

The Southwestern Water Conservation District  
West Building, 841 E. 2<sup>nd</sup> Ave.  
Durango, CO 81301

NOTICE IS HEREBY GIVEN  
A Special Board Meeting of the  
Southwestern Water Conservation District  
will be held on

**Thursday, January 25, 2024**  
**12:00 p.m.**

Video: [Click here to join Zoom](#)  
Phone Number: (346) 248 7799  
Meeting ID: 813 5451 4316  
Passcode: 316817

Posted and Noticed Wednesday, January 24, 2024

---

**Tentative Agenda**

*In adherence with state and local health recommendations, participation in this meeting is available via Zoom only using the connection information above.*

*Please text 307-630-1396 if you have difficulty joining the meeting. Please raise your hand to be recognized by the chair. To raise your hand by phone, dial\*9. To raise your hand by computer, please use Alt+Y (Windows) or Option+Y (Mac). To mute and unmute by phone, dial \*6.*

*Except the time indicated for when the meeting is scheduled to begin, the times noted for each agenda item are estimates and subject to change. The Board may address and act on agenda items in any order to accommodate the needs of the Board and the audience. Agenda items can also be added during the meeting at the direction of the Board.*

1. **Call to Order - Roll Call (12:00 p.m.)**
2. **Review and Approve Agenda (12:02 p.m.)**
3. **Questions & Comments from the Public (12:03 p.m.)**
4. **State Legislative Update & SWCD Position on Bills (12:05 p.m.)**
5. **Upcoming Meetings and Announcements (12:35 p.m.)**
  - 5.1 February 14-15<sup>th</sup> Board Meeting – Accommodations/Special Requests?
  - 5.1 February 29<sup>th</sup> Special Board Meeting
6. **Adjournment (12:45 p.m.)**

## 2024 General Assembly – SWCD Tracking Sheet

HOUSE BILLS						
<u>Bill No.</u>	<u>Title</u>	<u>Status</u>	<u>Comments</u>	<u>SWCD</u>	<u>CRWCD</u>	<u>CWC</u>
HB24-1029	Prohibit Foreign Ownership Agriculture & Natural Resources					Oppose
HB24-1073	Independent Ethics Commission's Jurisdiction	Introduced	Does not apply to SWCD (?)			Tabled until 1/29/24
SENATE BILLS						
<u>Bill No.</u>	<u>Title</u>	<u>Status</u>	<u>Comments</u>	<u>SWCD</u>	<u>CRWCD</u>	<u>CWC</u>
SB24-005	Prohibit Landscaping Practices for Water Conservation	S. Ag 1/25				Support
SB24-026	Agriculture & Natural Resources Public Engagement Requirement	Passed S. Ag				Monitor
SB24-028	Study Biochar in Wildfire Mitigation Efforts	S. Ag 1/25				Support
SB24-037	Study Green Infrastructure for Water Quality Management	Introduced				Monitor
SB24-038	Authorize Conservancy District Water Management		The intent of this bill is to support the needs of the Costilla Conservancy District. There is some confusion on whether this would impact water conservancy districts. Senator Simpson is open to suggestions.			Tabled until 1/29/24
SJR24-004	Approval of Water Project Revolving Fund Eligibility Lists Administered by the Colorado Water Resources and Power Development Authority.	S. Ag. 1/25				Support
Other Matters						
WOTUS	Legislative Options for Addressing the Sackett v. EPA Decision	Discussion	See the attached document. Expect legislation to be introduced this session.			

<b>SWCD</b> <b>Bill Tracking List</b> <i>January 24, 2024</i>						
Bill #	Comments	Position	Calendar Notification	Short Title	Sponsors	Most Recent Status
<a href="#">HB24-1007</a>			Tuesday, January 30 2024 Transportation, Housing & Local Government Upon Adjournment Room LSB-A (1) in house calendar.	Prohibit Residential Occupancy Limits	M. Rutinel   J. Mabrey (D) / T. Exum (D)   J. Gonzales (D)	1/10/2024 Introduced In House - Assigned to Transportation, Housing & Local Government
<a href="#">HB24-1024</a>			NOT ON CALENDAR	Extend Outreach Campaigns Wildfire Risk Mitigation	T. Story (D)   E. Velasco (D) / L. Cutter (D)	1/22/2024 House Committee on Agriculture, Water & Natural Resources Refer Unamended to Appropriations
<a href="#">HB24-1073</a>			Tuesday, February 6 2024 Transportation, Housing & Local Government Upon Adjournment Room LSB-A (1) in house calendar.	Independent Ethics Commission Jurisdiction	T. Story (D)   J. Parenti (D) / J. Marchman (D)   J. Gonzales (D)	1/10/2024 Introduced In House - Assigned to Transportation, Housing & Local Government
<a href="#">HB24-1091</a>			Wednesday, January 31 2024 Transportation, Housing & Local Government 1:30 p.m. Room LSB-A (4) in house calendar.	Fire-Hardened Building Materials in Real Property	K. Brown (D)   B. Titone (D) / L. Cutter (D)   S. Jaquez Lewis (D)	1/22/2024 Introduced In House - Assigned to Transportation, Housing & Local Government
<a href="#">SB24-005</a>			Thursday, January 25 2024 SENATE AGRICULTURE & NATURAL RESOURCES COMMITTEE 1:30 PM SCR 352 (5) in senate calendar.	Prohibit Landscaping Practices for Water Conservation	D. Roberts (D)   C. Simpson (R) / K. McCormick (D)   B. McLachlan (D)	1/10/2024 Introduced In Senate - Assigned to Agriculture & Natural Resources
<a href="#">SB24-026</a>			NOT ON CALENDAR	Agriculture & Natural Resources Public Engagement Requirement	D. Roberts (D)   P. Will (R) / B. McLachlan (D)   M. Catlin (R)	1/18/2024 Senate Committee on Agriculture & Natural Resources Refer Amended to Appropriations

<a href="#">SB24-031</a>			Thursday, January 25 2024 SENATE AGRICULTURE & NATURAL RESOURCES COMMITTEE 1:30 PM SCR 352 (4) in senate calendar.	Local Authority Enforce Violation of Noxious Weed Act	D. Roberts (D) / M. Lukens (D)   B. McLachlan (D)	1/10/2024 Introduced In Senate - Assigned to Agriculture & Natural Resources
<a href="#">SB24-037</a>			NOT ON CALENDAR	Study Green Infrastructure for Water Quality Management	C. Simpson (R)   J. Bridges (D) / M. Lynch (R)   K. McCormick (D)	1/10/2024 Introduced In Senate - Assigned to Agriculture & Natural Resources
<a href="#">SB24-038</a>			NOT ON CALENDAR	Authorize Conservancy District Water Management	J. Bridges (D)   C. Simpson (R) / M. Martinez (D)   K. McCormick (D)	1/10/2024 Introduced In Senate - Assigned to Agriculture & Natural Resources
<a href="#">SJR24-004</a>			Thursday, January 25 2024 SENATE AGRICULTURE & NATURAL RESOURCES COMMITTEE 1:30 PM SCR 352 (1) in senate calendar.	Water Projects Eligibility Lists	D. Roberts (D)   C. Simpson (R) / K. McCormick (D)   M. Catlin (R)	1/17/2024 Introduced In Senate - Assigned to Agriculture & Natural Resources

---

## Southwestern Water Conservation District

---

---

### [HB24-1007](#)

### Prohibit Residential Occupancy Limits

---

**Comment:**

**Position:**

**Calendar**

Tuesday, January 30 2024

**Notification:**

Transportation, Housing & Local Government

Upon Adjournment Room LSB-A

(1) in house calendar.

**Short Title:**

Prohibit Residential Occupancy Limits

**Sponsors:**

M. Rutinel | J. Mabrey (D) / T. Exum (D) | J. Gonzales (D)

**Summary:**

The bill prohibits local governments from enacting or enforcing residential occupancy limits unless those limits are tied to a minimum square footage per person requirement that is necessary to regulate safety, health, and welfare.

*(Note: This summary applies to this bill as introduced.)*

**Status:**

1/10/2024 Introduced In House - Assigned to Transportation, Housing & Local Government

**Date Introduced:**

2024-01-10

---

### [HB24-1024](#)

### Extend Outreach Campaigns Wildfire Risk Mitigation

---

**Comment:**

**Position:**

**Calendar**

NOT ON CALENDAR

**Notification:**

**Short Title:**

Extend Outreach Campaigns Wildfire Risk Mitigation

**Sponsors:**

T. Story (D) | E. Velasco (D) / L. Cutter (D)

**Summary:**

**Wildfire Matters Review Committee.** The bill requires the Colorado state forest service (forest service) to conduct enhanced wildfire awareness month outreach campaigns (campaigns) through 2027 and other outreach efforts through the 2026-27 state fiscal year that are expected to increase awareness of wildfire risk mitigation by residents in the wildland-urban interface.

For state fiscal year 2024-25, the bill appropriates \$300,000 from the general fund to the healthy forests and vibrant communities fund for use by the forest service for the ongoing campaigns and outreach efforts.

*(Note: This summary applies to this bill as introduced.)*

**Status:** 1/22/2024 House Committee on Agriculture, Water & Natural Resources  
Refer Unamended to Appropriations

**Date Introduced:** 2024-01-10

---

### **HB24-1073**      **Independent Ethics Commission Jurisdiction**

---

**Comment:**

**Position:**

**Calendar** Tuesday, February 6 2024

**Notification:** Transportation, Housing & Local Government  
Upon Adjournment Room LSB-A  
(1) in house calendar.

**Short Title:** Independent Ethics Commission Jurisdiction

**Sponsors:** T. Story (D) | J. Parenti (D) / J. Marchman (D) | J. Gonzales (D)

**Summary:** Under current law, the independent ethics commission created in article XXIX of the state constitution does not have jurisdiction over officials or employees of special districts or school districts. The bill gives the independent ethics commission jurisdiction to hear complaints, issue findings, assess penalties, and issue advisory opinions on ethics issues concerning a special district official or employee or school district official or employee. Existing law establishes ethical standards for a special district official or employee or school district official or employee. The bill incorporates those standards under the independent ethics commission's jurisdiction and expands the standards to include those described in article XXIX of the state constitution.  
*(Note: This summary applies to this bill as introduced.)*

**Status:** 1/10/2024 Introduced In House - Assigned to Transportation, Housing & Local Government

**Date Introduced:** 2024-01-10

---

### **HB24-1091**      **Fire-Hardened Building Materials in Real Property**

---

**Comment:**

**Position:**

**Calendar** Wednesday, January 31 2024

**Notification:** Transportation, Housing & Local Government  
1:30 p.m. Room LSB-A  
(4) in house calendar.

**Short Title:** Fire-Hardened Building Materials in Real Property

**Sponsors:** K. Brown (D) | B. Titone (D) / L. Cutter (D) | S. Jaquez Lewis (D)

**Summary:** The bill generally prohibits covenants and other restrictions that disallow the installation, use, or maintenance of fire-hardened building materials in residential real property, including in common interest communities. However, the bill allows a unit owners' association of a

common interest community to develop reasonable standards regarding the design, dimensions, placement, or external appearance of fire-hardened building materials used for fencing within the community.

*(Note: This summary applies to this bill as introduced.)*

**Status:** 1/22/2024 Introduced In House - Assigned to Transportation, Housing & Local Government

**Date Introduced:** 2024-01-22

---

## **SB24-005 Prohibit Landscaping Practices for Water Conservation**

---

**Comment:**

**Position:**

**Calendar** Thursday, January 25 2024

**Notification:** SENATE AGRICULTURE & NATURAL RESOURCES COMMITTEE

1:30 PM SCR 352  
(5) in senate calendar.

**Short Title:** Prohibit Landscaping Practices for Water Conservation

**Sponsors:** D. Roberts (D) | C. Simpson (R) / K. McCormick (D) | B. McLachlan (D)

**Summary:** **Water Resources and Agriculture Review Committee.** On and after January 1, 2025, the bill prohibits local governments and unit owners' associations of common interest communities from allowing the installation, planting, or placement of nonfunctional turf, artificial turf, or invasive plant species on commercial, institutional, or industrial property or a transportation corridor. The bill also prohibits the department of personnel from allowing the installation, planting, or placement of nonfunctional turf, artificial turf, or invasive plant species as part of a project for the construction or renovation of a state facility, which project commences on or after January 1, 2025.

*(Note: This summary applies to this bill as introduced.)*

**Status:** 1/10/2024 Introduced In Senate - Assigned to Agriculture & Natural Resources

**Date Introduced:** 2024-01-10

---

## **SB24-026 Agriculture & Natural Resources Public Engagement Requirement**

---

**Comment:**

**Position:**

**Calendar** NOT ON CALENDAR

**Notification:**

**Short Title:** Agriculture & Natural Resources Public Engagement Requirement

**Sponsors:** D. Roberts (D) | P. Will (R) / B. McLachlan (D) | M. Catlin (R)

**Summary:** **Water Resources and Agriculture Review Committee.** Prior to the consolidation of the division of wildlife and the division of parks and recreation and their respective commissions in Senate Bill 11-208, enacted in 2011, members of the wildlife commission were required to hold at least 2 public meetings per year in their respective geographic districts.

The bill renews the public engagement requirement for the members of the parks and wildlife commission in the department of natural resources who are appointed by the governor and adds the same public engagement requirement for members of the state agricultural commission and the Colorado water conservation board who are appointed by the governor. The bill requires the public engagement meetings be held in person.

Commission and board members subject to the public engagement requirement are entitled to reimbursement for their reasonable costs in holding public meetings. Status updates on the commission and board members' compliance with the public engagement requirement must be reported to the chair of each member's respective commission or board and included in each member's respective executive department's annual "SMART Act" presentation to the general assembly.

*(Note: This summary applies to this bill as introduced.)*

**Status:** 1/18/2024 Senate Committee on Agriculture & Natural Resources Refer Amended to Appropriations

**Date Introduced:** 2024-01-10

---

**[SB24-031](#)      **Local Authority Enforce Violation of Noxious Weed Act****

---

**Comment:**

**Position:**

**Calendar** Thursday, January 25 2024

**Notification:** SENATE AGRICULTURE & NATURAL RESOURCES COMMITTEE  
1:30 PM SCR 352  
(4) in senate calendar.

**Short Title:** Local Authority Enforce Violation of Noxious Weed Act

**Sponsors:** D. Roberts (D) / M. Lukens (D) | B. McLachlan (D)

**Summary:** **Water Resources and Agriculture Review Committee.** Current law allows the commissioner of agriculture to assess civil penalties for



violations of state laws related to the prevention of noxious weeds (violations). The bill:

- Clarifies that a board of county commissioners (board) may allow for the assessment and collection of fines for violations of local laws enacted to enforce the management of noxious weeds in the county;
- Creates a civil infraction for violations;
- Creates a civil penalty for violations that is no less than \$500 and no more than \$1,000;
- Allows a county attorney to issue an injunction to prevent an ongoing violation; and
- Allows a board to appoint a district attorney to enforce violations in the event that the county does not have a county attorney or in any other circumstance that the board deems appropriate.  
(Note: This summary applies to this bill as introduced.)

**Status:** 1/10/2024 Introduced In Senate - Assigned to Agriculture & Natural Resources

**Date Introduced:** 2024-01-10

---

### **[SB24-037](#)**

### **Study Green Infrastructure for Water Quality Management**

---

**Comment:**

**Position:**

**Calendar**

NOT ON CALENDAR

**Notification:**

**Short Title:**

Study Green Infrastructure for Water Quality Management

**Sponsors:**

C. Simpson (R) | J. Bridges (D) / M. Lynch (R) | K. McCormick (D)

**Summary:**

**Water Resources and Agriculture Review Committee.** The bill requires the division of administration (division) in the department of public health and environment (department), in collaboration with the university of Colorado's Mortenson center in global engineering and resilience and the Colorado water institute located within Colorado state university, to:

- Conduct a feasibility study of the use of green infrastructure, which refers to nature-based, watershed-scale water quality management solutions that are an alternative to traditional gray infrastructure, which refers to centralized water treatment facilities, and the use of green financing mechanisms for water quality management;

- Establish one or more pilot projects in the state to demonstrate the use of green infrastructure, green financing mechanisms, or both;
- Adopt rules establishing a prepermit baseline date to assist municipalities and other water providers to pursue prepermit solutions for compliance with state and federal water quality standards; and
- Submit a report and present to the water resources and agriculture review committee on the progress of the feasibility study and any pilot projects and on any legislative and administrative recommendations to promote the use of green infrastructure and green financing mechanisms for water quality management in the state.

*(Note: This summary applies to this bill as introduced.)*

**Status:** 1/10/2024 Introduced In Senate - Assigned to Agriculture & Natural Resources

**Date Introduced:** 2024-01-10

### **SB24-038**

### **Authorize Conservancy District Water Management**

**Comment:**

**Position:**

**Calendar** NOT ON CALENDAR

**Notification:**

**Short Title:** Authorize Conservancy District Water Management

**Sponsors:** J. Bridges (D) | C. Simpson (R) / M. Martinez (D) | K. McCormick (D)

**Summary:** **Water Resources and Agriculture Review Committee.** Under current law, when certain conditions exist, a district court may establish conservancy districts for the conservation, development, utilization, and disposal of water for agricultural, municipal, and industrial uses. **Section 1** of the bill allows conservancy districts to conserve, develop, utilize, or dispose of water for commercial uses as well. **Section 2** authorizes the board of directors of a conservancy district to:

- Submit and participate in a plan for augmentation for the benefit of water rights and wells within and outside of the boundaries of the conservancy district;
- Contract with water users within and outside of the conservancy district for the provision of services;
- Exercise certain powers concerning the management, control, delivery, use, and distribution of water in conjunction with a plan for augmentation;

- In conjunction with **sections 4 and 5** , establish a water activity enterprise, which is a government-run business, for the purpose of pursuing or continuing water activities; and
- Sell, lease, or otherwise dispose of the use of water or capacity in works by term contracts or by contracts for the perpetual use of the water or works to certain entities.

**Section 3** authorizes a conservancy district to:

- Enter into long-term contracts with public and private entities for the accomplishment of functions of the conservancy district; and
- Avail itself of aid, assistance, and cooperation from the federal government, the state government, and local governments.

**Sections 4 and 5** allow a conservancy district to establish a water activity enterprise, which is a business that receives less than 10% of its annual revenues in grants from all Colorado state and local governments combined, is authorized to issue its own revenue bonds, and is excluded from the provisions of the "Taxpayer's Bill of Rights" in the state constitution.

*(Note: This summary applies to this bill as introduced.)*

**Status:** 1/10/2024 Introduced In Senate - Assigned to Agriculture & Natural Resources

**Date Introduced:** 2024-01-10

---

## **SJR24-004**      **Water Projects Eligibility Lists**

---

**Comment:**

**Position:**

**Calendar** Thursday, January 25 2024

**Notification:** SENATE AGRICULTURE & NATURAL RESOURCES  
COMMITTEE  
1:30 PM SCR 352  
(1) in senate calendar.

**Short Title:** Water Projects Eligibility Lists

**Sponsors:** D. Roberts (D) | C. Simpson (R) / K. McCormick (D) | M. Catlin (R)

**Summary:** \*\*\* No bill summary available \*\*\*

**Status:** 1/17/2024 Introduced In Senate - Assigned to Agriculture & Natural Resources

**Date Introduced:** 2024-01-17

**Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 24-0597.01 Sarah Lozano x3858

**HOUSE BILL 24-1029**

---

**HOUSE SPONSORSHIP**

**Bradley,**

**SENATE SPONSORSHIP**

**(None),**

---

**House Committees**

State, Civic, Military, & Veterans Affairs

**Senate Committees**

---

**A BILL FOR AN ACT**

101     **CONCERNING PROHIBITING THE OWNERSHIP OF CERTAIN PROPERTY**  
102             **INTERESTS BY COVERED FOREIGN PERSONS THAT ARE NOT**  
103             **LOCATED IN THE UNITED STATES.**

---

**Bill Summary**

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

The bill prohibits, on or after January 1, 2025, a nonresident foreign citizen, foreign entity, or foreign government of the People's Republic of China, the Russian Federation, or any country determined by the United States secretary of state to be a state sponsor of terrorism (covered foreign person) from acquiring a controlling ownership share in agricultural land, mineral rights, or water rights (property interest) in the

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.

state (prohibition). A covered foreign person who acquires a controlling ownership share in a property interest in the state prior to January 1, 2025, may continue to own the property interest but may not acquire a controlling ownership share in any additional property interests in the state.

No later than March 1, 2025, or 60 days after acquiring any ownership in a property interest in the state, whichever is later, a covered foreign person must register with the Colorado secretary of state (registration requirement), who is authorized to promulgate rules to implement the registration requirement.

If the attorney general has reason to believe that a covered foreign person has violated the prohibition or has not complied with the registration requirement, the attorney general must commence a civil action against the covered foreign person in a district court. If a district court finds that the covered foreign person has violated the prohibition, the district court must issue a judgment reverting the property interest to the state. If the district court finds that the covered person has not complied with the registration requirement, the district court must impose a penalty of no more than \$2,000 for each violation.

The prohibition does not apply to a refugee who is a covered foreign person and acquires a controlling ownership share in real property used for the purposes of agriculture with prior approval of the acquisition by the Colorado secretary of state.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 38-30-174 as  
3 follows:

4 **38-30-174. Prohibition on certain foreign ownership of**  
5 **agricultural or natural resource property interests - registration -**  
6 **enforcement - exemption - rules - definitions.** (1) **Definitions.** AS USED  
7 IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

8 (a) "ACQUIRE" OR "ACQUISITION" MEANS TO OBTAIN A PROPERTY  
9 INTEREST BY PURCHASE, GIFT, TRANSFER, ASSIGNMENT, OPTION, BEQUEST,  
10 DEVISE, OR ANY OTHER METHOD.

11 (b) "AGRICULTURAL OR NATURAL RESOURCE PROPERTY INTEREST"  
12 OR "PROPERTY INTEREST" MEANS A PROPERTY INTEREST OR ANY PORTION

1 OF A PROPERTY INTEREST IN ANY:

2 (I) REAL PROPERTY USED FOR THE PURPOSES OF AGRICULTURE;

3 (II) RIGHT TO MINE MINERALS OR EXTRACT OIL AND GAS; OR

4 (III) WATER RIGHT.

5 (c) "AGRICULTURE" HAS THE MEANING SET FORTH IN SECTION

6 35-1-102 (1).

7 (d) (I) "CONTROLLING OWNERSHIP SHARE" MEANS AN OWNERSHIP

8 SHARE OF MORE THAN FIFTY PERCENT.

9 (II) "CONTROLLING OWNERSHIP SHARE" INCLUDES A COMBINED

10 OWNERSHIP SHARE OF MORE THAN ONE COVERED FOREIGN PERSON FROM

11 THE SAME COVERED FOREIGN COUNTRY THAT AMOUNTS TO AN OWNERSHIP

12 SHARE OF MORE THAN FIFTY PERCENT.

13 (e) "COVERED FOREIGN COUNTRY" MEANS THE PEOPLE'S REPUBLIC

14 OF CHINA, THE RUSSIAN FEDERATION, OR ANY COUNTRY THAT IS ON THE

15 LIST OF STATE SPONSORS OF TERRORISM.

16 (f) "COVERED FOREIGN ENTITY" MEANS ANY ENTITY:

17 (I) FORMED UNDER THE LAWS OF A COVERED FOREIGN COUNTRY;

18 OR

19 (II) WITH A CONTROLLING OWNERSHIP SHARE OWNED BY:

20 (A) ONE OR MORE COVERED NONRESIDENT FOREIGN PERSONS; OR

21 (B) ONE OR MORE ENTITIES FORMED UNDER THE LAWS OF A

22 COVERED FOREIGN COUNTRY.

23 (g) "COVERED FOREIGN GOVERNMENT" MEANS A GOVERNMENT OF

24 A COVERED FOREIGN COUNTRY.

25 (h) "COVERED FOREIGN PERSON" MEANS A:

26 (I) COVERED NONRESIDENT FOREIGN PERSON;

27 (II) COVERED FOREIGN ENTITY; OR

1 (III) COVERED FOREIGN GOVERNMENT.

2 (i) "COVERED NONRESIDENT FOREIGN PERSON" MEANS ANY  
3 PERSON WHO IS:

4 (I) A CITIZEN OF A COVERED FOREIGN COUNTRY; AND

5 (II) NOT DOMICILED IN THE UNITED STATES.

6 (j) "LIST OF STATE SPONSORS OF TERRORISM" MEANS THE LIST OF  
7 COUNTRIES THAT HAVE BEEN DETERMINED BY THE UNITED STATES  
8 SECRETARY OF STATE TO BE STATE SPONSORS OF TERRORISM PURSUANT TO  
9 THE "JOHN S. MCCAIN NATIONAL DEFENSE AUTHORIZATION ACT FOR  
10 FISCAL YEAR 2019", 50 U.S.C. SEC. 4813 (c); THE "ARMS EXPORT  
11 CONTROL ACT", 22 U.S.C. SEC. 2780; AND THE "FOREIGN ASSISTANCE  
12 ACT OF 1961", U.S.C. SEC. 2371.

13 (k) "WATER RIGHT" HAS THE MEANING SET FORTH IN SECTION  
14 37-92-103 (12).

15 (2) **Prohibition.** (a) EXCEPT AS DESCRIBED IN SUBSECTION (2)(b)  
16 OF THIS SECTION, ON OR AFTER JANUARY 1, 2025, A COVERED FOREIGN  
17 PERSON SHALL NOT ACQUIRE A CONTROLLING OWNERSHIP SHARE IN AN  
18 AGRICULTURAL OR NATURAL RESOURCE PROPERTY INTEREST IN THE  
19 STATE.

20 (b) (I) A COVERED FOREIGN PERSON THAT ACQUIRES A  
21 CONTROLLING OWNERSHIP SHARE IN AN AGRICULTURAL OR NATURAL  
22 RESOURCE PROPERTY INTEREST IN THE STATE PRIOR TO JANUARY 1, 2025,  
23 MAY CONTINUE TO OWN THE PROPERTY INTEREST BUT SHALL NOT ACQUIRE  
24 A CONTROLLING OWNERSHIP SHARE IN ANY ADDITIONAL PROPERTY  
25 INTERESTS IN THE STATE ON OR AFTER JANUARY 1, 2025.

26 (II) THE PROHIBITION DESCRIBED IN SUBSECTION (2)(a) OF THIS  
27 SECTION DOES NOT APPLY TO THE FOLLOWING:

1           (A) AN AGRICULTURAL OR NATURAL RESOURCE PROPERTY  
2 INTEREST ACQUIRED BY DEVISE OR DESCENT;

3           (B) AN AGRICULTURAL OR NATURAL RESOURCE PROPERTY  
4 INTEREST ACQUIRED BY ANY PROCEDURE FOR THE ENFORCEMENT OF A  
5 LIEN OR ENCUMBRANCE ON THE PROPERTY INTEREST, WHETHER CREATED  
6 BY MORTGAGE OR OTHERWISE; OR

7           (C) A LIEN OR ENCUMBRANCE ON AN AGRICULTURAL OR NATURAL  
8 RESOURCE PROPERTY INTEREST TAKEN AS A SECURITY INTEREST.

9           (III) IF A COVERED FOREIGN PERSON ACQUIRES A CONTROLLING  
10 OWNERSHIP SHARE IN AN AGRICULTURAL OR NATURAL RESOURCE  
11 PROPERTY INTEREST IN THE STATE AS DESCRIBED IN SUBSECTION  
12 (2)(b)(II)(A) OR (2)(b)(II)(B) OF THIS SECTION ON OR AFTER JANUARY 1,  
13 2025, THE COVERED FOREIGN PERSON SHALL SELL OR OTHERWISE DISPOSE  
14 OF THE PROPERTY INTEREST, SO THAT THE COVERED FOREIGN PERSON IS NO  
15 LONGER A CONTROLLING OWNER OF THE PROPERTY INTEREST, NO LATER  
16 THAN TWO YEARS AFTER ACQUIRING THE PROPERTY INTEREST.

17           (IV) IF A PERSON ACQUIRES A CONTROLLING OWNERSHIP SHARE IN  
18 AN AGRICULTURAL OR NATURAL RESOURCE PROPERTY INTEREST IN THE  
19 STATE ON OR AFTER JANUARY 1, 2025, AND LATER BECOMES A COVERED  
20 FOREIGN PERSON, THE COVERED FOREIGN PERSON SHALL SELL OR  
21 OTHERWISE DISPOSE OF THE PROPERTY INTEREST, SO THAT THE COVERED  
22 FOREIGN PERSON IS NO LONGER A CONTROLLING OWNER OF THE PROPERTY  
23 INTEREST, NO LATER THAN TWO YEARS AFTER THE COVERED FOREIGN  
24 PERSON'S CHANGE IN STATUS. IF A PERSON BECOMES A COVERED FOREIGN  
25 PERSON ON OR AFTER JANUARY 1, 2025, BECAUSE THE UNITED STATES  
26 SECRETARY OF STATE HAS ADDED A NEW COUNTRY TO THE LIST OF STATE  
27 SPONSORS OF TERRORISM, THE COVERED FOREIGN PERSON'S CHANGE IN



1 STATUS OCCURS ON THE EFFECTIVE DATE OF THE UNITED STATES  
2 SECRETARY OF STATE'S ADDITION OF THE COUNTRY TO THE LIST.

3 (3) **Registration - rules.** (a) NO LATER THAN MARCH 1, 2025, OR  
4 SIXTY DAYS AFTER ACQUIRING ANY OWNERSHIP IN AN AGRICULTURAL OR  
5 NATURAL RESOURCE PROPERTY INTEREST IN THE STATE, WHICHEVER IS  
6 LATER, A COVERED FOREIGN PERSON THAT OWNS AN OWNERSHIP SHARE IN  
7 AN AGRICULTURAL OR NATURAL RESOURCE PROPERTY INTEREST SHALL  
8 REGISTER WITH THE SECRETARY OF STATE. THE REGISTRATION MUST BE IN  
9 THE FORM AND MANNER PRESCRIBED BY THE SECRETARY OF STATE.

10 (b) THE SECRETARY OF STATE MAY PROMULGATE RULES AS  
11 NECESSARY FOR THE IMPLEMENTATION OF SUBSECTION (3)(a) OF THIS  
12 SECTION.

13 (4) **Enforcement.** (a) IF THE ATTORNEY GENERAL HAS REASON TO  
14 BELIEVE THAT A VIOLATION OF SUBSECTION (2) OR (3)(a) OF THIS SECTION  
15 HAS OCCURRED, THE ATTORNEY GENERAL SHALL COMMENCE A CIVIL  
16 ACTION AGAINST THE COVERED FOREIGN PERSON IN THE DISTRICT COURT  
17 WHERE:

18 (I) ANY PORTION OF THE APPLICABLE AGRICULTURAL OR NATURAL  
19 RESOURCE PROPERTY INTEREST IS LOCATED; OR

20 (II) THE COMPLAINANT, IF ANY, RESIDES.

21 (b) (I) IF A DISTRICT COURT FINDS THAT THE APPLICABLE  
22 AGRICULTURAL OR NATURAL RESOURCE PROPERTY INTEREST WAS  
23 ACQUIRED IN VIOLATION OF SUBSECTION (2)(a) OF THIS SECTION, THE  
24 PROPERTY INTEREST, IN ITS ENTIRETY, REVERTS TO THE STATE UPON THE  
25 EFFECTIVE DATE OF THE DISTRICT COURT'S FINDING, AND THE DISTRICT  
26 COURT SHALL:

27 (A) ISSUE A JUDGMENT STATING THAT THE PROPERTY INTEREST IS

1 REVERTED TO THE STATE; AND

2 (B) PROMPTLY SEND A COPY OF THE JUDGMENT TO THE STATE  
3 TREASURER.

4 (II) THE STATE TREASURER SHALL SELL ANY PROPERTY INTEREST  
5 REVERTED TO THE STATE PURSUANT TO THIS SUBSECTION (4)(b) IN  
6 ACCORDANCE WITH SECTION 38-13-701.

7 (III) (A) THE STATE TREASURER SHALL, WHERE PERMITTED BY  
8 APPLICABLE LAW, PAY THE PROCEEDS OF THE SALE DESCRIBED IN  
9 SUBSECTION (4)(b)(II) OF THIS SECTION TO THE COVERED FOREIGN PERSON  
10 DIVESTED OF THE PROPERTY INTEREST AFTER, FIRST, DEDUCTING ANY  
11 REASONABLE COSTS INCURRED BY THE STATE TO LITIGATE THE CIVIL  
12 ACTION AND CONDUCT THE SALE AND, SECOND, DEDUCTING THE COSTS  
13 INCURRED BY THE STATE TO PAY ANY UNPAID LIENS OR ENCUMBRANCES  
14 ASSOCIATED WITH THE PROPERTY INTEREST.

15 (B) THE STATE TREASURER SHALL TRANSMIT ANY REMAINING  
16 PROCEEDS OF THE SALE TO THE COUNTY TREASURER OF THE COUNTY  
17 WHERE THE APPLICABLE PROPERTY INTEREST IS LOCATED. IF THE  
18 PROPERTY INTEREST IS LOCATED IN MORE THAN ONE COUNTY, THE STATE  
19 TREASURER SHALL TRANSMIT THE REMAINING PROCEEDS TO THE  
20 APPLICABLE COUNTY TREASURERS IN PROPORTION TO THE PORTION OF THE  
21 PROPERTY INTEREST LOCATED IN EACH COUNTY.

22 (c) (I) IF A DISTRICT COURT FINDS THAT A COVERED FOREIGN  
23 PERSON FAILED TO REGISTER WITH THE SECRETARY OF STATE IN  
24 ACCORDANCE WITH SUBSECTION (3)(a) OF THIS SECTION, THE DISTRICT  
25 COURT SHALL IMPOSE A PENALTY OF NO MORE THAN TWO THOUSAND  
26 DOLLARS FOR EACH VIOLATION.

27 (II) THE DISTRICT COURT SHALL TRANSMIT ALL PENALTIES

1 COLLECTED UNDER THIS SECTION TO THE STATE TREASURER, WHO SHALL  
2 CREDIT THE MONEY TO THE GENERAL FUND.

3 (5) **Exemption for refugees for real property used for**  
4 **agriculture.** NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, A  
5 REFUGEE WHO IS A COVERED FOREIGN PERSON MAY ACQUIRE A  
6 CONTROLLING OWNERSHIP SHARE IN REAL PROPERTY USED FOR THE  
7 PURPOSES OF AGRICULTURE WITH PRIOR APPROVAL OF THE ACQUISITION  
8 BY THE SECRETARY OF STATE.

9 **SECTION 2. Act subject to petition - effective date.** This act  
10 takes effect at 12:01 a.m. on the day following the expiration of the  
11 ninety-day period after final adjournment of the general assembly; except  
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
13 of the state constitution against this act or an item, section, or part of this  
14 act within such period, then the act, item, section, or part will not take  
15 effect unless approved by the people at the general election to be held in  
16 November 2024 and, in such case, will take effect on the date of the  
17 official declaration of the vote thereon by the governor.

**Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 24-0325.01 Jed Franklin x5484

**HOUSE BILL 24-1073**

---

**HOUSE SPONSORSHIP**

**Story and Parenti,**

**SENATE SPONSORSHIP**

**Marchman and Gonzales,**

---

**House Committees**

Transportation, Housing & Local Government

**Senate Committees**

---

**A BILL FOR AN ACT**

101      **CONCERNING THE SCOPE OF THE INDEPENDENT ETHICS COMMISSION'S**  
102              **JURISDICTION OVER ETHICS COMPLAINTS AGAINST LOCAL**  
103              **GOVERNMENTS, AND, IN CONNECTION THEREWITH, EXPANDING**  
104              **THE INDEPENDENT ETHICS COMMISSION'S JURISDICTION TO**  
105              **INCLUDE SCHOOL DISTRICTS AND SPECIAL DISTRICTS.**

---

**Bill Summary**

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

Under current law, the independent ethics commission created in article XXIX of the state constitution does not have jurisdiction over

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.

officials or employees of special districts or school districts. The bill gives the independent ethics commission jurisdiction to hear complaints, issue findings, assess penalties, and issue advisory opinions on ethics issues concerning a special district official or employee or school district official or employee. Existing law establishes ethical standards for a special district official or employee or school district official or employee. The bill incorporates those standards under the independent ethics commission's jurisdiction and expands the standards to include those described in article XXIX of the state constitution.

---

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

2             **SECTION 1.** In Colorado Revised Statutes, 24-18.5-101, **add**  
3     (4.5) as follows:

4             **24-18.5-101. Independent ethics commission - establishment**  
5     **- membership - subpoena power - definitions.** (4.5) (a) AS USED IN  
6     THIS SUBSECTION (4.5), UNLESS THE CONTEXT OTHERWISE REQUIRES:

7             (I) "ANY OTHER STANDARDS OF CONDUCT AND REPORTING  
8     REQUIREMENTS AS PROVIDED BY LAW" HAS THE SAME MEANING AS USED  
9     IN SECTION 5 OF ARTICLE XXIX OF THE STATE CONSTITUTION.

10            (II) "SCHOOL DISTRICT" HAS THE SAME MEANING AS SET FORTH IN  
11     SECTION 22-30-103 (13).

12            (III) "SCHOOL DISTRICT EMPLOYEE" MEANS A TEMPORARY OR  
13     PERMANENT EMPLOYEE OF ANY SCHOOL DISTRICT WHO IS APPOINTED OR  
14     HIRED BY, DIRECTLY REPORTS TO, AND IS SUBJECT TO THE DIRECTION OF  
15     THE SCHOOL DISTRICT'S BOARD.

16            (IV) "SCHOOL DISTRICT OFFICIAL" MEANS A MEMBER OF A SCHOOL  
17     DISTRICT'S BOARD.

18            (V) "SPECIAL DISTRICT" MEANS ANY QUASI-MUNICIPAL  
19     CORPORATION AND POLITICAL SUBDIVISION ORGANIZED OR ACTING  
20     PURSUANT TO THE PROVISIONS OF TITLE 32 AND DOES NOT INCLUDE ANY

1 ENTITY ORGANIZED OR ACTING PURSUANT TO THE PROVISIONS OF ARTICLE  
2 8 OF TITLE 29, ARTICLE 20 OF TITLE 30, ARTICLE 25 OF TITLE 31, OR  
3 ARTICLES 41 TO 50 OF TITLE 37.

4 (VI) "SPECIAL DISTRICT EMPLOYEE" MEANS A TEMPORARY OR  
5 PERMANENT EMPLOYEE OF ANY SPECIAL DISTRICT WHO IS APPOINTED OR  
6 HIRED BY, DIRECTLY REPORTS TO, AND IS SUBJECT TO THE DIRECTION OF  
7 THE SPECIAL DISTRICT'S BOARD.

8 (VII) "SPECIAL DISTRICT OFFICIAL" MEANS A MEMBER OF A  
9 SPECIAL DISTRICT'S BOARD.

10 (b) SPECIAL DISTRICT OFFICIALS, SPECIAL DISTRICT EMPLOYEES,  
11 SCHOOL DISTRICT OFFICIALS, AND SCHOOL DISTRICT EMPLOYEES ARE  
12 SUBJECT TO THE PROVISIONS OF ARTICLE XXIX OF THE STATE  
13 CONSTITUTION AND TO ANY OTHER STANDARDS OF CONDUCT AND  
14 REPORTING REQUIREMENTS AS PROVIDED BY LAW.

15 (c) IN ADDITION TO ANY OF ITS OTHER POWERS AND DUTIES AS  
16 PROVIDED BY LAW, THE COMMISSION MAY:

17 (I) HEAR COMPLAINTS, ISSUE FINDINGS, AND ASSESS PENALTIES ON  
18 ETHICS ISSUES ARISING UNDER ARTICLE XXIX OF THE STATE  
19 CONSTITUTION AND OTHER STANDARDS OF CONDUCT AND REPORTING  
20 REQUIREMENTS AS PROVIDED BY LAW INVOLVING SPECIAL DISTRICT  
21 OFFICIALS, SPECIAL DISTRICT EMPLOYEES, SCHOOL DISTRICT OFFICIALS, OR  
22 SCHOOL DISTRICT EMPLOYEES; AND

23 (II) ISSUE ADVISORY OPINIONS AND LETTER RULINGS ON ETHICS  
24 ISSUES ARISING UNDER ARTICLE XXIX OF THE STATE CONSTITUTION AND  
25 OTHER STANDARDS OF CONDUCT AND REPORTING REQUIREMENTS AS  
26 PROVIDED BY LAW INVOLVING SPECIAL DISTRICT OFFICIALS, SPECIAL  
27 DISTRICT EMPLOYEES, SCHOOL DISTRICT OFFICIALS, OR SCHOOL DISTRICT

1 EMPLOYEES.

2           **SECTION 2. Act subject to petition - effective date.** This act  
3 takes effect at 12:01 a.m. on the day following the expiration of the  
4 ninety-day period after final adjournment of the general assembly; except  
5 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
6 of the state constitution against this act or an item, section, or part of this  
7 act within such period, then the act, item, section, or part will not take  
8 effect unless approved by the people at the general election to be held in  
9 November 2024 and, in such case, will take effect on the date of the  
10 official declaration of the vote thereon by the governor.

**Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 24-0362.02 Sarah Lozano x3858

**SENATE BILL 24-005**

---

**SENATE SPONSORSHIP**

**Roberts and Simpson,** Bridges, Hinrichsen

**HOUSE SPONSORSHIP**

**McCormick and McLachlan,**

---

**Senate Committees**

Agriculture & Natural Resources

**House Committees**

---

**A BILL FOR AN ACT**

101     **CONCERNING THE CONSERVATION OF WATER IN THE STATE THROUGH**  
102     **THE PROHIBITION OF CERTAIN LANDSCAPING PRACTICES.**

---

**Bill Summary**

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

**Water Resources and Agriculture Review Committee.** On and after January 1, 2025, the bill prohibits local governments and unit owners' associations of common interest communities from allowing the installation, planting, or placement of nonfunctional turf, artificial turf, or invasive plant species on commercial, institutional, or industrial property or a transportation corridor. The bill also prohibits the

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.



department of personnel from allowing the installation, planting, or placement of nonfunctional turf, artificial turf, or invasive plant species as part of a project for the construction or renovation of a state facility, which project commences on or after January 1, 2025.

---

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

2             **SECTION 1.** In Colorado Revised Statutes, **add** article 99 to title  
3     37 as follows:

4                             **ARTICLE 99**

5                             **Prohibition of Nonfunctional Turf,**  
6                             **Artificial Turf, and Invasive Plant Species**

7             **37-99-101. Legislative declaration.** (1) THE GENERAL ASSEMBLY  
8     HEREBY FINDS THAT:

9             (a) AS COLORADO CONTINUES TO GRAPPLE WITH THE IMPACTS OF  
10     CLIMATE CHANGE, GREEN URBAN SPACES, SUCH AS URBAN TREE CANOPIES,  
11     ARE A VITAL ADAPTATION TOOL FOR MITIGATING THE IMPACTS OF CLIMATE  
12     CHANGE, ESPECIALLY FOR MITIGATING THE URBAN HEAT ISLAND EFFECT,  
13     WHICH CAN INCREASE ENERGY COSTS, AIR POLLUTION, AND HEAT-RELATED  
14     ILLNESSES AND DEATHS;

15            (b) HOWEVER, WATER SUPPLY IN THE WESTERN UNITED STATES IS  
16     UNDER INCREASING PRESSURE DUE TO CLIMATE CHANGE AND INCREASING  
17     DEMAND;

18            (c) MANY COMMUNITIES IN THE STATE OVERUSE NONNATIVE  
19     GRASS FOR LANDSCAPING PURPOSES, WHICH REQUIRES LARGE AMOUNTS  
20     OF WATER TO MAINTAIN;

21            (d) WHILE THERE ARE APPROPRIATE AND IMPORTANT USES FOR  
22     TURF, INCLUDING FOR CIVIC, COMMUNITY, OR RECREATIONAL PURPOSES  
23     SUCH AS USE IN PARKS, SPORTS FIELDS, AND PLAYGROUNDS, MUCH OF THE

1 TURF IN THE STATE IS NONFUNCTIONAL, LOCATED IN AREAS THAT RECEIVE  
2 LITTLE, IF ANY, USE, AND COULD BE REPLACED WITH WATER-WISE  
3 LANDSCAPING WITHOUT ADVERSELY IMPACTING QUALITY OF LIFE OR  
4 LANDSCAPE FUNCTIONALITY;

5 (e) PROHIBITING THE INSTALLATION, PLANTING, OR PLACEMENT OF  
6 NONFUNCTIONAL TURF IN COMMERCIAL, INSTITUTIONAL, OR INDUSTRIAL  
7 PROPERTY OR A TRANSPORTATION CORRIDOR IN THE STATE CAN HELP  
8 CONSERVE THE STATE'S WATER RESOURCES; AND

9 (f) ADDITIONALLY, ARTIFICIAL TURF CAN CAUSE NEGATIVE  
10 ENVIRONMENTAL IMPACTS, SUCH AS EXACERBATING HEAT ISLAND EFFECTS  
11 IN URBAN AREAS AND RELEASING HARMFUL CHEMICALS INTO THE  
12 ENVIRONMENT AND WATERSHEDS.

13 (2) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT  
14 PREVENTING THE INSTALLATION, PLANTING, OR PLACEMENT OF  
15 NONFUNCTIONAL TURF, ARTIFICIAL TURF, AND INVASIVE PLANT SPECIES IN  
16 COMMERCIAL, INSTITUTIONAL, OR INDUSTRIAL PROPERTY OR A  
17 TRANSPORTATION CORRIDOR IS:

18 (a) A MATTER OF STATEWIDE CONCERN; AND

19 (b) IN THE PUBLIC INTEREST.

20 **37-99-102. Definitions.** AS USED IN THIS ARTICLE 99, UNLESS THE  
21 CONTEXT OTHERWISE REQUIRES:

22 (1) "ARTIFICIAL TURF" MEANS AN INSTALLATION OF SYNTHETIC  
23 MATERIALS DEVELOPED TO RESEMBLE NATURAL GRASS.

24 (2) "COMMERCIAL, INSTITUTIONAL, OR INDUSTRIAL" HAS THE  
25 MEANING SET FORTH IN SECTION 37-60-135 (2)(b).

26 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF PERSONNEL  
27 CREATED IN SECTION 24-1-128 (1).

1           (4) "INVASIVE PLANT SPECIES" HAS THE MEANING SET FORTH IN  
2 SECTION 37-60-135 (2)(e).

3           (5) "LOCAL ENTITY" MEANS A:

4           (a) HOME RULE OR STATUTORY CITY, COUNTY, CITY AND COUNTY,  
5 TERRITORIAL CHARTER CITY, OR TOWN;

6           (b) SPECIAL DISTRICT; AND

7           (c) UNIT OWNERS' ASSOCIATION.

8           (6) "MAINTAIN" OR "MAINTAINING" MEANS AN ACTION TO  
9 PRESERVE THE EXISTING STATE OF NONFUNCTIONAL TURF, ARTIFICIAL  
10 TURF, OR INVASIVE PLANT SPECIES THAT HAS ALREADY BEEN INSTALLED,  
11 PLANTED, OR PLACED.

12           (7) (a) "NONFUNCTIONAL TURF" MEANS TURF THAT IS:

13           (I) PREDOMINANTLY ORNAMENTAL; AND

14           (II) LOCATED IN AN AREA ON, OR ADJACENT TO, A STREET,  
15 SIDEWALK, DRIVEWAY, PARKING LOT, FRONTAGE AREA, OR MEDIAN THAT  
16 IS NOT REGULARLY USED FOR CIVIC, COMMUNITY, OR RECREATIONAL  
17 PURPOSES.

18           (b) "NONFUNCTIONAL TURF" DOES NOT INCLUDE TURF THAT IS  
19 LOCATED IN A PARK, SPORTS FIELD, OR PLAYGROUND.

20           (8) "SPECIAL DISTRICT" HAS THE MEANING SET FORTH IN SECTION  
21 32-1-103 (20).

22           (9) "TURF" HAS THE MEANING SET FORTH IN SECTION 37-60-135  
23 (2)(i).

24           (10) "UNIT OWNERS' ASSOCIATION" HAS THE MEANING SET FORTH  
25 IN SECTION 38-33.3-103 (3).

26           **37-99-103. Prohibition of nonfunctional turf, artificial turf,**  
27 **and invasive plant species - local entities - construction or renovation**

1 **of state facilities.** (1) ON AND AFTER JANUARY 1, 2025, A LOCAL ENTITY  
2 SHALL NOT INSTALL, PLANT, OR PLACE, OR ALLOW ANY PERSON TO  
3 INSTALL, PLANT, OR PLACE, ANY NONFUNCTIONAL TURF, ARTIFICIAL TURF,  
4 OR INVASIVE PLANT SPECIES ON ANY PORTION OF A COMMERCIAL,  
5 INSTITUTIONAL, OR INDUSTRIAL PROPERTY OR A TRANSPORTATION  
6 CORRIDOR WITHIN THE LOCAL ENTITY'S JURISDICTION.

7 (2) THE DEPARTMENT SHALL NOT INSTALL, PLANT, OR PLACE, OR  
8 ALLOW ANY PERSON TO INSTALL, PLANT, OR PLACE, ANY NONFUNCTIONAL  
9 TURF, ARTIFICIAL TURF, OR INVASIVE PLANT SPECIES AS PART OF A PROJECT  
10 FOR THE CONSTRUCTION OR RENOVATION OF A STATE FACILITY, WHICH  
11 PROJECT COMMENCES ON OR AFTER JANUARY 1, 2025.

12 (3) NOTHING IN THIS SECTION PROHIBITS A LOCAL ENTITY OR THE  
13 DEPARTMENT FROM:

14 (a) MAINTAINING, OR ALLOWING ANY PERSON TO MAINTAIN, ANY  
15 NONFUNCTIONAL TURF, ARTIFICIAL TURF, OR INVASIVE PLANT SPECIES  
16 INSTALLED, PLANTED, OR PLACED BEFORE JANUARY 1, 2025; OR

17 (b) INSTALLING, OR ALLOWING ANY PERSON TO INSTALL,  
18 ARTIFICIAL TURF ON ATHLETIC FIELDS OF PLAY.

19 **SECTION 2.** In Colorado Revised Statutes, 38-33.3-106.5, **add**  
20 (3) as follows:

21 **38-33.3-106.5. Prohibitions contrary to public policy -**  
22 **patriotic, political, or religious expression - public rights-of-way - fire**  
23 **prevention - renewable energy generation devices - affordable**  
24 **housing - drought prevention measures - child care - definitions.**

25 (3) NOTWITHSTANDING SUBSECTIONS (1)(i) AND (1)(i.5) OF THIS SECTION,  
26 AN ASSOCIATION SHALL NOT INSTALL, PLANT, OR PLACE, OR ALLOW ANY  
27 PERSON TO INSTALL, PLANT, OR PLACE, ANY NONFUNCTIONAL TURF,

1 ARTIFICIAL TURF, OR INVASIVE PLANT SPECIES, AS THOSE TERMS ARE  
2 DEFINED IN SECTION 37-99-102, IN A COMMON INTEREST COMMUNITY IN  
3 A MANNER THAT VIOLATES SECTION 37-99-103.

4 **SECTION 3. Act subject to petition - effective date -**  
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
6 the expiration of the ninety-day period after final adjournment of the  
7 general assembly; except that, if a referendum petition is filed pursuant  
8 to section 1 (3) of article V of the state constitution against this act or an  
9 item, section, or part of this act within such period, then the act, item,  
10 section, or part will not take effect unless approved by the people at the  
11 general election to be held in November 2024 and, in such case, will take  
12 effect on the date of the official declaration of the vote thereon by the  
13 governor.

14 (2) This act does not apply to projects approved by the department  
15 of personnel or a local entity before the effective date of this act.

**Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 24-0361.01 Jennifer Berman x3286

**SENATE BILL 24-026**

---

**SENATE SPONSORSHIP**

**Roberts and Will,** Bridges, Hinrichsen, Pelton B., Pelton R.

**HOUSE SPONSORSHIP**

**McLachlan and Catlin,** Lynch, Martinez, McCormick

---

**Senate Committees**

Agriculture & Natural Resources

**House Committees**

---

**A BILL FOR AN ACT**

101      **CONCERNING A REQUIREMENT THAT MEMBERS OF CERTAIN STATE**  
102                    **REGULATORY BODIES WHO ARE APPOINTED BY THE GOVERNOR**  
103                    **HOLD MEETINGS TO ELICIT PUBLIC ENGAGEMENT.**

---

**Bill Summary**

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

**Water Resources and Agriculture Review Committee.** Prior to the consolidation of the division of wildlife and the division of parks and recreation and their respective commissions in Senate Bill 11-208, enacted in 2011, members of the wildlife commission were required to hold at least 2 public meetings per year in their respective geographic

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.

districts.

The bill renews the public engagement requirement for the members of the parks and wildlife commission in the department of natural resources who are appointed by the governor and adds the same public engagement requirement for members of the state agricultural commission and the Colorado water conservation board who are appointed by the governor. The bill requires the public engagement meetings be held in person.

Commission and board members subject to the public engagement requirement are entitled to reimbursement for their reasonable costs in holding public meetings. Status updates on the commission and board members' compliance with the public engagement requirement must be reported to the chair of each member's respective commission or board and included in each member's respective executive department's annual "SMART Act" presentation to the general assembly.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, 33-9-101, **amend** (8);  
3 and **add** (3)(g) as follows:

4 **33-9-101. Commission - creation - composition - terms -**  
5 **vacancies - removal - meetings - strategic plan - legislative**  
6 **declaration - public engagement - reports.** (3) (g) (I) EACH YEAR THAT  
7 A VOTING MEMBER OF THE COMMISSION SERVES ON THE COMMISSION, THE  
8 VOTING MEMBER SHALL HOLD AT LEAST TWO PUBLIC, IN-PERSON MEETINGS  
9 TO DIRECTLY ENGAGE THE CONSTITUENCY OF THE INDUSTRY OR ACTIVITY  
10 THE MEMBER WAS APPOINTED TO REPRESENT; EXCEPT THAT EACH OF THE  
11 MEMBERS APPOINTED TO REPRESENT THE PUBLIC AT LARGE SHALL INVITE  
12 THE GENERAL PUBLIC TO THE MEMBER'S MEETINGS AND HOLD AT LEAST  
13 ONE MEETING PER YEAR WEST OF THE CONTINENTAL DIVIDE AND AT LEAST  
14 ONE MEETING PER YEAR EAST OF THE CONTINENTAL DIVIDE.

15 (II) THE DIRECTOR SHALL:

16 (A) FOR EACH COMMISSION MEMBER SUBJECT TO THE PUBLIC  
17 MEETINGS REQUIREMENT SET FORTH IN SUBSECTION (3)(g)(I) OF THIS

1 SECTION, TRACK AND REPORT TO THE CHAIR OF THE COMMISSION ON THE  
2 STATUS OF THE MEMBER'S PUBLIC MEETINGS AT LEAST ONCE PER YEAR AT  
3 A TIME DETERMINED BY THE CHAIR; AND

4 (B) PROVIDE THE DATA TRACKED UNDER SUBSECTION (3)(g)(II)(A)  
5 OF THIS SECTION TO THE EXECUTIVE DIRECTOR FOR INCLUSION IN THE  
6 DEPARTMENT'S ANNUAL "SMART ACT" PRESENTATION TO THE GENERAL  
7 ASSEMBLY PURSUANT TO SECTION 2-7-203.

8 (III) THE GOVERNOR MAY DETERMINE THAT A VOTING MEMBER'S  
9 FAILURE TO HOLD PUBLIC MEETINGS PURSUANT TO THIS SUBSECTION (3)(g)  
10 QUALIFIES AS CAUSE FOR REMOVAL PURSUANT TO SUBSECTION (5) OF THIS  
11 SECTION.

12 (8) For each day actually engaged in the duties of the commission,  
13 the commission members are entitled to receive a per diem amount of  
14 fifty dollars, together with all actual and necessary travel expenses to be  
15 paid after the expenses are incurred. Mileage rates are as provided in  
16 section 24-9-104. ~~C.R.S.~~ VOTING COMMISSION MEMBERS ARE ENTITLED  
17 TO BE REIMBURSED FOR REASONABLE COSTS INCURRED IN HOLDING PUBLIC  
18 MEETINGS PURSUANT TO SUBSECTION (3)(g) OF THIS SECTION.

19 **SECTION 2.** In Colorado Revised Statutes, 35-1-105, **add** (3.5)  
20 as follows:

21 **35-1-105. State agricultural commission - creation -**  
22 **composition - public engagement - reports.** (3.5) (a) EACH YEAR THAT  
23 A MEMBER SERVES ON THE COMMISSION, THE MEMBER SHALL HOLD AT  
24 LEAST TWO PUBLIC, IN-PERSON MEETINGS IN THE MEMBER'S DISTRICT;  
25 EXCEPT THAT EACH OF THE FIVE MEMBERS APPOINTED FROM THE STATE AT  
26 LARGE SHALL HOLD AT LEAST ONE MEETING PER YEAR WEST OF THE  
27 CONTINENTAL DIVIDE AND AT LEAST ONE MEETING PER YEAR EAST OF THE



1 CONTINENTAL DIVIDE.

2 (b) MEMBERS ARE ENTITLED TO BE REIMBURSED FOR REASONABLE  
3 COSTS INCURRED IN HOLDING PUBLIC MEETINGS PURSUANT TO SUBSECTION  
4 (3.5)(a) OF THIS SECTION.

5 (c) THE COMMISSIONER SHALL:

6 (I) TRACK AND REPORT TO THE CHAIR OF THE COMMISSION THE  
7 STATUS OF EACH VOTING MEMBER'S PUBLIC MEETINGS AT LEAST ONCE PER  
8 YEAR AT A TIME DETERMINED BY THE CHAIR; AND

9 (II) INCLUDE THE DATA TRACKED UNDER SUBSECTION (3.5)(c)(I)  
10 OF THIS SECTION IN THE DEPARTMENT'S ANNUAL "SMART ACT"  
11 PRESENTATION TO THE GENERAL ASSEMBLY PURSUANT TO SECTION  
12 2-7-203.

13 (d) THE GOVERNOR MAY DETERMINE THAT A COMMISSION  
14 MEMBER'S FAILURE TO HOLD PUBLIC MEETINGS PURSUANT TO THIS  
15 SUBSECTION (3.5) QUALIFIES AS CAUSE FOR REMOVAL FROM THE  
16 COMMISSION.

17 **SECTION 3.** In Colorado Revised Statutes, 37-60-104, **add** (5)  
18 as follows:

19 **37-60-104. Composition of the board - public engagement -**  
20 **reports.** (5) (a) EACH YEAR THAT A BOARD MEMBER APPOINTED  
21 PURSUANT TO SUBSECTION (1)(g) OF THIS SECTION SERVES ON THE BOARD,  
22 THE MEMBER SHALL HOLD AT LEAST TWO PUBLIC, IN-PERSON MEETINGS IN  
23 THE GEOGRAPHIC AREA THAT THE MEMBER REPRESENTS.

24 (b) MEMBERS ARE ENTITLED TO BE REIMBURSED FOR REASONABLE  
25 COSTS INCURRED IN HOLDING PUBLIC MEETINGS PURSUANT TO SUBSECTION  
26 (5)(a) OF THIS SECTION AS NECESSARY EXPENSES ACTUALLY INCURRED IN  
27 THE PERFORMANCE OF OFFICIAL DUTIES IN ACCORDANCE WITH SECTION

1 37-60-111.

2 (c) THE DIRECTOR OF THE BOARD SHALL:

3 (I) FOR EACH BOARD MEMBER SUBJECT TO THE PUBLIC MEETINGS  
4 REQUIREMENT SET FORTH IN SUBSECTION (5)(a) OF THIS SECTION, TRACK  
5 AND REPORT TO THE CHAIR OF THE BOARD THE STATUS OF THE BOARD  
6 MEMBER'S PUBLIC MEETINGS AT LEAST ONCE PER YEAR AT A TIME  
7 DETERMINED BY THE CHAIR; AND

8 (II) PROVIDE THE DATA TRACKED UNDER SUBSECTION (5)(c)(I) OF  
9 THIS SECTION TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF  
10 NATURAL RESOURCES FOR INCLUSION IN THE DEPARTMENT'S ANNUAL  
11 "SMART ACT" PRESENTATION TO THE GENERAL ASSEMBLY PURSUANT TO  
12 SECTION 2-7-203.

13 (d) THE GOVERNOR MAY DETERMINE THAT A BOARD MEMBER'S  
14 FAILURE TO HOLD PUBLIC MEETINGS PURSUANT TO THIS SUBSECTION (5)  
15 QUALIFIES AS CAUSE FOR REMOVAL FROM THE BOARD.

16 **SECTION 4. Act subject to petition - effective date.** This act  
17 takes effect January 1, 2025; except that, if a referendum petition is filed  
18 pursuant to section 1 (3) of article V of the state constitution against this  
19 act or an item, section, or part of this act within the ninety-day period  
20 after final adjournment of the general assembly, then the act, item,  
21 section, or part will not take effect unless approved by the people at the  
22 general election to be held in November 2024 and, in such case, will take  
23 effect January 1, 2025, or on the date of the official declaration of the  
24 vote thereon by the governor, whichever is later.

**Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 24-0419.01 Josh Schultz x5486

**SENATE BILL 24-028**

---

**SENATE SPONSORSHIP**

**Cutter and Will**, Jaquez Lewis, Ginal

**HOUSE SPONSORSHIP**

**Velasco**, Snyder

---

**Senate Committees**

Agriculture & Natural Resources

**House Committees**

---

**A BILL FOR AN ACT**

101      **CONCERNING A COMPREHENSIVE STUDY ON BIOCHAR, AND, IN**  
102                      **CONNECTION THEREWITH, STUDYING THE USE OF BIOCHAR IN**  
103                      **WILDFIRE MITIGATION EFFORTS.**

---

**Bill Summary**

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

**Wildfire Matters Review Committee.** The bill directs the board of governors of the Colorado state university system (board) to conduct, or cause to be conducted, a comprehensive study on biochar, including its use in wildfire mitigation efforts. The bill specifies minimum topics that the study must include. The board is required to submit a report on the

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.

findings of the study to specified committees of the general assembly.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 23-31-209 as  
3 follows:

4 **23-31-209. Comprehensive study on biochar - report -**  
5 **definitions - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT  
6 OTHERWISE REQUIRES:

7 (a) "BIOCHAR" MEANS THE SOLID, CARBON-RICH PRODUCT MADE  
8 WHEN BIOMASS UNDERGOES PYROLYSIS IN AN OXYGEN-DEPLETED  
9 ATMOSPHERE IN A PROCESS THAT SEQUESTERS CARBON.

10 (b) "BIOMASS" MEANS:

11 (I) NONTOXIC PLANT MATTER CONSISTING OF AGRICULTURAL  
12 CROPS OR THEIR BY-PRODUCTS, URBAN WOOD WASTE, MILL RESIDUE,  
13 SLASH, OR BRUSH;

14 (II) ANIMAL WASTES AND PRODUCTS OF ANIMAL WASTES; OR

15 (III) METHANE PRODUCED AT LANDFILLS OR AS A BY-PRODUCT OF  
16 THE TREATMENT OF WASTEWATER RESIDUALS.

17 (2) (a) THE BOARD SHALL CONDUCT OR CAUSE TO BE CONDUCTED  
18 A COMPREHENSIVE STUDY ON BIOCHAR, INCLUDING ITS USE IN WILDFIRE  
19 MITIGATION EFFORTS.

20 (b) THE STUDY MUST, AT A MINIMUM:

21 (I) CREATE PARAMETERS AROUND WHAT CONSTITUTES GOOD  
22 QUALITY BIOCHAR;

23 (II) EVALUATE BENEFICIAL USES FOR BIOCHAR;

24 (III) EVALUATE THE IMPACT OF BIOMASS AND BIOCHAR ON FOREST  
25 HEALTH;

- 1 (IV) IDENTIFY POTENTIAL MARKETS FOR BIOCHAR;  
2 (V) IDENTIFY POTENTIAL TRANSPORTATION ISSUES THAT COULD  
3 ARISE IN THE BIOCHAR CREATION PROCESS AND POSSIBLE SOLUTIONS; AND  
4 (VI) EVALUATE BEST PRACTICES FOR CREATING BIOCHAR IN A  
5 MANNER THAT OPTIMIZES CARBON SEQUESTRATION.

6 (3) ON OR BEFORE JULY 1, 2026, THE BOARD SHALL SUBMIT A  
7 REPORT TO THE WILDFIRE MATTERS REVIEW COMMITTEE CREATED IN  
8 SECTION 2-3-1602, OR, IF THE WILDFIRE MATTERS REVIEW COMMITTEE IS  
9 REPEALED, TO THE HOUSE OF REPRESENTATIVES ENERGY AND  
10 ENVIRONMENT COMMITTEE AND THE SENATE TRANSPORTATION AND  
11 ENERGY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES. THE REPORT  
12 MUST INCLUDE THE STUDY'S RESEARCH, FINDINGS, AND  
13 RECOMMENDATIONS, IN ACCORDANCE WITH SUBSECTION (2)(b) OF THIS  
14 SECTION.

15 (4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2027.

16 **SECTION 2. Act subject to petition - effective date.** This act  
17 takes effect at 12:01 a.m. on the day following the expiration of the  
18 ninety-day period after final adjournment of the general assembly; except  
19 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
20 of the state constitution against this act or an item, section, or part of this  
21 act within such period, then the act, item, section, or part will not take  
22 effect unless approved by the people at the general election to be held in  
23 November 2024 and, in such case, will take effect on the date of the  
24 official declaration of the vote thereon by the governor.

**Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 24-0365.01 Jennifer Berman x3286

**SENATE BILL 24-037**

---

**SENATE SPONSORSHIP**

**Simpson and Bridges,** Hinrichsen, Roberts

**HOUSE SPONSORSHIP**

**Lynch and McCormick,** Catlin, Martinez, McLachlan

---

**Senate Committees**

Agriculture & Natural Resources

**House Committees**

---

**A BILL FOR AN ACT**

101     **CONCERNING ALTERNATIVE MECHANISMS FOR ACHIEVING**  
102     **COMPLIANCE WITH WATER QUALITY STANDARDS.**

---

**Bill Summary**

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

**Water Resources and Agriculture Review Committee.** The bill requires the division of administration (division) in the department of public health and environment (department), in collaboration with the university of Colorado's Mortenson center in global engineering and resilience and the Colorado water institute located within Colorado state university, to:

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.

- Conduct a feasibility study of the use of green infrastructure, which refers to nature-based, watershed-scale water quality management solutions that are an alternative to traditional gray infrastructure, which refers to centralized water treatment facilities, and the use of green financing mechanisms for water quality management;
- Establish one or more pilot projects in the state to demonstrate the use of green infrastructure, green financing mechanisms, or both;
- Adopt rules establishing a prepermit baseline date to assist municipalities and other water providers to pursue prepermit solutions for compliance with state and federal water quality standards; and
- Submit a report and present to the water resources and agriculture review committee on the progress of the feasibility study and any pilot projects and on any legislative and administrative recommendations to promote the use of green infrastructure and green financing mechanisms for water quality management in the state.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25-8-311 as  
3 follows:

4 **25-8-311. Water quality green infrastructure - feasibility**  
5 **studies - pilot projects - division collaboration with universities -**  
6 **legislative declaration - definitions - rules - reports - gifts, grants, or**  
7 **donations - repeal.** (1) (a) THE GENERAL ASSEMBLY FINDS AND  
8 DETERMINES THAT GREEN INFRASTRUCTURE MAY PROVIDE SIGNIFICANT  
9 BENEFITS TO WATER PROVIDERS AND WATER USERS IN COLORADO BY:

10 (I) SUPPORTING COST-EFFECTIVE, HOLISTIC SOLUTIONS FOR THE  
11 ATTAINMENT OF WATER QUALITY STANDARDS;

12 (II) IN FURTHERANCE OF THE COLORADO POLLUTANT TRADING  
13 POLICY, HELPING OWNERS AND OPERATORS OF WATER AND WASTEWATER  
14 TREATMENT FACILITIES MEET STATE AND FEDERAL WATER QUALITY

1 STANDARDS WITHOUT HAVING TO INVEST IN GRAY INFRASTRUCTURE  
2 UPGRADES; AND

3 (III) TO FINANCE THE MONITORING, MANAGEMENT,  
4 CONSERVATION, ALLOCATION, AND WATER QUALITY IMPROVEMENT OF  
5 BOTH SURFACE AND GROUNDWATER IN THE STATE, CONNECTING  
6 OPERATORS OF WATER AND WASTEWATER TREATMENT FACILITIES WITH  
7 NEW, CLIMATE-FOCUSED SOURCES OF FINANCING AND CAPITAL, INCLUDING  
8 CARBON CREDITS AND WILDFIRE MITIGATION INVESTMENTS.

9 (b) THE GENERAL ASSEMBLY DECLARES THAT:

10 (I) THE DIVISION, IN COLLABORATION WITH THE UNIVERSITY OF  
11 COLORADO AND THE COLORADO WATER INSTITUTE LOCATED WITHIN  
12 COLORADO STATE UNIVERSITY, SHOULD CONDUCT A FEASIBILITY STUDY  
13 REGARDING THE USE OF GREEN INFRASTRUCTURE AND DEVELOP PILOT  
14 PROJECTS TO DEMONSTRATE GREEN INFRASTRUCTURE IN COLORADO; AND

15 (II) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO  
16 AUTHORIZE OR ENCOURAGE SPECULATION IN THE DEVELOPMENT OF A  
17 WATER RIGHT, AS DEFINED IN SECTION 37-92-103 (12), OR ANY VIOLATION  
18 OF:

19 (A) THE "WATER RIGHT DETERMINATION AND ADMINISTRATION  
20 ACT OF 1969", ARTICLE 92 OF TITLE 37;

21 (B) A COURT DECREE ESTABLISHING WATER RIGHTS OR  
22 CONDITIONAL WATER RIGHTS PURSUANT TO SECTION 37-92-301;

23 (C) A WELL PERMIT FOR USE OF UNDERGROUND WATER, AS  
24 DEFINED IN SECTION 37-92-103 (11), ISSUED PURSUANT TO ARTICLE 90 OF  
25 TITLE 37;

26 (D) A SUBSTITUTE WATER SUPPLY PLAN APPROVED PURSUANT TO  
27 SECTION 37-92-308; OR



1 (E) AN INTERRUPTIBLE WATER SUPPLY AGREEMENT APPROVED  
2 PURSUANT TO SECTION 37-92-309.

3 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
4 REQUIRES:

5 (a) "ALTERNATIVE COMPLIANCE PROGRAM" MEANS A PROGRAM  
6 ESTABLISHED TO COMPLY WITH STATE AND FEDERAL WATER QUALITY  
7 STANDARDS THROUGH THE USE OF GREEN INFRASTRUCTURE.

8 (b) "COLORADO POLLUTANT TRADING POLICY" MEANS THE  
9 "COLORADO POLLUTANT TRADING POLICY" PUBLISHED BY THE DIVISION  
10 IN OCTOBER 2004.

11 (c) "FEDERAL WATER QUALITY TRADING POLICY" MEANS THE  
12 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S "WATER  
13 QUALITY TRADING POLICY", PUBLISHED IN 2003.

14 (d) "GRAY INFRASTRUCTURE" MEANS TRADITIONAL, CENTRALIZED  
15 WATER QUALITY TREATMENT FACILITIES, SUCH AS WASTEWATER  
16 TREATMENT FACILITIES OR DRINKING WATER TREATMENT PLANTS.

17 (e) "GREEN INFRASTRUCTURE" MEANS A STRATEGICALLY  
18 PLANNED, MANAGED, AND INTERCONNECTED NETWORK OF GREEN SPACES,  
19 SUCH AS CONSERVED NATURAL AREAS AND FEATURES, PUBLIC AND  
20 PRIVATE CONSERVATION LANDS, AND PRIVATE WORKING LANDS WITH  
21 CONSERVATION VALUE.

22 (3) (a) ON OR BEFORE DECEMBER 31, 2025, THE DIVISION SHALL  
23 CONDUCT A FEASIBILITY STUDY REGARDING THE USE OF GREEN  
24 INFRASTRUCTURE IN THE STATE. THE FEASIBILITY STUDY MUST INCLUDE  
25 A DETERMINATION OF WHETHER AND HOW:

26 (I) GREEN INFRASTRUCTURE, RATHER THAN TRADITIONAL GRAY  
27 INFRASTRUCTURE, MAY BE USED IN AN ALTERNATIVE COMPLIANCE

1 PROGRAM USING MECHANISMS DESCRIBED IN THE COLORADO POLLUTANT  
2 TRADING POLICY AND THE FEDERAL WATER QUALITY TRADING POLICY;

3 (II) NEW SOURCES OF FUNDING THROUGH ENVIRONMENT-FOCUSED  
4 MECHANISMS, SUCH AS GREEN BONDS, MITIGATION BANKING, CLIMATE  
5 FINANCE, AND CARBON CREDITS, MAY:

6 (A) REDUCE COSTS ASSOCIATED WITH COMPLYING WITH STATE  
7 AND FEDERAL WATER QUALITY STANDARDS; AND

8 (B) PROVIDE FUNDING FOR GREEN INFRASTRUCTURE PROJECTS  
9 PRIOR TO THE ISSUANCE OF A WATER QUALITY PERMIT;

10 (III) AN ALTERNATIVE COMPLIANCE PROGRAM MAY BE ALIGNED  
11 WITH OTHER STATE AND COMMUNITY INTERESTS INCLUDING WILDFIRE  
12 MITIGATION; AND

13 (IV) THE USE OF ALTERNATIVE COMPLIANCE PROGRAMS WOULD  
14 REDUCE COSTS FOR THE DEPARTMENT OF PUBLIC HEALTH AND  
15 ENVIRONMENT, MUNICIPALITIES, AND OTHER WATER PROVIDERS IN THE  
16 STATE IN COMPARISON TO USING GRAY INFRASTRUCTURE TO COMPLY WITH  
17 STATE AND FEDERAL WATER QUALITY STANDARDS.

18 (b) (I) AFTER COMPLETING THE FEASIBILITY STUDY REQUIRED  
19 UNDER SUBSECTION (3)(a) OF THIS SECTION AND CONSIDERING THE  
20 FINDINGS OF THE FEASIBILITY STUDY, THE DIVISION SHALL ESTABLISH ONE  
21 OR MORE PILOT PROJECTS IN THE STATE TO DEMONSTRATE THE:

22 (A) USE OF GREEN INFRASTRUCTURE IN AN ALTERNATIVE  
23 COMPLIANCE PROGRAM; AND

24 (B) FINANCING OF AN ALTERNATIVE COMPLIANCE PROGRAM WITH  
25 ONE OR MORE SOURCES OF FUNDING LISTED IN SUBSECTION (3)(a)(II) OF  
26 THIS SECTION.

27 (II) A PILOT PROJECT ESTABLISHED PURSUANT TO THIS SUBSECTION

1 (3)(b) MAY BE OPERATED FOR UP TO FIVE YEARS. THE DIVISION MAY  
2 PROVIDE TECHNICAL ASSISTANCE TO THE OPERATOR OF A PILOT PROJECT  
3 THAT THE DIVISION ESTABLISHES UNDER THIS SUBSECTION (3)(b).

4 (c) THE DIVISION SHALL COORDINATE WITH THE UNIVERSITY OF  
5 COLORADO'S MORTENSON CENTER IN GLOBAL ENGINEERING AND  
6 RESILIENCE AND THE COLORADO WATER INSTITUTE CREATED IN SECTION  
7 23-31-801 (1) TO CONDUCT THE FEASIBILITY STUDY AND DEVELOP,  
8 PROVIDE TECHNICAL ASSISTANCE FOR, AND REVIEW ANY PILOT PROJECTS  
9 APPROVED PURSUANT TO THIS SUBSECTION (3).

10 (4) (a) ON OR BEFORE DECEMBER 31, 2024, THE DIVISION SHALL  
11 IDENTIFY MUNICIPALITIES AND OTHER WATER PROVIDERS THROUGHOUT  
12 THE STATE THAT ARE INTERESTED IN PURSUING PREPERMIT SOLUTIONS FOR  
13 ACHIEVING COMPLIANCE WITH STATE AND FEDERAL WATER QUALITY  
14 STANDARDS.

15 (b) ON OR BEFORE DECEMBER 31, 2025, THE COMMISSION SHALL  
16 ADOPT RULES TO ESTABLISH A PREPERMIT BASELINE DATE WITH WHICH AN  
17 OPERATOR UTILIZING NATURE-BASED SOLUTIONS FOR ACHIEVING  
18 COMPLIANCE WITH STATE AND FEDERAL WATER QUALITY STANDARDS  
19 DEMONSTRATES COMPLIANCE FOR FUTURE PERMIT OBLIGATIONS. IN  
20 DRAFTING THE RULES REQUIRED UNDER THIS SUBSECTION (4)(b), THE  
21 COMMISSION, IN CONSULTATION WITH THE ENTITIES LISTED IN SUBSECTION  
22 (3)(c) OF THIS SECTION, SHALL CONVENE A REPRESENTATIVE GROUP OF  
23 INTERESTED PARTIES PURSUANT TO SECTION 24-4-103 (2) AND ENGAGE  
24 SOME OR ALL OF THE INTERESTED MUNICIPALITIES AND OTHER WATER  
25 PROVIDERS IDENTIFIED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION  
26 AS PART OF THE REPRESENTATIVE GROUP OF INTERESTED PARTIES.

27 (5) (a) ON OR BEFORE JULY 1, 2025, THE DIVISION, IN

1 COORDINATION WITH THE ENTITIES LISTED IN SUBSECTION (3)(c) OF THIS  
2 SECTION, SHALL SUBMIT A REPORT AND MAKE A PRESENTATION  
3 SUMMARIZING THE PROGRESS ON THE FEASIBILITY STUDY AND ANY PILOT  
4 PROJECTS TO THE WATER RESOURCES AND AGRICULTURE REVIEW  
5 COMMITTEE CREATED IN SECTION 37-98-102 (1)(a)(I). THE COMMITTEE  
6 MAY REQUEST SIMILAR REPORTS AND PRESENTATIONS BE MADE ON OR  
7 BEFORE JULY 15 IN ANY YEAR AFTER 2025 IN WHICH THE FEASIBILITY  
8 STUDY OR A PILOT PROJECT IS BEING CONDUCTED PURSUANT TO  
9 SUBSECTION (3) OF THIS SECTION.

10 (b) THE REPORT MUST INCLUDE:

11 (I) ANY CONCLUSIONS OF THE DIVISION, IN COORDINATION WITH  
12 THE ENTITIES LISTED IN SUBSECTION (3)(c) OF THIS SECTION, REGARDING  
13 THE POTENTIAL SUCCESS OF ALTERNATIVE COMPLIANCE PROGRAMS OR  
14 FUNDING SOURCES LISTED IN SUBSECTION (3)(a)(II) OF THIS SECTION; AND

15 (II) ANY RECOMMENDATIONS FOR LEGISLATIVE OR  
16 ADMINISTRATIVE ACTION NEEDED TO PROMOTE THE USE OF ALTERNATIVE  
17 COMPLIANCE PROGRAMS OR THE FUNDING SOURCES LISTED IN SUBSECTION  
18 (3)(a)(II) OF THIS SECTION.

19 (6) IN DEVELOPING THE FEASIBILITY STUDY PURSUANT TO  
20 SUBSECTION (3)(a) OF THIS SECTION, ANY PILOT PROJECTS PURSUANT TO  
21 SUBSECTION (3)(b) OF THIS SECTION, AND ANY LEGISLATIVE OR  
22 ADMINISTRATIVE RECOMMENDATIONS PURSUANT TO SUBSECTION  
23 (5)(b)(II) OF THIS SECTION, THE DIVISION AND THE ENTITIES LISTED IN  
24 SUBSECTION (3)(c) OF THIS SECTION MUST TAKE INTO ACCOUNT:

- 25 (a) THE COLORADO POLLUTANT TRADING POLICY;  
26 (b) THE FEDERAL WATER QUALITY TRADING POLICY; AND  
27 (c) THE PRIOR APPROPRIATION SYSTEM ESTABLISHED IN SECTIONS

1 5 AND 6 OF ARTICLE XVI OF THE STATE CONSTITUTION AND THE "WATER  
2 RIGHT DETERMINATION AND ADMINISTRATION ACT OF 1969", ARTICLE 92  
3 OF TITLE 37.

4 (7) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR  
5 ANY ENTITY LISTED IN SUBSECTION (3)(c) OF THIS SECTION MAY SEEK,  
6 ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FOR THE  
7 IMPLEMENTATION OF THIS SECTION.

8 (8) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2032.

9 **SECTION 2. Act subject to petition - effective date.** This act  
10 takes effect at 12:01 a.m. on the day following the expiration of the  
11 ninety-day period after final adjournment of the general assembly; except  
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
13 of the state constitution against this act or an item, section, or part of this  
14 act within such period, then the act, item, section, or part will not take  
15 effect unless approved by the people at the general election to be held in  
16 November 2024 and, in such case, will take effect on the date of the  
17 official declaration of the vote thereon by the governor.

**Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 24-0358.01 Richard Sweetman x4333

**SENATE BILL 24-038**

---

**SENATE SPONSORSHIP**

**Bridges and Simpson,** Hinrichsen, Pelton B., Pelton R., Roberts

**HOUSE SPONSORSHIP**

**Martinez and McCormick,** Catlin, McLachlan

---

**Senate Committees**

Agriculture & Natural Resources

**House Committees**

---

**A BILL FOR AN ACT**

101     **CONCERNING CONSERVANCY DISTRICTS, AND, IN CONNECTION**  
102             **THEREWITH, AUTHORIZING A CONSERVANCY DISTRICT TO**  
103             **PARTICIPATE IN A PLAN FOR AUGMENTATION; CONTRACT WITH**  
104             **WATER USERS OUTSIDE THE CONSERVANCY DISTRICT FOR THE**  
105             **PROVISION OF SERVICES; EXERCISE CERTAIN POWERS**  
106             **REGARDING THE CONTROL, DELIVERY, USE, AND DISTRIBUTION**  
107             **OF WATER; ESTABLISH A WATER ACTIVITY ENTERPRISE; AND**  
108             **SELL, LEASE, OR OTHERWISE DISPOSE OF THE USE OF WATER OR**  
109             **CAPACITY IN WORKS BY CONTRACT.**

---

**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*

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.

*applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Water Resources and Agriculture Review Committee.** Under current law, when certain conditions exist, a district court may establish conservancy districts for the conservation, development, utilization, and disposal of water for agricultural, municipal, and industrial uses. **Section 1** of the bill allows conservancy districts to conserve, develop, utilize, or dispose of water for commercial uses as well.

**Section 2** authorizes the board of directors of a conservancy district to:

- Submit and participate in a plan for augmentation for the benefit of water rights and wells within and outside of the boundaries of the conservancy district;
- Contract with water users within and outside of the conservancy district for the provision of services;
- Exercise certain powers concerning the management, control, delivery, use, and distribution of water in conjunction with a plan for augmentation;
- In conjunction with **sections 4 and 5**, establish a water activity enterprise, which is a government-run business, for the purpose of pursuing or continuing water activities; and
- Sell, lease, or otherwise dispose of the use of water or capacity in works by term contracts or by contracts for the perpetual use of the water or works to certain entities.

**Section 3** authorizes a conservancy district to:

- Enter into long-term contracts with public and private entities for the accomplishment of functions of the conservancy district; and
- Avail itself of aid, assistance, and cooperation from the federal government, the state government, and local governments.

**Sections 4 and 5** allow a conservancy district to establish a water activity enterprise, which is a business that receives less than 10% of its annual revenues in grants from all Colorado state and local governments combined, is authorized to issue its own revenue bonds, and is excluded from the provisions of the "Taxpayer's Bill of Rights" in the state constitution.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, 37-2-101, **amend** (1)

3 introductory portion and (1)(f) as follows:

1           **37-2-101. Jurisdiction of district court to establish**  
2 **conservancy district - purposes of districts.** (1) ~~The district court~~  
3 ~~sitting in and for any county in this state has jurisdiction,~~ When the  
4 conditions stated in section 37-2-102 are found to exist, ~~to~~ A DISTRICT  
5 COURT MAY establish A conservancy ~~districts~~ DISTRICT, which may be  
6 entirely ~~within~~ or partly within ~~and partly without~~ the judicial district in  
7 which ~~said~~ THE court is located, for any of the following purposes:

8           (f) ~~The conservation, development, utilization, and disposal of~~  
9 ~~water~~ CONSERVING, DEVELOPING, UTILIZING, OR DISPOSING OF WATER for  
10 agricultural, municipal, ~~and~~ COMMERCIAL, OR industrial uses; ~~thereof,~~  
11 ~~when desirable as a part of a project or undertaking the principal purpose~~  
12 ~~of which is one or more of the purposes set out in this section;~~ OR

13           **SECTION 2.** In Colorado Revised Statutes, 37-3-103, **amend** (1)  
14 introductory portion and (1)(k); and **add** (1)(m), (1)(n), (1)(o), (1)(p), and  
15 (1)(q) as follows:

16           **37-3-103. General powers - definition.** (1) To protect life and  
17 property within the CONSERVANCY district and to protect or relieve land  
18 THAT IS subject to overflowing or washing or that is menaced or  
19 threatened by the normal flow, flood, surplus, or overflow of waters of  
20 any natural watercourse, stream, canyon, or wash, whether perennial,  
21 intermittent, or flood; ~~and to effect the protection of~~ PROTECT the land and  
22 other property in the CONSERVANCY district; and to accomplish all other  
23 purposes of the CONSERVANCY district, the board of directors is  
24 authorized:

25           (k) To participate in the development of parks and recreational  
26 facilities within the boundaries of the CONSERVANCY district, including  
27 the development of trails, greenways, and riverfronts, and to consider



1 such participation a current expense of the CONSERVANCY district; ~~and~~

2 (m) TO SUBMIT AND PARTICIPATE IN A PLAN FOR AUGMENTATION,  
3 AS DEFINED IN SECTION 37-92-103 (9), FOR THE BENEFIT OF WATER  
4 RIGHTS, AS DEFINED IN SECTION 37-92-103 (12), AND WELLS, AS DEFINED  
5 IN SECTION 37-92-103 (14), INCLUDING AGRICULTURAL, MUNICIPAL,  
6 COMMERCIAL, AND INDUSTRIAL WELLS WITHIN AND OUTSIDE THE  
7 BOUNDARIES OF THE CONSERVANCY DISTRICT;

8 (n) (I) TO CONTRACT WITH WATER USERS WITHIN AND OUTSIDE OF  
9 THE CONSERVANCY DISTRICT FOR THE PROVISION OF SERVICES TO SUCH  
10 WATER USERS.

11 (II) AS USED IN THIS SUBSECTION (1)(n), "SERVICES" MEANS:

12 (A) TRANSFERRING, CONSERVING, RECHARGING, AUGMENTING,  
13 EXCHANGING, CHANGING, USING, OR REUSING WATER SUPPLIES;

14 (B) THE RETIREMENT OF WELLS; AND

15 (C) SUCH OTHER SERVICES AS THE BOARD MAY CONTRACT TO  
16 PROVIDE.

17 (o) TO EXERCISE, IN CONJUNCTION WITH A PLAN FOR  
18 AUGMENTATION, THE FOLLOWING POWERS CONCERNING THE  
19 MANAGEMENT, CONTROL, DELIVERY, USE, AND DISTRIBUTION OF WATER  
20 BY THE CONSERVANCY DISTRICT:

21 (I) TO MAKE AND ENFORCE ALL REASONABLE RULES FOR THE  
22 MANAGEMENT, CONTROL, DELIVERY, USE, AND DISTRIBUTION OF WATER;

23 (II) TO WITHHOLD, PURSUANT TO ANY CONTRACTS, THE DELIVERY  
24 OF WATER IF THERE ARE ANY DEFAULTS OR DELINQUENCIES OF PAYMENT;

25 (III) TO DECLARE FORFEITURES OF RIGHTS TO THE USE OF WATER  
26 UPON DEFAULT OR UPON FAILURE TO COMPLY WITH ANY COURT ORDER,  
27 CONTRACT, OR AGREEMENT FOR THE PURCHASE, LEASE, OR USE OF WATER

1 AND TO RESELL, LEASE, OR OTHERWISE DISPOSE OF WATER UPON WHICH  
2 FORFEITURE HAS BEEN DECLARED;

3 (IV) TO ALLOCATE AND REALLOCATE THE USE OF WATER TO LANDS  
4 WITHIN AND OUTSIDE OF THE CONSERVANCY DISTRICT;

5 (V) TO GRANT THE RIGHT, UPON TERMS, TO TRANSFER WATER  
6 FROM LANDS TO WHICH WATER HAS BEEN ALLOCATED TO OTHER LANDS  
7 WITHIN OR OUTSIDE OF THE CONSERVANCY DISTRICT;

8 (VI) TO RETIRE WELLS;

9 (VII) TO ACQUIRE, CONSTRUCT, OPERATE, CONTROL, AND USE ANY  
10 WORKS, FACILITIES, AND MEANS NECESSARY OR REASONABLE TO THE  
11 EXERCISE OF ITS POWER, BOTH WITHIN AND OUTSIDE OF THE  
12 CONSERVANCY DISTRICT, FOR THE PURPOSE OF PROVIDING FOR THE USE OF  
13 WATER WITHIN THE DISTRICT; AND

14 (VIII) TO PERFORM ANY AND ALL TASKS NECESSARY OR  
15 REASONABLE FOR THE FULL EXERCISE OF THE POWERS GRANTED IN THIS  
16 SUBSECTION (1)(o);

17 (p) TO ESTABLISH A WATER ACTIVITY ENTERPRISE FOR THE  
18 PURPOSE OF PURSUING OR CONTINUING WATER ACTIVITIES, AS DESCRIBED  
19 IN ARTICLE 45.1 OF THIS TITLE 37; AND

20 (q) TO SELL, LEASE, OR OTHERWISE DISPOSE OF THE USE OF WATER  
21 OR CAPACITY IN WORKS BY TERM CONTRACTS OR BY CONTRACTS FOR THE  
22 PERPETUAL USE OF THE WATER OR WORKS TO PUBLIC CORPORATIONS;  
23 DISTRICTS, AS DEFINED IN SECTION 37-45.1-102 (1); CONSERVANCY  
24 DISTRICTS; UTILITIES; MUTUAL DITCH COMPANIES; WATER USERS'  
25 ASSOCIATIONS; PRIVATE CORPORATIONS; AND OTHER PERSONS FOR  
26 IRRIGATION, DOMESTIC, MUNICIPAL, INDUSTRIAL, COMMERCIAL, OR OTHER  
27 AUTHORIZED USES, IN WRITING, AUTHORIZED AND ENTERED INTO BY THE

1 BOARD. THE BOARD SHALL REQUIRE THAT SECURITY BE GIVEN TO SECURE  
2 THE PAYMENTS TO BE MADE UNDER THE CONTRACTS, WHICH SECURITY  
3 MAY INCLUDE THE SECURITY DESCRIBED IN SECTION 37-45-132 OR SUCH  
4 OTHER SECURITY AS THE BOARD DETERMINES TO BE APPROPRIATE. THE  
5 CONTRACTS MAY INCLUDE THE CONTRACTUAL PROVISIONS SPECIFIED IN  
6 SECTION 31-35-402 (1)(h) AS DETERMINED BY THE BOARD.

7 **SECTION 3.** In Colorado Revised Statutes, **add** 37-3-103.5 as  
8 follows:

9 **37-3-103.5. Cooperative powers - aid, assistance, and**  
10 **cooperation from governments.** (1) A CONSERVANCY DISTRICT MAY,  
11 WITHOUT CONDUCTING AN ELECTION, ENTER INTO LONG-TERM CONTRACTS  
12 WITH THE FEDERAL GOVERNMENT, THE STATE OR ANY POLITICAL  
13 SUBDIVISION OF THE STATE, A PRIVATE COMPANY, ANY PERSON, OR ANY  
14 COMBINATION THEREOF FOR A TERM NOT EXCEEDING SEVENTY-FIVE YEARS  
15 FOR THE PERFORMANCE OF FUNCTIONS OF THE CONSERVANCY DISTRICT,  
16 WHICH FUNCTIONS, IN THE DISCRETION OF THE CONSERVANCY DISTRICT,  
17 CAN DESIRABLY AND CONVENIENTLY BE CARRIED OUT UNDER CONTRACT.  
18 HOWEVER, ANY SUCH CONTRACT MUST INCLUDE TERMS AND CONDITIONS  
19 THAT ENABLE THE CONSERVANCY DISTRICT TO RETAIN REASONABLE  
20 SUPERVISION AND CONTROL OF SUCH FUNCTIONS.

21 (2) THE CONSERVANCY DISTRICT MAY ACT AS NECESSARY TO  
22 AVAIL ITSELF OF AID, ASSISTANCE, AND COOPERATION FROM THE STATE  
23 GOVERNMENT OR FEDERAL GOVERNMENT OR FROM ANY LOCAL  
24 GOVERNMENT.

25 **SECTION 4.** In Colorado Revised Statutes, 37-45.1-101, **amend**  
26 (1) introductory portion as follows:

27 **37-45.1-101. Legislative declaration.** (1) The general assembly

1 hereby finds, determines, and declares that in order to provide for the  
2 continued beneficial use of all waters originating in Colorado, the  
3 establishment of water activity enterprises within or by CONSERVANCY  
4 DISTRICTS, water conservancy districts, water conservation districts, and  
5 other entities of state and local government is critical to the health and  
6 welfare of the people of the state of Colorado. The general assembly  
7 further finds that water activities are necessary to:

8 **SECTION 5.** In Colorado Revised Statutes, 37-45.1-102, **amend**  
9 the introductory portion and (1) as follows:

10 **37-45.1-102. Definitions.** As used in this ~~article~~ ARTICLE 45.1,  
11 unless the context otherwise requires:

12 (1) "District" means any state or local governmental entity that has  
13 authority to conduct water activities, including A CONSERVANCY DISTRICT  
14 CREATED PURSUANT TO ARTICLE 2 OF THIS TITLE 37, a water conservancy  
15 district created pursuant to article 45 of this ~~title~~ TITLE 37, a water  
16 conservation district created by article 46, 47, 48, or 50 of this ~~title~~ TITLE  
17 37, a water and sanitation district or other entity created pursuant to title  
18 32, ~~C.R.S.~~, an entity created pursuant to title 29 ~~C.R.S.~~, or this ~~title~~ TITLE  
19 37, a county, or a municipality.

20 **SECTION 6. Act subject to petition - effective date.** This act  
21 takes effect at 12:01 a.m. on the day following the expiration of the  
22 ninety-day period after final adjournment of the general assembly; except  
23 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
24 of the state constitution against this act or an item, section, or part of this  
25 act within such period, then the act, item, section, or part will not take  
26 effect unless approved by the people at the general election to be held in

- 1 November 2024 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.

**Second Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. R24-0854.01 Clare Haffner x6137

**SJR24-004**

---

**SENATE SPONSORSHIP**

**Roberts and Simpson,**

**HOUSE SPONSORSHIP**

**McCormick and Catlin,**

---

**Senate Committees**

Agriculture & Natural Resources

**House Committees**

---

**SENATE JOINT RESOLUTION 24-004**

101     **CONCERNING APPROVAL OF WATER PROJECT REVOLVING FUND**  
102             **ELIGIBILITY LISTS ADMINISTERED BY THE COLORADO WATER**  
103             **RESOURCES AND POWER DEVELOPMENT AUTHORITY.**

---

1             WHEREAS, Pursuant to section 37-95-107.8, Colorado Revised  
2 Statutes, the Drinking Water Revolving Fund (DWRF) was created in the  
3 Colorado Water Resources and Power Development Authority  
4 (Authority) to provide financial assistance for certain drinking water  
5 supply projects; and

6             WHEREAS, Pursuant to sections 37-95-103 (4.8) and 37-95-107.8  
7 (4)(c), Colorado Revised Statutes, in order to qualify for financial  
8 assistance from the DWRF, proposed projects must be included on the  
9 Drinking Water Project Eligibility List; and

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.*

1 WHEREAS, Pursuant to section 37-95-107.8 (4)(b), Colorado  
2 Revised Statutes, the Water Quality Control Commission (Commission)  
3 has developed additions and modifications to the Drinking Water Project  
4 Eligibility List; and

5 WHEREAS, Pursuant to section 37-95-107.6, Colorado Revised  
6 Statutes, the Water Pollution Control Revolving Fund (WPCRF) was  
7 created in the Authority to provide financial assistance for certain  
8 wastewater treatment system projects; and

9 WHEREAS, Pursuant to sections 37-95-103 (13.5) and  
10 37-95-107.6 (4)(c), Colorado Revised Statutes, in order to qualify for  
11 assistance from the WPCRF, proposed projects must be included on the  
12 Water Pollution Control Project Eligibility List; and

13 WHEREAS, Pursuant to section 37-95-107.6 (4)(b), Colorado  
14 Revised Statutes, the Commission has developed additions and  
15 modifications to and deletions of projects on the Water Pollution Control  
16 Project Eligibility List; and

17 WHEREAS, The provision of financial assistance from the DWRF  
18 and the WPCRF to the proposed projects will preserve, protect, conserve,  
19 and develop the water resources of the state; promote the beneficial use  
20 of the waters of the state and the protection and preservation of the public  
21 health, safety, and welfare; create and preserve jobs and employment  
22 opportunities; and improve the economic welfare of the people of the  
23 state; and

24 WHEREAS, The General Assembly deems the additions and  
25 modifications to and deletions of projects on the Drinking Water Project  
26 Eligibility List and the Water Pollution Control Project Eligibility List  
27 adopted by the Commission to be in the interest and to the advantage of  
28 the people of the state; now, therefore,

29 *Be It Resolved by the Senate of the Seventy-fourth General*  
30 *Assembly of the State of Colorado, the House of Representatives*  
31 *concurring herein:*

32 1. That the following additions to the Drinking Water Project  
33 Eligibility List as defined in section 37-95-103 (4.8), Colorado Revised  
34 Statutes, and pursuant to section 37-95-107.8 (4)(c), Colorado Revised  
35 Statutes, are adopted:

**DRINKING WATER PROJECT  
ELIGIBILITY LIST PROJECTS**

**A. ADDITIONS**

<b>ENTITY</b>	<b>B R I E F P R O J E C T DESCRIPTION</b>
---------------	--

Aspen Trails Metropolitan District	Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage, supply, meters, water rights
Baxter Water and Services	Water management facilities including, but not limited to, treatment plant, distribution, transmission, storage, supply, meters
Bonvue Water and Sanitation District	Water management facilities including, but not limited to, distribution, transmission
Buckhorn United Methodist Camp	Water management facilities including, but not limited to, treatment plant, interconnection, distribution, transmission, storage, green infrastructure
Clearwater Metropolitan District	Water management facilities including, but not limited to, treatment plant, consolidation, interconnection, distribution, transmission, storage, supply, meters, source water protection, green infrastructure, water rights
Cokedale, Town of	Water management facilities including, but not limited to, treatment plant, consolidation, interconnection, distribution, transmission, storage, supply, meters, source water protection,



1		green infrastructure, water rights
2	Consolidated Mutual Water	Water management facilities
3	Company	including, but not limited to,
4		treatment plant, distribution,
5		transmission, storage, supply,
6		green infrastructure
7	Cornerstone Metropolitan District	Water management facilities
8		including, but not limited to,
9		treatment plant, distribution,
10		transmission, storage, supply,
11		meters
12	Cornerstone Presbyterian Church	Water management facilities
13	of Castle Rock	including, but not limited to,
14		treatment plant, consolidation,
15		distribution, transmission, supply
16	Crystal Lakes Water and Sewer	Water management facilities
17	Association 11th Filing	including, but not limited to,
18		treatment plant, consolidation,
19		distribution, transmission, storage,
20		supply, meters, green
21		infrastructure
22	East Cherry Creek Valley Water	Water management facilities
23	and Sanitation District	including, but not limited to,
24		treatment plant, distribution,
25		transmission, storage, supply,
26		meters
27	Firestone, Town of	Water management facilities
28		including, but not limited to,
29		treatment plant, distribution,
30		transmission, storage, supply,
31		meters, source water protection,
32		green infrastructure
33	Greeley, City of	Water management facilities
34		including, but not limited to,
35		treatment plant, interconnection,
36		distribution, transmission, storage,
37		supply, meters, source water

1		protection
2	Guadalupe Water Association	Water management facilities
3		including, but not limited to,
4		treatment plant, distribution,
5		transmission, storage, supply,
6		meters
7	Haxtun, Town of	Water management facilities
8		including, but not limited to,
9		distribution, transmission
10	Hudson, Town of	Water management facilities
11		including, but not limited to,
12		treatment plant, distribution,
13		transmission, supply, meters,
14		water rights
15	Ken-Caryl West Ranch Water	Water management facilities
16	District	including, but not limited to,
17		treatment plant, distribution,
18		transmission, meters
19	KV Homeowners Association	Water management facilities
20		including, but not limited to,
21		treatment plant, distribution,
22		transmission, storage, supply,
23		meters, green infrastructure
24	Loop Water Authority	Water management facilities
25		including, but not limited to,
26		treatment plant, distribution,
27		transmission, storage
28	Maybell, Town of	Water management facilities
29		including, but not limited to,
30		treatment plant
31	Mid Valley Metropolitan District	Water management facilities
32		including, but not limited to,
33		treatment plant, consolidation,
34		interconnection, distribution,
35		transmission, storage, supply,
36		meters

1	Montezuma County Local	Water management facilities
2	Improvement District / Upper	including, but not limited to,
3	Road 42 Water Association	treatment plant, consolidation,
4		interconnection, distribution,
5		transmission, storage, supply,
6		meters
7	Mustang Water Authority	Water management facilities
8		including, but not limited to,
9		treatment plant, distribution,
10		transmission, storage, supply
11	Navajo River Ranch Property	Water management facilities
12	Owners Association	including, but not limited to,
13		treatment plant, distribution,
14		transmission, storage, supply,
15		meters
16	Park Center Water District	Water management facilities
17		including, but not limited to,
18		treatment plant, distribution,
19		transmission, storage, meters
20	Pitkin Mesa Pipeline	Water management facilities
21		including, but not limited to,
22		treatment plant, distribution,
23		transmission, storage, supply,
24		source water protection
25	Purgatory Metropolitan District	Water management facilities
26		including, but not limited to,
27		treatment plant, distribution,
28		transmission
29	Redstone Water and Sanitation	Water management facilities
30	District	including, but not limited to,
31		distribution, transmission, storage
32	Sierra Verde Water Inc.	Water management facilities
33		including, but not limited to,
34		distribution, transmission
35	Sopris Village Homeowners	Water management facilities
36	Association	including, but not limited to,
37		treatment plant, interconnection,

1 distribution, transmission, meters,  
2 green infrastructure

3 Spruce Knob Water Company Water management facilities  
4 including, but not limited to,  
5 treatment plant, consolidation,  
6 interconnection, distribution,  
7 transmission, meters

8 Upper Surface Creek Domestic Water management facilities  
9 WUA including, but not limited to,  
10 treatment plant, distribution,  
11 transmission, meters

12 Ute Pass Water District Water management facilities  
13 including, but not limited to,  
14 treatment plant, interconnection,  
15 distribution, transmission, meters

16 Water View Condominium Water management facilities  
17 Association, Inc. including, but not limited to,  
18 treatment plant, distribution,  
19 transmission, supply, water rights

20	Wetmore Well No. 1 Water Users	Water management facilities
21	Association	including, but not limited to,
22		treatment plant, distribution,
23		transmission, storage, supply,
24		meters

25 2. That the following modifications to projects from the previous  
26 Drinking Water Project Eligibility List as defined in section 37-95-103  
27 (4.8), Colorado Revised Statutes, and pursuant to section 37-95-107.8  
28 (4)(c), Colorado Revised Statutes, due to name or project change, are  
29 adopted:

30 **B. MODIFICATIONS**

31	ENTITY	STATUS
32	Academy Water and Sanitation	Project change, adding water
33	District	rights
34	Animas View MHP Co-OP	Project change, adding meters

1	Arapahoe County Water and	Project change, adding supply
2	Wastewater Authority	
3	Arriba, Town of	Project change, adding
4		consolidation
5	Broomfield, City and County of	Project change, adding water
		rights
6	Burlington, City of	Project change, adding water
		rights
7	Castle Rock, Town of	Project change, adding meters,
8		water rights
9	Clifton Water District	Project change, adding water
10		rights
11	Collbran, Town of	Project change, adding
12		interconnection
13	Copper Mountain Consolidated	Project change, adding water
14	Metropolitan District	rights
15	Crawford, Town of	Project change, adding supply,
16		green infrastructure
17	Creede, City of	Project change, adding
18		consolidation, interconnection,
19		supply, meters, source water
20		protection, green infrastructure,
21		water rights
22	Divide South Water Users'	Project change, adding source
23	Association and Ditch	water protection
24	Company	
25	Dominion Water and Sanitation	Project change, adding green
26	District	infrastructure
27	Eagle River Water and	Project change, adding source
28	Sanitation District / Eagle River	water protection, green
29	WSD and Upper Eagle	infrastructure, water rights
30	Regional Water Authority	
31	East Larimer County Water	Project change, adding green
32	District	infrastructure

1	Estes Park, Town of	Project change, adding
2		interconnection, water rights
3	Flagler, Town of	Project change, adding water
4		rights
5	Fraser, Town of	Project change, adding water
6		rights
7	Frederick, Town of	Project change, adding water
8		rights
9	Granada Water Association	Project change, adding water
10		rights
11	Highland Lakes Water District	Project change, adding
12		interconnection
13	Holly, Town of	Project change, adding meters,
14		source water protection, green
15		infrastructure
16	Hot Sulphur Springs, Town of	Project change, adding green
17		infrastructure
18	Hugo, Town of	Project change, adding
19		consolidation, interconnection,
20		water rights
21	Iliff, Town of	Project change, adding
22		consolidation, water rights
23	Karval Water Users, Inc.	Project change, adding
24		interconnection, water rights
25	La Junta, City of	Project change, adding
26		interconnection
27	Lochbuie, Town of	Project change, adding water
28		rights
29	Loveland, City of	Project change, adding treatment
30		plant, meters, water rights
31	Mancos, Town of	Project change, adding water
32		rights
33	May Valley Water Association	Project change, adding

1		consolidation, interconnection,
2		source water protection, green
3		infrastructure, water rights
4	Moffat, Town of	Project change, adding
5		consolidation, source water
6		protection, green infrastructure,
7		water rights
8	Morrison Creek Metropolitan	Project change, adding source
9	Water and Sanitation District	water protection, green
10		infrastructure, water rights
11	Mountain View Villages Water	Project change, adding supply
12	and Sanitation District	
13	Oak Creek, Town of	Project change, adding water
14		rights
15	Prairie View Ranch Water	Project change, adding storage,
16	District	water rights
17	Rosewood Hills Property and	Project change, adding green
18	Homeowners Association	infrastructure
19	Roundup River Ranch (camp)	Project change, adding storage
20	Routt County / Community of	Project change, adding green
21	Phippsburg	infrastructure
22	Sheep Creek Landowners	Project change, adding meters
23	Association	
24	Silver Heights Water and	Project change, adding
25	Sanitation District	interconnection
26	Spring Valley Mutual Water	Project change, adding storage
27	Association	
28	Steamboat Springs, City of	Project change, adding
29		consolidation, interconnection
30	Sunset Water District	Project change, adding meters
31	Trail West Association	Project change, adding supply
32	Upper Road 42 Water	Project change, adding supply
33	Association	





1		improvements including, but not
2		limited to, treatment plant,
3		biosolids, collection, interceptor,
4		stormwater, reuse, nonpoint
5		source
6	Copper Mountain Consolidated	Wastewater treatment system
7	Metropolitan District	improvements including, but not
8		limited to, treatment plant,
9		biosolids, collection, interceptor,
10		reuse, green infrastructure,
11		nonpoint source
12	Eagle County	Wastewater treatment system
13		improvements including, but not
14		limited to, stormwater, green
15		infrastructure, nonpoint source
16	Haxtun, Town of	Wastewater treatment system
17		improvements including, but not
18		limited to, stormwater, nonpoint
19		source
20	Hudson, Town of	Wastewater treatment system
21		improvements including, but not
22		limited to, treatment plant,
23		biosolids, collection, interceptor,
24		green infrastructure
25	Littleton, City of	Wastewater treatment system
26		improvements including, but not
27		limited to, stormwater, green
28		infrastructure
29	Lone Tree Creek WWTF	Wastewater treatment system
30		improvements including, but not
31		limited to, treatment plant,
32		biosolids, collection, interceptor,
33		reuse
34	Loveland, City of	Wastewater treatment system
35		improvements including, but not
36		limited to, treatment plant,
37		biosolids, collection, interceptor

1	Mid Valley Metropolitan	Wastewater treatment system
2	District	improvements including, but not
3		limited to, treatment plant,
4		collection, interceptor
5	Mountain Village, Town of	Wastewater treatment system
6		improvements including, but not
7		limited to, treatment plant,
8		biosolids, green infrastructure
9	Pagosa Springs, Town of	Wastewater treatment system
10		improvements including, but not
11		limited to, treatment plant,
12		collection, interceptor, green
13		infrastructure
14	Saddler Ridge Metropolitan	Wastewater treatment system
15	District	improvements including, but not
16		limited to, treatment plant, green
17		infrastructure
18	Saguache County	Wastewater treatment system
19		improvements including, but not
20		limited to, stormwater, green
21		infrastructure, nonpoint source
22	South Adams County Water	Wastewater treatment system
23	and Sanitation District	improvements including, but not
24		limited to, treatment plant,
25		biosolids, green infrastructure,
26		nonpoint source
27	Strasburg Sanitation and Water	Wastewater treatment system
28	District	improvements including, but not
29		limited to, treatment plant,
30		collection, interceptor
31	Stratmoor Hills Sanitation	Wastewater treatment system
32	District	improvements including, but not
33		limited to, treatment plant,
34		collection, interceptor
35	Woody Creek Metropolitan	Wastewater treatment system
36	District	improvements including, but not
37		limited to, treatment plant,

1 collection, interceptor

2 4. That the following modifications to projects from the previous  
3 Water Pollution Control Project Eligibility List as defined in section  
4 37-95-103 (13.5), Colorado Revised Statutes, and pursuant to section  
5 37-95-107.6 (4)(c), Colorado Revised Statutes, due to name or project  
6 change, are adopted:

7 **B. MODIFICATIONS**

8	ENTITY	STATUS
9	Avondale Water and Sanitation	Project change, adding green
10	District	infrastructure
11	Cheraw, Town of	Project change, adding
12		stormwater
13	Creede, City of	Project change, adding reuse,
14		biosolids
15	Dolores, Town of	Project change, adding
16		stormwater
17	Elbert Water and Sanitation	Project change, adding nonpoint
18	District	source
19	Elizabeth, Town of	Project change, adding biosolids
20	Evergreen Metropolitan District	Project change, adding nonpoint
21		source
22	Fairplay, Town of	Project change, adding biosolids,
23		nonpoint source
24	Hugo, Town of	Project change, adding nonpoint
25		source
26	Iliff, Town of	Project change, adding reuse,
27		stormwater, biosolids, nonpoint
28		source
29	Kittredge Sanitation and Water	Project change, adding nonpoint
30	District	source
31	Kremmling Sanitation District	Project change, adding biosolids

1	La Jara, Town of	Project change, adding nonpoint
2		source
3	La Junta, City of	Project change, adding
4		stormwater, nonpoint source
5	Lake City, Town of	Project change, adding nonpoint
6		source
7	Mesa County Lower Valley	Project change, adding reuse
8	Rural Public Improvement	
9	District	
10	Moffat, Town of	Project change, adding
11		stormwater, nonpoint source
12	Mountain Water and Sanitation	Project change, adding biosolids
13	District	
14	Mount Crested Butte Water and	Project change, adding biosolids
15	Sanitation District	
16	Nucla, Town of	Project change, adding nonpoint
17		source
18	Oak Creek, Town of	Project change, adding green
19		infrastructure
20	Perry Park Water and Sanitation	Project change, adding reuse
21	District	
22	Plum Creek Water Reclamation	Project change, adding biosolids
23	Authority	
24	Routt County / Community of	Project change, adding nonpoint
25	Milner	source
26	Sedalia Water and Sanitation	Project change, adding biosolids
27	District	
28	Silt, Town of	Project change, adding
29		stormwater, biosolids
30	Silver Plume, Town of	Project change, adding reuse
31	Silverton, Town of	Project change, adding biosolids
32	Sugar City, Town of	Project change, adding reuse,



# LEGISLATIVE OPTIONS FOR ADDRESSING THE SACKETT V. EPA DECISION AND WATERS OF THE UNITED STATES IN COLORADO

## OVERVIEW

The *Sackett v. EPA* United States Supreme Court decision removed federal protection of wetlands and other waters. Under that decision, the type of waterbodies subject to federal jurisdiction and permitting is significantly narrowed. The U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) thereafter revised their regulatory definitions of “waters of the United States” to align with the *Sackett* ruling. Currently, the Corps issues permits in Colorado for dredge and fill activities. With fewer federal permits being issued by the Corps following *Sackett*, rivers, streams, lakes, and wetlands in Colorado are at risk of irreversible harm. In addition, the decision leaves the regulated community with much uncertainty about the legal risk associated with their development projects (i.e., housing developments, flood prevention, etc.).

## PROBLEM STATEMENT

The 1972 amendments to the Clean Water Act established federal jurisdiction over “navigable waters,” which are defined as the “waters of the United States” (Clean Water Act Section 502(7)). Waters of the United States, also known as “WOTUS,” are bodies of water such as rivers, lakes, streams, and wetlands that the federal government protects. The Clean Water Act authorizes EPA and the Corps to more precisely define waters of the United States in regulation, which the agencies have done but which have been subject to federal court challenges for decades. Since 2006 until recently, the Corps has determined the jurisdictional status of wetlands under the “significant nexus” test from the concurring opinion in *Rapanos v. United States*.

In Colorado (and 47 other states), the Corps uses its authority under Section 404 of the Clean Water Act to issue “404 permits,” which regulate discharges from dredge and fill activities into waters that meet the definition of waters of the United States. Dredge and fill activities involve digging up and placing dirt and other fill material into wetlands or surface waters as part of construction projects. These operations are necessary in many infrastructure projects including roads, bridges, housing developments, flood mitigation, and utility pipelines.

Colorado's Water Quality Control Act complements the Clean Water Act, defining “state waters” as “any and all surface and subsurface waters which are contained in or flow in or through this state.” This definition has always been broader than the federal definition of “waters of the United States.” Nevertheless, the federal definition of waters of the United States and the Corps’ 404 dredge and fill permitting program have safeguarded the vast majority of Colorado's state waters from pollution caused by dredge and fill activities.

On May 25, 2023, the U.S. Supreme Court issued a ruling in the *Sackett v. EPA* case that changes the definition of waters of the United States. The Court ruled that the EPA’s previous interpretation of what constitutes waters subject to federal regulation was too broad. The Court held that in order to be jurisdictional, wetlands must be indistinguishable from a water of the United States. Previously, wetlands could be separated from a water of the United States (i.e., by a road or levee) if there was still a “significant nexus” between the waterbodies. The Court’s decision also redefines waters of the United States to be “a relatively permanent body of water connected to traditional interstate navigable

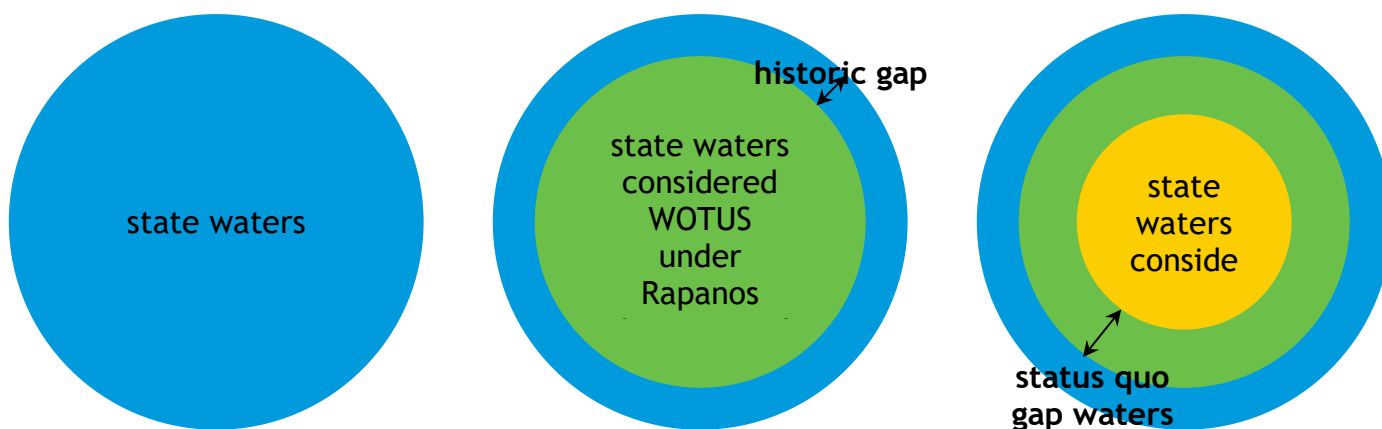
waters.” EPA and the Corps thereafter revised their regulatory definitions of “waters of the United States” to align with the *Sackett* ruling. These changes place an estimated 60 percent of Colorado wetlands at risk of losing environmental protection, based on an analysis of wetlands using the [National Fish and Wildlife Service’s National Wetland Inventory](#). In addition, many state streams may not be considered relatively permanent and are similarly at risk. In Colorado, 26 percent of streams only flow in response to rainfall, and 59 percent flow seasonally, based on analysis using the [United States Geological Survey’s National Hydrography Dataset](#). The State is waiting for additional guidance from the EPA and Corps to determine exactly how many of Colorado waters may lose protection.

Dredge and fill projects that no longer require a federal permit are still subject to state-level pollution enforcement under the Colorado Water Quality Control Act. Under that law, the Colorado Department of Public Health and Environment’s Water Quality Control Division can take enforcement action against any person discharging pollutants in Colorado waters without a permit. However, the law does not authorize the Water Quality Control Division to issue permits to allow discharges from dredge and fill activities.

## OPTIONS TO ADDRESS THE PROBLEM

During the first half of 2023, and in recognition that the *Sackett* decision could result in fewer protections for state waters, Governor Polis tasked a group of experts to discuss options for addressing the pending decision. The group discussed examples from other states that have already protected their state waters or are in the process of protecting their state waters that are not protected by federal dredge and fill permits. The group summarized the problem in Colorado using Figure 1:

**Figure 1 Colorado’s state waters definition vs. federal definitions of waters of the United States**



In Colorado, “state waters means any and all surface and subsurface waters which are contained in or flow in or through this state, but does not include waters in sewage systems, waters in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed.” C.R.S. 25-8-103(19). The definition of state waters has always been more expansive than the definition of waters of the United States. Before the *Sackett* decision, a subset of state waters were not waters of the United States (difference between the blue and green circle in the diagram above). However, this prior definition of waters of the United States

sufficiently safeguarded Colorado's state waters from pollution caused by dredge and fill activities. Post- *Sackett*, the percentage of state waters protected by federal dredge and fill permitting will be significantly less (the difference between the green and yellow circle in the diagram).

The group discussed four options to address the impacts of the *Sackett* decision:

1. **Use of enforcement discretion.** The group discussed using enforcement discretion as a short-term solution to allow development projects to continue without a state-issued permit. The Water Quality Control Division [developed a policy](#) that describes how the division will exercise enforcement discretion for discharges of dredged or fill material into state waters that are not subject to federal Section 404 permitting following the *Sackett* decision.
2. **Gap waters program.** One long-term option the group discussed is a permit program covering only the "status quo" gap shown in the above diagram. This permit program would concentrate on waters where there may be a gap between the status quo of waters that have been permitted and protected for decades (and specifically, as clarified by the Supreme Court's *Rapanos* decision and the *Rapanos* guidance issued by EPA in 2008) and the new federal definition of WOTUS as a result of the *Sackett* decision.
3. **Colorado program.** Another long-term option discussed is a permit program covering all state waters minus anything with a federal permit or that addresses dredge and fill activities in all state waters not under federal jurisdiction. This is the "historic gap" plus the "status quo gap" in the above diagram.
4. **Full assumption.** The final long-term option discussed was that Colorado could seek full assumption of the federal 404 program. This is a formal process and could not be accomplished in the short term.

The group's general consensus was that there were two viable options for a long-term solution: a gap waters program or a Colorado program. The group developed the pros and cons of these options, as shown in Table 1 below:

Table 1 Pros and cons of a gap waters program and a Colorado program

Gap Waters Program		Colorado Program	
Pros	Cons	Pros	Cons
No overlap in coverage between federal and state regulations. Could provide continuity for the regulated community who understand current requirements. Would be consistent with EPA's 2008 guidance, so less change for project proponents.	Coordination between the Corps and the State may take extra time. Less long-term certainty Staff and budget resources. The complication of determining jurisdiction. Differences between state and federal waters, and could cause needing more time to assess. Subject to external forces requiring triggers	No overlap in coverage between federal and state regulations if structured to avoid dual permits. Wetlands of unusual/unique importance to Colorado may be covered under a Colorado program Examples from other states that could be modeled from. For waters that fall in the gap, could be faster	If overlapping jurisdiction, coordination between the Corps and the State may take extra time. Staff and budget resources. More expansive than status quo. Regulatory community would be subject to more requirements and expenses. More uncertainty for landowners where Fed



Gap Waters Program		Colorado Program	
Pros	Cons	Pros	Cons
	for changes.	to get a permit in Colorado program than gap waters program.	and State jurisdictions start and end. Questions/uncertainties about what are the boundaries of what is included in the defin. of a state water.

The remainder of this document will outline legislative options for both a gap waters program and a Colorado program.

LEGISLATIVE OPTIONS

Following are recommended statutory changes to address the *Sackett* decision in Colorado. Where there are differences between the gap waters program and a Colorado program, the information is presented tabularly to show the difference. Please note that a likely solution for Colorado could contain elements from both information presented under Gap Waters Program and Colorado Program below. They have been presented separately below for organizational purposes only and to help facilitate discussion . In addition, options that have been included based on stakeholder feedback are noted with an asterisk (\*).

- 1. **PERMIT AND MITIGATION AUTHORITY.** Modify Colorado statute so that it is clear that the Department of Public Health and Environment’s Water Quality Control Division can issue dredge and fill permits and require mitigation in certain circumstances.
- 2. **SCOPE OF PROGRAM.** Statutory direction should direct the scope of the program. The differences between the scope of a program are highlighted in the table below.

Table 1 Statutory direction

Gap Waters Program	Colorado Program
Direction to maintain "status quo" of environmental protection aligned with the 2006 <i>Rapanos</i> decision and corresponding EPA guidance in place since 2008.	Direction to protect all state waters that are not waters of the United States, however that federal term is defined going forward.

- 3. **CONSULTATION WITH OTHER STATE AGENCIES.** Statutory direction should require that the Water Quality Control Division consult with the Department of Natural Resources (DNR) on permits for water supply projects on the topics of potential impacts to aquatic resources and associated mitigation (Colorado Parks and Wildlife) and potential impacts to water rights (State Engineer’s Office). The statute should also direct consultation with DNR (State Engineer’s Office) on the applicability of exclusions of certain types of waters (either on a permit-specific basis or in identifying additional exclusions in rulemaking) (see Item 4, Tables 2 and 3 below) and with the Department of Agriculture on the applicability of exemptions for agricultural activities (see Item 5, Tables 4 and 5 below). The statute should direct consultation with DNR concerning the "purpose and need" and the “alternatives analysis” for individual permit applications for water projects under the Corps’ 404(b)(1) guidelines (see Item 7 below). The statute should require the Water Quality Control Commission (WQCC) to further detail the consultation processes in regulation.
- 4. **EXCLUSIONS AND INCLUSIONS OF TYPES OF WATERS.** The statute should specify exclusions for types of waters that would not require permits for discharges of dredge and fill material, as well as certain express inclusions. The statute should specify a consultation role for DNR concerning excluded types of waters (see Item 3 above). Table 2 and 3, below, provide suggestions for what should be in statute versus what should be addressed through regulation. The statute should direct the regulatory body to

consider specifying the exclusions in Table 3 below. *In addition, options that have been included based on stakeholder feedback are noted with an asterisk (\*)*.

**Table 2 Exclusions and inclusions (types of waters) to specify in statute**

Gap Waters Program	Colorado Program
<p>Exclusions to specify in statute:</p> <ul style="list-style-type: none"> <li>• Non-tidal drainage and irrigation ditches excavated on dry land.</li> <li>• Artificially irrigated areas which would revert to uplands if irrigation ceased.</li> <li>• Artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.</li> <li>• Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of WOTUS pursuant to the pre-2015 federal regulations and the 2008 Guidance.</li> </ul>	<p>Exclusions (do not need a permit) to specify in statute:</p> <ul style="list-style-type: none"> <li>• All ditches and canals, including drainage ditches, roadside ditches, irrigation ditches, and canals, that are excavated on dry land and not along any natural stream systems (37-92-602(9)(b)(III), C.R.S).*</li> <li>• Artificially irrigated areas which would revert to uplands if irrigation ceased</li> <li>• Artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.</li> <li>• Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.</li> <li>• Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water or wetlands is within the natural stream system (37-92-602(9)(b)(III), C.R.S).</li> <li>• Groundwater.*</li> <li>• Prior converted cropland or any area that, prior to December 23, 1985, was drained or otherwise manipulated for the purpose, or having the effect, of making production of an agricultural product possible. An area is no longer considered prior converted cropland when the area is abandoned and has reverted to wetlands. Abandonment occurs when prior converted cropland is not used for, or in support of, agricultural purposes at least once in the immediately preceding five years. Agricultural purposes include land use that makes the production of an agricultural product possible, including grazing and haying. Cropland that is left idle or fallow for conservation or agricultural purposes for any period of time remains in agricultural use, and, therefore, maintains the prior converted cropland.*</li> </ul>

Table 3 Exclusions and inclusions (types of waters) to be considered by the WQCC through rulemaking

Gap Waters Program	Colorado Program
Not applicable.	<p>Exclusions (do not need a permit) to specify in statute:</p> <ul style="list-style-type: none"> <li>• Isolated wetlands.*</li> <li>• Ephemeral drainages and upland swales.*</li> </ul> <p>Inclusions (need a permit) to specify in statute:</p> <ul style="list-style-type: none"> <li>• Peatlands.*</li> <li>• Natural springs.*</li> </ul>

5. **EXEMPTED AND NON-EXEMPTED ACTIVITIES.** The statute should include exemptions for certain types of activities that would not require permits for discharges of dredge and fill material. The statute should specify a consultation role for the Department of Agriculture concerning applicability of the exemptions related to agricultural practices (see Item 3 above). Table 4 and 5 that follow detail suggestions for what should be included in statute versus what should be addressed through regulation. The statute should direct the regulatory body to consider including the exemptions in Table 5 below. *In addition, options that have been included based on stakeholder feedback are noted with an asterisk (\*)*.

Table 4 Exempted and non-exempted activities to include in statute

Gap Waters Program	Colorado Program
<p>Exempted activities:</p> <ul style="list-style-type: none"> <li>• Activities in receipt of a valid federal permit based on preliminary jurisdiction determinations that address all aquatic resources on site, regardless of federal jurisdiction, are excluded.</li> <li>• Normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices. “Upland soil and water conservation practices” means any discharge of dredged or fill material to state waters incidental to soil and water conservation practices for the purpose of improving, maintaining, or restoring uplands including, but not limited to, rangeland management practices, erosion control practices, and vegetation management practices.</li> <li>• Maintenance, including emergency reconstruction of recently</li> </ul>	<p>Exempted activities:</p> <ul style="list-style-type: none"> <li>• Activities in receipt of a valid federal permit based on preliminary jurisdiction determinations that address all aquatic resources on site, regardless of federal jurisdiction, are excluded.*</li> <li>• Activities in receipt of a valid approved jurisdictional determination stating an aquatic resource is nonjurisdictional dated prior to May 25, 2023.*</li> <li>• Normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices. “Upland soil and water conservation practices” means any discharge of dredged or fill material to state waters incidental to soil and water conservation practices for the purpose of improving, maintaining, or restoring uplands including,</li> </ul>

**Table 4 Exempted and non-exempted activities to include in statute**

Gap Waters Program	Colorado Program
<p>damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures.</p> <ul style="list-style-type: none"> <li>• Construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches.</li> <li>• Construction of temporary sedimentation basins on a construction site which does not include placement of fill material into the navigable waters.</li> <li>• Construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the state waters are not impaired, that the reach of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized.</li> </ul> <p>Not exempted:</p> <ul style="list-style-type: none"> <li>• Any discharge of dredged or fill material into state waters incidental to any activity having as its purpose bringing an area of the state waters into a use to which it was not previously subject, where the flow or circulation of state waters may be impaired, or the reach of such waters be reduced are not included within these exemptions, consistent with Section 404(f)(2). See 33 U.S.C. § 1344(f)(2) (the “Recapture Provision”).</li> </ul>	<p>but not limited to, rangeland management practices, erosion control practices, and vegetation management practices.</p> <ul style="list-style-type: none"> <li>• Construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches.</li> <li>• Construction of temporary sedimentation basins on a construction site which does not include placement of fill material into the navigable waters.</li> <li>• Construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the state waters are not impaired, that the reach of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized.</li> </ul>

**Table 5 Exempted activities to be considered by the WQCC through rulemaking**

Gap Waters Program	Colorado Program
<p>Not applicable.</p>	<p>Exempted activities: Providing clarity around the current exemption: Maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures. Areas the WQCC should consider through rulemaking:</p> <ul style="list-style-type: none"> <li>• Maintenance activities that include minor deviations in the</li> </ul>

Table 5 Exempted activities to be considered by the WQCC through rulemaking

Gap Waters Program	Colorado Program
	<p>structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project. This includes removal of accumulated sediment and debris within, and in the immediate vicinity of any structure or fill. This also includes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events.*</p> <ul style="list-style-type: none"> <li>• Installation of scientific measurement devices.*</li> <li>• Survey activities.*</li> <li>• Repair of uplands damaged by discrete events.*</li> <li>• Emergency and natural response activities, if the activities are to restore aquatic features to their previous state and/or provide beneficial effects to the aquatic features. This would require some approval and oversight by the state permitting agency.*</li> <li>• Maintenance of any previously constructed stormwater or flood control facilities, including retention and detention basin.</li> <li>• Maintenance in off-channel reservoirs that are not connected to a downstream natural stream system.*</li> </ul> <p>Not exempted: make the "recapture provision" more clear in regulation.*</p>

6. **DETERMINATION IF PERMIT REQUIRED:** If the scope of the program is a gap waters program, then there will need to be a determination of whether a state permit is required or not. The statute should provide direction on these determinations. To maintain the status quo the statute should say that what the Division is trying to maintain is protection provided under the *Rapanos* significant nexus test and EPA's 2008 guidance. The statute could provide direction that the WQCC should try and provide more refined direction than what has been provided nationally on this issue, taking into account Colorado's hydrology. If the scope of a program is a Colorado program, then the statute should state that any discharge of dredge and fill material should require a permit except for waters that are excluded or activities that are exempted.

7. **PERMITS:** The statute should allow for individual and general permits and define a permit duration. The statute should authorize the WQCC to establish permitting regulations. The WQCC’s regulations should include a requirement for the Water Quality Control Division to consult with DNR regarding "purpose and need" and the “alternatives analysis” for individual permit applications for water projects under the Corps’ 404(b)(1) guidelines. Tables 6 and 7, below, provide suggestions for what to include in statute versus what should be addressed through regulation. *In addition, options that have been included based on stakeholder feedback are noted with an asterisk (\*)*.

Table 6 Permit information to include in statute

Gap Waters Program	Colorado Program
<ul style="list-style-type: none"> <li>• A permit term should be no longer than five years.</li> <li>• The state may issue general permits for any category of activities involving discharges of dredged or fill material if the activities in such category are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment.</li> <li>• Activities that are not covered by general permits may be authorized by individual permits.</li> </ul>	<ul style="list-style-type: none"> <li>• A permit term should be no longer than five years.</li> <li>• The state may issue general permits for any category of activities involving discharges of dredged or fill material if the activities in such category are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment.</li> <li>• Activities that are not covered by general permits may be authorized by individual permits.</li> </ul>

Table 7 Permit information to be considered by the WQCC through rulemaking

Gap Waters Program	Colorado Program
<ul style="list-style-type: none"> <li>• Permit regulations equivalent to the Corps’ Clean Water Act 404(b)(1) guidelines, including consultation with DNR concerning the required "purpose and need" and “alternatives analysis” for individual permit applications for water projects.</li> <li>• All general permits have a threshold of no more than 0.5 acre of permanent impacts to wetlands and/or ordinary high water mark.</li> <li>• Some projects can proceed without pre-construction notification.*</li> <li>• General permits should be equivalent to current nationwide and regional general permits.*</li> <li>• Individual permits would require a 401 water quality certification type analysis.</li> </ul>	<p>General Permits</p> <ul style="list-style-type: none"> <li>• Permit types: <ul style="list-style-type: none"> <li>○ Utility lines (water, oil/natural gas, electric)</li> <li>○ Restoration/Enhancement</li> <li>○ Transportation</li> <li>○ Development (commercial, residential, industrial)</li> <li>○ Recreational</li> <li>○ Renewable Energy</li> <li>○ Temporary construction</li> </ul> </li> <li>• All general permits have a threshold of no more than 0.5 acre of impacts, except for restoration/enhancement projects, which have no limits provided it demonstrates ecological lift.</li> <li>• Similar processes where certain projects can proceed without pre-construction notification.*</li> </ul>

DELIBERATIVE PROCESS PRIVILEGED – MAY ALSO BE ELECTED OFFICIAL WORK

Table 7 Permit information to be considered by the WQCC through rulemaking

Gap Waters Program	Colorado Program
	<ul style="list-style-type: none"> <li>For linear projects, each crossing is a single and complete project.</li> </ul> <p>Individual permits (focus on potentially streamlining individual permit process*):</p> <ul style="list-style-type: none"> <li>Required if project does not fit within exemptions or a general permit.</li> <li>Requires the following information: <ul style="list-style-type: none"> <li>Project location information</li> <li>Project description, including site plans</li> <li>Alternatives analysis</li> <li>Purpose and need</li> <li>Description of avoidance and minimization measures</li> <li>Compensatory mitigation plan (see requirements below)</li> </ul> </li> <li>Is project protective of water quality standards - include in alternatives analysis</li> </ul> <p>For projects impacting both waters of the United States and non-waters of the United States it may be possible for the state to permit the entire project and have it recognized by the Corps. Utah and West Virginia currently have programs that do this.</p>

8. **MITIGATION:** Provide direction in statute that the WQCC should establish rules for stream and wetland mitigation. Statute should require wetland mitigation for all permanent impacts over 0.1 acre. Statute should also state that mitigation could be completed by purchase of mitigation bank credits, in-lieu fee program, or permittee-responsible mitigation. Details on the mitigation process to be completed by rulemaking. Rulemaking to consider functional assessment methods and ratios for determining mitigation requirements for both wetland and stream mitigation. Rulemaking to determine stream mitigation thresholds. The statute should direct consultation with DNR (Colorado Parks and Wildlife) on mitigation for aquatic resources (see Item 3 above).
9. **CULTURAL RESOURCES EVALUATION:** Need to determine if statute should direct the WQCC to establish rules to include cultural resources evaluation in permitting processes.
10. **THREATENED AND ENDANGERED SPECIES ASSESSMENT:** Need to determine if statute should direct the WQCC to establish rules to include assessment of federally-recognized threatened or endangered species in permitting processes.