTED COMMISSIONER, BEFORE ENTERING UPON THE DUTIES OF OFFICE, SHALL TAKE THE CONSTITUTIONAL OATH OF OFFICE. EXCLUDING THE EXECUTIVE DIRECTORS FROM CONSIDERATION, NO MORE THAN THREE MEMBERS OF THE COMMISSION MAY BE MEMBERS OF THE SAME POLITICAL PARTY. TO THE EXTENT POSSIBLE, CONSISTENT WITH THIS SUBSECTION (2), THE MEMBERS SHALL BE APPOINTED TAKING INTO ACCOUNT THE NEED FOR GEOGRAPHICAL REPRESENTATION OF AREAS OF THE STATE WITH HIGH LEVELS OF CURRENT OR ANTICIPATED OIL AND GAS ACTIVITY OR

EMPLOYMENT. THE APPOINTED MEMBERS OF THE COMMISSION SHALL DEVOTE THEIR ENTIRE TIME TO THE DUTIES OF THEIR OFFICES TO THE EXCLUSION OF ANY OTHER EMPLOYMENT AND ARE ENTITLED TO RECEIVE COMPENSATION AS DESIGNATED BY LAW.

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

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

(e) MEMBERS OF THE COMMISSION SHALL BE APPOINTED FOR TERMS OF FOUR YEARS EACH; EXCEPT THAT THE INITIAL TERMS OF TWO MEMBERS ARE TWO YEARS. THE GOVERNOR SHALL DESIGNATE ONE MEMBER OF THE COMMISSION AS CHAIR OF THE COMMISSION. THE CHAIR SHALL DELEGATE ROLES AND RESPONSIBILITIES TO COMMISSIONERS AND THE DIRECTOR. THE GOVERNOR MAY AT ANY TIME REMOVE ANY APPOINTED MEMBER OF THE COMMISSION, AND BY APPOINTMENT THE GOVERNOR SHALL FILL ANY

VACANCY ON THE COMMISSION. IN CASE ONE OR MORE VACANCIES OCCUR ON THE SAME DAY, THE GOVERNOR SHALL DESIGNATE THE ORDER OF FILLING VACANCIES.

(3) THE COMMISSION SHALL REPORT TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES AT SUCH TIMES AND ON SUCH MATTERS AS THE EXECUTIVE DIRECTOR MAY REQUIRE.

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

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

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

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

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

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

(3) (a) UPON RECEIPT OF REQUEST FOR TECHNICAL REVIEW FILED PURSUANT TO SECTION 29-20-104 (3)(a), THE DIRECTOR OF THE COMMISSION SHALL APPOINT TECHNICAL REVIEW BOARD MEMBERS. THE MEMBERSHIP OF THE TECHNICAL REVIEW BOARD MUST INCLUDE SUBJECT MATTER EXPERTS IN LOCAL LAND USE PLANNING AND OIL AND GAS EXPLORATION AND PRODUCTION AND MAY INCLUDE SUBJECT MATTER EXPERTS IN ENVIRONMENTAL SCIENCES, PUBLIC HEALTH SCIENCES, OR OTHER

DISCIPLINES RELEVANT TO THE DISPUTED ISSUES, AS DETERMINED BY THE DIRECTOR. THE TECHNICAL REVIEW BOARD SHALL CONDUCT A TECHNICAL REVIEW OF THE PRELIMINARY OR FINAL SITING DETERMINATION PURSUANT TO THE CRITERIA SPECIFIED IN SUBSECTION (3)(b) OF THIS SECTION AND, AT ITS DISCRETION, MAY MEET TO CONFER INFORMALLY WITH THE PARTIES. THE TECHNICAL REVIEW MUST BE COMPLETED BY ISSUANCE OF A REPORT WITHIN SIXTY DAYS AFTER THE DIRECTOR APPOINTS THE EXPERTS.

(b) A TECHNICAL REVIEW:

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

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

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

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

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

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

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

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

(IV) THE SOLID AND HAZARDOUS WASTE COMMISSION TO:

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

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

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

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

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

(I) FEDERALLY RECOGNIZED INDIAN TRIBES, THEIR POLITICAL SUBDIVISIONS, OR TRIBALLY CONTROLLED AFFILIATES, UNDERTAKEN OR TO BE UNDERTAKEN WITH RESPECT TO MINERAL EVALUATION, EXPLORATION,

OR DEVELOPMENT ON LANDS WITHIN THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION LOCATED WITHIN THE STATE; OR

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

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

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

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

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

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

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

(A) ~~Giving to the commission notice of intention~~ APPLYING FOR A PERMIT to drill, WHICH MUST INCLUDE PROOF EITHER THAT: THE OPERATOR HAS FILED AN APPLICATION WITH THE LOCAL GOVERNMENT WITH JURISDICTION TO APPROVE THE SITING OF THE PROPOSED OIL AND GAS LOCATION AND THE LOCAL GOVERNMENT'S DISPOSITION OF THE APPLICATION; OR THE LOCAL GOVERNMENT WITH JURISDICTION DOES NOT

REGULATE THE SITING OF OIL AND GAS LOCATIONS; and ~~without first~~

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

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

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

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

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

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

AND

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

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

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

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

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

(7) (a) The commission ~~has the authority to~~ MAY establish, charge, and collect docket fees for the filing of applications, petitions, protests, responses, and other pleadings. ~~No such fees shall exceed two hundred dollars for any application, petition, or other pleading initiating a proceeding nor one hundred dollars for any protest or other responsive pleadings, and any party to any commission proceeding shall pay no more than one such fee for each proceeding in which it is a party.~~ All such fees

shall be deposited in the oil and gas conservation and environmental response fund established by section 34-60-122 and ~~shall be~~ ARE subject to appropriations by the general assembly for the purposes of this ~~article~~ ARTICLE 60.

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

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

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

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

(13) The commission shall require every operator to provide assurance that it is financially capable of fulfilling ~~any~~ EVERY obligation imposed ~~under subsections (11), (12), and (17) of this section~~ BY THIS ARTICLE 60 AS SPECIFIED IN RULES ADOPTED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (13), AS AMENDED. THE RULE-MAKING MUST CONSIDER: INCREASING FINANCIAL ASSURANCE FOR INACTIVE WELLS AND FOR WELLS TRANSFERRED TO A NEW OWNER; REQUIRING A FINANCIAL ASSURANCE ACCOUNT, WHICH MUST REMAIN TIED TO THE WELL IN THE EVENT OF A TRANSFER OF OWNERSHIP, TO BE FULLY FUNDED IN THE INITIAL YEARS OF OPERATION FOR EACH NEW WELL TO COVER FUTURE COSTS TO PLUG, RECLAIM, AND REMEDIATE THE WELL; AND CREATING A POOLED FUND TO ADDRESS ORPHANED WELLS FOR WHICH NO OWNER, OPERATOR, OR RESPONSIBLE PARTY IS CAPABLE OF COVERING THE COSTS OF PLUGGING, RECLAMATION, AND REMEDIATION. For purposes of this subsection (13), references to "operator" ~~shall~~ include an operator of an underground natural gas storage cavern and an applicant for a certificate of closure under

subsection (17) of this section. In complying with this requirement, an operator may submit for commission approval, without limitation, one or more of the following:

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

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

(c) A bond or other surety instrument;

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

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

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

(15) The commission may, as it deems appropriate, assign its inspection and monitoring function, but not its enforcement authority, through intergovernmental agreement or by private contract; except that ~~no such~~ AN assignment ~~shall~~ MUST NOT allow for the imposition of any new tax or fee by the assignee in order to conduct ~~such~~ THE assigned inspection and monitoring and ~~no such assignment shall~~ MUST NOT provide for compensation contingent on the number or nature of alleged violations referred to the commission by the assignee. ~~No local government may~~

~~charge a tax or fee to conduct inspections or monitoring of oil and gas operations with regard to matters that are subject to rule, regulation, order, or permit condition administered by the commission. Nothing in this subsection (15) shall affect the ability of a local government to charge a reasonable and nondiscriminatory fee for inspection and monitoring for road damage and compliance with local fire codes, land use permit conditions, and local building codes:~~

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

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

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

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

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

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

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

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

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

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

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

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

(c) THE HANDLING OF HAZARDOUS MATERIALS;

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

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

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

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

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

34-60-108. Rules - hearings - process. (9) WHENEVER ANY HEARING OR OTHER PROCEEDING IS ASSIGNED TO AN ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR INDIVIDUAL COMMISSIONER FOR HEARING, THE ADMINISTRATIVE LAW JUDGE, HEARING OFFICER, OR COMMISSIONER, AFTER THE CONCLUSION OF THE HEARING, SHALL PROMPTLY TRANSMIT TO THE

COMMISSION AND THE PARTIES THE RECORD AND EXHIBITS OF THE PROCEEDING AND A WRITTEN RECOMMENDED DECISION THAT CONTAINS THE FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDED ORDER. A PARTY MAY FILE AN EXCEPTION TO THE RECOMMENDED ORDER; BUT IF NO EXCEPTIONS ARE FILED WITHIN TWENTY DAYS AFTER SERVICE UPON THE PARTIES, OR UNLESS THE COMMISSION STAYS THE RECOMMENDED ORDER WITHIN THAT TIME UPON ITS OWN MOTION, THE RECOMMENDED ORDER BECOMES THE DECISION OF THE COMMISSION AND SUBJECT TO SECTION 34-60-111. THE COMMISSION UPON ITS OWN MOTION MAY AND, WHERE EXCEPTIONS ARE FILED SHALL, CONDUCT A DE NOVO REVIEW OF THE MATTER UPON THE SAME RECORD, AND THE RECOMMENDED ORDER IS STAYED PENDING THE COMMISSION'S FINAL DETERMINATION OF THE MATTER. THE COMMISSION MAY ADOPT, REJECT, OR MODIFY THE RECOMMENDED ORDER.

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

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

(b) THE APPLICATION MUST INCLUDE PROOF THAT EITHER:

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

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

(3) The order establishing a drilling unit:

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

(b) May authorize one or more wells to be drilled and produced

from the common source of supply on a drilling unit.

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

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

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

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

(7) (a) Each pooling order must:

(II) Determine the interest of each owner in the unit and provide that each consenting owner is entitled to receive, subject to royalty or similar obligations, the share of the production from the wells applicable to the owner's interest in the wells and, unless the owner has agreed otherwise, a proportionate part of the nonconsenting owner's share of the production until costs are recovered and that each nonconsenting owner is entitled to own and to receive the share of the production applicable to the owner's

interest in the unit after the consenting owners have recovered the nonconsenting owner's share of the costs out of production; ~~and~~

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

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

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

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

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

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

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

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

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

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

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

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

(b) Provide for commission consultation and consent of the affected surface owner, or the surface owner's appointed tenant, on permit-specific conditions for wildlife habitat protection THAT DIRECTLY IMPACT THE AFFECTED SURFACE OWNER'S PROPERTY OR USE OF THAT PROPERTY. Such PERMIT-SPECIFIC conditions FOR WILDLIFE HABITAT PROTECTION shall be discontinued when final reclamation has occurred. PERMIT-SPECIFIC CONDITIONS FOR WILDLIFE HABITAT PROTECTION THAT DO NOT DIRECTLY IMPACT THE AFFECTED SURFACE OWNER'S PROPERTY OR USE OF THAT PROPERTY, SUCH AS OFF-SITE COMPENSATORY MITIGATION REQUIREMENTS, DO NOT REQUIRE THE CONSENT OF THE SURFACE OWNER OR THE SURFACE OWNER'S APPOINTED TENANT.

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

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

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

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

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

(b) \$83,930 from the wildlife cash fund for wildlife operations, which amount is based on an assumption that the division of parks and wildlife will require an additional 1.0 FTE;

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

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

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


(2) For the 2019-20 state fiscal year, \$186,534 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of natural resources under subsection (1)(e) of this


section and is based on an assumption that the department of law will require an additional 1.0 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of natural resources.


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


SECTION 20. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

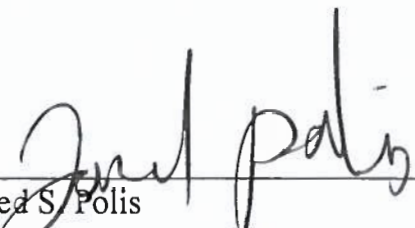

Leroy M. Garcia
PRESIDENT OF
THE SENATE


KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES


Cindi L. Markwell
SECRETARY OF
THE SENATE


Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED April 16, 2019 at 4:08 p.m.
(Date and Time)


Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO