

Conservation and Regulation
ARTICLE 60
Oil and Gas Conservation

Received
Legislative Council Staff
3/21/19 8:00am

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

SECTION 1. In Colorado Revised Statutes, 24-65.5-102, **amend** (2.5) as follows:

§ 24-65.5-102. Definitions--legislative declaration

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

SECTION 2. In article 60 of title 34 of the Colorado Revised Statutes, **amend** section 101 as follows:

§ 34-60-101. Short title.

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

SECTION 3. In Colorado Revised Statutes, 34-60-102, **amend** (1)(a)(I) and (2) and **add** (3) and (4) as follows:

§ 34-60-102. Legislative declaration

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

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

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

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

(a) CREATE A MODERN, ROBUST, AND INDEPENDENT REGULATORY STRUCTURE TO FOSTER AND REGULATE RESPONSIBLE OIL AND GAS PRODUCTION IN COLORADO IN A WAY THAT REASONABLY AND IN A FACT-BASED MANNER BALANCES (I) THE PROTECTION OF PRIVATE PROPERTY RIGHTS, BOTH SURFACE AND MINERAL; (II) LOCAL INPUT AND PRIORITIES, INCLUDING MITIGATION OF

IMPACTS ON LOCAL COMMUNITIES, INCLUDING TRAFFIC, NOISE AND ODOR; AND (III) THE PROTECTION OF PUBLIC HEALTH AND SAFETY AND MINIMIZING ENVIRONMENTAL IMPACTS;

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

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

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

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

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

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

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

SECTION 4. In Colorado Revised Statutes, 34-60-103, **amend** (2) as follows:

§ 34-60-103. Definitions.

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

SECTION 5. In article 60 of title 34 of the Colorado Revised Statutes, **repeal** section 104 as follows:

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

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

(2)(a)(I) ~~Effective July 1, 2007, the commission shall consist of nine members, seven of whom shall be appointed by the governor with the consent of the senate and two of whom, the executive director of the department of natural resources and the executive director of the department of public health and environment, shall be ex officio voting members. At least two members shall be appointed from west of the continental divide, and, to the extent possible, consistent with this paragraph (a), the other members shall be appointed taking into account the need for geographical representation of other areas of the state with high levels of oil and gas activity or employment. Three members shall be individuals with substantial experience in the oil and gas industry, and at least two of said three members shall have a college degree in petroleum geology or petroleum engineering; one member shall be a local government official; one member shall have formal training or substantial experience in environmental or wildlife protection; one member shall have formal training or substantial experience in soil conservation or reclamation; and one member shall be actively engaged in agricultural production and also be a royalty owner. Excluding the executive directors from consideration, no more than four members of the commission shall be members of the same political party.~~

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

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

(b) ~~Members of the commission shall be appointed for terms of four years each. The governor may at any time remove any member of the commission, and by appointment the governor shall fill any vacancy on the commission. In case one or more vacancies occur on the same day, the governor shall designate the order of filling vacancies. The members of the commission shall receive a per diem allowance of fifty dollars for each day spent in attendance at commission meetings or hearings and shall be reimbursed for their actual expenses.~~

(3) ~~The commission shall report to the executive director of the department of natural resources at such times and on such matters as the executive director may require.~~

(4) ~~Publications of the commission circulated in quantity outside the executive branch are subject to the approval and control of the executive director of the department of natural resources.~~

SECTION 6. In article 60 of title 34 of the Colorado Revised Statutes, **add** section 104.1 as follows:

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

(1) (a) THERE IS HEREBY CREATED THE INDEPENDENT OIL AND GAS REGULATORY COMMISSION OF THE STATE OF COLORADO.

(b) THE COMMISSION'S MISSION IS TO FOSTER AND REGULATE RESPONSIBLE OIL AND GAS PRODUCTION IN COLORADO IN A WAY THAT REASONABLY AND IN A FACT-BASED MANNER BALANCES (I) THE PROTECTION OF PRIVATE PROPERTY RIGHTS, BOTH SURFACE AND MINERAL; (II) LOCAL INPUT AND PRIORITIES, INCLUDING MITIGATION OF IMPACTS ON LOCAL COMMUNITIES, INCLUDING TRAFFIC, NOISE AND ODOR; AND (III) THE PROTECTION OF PUBLIC HEALTH AND SAFETY AND MINIMIZING ENVIRONMENTAL IMPACTS.

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

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

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

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

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

(I) HAS A CONFLICT OF INTEREST WITH OIL AND GAS DEVELOPMENT IN COLORADO, INCLUDING:

(A) IS OR WAS IN THE PAST THREE YEARS PRIOR TO APPOINTMENT IN THE EMPLOY OF OR HOLDING ANY OFFICIAL RELATION TO ANY CORPORATION, BUSINESS ENTITY, OR PERSON, WHICH SAID CORPORATION, BUSINESS ENTITY, OR PERSON IS SUBJECT IN WHOLE OR IN PART TO REGULATION BY THE COMMISSION, OR OWNING STOCKS OR BONDS OF ANY SUCH CORPORATION OR IS IN ANY MANNER PECUNIARILY INTERESTED THEREIN; EXCEPT THAT IF ANY SUCH PERSON BECOMES THE OWNER OF SUCH STOCKS OR BONDS OR BECOMES PECUNIARILY INTERESTED IN SUCH CORPORATION OTHERWISE THAN VOLUNTARILY, THAT PERSON SHALL DIVEST SUCH OWNERSHIP OR INTEREST WITHIN SIX MONTHS; FAILING TO DO SO, THAT COMMISSIONER'S OFFICE SHALL BECOME VACANT; OR

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

(C) THIS CONFLICT OF INTEREST PROVISION SHALL BE CONSTRUED REASONABLY, WITH THE OBJECTIVE BEING TO DISQUALIFY FROM THE COMMISSION ANY PERSON WHO MIGHT HAVE AN

IMMEDIATE CONFLICT OF INTEREST, OR WHOSE PERSONAL TRACK RECORD SUGGESTS HE OR SHE MAY NOT BE ABLE TO DISPASSIONATELY MAKE BALANCED DECISIONS ABOUT OIL AND GAS REGULATION IN COLORADO. INDIVIDUALS WHO IN THE PAST HAVE WORKED WITH OR FOR AN ENVIRONMENTAL ORGANIZATION OR IN THE ENERGY SECTOR NEED NOT BE DISQUALIFIED, IF THE TOTALITY OF THEIR LIFE AND PROFESSIONAL EXPERIENCE SHOWS BOTH A DEPTH OF SUBJECT MATTER KNOWLEDGE AND AN ABILITY TO RENDER INFORMED, THOROUGH, AND BALANCED DECISION MAKING.

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

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

(3) THE COMMISSIONERS SHALL BE STATE EMPLOYEES AND DEVOTE THEIR ENTIRE TIME TO THE DUTIES OF THEIR OFFICE TO THE EXCLUSION OF ANY OTHER EMPLOYMENT AND SHALL RECEIVE SUCH COMPENSATION AS IS DESIGNATED BY LAW.

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

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

(6) AS OF JANUARY 1, 2020, THE INITIAL RULES AND POLICIES OF THE COMMISSION SHALL BE THE COLORADO OIL AND GAS CONSERVATION COMMISSION RULES AND POLICIES AS THEY EXISTED ON DECEMBER 31, 2018. ANY RULES AND POLICIES ADOPTED BY THE COLORADO OIL AND GAS CONSERVATION COMMISSION BETWEEN JANUARY 1, 2019 AND JANUARY 1, 2020, SHALL BE REPEALED AS OF JANUARY 1, 2020.

(7) THE DIRECTOR AND STAFF OF THE FORMER OIL AND GAS CONSERVATION COMMISSION SHALL BECOME THE DIRECTOR AND STAFF OF THE COMMISSION ON JANUARY 1, 2020, AND BE SUBJECT TO COMMISSION OVERSIGHT.

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

(9) THE OBSOLETE REFERENCES TO THE COLORADO OIL AND GAS CONSERVATION COMMISSION AND SECTION 34-60-104, C.R.S., IN COLORADO STATUTE AND REGULATIONS SHALL BE REMOVED AND REPLACED WITH REFERENCES TO THE COLORADO INDEPENDENT OIL AND GAS REGULATORY COMMISSION AND SECTION 34-60-104.1, C.R.S.

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

SECTION 7. In article 60 of title 34 of the Colorado Revised Statutes, **add** section 104.3 as follows:

§ 34-60-104.3 Commissioner appointment

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

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

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

(b)(I) THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT SHALL DESIGNATE A SELECTION PANEL TO APPOINT FROM THE LIST OF NOMINEES THREE QUALIFIED INDIVIDUALS TO SERVE ON THE COMMISSION BEGINNING APRIL 1, 2020, AND SUBSEQUENTLY SHALL DESIGNATE A SEPARATE SELECTION PANEL ANY TIME A VACANCY WILL OCCUR AT THE END OF A TERM OR A VACANCY OTHERWISE OCCURS TO APPOINT FROM THE LIST OF NOMINEES A QUALIFIED INDIVIDUAL TO FILL THE VACANCY.

(II) A SELECTION PANEL MUST CONSIST OF THE THREE JUSTICES OR JUDGES WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS, APPOINTED BY THE CHIEF JUSTICE SEQUENTIALLY STARTING WITH THE MOST RECENT JUSTICE OR JUDGE TO RETIRE WHO HAS BEEN AFFILIATED WITH THE SAME POLITICAL PARTY OR UNAFFILIATED WITH ANY POLITICAL PARTY FOR THE TWO YEARS PRIOR TO APPOINTMENT; EXCEPT THAT NO APPOINTEE, WITHIN TWO YEARS PRIOR TO APPOINTMENT, SHALL HAVE BEEN AFFILIATED WITH THE SAME POLITICAL PARTY AS A JUSTICE OR JUDGE ALREADY APPOINTED TO THE PANEL. IF ANY OF THE THREE JUSTICES OR JUDGES WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS IS UNABLE OR UNWILLING TO SERVE ON THE PANEL OR HAS BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH A POLITICAL PARTY ALREADY REPRESENTED ON THE PANEL, THEN THE CHIEF JUSTICE SHALL APPOINT THE NEXT JUSTICE OR JUDGE WHO MOST RECENTLY RETIRED FROM THE COLORADO SUPREME COURT OR THE COLORADO COURT OF APPEALS AND WHO HAS NOT BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH THE SAME POLITICAL PARTY AS ANY JUSTICE OR JUDGE ALREADY APPOINTED TO THE PANEL. IF, AFTER CONSIDERING ALL JUSTICES AND JUDGES WHO HAVE RETIRED FROM THE COLORADO SUPREME COURT AND THE COLORADO COURT OF APPEALS, FEWER THAN THREE

ELIGIBLE PARTICIPANTS FOR THE PANEL HAVE BEEN IDENTIFIED WHO ARE ABLE AND WILLING TO SERVE, THE CHIEF JUSTICE SHALL APPOINT THE MOST RECENTLY RETIRED DISTRICT COURT JUDGE WHO HAS NOT BEEN AFFILIATED WITHIN TWO YEARS PRIOR TO APPOINTMENT WITH THE SAME POLITICAL PARTY AS ANY PREVIOUS APPOINTEE TO THE PANEL AND WHO ACCEPTS SUCH APPOINTMENT.

(c) ALL DECISIONS OF THE PANEL REGARDING THE APPOINTMENT OF MEMBERS PURSUANT TO THIS SECTION REQUIRE THE AFFIRMATIVE APPROVAL OF ALL THREE MEMBERS OF THE PANEL.

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

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

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

(b) BEGINNING JANUARY 1, 2020, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES SHALL ACT AS THE SOLE INTERIM COMMISSIONER AND OVERSEE COMMISSION ACTIVITIES AND STAFF UNTIL THE APPOINTMENT OF THE INITIAL COMMISSIONERS EFFECTIVE APRIL 1, 2020.

SECTION 8. In Colorado Revised Statutes, 34-60-104.5, **amend** (1) and (2)(d) as follows:

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

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

(2) The director of the commission shall:

(d) ~~Appoint, pursuant to section 13 of article XII of the state constitution, SUBJECT TO THE APPROVAL OF THE COMMISSION, APPOINT AND DETERMINE THE SALARY AND COMPENSATION FOR~~ such clerical and professional staff and consultants as may be necessary for the efficient and effective operation of the commission; and THE DIRECTOR shall exercise general supervisory control over said staff; and

SECTION 9. In Colorado Revised Statutes, 34-60-105, **amend** (1) as follows:

§ 34-60-105. Powers of commission

(1) The commission has jurisdiction over all persons and property, public and private, necessary to enforce the provisions of this article, and has the power to make and enforce rules, regulations, and orders pursuant to this article, and to do whatever may reasonably be necessary to carry out the provisions of this article. Any delegation of authority to any other state officer, board, or commission to administer any other laws of this state relating to the ~~conservation~~ REGULATION of oil or gas, or either of them, is hereby rescinded and withdrawn and such authority is unqualifiedly conferred upon the commission, as provided in this section. Any person, or the attorney general on behalf of the state, may apply for any hearing before the commission, or the commission may initiate proceedings upon any question relating to the administration of this article, and jurisdiction is conferred upon the commission to hear and determine the same and enter its rule, regulation, or order with respect thereto.

SECTION 10. In Colorado Revised Statutes, 34-60-106, **add** (18) as follows:

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

(18) AFTER APRIL 1, 2020, THE COMMISSION SHALL CONDUCT A SYSTEMATIC EVALUATION OF ITS RULES, WHICH ARE THE COLORADO OIL AND GAS CONSERVATION COMMISSION RULES AS THEY EXISTED ON DECEMBER 31, 2018, AS ESTABLISHED IN SECTION 34-60-104.1(6), C.R.S., AND CONSIDER AMENDING OR ADOPTING RULES CONSISTENT WITH THE MISSION AND RESPONSIBILITIES SET FORTH IN THIS ARTICLE 60, INCLUDING RULES TO:

- (a) PROTECT PRIVATE PROPERTY RIGHTS, BOTH SURFACE AND MINERAL.
- (b) STRENGTHEN AND EXPAND THE ROLE OF LOCAL GOVERNMENTS IN DECISIONS RELATED TO THE PERMITTING OF OIL AND GAS DEVELOPMENT IN THEIR JURISDICTION WITH THE GOAL OF MINIMIZING IMPACTS. ANY RULES EXPANDING LOCAL GOVERNMENT AUTHORITY IN OIL AND GAS PERMITTING SHALL SPECIFICALLY PROHIBIT ANY BAN, UNREASONABLE DELAY, OR OTHER ACTION ON THE PART OF LOCAL GOVERNMENT THAT WOULD DE FACTO BAN OIL AND GAS DEVELOPMENT IN THAT JURISDICTION. ANY EXPANDED AUTHORITIES FOR LOCAL GOVERNMENTS SHALL ENCOURAGE LOCAL INNOVATION, COLLABORATION AND BALANCED DECISION MAKING, INCLUDING THE ESTABLISHMENT OF ALTERNATIVE DISPUTE RESOLUTION PROCEDURES WHERE NEEDED, WHILE BALANCING THE NEED FOR STANDARDIZED AND CONSISTENT RULES THAT FOSTER RESPONSIBLE OIL AND GAS DEVELOPMENT ACROSS THE STATE OF COLORADO.
- (c) ENSURE OIL AND GAS DEVELOPMENT IS CONDUCTED IN A MANNER THAT PROTECTS THE HEALTH, SAFETY AND WELFARE OF THE GENERAL PUBLIC.
- (d) ENSURE RULES EFFECTIVELY MINIMIZE IMPACTS ON WATER QUALITY IN THE STATE OF COLORADO.
- (e) REGULATE AIR POLLUTION FROM OIL AND GAS OPERATIONS AND OIL AND GAS FACILITIES, INCLUDING DURING CONSTRUCTION, DRILLING, AND COMPLETION ACTIVITIES.

(f) ENSURE THAT NEW RULES REGARDING FLOWLINE AND INACTIVE, TEMPORARILY ABANDONED, AND SHUT-IN WELL RULES PROTECT AND MINIMIZE ADVERSE IMPACTS TO PUBLIC HEALTH, SAFETY, AND WELFARE AND THE ENVIRONMENT.

(g) REGULATE POOLING UNDER SECTION 34-60-116, C.R.S. IN A WAY THAT BALANCES COMPETING DEMANDS OF PROPERTY RIGHTS OWNERS AND FOSTERS RESPONSIBLE OIL AND GAS DEVELOPMENT.

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

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

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

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

(iii) THAT FUTURE OIL AND NATURAL GAS OPERATOR PERMITS REQUIRE THE OPERATOR TO INSTALL AND OPERATE CONTINUOUS METHANE EMISSIONS MONITORS AT FACILITIES WITH LARGE EMISSIONS POTENTIAL, AT MULTI-WELL FACILITIES, AND AT FACILITIES IN CLOSE PROXIMITY TO OCCUPIED DWELLINGS.

SECTION 11. In article 60 of title 34 of the Colorado Revised Statutes, **add** section 106.5 as follows:

§ 34-60-106.5 Application of article

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

SECTION 12. In Colorado Revised Statutes 34-60-122, **amend** (5)(a), **repeal** (5)(c) and **add** 5(d) and (e) as follows:

§ 34-60-122. Expenses--fund created

(5)(a) The commission shall collect all charges and penalties under this article 60 and remit them to the state treasurer for deposit in the oil and gas ~~conservation~~ REGULATION and environmental response fund, ALSO REFERRED TO IN THIS SUBSECTION (5) AS THE “FUND,” which fund is hereby

created in the state treasury, AND WHICH THE INDEPENDENT OIL AND GAS REGULATORY COMMISSION SHALL ADMINISTER.

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

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

(e) REVENUE IN THE FUND AND EARNINGS ON SUCH REVENUE SHALL BE RETAINED AND SPENT BY THE STATE AND EXEMPT FROM ALL REVENUE, SPENDING AND OTHER LIMITATIONS UNDER SECTION 20 OF ARTICLE X OF THE CONSTITUTION OR ANY OTHER LAW. FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THIS CONSTITUTION, SUCH MONEYS SHALL NOT BE INCLUDED IN STATE FISCAL YEAR SPENDING AND APPROVAL OF THIS SECTION BY THE VOTERS STATEWIDE SHALL CONSTITUTE A VOTER-APPROVED REVENUE CHANGE.

SECTION 13. In article 60 of title 34 of the Colorado Revised Statutes, **add** section 131 as follows:

§ 34-60-131. Commission ethics

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

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

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

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

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

SECTION 14. In Colorado Revised Statutes, 39-29-108, **amend** (1)(a) as follows:

§ 39-29-108. Allocation of severance tax revenues--definitions

(1) Except as provided in subsections (2) and (3) of this section, the total gross receipts realized from the severance taxes imposed on minerals and mineral fuels under the provisions of this article shall be credited as follows:

(a) For oil and gas,

(I) FIFTEEN PERCENT CREDITED TO THE OIL AND GAS REGULATORY FUND CREATED IN SECTION, 39-29-109(3), C.R.S.; AND

(II) ~~one hundred percent~~ THE REMAINDER to the state general fund;

SECTION 15. In Colorado Revised Statutes 39-29-109, **amend** (2)(b)(I) and **add** (3), as follows:

§ 39-29-109. Severance tax trust fund--created--administration--distribution of money--repeal

(2)(b)(I) The severance tax operational fund. There is hereby created in the state treasury the severance tax operational fund, also referred to in this subsection (2)(b) as the “fund”, which the department of natural resources shall administer, ~~WITH THE EXCEPTION OF FUNDS ALLOCATED TO THE INDEPENDENT OIL AND GAS REGULATORY COMMISSION PURSUANT TO SECTION 39-29-109.3(1.3), C.R.S.~~ The state treasurer shall transfer one-half of the severance tax receipts credited to the severance tax trust fund for tax years commencing on and after July 1, 1995, to the fund. Money in the fund shall be distributed as set forth in section 39-29-109.3.

(3)(a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE OIL AND GAS LOCAL REGULATORY FUND, ALSO REFERRED TO IN THIS SUBSECTION (3) AS THE “FUND,” WHICH THE INDEPENDENT OIL AND GAS REGULATORY COMMISSION SHALL ADMINISTER. THE FUND IS TO BE PERPETUAL AND USED TO DISBURSE TO LOCAL GOVERNMENTS FOR PURPOSES CONSISTENT WITH THE COMMISSION’S MISSION AND RESPONSIBILITIES UNDER THIS ARTICLE, INCLUDING BUT NOT LIMITED TO SUPPORTING LOCAL GOVERNMENT DECISIONS, ACTIONS AND RELATED MONITORING AND OVERSIGHT ACTIVITIES ASSOCIATED WITH THE FOSTERING AND REGULATION OF OIL AND GAS IN A JURISDICTION. THE STATE TREASURER SHALL TRANSFER MONEYS TO THE FUND FROM THE SEVERANCE TAX TRUST FUND, AS SPECIFIED IN SECTION 39-29-108(a), C.R.S. THE MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE COMMISSION FOR PURPOSES AUTHORIZED BY THIS PARAGRAPH (3).

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

SECTION 16. In Colorado Revised Statutes 39-29-109.3, **repeal** (1)(a) and **add** (1.3), as follows:

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

(1) For fiscal years commencing on and after July 1, 1997, the executive director of the department of natural resources shall submit with the department's budget request for each fiscal year a list and description of the programs the executive director recommends to be funded from

the severance tax operational fund created in section 39-29-109(2)(b), referred to in this section as the “operational fund”. The general assembly may appropriate moneys from the total moneys available in the operational fund to fund recommended programs as follows:

(a)(I) ~~For programs or projects within the Colorado oil and gas conservation commission, up to thirty-five percent of the moneys in the operational fund for fiscal years commencing on or after July 1, 2009.~~

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

(1.3)(a) FOR FISCAL YEARS COMMENCING ON AND AFTER JULY 1, 2020, THE DIRECTOR OF THE INDEPENDENT OIL AND GAS REGULATORY COMMISSION SHALL SUBMIT A BUDGET REQUEST FOR EACH FISCAL YEAR FOR PROGRAMS AND PROJECTS THE DIRECTOR RECOMMENDS TO BE FUNDED FROM THE OPERATIONAL FUND AND ADMINISTERED BY THE INDEPENDENT OIL AND GAS REGULATORY COMMISSION. THE GENERAL ASSEMBLY MAY APPROPRIATE UP TO THIRTY-FIVE PERCENT OF THE TOTAL MONEYS IN THE OPERATIONAL FUND TO FUND PROGRAMS OR PROJECTS WITHIN THE INDEPENDENT OIL AND GAS REGULATORY COMMISSION.

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

SECTION 17. Effective dates.

This act takes effect on January 1, 2020.