

Conservation and Regulation
ARTICLE 60
Oil and Gas Conservation

RECEIVED

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S. WARD
2:42 P.M.

Colorado Secretary of State

Be it enacted by the People of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-65.5-102, ~~amend (2.5)~~ 1-202, recreate and reenact, as repealed by Senate Bill 19-181 (1)(d), as follows: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 area for designation.

SECTION 2. In Colorado Revised Statutes, 24-65.1-302, recreate and reenact, as repealed by Senate Bill 19-181 (3), as follows: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, 24-65.5-102, amend (2.5) as follows:

24-65.5-102. Definitions— legislative declaration.

As used in this article, unless the context otherwise requires:

(2.5) "Commission" means the Colorado INDEPENDENT oil and gas conservation REGULATORY commission created in section ~~34-60-104~~ 34-60-104.1, C.R.S.

SECTION 24. In ~~article 60 of title 34 of the~~ Colorado Revised Statutes, ~~amend section 10-129-~~ 20-104, recreate and reenact, as repealed by Senate Bill 19-181 (1) introductory portion,

(1)(g), and (1)(h), as follows:

§29-20-104. Powers of local governments.

(1) Except as expressly provided in section 29-20-104.5, the power and authority granted by this section shall 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 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.

SECTION 5. In Colorado Revised Statutes, 30-15-401, **recreate and reenact, as repealed by Senate Bill 19-181** (1) introductory portion, (1)(m)(II) introductory portion, and (1)(m)(II)(B), as follows: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 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 not apply to:

(B) Property used for: Manufacturing, industrial, or commercial business purposes; 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, 34-60-101, **amend** section as follows:

34-60-101. Short title.

This article shall be known and may be cited as the "Oil and Gas ~~Conservation~~ INDEPENDENT REGULATION Act".

SECTION 37. In Colorado Revised Statutes, 34-60-102, **recreate and reenact, as repealed by Senate Bill 19-181** (1)(a) introductory portion, (1)(a)(I), and (1)(b); **amend** (1)(a)(I) and (2); and **add** (3) and (4) as follows:

§ 34-60-102. Legislative declaration.

(1)(a) It is declared to be in the public interest to:

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

(b) It is not the intent nor the purpose of this article 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 to permit each oil and gas pool in Colorado to produce up to its maximum efficient rate of production, subject to the prevention of waste, consistent with the protection of public health, safety, and welfare, including protection of the environment and wildlife resources, 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.

(2) It is further declared to be in the public interest to assure that producers and consumers of natural gas are afforded the protection and benefits of those laws and regulations of the United States which affect the price and allocation of natural gas and crude oil, including the federal “Natural Gas Policy Act of 1978”, 15 U.S.C. 3301, and particularly that the INDEPENDENT oil and gas ~~conservation~~ REGULATORY commission, established by section ~~34-60-104~~ 34-60-104.1, be empowered to exercise such powers and authorities as may be delegated to it by the laws or regulations of the United States, including said “Natural Gas Policy Act of 1978”, and, in the exercise of such powers and authorities, to make such rules and regulations and to execute such agreements and waivers as are reasonably required to implement such power and authority.

(3) IT IS FURTHER DECLARED TO BE IN THE PUBLIC INTEREST TO:

(a) CREATE A MODERN, ROBUST, AND INDEPENDENT REGULATORY STRUCTURE TO FOSTER AND REGULATE RESPONSIBLE OIL AND GAS PRODUCTION IN COLORADO IN A WAY THAT REASONABLY AND IN A FACT-BASED MANNER BALANCES:

(I) THE PROTECTION OF PRIVATE PROPERTY RIGHTS, BOTH SURFACE AND MINERAL;

(II) LOCAL INPUT AND PRIORITIES, INCLUDING MITIGATION OF IMPACTS ON LOCAL COMMUNITIES, INCLUDING TRAFFIC, NOISE AND ODOR; AND

(III) THE PROTECTION OF PUBLIC HEALTH AND SAFETY AND WELFARE, INCLUDING PROTECTION OF THE ENVIRONMENT AND WILDLIFE RESOURCES, AND MINIMIZING ENVIRONMENTAL IMPACTS;

(b) END THE FLAWED PARTISAN REGULATORY SYSTEM AND REPLACE IT WITH A STRUCTURE THAT PROTECTS CRITICAL DECISIONS ABOUT THE REGULATION OF OIL AND GAS FROM UNDUE POLITICAL INFLUENCE BY ANY ONE OR MORE POLITICAL ~~PARTY~~PARTIES, ANY ONE OR MORE SPECIAL ~~INTEREST~~INTERESTS, OR ANY ONE OR MORE ELECTED ~~OFFICIAL~~OFFICIALS OR COLLECTION OF POLITICAL APPOINTEES;

(c) END THE POLITICAL APPOINTMENT OF OIL AND GAS REGULATORS, INFLUENCED BY SPECIAL INTEREST GROUPS, AND REPLACE IT WITH AN INDEPENDENT COMMISSION COMPOSED OF INDIVIDUALS WITH A DEMONSTRATED BALANCE OF TECHNICAL KNOWLEDGE OF OIL AND GAS REGULATION AND NATURAL RESOURCE POLICY, A DEMONSTRATED PERSONAL AND PROFESSIONAL RECORD OF INFORMED, ~~BALANCED~~IMPARTIAL AND CONSENSUS-MINDED DECISION MAKING, AND A PROFESSIONAL BACKGROUND DEMONSTRATING AN ABILITY TO CONTRIBUTE TO THE COMMISSION’S BODY OF EXPERTISE THAT WILL AID THE COMMISSION IN MAKING SOUND DECISIONS BASED ON FACTS AND SCIENCE;

(d) ENSURE THAT OIL AND GAS DEVELOPMENT THAT SUPPORTS THE STATE ECONOMY AND CREATES JOBS ACROSS THE STATE CAN CONTINUE IN A WAY THAT BALANCES THESE INTERESTS WITH PROTECTING THE PUBLIC HEALTH AND THE ENVIRONMENT;

(e) CREATE A COMMISSION THAT WILL INDEPENDENTLY MONITOR, FOSTER, AND REGULATE OIL AND GAS DEVELOPMENT IN THIS STATE THROUGH IMPARTIAL ~~AND BALANCED~~ PROFESSIONAL EXPERTS MANAGED AND OVERSEEN BY THE INDEPENDENT COMMISSION;

(f) ENSURE LOCAL GOVERNMENTS HAVE DIRECT INPUT IN THE COMMISSION'S OIL AND GAS DEVELOPMENT DECISIONS ~~IN AFFECTING~~ LOCAL COMMUNITIES; AND

(g) GIVE THE COMMISSION INDEPENDENT CONTROL OVER USE OF ~~MILL LEVY~~ FUNDS AND EXEMPT COMMISSION FUNDING FROM ~~THE~~ STATE REVENUE AND ~~THE~~ SPENDING LIMITS UNDER SECTION 20 OF ARTICLE X OF THE ~~STATE~~ CONSTITUTION.

(4) IT IS THE INTENT OF THIS ARTICLE TO ~~CREATE AN EXCLUSIVE FRAMEWORK AND AUTHORITY FOR ENSURE~~ COMPREHENSIVE ~~AND IMPARTIAL~~ REGULATION OF OIL AND GAS DEVELOPMENT IN THE STATE ~~AND TO PREEMPT ANY PROVISIONS STATUTORY OR REGULATORY PROVISIONS IN CONFLICT OR INCONSISTENT WITH THIS ARTICLE.~~

SECTION 48. In Colorado Revised Statutes, 34-60-103, recreate and reenact, as repealed by Senate Bill 19-181 the introductory portion, (5.5), (11), (12), and (13); **amend** the introductory portion and (2); and **add** (5.3) as follows:

§ 34-60-103. Definitions.

As used in this ~~article~~ ARTICLE 60, unless the context otherwise requires:

(2) "Commission" means the ~~oil and gas conservation commission~~ INDEPENDENT OIL AND GAS REGULATORY COMMISSION ~~OF THE STATE OF COLORADO.~~

(5.3) "LOCAL GOVERNMENT" MEANS A CITY, COUNTY, CITY AND COUNTY, SPECIAL DISTRICT, SCHOOL DISTRICT, OR OTHER UNIT OF LOCAL GOVERNMENT.

(5.5) "Minimize adverse impacts" means to, wherever reasonably practicable:

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

(b) Minimize 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.

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

(12) "Waste", as applied to oil, 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 for consumption, use, and sale.

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

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

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

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

SECTION 59. In ~~article 60 of title 34 of the~~ Colorado Revised Statutes, **repeal** ~~section 34-60-104~~ as follows:

§ 34-60-104. Oil and gas conservation commission— _ report— _ publication.

~~(1) There is hereby created, in the department of natural resources, the oil and gas conservation commission of the state of Colorado.~~

~~(2)(a)(I) Effective July 1, 2007, the commission shall consist 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 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), the other members shall be appointed taking into account the need for geographical representation of other areas of the state with high levels of oil and gas activity or employment. Three members shall be individuals 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 be a local government official; one member shall have formal training or substantial experience in environmental or wildlife protection; one member shall have formal training or substantial experience in soil conservation or reclamation; and one member shall be actively engaged in agricultural production and also be a royalty owner. Excluding the executive directors from consideration, no more than four members of the commission shall be members of the same political party.~~

~~(II) Subject to paragraph (b) of this subsection (2), nothing in this paragraph (a) shall be construed to require a holdover member of the commission holding office on July 1, 2007, to comply with the provisions of this paragraph (a), as amended, unless such person is reappointed~~

to the commission for another term of office. Nothing in this subparagraph (II) shall alter, impair, or negate the authority of the governor to remove or appoint members of the commission pursuant to paragraph (b) of this subsection (2).

(III) Repealed by Laws 2007, Ch. 320, § 3, eff. July 1, 2010.

(b) Members of the commission shall be appointed for terms of four years each. The governor may at any time remove any 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. The members of the commission shall receive a per diem allowance of fifty dollars for each day spent in attendance at commission meetings or hearings and shall be reimbursed for their actual expenses.

(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.

SECTION 610. In article 60 of title 34 of the Colorado Revised Statutes, add section 34-60-104.1 as follows:

§ 34-60-104.1. Independent oil and gas regulatory commission

(1) (a) THERE IS HEREBY CREATED, IN THE DEPARTMENT OF NATURAL RESOURCES, THE INDEPENDENT OIL AND GAS REGULATORY COMMISSION ~~OF THE STATE OF COLORADO~~.

(b) THE COMMISSION'S MISSION IS TO FOSTER AND REGULATE RESPONSIBLE OIL AND GAS PRODUCTION IN COLORADO IN A WAY THAT REASONABLY AND IN A FACT-BASED MANNER BALANCES:

(I) THE PROTECTION OF PRIVATE PROPERTY RIGHTS, BOTH SURFACE AND MINERAL;

(II) ~~LOCAL~~ INPUT AND PRIORITIES OF AFFECTED LOCAL COMMUNITIES, INCLUDING MITIGATION OF IMPACTS ON AFFECTED LOCAL COMMUNITIES, INCLUDING TRAFFIC, NOISE AND ODOR; AND

(III) THE PROTECTION OF PUBLIC HEALTH ~~AND~~, SAFETY AND WELFARE, INCLUDING PROTECTION OF THE ENVIRONMENT AND WILDLIFE RESOURCES, AND MINIMIZING ENVIRONMENTAL IMPACTS.

(2) THE COMMISSION CONSISTS OF THREE MEMBERS WHO HAVE THE FOLLOWING QUALIFICATIONS:

(a) A DEMONSTRATED ~~BALANCE OF~~ TECHNICAL KNOWLEDGE OF OIL AND GAS REGULATION AND NATURAL RESOURCE POLICY;

(b) A DEMONSTRATED PERSONAL AND PROFESSIONAL RECORD OF INFORMED, ~~BALANCED~~ IMPARTIAL AND CONSENSUS-MINDED DECISION MAKING; ~~AND~~ AND

(c) A PROFESSIONAL BACKGROUND DEMONSTRATING AN ABILITY TO CONTRIBUTE TO THE COMMISSION'S BODY OF EXPERTISE THAT WILL AID THE COMMISSION IN MAKING SOUND, FACT AND SCIENCE-BASED, ~~BALANCED~~ DECISIONS RELATED TO RESPONSIBLE OIL AND GAS DEVELOPMENT.

~~(d3)~~ NO PERSON MAY BE APPOINTED TO SERVE ON THE COMMISSION OR HOLD THE OFFICE OF COMMISSIONER IF SUCH PERSON:

~~(1a)~~ HAS A ~~CONFLICT OF PERSONAL OR PECUNIARY INTEREST WITHIN~~ OIL AND GAS DEVELOPMENT ~~IN COLORADO, INCLUDING THAT WOULD CREATE A CONFLICT OF INTEREST, SUCH AS A PERSON WHO:~~

~~(A) IS OR WAS~~ IN THE ~~PAST~~ THREE YEARS PRIOR TO APPOINTMENT ~~IN THE EMPLOY OF, WAS EMPLOYED BY OR HOLDING HELD~~ ANY OFFICIAL RELATION TO ANY CORPORATION, BUSINESS ENTITY, OR PERSON, ~~WHICH SAID CORPORATION, BUSINESS ENTITY, OR PERSON IS~~ SUBJECT IN WHOLE OR IN PART TO REGULATION BY THE COMMISSION, OR ~~OWNING OWNED~~ STOCKS OR BONDS OF ANY SUCH CORPORATION, ~~BUSINESS ENTITY OR PERSON. WITH THE EXCEPTION OF MINIMAL STOCK OR BOND OWNERSHIP OF 5% OR LESS OF THE PERSON'S TOTAL INVESTMENTS. OR IS IN ANY OTHER MANNER PECUNIARILY INTERESTED THEREIN; EXCEPT THAT, IF ANY SUCH PERSON COMMISSIONER BECOMES THE OWNER OF SUCH STOCKS OR BONDS OR BECOMES PECUNIARILY INTERESTED IN SUCH CORPORATION OTHERWISE THAN VOLUNTARILY, THAT PERSON COMMISSIONER SHALL DIVEST SUCH OWNERSHIP OR INTEREST WITHIN SIX MONTHS; FAILING, AND IF THE COMMISSIONER FAILS TO DO SO, THAT COMMISSIONER'S OFFICE SHALL BECOME SEAT BECOMES~~ VACANT; OR

~~(B1)~~ CURRENTLY SERVES OR IN THE PAST THREE YEARS PRIOR TO APPOINTMENT SERVED IN ANY OFFICIAL CAPACITY, WHETHER COMPENSATED OR NOT, WITH A ~~NON-PROFIT NONPROFIT~~, FOR-PROFIT OR ~~NON-GOVERNMENTAL NONGOVERNMENTAL~~ ENTITY WHICH PUBLICLY EDUCATES REGARDING OR ADVOCATES FOR OR AGAINST OIL AND GAS DEVELOPMENT.

~~(C) THIS (11)~~ IS OR HAS BEEN A PROFESSIONAL LOBBYIST REGISTERED TO LOBBY WITH THE STATE OF COLORADO, WITH ANY MUNICIPALITY IN COLORADO, OR AT THE FEDERAL LEVEL WITHIN THE LAST FIVE YEARS PRIOR TO APPOINTMENT.

~~(IV)~~ IS OR HAS BEEN A MEMBER OF THE GENERAL ASSEMBLY, A CITY COUNCIL, A COUNTY COMMISSION, OR CONGRESS WITHIN THE LAST FIVE YEARS PRIOR TO APPOINTMENT.

~~(b)~~ THE CONFLICT OF INTEREST ~~PROVISION PROVISIONS~~ IN SUBSECTION (3)(a) OF THIS SECTION SHALL BE CONSTRUED REASONABLY, WITH THE OBJECTIVE BEING TO DISQUALIFY FROM THE COMMISSION ANY PERSON WHO MIGHT HAVE AN IMMEDIATE CONFLICT OF INTEREST, OR WHOSE PERSONAL TRACK RECORD SUGGESTS HE OR SHE MAY NOT BE ABLE TO ~~DISPASSIONATELY MAKE BALANCED IMPARTIAL~~ DECISIONS ABOUT OIL AND GAS REGULATION IN COLORADO. INDIVIDUALS WHO, IN THE PAST, HAVE WORKED WITH OR FOR AN ENVIRONMENTAL ORGANIZATION OR IN THE ENERGY SECTOR NEED NOT BE DISQUALIFIED, IF THE TOTALITY OF ~~THEIR~~ THE PERSON'S LIFE AND PROFESSIONAL EXPERIENCE SHOWS BOTH A DEPTH OF SUBJECT MATTER KNOWLEDGE AND AN ABILITY TO RENDER INFORMED, THOROUGH, AND ~~BALANCED IMPARTIAL~~ DECISION-MAKING.

~~(II)~~ IS OR HAS BEEN A PROFESSIONAL LOBBYIST REGISTERED TO LOBBY WITH THE STATE OF COLORADO, WITH ANY MUNICIPALITY IN COLORADO, OR AT THE FEDERAL LEVEL WITHIN THE LAST FIVE YEARS PRIOR TO APPOINTMENT.

~~(III)~~ IS OR HAS BEEN A MEMBER OF THE GENERAL ASSEMBLY WITHIN THE LAST FIVE YEARS PRIOR TO APPOINTMENT.

~~(3)(4) THE COMMISSIONERS SHALL BE STATE EMPLOYEES AND DEVOTE THEIR ENTIRE TIME TO THE DUTIES OF THEIR OFFICE TO THE EXCLUSION OF ANY OTHER EMPLOYMENT RECEIVE A PER DIEM ALLOWANCE OF FIFTY DOLLARS FOR EACH DAY SPENT IN ATTENDANCE AT COMMISSION MEETINGS OR HEARINGS AND SHALL RECEIVE SUCH COMPENSATION AS IS DESIGNATED BY LAW BE REIMBURSED FOR THEIR ACTUAL EXPENSES.~~

(45) EACH COMMISSIONER, BEFORE ENTERING UPON THE DUTIES OF OFFICE, SHALL TAKE THE CONSTITUTIONAL OATH OF OFFICE.

(56) A MAJORITY OF THE COMMISSION SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF ITS BUSINESS.

(67) AS OF ~~JANUARY 1, 2020~~, THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSION SHALL ADOPT AS ITS INITIAL RULES AND POLICIES ~~OF THE COMMISSION SHALL BE~~ THE COLORADO OIL AND GAS CONSERVATION COMMISSION RULES AND POLICIES AS THEY EXISTED ON DECEMBER 31, 2018. ~~ANY RULES AND POLICIES ADOPTED BY THE COLORADO OIL AND GAS CONSERVATION COMMISSION BETWEEN JANUARY 1, 2019 AND JANUARY 1, 2020, SHALL BE REPEALED AS OF JANUARY 1, 2020.~~

(78) THE DIRECTOR AND STAFF OF THE FORMER OIL AND GAS CONSERVATION COMMISSION SHALL BECOME THE DIRECTOR AND STAFF OF THE COMMISSION ON ~~JANUARY 1, 2020~~, AND BE SUBJECT TO ~~COMMISSION OVERSIGHT~~ THE EFFECTIVE DATE OF THIS SECTION.

(89) THE COMMISSION SHALL BE ENTITLED TO USE ANY FUNDS APPROPRIATED TO THE COLORADO OIL AND GAS CONSERVATION COMMISSION FOR FISCAL YEAR 2019-2020 FOR COMMISSION OPERATIONS, PROGRAMS, PROJECTS, OR ANY OTHER PERMISSIBLE PURPOSE.

(910) THE ~~OBSOLETE~~ REVISOR OF STATUTES IS AUTHORIZED TO CHANGE ALL REFERENCES TO THE COLORADO OIL AND GAS CONSERVATION COMMISSION AND SECTION 34-60-104, C.R.S., IN ~~COLORADO STATUTE AND REGULATIONS SHALL BE REMOVED AND REPLACED WITH~~ REFERENCES THE COLORADO REVISED STATUTES TO REFER TO THE COLORADO INDEPENDENT OIL AND GAS REGULATORY COMMISSION AND SECTION 34- 60-104.1, C.R.S.

~~(10) IT IS THE INTENT OF THE VOTERS OF THE STATE OF COLORADO THAT THE COMMISSION MAY NOT DIVEST OR DELEGATE, AND THE LEGISLATURE SHALL NOT REMOVE, THE COMMISSION'S AUTHORITY TO FOSTER AND REGULATE OIL AND GAS DEVELOPMENT.~~

SECTION 711. In ~~article 60 of title 34 of the~~ Colorado Revised Statutes, **add section 34-60-104.3** as follows:

§ 34-60-104.3. Commissioner appointment.

(1)(a) FOR THE APPOINTMENT OF COMMISSIONERS TO THE COMMISSION EFFECTIVE APRIL 1, 2020, ALL THREE COMMISSIONERS SHALL BE CHOSEN FROM A LIST OF TEN NOMINEES, AND THE LIST OF NOMINEES SHALL BE ESTABLISHED BY MARCH 1, 2020. AFTER APRIL 1, 2020, FOR ANY VACANCY ON THE COMMISSION OCCURRING AT THE END OF A TERM OR OTHERWISE, THE COMMISSIONER FILLING THE VACANCY SHALL BE CHOSEN FROM A LIST OF THREE NOMINEES, AND THE LIST OF NOMINEES SHALL BE ESTABLISHED AT LEAST THIRTY DAYS PRIOR TO THE END OF A COMMISSIONER'S TERM, OR WITHIN SIXTY DAYS AFTER ANY OTHER VACANCY. THE LISTS OF

NOMINEES MUST CONSIST OF QUALIFIED INDIVIDUALS AND SHALL BE ESTABLISHED THROUGH A JOINT NOMINATION PROCESS AND THE MUTUAL AGREEMENT OF EITHER:

(I) THE GOVERNOR AND, IF THE GOVERNOR IS AFFILIATED WITH A MAJOR POLITICAL PARTY AS DEFINED IN SECTION 1-1-104, C.R.S., THE HIGHEST-RANKING SENATE OFFICER FROM A DIFFERENT MAJOR POLITICAL PARTY; OR

(II) THE GOVERNOR AND, IF THE GOVERNOR IS NOT AFFILIATED WITH A MAJOR POLITICAL PARTY AS DEFINED IN SECTION 1-1-104, C.R.S., THE TWO HIGHEST-RANKING SENATE OFFICERS FROM DIFFERENT MAJOR POLITICAL PARTIES.

(b)(I) THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT SHALL DESIGNATE A SELECTION PANEL TO APPOINT FROM THE LIST OF NOMINEES THREE QUALIFIED INDIVIDUALS TO SERVE ON THE COMMISSION BEGINNING APRIL 1, 2020, AND SUBSEQUENTLY SHALL DESIGNATE A SEPARATE SELECTION PANEL ANY TIME A VACANCY WILL OCCUR AT THE END OF A TERM OR A VACANCY OTHERWISE OCCURS TO APPOINT FROM THE LIST OF NOMINEES A QUALIFIED INDIVIDUAL TO FILL THE VACANCY. THE COMMISSION DIRECTOR SHALL NOTIFY THE CHIEF JUSTICE OF A VACANCY AT LEAST 60 DAYS PRIOR TO THE END OF A COMMISSIONER'S TERM OR WITHIN 10 DAYS AFTER A VACANCY OTHERWISE OCCURS. (II) A SELECTION PANEL MUST CONSIST OF THE THREE JUSTICES OR JUDGES WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS, APPOINTED BY THE CHIEF JUSTICE SEQUENTIALLY STARTING WITH THE MOST RECENT JUSTICE OR JUDGE TO RETIRE WHO HAS BEEN AFFILIATED WITH THE SAME POLITICAL PARTY OR UNAFFILIATED WITH ANY POLITICAL PARTY FOR THE TWO YEARS PRIOR TO APPOINTMENT; EXCEPT THAT NO APPOINTEE, WITHIN TWO YEARS PRIOR TO APPOINTMENT, SHALL HAVE BEEN AFFILIATED WITH THE SAME POLITICAL PARTY AS A JUSTICE OR JUDGE ALREADY APPOINTED TO THE PANEL. IF ANY OF THE THREE JUSTICES OR JUDGES WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS IS UNABLE OR UNWILLING TO SERVE ON THE PANEL OR HAS BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH A POLITICAL PARTY ALREADY REPRESENTED ON THE PANEL, THEN THE CHIEF JUSTICE SHALL APPOINT THE NEXT JUSTICE OR JUDGE WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS AND WHO HAS NOT BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH THE SAME POLITICAL PARTY AS ANY JUSTICE OR JUDGE ALREADY APPOINTED TO THE PANEL. IF, AFTER CONSIDERING ALL JUSTICES AND JUDGES WHO HAVE RETIRED FROM THE COLORADO SUPREME COURT AND THE COLORADO COURT OF APPEALS, FEWER THAN THREE ELIGIBLE PARTICIPANTS FOR THE PANEL HAVE BEEN IDENTIFIED WHO ARE ABLE AND WILLING TO SERVE, THE CHIEF JUSTICE SHALL APPOINT THE MOST RECENTLY RETIRED DISTRICT COURT JUDGE WHO HAS NOT BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH THE SAME POLITICAL PARTY AS ANY PREVIOUS APPOINTEE TO THE PANEL AND WHO ACCEPTS SUCH APPOINTMENT.

(eII) ALL DECISIONS OF THE PANEL REGARDING THE APPOINTMENT OF MEMBERS PURSUANT TO THIS SECTION REQUIRE THE AFFIRMATIVE APPROVAL OF ALL THREE MEMBERS OF THE PANEL. IF THE THREE MEMBERS OF THE PANEL CANNOT REACH A UNANIMOUS DECISION ON THE APPOINTMENT OF A COMMISSIONER, THE PANEL MAY REQUEST A NEW LIST OF NOMINEES.

(dIII) THE MEMBERS OF THE PANEL SHALL RECEIVE A PER DIEM ALLOWANCE AS SET BY THE GENERAL ASSEMBLY FOR EACH DAY SPENT IN ATTENDANCE AT PANEL MEETINGS AND SHALL BE REIMBURSED FOR THEIR ACTUAL EXPENSES.

(eIV) NONPARTISAN STAFF OF THE GENERAL ASSEMBLY'S LEGISLATIVE COUNCIL AND OFFICE OF LEGISLATIVE LEGAL SERVICES, OR THEIR SUCCESSOR OFFICES, SHALL ~~ASSIST~~PROVIDE ADMINISTRATIVE ASSISTANCE TO THE PANEL IN CARRYING OUT ITS DUTIES.

(V) THE PANEL IS SUBJECT TO OPEN MEETINGS REQUIREMENTS AS PROVIDED IN PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S. AND TO OPEN RECORDS REQUIREMENTS AS PROVIDED IN PART 1 OF ARTICLE 72 OF TITLE 24, C.R.S.

(2)(a) COMMISSIONERS SHALL SERVE TERMS OF FOUR YEARS EACH, EXCEPT THAT THE INITIAL COMMISSIONERS SHALL BE APPOINTED FOR STAGGERED TERMS OF FOUR YEARS EACH OR FEWER BEGINNING APRIL 1, 2020. THE PANEL SHALL DETERMINE THE LENGTH OF THE INITIAL TERM OF EACH COMMISSIONER APPOINTED ON APRIL 1, 2020, IF SUCH TERM IS LESS THAN FOUR YEARS, TO CREATE THE STAGGERED FULL TERMS. IF A COMMISSIONER IS APPOINTED TO FILL AN UNEXPIRED TERM, THAT COMMISSIONER SHALL SERVE FOR THE REMAINDER OF THE UNEXPIRED TERM. COMMISSIONERS MAY BE APPOINTED TO SERVE SUCCESSIVE TERMS.

(b) BEGINNING ~~JANUARY 1, 2020~~ON THE EFFECTIVE DATE OF THIS SECTION, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES SHALL ACT AS THE SOLE INTERIM COMMISSIONER AND OVERSEE COMMISSION ACTIVITIES AND STAFF UNTIL THE APPOINTMENT OF THE INITIAL COMMISSIONERS EFFECTIVE APRIL 1, 2020 OR APRIL 1, 2020, WHICHEVER COMES LATER. IN THE EVENT OF TWO OR MORE VACANCIES ON THE COMMISSION AT ONE TIME, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES SHALL ACT AS AN INTERIM COMMISSIONER DURING THE PENDENCY OF THE APPOINTMENT OF ADDITIONAL COMMISSIONERS IF THE REMAINING COMMISSIONERS DO NOT CONSTITUTE A QUORUM OF THE COMMISSION. SUBSECTION (3) OF SECTION 30-60-104.1, C.R.S. SHALL NOT APPLY TO THE EXECUTIVE DIRECTOR ACTING AS INTERIM COMMISSIONER OR SOLE INTERIM COMMISSIONER, AND SUBSECTION (6) OF SECTION 30-60-104.1, C.R.S. SHALL NOT APPLY TO THE EXECUTIVE DIRECTOR WHEN ACTING AS A SOLE INTERIM COMMISSIONER.

SECTION 8-12. In Colorado Revised Statutes, 34-60-104.5, ~~amend (1) recreate and reenact, as repealed by Senate Bill 19-181~~ (2)(d), as follows:

§ 34-60-104.5. Director of commission-- duties.

~~(1) Pursuant to section 13 of article XII of the state constitution, the executive director of the department of natural resources THE COMMISSION shall appoint a director of the commission who shall possess such qualifications as may be established by the executive director, the commission, and the state personnel board.~~

(2) The director of the commission shall:

(d) Appoint, pursuant to section 13 of article XII of the state constitution, ~~SUBJECT TO THE APPROVAL OF THE COMMISSION, APPOINT AND DETERMINE THE SALARY AND COMPENSATION FOR~~

such clerical and professional staff and consultants as may be necessary for the efficient and effective operation of the commission; and ~~THE DIRECTOR~~ shall exercise general supervisory control over said staff; and

SECTION 913. In Colorado Revised Statutes, 34-60-105, recreate and reenact, as repealed by Senate Bill 19-181 (1); and amend (1) as follows:

§ 34-60-105. Powers of commission.

(1) The commission has jurisdiction over all persons and property, public and private, necessary to enforce the provisions of this ~~article~~ARTICLE 60, and has 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~~ARTICLE 60. Any delegation of authority to any other state officer, board, or commission to administer any other laws of this state relating to the ~~conservation~~ REGULATION of oil or gas, or either of them, is hereby rescinded and withdrawn and such authority is unqualifiedly conferred upon the commission, as provided in this section. Any person, or the attorney general on behalf of the state, may apply for any 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 and enter its rule, regulation, or order with respect thereto.

SECTION 1014. In Colorado Revised Statutes, 34-60-106, recreate and reenact, as repealed by Senate Bill 19-181 (1) introductory portion, (1)(f), (2) introductory portion, (2)(b), (2)(c), (2)(d), (6), (7), (13), and (15); and add (18) as follows:

§ 34-60-106. Additional powers of commission— rules.

(1) The commission also has authority to require:

(f) That no operations for the drilling of a well for oil and gas shall be commenced without first giving to the commission notice of intention to drill and without first obtaining a permit from the commission, under such rules and regulations as may be prescribed by the commission, and 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 as provided in section 34-60-122, which fee may be transferable or refundable, at the option of the commission, if such permit is not used; but no such fee shall exceed two hundred dollars;

(2) The commission has the authority to regulate:

(b) The shooting and chemical treatment of wells;

(c) The spacing of wells; 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.

(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 hearing officer, but recommended findings, determinations, or orders of any hearing officer shall not become final until adopted by the commission. Upon appointment by the commission, a member of the commission may act as a hearing officer.

(7) The commission has the authority to 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 subject to appropriations by the general assembly for the purposes of this article.

(13) The commission shall require every operator to provide assurance that it is financially capable of fulfilling any obligation imposed under subsections (11), (12), and (17) of this section. 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 obligation imposed by rule under subsections (11), (12), and (17) of this section. Such 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 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;

(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 obligation imposed by rule under subsections (11), (12), and (17) of this section;

(f) A lien or other security interest in real or personal property of the operator. Such lien or security interest shall be in a form and priority acceptable to the commission in its sole discretion and shall be reviewed annually by the commission.

(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 assignment shall allow for the imposition of any new tax or fee by the assignee in order to conduct such assigned inspection and monitoring, and no such assignment shall 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) AFTER APRIL 1, 2020, THE COMMISSION SHALL CONDUCT A SYSTEMATIC EVALUATION OF ITS INITIAL RULES, WHICH ARE THE COLORADO OIL AND GAS CONSERVATION COMMISSION RULES AS THEY EXISTED ON DECEMBER 31, 2018, AS ~~ESTABLISHED IN~~ ADOPTED PURSUANT TO SECTION 34-60-104.1(6), C.R.S., AND CONSIDER AMENDING OR ADOPTING RULES CONSISTENT WITH THE MISSION AND RESPONSIBILITIES SET FORTH IN THIS ARTICLE 60, INCLUDING RULES TO:

- (a) PROTECT PRIVATE PROPERTY RIGHTS, BOTH SURFACE AND MINERAL;
- (b) STRENGTHEN AND EXPAND THE ROLE OF LOCAL GOVERNMENTS IN DECISIONS RELATED TO THE PERMITTING OF OIL AND GAS DEVELOPMENT IN THEIR JURISDICTION WITH THE GOAL OF MINIMIZING IMPACTS. ANY RULES EXPANDING LOCAL GOVERNMENT AUTHORITY IN OIL AND GAS PERMITTING SHALL SPECIFICALLY PROHIBIT ANY BAN, UNREASONABLE DELAY, OR OTHER ACTION ON THE PART OF A LOCAL GOVERNMENT THAT WOULD DE FACTO BAN OIL AND GAS DEVELOPMENT IN THAT JURISDICTION. ANY EXPANDED AUTHORITIES FOR LOCAL GOVERNMENTS SHALL ENCOURAGE LOCAL INNOVATION, COLLABORATION AND ~~BALANCED~~ IMPARTIAL DECISION MAKING, INCLUDING THE ESTABLISHMENT OF ALTERNATIVE DISPUTE RESOLUTION PROCEDURES WHERE NEEDED, WHILE ~~BALANCING~~ RECOGNIZING THE NEED FOR STANDARDIZED AND CONSISTENT RULES THAT FOSTER RESPONSIBLE OIL AND GAS DEVELOPMENT ACROSS THE STATE OF COLORADO;
- (c) ENSURE OIL AND GAS DEVELOPMENT IS CONDUCTED IN A MANNER THAT PROTECTS THE HEALTH, SAFETY AND WELFARE OF THE GENERAL PUBLIC; AND THE ENVIRONMENT;
- (d) ENSURE RULES EFFECTIVELY MINIMIZE IMPACTS ON WATER QUALITY IN THE STATE OF COLORADO;
- (e) REGULATE AIR POLLUTION FROM OIL AND GAS OPERATIONS AND OIL AND GAS FACILITIES, INCLUDING DURING CONSTRUCTION, DRILLING, AND COMPLETION ACTIVITIES;
- (f) ENSURE THAT ~~NEW RULES REGARDING~~ FLOWLINE AND INACTIVE, TEMPORARILY ABANDONED, AND SHUT-IN WELL RULES PROTECT AND MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY, ~~AND~~ WELFARE AND THE ENVIRONMENT;
- (g) REGULATE POOLING UNDER SECTION 34-60-116, C.R.S. IN A WAY THAT BALANCES COMPETING DEMANDS OF PROPERTY RIGHTS OWNERS AND FOSTERS RESPONSIBLE OIL AND GAS DEVELOPMENT;

(h) (I) MINIMIZE EMISSIONS OF METHANE AND OTHER HYDROCARBONS, VOLATILE ORGANIC COMPOUNDS, AND OXIDES OF NITROGEN FROM FACILITIES IN ALL SEGMENTS OF THE OIL AND NATURAL GAS SUPPLY CHAIN;

(II) (A) THE COMMISSION SHALL REVIEW ITS LEAK DETECTION AND REPAIR RULES FOR OIL AND NATURAL GAS WELL PRODUCTION FACILITIES AND COMPRESSOR STATIONS AND SPECIFICALLY CONSIDER ADOPTING MORE STRINGENT PROVISIONS, INCLUDING:

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

(ii) (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; AND

(iii) (C) THAT FUTURE OIL AND NATURAL GAS OPERATOR PERMITS REQUIRE THE OPERATOR TO 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.

SECTION 1115. In ~~article 60 of title 34 of the~~ Colorado Revised Statutes, add ~~section 34-60-~~106.5 as follows:

§ 34-60-106.5. Application of article.

~~TO ENSURE OIL AND GAS DEVELOPMENT IN THIS STATE IS REGULATED IN A COMPREHENSIVE AND EFFECTIVE MANNER. ANY PROVISIONS IN THE STATUTES OR REGULATIONS OF THIS STATE IN CONFLICT OR INCONSISTENT WITH THIS ARTICLE ARE HEREBY DECLARED TO BE PREEMPTED BY THIS ARTICLE AND INAPPLICABLE TO THE MATTERS COVERED BY AND PROVIDED FOR IN THIS ARTICLE. TO ENSURE AND GAS DEVELOPMENT IN THIS STATE IS REGULATED IN A COMPREHENSIVE AND EFFECTIVE MANNER, THE COMMISSION SHALL SERVE AS THE REGULATORY AUTHORITY OVER OIL AND GAS DEVELOPMENT IN THE STATE AND OTHER STATUTES REGULATING OR GRANTING REGULATORY AUTHORITY OVER OIL AND GAS DEVELOPMENT IN THE STATE ARE HEREBY PREEMPTED BY THIS ARTICLE. IF PASSED BY THE GENERAL ASSEMBLY, IF ENACTED, SENATE BILL 19-181 IS HEREBY REPEALED.~~

SECTION 1216. In Colorado Revised Statutes, 34-60-116, **recreate and reenact, as repealed by Senate Bill 19-181** (1), (3), (6), (7)(a)(II), (7)(a)(III), (7)(c), and (7)(d)(I) as follows:

34-60-116. Drilling unit – pooling interests.

(1) 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.

(3) The order establishing a drilling unit may authorize one or more wells to be drilled and produced from the common source of supply on a drilling unit.

(6) 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 interests may pool their interests for the development and operation of the drilling unit. In the absence of voluntary pooling, the commission, upon the application of any interested person, may enter an order pooling all interests in the drilling unit for the development and operation thereof. Each such pooling order shall be made after notice and hearing and shall 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 just and equitable share. 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. 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 tract by a well drilled thereon.

(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.

(c) 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 shall be deemed to have a landowner's proportionate royalty of twelve and one-half percent until such time as the consenting owners recover, only out of the nonconsenting owner's proportionate seven-eighths share of production, the costs specified in subsection (7)(b) of this section. 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 owner had originally agreed to drilling of the wells.

(d)(I) 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 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 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 17. In Colorado Revised Statutes 34-60-122, recreate and reenact, as repealed by Senate Bill 19-181 (1)(b) amend (5)(a); repeal (5)(c); and add 5(d) and (e) as follows:

§ 34-60-122. Expenses— fund created.

(1)(b) On and after July 1, 2014, the commission shall ensure that the two-year average of the unobligated portion of the fund does not exceed six million dollars and that there is an adequate balance in the environmental response account created pursuant to subsection (5) of this section to address environmental response needs.

~~(5)(a) The commission shall collect all charges and penalties under this article 60 and remit them to the state treasurer for deposit in the oil and gas conservation REGULATION and environmental response fund, ALSO REFERRED TO IN THIS SUBSECTION (5) AS THE "FUND,"²²², which fund is hereby created in the state treasury, AND WHICH THE INDEPENDENT OIL AND GAS REGULATORY COMMISSION SHALL ADMINISTER.~~ THE REVISOR OF STATUTES IS AUTHORIZED TO CHANGE ALL REFERENCES TO THE OIL AND GAS CONSERVATION AND ENVIRONMENTAL RESPONSE FUND IN THE COLORADO REVISED STATUTES TO THE OIL AND GAS REGULATION AND ENVIRONMENTAL RESPONSE FUND.

~~(c) The general assembly shall annually make appropriations for the purposes authorized by section 34-60-124, and warrants shall be drawn against the appropriations as provided by law.~~

~~(d) THE FUND IS TO BE PERPETUAL AND MONEYSMONEY IN THE FUND AREIS CONTINUOUSLY APPROPRIATED TO THE COMMISSION TO FUND THE COMMISSION AND ITS PROGRAMS, PROJECTS, AND ENVIRONMENTAL RESPONSE NEEDS. ANY MONEYSMONEY REMAINING IN THE FUND AT THE END OF THE FISCAL YEAR SHALL NOT REVERT TO THE GENERAL FUND.~~

~~(e) REVENUE IN THE FUND AND EARNINGS ON SUCH REVENUE SHALL BE RETAINED AND SPENT BY THE STATE AND EXEMPT FROM ALL NOTWITHSTANDING ANY LIMITATIONS ON REVENUE, SPENDING AND OTHER LIMITATIONS UNDER, OR APPROPRIATIONS CONTAINED IN SECTION 20 OF ARTICLE X OF THE CONSTITUTION OR ANY OTHER LAW. FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THIS STATE CONSTITUTION, SUCH MONEYS SHALL NOT BE INCLUDED IN STATE FISCAL YEAR SPENDING AND APPROVAL OF THIS SECTION BY OR ANY OTHER PROVISION OF LAW. ANY MONEY DEPOSITED IN THE FUND AS APPROVED BY THE VOTERS AT THE STATEWIDE SHALL CONSTITUTE A ELECTION IN NOVEMBER 2019, MAY BE COLLECTED AND SPENT AS VOTER-APPROVED REVENUE CHANGE-CHANGES AND SHALL NOT REQUIRE SUBSEQUENT VOTER APPROVAL.~~

SECTION 1318. In ~~article 60 of title~~ Colorado Revised Statutes 34-60-128, recreate and reenact, as repealed by Senate Bill 19-181 (3)(b) and (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. Such conditions shall be discontinued when final reclamation has occurred.

(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 19. In Colorado Revised Statutes, **add** ~~section 34-60-131~~ as follows:

§ 34-60-131. Commission ethics.

(1) MEMBERS OF THE COMMISSION ARE GUARDIANS OF THE PUBLIC TRUST AND ARE SUBJECT TO ANTIBRIBERY AND ABUSE OF PUBLIC OFFICE REQUIREMENTS AS PROVIDED IN PARTS 3 AND 4 OF ARTICLE 8 OF TITLE 18, C.R.S., ~~AS AMENDED, OR ANY SUCCESSOR STATUTE.~~

(2) TO ENSURE TRANSPARENCY IN THE OIL AND GAS REGULATORY PROCESS:

(a) THE COMMISSION AND COMMISSIONERS ARE SUBJECT TO OPEN MEETINGS REQUIREMENTS AS PROVIDED IN PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S., ~~AS AMENDED, OR ANY SUCCESSOR STATUTE.~~

(b) THE COMMISSION, EACH COMMISSIONER, AND COMMISSION STAFF ARE SUBJECT TO OPEN RECORDS REQUIREMENTS AS PROVIDED IN PART 1 OF ARTICLE 72 OF TITLE 24, C.R.S., ~~AS AMENDED, OR ANY SUCCESSOR STATUTE.~~

(c) THE COMMISSIONERS, COMMISSION DIRECTOR, AND COMMISSION STAFF ARE "COVERED OFFICIALS" UNDER 24-6-301(1.7)(b), C.R.S., AND PART 3 OF ARTICLE 6 OF TITLE 24, C.R.S., ~~AS AMENDED, OR ANY SUCCESSOR STATUTE REGARDING REGULATION OF LOBBYISTS.~~ SHALL APPLY.

SECTION 1420. In Colorado Revised Statutes 39-29-109, **amend** (2)(b)(I): **and add** (3), as follows:

§ 39-29-109. Severance tax trust fund— OIL AND GAS REGULATORY FUND – OIL AND GAS REGULATORY COMMISSION OPERATING FUND – created— administration— distribution of money— repeal.

(2) State severance tax receipts shall be credited to the severance tax trust fund as provided in section 39-29-108. Except as otherwise set forth in section 39-29-109.5, all income derived from the deposit and investment of the money in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered money in the fund remains in the fund and shall not be credited or transferred to the general fund or any other fund. All money in the fund is subject to appropriation by the general assembly for the following purposes:

(b)(I) The severance tax operational fund. There is hereby created in the state treasury the severance tax operational fund, also referred to in this subsection (2)(b) as the "fund", which the department of natural resources shall administer, ~~WITH THE EXCEPTION OF FUNDS ALLOCATED TO THE INDEPENDENT OIL AND GAS REGULATORY COMMISSION PURSUANT TO SECTION 39-29-~~

~~109.3(1.3), C.R.S.~~ The state treasurer shall transfer one-half of the severance tax receipts credited to the severance tax trust fund for tax years commencing on and after July 1, 1995, to the fund~~;~~ EXCEPT THE STATE TREASURER SHALL TRANSFER THE PORTION OF SUCH SEVERANCE TAX RECEIPTS APPROPRIATED TO THE OIL AND GAS REGULATORY COMMISSION OPERATING FUND PURSUANT TO 39-29-109.3, C.R.S. TO THE OIL AND GAS REGULATORY COMMISSION OPERATING FUND. Money in the fund shall be distributed as set forth in section 39-29-109.3.

(3)(a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE OIL AND GAS REGULATORY COMMISSION OPERATING FUND, WHICH THE INDEPENDENT OIL AND GAS REGULATORY COMMISSION SHALL ADMINISTER, ALSO REFERRED TO IN THIS SUBSECTION (4) AS THE "FUND". MONEY IN THE FUND SHALL BE DISTRIBUTED AS SET FORTH IN SECTION 39-29-109.3.

(b) NOTWITHSTANDING ANY LIMITATIONS ON REVENUE, SPENDING, OR APPROPRIATIONS CONTAINED IN SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR ANY OTHER PROVISION OF LAW. MONEY APPROPRIATED TO THE FUND AS APPROVED BY THE VOTERS AT THE STATEWIDE ELECTION IN NOVEMBER 2019, MAY BE COLLECTED AND SPENT AS VOTER-APPROVED REVENUE CHANGES AND SHALL NOT REQUIRE SUBSEQUENT VOTER APPROVAL.

SECTION ~~1521~~. In Colorado Revised Statutes 39-29-109.3, repeal (1)(a); and add (1.3), as follows:

§ 39-29-109.3. Severance tax operational fund— ~~repeal~~.

(1) For fiscal years commencing on and after July 1, 1997, the executive director of the department of natural resources shall submit with the department's budget request for each fiscal year a list and description of the programs the executive director recommends to be funded from the severance tax operational fund created in section 39-29-109(2)(b), referred to in this section as the "operational fund". The general assembly may appropriate ~~moneys~~ money from the total ~~moneys~~ money available in the operational fund to fund recommended programs AND THE OIL AND GAS REGULATORY COMMISSION OPERATING FUND as follows:

(a)(I) TO THE OIL AND GAS REGULATORY COMMISSION OPERATING FUND CREATED IN SECTION 39-29-109(4) FOR programs or projects within the Colorado oil and gas ~~conservation~~REGULATORY commission, up to thirty-five percent of the ~~moneys~~ money in the operational fund for fiscal years ~~commencing on or~~2020-21 AND AFTER July 1, 2009.

~~(II) Moneys appropriated for programs or projects pursuant to subparagraph (I) of this paragraph (a) shall be used by the Colorado oil and gas conservation commission for plugging and abandonment projects, for well site location reclamation projects, or for regulatory and environmental programs or projects as specifically appropriated by the general assembly for use on such programs or projects; except that, if the commission determines that an emergency exists, the commission may expend any moneys received for the emergency without any further appropriation. In determining the uses of these moneys, the commission shall give priority to uses that reduce industry fees and mill levies.~~

(1.3)(a) FOR FISCAL YEARS COMMENCING ON AND AFTER JULY 1, 2020, THE DIRECTOR OF THE INDEPENDENT OIL AND GAS REGULATORY COMMISSION SHALL SUBMIT A BUDGET REQUEST FOR

~~EACH FISCAL YEAR FOR PROGRAMS AND PROJECTS THE DIRECTOR RECOMMENDS TO BE FUNDED FROM THE OPERATIONAL FUND AND ADMINISTERED BY THE INDEPENDENT OIL AND GAS REGULATORY COMMISSION. THE GENERAL ASSEMBLY MAY APPROPRIATE UP TO THIRTY-FIVE PERCENT OF THE TOTAL MONEYS IN THE OPERATIONAL FUND TO FUND PROGRAMS OR PROJECTS WITHIN THE INDEPENDENT OIL AND GAS REGULATORY COMMISSION.~~

~~(b) OPERATIONAL FUND MONEYS APPROPRIATED TO THE INDEPENDENT OIL AND GAS REGULATORY COMMISSION SHALL BE RETAINED AND SPENT BY THE STATE AND EXEMPT FROM ALL REVENUE, SPENDING AND OTHER LIMITATIONS UNDER SECTION 20 OF ARTICLE X OF THE CONSTITUTION OR ANY OTHER LAW. FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THIS CONSTITUTION, SUCH MONEYS SHALL NOT BE INCLUDED IN STATE FISCAL YEAR SPENDING AND APPROVAL OF THIS SECTION BY THE VOTERS STATEWIDE SHALL CONSTITUTE A VOTER-APPROVED REVENUE CHANGE.~~

SECTION 1622. Effective ~~date~~date.

This act takes effect on January 1, 2020 or upon proclamation of the Governor, whichever is later.