

First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

**REENGROSSED**

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

LLS NO. 23-0789.02 Sarah Lozano x3858

**SENATE BILL 23-285**

---

**SENATE SPONSORSHIP**

**Priola and Hansen,** Gonzales

**HOUSE SPONSORSHIP**

**McCormick and Dickson,**

---

**Senate Committees**

Agriculture & Natural Resources  
Appropriations

**House Committees**

---

**A BILL FOR AN ACT**

101      **CONCERNING ENERGY AND CARBON MANAGEMENT REGULATION IN**  
102            **COLORADO, AND, IN CONNECTION THEREWITH, CHANGING THE**  
103            **NAME OF THE OIL AND GAS CONSERVATION COMMISSION TO THE**  
104            **ENERGY AND CARBON MANAGEMENT COMMISSION, BROADENING**  
105            **THE COMMISSION'S REGULATORY AUTHORITY TO INCLUDE THE**  
106            **REGULATION OF CERTAIN GEOTHERMAL RESOURCE OPERATIONS**  
107            **AND INTRASTATE UNDERGROUND NATURAL GAS STORAGE**  
108            **FACILITIES, AND MAKING AN APPROPRIATION.**

---

**Bill Summary**

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing law.*  
*Dashes through the words or numbers indicate deletions from existing law.*

SENATE  
3rd Reading Unamended  
April 25, 2023

SENATE  
Amended 2nd Reading  
April 24, 2023

<http://leg.colorado.gov>.)

Effective July 1, 2023, the bill changes the name of the oil and gas conservation commission to the energy and carbon management commission (commission) and expands the commission's regulatory authority to include the authority to regulate a broader scope of energy and carbon management areas beyond oil and gas (**section 1** of the bill). The bill also changes the name of the oil and gas conservation and environmental response fund to the energy and carbon management cash fund (fund) and allows the fund to also be used by the commission for the purposes of administering the expanded regulatory areas (**section 2**).

Current law states that the property right to the natural heat of the earth (geothermal resource) that lacks sufficient fluid associated with the geothermal resource (geothermal fluid) to transport commercial amounts of energy to the surface is an incident of ownership of the overlying surface unless expressly severed. **Section 6** states that, as to property rights acquired on or after July 1, 2023, the property right to a geothermal resource associated with nontributary groundwater (allocated geothermal resource) is also an incident of ownership of the overlying surface unless expressly severed.

Current law requires, prior to constructing a well to explore for or produce geothermal resources, the operator of the well to obtain a permit from the state engineer. **Section 7** defines different types of geothermal operations and bifurcates regulation of the different operations between the commission and the state engineer. Specifically, the commission is granted the exclusive authority to regulate operations (deep geothermal operations) for the exploration for or production of:

- An allocated geothermal resource; or
- A geothermal resource that is deeper than 2,500 feet below the surface.

The state engineer retains the exclusive authority to regulate operations that are not deep geothermal operations (shallow geothermal operations).

Prior to obtaining a permit from the commission to construct a well for deep geothermal operations, the applicant must provide evidence of any applicable siting application to the local government with jurisdiction over the deep geothermal operations, unless the local government does not regulate the siting of such operations. The commission and the state engineer may adopt rules for the assessment of fees for the processing and granting of a permit to construct a well for deep geothermal operations or shallow geothermal operations, as applicable. Any fees collected by the commission will be deposited by the state treasurer into the fund.

Current law requires, prior to the production of geothermal fluid from a well, the operator of the well to obtain a permit from the state engineer. **Section 8** instead requires:

- A permit from the state engineer prior to the use of a geothermal resource that is not an allocated geothermal resource (distributed geothermal resource);
- The state engineer to issue the permit for the use of a distributed geothermal resource after a determination that the proposed use is in accordance with applicable requirements for groundwater wells;
- A permit from the state engineer prior to the use of an allocated geothermal resource; and
- The state engineer to issue a permit for the use of an allocated geothermal resource after a finding that any associated geothermal fluid is nontributary.

Current law allows the state engineer to adopt procedures that establish geothermal management districts for the management of geothermal operations within the district. **Section 9** limits the scope of geothermal management districts to distributed geothermal resources. The state engineer is also required to notify the commission of any application for a geothermal management district that is anticipated to affect deep geothermal operations.

**Section 10** allows the commission to adopt procedures by rule to establish geothermal resource units for allocated geothermal resources.

**Section 12** grants the commission the exclusive authority to regulate any intrastate facility that stores natural gas in an underground facility that is not a pipeline facility subject to regulation by the public utilities commission (UNGS facility). If the commission submits a certification to, or enters into an agreement with, the federal secretary of transportation pursuant to applicable federal law, any rules regulating UNGS facilities must be at least as stringent as the applicable federal requirements. Before commencing construction of a new UNGS facility, the operator of the facility must provide evidence of any applicable siting application to a local government with jurisdiction over the UNGS facility, if applicable.

The commission may assess and collect fees from operators of UNGS facilities in an amount and frequency determined by the commission by rule. Any fees collected will be deposited into the fund.

The bill directs the commission to conduct the following studies, prepare reports summarizing the findings of the studies, and submit the reports to the general assembly:

- A technical study of the state's geothermal resources (**section 10**);
- A study, in collaboration with the state engineer, that evaluates the state regulatory structure for geothermal resources and whether any changes to law or rules are necessary (**section 10**);
- A study concerning the regulation and permitting of

- hydrogen (**section 18**); and
  - A study, in coordination with the public utilities commission, examining the siting and regulation of interstate pipelines (**section 18**).
- Sections 19 through 42** make conforming amendments.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, 34-60-104.3, **amend**  
3 (1); and add (6) as follows:

4 **34-60-104.3. Energy and carbon management commission -**  
5 **report - publication.** (1) There is created, in the department of natural  
6 resources, the ~~oil and gas conservation~~ ENERGY AND CARBON  
7 MANAGEMENT commission. The ~~oil and gas conservation~~ commission is  
8 a **type 1** entity, as defined in section 24-1-105.

9 (6) THE REVISOR OF STATUTES IS AUTHORIZED TO CHANGE ALL  
10 REFERENCES TO THE OIL AND GAS CONSERVATION COMMISSION THAT  
11 APPEAR IN THE COLORADO REVISED STATUTES TO THE ENERGY AND  
12 CARBON MANAGEMENT COMMISSION.

13 **SECTION 2.** In Colorado Revised Statutes, 34-60-122, **amend**  
14 (1) and (5)(a); and **add (5)(d)** as follows:

15 **34-60-122. Expenses - energy and carbon management cash**  
16 **fund created.** (1) (a) In addition to the filing and service fee required to  
17 be paid under section 34-60-106 (1)(f) and the fees authorized for other  
18 services provided by the commission by section 34-60-106 (16), there is  
19 imposed on the market value at the well of all oil and natural gas  
20 produced, saved, and sold or transported from the field where produced  
21 in this state a charge not to exceed one and seven-tenths mills on the  
22 dollar. The commission shall, by order, fix the amount of such charge in  
23 the first instance and may, from time to time, reduce or increase the

1 amount thereof as, in its judgment, the expenses chargeable against the  
2 ~~oil and gas conservation and environmental response~~ ENERGY AND  
3 CARBON MANAGEMENT CASH fund specified in subsection (5) of this  
4 section may require.

5 (b) On and after July 1, 2019, the commission shall ensure that the  
6 unobligated portion of the fund does not exceed fifty percent of total  
7 appropriations from the fund for the upcoming fiscal year and that there  
8 is an adequate balance in the fund to support the operations of the  
9 commission, ~~and~~ to address environmental response needs, AND TO FUND  
10 THE PURPOSES IDENTIFIED IN SECTION 34-60-124 (10).

11 (5) (a) The commission shall collect all charges and penalties  
12 under this article 60 and remit ~~them~~ THE CHARGES AND PENALTIES to the  
13 state treasurer for deposit in the ~~oil and gas conservation and~~  
14 ~~environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund,  
15 which fund is hereby created in the state treasury.

16 (d) THE REVISOR OF STATUTES IS AUTHORIZED TO CHANGE ALL  
17 REFERENCES TO THE OIL AND GAS CONSERVATION AND ENVIRONMENTAL  
18 RESPONSE FUND THAT APPEAR IN THE COLORADO REVISED STATUTES TO  
19 THE ENERGY AND CARBON MANAGEMENT CASH FUND.

20 SECTION 3. In Colorado Revised Statutes, 34-60-106, amend  
21 (7)(a); and add (22) as follows:

22 34-60-106. Additional powers of commission - rules -  
23 definitions - repeal. (7) (a) The commission may establish, charge, and  
24 collect docket fees for the filing of applications, petitions, protests,  
25 responses, and other pleadings. All fees shall be deposited in the ~~oil and~~  
26 ~~gas conservation and environmental response~~ ENERGY AND CARBON  
27 MANAGEMENT CASH fund established by section 34-60-122 CREATED IN

1 SECTION 34-60-122 (5) and are subject to appropriations by the general  
2 assembly for the purposes of this article 60.

3 (22) THE COMMISSION SHALL CREATE AND MAINTAIN A WEBSITE  
4 THAT SERVES AS THE STATE PORTAL FOR INFORMATION AND DATA  
5 REGARDING THE COMMISSION'S REGULATORY ACTIVITIES.

6 **SECTION 4.** In Colorado Revised Statutes, 37-90-137, **amend**  
7 (1) and (7)(a) as follows:

8 **37-90-137. Permits to construct wells outside designated**  
9 **basins - fees - permit no groundwater right - evidence - time**  
10 **limitation - well permits - rules.** (1) (a) On and after May 17, 1965, ~~no~~  
11 A new ~~wells~~ WELL shall NOT be constructed outside the boundaries of a  
12 designated groundwater basin ~~nor~~ AND the supply of water from existing  
13 wells outside the boundaries of a designated groundwater basin SHALL  
14 NOT BE increased or extended unless the user makes an application in  
15 writing to the state engineer for a permit to construct a well, in a form ~~to~~  
16 **be** prescribed by the state engineer.

17 (b) The applicant shall specify IN THE APPLICATION DESCRIBED IN  
18 SUBSECTION (1)(a) OF THIS SECTION:

19 (I) The particular aquifer from which the water is to be diverted;

20 (II) The PROPOSED beneficial use ~~to which it is proposed to apply~~  
21 **such** FOR THE water;

22 (III) The location of the proposed well;

23 (IV) The name of the owner of the land on which ~~such~~ THE  
24 PROPOSED well will be located;

25 (V) The average annual amount of water applied for in acre-feet  
26 per year;

27 (VI) The proposed maximum pumping rate in gallons per minute;

1 and

2 (VII) If the proposed use is agricultural irrigation, a description  
3 of the land to be irrigated, ~~and the name of the owner thereof, together~~  
4 ~~with such~~ OF THE LAND, AND ANY other reasonable information ~~as~~ THAT  
5 the state engineer ~~may designate~~ DESIGNATES on the form prescribed.

6 (c)      NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION  
7 (1) TO THE CONTRARY, THE REQUIREMENTS OF THIS SUBSECTION (1) DO  
8 NOT APPLY TO WELLS CONSTRUCTED PURSUANT TO AN OPERATIONS  
9 PERMIT ISSUED BY THE ENERGY AND CARBON MANAGEMENT COMMISSION  
10 PURSUANT TO SECTION 37-90.5-106 (1)(b).

11     

12 (7) In the case of dewatering of geologic formations by  
13 withdrawing nontributary groundwater to facilitate or permit mining of  
14 minerals:

15 (a) (I) Except for coal bed methane wells, ~~no~~ A well permit is NOT  
16 required unless the nontributary groundwater being removed will be  
17 beneficially used.

18 (II) Except for coal bed methane wells, ~~no~~ A well permit is NOT  
19 required if the nontributary groundwater being removed to facilitate or  
20 permit the mining of minerals will be used only by operators within the  
21 geologic basin where the groundwater is removed to facilitate or permit  
22 the mining of minerals, including:

23 (A) Injection into a properly permitted disposal well;

24 (B) Evaporation or percolation in a properly permitted pit;

25 (C) Disposal at a properly permitted commercial facility;

26 (D) Roadspreading or reuse for enhanced recovery, drilling, well  
27 stimulation, well maintenance, pressure control, pump operations, dust

1 control on-site or off-site, pipeline and equipment testing, equipment  
2 washing, or fire suppression;

3 (E) Discharge into state waters in accordance with the "Colorado  
4 Water Quality Control Act", article 8 of title 25, ~~C.R.S.~~, and the rules  
5 promulgated under that act; ~~or~~

6 (F) Evaporation at a properly permitted centralized exploration  
7 and production waste management facility; OR

8 (G) GENERATING ENERGY OR OTHERWISE USING HEAT FROM  
9 GROUNDWATER FOR THE MINING OF MINERALS.

10 **SECTION 5.** In Colorado Revised Statutes, 37-90.5-102, **amend**  
11 (1)(a) and (1)(b); and **repeal** (1)(c) as follows:

12 **37-90.5-102. Legislative declaration.** (1) The general assembly  
13 hereby declares that:

14 (a) The development of geothermal resources is in the public  
15 interest because it enhances local economies and provides an alternative  
16 to conventional fuel sources; AND

17 (b) The development of geothermal resources should be  
18 undertaken in such a manner as to safeguard life, health, property, public  
19 welfare, and the environment, ~~and to~~ INCLUDING WILDLIFE RESOURCES;  
20 encourage the maximum economic recovery of ~~the~~ EACH resource and  
21 prevent its waste; AND PROTECT ASSOCIATED CORRELATIVE RIGHTS.

22 (c) While the doctrine of prior appropriation is, and always has  
23 been, expressly recognized with respect to geothermal resources, such  
24 doctrine should be modified to permit the full economic development of  
25 the resource.

26 **SECTION 6.** In Colorado Revised Statutes, **amend** 37-90.5-103  
27 as follows:



1           **37-90.5-103. Definitions.** As used in this ~~article~~ ARTICLE 90.5,  
2 unless the context otherwise requires:

3           ~~(1) "Direct use" means the utilization of geothermal resources for~~  
4 ~~commercial, residential, agricultural, public facilities, or other energy~~  
5 ~~needs other than the commercial production of electricity.~~

6           (1) (a) "ALLOCATED GEOTHERMAL RESOURCE" MEANS ANY  
7 GEOTHERMAL RESOURCE THAT IS ASSOCIATED WITH NONTRIBUTARY  
8 GROUNDWATER.

9           (b) "ALLOCATED GEOTHERMAL RESOURCE" DOES NOT INCLUDE  
10 GROUNDWATER IN THE DENVER BASIN AQUIFERS.

11           (2) "COMMISSION" MEANS THE ENERGY AND CARBON  
12 MANAGEMENT COMMISSION CREATED IN SECTION 34-60-104.3 (1).

13           (3) (a) "DEEP GEOTHERMAL OPERATION" MEANS ANY  
14 EXPLORATION FOR OR PRODUCTION OF:

15           (I) ALLOCATED GEOTHERMAL RESOURCES; OR

16           (II) GEOTHERMAL RESOURCES THAT ARE DEEPER THAN TWO  
17 THOUSAND FIVE HUNDRED FEET BELOW THE SURFACE.

18           (b) (I) "DEEP GEOTHERMAL OPERATION" INCLUDES THE  
19 FOLLOWING ACTIVITIES RELATED TO THE OPERATION OF A WELL:

20           (A) CONDUCTING GEOPHYSICAL OPERATIONS;

21           (B) DRILLING TEST BORES AND MONITORING WELLS;

22           (C) SITING;

23           (D) INSTALLING AND OPERATING FLOWLINES;

24           (E) DRILLING;

25           (F) DEEPENING;

26           (G) RECOMPLETING;

27           (H) REWORKING;

1 (I) REPURPOSING; AND

2 (J) ABANDONING.

3 (II) "DEEP GEOTHERMAL OPERATION" ALSO INCLUDES ANY  
4 CONSTRUCTING, SITE PREPARING, DISPOSING OF GEOTHERMAL WASTES, OR  
5 RECLAIMING ACTIVITIES ASSOCIATED WITH THE ACTIVITIES DESCRIBED IN  
6 SUBSECTION (3)(b)(I) OF THIS SECTION.

7 (c) "DEEP GEOTHERMAL OPERATION" DOES NOT INCLUDE:

8 (I) ANY EXPLORATION OR PRODUCTION ACTIVITIES ASSOCIATED  
9 WITH THE GROUNDWATER IN THE DENVER BASIN AQUIFERS; OR

10 (II) THE USE OF ANY HEAT EXTRACTED WITH PRODUCED FLUIDS IN  
11 AN OIL AND GAS OPERATION IF THE HEAT IS ONLY UTILIZED TO REDUCE  
12 EMISSIONS FROM THE OPERATION IN THE SAME LOCATION AS THE WELL  
13 FROM WHICH IT WAS PRODUCED AND WOULD OTHERWISE NOT BE  
14 ECONOMICALLY FEASIBLE AS A STANDALONE GEOTHERMAL RESOURCE  
15 PROJECT.

16 (4) "DENVER BASIN AQUIFERS" MEANS THE DAWSON, DENVER,  
17 ARAPAHOE, AND LARAMIE-FOX HILLS AQUIFERS, AS DESCRIBED IN THE  
18 RULES ADOPTED BY THE STATE ENGINEER PURSUANT TO SECTION  
19 37-90-137 (9)(a) AND (9)(b).

20 (5) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE  
21 MEANING SET FORTH IN SECTION 24-4-109 (2)(b)(II).

22 (6) "DISTRIBUTED GEOTHERMAL RESOURCE" MEANS ANY  
23 GEOTHERMAL RESOURCE THAT IS NOT AN ALLOCATED GEOTHERMAL  
24 RESOURCE.

25 ~~(1.5)~~ (7) "Geothermal by-products" means dissolved or entrained  
26 minerals and gases that may be obtained from the material medium,  
27 excluding hydrocarbon substances and carbon dioxide.

1           (2) (8) "Geothermal fluid" means naturally occurring  
2 groundwater, brines, vapor, and steam associated with a geothermal  
3 resource.

4           (3) (9) "Geothermal resource" means the natural heat of the earth  
5 and includes:

6           (a) The energy that may be extracted from that natural heat;

7           (b) The material medium used to extract the energy from a  
8 geothermal resource; and

9           (c) Geothermal by-products.

10          (4) (10) "Hot dry rock" means a geothermal resource ~~which~~ THAT  
11 lacks sufficient geothermal fluid to transport commercial amounts of  
12 energy to the surface and ~~which~~ THAT is not ~~in association~~ ASSOCIATED  
13 with an economically useful groundwater resource.

14          (11) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY  
15 COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

16          (5) (12) "Material medium" means geothermal fluid as well as any  
17 other substance used to transfer energy from a geothermal resource.

18          (13) "NONCONSUMPTIVE GEOTHERMAL OPERATION" MEANS AN  
19 OPERATION USING GEOTHERMAL RESOURCES IN WHICH THE VOLUME OF  
20 GEOTHERMAL FLUID EXTRACTED FROM AN AQUIFER OR FORMATION IS NO  
21 MORE THAN THE VOLUME OF THE GEOTHERMAL FLUID REINJECTED IN THE  
22 SAME AQUIFER OR FORMATION OVER A REASONABLE TIME FRAME AND  
23 DISTANCE.

24          (14) "NONTRIBUTARY GROUNDWATER" HAS THE MEANING SET  
25 FORTH IN SECTION 37-90-103 (10.5).

26          (15) "SHALLOW GEOTHERMAL OPERATION" MEANS ANY  
27 GEOTHERMAL OPERATION THAT IS NOT A DEEP GEOTHERMAL OPERATION.

1           (16) "WATER RIGHT" HAS THE MEANING SET FORTH IN SECTION  
2 37-92-103 (12).

3           **SECTION 7.** In Colorado Revised Statutes, 37-90.5-104, **amend**  
4 (2) and (4); and **add (5)** as follows:

5           **37-90.5-104. Ownership declaration.** (2) The property right to  
6 a hot dry rock resource OR A GEOTHERMAL RESOURCE ASSOCIATED WITH  
7 NONTRIBUTARY GROUNDWATER is an incident of the ownership of the  
8 overlying surface, unless THE PROPERTY RIGHT IS severed, reserved, or  
9 transferred with the subsurface estate expressly.

10           (4) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
11 CONTRARY, nothing in this section: ~~shall be~~

12           (a) ~~deemed to derogate~~ DEROGATES the rights of a landowner to  
13 nontributary groundwater; OR

14           (b) AFFECTS ANY OWNERSHIP OR RIGHTS TO A GEOTHERMAL  
15 RESOURCE ASSOCIATED WITH NONTRIBUTARY GROUNDWATER, WHICH  
16 RESOURCE IS ACQUIRED BEFORE JULY 1, 2023.

17           (5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
18 CONTRARY, GEOTHERMAL RESOURCES ASSOCIATED WITH NONTRIBUTARY  
19 GROUNDWATER SHALL NOT BE TRANSFERRED SEPARATELY FROM THE  
20 NONTRIBUTARY GROUNDWATER.

21           **SECTION 8.** In Colorado Revised Statutes, **repeal and reenact,**  
22 **with amendments,** 37-90.5-106 as follows:

23           **37-90.5-106. Regulation of geothermal resource operations -**  
24 **reinjection - fees - rules.** (1) (a) (I) THE STATE ENGINEER HAS THE  
25 EXCLUSIVE AUTHORITY TO REGULATE SHALLOW GEOTHERMAL  
26 OPERATIONS AND MAY ADOPT RULES THAT REGULATE SHALLOW  
27 GEOTHERMAL OPERATIONS.

1 (II) PRIOR TO CONSTRUCTING A TEST BORE, MONITORING WELL, OR  
2 PRODUCTION WELL OR REWORKING AN EXISTING WELL ASSOCIATED WITH  
3 SHALLOW GEOTHERMAL OPERATIONS, AN OPERATIONS PERMIT MUST BE  
4 OBTAINED FROM THE STATE ENGINEER.

5 (III) THE STATE ENGINEER MAY ADOPT RULES FOR THE  
6 ASSESSMENT OF REASONABLE FEES FOR THE PROCESSING AND ISSUANCE  
7 OF A PERMIT PURSUANT TO SUBSECTION (1)(a)(II) OF THIS SECTION.

8 (b) (I) THE COMMISSION HAS THE EXCLUSIVE AUTHORITY TO  
9 REGULATE DEEP GEOTHERMAL OPERATIONS AND MAY ADOPT RULES THAT  
10 REGULATE DEEP GEOTHERMAL OPERATIONS.

11 (II) PRIOR TO CONSTRUCTING A WELL ASSOCIATED WITH DEEP  
12 GEOTHERMAL OPERATIONS, THE OWNER OR OPERATOR OF THE WELL SHALL  
13 OBTAIN AN OPERATIONS PERMIT FROM THE COMMISSION.

14 (III) IN ISSUING AN OPERATIONS PERMIT PURSUANT TO SUBSECTION  
15 (1)(b)(II) OF THIS SECTION, THE COMMISSION MAY ALLOW FOR THE USE OF  
16 GROUNDWATER AS PART OF NONCONSUMPTIVE GEOTHERMAL OPERATIONS  
17 AS A MATERIAL MEDIUM FOR ALLOCATED GEOTHERMAL RESOURCES THAT  
18 HAVE BEEN DETERMINED TO BE NONTRIBUTARY PURSUANT TO SECTION  
19 37-90.5-107 (1)(b).

20 (IV) THE COMMISSION MAY ADOPT RULES FOR THE ASSESSMENT OF  
21 REASONABLE FEES FOR THE PROCESSING AND ISSUANCE OF A PERMIT  
22 PURSUANT TO SUBSECTION (1)(b)(II) OF THIS SECTION.

23 (2) (a) IN EXERCISING ITS REGULATORY AUTHORITY PURSUANT TO  
24 SUBSECTION (1)(b) OF THIS SECTION, THE COMMISSION SHALL ADOPT  
25 RULES THAT:

26 (I) PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE, INCLUDING  
27 THE PROTECTION OF THE ENVIRONMENT AND WILDLIFE RESOURCES; AND

1           (II) AVOID, MINIMIZE, OR MITIGATE ADVERSE IMPACTS ON  
2 DISPROPORTIONATELY IMPACTED COMMUNITIES.

3           (b) THE COMMISSION SHALL NOT ISSUE AN OPERATIONS PERMIT  
4 PURSUANT TO SUBSECTION (1)(b)(II) OF THIS SECTION UNLESS THE  
5 APPLICANT PROVIDES EVIDENCE TO THE COMMISSION THAT:

6           (I) THE APPLICANT HAS FILED AN APPLICATION WITH THE LOCAL  
7 GOVERNMENT WITH JURISDICTION TO APPROVE THE SITING OF THE  
8 PROPOSED DEEP GEOTHERMAL OPERATIONS, INCLUDING THE LOCAL  
9 GOVERNMENT'S DISPOSITION OF THE APPLICATION; OR

10          (II) THE LOCAL GOVERNMENT WITH JURISDICTION TO APPROVE THE  
11 SITING OF THE PROPOSED DEEP GEOTHERMAL OPERATIONS DOES NOT  
12 REGULATE THE SITING OF DEEP GEOTHERMAL OPERATIONS.

13          (3) WHERE THE MAINTENANCE OF UNDERGROUND PRESSURES, THE  
14 PREVENTION OF SUBSIDENCE, OR THE DISPOSAL OF BRINES IS NECESSARY,  
15 REINJECTION OF GEOTHERMAL FLUID MAY BE REQUIRED BY THE STATE  
16 ENGINEER OR THE COMMISSION.

17          (4) THE COMMISSION SHALL TRANSFER ALL FEES COLLECTED FOR  
18 PERMITS ISSUED BY THE COMMISSION PURSUANT TO SUBSECTION  
19 (1)(b)(IV) OF THIS SECTION TO THE STATE TREASURER, WHO SHALL CREDIT  
20 THE FEES TO THE ENERGY AND CARBON MANAGEMENT CASH FUND  
21 CREATED IN SECTION 34-60-122 (5).

22          (5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
23 CONTRARY, NOTHING IN THIS SECTION AFFECTS THE OWNERSHIP,  
24 ADMINISTRATION, OR DETERMINATION OF WATER RIGHTS OR RIGHTS TO  
25 NONTRIBUTARY GROUNDWATER.

26          (6) (a) ON AND AFTER JULY 1, 2023, EXCEPT AS SET FORTH IN  
27 SUBSECTION (6)(b)(II) OF THIS SECTION, THE COMMISSION IS RESPONSIBLE

1 FOR ADMINISTERING AND ENFORCING ANY PERMITS ISSUED BY THE STATE  
2 ENGINEER PURSUANT TO THIS SECTION THAT COVER DEEP GEOTHERMAL  
3 OPERATIONS.

4 (b) THE \_\_\_\_\_ POWERS, DUTIES, FUNCTIONS, AND OBLIGATIONS  
5 CONCERNING PERMITS ISSUED BY THE STATE ENGINEER PURSUANT TO THIS  
6 SECTION THAT COVER DEEP GEOTHERMAL OPERATIONS ARE TRANSFERRED,  
7 EFFECTIVE JULY 1, 2023, TO THE COMMISSION. THE STATE ENGINEER  
8 RETAINS ANY \_\_\_\_\_ POWERS, DUTIES, FUNCTIONS, AND OBLIGATIONS  
9 NECESSARY TO ISSUE, ADMINISTER, AND ENFORCE ANY PERMITS THAT  
10 COVER:

11 (I) SHALLOW GEOTHERMAL OPERATIONS; AND

12 (II) THE USE OF GEOTHERMAL FLUID IN DEEP GEOTHERMAL  
13 OPERATIONS PURSUANT TO SECTION 37-90.5-107, EXCEPT FOR  
14 NONCONSUMPTIVE GEOTHERMAL OPERATIONS.

15 (c) THE RULES OF THE STATE ENGINEER PERTAINING TO THE \_\_\_\_\_  
16 POWERS, DUTIES, FUNCTIONS, AND OBLIGATIONS TRANSFERRED TO THE  
17 COMMISSION PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION CONTINUE  
18 IN EFFECT AND APPLY TO THE COMMISSION UNTIL THE RULES ARE  
19 REPLACED BY RULES ADOPTED BY THE COMMISSION PURSUANT TO  
20 SUBSECTION (1)(b)(I) OF THIS SECTION.

21 (d) THE COMMISSION AND THE STATE ENGINEER SHALL ENTER INTO  
22 MEMORANDA OF UNDERSTANDING, INTERAGENCY AGREEMENTS, OR BOTH,  
23 AS APPROPRIATE, TO PROVIDE FOR THE TIMELY TRANSFER OF THE \_\_\_\_\_  
24 POWERS, DUTIES, FUNCTIONS, AND OBLIGATIONS TRANSFERRED TO THE  
25 COMMISSION PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION.

26 **SECTION 9.** In Colorado Revised Statutes, **amend** 37-90.5-107  
27 as follows:

1           **37-90.5-107. Permits for the use of geothermal resources -**

2 **rules.** (1) (a) AFTER RECEIPT OF THE NECESSARY APPLICATION, THE STATE  
3 ENGINEER SHALL ISSUE A USE PERMIT TO USE DISTRIBUTED GEOTHERMAL  
4 RESOURCES CONSISTENT WITH THE REQUIREMENTS DESCRIBED IN SECTION  
5 37-90-137.

6           (b) AFTER RECEIPT OF THE NECESSARY APPLICATION, THE STATE  
7 ENGINEER SHALL ISSUE A USE PERMIT TO USE ALLOCATED GEOTHERMAL  
8 RESOURCES CONSISTENT WITH THE REQUIREMENTS DESCRIBED IN SECTION  
9 37-90-137 AND AFTER A DETERMINATION THAT ANY ASSOCIATED  
10 GEOTHERMAL FLUID IS NONTRIBUTARY GROUNDWATER. FOR THE  
11 PURPOSES OF THIS SECTION, THIS DETERMINATION MUST RELY ON THE  
12 DEFINITION OF NONTRIBUTARY GROUNDWATER PURSUANT TO SECTION  
13 37-90-103 (10.5) AS DETERMINED BY:

- 14           (I) A DECREE OF THE WATER COURT;
- 15           (II) A PERMIT TO CONSTRUCT A WELL TO WITHDRAW  
16 NONTRIBUTARY GROUNDWATER ISSUED BY THE STATE ENGINEER  
17 PURSUANT TO SECTION 37-90-137;
- 18           (III) RULES ADOPTED BY THE STATE ENGINEER PURSUANT TO  
19 SECTION 37-90-137 (7)(c) FOR PRODUCED WATER THAT APPLY TO USE  
20 PERMITS THAT ARE LIMITED TO THE USE OF WATER AS A MATERIAL  
21 MEDIUM AS THE ONLY BENEFICIAL USE OF WATER; OR
- 22           (IV) RULES ADOPTED BY THE STATE ENGINEER PURSUANT TO  
23 SUBSECTION (6)(a) OF THIS SECTION.

24           ~~(+) (2) The use of water as a material medium is recognized as a~~  
25 ~~beneficial use. of such water. All applications to appropriate groundwater~~  
26 ~~in order to utilize its geothermal energy shall be considered an application~~  
27 ~~to appropriate geothermal fluid.~~



1           ~~(2)~~ (3) (a) Prior to the production of geothermal fluid from a well,  
2 other than for flow-testing purposes, a permit to appropriate shall be  
3 obtained from the state engineer. This requirement shall not apply to  
4 Nondiversionary utilization methods DO NOT REQUIRE A USE PERMIT  
5 PURSUANT TO SUBSECTION (1) OF THIS SECTION BUT ARE SUBJECT TO THE  
6 RULES ADOPTED PURSUANT TO SECTION 37-90.5-106 (1)(a)(I) AND  
7 (1)(b)(I); however, such exemption shall not prevent NOTHING IN THIS  
8 SUBSECTION (3)(a) PREVENTS the developer of a geothermal resource  
9 from establishing a ~~property~~ WATER right based on ~~his~~ THE DEVELOPER'S  
10 actual utilization.

11           (b) THE REQUIREMENT TO ISSUE A USE PERMIT PURSUANT TO  
12 SUBSECTION (1)(b) OF THIS SECTION DOES NOT APPLY TO OPERATIONS  
13 THAT ARE SOLELY NONCONSUMPTIVE GEOTHERMAL OPERATIONS USING  
14 ALLOCATED GEOTHERMAL RESOURCES.

15           ~~(b)~~ (c) The USE permit to appropriate required by this subsection  
16 ~~(2)~~ ISSUED PURSUANT TO SUBSECTION (1) OF THIS SECTION may be waived  
17 by the state engineer for a diversionary utilization method ~~which is~~  
18 ~~nonconsumptive and which will~~ THAT DOES not impair valid, prior water  
19 rights.

20           ~~(c)~~ (d) The USE permit to appropriate required by this subsection  
21 ~~(2)~~ ISSUED PURSUANT TO SUBSECTION (1) OF THIS SECTION may allow for  
22 nonconsumptive secondary uses of geothermal fluid, including the  
23 recovery of geothermal by-products, and may allow for consumptive  
24 secondary uses of geothermal fluid, including sale, which ~~will~~ DO not  
25 impair valid, prior water rights.

26           (e) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (3) TO  
27 THE CONTRARY, A WATER RIGHT TO USE A DISTRIBUTED GEOTHERMAL

1 RESOURCE ASSOCIATED WITH TRIBUTARY GROUNDWATER MAY BE  
2 OBTAINED ONLY IN WATER COURT AND IS SUBJECT TO ARTICLE 92 OF THIS  
3 TITLE 37. THE BENEFICIAL USE OF ENERGY EXTRACTED FROM  
4 GEOTHERMAL FLUID ASSOCIATED WITH A DISTRIBUTED GEOTHERMAL  
5 RESOURCE IS THE BASIS, MEASURE, AND LIMIT OF THE WATER RIGHT, AND  
6 EFFICIENT APPLICATION METHODS MUST BE USED FOR THE USE OF ENERGY  
7 TO QUALIFY AS A BENEFICIAL USE.

8 ~~(3) The state engineer shall grant a permit to appropriate~~  
9 ~~geothermal fluids within one hundred eighty-two days after the filing of~~  
10 ~~an application upon a finding that:~~

11 ~~(a) The proposed appropriation will not materially injure a valid,~~  
12 ~~prior water or geothermal right;~~

13 ~~(b) The applicant has acquired or purchased an option to acquire~~  
14 ~~adequate water rights to offset any material injury; or~~

15 ~~(c) The applicant has obtained and offered to provide to any~~  
16 ~~affected party an equivalent amount of replacement water of comparable~~  
17 ~~quality.~~

18 ~~(4) The appropriation of a geothermal fluid that is nontributary~~  
19 ~~groundwater shall be in accordance with section 37-90-137 (4).~~

20 ~~(5) The essence of the water right granted by a permit to~~  
21 ~~appropriate geothermal fluid is the ability to extract geothermal energy~~  
22 ~~from such fluid. The beneficial use of such energy is the basis, measure,~~  
23 ~~and limit of the right and requires that efficient application methods be~~  
24 ~~utilized.~~

25 (4) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
26 CONTRARY, SECTION 37-90-137 (4) APPLIES TO ANY CONSUMPTIVE USE OF  
27 ALLOCATED GEOTHERMAL RESOURCES.

1           ~~(6) (5)~~ The provisions of articles 90 and 92 of this ~~title~~ TITLE 37  
2 relating to notice, hearings, appeals, and the administration of water rights  
3 ~~shall govern~~ APPLY TO all ~~matters arising under this section~~ PERMITTING  
4 ACTIONS BY THE STATE ENGINEER PURSUANT TO THIS SECTION.

5           ~~(7)~~ Any application to appropriate a geothermal fluid pending on  
6 June 10, 1983, shall be processed and evaluated under existing law prior  
7 to June 10, 1983.

8           ~~(8)~~ For purposes of this section, "materially injure" and "material  
9 injury" include any diminution or alteration in the quantity, temperature,  
10 or quality of any valid, prior water or geothermal right, except that, with  
11 regard to a geothermal right, "materially injure" and "material injury"  
12 include a diminution or alteration in the temperature of water only if the  
13 diminution or alteration adversely affects the valid, prior geothermal  
14 right.

15           (6) (a) (I) THE STATE ENGINEER MAY ADOPT RULES FOR THE  
16 ADMINISTRATION OF THIS SECTION, INCLUDING RULES AND PROCEDURES  
17 FOR THE DETERMINATIONS DESCRIBED IN SUBSECTION (1)(b) OF THIS  
18 SECTION.

19           (II) THE STATE ENGINEER'S RULE-MAKING AUTHORITY PURSUANT  
20 TO SUBSECTION (6)(a)(I) OF THIS SECTION INCLUDES THE AUTHORITY TO  
21 ADOPT RULES:

22           (A) PURSUANT TO WHICH GEOTHERMAL FLUID, IN WHOLE OR IN  
23 PART, IS DETERMINED TO BE NONTRIBUTARY PURSUANT TO SUBSECTION  
24 (1)(b) OF THIS SECTION; AND

25           (B) THAT PROVIDE RULE-MAKING AND ADJUDICATORY  
26 PROCEDURES FOR THE DETERMINATIONS DESCRIBED IN SUBSECTION  
27 (6)(a)(II)(A) OF THIS SECTION THAT ARE MADE AFTER THE INITIAL

1 RULE-MAKING CONDUCTED PURSUANT TO SUBSECTION (1)(b) OF THIS  
2 SECTION.

3 (b) IN ANY RULE-MAKING PROCEEDING CONDUCTED PURSUANT TO  
4 THIS SECTION, ANY INTERESTED PERSON HAS THE RIGHT OF  
5 CROSS-EXAMINATION. JUDICIAL REVIEW OF ANY RULES ADOPTED  
6 PURSUANT TO THIS SECTION AND ANY NONTRIBUTARY GROUNDWATER  
7 DETERMINATIONS MADE PURSUANT TO SUBSECTION (1)(b) OF THIS  
8 SECTION MUST BE IN ACCORDANCE WITH SECTION 24-4-106; EXCEPT THAT  
9 VENUE MUST BE EXCLUSIVELY IN THE WATER COURT FOR THE WATER  
10 DIVISION OR DIVISIONS WHERE THE GROUNDWATER THAT IS THE SUBJECT  
11 OF ANY APPLICABLE RULE OR DETERMINATION IS LOCATED.

12 (c) IN ANY JUDICIAL ACTION SEEKING TO CURTAIL OR DECLARE  
13 UNLAWFUL THE WITHDRAWAL, USE, OR DISPOSAL OF GROUNDWATER  
14 PURSUANT TO THIS SECTION, THERE IS A REBUTTABLE PRESUMPTION THAT  
15 ANY DETERMINATION MADE BY THE STATE ENGINEER PURSUANT TO  
16 SUBSECTION (1)(b) OF THIS SECTION IS VALID.

17 (d) ANY RULES ADOPTED PURSUANT TO THIS SECTION MUST NOT  
18 CONFLICT WITH EXISTING LAWS AND DO NOT AFFECT THE VALIDITY OF  
19 GROUNDWATER WELL PERMITS EXISTING PRIOR TO THE ADOPTION OF THE  
20 RULES.

21 **SECTION 10.** In Colorado Revised Statutes, 37-90.5-108,  
22 **amend** (1) introductory portion, (1)(b), and (1)(c); and **add** (3) as  
23 follows:

24 **37-90.5-108. Geothermal management districts.** (1) The state  
25 engineer may adopt procedures ~~under which~~ THAT ESTABLISH geothermal  
26 management districts ~~may be established~~ APPLICABLE TO DISTRIBUTED  
27 GEOTHERMAL RESOURCES. In ~~such~~ GEOTHERMAL MANAGEMENT districts,

1 the state engineer ~~has the authority to~~ MAY:

2 (b) Control the quantity of geothermal fluid extracted from  
3 DISTRIBUTED geothermal resources by ~~such~~ methods and procedures ~~as he~~  
4 THAT THE STATE ENGINEER deems appropriate, including requirements to  
5 reinject; AND

6 (c) Adopt a comprehensive plan for the most efficient use of  
7 DISTRIBUTED geothermal resources, guided by the principles of equitable  
8 apportionment, maximum economic recovery, and prevention of waste.

9 (3) THE STATE ENGINEER SHALL NOTIFY THE COMMISSION OF ANY  
10 APPLICATION FOR A GEOTHERMAL MANAGEMENT DISTRICT THAT IS  
11 ANTICIPATED TO AFFECT DEEP GEOTHERMAL OPERATIONS.

12 **SECTION 11.** In Colorado Revised Statutes, **add** 37-90.5-109,  
13 37-90.5-110, and 37-90.5-111 as follows:

14 **37-90.5-109. Geothermal resource units - rules.** (1) THE  
15 COMMISSION MAY ADOPT PROCEDURES BY RULE TO ESTABLISH  
16 GEOTHERMAL RESOURCE UNITS APPLICABLE TO ALLOCATED GEOTHERMAL  
17 RESOURCES. IN ITS REGULATION OF GEOTHERMAL RESOURCE UNITS, THE  
18 COMMISSION MAY:

19 (a) CONTROL WELL-SPACING AND PRODUCTION RATES;

20 (b) CONTROL THE QUANTITY OF GEOTHERMAL FLUID EXTRACTED  
21 FROM ALLOCATED GEOTHERMAL RESOURCES BY METHODS AND  
22 PROCEDURES THAT THE COMMISSION DEEMS APPROPRIATE, INCLUDING  
23 REQUIREMENTS TO REINJECT;

24 (c) ADOPT A COMPREHENSIVE UNIT PLAN THAT ENCOURAGES  
25 SUSTAINABLE USE OF ALLOCATED GEOTHERMAL RESOURCES; AND

26 (d) REQUIRE EQUITABLE COMPENSATION TO ANY IMPACTED OWNER  
27 OF AN ALLOCATED GEOTHERMAL RESOURCE.

1 (2) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
2 CONTRARY, NOTHING IN THIS SECTION AFFECTS THE OWNERSHIP,  
3 ADMINISTRATION, AGGREGATION, OR DETERMINATION OF WATER RIGHTS.

4 **37-90.5-110. Geothermal resource studies - report - repeal.**

5 (1)(a) THE COMMISSION SHALL FUND A TECHNICAL STUDY OF THE STATE'S  
6 GEOTHERMAL RESOURCES THAT INCLUDES:

7 (I) A RESOURCE EVALUATION;

8 (II) A DESCRIPTION OF POTENTIAL APPLICATIONS OF EMERGING  
9 TECHNOLOGIES;

10 (III) AN EVALUATION OF POTENTIAL IMPACTS, INCLUDING  
11 ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS;

12 (IV) AN ECONOMIC ANALYSIS; AND

13 (V) A DESCRIPTION OF ANY POTENTIAL OPPORTUNITIES TO UTILIZE  
14 EXISTING INFRASTRUCTURE.

15 (b) ON OR BEFORE JULY 1, 2024, THE COMMISSION SHALL POST THE  
16 RESULTS OF THE STUDY ON THE COMMISSION'S WEBSITE.

17 (2) (a) THE COMMISSION AND THE STATE ENGINEER SHALL  
18 COLLABORATE ON A STUDY THAT EVALUATES THE STATE REGULATORY  
19 STRUCTURE FOR GEOTHERMAL RESOURCES IN THE STATE AND WHETHER  
20 ANY CHANGES TO STATE LAW OR RULES ARE NECESSARY.

21 (b) ON OR BEFORE DECEMBER 31, 2024, THE COMMISSION SHALL:

22 (I) DRAFT A REPORT DESCRIBING THE RESULTS OF THE STUDY AND  
23 POST THE REPORT ON THE COMMISSION'S WEBSITE; AND

24 (II) SUBMIT THE REPORT TO THE GENERAL ASSEMBLY.

25 (3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

26 **37-90.5-111. Coordination between the commission and the**

27 **state engineer.** (1) WHEN AN OPERATIONS PERMIT IS ISSUED BY THE

1 COMMISSION PURSUANT TO SECTION 37-90.5-106 (1)(b)(II) AND A USE  
2 PERMIT IS ISSUED BY THE STATE ENGINEER PURSUANT TO SECTION  
3 37-90.5-107 (1), THE COMMISSION AND THE STATE ENGINEER SHALL  
4 COORDINATE TO:

5 (a) ENSURE THAT ANY APPLICABLE REQUIREMENTS OF THE  
6 COMMISSION AND THE STATE ENGINEER ARE MET; AND

7 (b) DETERMINE WHETHER AN ACCOUNTING FOR THE USE AND  
8 REINJECTION OF GEOTHERMAL FLUID PURSUANT TO THE APPLICABLE  
9 PERMIT MAY BE SUBMITTED TO ONLY THE COMMISSION OR ONLY THE  
10 STATE ENGINEER.

11 **SECTION 12.** In Colorado Revised Statutes, 34-64-102, **amend**  
12 the introductory portion and (1); and **add** (1.3), (1.5), and (3.5) as  
13 follows:

14 **34-64-102. Definitions.** As used in this ~~article~~ ARTICLE 64, unless  
15 the context otherwise requires:

16 (1) "Commission" means the ~~oil and gas conservation~~ ENERGY  
17 AND CARBON MANAGEMENT ~~commission of the state of Colorado~~  
18 CREATED IN SECTION 34-60-104.3 (1).

19 (1.3) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY  
20 COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

21 (1.5) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE  
22 MEANING SET FORTH IN SECTION 24-4-109 (2)(b)(II).

23 (3.5) (a) "UNDERGROUND NATURAL GAS STORAGE FACILITY"  
24 MEANS A FACILITY THAT STORES NATURAL GAS IN AN UNDERGROUND  
25 FACILITY, INCLUDING A DEPLETED HYDROCARBON RESERVOIR, AN AQUIFER  
26 RESERVOIR, OR A SOLUTION-MINED SALT CAVERN RESERVOIR.

27 (b) "UNDERGROUND NATURAL GAS STORAGE FACILITY" INCLUDES

1 ANY OF THE FOLLOWING EQUIPMENT ASSOCIATED WITH THE STORAGE OF  
2 NATURAL GAS IN AN UNDERGROUND FACILITY:

3 (I) INJECTION, WITHDRAWAL, MONITORING, AND OBSERVATION  
4 WELLS;

5 (II) WELLBORES AND DOWNHOLE COMPONENTS;

6 (III) WELLHEADS AND ASSOCIATED WELLHEAD PIPING;

7 (IV) WING-VALVE ASSEMBLIES THAT ISOLATE THE WELLHEAD  
8 FROM CONNECTED PIPING BEYOND THE WING-VALVE ASSEMBLIES; AND

9 (V) ANY OTHER EQUIPMENT, FACILITY, RIGHT-OF-WAY, OR  
10 BUILDING USED IN THE STORAGE OF NATURAL GAS IN AN UNDERGROUND  
11 FACILITY.

12 (c) "UNDERGROUND NATURAL GAS STORAGE FACILITY" DOES NOT  
13 INCLUDE ANY PIPELINE FACILITIES OR EQUIPMENT SUBJECT TO REGULATION  
14 BY THE PUBLIC UTILITIES COMMISSION.

15 **SECTION 13.** In Colorado Revised Statutes, **add** 34-64-108 as  
16 follows:

17 **34-64-108. Regulation of intrastate underground natural gas**  
18 **storage facilities - fees - rules.** (1) (a) NOTWITHSTANDING SECTION  
19 40-2-115, THE COMMISSION HAS THE EXCLUSIVE AUTHORITY TO REGULATE  
20 ALL INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITIES IN  
21 THE STATE. THE COMMISSION MAY ADOPT RULES FOR THE PERMITTING AND  
22 REGULATION OF INTRASTATE UNDERGROUND NATURAL GAS STORAGE  
23 FACILITIES.

24 (b) THE COMMISSION MAY SUBMIT A CERTIFICATION TO, OR ENTER  
25 INTO AN AGREEMENT WITH, THE UNITED STATES SECRETARY OF  
26 TRANSPORTATION UNDER 49 U.S.C. SECS. 60105 AND 60106, AS  
27 AMENDED, TO AUTHORIZE THE COMMISSION TO ENFORCE THE RULES OF



1 THE UNITED STATES DEPARTMENT OF TRANSPORTATION CONCERNING  
2 INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITIES  
3 PROMULGATED UNDER 49 U.S.C. SEC. 60101 ET SEQ., AS AMENDED.

4 (c) IF THE COMMISSION SUBMITS A CERTIFICATION TO THE UNITED  
5 STATES SECRETARY OF TRANSPORTATION OR ENTERS INTO AN AGREEMENT  
6 WITH THE UNITED STATES SECRETARY OF TRANSPORTATION PURSUANT TO  
7 SUBSECTION (1)(b) OF THIS SECTION, ANY RULES ADOPTED BY THE  
8 COMMISSION PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION MUST BE  
9 AT LEAST AS STRINGENT AS THE APPLICABLE FEDERAL REQUIREMENTS.

10 (2) IN EXERCISING ITS REGULATORY AUTHORITY PURSUANT TO  
11 SUBSECTION (1) OF THIS SECTION, THE COMMISSION:

12 (a) SHALL REGULATE INTRASTATE UNDERGROUND NATURAL GAS  
13 STORAGE FACILITIES IN A MANNER THAT PROTECTS PUBLIC HEALTH,  
14 SAFETY, AND WELFARE, INCLUDING THE PROTECTION OF THE  
15 ENVIRONMENT AND WILDLIFE RESOURCES;

16 (b) SHALL AVOID, MINIMIZE, OR MITIGATE ADVERSE IMPACTS ON  
17 DISPROPORTIONATELY IMPACTED COMMUNITIES; AND

18 (c) MAY ASSESS AND COLLECT REGULATORY AND PERMITTING  
19 FEES FROM THE OPERATORS OF INTRASTATE UNDERGROUND NATURAL GAS  
20 STORAGE FACILITIES IN AN AMOUNT AND FREQUENCY DETERMINED BY THE  
21 COMMISSION BY RULE.

22 (3) AN OPERATOR OF AN INTRASTATE UNDERGROUND NATURAL  
23 GAS STORAGE FACILITY SHALL NOT CONSTRUCT A NEW FACILITY UNLESS  
24 THE OPERATOR PROVIDES EVIDENCE TO THE COMMISSION THAT:

25 (a) THE OPERATOR HAS FILED AN APPLICATION WITH THE LOCAL  
26 GOVERNMENT WITH JURISDICTION TO APPROVE THE SITING OF THE  
27 PROPOSED INTRASTATE UNDERGROUND NATURAL GAS STORAGE FACILITY,

1 INCLUDING THE LOCAL GOVERNMENT'S DISPOSITION OF THE APPLICATION;  
2 OR

3 (b) THE LOCAL GOVERNMENT WITH JURISDICTION TO APPROVE THE  
4 SITING OF THE PROPOSED INTRASTATE UNDERGROUND NATURAL GAS  
5 STORAGE FACILITY DOES NOT REGULATE THE SITING OF SUCH FACILITIES.

6 (4) THE COMMISSION SHALL TRANSFER ALL FEES COLLECTED  
7 UNDER THIS SECTION TO THE STATE TREASURER, WHO SHALL CREDIT THE  
8 FEES TO THE ENERGY AND CARBON MANAGEMENT CASH FUND CREATED IN  
9 SECTION 34-60-122 (5).

10 (5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
11 CONTRARY, NOTHING IN THIS SECTION ESTABLISHES, ALTERS, IMPAIRS, OR  
12 NEGATES THE ABILITY OF A LOCAL GOVERNMENT TO REGULATE LAND USE  
13 RELATED TO INTRASTATE UNDERGROUND NATURAL GAS STORAGE  
14 FACILITIES.

15 **SECTION 14.** In Colorado Revised Statutes, 40-2-115, **amend**  
16 (1)(d)(II)(C) and (2)(b); and **add** (1)(f) and (2)(c) as follows:

17 **40-2-115. Cooperation with other states and with the United**  
18 **States - rules - definitions.** (1) (d) (II) The commission's gas pipeline  
19 safety rules must address, and may be more stringent than required by  
20 federal standards with regard to:

21 (C) Mapping of all pipelines within the commission's jurisdiction.  
22 For this purpose, the commission may incorporate information from any  
23 existing flowline maps or other maps prepared by the ~~oil and gas~~  
24 ~~conservation~~ ENERGY AND CARBON MANAGEMENT commission CREATED  
25 IN SECTION 34-60-104.3 (1) and showing pipelines subject to the  
26 jurisdiction of that agency. The public utilities commission's mapping  
27 requirements for pipelines within its jurisdiction must incorporate the

1 same standards for confidentiality, security, and public access and  
2 limitations on the scale of publicly available images as adopted by the oil  
3 and gas conservation ENERGY AND CARBON MANAGEMENT commission in  
4 2 CCR 404-1, rule 1101.e.

5 (f) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
6 CONTRARY, THE COMMISSION SHALL NOT ADOPT ANY RULES THAT  
7 REGULATE UNDERGROUND NATURAL GAS STORAGE FACILITIES.

8 (2) As used in this section:

9 (b) "Transportation of gas" or "transporting gas" means the  
10 gathering, transmission, or distribution of gas by pipeline, as defined in  
11 49 CFR 192.3. ~~or its storage.~~

12 (c) "UNDERGROUND NATURAL GAS STORAGE FACILITY" HAS THE  
13 MEANING SET FORTH IN SECTION 34-64-102 (3.5).

14 **SECTION 15.** In Colorado Revised Statutes, 25-15-101, **amend**  
15 the introductory portion and (6)(b)(IX) as follows:

16 **25-15-101. Definitions.** As used in this ~~article~~ ARTICLE 15, unless  
17 the context otherwise requires:

18 (6) (b) "Hazardous waste" does not include:

19 (IX) Waste from oil and gas ~~activities~~ OPERATIONS, AS DEFINED IN  
20 SECTION 34-60-103 (6.5), OR FROM DEEP GEOTHERMAL OPERATIONS, AS  
21 DEFINED IN SECTION 37-90.5-103 (3), including, but not limited to, drilling  
22 fluids, produced water, and other wastes associated with the exploration,  
23 development, or production of crude oil, natural gas, or geothermal  
24 ~~energy, which~~ RESOURCES, THAT is disposed of in accordance with the  
25 requirements of the ~~oil and gas~~ ENERGY AND CARBON MANAGEMENT  
26 commission pursuant to ARTICLE 90.5 OF TITLE 37 AND article 60 of title  
27 34, ~~C.R.S.~~ AS APPLICABLE.

1           **SECTION 16.** In Colorado Revised Statutes, 29-20-104, **amend**  
2 (1)(h) introductory portion, (1)(h)(II), and (1)(h)(VI) as follows:

3           **29-20-104. Powers of local governments - definition.**

4 (1) Except as expressly provided in section 29-20-104.5, the power and  
5 authority granted by this section does not limit any power or authority  
6 presently exercised or previously granted. Each local government within  
7 its respective jurisdiction has the authority to plan for and regulate the use  
8 of land by:

9           (h) Regulating the surface impacts of oil and gas operations, AS  
10 DEFINED IN SECTION 34-60-103 (6.5), DEEP GEOTHERMAL OPERATIONS, AS  
11 DEFINED IN SECTION 37-90.5-103 (3), AND INTRASTATE NATURAL GAS  
12 STORAGE FACILITIES, AS DEFINED IN SECTION 34-64-102 (3.5), in a  
13 reasonable manner to address matters specified in this subsection (1)(h)  
14 and to protect and minimize adverse impacts to public health, safety, and  
15 welfare and the environment. Nothing in this subsection (1)(h) is intended  
16 to alter, expand, or diminish the authority of local governments to  
17 regulate air quality under section 25-7-128. ~~For purposes of AS USED IN~~  
18 ~~this subsection (1)(h), "minimize adverse impacts" means, to the extent~~  
19 ~~necessary and reasonable, to protect public health, safety, and welfare and~~  
20 ~~the environment by avoiding adverse impacts from oil and gas THE~~  
21 ~~operations DESCRIBED IN THIS SUBSECTION (1)(h) and minimizing and~~  
22 ~~mitigating the extent and severity of those impacts that cannot be avoided.~~  
23 The following matters are covered by this subsection (1)(h):

24           (II) The location and siting of ~~oil and gas facilities and oil and gas~~  
25 ~~locations, as those terms are defined in section 34-60-103 (6.2) and (6.4)~~  
26 THE OPERATIONS DESCRIBED IN THIS SUBSECTION (1)(h);

27           (VI) All other nuisance-type effects of ~~oil and gas development~~

1 THE OPERATIONS DESCRIBED IN THIS SUBSECTION (1)(h); and

2 **SECTION 17.** In Colorado Revised Statutes, 34-60-103, **amend**  
3 (2) and (4.5) as follows:

4 **34-60-103. Definitions.** As used in this article 60, unless the  
5 context otherwise requires:

6 (2) "Commission" means the ~~oil and gas conservation~~ ENERGY  
7 AND CARBON MANAGEMENT commission CREATED IN SECTION  
8 34-60-104.3 (1).

9 (4.5) "Exploration and production waste" means those wastes that  
10 are generated during the drilling of and production from oil and gas wells,  
11 DURING THE DRILLING OF AND PRODUCTION FROM WELLS REGULATED BY  
12 THE COMMISSION PURSUANT TO ARTICLE 90.5 OF TITLE 37, or during  
13 primary field operations and that are exempt from regulation as hazardous  
14 wastes under subtitle c of the federal "Resource Conservation and  
15 Recovery Act of 1976", 42 U.S.C. ~~sec.~~ SECS. 6901 to 6934, as amended.

16 **SECTION 18.** In Colorado Revised Statutes, 34-60-124, **amend**  
17 (1) introductory portion, (1)(f), (2), (3), (4) introductory portion, (4)(a)  
18 introductory portion, (4)(b), (5), (8), and (10); and **add** (1)(g), (4)(d), and  
19 (4)(e) as follows:

20 **34-60-124. Energy and carbon management cash fund -**  
21 **definitions - repeal.** (1) ~~The following moneys shall be credited~~ STATE  
22 TREASURER SHALL CREDIT THE FOLLOWING MONEY to the ~~oil and gas~~  
23 ~~conservation and environmental response~~ fund:

24 (f) ~~Moneys~~ MONEY recovered from the sale of salvaged  
25 equipment, as provided for in ~~paragraph (c) of subsection (6)~~ SUBSECTION  
26 (6)(c) of this section; AND

27 (g) MONEY CREDITED TO THE FUND PURSUANT TO SECTIONS

1 34-64-108 (4) AND 37-90.5-106 (4).

2 (2) The ~~moneys~~ MONEY in the ~~oil and gas conservation and~~  
3 ~~environmental response~~ fund shall DOES not revert to the general fund at  
4 the end of any fiscal year.

5 (3) The ~~moneys~~ MONEY in the ~~oil and gas conservation and~~  
6 ~~environmental response~~ fund shall be IS subject to annual appropriation  
7 by the general assembly; except that ~~moneys~~ MONEY deposited in the fund  
8 constituting forfeited security or other financial assurance provided by  
9 operators in accordance with section 34-60-106 (3.5) and (13) shall be IS  
10 continuously appropriated to the commission for the purpose of fulfilling  
11 obligations under this ~~article~~ ARTICLE 60 upon which an operator has  
12 defaulted.

13 (4) The ~~oil and gas conservation and environmental response~~ fund  
14 may be expended:

15 (a) By the commission, or by the director at the commission's  
16 direction, prior to, during, or after the conduct of ~~oil and gas~~ ANY  
17 operations SUBJECT TO THE AUTHORITY OF THE COMMISSION to:

18 (b) For purposes authorized by section 23-41-114 (4); ~~C.R.S.~~       

19 (d) (I) TO CONDUCT THE STUDIES DESCRIBED IN SECTIONS  
20 34-60-134, 34-60-135, AND 37-90.5-110;

21 (II) THIS SUBSECTION (4)(d) IS REPEALED, EFFECTIVE JULY 1, 2025.

22 (e) TO CREATE AND MAINTAIN THE WEBSITE DESCRIBED IN SECTION  
23 34-60-106 (22).

24 (5) The director of the ~~oil and gas conservation~~ commission shall  
25 prepare an annual report for the executive director of the department of  
26 natural resources and the governor regarding the operations of and  
27 disbursements from the fund.

1 (8) ~~(a)~~ For purposes of AS USED IN this section:

2 (a) "FUND" MEANS THE ENERGY AND CARBON MANAGEMENT CASH  
3 FUND CREATED IN SECTION 34-60-122 (5).

4 (b) (I) "Responsible party" means any person who conducts an oil  
5 and gas operation in a manner ~~which is in contravention of~~ THAT  
6 VIOLATES any then-applicable provision of this ~~article~~ ARTICLE 60, or of  
7 any rule ~~regulation~~, or order of the commission, or of any permit that  
8 threatens to cause, or actually causes, a significant adverse environmental  
9 impact to any air, water, soil, or biological resource. "Responsible party"  
10 includes any person who disposes of any ~~other~~ waste by mixing it with  
11 exploration and production waste that threatens to cause, or actually  
12 causes, a significant adverse environmental impact to any air, water, soil,  
13 or biological resource.

14 ~~(b)~~ (II) Except as otherwise provided in ~~paragraph (a) of this~~  
15 ~~subsection (8)~~ SUBSECTION (8)(b)(I) OF THIS SECTION, "responsible party"  
16 does not include any landowner, whether of the surface estate, mineral  
17 estate, or both, who does not engage in, or assume responsibility for, the  
18 conduct of oil and gas operations.

19 (10) ~~The fund shall be expended by the commission or by the~~  
20 ~~director~~ COMMISSION OR THE DIRECTOR OF THE COMMISSION SHALL  
21 EXPEND THE MONEY IN THE FUND for the purposes of administering the  
22 provisions of this ~~article~~ ARTICLE 60 AND SECTIONS 34-64-108 AND  
23 37-90.5-106 (1)(b), including staffing, overhead, enforcement, and the  
24 payment of environmental responses costs, and for paying expenses in  
25 connection with the interstate oil and gas compact commission.

26 **SECTION 19.** In Colorado Revised Statutes, **add** 34-60-134 and  
27 34-60-135 as follows:

1           **34-60-134. Hydrogen study - report - repeal.** (1) THE  
2 COMMISSION SHALL CONDUCT A STUDY AND DEVELOP RECOMMENDATIONS  
3 CONCERNING THE REGULATION AND PERMITTING OF THE UNDERGROUND  
4 STORAGE OF HYDROGEN, THE TRANSPORTATION OF HYDROGEN THROUGH  
5 PIPELINES, AND ANY OTHER UNDERGROUND HYDROGEN OPERATIONS  
6 RELATED TO OR INTERCONNECTED WITH THE COMMISSION'S DIRECTIVE  
7 AND REGULATORY AUTHORITY IN THE STATE. THE COMMISSION SHALL  
8 DEVELOP RECOMMENDATIONS THAT:

9           (a) PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE, INCLUDING  
10 PROTECTION OF THE ENVIRONMENT AND WILDLIFE RESOURCES; AND

11           (b) AVOID ADVERSE IMPACTS ON DISPROPORTIONATELY IMPACTED  
12 COMMUNITIES, AS DEFINED IN SECTION 24-4-109 (2)(b)(II).

13           (2) IN CONDUCTING THE STUDY, THE COMMISSION SHALL CONSULT  
14 WITH OTHER STATE AGENCIES, LOCAL GOVERNMENTS, ENVIRONMENTAL  
15 JUSTICE ORGANIZATIONS, AND OTHER RELEVANT STAKEHOLDERS.

16           (3) NO LATER THAN JULY 1, 2024, THE COMMISSION SHALL:

17           (a) PREPARE A REPORT SUMMARIZING THE FINDINGS OF THE STUDY,  
18 INCLUDING THE RECOMMENDATIONS DESCRIBED IN SUBSECTION (1) OF  
19 THIS SECTION;

20           (b) POST THE REPORT ON THE COMMISSION'S WEBSITE; AND

21           (c) SUBMIT THE REPORT TO THE GENERAL ASSEMBLY.

22           (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

23           **34-60-135. Pipeline study - report - repeal.** (1) THE  
24 COMMISSION SHALL COORDINATE WITH THE PUBLIC UTILITIES COMMISSION  
25 TO CONDUCT A STUDY EXAMINING THE EXISTING ADMINISTRATIVE  
26 STRUCTURE FOR INTRASTATE PIPELINE SITING AND SAFETY REGULATION IN  
27 THE STATE, INCLUDING IDENTIFYING ANY EXISTING JURISDICTIONAL GAPS,



1 ANALYZING EXISTING SAFETY RULES, REVIEWING JURISDICTIONAL  
2 STRATEGIES FOR THE STATE, AND EVALUATING RESOURCE NEEDS FOR SAFE  
3 AND PROTECTIVE REGULATION. BASED ON THE FINDINGS OF THE STUDY,  
4 THE COMMISSION SHALL DEVELOP RECOMMENDATIONS THAT:

5 (a) PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE, INCLUDING  
6 PROTECTION OF THE ENVIRONMENT AND WILDLIFE RESOURCES; AND

7 (b) AVOID ADVERSE IMPACTS ON DISPROPORTIONATELY IMPACTED  
8 COMMUNITIES, AS DEFINED IN SECTION 24-4-109 (2)(b)(II).

9 (2) IN CONDUCTING THE STUDY, THE COMMISSION AND THE PUBLIC  
10 UTILITIES COMMISSION SHALL CONSULT WITH OTHER STATE AGENCIES,  
11 LOCAL GOVERNMENTS, ENVIRONMENTAL JUSTICE ORGANIZATIONS, AND  
12 OTHER RELEVANT STAKEHOLDERS.

13 (3) NO LATER THAN DECEMBER 1, 2024, THE COMMISSION SHALL:

14 (a) COORDINATE WITH THE PUBLIC UTILITIES COMMISSION TO  
15 PREPARE A REPORT SUMMARIZING THE FINDINGS OF THE STUDY,  
16 INCLUDING THE RECOMMENDATIONS DESCRIBED IN SUBSECTION (1) OF  
17 THIS SECTION;

18 (b) POST THE REPORT ON THE COMMISSION'S WEBSITE; AND

19 (c) SUBMIT THE REPORT TO THE GENERAL ASSEMBLY.

20 (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

21 **SECTION 20.** In Colorado Revised Statutes, 2-3-128, **amend**  
22 (1)(a) as follows:

23 **2-3-128. Oil and gas - performance audit - report - definitions**  
24 **- repeal.** (1) As used in this section, unless the context otherwise  
25 requires:

26 (a) "Commission" means the ~~oil and gas conservation~~ ENERGY  
27 AND CARBON MANAGEMENT commission created in section 34-60-104.3

1 (1).

2 **SECTION 21.** In Colorado Revised Statutes, 23-41-114, **amend**  
3 (4)(b)(I)(B), (4)(b)(II)(B), (4)(b)(II)(C), (4)(b)(III)(B), (4)(b)(III)(C),  
4 (4)(b)(IV)(B), (4)(b)(IV)(C), (4)(b)(V)(B), (4)(b)(VI)(B), and  
5 (4)(b)(VI)(C) as follows:

6 **23-41-114. Colorado energy research institute - creation.**

7 (4) The institute shall conduct:

8 (b) The following specific research and educational programs  
9 designed to meet the information needs of the department of natural  
10 resources, other agencies of the state's executive branch, the legislature,  
11 and the public:

12 (I) (B) For the purposes authorized by this ~~subparagraph (F)~~  
13 SUBSECTION (4)(b)(I), up to five hundred thousand dollars of the  
14 unencumbered balance available in the ~~oil and gas conservation and~~  
15 ~~environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund  
16 created in section 34-60-122 (5) ~~C.R.S.~~, may be expended.

17 (II) (B) For the purpose authorized by this ~~subparagraph (H)~~  
18 SUBSECTION (4)(b)(II), up to one million dollars of the unencumbered  
19 balance available in the ~~oil and gas conservation and environmental~~  
20 ~~response~~ ENERGY AND CARBON MANAGEMENT CASH fund created in  
21 section 34-60-122 (5) ~~C.R.S.~~, may be expended.

22 (C) Of the amount specified in ~~sub-subparagraph (B) of this~~  
23 ~~subparagraph (H)~~ SUBSECTION (4)(b)(II)(B) OF THIS SECTION: Five  
24 hundred thousand dollars may be expended in the state fiscal year  
25 beginning July 1, 2005; and five hundred thousand dollars may be  
26 expended in the state fiscal year beginning July 1, 2006, if an estimate  
27 made on or about May 1, 2006, of the projected unencumbered balance

1 that will be available in the ~~oil and gas conservation and environmental~~  
2 ~~response~~ ENERGY AND CARBON MANAGEMENT CASH fund on July 1, 2006,  
3 exceeds two and one-half million dollars.

4 (III) (B) For the purpose authorized by this ~~subparagraph (HH)~~  
5 SUBSECTION (4)(b)(III), up to three hundred seventy-five thousand dollars  
6 of the unencumbered balance available in the ~~oil and gas conservation~~  
7 ~~and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH  
8 fund created in section 34-60-122 (5) ~~C.R.S.~~, may be expended.

9 (C) Of the amount specified in ~~sub-subparagraph (B) of this~~  
10 ~~subparagraph (HH)~~ SUBSECTION (4)(b)(III)(B) OF THIS SECTION: One  
11 hundred seventy-five thousand dollars may be expended in the state fiscal  
12 year beginning July 1, 2005; and two hundred thousand dollars may be  
13 expended in the state fiscal year beginning July 1, 2006, if an estimate  
14 made on or about May 1, 2006, of the projected unencumbered balance  
15 that will be available in the ~~oil and gas conservation and environmental~~  
16 ~~response~~ ENERGY AND CARBON MANAGEMENT CASH fund on July 1, 2006,  
17 exceeds two and one-half million dollars.

18 (IV) (B) For the purpose authorized by this ~~subparagraph (IV)~~  
19 SUBSECTION (4)(b)(IV), up to one million dollars of the unencumbered  
20 balance available in the ~~oil and gas conservation and environmental~~  
21 ~~response~~ ENERGY AND CARBON MANAGEMENT CASH fund created in  
22 section 34-60-122 (5) ~~C.R.S.~~, may be expended.

23 (C) Of the amount specified in ~~sub-subparagraph (B) of this~~  
24 ~~subparagraph (IV)~~ SUBSECTION (4)(b)(IV)(B) OF THIS SECTION: Five  
25 hundred thousand dollars may be expended in the state fiscal year  
26 beginning July 1, 2005; and five hundred thousand dollars may be  
27 expended in the state fiscal year beginning July 1, 2006, if an estimate

1 made on or about May 1, 2006, of the projected unencumbered balance  
2 that will be available in the ~~oil and gas conservation and environmental~~  
3 ~~response~~ ENERGY AND CARBON MANAGEMENT CASH fund on July 1, 2006,  
4 exceeds two and one-half million dollars.

5 (V) (B) For the purpose authorized by this ~~subparagraph (V)~~  
6 SUBSECTION (4)(b)(V)(B), up to fifty-six thousand dollars of the  
7 unencumbered balance available in the ~~oil and gas conservation and~~  
8 ~~environmental response~~ ENERGY AND CARBON MANAGEMENT CASH fund  
9 created in section 34-60-122 (5) ~~C.R.S.~~, may be expended.

10 (VI) (B) For the purpose authorized by this ~~subparagraph (VI)~~  
11 SUBSECTION (4)(b)(VI), up to one hundred twenty-five thousand dollars  
12 of the unencumbered balance available in the ~~oil and gas conservation~~  
13 ~~and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH  
14 fund created in section 34-60-122 (5) ~~C.R.S.~~, may be expended.

15 (C) Of the amount specified in ~~sub-subparagraph (B) of this~~  
16 ~~subparagraph (VI)~~ SUBSECTION (4)(b)(VI)(B) OF THIS SECTION:  
17 Seventy-five thousand dollars may be expended in the state fiscal year  
18 beginning July 1, 2005; and fifty thousand dollars may be expended in the  
19 state fiscal year beginning July 1, 2006, if an estimate made on or about  
20 May 1, 2006, of the projected unencumbered balance that will be  
21 available in the ~~oil and gas conservation and environmental response~~  
22 ENERGY AND CARBON MANAGEMENT CASH fund on July 1, 2006, exceeds  
23 two and one-half million dollars.

24 **SECTION 22.** In Colorado Revised Statutes, 24-1-124, **amend**  
25 (3)(f) as follows:

26 **24-1-124. Department of natural resources - creation -**  
27 **divisions.** (3) The department of natural resources consists of the

1 following divisions:

2 (f) The ~~oil and gas conservation~~ ENERGY AND CARBON  
3 MANAGEMENT commission ~~of the state of Colorado~~ CREATED IN SECTION  
4 34-60-104.3 (1) and the office of the director ~~thereof~~ OF THE COMMISSION,  
5 created in article 60 of title 34. The ~~oil and gas conservation~~ commission  
6 ~~of the state of Colorado~~ and the office of the director are **type 1** entities,  
7 as defined in section 24-1-105, and exercise their powers and perform  
8 their duties and functions under the department of natural resources as a  
9 division ~~thereof~~ OF THE DEPARTMENT.

10 **SECTION 23.** In Colorado Revised Statutes, 24-33-104, **amend**  
11 (1)(f) as follows:

12 **24-33-104. Composition of the department.** (1) The department  
13 of natural resources consists of the following commissions, divisions,  
14 boards, offices, and councils:

15 (f) The ~~oil and gas conservation~~ ENERGY AND CARBON  
16 MANAGEMENT commission ~~of the state of Colorado~~ CREATED IN SECTION  
17 34-60-104.3 (1);

18 **SECTION 24.** In Colorado Revised Statutes, 24-35-115, **amend**  
19 (3) as follows:

20 **24-35-115. Mineral audit program.** (3) The cost of each of the  
21 following audits shall be paid by an appropriation from the general fund:  
22 Severance tax revenues, revenues accruing to leases managed by the state  
23 board of land commissioners authorized in section 36-1-113, ~~C.R.S.~~; and  
24 revenues accruing to the ~~oil and gas conservation and environmental~~  
25 ~~response~~ ENERGY AND CARBON MANAGEMENT CASH fund created in  
26 section 34-60-122 (5). ~~C.R.S.~~ At the end of each fiscal year, beginning  
27 with the fiscal year starting July 1, 1986, the ~~oil and gas conservation~~

1 ENERGY AND CARBON MANAGEMENT commission and the state board of  
2 land commissioners shall each repay, from the ~~oil and gas conservation~~  
3 ~~and environmental response~~ ENERGY AND CARBON MANAGEMENT CASH  
4 fund created by section 34-60-122 (5) ~~C.R.S.~~, and the state land board  
5 TRUST administration fund created by section 36-1-145 (2)(a), ~~C.R.S.~~, to  
6 the general fund the cost of such audits performed on their respective  
7 fund, which reimbursement shall not exceed the dollar amount of the  
8 collections received by each agency from such audits.

9 **SECTION 25.** In Colorado Revised Statutes, 24-65.5-102,  
10 **amend** the introductory portion and (2.5) as follows:

11 **24-65.5-102. Definitions - legislative declaration.** As used in this  
12 ~~article~~ ARTICLE 65.5, unless the context otherwise requires:

13 (2.5) "Commission" means the ~~Colorado oil and gas conservation~~  
14 ENERGY AND CARBON MANAGEMENT commission created in ~~section~~  
15 ~~34-60-104, C.R.S.~~ SECTION 34-60-104.3 (1).

16 **SECTION 26.** In Colorado Revised Statutes, 24-75-402, **amend**  
17 (5)(ii) as follows:

18 **24-75-402. Cash funds - limit on uncommitted reserves -**  
19 **reduction in the amount of fees - exclusions - definitions.**

20 (5) Notwithstanding any provision of this section to the contrary, the  
21 following cash funds are excluded from the limitations specified in this  
22 section:

23 (ii) The ~~oil and gas conservation and environmental response~~  
24 ENERGY AND CARBON MANAGEMENT CASH fund created in section  
25 34-60-122 (5); ~~C.R.S.~~

26 **SECTION 27.** In Colorado Revised Statutes, 25-7-109, **amend**  
27 (10)(c) as follows:

1           **25-7-109. Commission to promulgate emission control**  
2 **regulation.** (10) (c) Notwithstanding the grant of authority to the ~~oil and~~  
3 ~~gas conservation~~ ENERGY AND CARBON MANAGEMENT commission in  
4 article 60 of title 34, including specifically section 34-60-105 (1), the  
5 commission may regulate air pollution from oil and gas facilities listed in  
6 subsection (10)(a) of this section, including during preproduction  
7 activities, drilling, and completion.

8           **SECTION 28.** In Colorado Revised Statutes, 25-7-133, **amend**  
9 (7)(d)(III) as follows:

10           **25-7-133. Legislative review and approval of state**  
11 **implementation plans and rules - legislative declaration - definition.**

12 (7) (d) (III) The regulated entity shall deliver the notice required pursuant  
13 to ~~subparagraph (H) of this paragraph (d)~~ SUBSECTION (7)(d)(II) OF THIS  
14 SECTION to the local government designee, if any, registered with the  
15 ~~Colorado oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT  
16 commission CREATED IN SECTION 34-60-104.3 (1) for receipt of  
17 information relating to oil and gas operations within a local jurisdiction  
18 and shall include a phone number for a contact person. If the local  
19 jurisdiction does not have a local government designee, the REGULATED  
20 ENTITY SHALL DELIVER THE notice ~~shall be provided~~ to the municipal  
21 clerk.

22           **SECTION 29.** In Colorado Revised Statutes, 25-8-202, **amend**  
23 (7) introductory portion as follows:

24           **25-8-202. Duties of commission - rules.** (7) The commission and  
25 the division shall recognize water quality responsibilities of the following  
26 state agencies, referred to in this subsection (7) as the "implementing  
27 agencies": The office of mined land reclamation; the state engineer; the

1 ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission  
2 CREATED IN SECTION 34-60-104.3 (1); and the state agency responsible for  
3 activities related to the federal "Resource Conservation and Recovery Act  
4 of 1976", 42 U.S.C. SEC. 6901 ET SEQ., as amended, and related state  
5 programs. Activities subject to the jurisdiction of the implementing  
6 agencies that result in discharge to state waters shall be regulated as  
7 follows:

8 **SECTION 30.** In Colorado Revised Statutes, 25-8-205, **amend**  
9 (4) as follows:

10 **25-8-205. Control regulations.** (4) The commission shall  
11 coordinate and cooperate with the state engineer, the Colorado water  
12 conservation board, the ~~oil and gas conservation~~ ENERGY AND CARBON  
13 MANAGEMENT commission CREATED IN SECTION 34-60-104.3 (1), the state  
14 board of health, and other state agencies having regulatory powers in  
15 order to avoid adopting control regulations that would be either redundant  
16 or unnecessary.

17 **SECTION 31.** In Colorado Revised Statutes, 29-20-104, **amend**  
18 (3)(a) as follows:

19 **29-20-104. Powers of local governments - definition.** (3) (a) To  
20 provide a local government with technical expertise regarding whether a  
21 preliminary or final determination of the location of an oil and gas facility  
22 or oil and gas location within its respective jurisdiction could affect oil  
23 and gas resource recovery:

24 (I) Once an operator, as defined in section 34-60-103 (6.8), files  
25 an application for the location and siting of an oil and gas facility or oil  
26 and gas location and the local government has made either a preliminary  
27 or final determination regarding the application, the local government



1 having land use jurisdiction may ask the director of the ~~oil and gas~~  
2 ~~conservation~~ ENERGY AND CARBON MANAGEMENT commission pursuant  
3 to section 34-60-104.5 (3) to appoint a technical review board to conduct  
4 a technical review of the preliminary or final determination and issue a  
5 report that contains the board's conclusions.

6 (II) Once a local government has made a final determination  
7 regarding an application specified in subsection (3)(a)(I) of this section  
8 or if the local government has not made a final determination on an  
9 application within two hundred ten days after filing by the operator, the  
10 operator may ask the director of the ~~oil and gas conservation~~ ENERGY AND  
11 CARBON MANAGEMENT commission pursuant to section 34-60-104.5 (3)  
12 to appoint a technical review board to conduct a technical review of the  
13 final determination and issue a report that contains the board's  
14 conclusions.

15 **SECTION 32.** In Colorado Revised Statutes, 30-20-109, **amend**  
16 (1.5)(d)(I) as follows:

17 **30-20-109. Commission to promulgate rules - definitions.**

18 (1.5) (d) The department shall:

19 (I) Coordinate with the ~~Colorado oil and gas conservation~~ ENERGY  
20 AND CARBON MANAGEMENT commission created in ~~section 34-60-104,~~  
21 ~~C.R.S.~~ SECTION 34-60-104.3 (1), governing bodies having jurisdiction,  
22 and the federal bureau of land management to identify potential EP waste  
23 disposal sites that are located reasonably close to oil and gas operation  
24 areas on either federal or nonfederal land and that meet the set-back  
25 requirements of this subsection (1.5); and

26 **SECTION 33.** In Colorado Revised Statutes, 30-20-120, **amend**  
27 (5) as follows:

1           **30-20-120. Imminent and substantial endangerment from solid**  
2 **waste - definitions.** (5) The provisions of this section shall DO not apply  
3 to sites regulated by the ~~oil and gas conservation~~ ENERGY AND CARBON  
4 MANAGEMENT commission created by ~~section 34-60-104, C.R.S.~~, IN  
5 SECTION 34-60-104.3 (1) or BY the oil inspection section of the  
6 department of labor and employment pursuant to article 20 of title 8.  
7 ~~C.R.S.~~

8           **SECTION 34.** In Colorado Revised Statutes, 34-60-102, **amend**  
9 (2) as follows:

10           **34-60-102. Legislative declaration.** (2) It is further declared to  
11 be in the public interest to assure that producers and consumers of natural  
12 gas are afforded the protection and benefits of those laws and regulations  
13 of the United States ~~which~~ THAT affect the price and allocation of natural  
14 gas and crude oil, including the federal "Natural Gas Policy Act of 1978",  
15 15 U.S.C. sec. 3301 ET SEQ., AS AMENDED, and particularly that the ~~oil~~  
16 ~~and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission  
17 ~~established by section 34-60-104,~~ CREATED IN SECTION 34-60-104.3 (1)  
18 be empowered to exercise such powers and authorities as may be  
19 delegated to it by the laws or regulations of the United States, including  
20 said "Natural Gas Policy Act of 1978", and, in the exercise of such  
21 powers and authorities, to make such rules ~~and regulations~~ and to execute  
22 such agreements and waivers as are reasonably required to implement  
23 such power and authority.

24           ==  
25           **SECTION 35.** In Colorado Revised Statutes, 34-60-118.5,  
26 **amend** (5) introductory portion, (5.5), (6), and (8)(a) as follows:

27           **34-60-118.5. Payment of proceeds - definitions.** (5) Absent a

1 bona fide dispute over the interpretation of a contract for payment, the ~~oil~~  
2 ~~and gas conservation~~ commission ~~shall have~~ HAS jurisdiction to determine  
3 the following:

4 (5.5) Before hearing the merits of any proceeding regarding  
5 payment of proceeds pursuant to this section, the ~~oil and gas conservation~~  
6 commission shall determine whether a bona fide dispute exists regarding  
7 the interpretation of a contract defining the rights and obligations of the  
8 payer and payee. If the commission finds that such a dispute exists, the  
9 commission shall decline jurisdiction over the dispute and the parties may  
10 seek resolution of the matter in district court.

11 (6) The commission may assign to the parties the costs of any  
12 administrative proceeding pursuant to this section in such proportions as  
13 it deems appropriate and may award reasonable attorney fees and costs to  
14 the prevailing party. The ~~moneys~~ MONEY received by the commission to  
15 cover the costs of such administrative proceedings shall be transmitted to  
16 the state treasurer, who shall credit ~~such moneys~~ THE MONEY to the ~~oil~~  
17 ~~and gas conservation and environmental response~~ ENERGY AND CARBON  
18 MANAGEMENT CASH fund created in ~~section 34-60-122~~ SECTION  
19 34-60-122 (5).

20 (8) (a) Nothing in this section shall be construed to alter existing  
21 substantive rights or obligations nor to impose upon the ~~oil and gas~~  
22 ~~conservation~~ commission any duty to interpret a contract from which the  
23 obligation to pay proceeds arises.

24 **SECTION 36.** In Colorado Revised Statutes, 34-60-121, **amend**  
25 (1)(d) as follows:

26 **34-60-121. Violations - penalties - rules - legislative**  
27 **declaration.** (1) (d) An operator subject to a penalty order shall pay the

1 amount due within thirty days after its imposition unless the operator files  
2 a judicial appeal. The commission may recover penalties owed under this  
3 section in a civil action brought by the attorney general at the request of  
4 the commission in the second judicial district. ~~Moneys~~ MONEY collected  
5 through the imposition of penalties shall be credited first to any legal  
6 costs and attorney fees incurred by the attorney general in the recovery  
7 action and then to the environmental response account in the ~~oil and gas~~  
8 ~~conservation and environmental response~~ ENERGY AND CARBON  
9 MANAGEMENT CASH fund created in ~~section 34-60-122~~ SECTION  
10 34-60-122 (5).

11 **SECTION 37.** In Colorado Revised Statutes, **amend** 34-61-101  
12 as follows:

13 **34-61-101. Boreholes penetrating coal seams.** It is the duty of  
14 the owner, or person in charge of any borehole ~~which~~ THAT penetrates any  
15 workable coal seam or any accessible or inaccessible coal mine  
16 excavation, to notify the ~~state oil and gas conservation~~ ENERGY AND  
17 CARBON MANAGEMENT commission CREATED IN SECTION 34-60-104.3 (1)  
18 of the location of ~~such~~ THE borehole by designating the particular  
19 five-acre subdivision of the land section on which ~~such~~ THE borehole is  
20 situated, and the depth and thickness of every workable coal seam or  
21 accessible or inaccessible coal mine excavation penetrated by ~~such~~ THE  
22 borehole. On receipt of such notification, the ~~state oil and gas~~  
23 ~~conservation~~ ENERGY AND CARBON MANAGEMENT commission shall at  
24 once notify the COAL MINING REGULATORY AUTHORITY.

25 **SECTION 38.** In Colorado Revised Statutes, 37-90-103, **amend**  
26 the introductory portion and (10.9) as follows:

27 **37-90-103. Definitions - repeal.** As used in this ~~article~~ ARTICLE

1 90, unless the context otherwise requires:

2 (10.9) "Oil and gas well" means a well permitted by the ~~Colorado~~  
3 ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT commission  
4 CREATED IN SECTION 34-60-104.3 (1) or a well authorized by a federal or  
5 tribal entity for the primary purpose of mining, including exploration or  
6 production, of petroleum products.

7 **SECTION 39.** In Colorado Revised Statutes, 37-91-102, **amend**  
8 the introductory portion and (16)(b)(I) as follows:

9 **37-91-102. Definitions.** As used in this ~~article~~ ARTICLE 91, unless  
10 the context otherwise requires:

11 (16) (b) (I) "Well" does not include:

12 (A) Certain types of monitoring and observation wells, dewatering  
13 wells, and test holes that the board specifies in rules ~~and regulations~~ in  
14 order to allow for their construction, utilization, and abandonment by  
15 other than a well construction contractor; ~~nor does such term include~~

16 (B) An excavation made for the purpose of obtaining or  
17 prospecting for minerals or those wells subject to the jurisdiction of the  
18 ~~oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT  
19 commission, as provided in article 60 of title 34; ~~C.R.S.~~; or

20 (C) ~~those~~ Wells subject to the jurisdiction of the office of mined  
21 land reclamation, as provided in article 33 of title 34. ~~C.R.S.~~

22 **SECTION 40.** In Colorado Revised Statutes, 37-92-103, **amend**  
23 (5.5) as follows:

24 **37-92-103. Definitions.** As used in this article 92, unless the  
25 context otherwise requires:

26 (5.5) "Coal bed methane well" means a well permitted by the  
27 ~~Colorado oil and gas conservation~~ ENERGY AND CARBON MANAGEMENT

1 commission CREATED IN SECTION 34-60-104.3 (1) or a well authorized by  
2 a federal or tribal entity and constructed for the primary purpose of  
3 producing methane gas from a coal bed.

4 **SECTION 41.** In Colorado Revised Statutes, 38-35.7-108,  
5 **amend** (1)(a) as follows:

6 **38-35.7-108. Disclosure of oil and gas activity - rules.**

7 (1) (a) By January 1, 2016, the real estate commission created in section  
8 12-10-206 shall promulgate a rule requiring each contract of sale or  
9 seller's property disclosure for residential real property that is subject to  
10 the commission's jurisdiction to disclose the following or substantially  
11 similar information:

12 **THE SURFACE ESTATE OF THE PROPERTY MAY BE**  
13 **OWNED SEPARATELY FROM THE UNDERLYING MINERAL**  
14 **ESTATE, AND TRANSFER OF THE SURFACE ESTATE MAY**  
15 **NOT INCLUDE TRANSFER OF THE MINERAL ESTATE. THIRD**  
16 **PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OR**  
17 **OTHER MINERALS UNDER THE SURFACE, AND THEY MAY**  
18 **ENTER AND USE THE SURFACE ESTATE TO ACCESS THE**  
19 **MINERAL ESTATE.**

20 **THE USE OF THE SURFACE ESTATE TO ACCESS THE**  
21 **MINERALS MAY BE GOVERNED BY A SURFACE USE**  
22 **AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF**  
23 **WHICH MAY BE RECORDED WITH THE COUNTY CLERK**  
24 **AND RECORDER.**

25 **THE OIL AND GAS ACTIVITY THAT MAY OCCUR ON**  
26 **OR ADJACENT TO THIS PROPERTY MAY INCLUDE, BUT IS**  
27 **NOT LIMITED TO, SURVEYING, DRILLING, WELL**

1 COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR  
2 PRODUCTION FACILITIES, PRODUCING WELLS,  
3 REWORKING OF CURRENT WELLS, AND GAS GATHERING  
4 AND PROCESSING FACILITIES.

5 THE BUYER IS ENCOURAGED TO SEEK ADDITIONAL  
6 INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR  
7 ADJACENT TO THIS PROPERTY, INCLUDING DRILLING  
8 PERMIT APPLICATIONS. THIS INFORMATION MAY BE  
9 AVAILABLE FROM THE ~~COLORADO OIL AND GAS~~  
10 ~~CONSERVATION~~ ENERGY AND CARBON MANAGEMENT  
11 COMMISSION.

12 SECTION 42. In Colorado Revised Statutes, 39-29-109.3,  
13 amend (1)(a) as follows:

14 **39-29-109.3. Severance tax operational fund - core reserve -**  
15 **grant program reserve - definitions - repeal.** (1) The executive director  
16 of the department of natural resources shall submit with the department's  
17 budget request for each fiscal year a list and description of the programs  
18 the executive director recommends to be funded from the severance tax  
19 operational fund created in section 39-29-109 (2)(b), referred to in this  
20 section as the "operational fund". The general assembly may appropriate  
21 money from the total money available in the operational fund to fund  
22 recommended programs as follows:

23 (a) (I) For programs or projects within the ~~Colorado oil and gas~~  
24 ~~conservation~~ ENERGY AND CARBON MANAGEMENT commission CREATED  
25 IN SECTION 34-60-104.3 (1), up to thirty-five percent of the ~~moneys~~  
26 MONEY in the operational fund for fiscal years commencing on or after  
27 July 1, 2009.

1           (II) ~~Moneys~~ MONEY appropriated for programs or projects  
2 pursuant to ~~subparagraph (I) of this paragraph (a)~~ SUBSECTION (1)(a)(I)  
3 OF THIS SECTION shall be used by the ~~Colorado oil and gas conservation~~  
4 ENERGY AND CARBON MANAGEMENT commission for plugging and  
5 abandonment projects, for well-site location reclamation projects, or for  
6 regulatory and environmental programs or projects as specifically  
7 appropriated by the general assembly for use on such programs or  
8 projects; except that, if the commission determines that an emergency  
9 exists, the commission may expend any ~~moneys~~ MONEY received for the  
10 emergency without any further appropriation. In determining the uses of  
11 ~~these moneys~~ THIS MONEY, the commission shall give priority to uses that  
12 reduce industry fees and mill levies.

13           **SECTION 43. Appropriation.** (1) For the 2023-24 state fiscal  
14 year, \$1,200,480 is appropriated to the department of natural resources.  
15 This appropriation is from the energy and carbon management cash fund  
16 created in section 34-60-122 (5)(a), C.R.S. To implement this act, the  
17 department may use this appropriation as follows:

18           (a) \$1,108,857 for use by the energy and carbon management  
19 commission for program costs, which amount is based on an assumption  
20 that the commission will require an additional 7.0 FTE;

21           (b) \$7,031 for use by the division of water resources for water  
22 administration related to division operations; and

23           (c) \$84,592 for the purchase of legal services.

24           (2) For the 2023-24 state fiscal year, \$7,031 is appropriated to the  
25 department of natural resources for use by the division of water resources.  
26 This appropriation is from reappropriated funds received from the  
27 department of natural resources under subsection (1)(b) of this section. To



1 implement this act, the division may use this appropriation for water  
2 administration related to division operations.

3 (3) For the 2023-24 state fiscal year, \$84,592 is appropriated to  
4 the department of law. This appropriation is from reappropriated funds  
5 received from the department of natural resources under subsection (1)(c)  
6 of this section and is based on an assumption that the department of law  
7 will require an additional 0.4 FTE. To implement this act, the department  
8 of law may use this appropriation to provide legal services for the  
9 department of natural resources.

10 **SECTION 44. Effective date.** This act takes effect July 1, 2023.

11 **SECTION 45. Safety clause.** The general assembly hereby finds,  
12 determines, and declares that this act is necessary for the immediate  
13 preservation of the public peace, health, or safety.