

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 17-0123.01 Jennifer Berman x3286

**SENATE BILL 17-026**

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**SENATE SPONSORSHIP**

**Sonnenberg,**

**HOUSE SPONSORSHIP**

**Arndt,**

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**Senate Committees**  
Agriculture, Natural Resources, & Energy

**House Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING REQUIREMENTS GOVERNING IMPLEMENTATION OF THE**  
102         **STATE ENGINEER'S FUNCTIONS, AND, IN CONNECTION**  
103         **THEREWITH, RESTRUCTURING THE FEE THAT THE STATE**  
104         **ENGINEER MAY CHARGE FOR RATING CERTAIN TYPES OF WATER**  
105         **INFRASTRUCTURE, REPEALING CERTAIN REQUIREMENTS, AND**  
106         **UPDATING LANGUAGE IN THE STATUTES REGARDING THE**  
107         **DIVISION OF WATER RESOURCES.**

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**Bill Summary**

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

SENATE  
3rd Reading Unamended  
January 25, 2017

SENATE  
2nd Reading Unamended  
January 24, 2017

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

**Water Resources Review Committee.** Section 8 of the bill restructures the fee that the state engineer may charge for rating certain types of water infrastructure from \$25 per day for expenses incurred in determining the rating to a flat fee of \$75.

**Section 1** specifies the location of the state engineer's office as within the capitol complex.

**Section 2** permits the state engineer to use new technology that can accomplish the same functions as satellite or telemetry-based monitoring systems and is more cost effective.

The bill repeals certain requirements as follows:

- ! In **sections 1, 4, and 11**, the requirement that certain officials take an oath and post bond;
- ! In section 8, certain fee requirements; and
- ! In **section 14**, the requirement that the state engineer survey, lay out, and locate a ditch or canal along the Arkansas river.

**Section 16** increases the amount of time for filing comments on a substitute water supply plan from 30 days after the state engineer mails the notice to 35 days after mailing the notice.

The bill updates language within the statutes related to the state engineer and the division of water resources.

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

2             **SECTION 1.** In Colorado Revised Statutes, **amend** 37-80-101 as  
3 follows:

4             **37-80-101. State engineer.** ~~The governor shall appoint a state~~  
5 ~~engineer,~~ Pursuant to section 13 of article XII of the state constitution,  
6 THE GOVERNOR SHALL APPOINT A STATE ENGINEER. The OFFICE OF THE  
7 state engineer ~~shall have his office at~~ MUST BE LOCATED WITHIN the state  
8 capital, in suitable rooms to be provided for him with suitable furniture,  
9 postage, and such proper ~~and~~ CAPITOL COMPLEX. THE STATE ENGINEER  
10 SHALL BE PROVIDED THE RESOURCES, INCLUDING AN OPERATING BUDGET,  
11 necessary stationery, books, and instruments as are required to best enable  
12 him to discharge the duties of his THE office. The state engineer, before  
13 entering on the discharge of his duties, shall take and subscribe to an oath,

1 before the judge of a state court of record, to faithfully perform the duties  
2 of his office and file said oath with the secretary of state, together with his  
3 official bond, in the penal sum of ten thousand dollars, said bond to be  
4 executed by a responsible surety company authorized to do business  
5 within the state, and conditioned upon the faithful discharge of the duties  
6 of his office and for delivering to his successor or other officer authorized  
7 by the governor to receive the same all moneys, books, instruments, and  
8 other property belonging to the state then in his possession or under his  
9 control, or with which he may be legally chargeable as such state  
10 engineer.

11                   **SECTION 2.** In Colorado Revised Statutes, 37-80-102, amend  
12 (1)(b), (1)(j), (1)(k), (1)(l), and (10) as follows:

13                   **37-80-102. General duties of state engineer - supervision and**  
14 **utilization of employees - satellite and telemetry-based monitoring**  
15 **systems.** (1) The state engineer is the executive officer in charge of  
16 supervising the work of all division engineers and may direct their  
17 supervision of their employees. The state engineer has executive  
18 responsibility and authority with respect to:

19                   (b) Securing and implementing legal opinions and assistance  
20 regarding the work within his OR HER jurisdiction;

21                   (j) The making and implementing of contracts with public and  
22 private agencies, ~~and with~~ individuals, ~~and~~ corporations, ~~AND OTHER~~  
23 ~~ENTITIES AS~~ necessary ~~or incidental to~~ FOR the operation of the division  
24 of water resources and performance of the duties of ~~his~~ THE STATE  
25 ENGINEER'S office;

26                   (k) Such other acts as may be reasonably necessary to enable ~~him~~  
27 THE STATE ENGINEER to secure the effective and efficient operation of the

1 division of water resources, including power and authority to make and  
2 enforce ~~such~~ rules ~~or regulations~~ as he OR SHE may find necessary ~~or~~  
3 ~~desirable~~ to effectuate the performance of his OR HER duties. The making  
4 of ~~such~~ rules ~~or regulations~~ shall IS not be a prerequisite to control of  
5 personnel of the division of water resources or the performance of ~~his~~ THE  
6 STATE ENGINEER'S duties under the constitution or laws of Colorado or  
7 any compact, treaty, or judicial decree or decision ~~which~~ THAT does not,  
8 by its specific terms, require implementation by ~~such~~ rule. ~~or regulation~~.

9 (1) Receiving and expending grants and distributions of money,  
10 property, and equipment from the Colorado water conservation board,  
11 ANOTHER ENTITY, OR AN INDIVIDUAL for use in making investigations,  
12 contracting projects, or otherwise carrying out the purposes of this ~~article~~  
13 ARTICLE 80. The grants and distributions from the Colorado water  
14 conservation board are continuously appropriated to the state engineer for  
15 the purposes set forth in this section.

16 (10) The state engineer is authorized to accept, operate, and house  
17 in ~~the Centennial Building at 1313 Sherman Street, Denver, Colorado;~~  
18 ~~SUITABLE LOCATIONS~~ automated data processing equipment and programs  
19 associated with ~~a~~ satellite OR TELEMETRY-BASED monitoring ~~system~~ to be  
20 ~~acquired by the Colorado water resources and power development~~  
21 ~~authority and~~ SYSTEMS dedicated to the state of Colorado for operation  
22 and use by the Colorado state engineer. THE STATE ENGINEER SHALL USE  
23 NEW TECHNOLOGY THAT BECOMES AVAILABLE IF THE TECHNOLOGY:

24 (a) CAN ACCOMPLISH THE SAME FUNCTIONS FOR WHICH THE STATE  
25 ENGINEER USES SATELLITE OR TELEMETRY-BASED MONITORING SYSTEMS;  
26 AND

27 (b) IS MORE COST-EFFECTIVE THAN SATELLITE OR

1       TELEMETRY-BASED MONITORING SYSTEMS WITH RESPECT TO ANY COSTS

2       BORNE BY:

3           (I) THE STATE ENGINEER;

4           (II) PROGRAM DONORS; AND

5           (III) WATER USERS.

6       **SECTION 3.** In Colorado Revised Statutes, **amend** 37-80-105 as  
7       follows:

8           **37-80-105. Supervision over division engineers.** (1) The state  
9       engineer shall: ~~have general charge over~~

10           (a) SUPERVISE the work of the division engineers; ~~shall~~

11           (b) Furnish ~~them~~ DIVISION ENGINEERS with all the data and  
12       information necessary for the proper and intelligent discharge of the  
13       duties of their offices; ~~shall~~

14           (c) Require ~~them~~ DIVISION ENGINEERS to report THEIR OFFICIAL  
15       ACTIONS to him OR HER at suitable times; ~~their official actions;~~ and ~~shall~~

16           (d) Require ~~of them~~ DIVISION ENGINEERS TO SUBMIT annual  
17       statements ~~on blanks to be furnished by him;~~ REPORTS of the amount of  
18       water diverted from the public streams in their respective divisions and  
19       such ANY other statistics as THAT, in the judgment of the state engineer,  
20       will be of benefit to the state.

21       **SECTION 4.** In Colorado Revised Statutes, **amend** 37-80-106 as  
22       follows:

23           **37-80-106. Appointment of deputies.** (1) The state engineer may  
24       appoint one or more deputies ~~as he may deem proper for assisting him~~ TO  
25       ASSIST in the discharge of the duties of ~~his~~ THE STATE ENGINEER'S office.  
26       or ~~he~~ THE STATE ENGINEER may deputize any person to ~~do~~ PERFORM a  
27       particular service, and ~~he has the power to~~ THE STATE ENGINEER MAY

1 revoke such appointments when, in his OR HER judgment, there is no  
2 further need for the services of anyone so appointed or deputized. Such  
3 THE appointments and revocations thereof shall OF APPOINTMENTS MUST  
4 be in writing over the signature and official seal of the state engineer,  
5 AND the original of which EACH APPOINTMENT OR REVOCATION shall be  
6 filed MAINTAINED in the STATE ENGINEER'S office. of the secretary of  
7 state. All persons so appointed or deputized shall take and subscribe to an  
8 oath, before a judge of a court of record, to faithfully perform the duties  
9 of the office to which he is appointed or required to perform; and such  
10 oath shall be filed with his appointment in the office of the secretary of  
11 state. All such persons so appointed or deputized by the state engineer  
12 shall furnish an official bond with surety executed by a responsible surety  
13 company, authorized to do business within the state, in the penal sum of  
14 not less than one thousand dollars nor more than five thousand dollars.  
15 The cost of such bonds shall be paid by said deputies.

16       (2) In addition to the deputies provided for in this section, the  
17 state engineer may employ, pursuant to section 13 of article XII of the  
18 state constitution, such assistants in performing the duties of his office as  
19 he may deem THE STATE ENGINEER DEEMS necessary.

20           **SECTION 5.** In Colorado Revised Statutes, amend 37-80-107 as  
21 follows:

22           **37-80-107. Employment of engineers or geologists.** The state  
23 engineer has the authority to MAY employ one or more consulting  
24 engineers, geologists, or other specialists to advise him THE STATE  
25 ENGINEER or any division engineer concerning any diversion or proposed  
26 diversion of the waters of the state including the sufficiency of any  
27 reservoirs or other structures involved in such THE diversion.

1                   **SECTION 6.** In Colorado Revised Statutes, **amend** 37-80-108 as  
2 follows:

3                   **37-80-108. Appoint deputy for special work.** The state engineer,  
4 on request of any party interested and on payment of his OR HER per diem  
5 charges and reasonable expenses, ~~shall~~ **MAY** appoint a deputy to measure,  
6 compute, and ascertain all necessary data of any canal, dam, reservoir, or  
7 other construction, as required or as may be desired to establish court  
8 decrees, or for filing statements in compliance with law in the county  
9 clerk and recorder's records.

10                  **SECTION 7.** In Colorado Revised Statutes, **amend** 37-80-109 as  
11 follows:

12                  **37-80-109. State engineer's authority to contract for services.**  
13 (1) The state engineer shall secure the limited or temporary services of  
14 persons necessary to ~~implement carrying~~ CARRY out the duties or  
15 functions of the division of water resources in ~~those~~ cases where  
16 ~~performance by~~ IT WOULD BE INFEASIBLE OR IMPRACTICAL FOR regular  
17 state employees ~~is infeasible or impractical and more~~ TO PERFORM THE  
18 DUTIES OR FUNCTIONS, especially in the following instances:

19                  (a) In which work is of such a nature as to require ~~such~~ special  
20 training or aptitudes and is of such limited application that the full-time  
21 regular employment normally expected of state employees would be  
22 unduly expensive;

23                  (b) In nonrecurring situations of ~~such~~ limited duration ~~as to make~~  
24 ~~the use of regular employees infeasible, where~~ IN WHICH the situation can  
25 be concluded within a reasonable time by ~~the securing of~~ special  
26 assistants but could not be concluded without such assistance; ~~so as to~~  
27 ~~fulfill the proper functions of the division of water resources;~~

(c) To meet emergencies which THAT reasonable foresight could not have anticipated; AND

(d) To furnish services ~~which~~ THAT THE STATE ENGINEER may be required by the state engineer ~~REQUIRE~~ of ~~those dealing~~ PERSONS WHO DEAL with ~~his~~ THE STATE ENGINEER'S office and who will fully reimburse the state engineer for the services.

27 **SECTION 8.** In Colorado Revised Statutes, 37-80-110, amend

1 (1)(i); and **repeal** (1)(a), (1)(b), (1)(c), (1)(d), (1)(f), (1)(g), (1)(h), and (2)  
2 as follows:

3 **37-80-110. Fees collected by state engineer.** (1) The state  
4 engineer shall collect fees for work done in his or her office as follows:

5 (a) ~~For examination and filing of each map and statement  
describing a claim to a water right, twenty dollars if the amount of water  
claimed does not exceed twenty cubic feet per second of time and an  
additional one dollar for each cubic foot per second of time claimed in  
excess of twenty, but the total collected for examination and filing of each  
claim shall not exceed the sum of one hundred fifty dollars;~~

11 (b) ~~For examination and filing of each map and statement  
describing a claim to water for storage, twenty dollars for each one  
thousand acre-feet or fraction thereof of storage capacity claimed; but no  
fees shall be charged for amended maps and statements where no  
additional capacity is claimed, and, where additional capacity is claimed,  
the fees shall be charged for such additional capacity as for original  
filings; but the total amount of fees collected for examination and filing  
of each claim on any original or amended map and statement shall not  
exceed the sum of one hundred fifty dollars. In cases where no fee is  
charged for filing a map and statement describing a claim to water, the  
claimant shall pay the required fee for all blueprints or other  
reproductions.~~

23 (c) ~~For filing each judicial decree ordering the transfer of a water  
right or the change of a point of diversion, two dollars;~~

25 (d) ~~For each certificate, other than those which may be required  
in the case of original filings of claims to water rights, requiring official  
signature and seal, two dollars;~~

1 (f) For copies of maps, two dollars for each hour or fraction  
2 thereof necessary for the making of such copies;

3 (g) For each blueprint of a tracing forming a public record, two  
4 dollars;

5 (h) For copies of records, fifty cents a folio;

15                   **SECTION 9.** In Colorado Revised Statutes, 37-80-111.5, amend  
16                   (1)(c) and (3) as follows:

1 the purposes of section 37-80-102 (10) and this paragraph (c) SUBSECTION  
2 (1)(c), subject to appropriation by the general assembly.

3 (3) Nothing in this section shall be interpreted to require REQUIRES  
4 the purchase of any publication referred to in this section.

5 **SECTION 10.** In Colorado Revised Statutes, **amend** 37-80-112  
6 as follows:

7 **37-80-112. Report of state engineer.** The state engineer shall  
8 report to the executive director of the department of natural resources at  
9 such times and on such matters concerning ~~his~~ THE STATE ENGINEER'S  
10 office and the division of water resources as the executive director may  
11 require.

12 **SECTION 11.** In Colorado Revised Statutes, **amend** 37-80-114  
13 as follows:

14 **37-80-114. Deputy state engineer - powers.** (1) The state  
15 engineer shall appoint a deputy state engineer, subject to ~~the provisions~~  
16 ~~of~~ section 13 of article XII of the state constitution, ~~relating to the state~~  
17 ~~personnel system~~, whose duties ~~shall be~~ ARE to assist the state engineer  
18 in the administration of ~~his~~ THE STATE ENGINEER'S office. The deputy  
19 state engineer has the power to act for the state engineer in all ~~his~~ OF THE  
20 STATE ENGINEER'S official duties, including the administration of  
21 interstate river compacts, ~~during the absence of~~ WHEN the state engineer  
22 ~~from his~~ IS OUT OF THE office or when THE STATE ENGINEER so directed  
23 ~~by the state engineer~~ DIRECTS THE DEPUTY STATE ENGINEER.

24 (2) The salary of the deputy state engineer shall be paid as the  
25 salaries of the officers of the executive department of the state are paid.  
26 ~~He~~ THE DEPUTY STATE ENGINEER shall also receive reimbursement  
27 monthly for the actual necessary expenses incurred in the performance of

1 his OR HER official duties, as THE STATE ENGINEER shall be allotted by the  
2 state engineer ALLOT from funds appropriated for such THAT purpose. The  
3 controller is authorized to pay warrants for said THE DEPUTY STATE  
4 ENGINEER'S salary and expenses upon vouchers approved by the state  
5 engineer.

6 (3) ~~The deputy state engineer, before entering on the discharge of~~  
7 ~~his duties, shall take and subscribe to an oath before the judge of a state~~  
8 ~~court of record to faithfully perform the duties of his office and file said~~  
9 ~~oath with the secretary of state, together with his official bond in the~~  
10 ~~penal sum of ten thousand dollars. The bond shall be executed by a~~  
11 ~~responsible surety company authorized to do business within the state and~~  
12 ~~conditioned upon the faithful discharge of the duties of his office.~~

13 **SECTION 12.** In Colorado Revised Statutes, **amend** 37-84-117  
14 as follows:

15 **37-84-117. Reservoirs in streams.** (1) The owners of any  
16 reservoir ~~situate~~ LOCATED upon or in the bed of any natural stream or  
17 through which any natural stream flows, for the purpose of storing or  
18 diverting water, at the expense of the owner, shall ~~cause~~ FURNISH a  
19 complete survey of the contour lines of said THE reservoir to be made,  
20 which ~~said survey may be approved by the state engineer, or, FOR THE~~  
21 STATE ENGINEER'S APPROVAL. ALTERNATIVELY, in the discretion of the  
22 state engineer, A SURVEY OF THE CONTOUR LINES OF THE RESERVOIR shall  
23 be made under the supervision of the state engineer, ~~or his~~ THE deputy  
24 STATE ENGINEER, or the division engineer of the division in which such  
25 THE reservoir is located. ~~Said~~ Contour lines ~~shall~~ MUST be ascertained for  
26 at least every vertical foot in depth and, ~~in all cases~~ where deemed  
27 necessary by the state engineer, for fractions of a foot. ~~There~~ THE

1 OWNERS OF ANY RESERVOIR shall be prepared PREPARE a table to be filed  
2 in duplicate with and approved by the state engineer, showing the  
3 capacity, of said reservoir, in cubic feet, for each foot in depth or fraction  
4 thereof, one OF A FOOT IN DEPTH OF THE RESERVOIR. THE OWNERS OF THE  
5 RESERVOIR SHALL FILE A copy of which said THE table shall be furnished  
6 to WITH the division engineer in whose division such THE reservoir is  
7 situate LOCATED. All maps, plats, field notes, and the table of such  
8 reservoir, survey, and capacity TABLES, AND SURVEYS FOR A RESERVOIR  
9 shall be filed with and approved by the state engineer and remain a part  
10 of the records of his THE STATE ENGINEER'S office.

11 (2) The owners of such A reservoir DESCRIBED IN SUBSECTION (1)  
12 OF THIS SECTION, at their own expense, under the supervision and with the  
13 approval of the state engineer, shall permanently fix and maintain a gauge  
14 rod OR OTHER INSTRUMENT, OR BOTH, AS DIRECTED BY THE STATE  
15 ENGINEER, TO MEASURE THE SURFACE ELEVATION OF THE RESERVOIR at or  
16 near the outlet of such THE reservoir, marked in feet and tenths and  
17 one-hundredths of a foot, and in correspondence with the contour lines,  
18 from and by means of which the amount of water stored in or taken from,  
19 said THE reservoir may be correctly ascertained. and, at the expense of  
20 such THE owners, AT THEIR OWN EXPENSE, and under the supervision and  
21 with the approval of the state engineer, shall construct and permanently  
22 maintain a suitable and permanent measuring ~~weir or flume~~ STRUCTURE  
23 equipped with self-registering devices, according to plans and  
24 specifications approved by the state engineer, EITHER in the bed and  
25 channel of every natural stream or watercourse discharging waters into  
26 said THE reservoir OR ON EACH RELEASE FROM THE RESERVOIR by means  
27 of which, IN COMBINATION WITH THE AMOUNT OF WATER STORED, all of

1 the water flowing into ~~said~~ THE reservoir from and through each such THE  
2 NATURAL stream or watercourse at ~~all times~~ may be definitely  
3 DEFINITIVELY ascertained and determined AT ALL TIMES.

4 (3) (a) ~~Such gauge rods, flumes or weirs, and devices shall be at~~  
5 ~~all times~~ ANY INSTRUMENTS OR STRUCTURES DESCRIBED IN SUBSECTION  
6 (2) OF THIS SECTION ARE subject and ~~open~~ to inspection AT ALL TIMES by  
7 the owner or duly authorized agent or representative of the owners of any  
8 appropriation of water from the stream upon or in which ~~such~~ THE  
9 reservoir is constructed or operated.

10 (b) ~~Upon the failure or neglect of the owners of any such THE~~  
11 STATE ENGINEER OR DIVISION ENGINEER MAY REFUSE TO ALLOW ANY  
12 WATER TO BE TAKEN INTO OR DIVERTED FROM A reservoir IF:

13 (I) THE OWNERS OF THE RESERVOIR FAIL to construct or  
14 permanently maintain ~~such gauge rods, measuring flumes, or weirs~~ ANY  
15 REQUIRED INSTRUMENTS OR STRUCTURES, equipped as ~~provided~~  
16 DESCRIBED in SUBSECTION (2) OF this section; or

17 (II) ~~upon the failure or neglect of such owners~~ EXCEPT AS  
18 SPECIFIED IN SUBSECTION (3)(c) OF THIS SECTION, WITHIN THIRTY-FIVE  
19 DAYS AFTER THE STATE ENGINEER OR DIVISION ENGINEER HAS PROVIDED  
20 WRITTEN NOTICE TO THE OWNERS OR THEIR AGENTS OR EMPLOYEES  
21 DIRECTING THE OWNERS TO MAKE A CONTOUR SURVEY, AS DESCRIBED IN  
22 SUBSECTION (1) OF THIS SECTION, THE OWNERS FAIL to cause A complete  
23 survey of the contour lines of ~~said~~ THE reservoir to be made. ~~after thirty~~  
24 ~~days' notice in writing, directing such contour survey to be made, duly~~  
25 ~~served upon such owners, or their agent or employee, by the state~~  
26 ~~engineer or division engineer, the state engineer or division engineer shall~~  
27 ~~refuse to allow any water whatsoever to be taken into or diverted from or~~

1 ~~by means of said reservoir.~~

2 (c) When IF suitable ~~weirs, flumes, gauge rods, and measuring~~  
3 ~~devices~~ INSTRUMENTS AND STRUCTURES have been installed and equipped  
4 AND THE OWNERS, THEIR AGENTS, OR THEIR EMPLOYEES ARE MAKING  
5 GOOD-FAITH EFFORTS TO COMPLETE THE CONTOUR SURVEY, the state  
6 engineer and division engineer may allow water to be stored in any such  
7 reservoir after THE EXPIRATION OF THE ~~thirty~~ THIRTY-FIVE days ~~have~~  
8 ~~expired after the giving of said notice in the event that the survey of said~~  
9 ~~contour lines is then being prosecuted in good faith~~ AS DESCRIBED IN  
10 SUBSECTION (3)(b)(II) OF THIS SECTION.

11 (4) Upon ~~complaint in any manner made to~~ IF the state engineer  
12 or ~~the~~ A division engineer ~~by~~ RECEIVES FROM the ~~owners~~ OWNER of ~~any~~  
13 ~~appropriation of~~ A WATER RIGHT APPROPRIATING water from ~~any~~ A stream  
14 upon which ~~any such~~ A reservoir is located, or ~~any~~ A stream ~~of which~~  
15 ~~such stream~~ THAT is a tributary ~~charging~~ TO SUCH A STREAM, A  
16 COMPLAINT ALLEGING FACTS AGAINST THE OWNER OF THE RESERVOIR  
17 THAT, IF TRUE, WOULD AMOUNT TO a violation of ~~any of the requirements~~  
18 ~~of~~ this section, the state engineer or division engineer shall ~~thereupon~~  
19 ~~forthwith inquire into the truth of such~~ INVESTIGATE THE complaint and,  
20 if the ~~charges~~ ALLEGATIONS are found to be true, shall enforce ~~the~~  
21 ~~provisions~~ of this section.

22 (5) Upon ~~order of~~ The state engineer ~~there shall be released from~~  
23 ~~the water in storage in each stream bed reservoir~~ such quantities ~~MAY~~  
24 ORDER THAT AN OWNER OF A RESERVOIR RELEASE AN AMOUNT of water  
25 ~~as~~ FROM THE RESERVOIR THAT, in the determination of the state engineer,  
26 ~~are~~ IS necessary to prevent evaporation ~~from~~ ON the surface of ~~such~~ THE  
27 reservoir from depleting the natural flow of the stream running through

1   such THE reservoir ~~which~~ THAT would otherwise be available for use by  
2   other appropriators. In determining the quantity of any evaporation  
3   release under this section, the state engineer shall compute the surface  
4   evaporation from the reservoir and deduct ~~therefrom~~ FROM THE SURFACE  
5   EVAPORATION any accretions to the stream flow resulting from the  
6   existence of the reservoir and any natural depletions to the stream flow  
7   ~~which~~ THAT would have resulted if the reservoir were not in existence.

8                   **SECTION 13.** In Colorado Revised Statutes, **amend** 37-87-103  
9   as follows:

10                  **37-87-103. Notice of release of stored water.** The ~~owners of~~  
11   ~~reservoirs~~ OWNER OF A RESERVOIR who ~~avail themselves of the provisions~~  
12   ~~of this section and section 37-87-102~~ USES THE RESERVOIR FOR WATER  
13   STORAGE shall give reasonable ~~prior~~ notice to the ~~irrigation~~ division  
14   engineer of the ~~irrigation~~ division in which the reservoir is located ~~or to~~  
15   ~~the chief administrative water official of such irrigation division of the~~  
16   date on which ~~they desire~~ THE RESERVOIR OWNER DESIRES to release  
17   ~~stored waters~~ WATER into any natural streams, together with the ~~quantity~~  
18   ~~thereof~~ AMOUNT TO BE RELEASED in cubic feet per second, ~~of time~~; the  
19   ~~length of period to be covered by such~~ DURATION OF THE releases, and the  
20   name of the ~~ditch, canal, pipeline, or reservoir~~ STRUCTURE OR OTHER  
21   LOCATION to which the water ~~so~~ released from storage is to be delivered,  
22   to ~~the end that~~ ALLOW the water officials in ~~responsible~~ charge of any  
23   stream into which ~~such~~ THE stored water is released ~~shall have ample time~~  
24   ~~in which to make~~ AND RECORD the necessary ~~observations~~ measurements  
25   ~~of flow and storage and records thereof~~ and to provide for a proper patrol  
26   ~~of the said stream~~, for the protection of the reservoir owner and also all  
27   other appropriators along the stream whose interests might be affected as

1 a result of such THE reservoir release. Such notice may be given to the  
2 division engineer when the reservoir from which the water is to be  
3 released and the point where the water is to be taken from the stream or  
4 again stored are in the same water district.

5 **SECTION 14.** In Colorado Revised Statutes, **repeal** 37-88-102  
6 as follows:

7 **37-88-102. State engineer shall survey, lay out, and locate.** The  
8 state engineer, under the direction of the department of corrections, shall  
9 survey, lay out, and locate a ditch or canal upon the most feasible route  
10 on either side of the Arkansas river, which said ditch or canal shall be of  
11 sufficient capacity to cover at least thirty thousand acres of good arable  
12 land between Canon City and Pueblo, but work shall only be commenced  
13 and performed upon one main ditch, canal, reservoir, or feeder at a time,  
14 and a second shall not be commenced until the completion of the first.

15 **SECTION 15.** In Colorado Revised Statutes, 37-90-116, **amend**  
16 (2) as follows:

17 **37-90-116. Fees.** (2) Departments and agencies of the state of  
18 Colorado **shall be** THAT OWN AND OPERATE WELLS ON STATE LAND ARE  
19 exempt from the payment of fees for applications for the use of  
20 groundwater or for a permit to construct a well.

21 **SECTION 16.** In Colorado Revised Statutes, 37-92-308, **amend**  
22 (4)(a)(III) as follows:

23 **37-92-308. Substitute water supply plans - special procedures**  
24 **for review - water adjudication cash fund - legislative declaration -**  
25 **repeal.** (4) (a) Beginning January 1, 2002, if an application for approval  
26 of a plan for augmentation, rotational crop management contract, or  
27 change of water right has been filed with a water court and the court has

1 not issued a decree, the state engineer may approve the temporary  
2 operation of such plan, contract, or change of water right as a substitute  
3 water supply plan if the following conditions are met:

4 (III) The state engineer has given those to whom notice was  
5 provided ~~thirty~~ THIRTY-FIVE days after the date of mailing of ~~such~~ THE  
6 notice to file comments on the substitute water supply plan. ~~Such~~ THE  
7 comments ~~shall~~ MUST include any claim of injury, any terms and  
8 conditions that should be imposed upon the plan to prevent injury to an  
9 opposer's water rights or decreed conditional water rights, and any other  
10 information an opposer wishes the state engineer to consider in reviewing  
11 the substitute water supply plan request.

12 **SECTION 17.** In Colorado Revised Statutes, 37-92-401, **amend**  
13 (1)(b), (1)(c), (2), and (4) as follows:

14 **37-92-401. Tabulations of priorities and decennial  
15 abandonment lists.** (1) (b) In determining the priority of a water right  
16 in relation to other water rights deriving their supply from the same  
17 common source, the following procedures and definitions ~~shall~~ apply:

18 (I) A common source means and includes all of those waters in a  
19 water division, either surface or underground, ~~which~~ THAT if left in their  
20 natural state would join together to form a single natural watercourse  
21 ~~prior to exit from~~ BEFORE EXITING the water division.

22 (II) As among water rights decreed in the same water district in  
23 the same adjudication suit, the historic date of initiation of appropriation  
24 ~~shall determine~~ DETERMINES the relative priorities, beginning with the  
25 earliest right.

26 (III) As among water rights decreed in the same water district in  
27 different adjudication suits, all water rights decreed in an adjudication suit

1        ~~shall be~~ ARE senior to all water rights decreed in any subsequent  
2        adjudication suit.

3                (IV) As among water rights decreed in the various original  
4        adjudication suits in the various water districts of the same water division,  
5        the decreed date of initiation of appropriation ~~shall determine~~  
6        DETERMINES the relative priorities in numbered sequence, beginning with  
7        the earliest right.

8                (V) As among water rights decreed in the various supplemental  
9        adjudication suits in the various water districts of the same water division,  
10        the actual priority date of any decree in any district ~~shall~~ DOES not extend  
11        back further than the day following the entry of the final decree in the  
12        preceding adjudication suit in ~~such~~ THE district.

13                (VI) If, in the preparation of the tabulations provided for in this  
14        section, the application of the preceding principles would cause in any  
15        particular case a substantial change in the priority of a particular water  
16        right to the extent ~~theretofore~~ THE RIGHT WAS lawfully enjoyed for a  
17        period of not less than eighteen years, then the division engineer shall  
18        designate the priority for that water right in accordance with historic  
19        practice. In no event ~~shall the provisions of~~ DOES this subparagraph (VI)  
20        SUBSECTION (1)(b)(VI) entitle a water right to a priority senior to its  
21        actual date of initial appropriation or to freedom from regulation and  
22        administration in the priority system.

23                (c) In making his OR HER determinations with respect to  
24        abandonment, the division engineer shall investigate the circumstances  
25        relating to each water right for which the available water has not been  
26        fully applied to a beneficial use and ~~in such cases~~ shall be guided by the  
27        criteria set out in section 37-92-402(11). The decennial abandonment list,

1 when concluded by judgment and decree as provided in this section, ~~shall~~  
2 ~~be~~ IS conclusive as to absolute water rights or portions thereof determined  
3 to have been abandoned.

4 (2) (a) The state engineer and the respective division engineer  
5 shall make a copy of the tabulation available for inspection in their offices  
6 at any time during regular office hours, as well as on the state engineer's  
7 website, and shall ~~make~~ PROVIDE A COPY OF the tabulation ~~available for~~  
8 ~~purchase~~ for a fee of ~~ten dollars~~ AS SET FORTH IN SECTION 24-72-205 (5).

9 (b) No later than July 31, 1990, and every tenth anniversary  
10 thereafter, the division engineer shall mail a copy of the respective  
11 decennial abandonment list by certified mail, return receipt requested, to  
12 the owner or last-known owner or claimant, if known, of every absolute  
13 water right ~~which~~ THAT the division engineer has found to have been  
14 abandoned in whole or in part. The division engineer shall make ~~such~~ AN  
15 APPROPRIATE examination ~~as is reasonably appropriate~~ to determine the  
16 owner or claimant of such absolute water rights. ~~He~~ THE DIVISION  
17 ENGINEER shall also ~~cause publication to be made of~~ PUBLISH the  
18 respective portion of the decennial abandonment list in each county in  
19 which the points of diversion of any absolute water rights on the list are  
20 located. ~~Such~~ THE publication shall be ~~made~~ CONTINUED for four  
21 successive weeks and shall be published, if possible, in a newspaper  
22 published in the county where the decreed point of diversion of the water  
23 right is located. The publication and mailing requirements of this  
24 paragraph (b) ~~shall~~ SUBSECTION (2)(b) apply only to absolute water rights  
25 or portions ~~thereof~~ ~~which~~ OF ABSOLUTE WATER RIGHTS THAT previously  
26 have not been adjudged to have been abandoned.

27 (4) (a) Not later than December 31, 1991, and every tenth

1 anniversary thereafter, the division engineer shall make ~~such~~ ANY  
2 revisions ~~if any, as~~ he OR SHE deems proper to the decennial abandonment  
3 list. In considering the matters raised by statements of objection, the  
4 division engineer may consult with any interested ~~persons~~ PERSON. The  
5 division engineer shall consult with the state engineer and shall make any  
6 revisions in the decennial abandonment list determined by the state  
7 engineer to be necessary or advisable.

8 (b) Repealed.

9 (c) The division engineer shall file the decennial abandonment  
10 list, together with any revisions, signed by the division engineer and the  
11 state engineer or his or her duly authorized deputy, with the water clerk  
12 as promptly as possible, but not later than December 31, 1991, and every  
13 tenth anniversary thereafter. Each respective division engineer, water  
14 clerk, and the state engineer shall make a copy of the decennial  
15 abandonment list, together with any revisions, available for inspection in  
16 their offices at any time during regular office hours, as well as on the state  
17 engineer's website, and the division engineer shall furnish or mail a copy  
18 to anyone requesting a copy upon payment of a fee in an amount set in  
19 ACCORDANCE WITH section 37-80-110 (1) (h) 24-72-205 (1)(b) AND (5).

20 (d) If the decennial abandonment list is revised, the water clerk,  
21 in cooperation with the division engineer, not later than January 31, 1992,  
22 and every tenth anniversary thereafter, shall ~~cause~~ PROVIDE notice of the  
23 ~~availability of such revision to be included~~ in the resume described in  
24 section 37-92-302 (3) of cases filed in the respective water divisions  
25 during ~~said~~ THE month of December stating that the revision may be  
26 inspected or a copy thereof obtained as specified in ~~paragraph (c) of this~~  
27 ~~subsection (4) SUBSECTION (4)(c) OF THIS SECTION~~. In addition, the water

1 clerk shall cause such publication of PUBLISH the notice as is necessary to  
2 obtain general circulation once in each county or THE portion thereof  
3 which OF THE COUNTY THAT is in the division.

4 **SECTION 18. Act subject to petition - effective date -**  
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
6 the expiration of the ninety-day period after final adjournment of the  
7 general assembly (August 9, 2017, if adjournment sine die is on May 10,  
8 2017); except that, if a referendum petition is filed pursuant to section 1  
9 (3) of article V of the state constitution against this act or an item, section,  
10 or part of this act within such period, then the act, item, section, or part  
11 will not take effect unless approved by the people at the general election  
12 to be held in November 2018 and, in such case, will take effect on the  
13 date of the official declaration of the vote thereon by the governor.

14 (2) This act applies to fees owed on or after the applicable  
15 effective date of this act.