

Federal, State and Intergovernmental Relations (FSIR) Meeting

February 16, 2024
1:00 PM

In-Person event-Aurora Room, as well as Virtual
Access information provided to Internal Staff

Public Participation Dialing Instructions

Dial Access Number: 1-408-418-9388

Enter Participant Code: 2488 143 4121

**This meeting will be live streamed on the city's YouTube channel.
Watch at [YouTube.com/TheAuroraChannel](https://www.youtube.com/TheAuroraChannel).**

**Council Member Angela Lawson, Chair
Council Member Danielle Jurinsky, Vice Chair
Council Member Curtis Gardner, Member**

Serve as leaders and partner with other governments and jurisdictions.

1. Consent Items
2. Approval of Minutes Lawson
3. Resolutions Jurinsky/Sundberg
4. Federal Legislative Update Hettinger
 - FY 25 Congressionally Directed Spending Requests Rogers
5. State Legislative Update O'Keefe
 - Legislative Discussion Rogers
6. Water Update Kitzmann
7. Miscellaneous Matters for Consideration

Next meeting – March 1, 2024 – Virtual at 1pm

2-2-24 FSIR Draft Minutes

Federal, State, and Intergovernmental Relations (FSIR) Meeting
Video Conference Call Meeting
February 2, 2023

Members Present: Council Member Lawson – Chair, Council Member Jurinsky – Vice Chair

Member Absent: Council Member Gardner

Others present: G. Koumantakis, H. Morris, R. Pena, L. Rogers, S. Day, R. Venegas, C. Atkinson, C. Grant, Mayor Coffman, S. Newman, L. Hettinger, J. Wesoloski, A. Montoya, P. O’Keefe, J. Prosser, T. Velasquez, T. Rees, K. Kitzmann, L. Callanen, M. Bryant, A. Coombs, S. Berg, A. Youngblood, M. Parnes, T. Buneta

1. CONSENT ITEMS:

None.

2. APPROVAL OF MINUTES

January 19, 2024 meeting minutes were approved.

4. FEDERAL LEGISLATIVE UPDATE

Summary of Issue and Discussion:

L. Hettinger discussed Congress passing another continuing resolution for four appropriation bills with a deadline of March 1st and a separate package of eight bills due March 8th. The Speaker was able to get it in the House, and the Appropriations Committee was working on finalizing funding differences. Majority Leader Schumer announced legislation for border security and Ukraine. The Senate will arrive next Monday to vote on the bill on Tuesday. The president’s budget is expected to come out on March 11th and Congress would see the outline for focus and spending for the upcoming fiscal year.

Committee Discussion:

Mayor Coffman asked for an opinion regarding what may occur with the border and Ukraine voting.

L. Hettinger answered the issue is likely not moving forward after being criticized by President Trump and Speaker Johnson.

Outcome: Information only.

Follow-up Action: No follow-up is needed.

5. STATE LEGISLATIVE UPDATE

Summary of Issue and Discussion:

P. O’Keefe talked about state legislation, stating that the Smart Act hearings have concluded, and they have moved on to testimonies, hearings, and witness presentations on bills. So far, 250 bills have been introduced, and another 450-500 are expected to be introduced in the next three months. There is progress on several bills being worked on, including HB24-1015, which passed out of committee. They are focused on language for virtual or internet-based options that would be appropriate for suicide prevention and education in the workplace. If it does not pass in the Senate, it will move on to the House, which has support. Also discussed was HB24-1090 which supports the protection of juvenile witness identities. The objective is to ensure records are released for attorneys and to ensure no conflict from the defense side. The goal is also to ensure municipal attorneys can access the records. The amendment was successfully passed. Occupancy limits were discussed where local government can limit occupancies for residents.

HB24-1074 regarding Aggravated Cruelty of Law Enforcement Animals passed the committee earlier in the week. HB24-1076 The Purple Star Program passed the committee, assisting military families and children starting new schools. HB24-1079 was discussed regarding Persons Detained in Jail on Emergency Containment. There are potential amendments based on room or availability for alternatives. The committee is working with the State Patrol and sponsor Senator Fields. They are optimistic about getting language in the bill. A bill regarding Land Use and Affordable Housing is to be drafted and would allow for defect standards for homes before a lawsuit can be brought to a 2/3 vote in the HOA. Accessory Dwelling Units (ADUs) rights will be introduced in a week or so.

L. Rogers discussed that no amendments were introduced to HB24-1079 and that there will be no change in position at this time.

Committee: Discussion:

CM Lawson asked for tracker of bill positions and statuses from previous committee meetings be included agenda packets.

CM Jurinsky brought to attention a bill proposing to end tips and minimum wage most directly towards restaurant and service workers. The bill will likely be dropped in the middle of the night and is said to be against Constitutional tipped minimum wage.

Mayor Coffman asked for an update on Senator Fields and the Migrant Support Network.

P. O’Keefe answered that Senator Fields is working with the Department of Labor & Employment to deal with the creation of a migrant support network, establish guidelines, and fund to the Division of Labor. The idea is to assist new migrants with administrative funds and reimbursements during training and to help apply for Community Relief Fund (CRF) grants for ineligible migrants.

T. Rees noted that a bill from Representative Mandy Lindsay on Proposition 123 is being drafted for the city to continue to receive funding in the housing world. More information will be available in one week.

Outcome: Information only.

Follow-Up Action: No follow-up is needed.

SB24-001: Continue Youth Mental Health Services Program

The temporary youth mental health services program “I matter” is scheduled to repeal on June 30, 2024. The bill would continue to program indefinitely as it addresses youth violence and access to behavioral health services. Staff recommends support position.

CM Lawson and CM Jurinsky supported the staff recommendation of support.

SB24-052: Ongoing Funding for 911 Resource Center

The bill requires the general assembly to appropriate funds from the general fund to the Department of Regulatory Agencies for the use by the Public Utilities Committee to fund the operations of the Colorado 911 Resource Center. Staff recommends a support position.

CM Lawson and CM Jurinsky supported the staff recommendation of support.

HB24-1076: The Purple Star Program

This bill creates a Purple Star Program in the Department of Education to allow schools to be designated and institute personnel to help support the military-connected families. Staff recommended a position of support, stating it could benefit military communities that live within the city, and Buckley Space Force Base also asked the city to support it.

Mayor Coffman said this would help military families be able to lock into a school before they had an address.

CM Lawson and CM Jurinsky supported the staff’s recommendation of support

SB24-065: Mobile Electronic Devices & Motor Vehicle Driving

An amendment is proposed to the current law that has established exemptions to drivers being on their phones while operating a motor vehicle. The amendment calls for utility operators responding to a utilities emergency, code enforcement officers, and animal protection officers being added to the exemptions list. Staff recommends amend position.

CM Lawson asked if they were amenable to the rationale of the proposed bill.

P. O’Keefe answered that Senator Fields is open to discussion; however, Senator Hansen has more concerns with adding too many exemptions.

CM Lawson and CM Jurinsky supported the staff recommendation of amend.

HB 24-1152: Accessory Dwelling Units

This bill creates a series of requirements related to accessory dwelling units, establishing requirements for subject jurisdictions and for qualifying as an accessory dwelling unit supportive jurisdiction. The bill creates the accessory dwelling unit fee reduction and encourages grant programs within the division. Staff recommended amend position.

Concern was raised by staff regarding the requirements and fee waiver or reduction. The current business model does not support fee waiver or reduction, and water conservation data is thought to be inaccurate and should not be part of the rationale. Concern was raised for inadequate compensation for the city to set up units. There is a built-in grant within the bill that can help offset costs in lieu of waiving fees.

CM Jurinsky had concern about not waiving fees for seniors.

CM Coombs asked about fee caps and its impact because the city has comparatively low fees.

CM Lawson and CM Jurinsky supported the staff recommend amend position.

HB24-1007: Residential Occupancy Limits

The bill prohibits local government from enacting or enforcing residential occupancy limits unless they are tied to a minimum square footage per person requirement necessary for health, safety and welfare. Staff recommended an amend position on the bill to allow code enforcement to enforce the provisions with penalties for noncompliance.

Mayor Coffman asked if the local government set the square footage requirements. L. Rogers answered yes and said in regards to square footage limitations relating to health and safety, the city already follows the international residential code for square footage requirements.

CM Lawson and CM Jurinsky supported the amend position on the bill.

HB24-1114: Pet Animal Safety Requirements Before Euthanasia

The bill would require animal shelters or pet animal rescues to notify each in the state before euthanizing a pet animal so that another may take possession of the animal if it wants. Staff recommend to oppose the bill in its entirety. Concern was raised that the bill impairs the city Home Rule Authority, places an undue burden on shelter staff, and increases the stay of unclaimed and potentially unclean animals at the shelter. It was noted that a number of other organizations and agencies oppose the bill for similar reasons.

CM Lawson and CM Jurinsky supported opposing the bill.

HB24-1090: Privacy Protections Criminal Justice Records

The bill permits the release of unredacted records to the office of the state public defender and the office of the alternate defense counsel. Amendment would add municipal attorneys and county attorneys would also be approved to view unredacted records. Staff recommended monitoring the bill.

CM Lawson and CM Jurinsky supported monitoring the bill.

Judge Day commented and thanked staff for their work on the amendment.

HB24-1098: Cause Required for Eviction of Resident Tenant

The bill would prohibit a landlord from evicting a residential tenant unless the landlord has cause for eviction. Staff recommends a no position on the bill.

CM Lawson and CM Jurinsky support no position on the bill.

SB24-094: Safe Housing for Residential Tenants

The bill modifies existing warranty of habitability laws by clarifying actions that constitute a breach of warranty and procedures for landlords and tenants. The bill also requires the landlord to allow a tenant to return to their dwelling unit to collect their personal property if they were displaced by an environmental public health event after a government official deems the dwelling to be safe for reentry. The staff recommend no position on the bill.

CM Lawson requests clarification from J. Prosser regarding why the city would not be involved in the situation despite a government official being present when deeming an environment unfit for habitation.

J. Prosser answered that state habitability statutes work between the city and the property owner who is held accountable. The bill creates an amendment for tenant and landlord resolution that may be outside of the city code.

CM Jurinsky questioned about a home they would have to condemn.

J. Prosser answered that property nuisances and placarding when deeming uninhabitable would go to the property owner.

CM Lawson and CM Jurinsky support no position on the bill.

6. WATER UPDATE

Summary of Issue and Discussion:

K. Kitzmann gave an update on water.

HB24-1062: Warrants for Metro Sewage Disposal Districts

K. Kitzmann stated they recommended a position of support.

K. Kitzmann explained that Metro Water Recovery is used to identify legislation to streamline processes. They are required by law to the Industry Pre-Treatment Program to ensure business-generated wastewater does not cause a hazardous environment. The Bill proposes that businesses pre-treat wastewater before discharging it to the system, but inspections may still be necessary. The bill allows for inspections to occur quicker and more easily.

A federal bill that has yet to be introduced was discussed for Low Income Household Water Assistance Program (LIHWAP). A pilot project was successful, and the bill would continue funding the program. With support, a letter would be drafted for recommendation.

Committee Discussion:

CM Lawson, and CM Jurinsky supported the bills.

Outcome: Information only.

Follow-Up Action: No follow-up is needed.

7. **ROUNDTABLE**

Judge Day updated that all of the Smart Act hearings have concluded although hearings were brief because of an emergent situation in the building. Representative Weisman indicated he was interested in the task force's report used during the hearings. He hopes a bill will be introduced soon. He also noted to CM Lawson regarding SB-35 regarding strengthening enforcement of human trafficking. The bill was introduced on January 10th and is scheduled for senate judiciary on February 21st.

L. Rogers noted the bill is under review and awaiting feedback.

Committee Discussion: None.

Outcome: Information only.

Follow-Up Action: No follow-up is needed.

8. **MISCELLANEOUS MATTERS FOR CONSIDERATION**

None.

CONFIRM NEXT MEETING

February 16, 2024, In Person/Hybrid, 1:00 pm

Approved:

Angela Lawson
Committee Chair

Date

Resolutions

RESOLUTION NO. R2024- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, REGARDING THE TRANSPORTATION OF MIGRANTS AND THOSE EXPERIENCING HOMELESSNESS INTO AURORA WITHOUT AN AGREEMENT TO ADDRESS THE FINANCIAL IMPACT AND COORDINATION OF SERVICES.

WHEREAS, on May 15, 2017, the City of Aurora (Aurora) declared, in Resolution R 2017-28, Aurora is not a sanctuary city or a “sanctuary jurisdiction” as that term is used in the Executive Order, *Enhancing Public Safety in the Interior of the United States*; and

WHEREAS, Aurora is proud of its identity as the most diverse and Global City in the state, values and has a strong working relationship with our immigrant communities and takes seriously the health, safety, welfare, and constitutional rights of all its residents; and

WHEREAS, Aurora urges immediate action by the federal government to take responsive steps to address the systematic issues of the ongoing migrant crisis, secure the border, and enact immediate comprehensive immigration reform; and

WHEREAS, some jurisdictions, including Aurora, have received an influx of migrants; and

WHEREAS, Aurora is not a County and does not have the same responsibilities that a County has and Aurora also does not have the same funding that a County has; and

WHEREAS, Aurora’s financial resources or other local resources are limited and offering sanctuary or support is impossible and creates risks to the health, safety, and welfare of both migrants and the residents of Aurora; and

WHEREAS, Aurora will continue to make decisions guided by fiscal responsibility, adherence to existing legal frameworks, and an unwavering commitment to the residents of Aurora; and

WHEREAS, some political subdivisions, organizations, corporations, or nonprofit entities (organizations) in other jurisdictions in the state have decided to transport or make transportation arrangements for migrants and for individuals experiencing homelessness to leave those jurisdictions and move them into Aurora for temporary housing or services without the consent of Aurora; and

WHEREAS, Aurora will suffer undue financial hardship and suffer an increase in demand for services as a result of these organizations transporting individuals into Aurora; and

WHEREAS, Aurora is a municipality that dedicates significant staffing and spends considerable amounts of money to provide temporary housing or temporary shelter options and services to individuals experiencing homelessness; and

WHEREAS, Aurora does not have adequate affordable housing for all of its residents and is in desperate need of additional financial resources for those individuals; and

WHEREAS, the Aurora City Council (City Council) demands that organizations first enter into an agreement with Aurora before transporting individuals experiencing homelessness or migrants into Aurora for temporary housing or for services to assist the City Council to prepare for any resulting financial hardship or burdens on available resources (agreement); and

WHEREAS, the City Council demands that those who provide direct or indirect assistance to individuals experiencing homelessness or migrants which assistance can include, but is not limited to, providing housing vouchers or other financial assistance to those individuals first enter into an agreement with Aurora prior to providing any services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, THAT:

Section 1. To benefit the residents of the City of Aurora, the City Council demands organizations cease the transportation of migrants and those experiencing homelessness into Aurora without an agreement to address the financial impact and coordination of services.

Section 2. The City Council resolves it will not allocate public funds, services, or staff resources for migrant support.

Section 3. The City Council resolves its support for the federal government to take immediate action to address the systematic issues related to the ongoing migrant crisis, secure the border, and enact comprehensive immigration reform.

Section 4. This resolution shall not be interpreted to impact Resolution No. R 2017-28 that declared that the City was not a sanctuary city or jurisdiction that was resolved and passed on May 15, 2017.

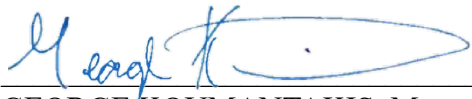
RESOLVED AND PASSED this ____ day of _____, 2024.

MIKE COFFMAN, Mayor

ATTEST:

KADEE RODRIGUEZ, City Clerk

APPROVED AS TO FORM:



GEORGE KOUMANTAKIS, Manager of Client Services

RESOLUTION NO. R2017 - 28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, DECLARING THAT AURORA IS NOT A SANCTUARY CITY

WHEREAS, it is, and has been, the policy and practice of the City of Aurora, Colorado ("Aurora"), to cooperate with federal authorities in the enforcement of all federal laws, including immigration enforcement; and

WHEREAS, for reasons not based in any lawful process or declaration by Aurora, the State of Colorado, or the U.S. Government, Aurora has been unduly placed on the so-called "sanctuary city" lists by out-of-state organizations; and

WHEREAS, Aurora, particularly the Aurora Police Department and Aurora Detention Center, has a strong working relationship with federal law enforcement agencies, including the Department of Homeland Security and Immigration and Customs Enforcement; and

WHEREAS, Aurora has a strong working relationship with, and values its immigrant communities and takes seriously the public safety and constitutional rights of all of its residents; and

WHEREAS, the Executive Order, *Enhancing Public Safety in the Interior of the United States*, dated January 25, 2017 ("Executive Order"), states that "sanctuary jurisdictions" are those jurisdictions that willfully refuse to comply with 8 U.S.C. § 1373; and

WHEREAS, Aurora has complied and intends to continue to comply with 8 U.S.C. § 1373.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO

Section 1. Aurora is not a sanctuary city or a "sanctuary jurisdiction" as that term is used in the Executive Order.

Section 2. Aurora intends to continue to comply with all constitutional and lawful federal immigration laws and regulations, and will continue its practice of non-obstruction with regard to Immigration and Customs Enforcement's efforts to enforce federal immigration laws and regulations.

Section 3. Aurora's priority is to enforce local laws and provide the best public safety and other local services it can to all of its residents.

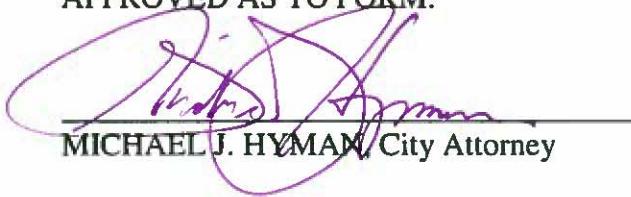
RESOLVED AND PASSED this 15th day of May, 2017.


STEPHEN D. HOGAN, Mayor

ATTEST:


LINDA BLACKSTON, City Clerk

APPROVED AS TO FORM:


MICHAEL J. HYMAN, City Attorney

Federal Legislative Update

State Legislative Update

Aurora Legislative Positions

TO: COLORADO GENERAL ASSEMBLY
FROM: LIZ ROGERS, INTERGOVERNMENTAL RELATIONS MANAGER
SUBJECT: CITY OF AURORA
DATE: February 2024

The City of Aurora has taken formal positions for several legislative items this session. Please refer to the list below for detailed information:

Support:

- HB24-1015: Concerning Suicide Prevention Education in the Workplace
- HB24-1016: Defined Personnel for Emergency Telephone Services
- HB24-1074: Aggravated Cruelty to Law Enforcement Animals
- HB24-1076: Purple Star Program
- SB24-001: Continue Youth Mental Health Services Program
- SB24-032: Methods to Increase the Use of Transit
- SB24-052: Ongoing Funding for 911 Resource Center

Amend

- HB24-1152: Accessory Dwelling Units
- SB24-036: Vulnerable Road User Protection Enterprise

Oppose

- HB24-1114: Pet Animal Facility Requirements Before Euthanasia
- HB24-1079: Persons Detained in Jail on Emergency Commitment

FEDERAL, STATE, AND INTERGOVERNMENTAL RELATIONS COMMITTEE

Colorado’s 2024 Legislative Session began on January 10th and there have subsequently been several bills identified that may impact the City of Aurora. Below, please find the bill, summary, impact, and position as recommended by the City Department(s) impacted for State legislation. Legislation is separated by position recommendation.

Support

Bill Name	HB24-1162: Penalty for Theft of Firearms
Sponsors	House: Snyder (D) R. Armagost (R)
Summary	In current law, the sentencing structure for theft (except for auto theft) is based on the value of the item stolen. The bill exempts theft of firearms from that sentencing structure and makes theft of a firearm a class 6 felony, regardless of its value. Subsequent violations, including multiple firearms stolen in the same criminal incident, are separate class 5 felonies.
Position Recommendation	Support
Rationale	The goal of this legislation is similar in the public safety interest of making sure those that are not legally allowed to possess firearms are prevented from having them and relates to the City’s priority to criminalize POWPO.

Bill Name	SB24-035: Strengthening Enforcement of Human Trafficking
Sponsors	Senate: Pelton (R), Fields (D); House: Winter (R)
Summary	Under current law, "crimes of violence" are subject to enhanced sentencing. The bill adds human trafficking of an adult or a minor for the purpose of involuntary servitude and human trafficking of an adult or a minor for sexual servitude to the list of crimes of violence that are subject to enhanced sentencing. The bill makes the statute of limitations for human trafficking of an adult or a minor for the purpose of involuntary servitude and human trafficking of an adult for sexual servitude 20 years. The bill does not change the unlimited statute of limitations for human trafficking for sexual servitude of a minor.
Position Recommendation	Support
Rationale	This bill strengthens sentencing for those that perpetuate human trafficking. The City issued a proclamation in January 2024 for Human Trafficking Awareness and Prevention Month. This legislation fits into that action by City Council.

Bill Name	SB24-036: Vulnerable Road User Protection Enterprise
Sponsors	House: Lindsay (D) W. Lindstedt (D) Senate: F. Winter (D) L. Cutter (D)
Summary	The bill creates the vulnerable road user protection enterprise within CDOT for the purpose of providing funding for transportation system infrastructure improvements. The enterprise is required to impose a vulnerable road user protection fee, which is imposed in tiered amounts that are calculated based on motor vehicle weight and configuration, on the registration of passenger cars and light trucks that are not commercial vehicles.
Position Recommendation	Support
Rationale	Staff previously recommended an Amend position to ensure municipal vehicles were exempt from the fee structure. Amendment L.004 passed on February 5 th and creates that exemption. Due to the changes in the bill, staff recommends a change to a Support position as the City could benefit from the grant program.

Bill Name	SB24-065: Mobile Electronic Devices & Motor Vehicle Driving
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Sponsors	House: Froelich (D) D. Ortiz (D) Senate: Fields (D) C. Hansen (D)
Summary	Current law prohibits an individual who is under 18 years of age from using a mobile electronic device when driving. The bill applies the prohibition to an individual who is 18 years of age or older unless the individual is using a hands-free accessory. The following uses are exempted: <ul style="list-style-type: none"> • By an individual reporting an emergency to state or local authorities; • By an employee or contractor of a utility when responding to a utility emergency; • By a first responder; or • By an individual in a motor vehicle that is parked.
Position Recommendation	Support
Rationale	Amendment L.001 was approved on Feb. 12 th and added Code Enforcement and Animal Protection Officers to the exemptions list in the bill. Staff is confident this satisfies the amendment request and now recommends a support position.

Bill Name	SB24-106: Right to Remedy Construction Defects
Sponsors	Senate: Zenzinger (D), Coleman (D); House: Bird (D)
Summary	In the "Construction Defect Action Reform Act", Colorado law establishes procedures for bringing a lawsuit for a construction defect (claim).
Position Recommendation	Support
Rationale	Addressing construction defects litigation is a 2024 City Legislative Priority. The bill language creates more protections to developers to construct condos and provides an avenue to remedy claims prior to legal action as well as mediation. Construction defect laws have been an issue for development purposes and the current restrictions do make housing that should be affordable more expensive. Part of our housing strategy is that we support legislation that lessens the severity of construction defects laws because of the negative impact current laws have on the construction of condos and townhomes. The bill would not require anything of the City but could lead to more condo construction, which in turn will support an increase in supply.

Bill Name	SB24-107: Weapons Possession Previous Offender Add Crimes
Sponsors	House: Evans (R) Senate: Gardner (R)
Summary	Under current law, it is illegal for a person to possess a firearm if the person was convicted of or adjudicated for certain felonies. The bill adds felonies for drug manufacture, dispensation, sale, and distribution; drug possession with intent to manufacture, dispense, sell, and distribute; and first and second degree motor vehicle theft, to the list of convictions that prohibit a person from possessing a firearm.
Position Recommendation	Support
Rationale	This bill adds additional predicate felony crimes to enable officers to charge POWPO and prohibit persons that are committing felony level crimes with illegal weapons from legally possessing them. This legislation is directly in line with the City priority of criminalizing POWPO.

Oppose

Bill Name	HB24-1168: Equal Access to Public Meetings
Sponsors	House: Froelich (D), Rutinel (D); Senate: Hinrichsen

Summary	The bill requires state and local public bodies (public bodies) to ensure additional accessibility requirements are implemented by July 1, 2025. Any individual who is subjected to a violation is entitled to seek relief as currently provided in law.
Position Recommendation	Oppose
	<p>This proposed legislation creates additional liability for the City as well as practical issues for implementation. This would be a significant change and burden, as this would extend our live-streaming and recording beyond the current regular council meetings, study sessions and policy committee meetings, to include all of the city’s 31 boards and commissions, which in their advisory roles to council could be construed as providing “recommendations to the governing body.” (And even if not, several boards with rule-making authority, such as P&Z, Civil Service Commission and Board of Adjustment and Appeals, would fall under the “formal action” category.)</p> <p>Additionally, the requirement to provide videoconferencing options (not just audio) for all public testimony would be a significant change and could have impacts upon which locations could be used for meetings, and the staffing needed to facilitate public interaction with the videoconferencing software. The seven-day-advance threshold for posting meeting documents would be a large shift in how we prepare, schedule and post items for public meetings.</p> <p>Other reasons for concern include:</p> <ul style="list-style-type: none"> • Requirements above and beyond what is practical; • As written this bill is almost not able to be implemented as broadband/internet is not always accessible in rural communities; • This bill was supposed to go to a Task Force and then send policy recommendations in 2025. <p>Staff recommends opposing this bill in its entirety.</p>

Reconsideration

Bill Name	HB24-1007: Concerning Residential Occupancy Limits
Sponsors	House: Rep. Rutinel

Summary	<p>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.</p> <p>On January 30th amendment L.005 was adopted that details that local governments retain the authority to implement occupancy limits based on health and safety standards such as the International Building Code, however they are no longer able to base occupancy codes on family relationship status. The only provision this legislation is removing is the City's ability to create occupancy codes bases on the familial status of the occupants.</p>
Position Recommendation	Monitor
Rationale	<p>FSIR originally voted to Amend the legislation which was staff's recommendation at the time to seek enforcement and that the provision of square footage for health and safety can be maintained and determined at the local level. Amendment L.005 was adopted and addressed the City's concerns with ensuring that local government retains the authority (p 3, line 19-20) to make codes based on health and safety – specifically calling out the International Building Code as an example of health and safety standards (p 3 lines 21-24). The City does follow the International Building Code and we no longer see issues relating to enforcement or the creation of City occupancy codes as they relate to the health and safety of the community. The City retains the ability to make occupancy codes based on square footage.</p>

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0215.01 Jane Ritter x4342

HOUSE BILL 24-1162

HOUSE SPONSORSHIP

Armagost and Snyder, Bird, Clifford

SENATE SPONSORSHIP

(None), Zenzinger

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE PENALTY FOR THEFT OF FIREARMS.

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>.)

In current law, the sentencing structure for theft, except for auto theft, is based on the value of the item stolen. The bill exempts theft of firearms from that sentencing structure and makes theft of a firearm a class 6 felony, regardless of its value. Subsequent violations, including multiple firearms stolen in the same criminal incident, are separate class 5 felonies.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-4-401, **amend** (2)
3 introductory portion and (4); and **add** (2.3) as follows:

4 **18-4-401. Theft.** (2) EXCEPT AS PROVIDED FOR IN SUBSECTION
5 (2.3) OF THIS SECTION, theft is:

6 (2.3) THEFT OF A FIREARM, AS DEFINED IN SECTION 18-12-101, IS
7 A CLASS 6 FELONY, REGARDLESS OF THE VALUE OF THE FIREARM.

8 (4) (a) EXCEPT AS PROVIDED IN SUBSECTION (4)(c) OF THIS
9 SECTION, when a person commits theft twice or more within a period of
10 six months, two or more of the thefts may be aggregated and charged in
11 a single count, in which event the AGGREGATE thefts ~~so aggregated and~~
12 ~~charged shall~~ constitute a single offense, the penalty for which ~~shall be~~ IS
13 based on the aggregate value of the things involved, pursuant to
14 subsection (2) of this section.

15 (b) EXCEPT AS PROVIDED IN SUBSECTION (4)(c) OF THIS SECTION,
16 when a person commits theft twice or more against the same person
17 pursuant to one scheme or course of conduct, the thefts may be
18 aggregated and charged in a single count, in which event ~~they shall~~ THE
19 THEFTS constitute a single offense, the penalty for which ~~shall be~~ IS based
20 on the aggregate value of the things involved, pursuant to subsection (2)
21 of this section.

22 (c) (I) WHEN A PERSON COMMITS THEFT OF A FIREARM TWO OR
23 MORE TIMES, EACH SUBSEQUENT THEFT IS A CLASS 5 FELONY.

24 (II) WHEN A PERSON COMMITS THEFT OF A FIREARM AND, IN THAT
25 ONE SCHEME OR COURSE OF CONDUCT INVOLVING THEFT OF A FIREARM,
26 MULTIPLE FIREARMS ARE STOLEN, THE PERSON COMMITS A SEPARATE
27 CLASS 5 FELONY FOR EACH FIREARM STOLEN.

1 **SECTION 2. Safety clause.** The general assembly finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, or safety or for appropriations for
4 the support and maintenance of the departments of the state and state
5 institutions.

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

INTRODUCED

LLS NO. 24-0331.01 Michael Dohr x4347

SENATE BILL 24-035

SENATE SPONSORSHIP

Pelton B. and Fields,

HOUSE SPONSORSHIP

Winter T.,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING STRENGTHENING THE ENFORCEMENT OF HUMAN**
102 **TRAFFICKING FOR SERVITUDE.**

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, "crimes of violence" are subject to enhanced sentencing. The bill adds human trafficking of an adult or a minor for the purpose of involuntary servitude and human trafficking of an adult or a minor for sexual servitude to the list of crimes of violence that are subject to enhanced sentencing. The bill makes the statute of limitations for human trafficking of an adult or a minor for the purpose of involuntary

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Dashes through the words or numbers indicate deletions from existing law.*

servitude and human trafficking of an adult for sexual servitude 20 years. The bill does not change the unlimited statute of limitations for human trafficking for sexual servitude of a minor.

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-1-104, **amend**
3 (8.5)(a)(I) as follows:

4 **16-1-104. Definitions.** (8.5) (a) (I) "Crime of violence" means a
5 crime in which the defendant used, or possessed and threatened the use
6 of, a deadly weapon during the commission or attempted commission of
7 any crime committed against an elderly person or a person with a
8 disability or a crime of murder, first or second degree assault, kidnapping,
9 sexual assault, robbery, first degree arson, first or second degree burglary,
10 escape, ~~or~~ criminal extortion, HUMAN TRAFFICKING FOR INVOLUNTARY
11 SERVITUDE OF AN ADULT OR A MINOR, OR HUMAN TRAFFICKING FOR
12 SEXUAL SERVITUDE OF AN ADULT OR A MINOR, or during the immediate
13 flight therefrom, or the defendant caused serious bodily injury or death to
14 any person, other than ~~himself or herself~~ TO THE DEFENDANT or another
15 participant, during the commission or attempted commission of ~~any such~~
16 THE felony or during the immediate flight therefrom.

17 **SECTION 2.** In Colorado Revised Statutes, 18-1.3-406, **amend**
18 (2)(a)(II) introductory portion and (2)(a)(II)(J); and **add** (2)(a)(II)(L) and
19 (2)(a)(II)(M) as follows:

20 **18-1.3-406. Mandatory sentences for violent crimes -**
21 **definitions.** (2) (a) (II) ~~Subparagraph (I) of this paragraph (a)~~
22 SUBSECTION (2)(a)(I) OF THIS SECTION applies to the following crimes:

23 (J) Criminal extortion; ~~or~~

24 (L) HUMAN TRAFFICKING FOR INVOLUNTARY SERVITUDE OF AN

1 ADULT OR A MINOR IN VIOLATION OF SECTION 18-3-503; OR

2 (M) HUMAN TRAFFICKING FOR SEXUAL SERVITUDE OF AN ADULT
3 OR A MINOR IN VIOLATION OF SECTION 18-3-504.

4 **SECTION 3.** In Colorado Revised Statutes, 16-5-401, **amend** (6),
5 (8)(a) introductory portion, (8)(a.3) introductory portion, (8)(a.5)
6 introductory portion, (8)(a.7)(I), and (8)(a.7)(II) as follows:

7 **16-5-401. Limitation for commencing criminal proceedings,**
8 **civil infraction proceedings, and juvenile delinquency proceedings -**
9 **definitions.** (6) Except as otherwise provided in ~~paragraph (a) of~~
10 ~~subsection (1)~~ SUBSECTION (1)(a) of this section pertaining to sex offenses
11 against children, ~~or~~ felony sexual assault in violation of section 18-3-402,
12 ~~C.R.S.~~, HUMAN TRAFFICKING FOR INVOLUNTARY SERVITUDE OF AN ADULT
13 OR A MINOR IN VIOLATION OF SECTION 18-3-503, OR HUMAN TRAFFICKING
14 FOR SEXUAL SERVITUDE OF AN ADULT IN VIOLATION OF SECTION 18-3-504
15 (1), the period of time during which an adult person or juvenile may be
16 prosecuted ~~shall be~~ IS extended for an additional seven years as to any
17 offense or delinquent act charged under section 18-6-403 ~~C.R.S.~~, or
18 charged as criminal attempt, conspiracy, or solicitation to commit any of
19 the acts specified in said sections.

20 (8) (a) Except as otherwise provided in ~~paragraph (a) of~~
21 ~~subsection (1)~~ SUBSECTION (1)(a) of this section pertaining to sex offenses
22 against children, ~~or~~ felony sexual assault in violation of section 18-3-402,
23 ~~C.R.S.~~, HUMAN TRAFFICKING FOR INVOLUNTARY SERVITUDE OF AN ADULT
24 OR A MINOR IN VIOLATION OF SECTION 18-3-503, OR HUMAN TRAFFICKING
25 FOR SEXUAL SERVITUDE OF AN ADULT IN VIOLATION OF SECTION 18-3-504
26 (1), and except as otherwise provided in ~~paragraphs (a.3) and (a.5) of this~~
27 ~~subsection (8)~~ SUBSECTIONS (8)(a.3) AND (8)(a.5) OF THIS SECTION, the

1 period of time during which an adult person or juvenile may be
2 prosecuted ~~shall be~~ IS ten years after the commission of the offense or
3 delinquent act as to any offense or delinquent act:

4 (a.3) Except as otherwise provided in ~~paragraph (a) of subsection~~
5 ~~(4)~~ SUBSECTION (1)(a) of this section concerning sex offenses against
6 children, ~~or~~ felony sexual assault in violation of section 18-3-402, ~~C.R.S.~~;
7 HUMAN TRAFFICKING FOR INVOLUNTARY SERVITUDE OF AN ADULT OR A
8 MINOR IN VIOLATION OF SECTION 18-3-503, OR HUMAN TRAFFICKING FOR
9 SEXUAL SERVITUDE OF AN ADULT IN VIOLATION OF 18-3-504 (1), if the
10 victim at the time of the commission of an offense or delinquent act is a
11 child under eighteen years of age, the period of time during which an
12 adult person or juvenile may be prosecuted ~~shall be~~ IS ten years after ~~such~~
13 THE victim reaches the age of eighteen years as to any offense or
14 delinquent act:

15 (a.5) Except as otherwise provided in ~~paragraph (a) of subsection~~
16 ~~(4)~~ SUBSECTION (1)(a) of this section concerning sex offenses against
17 children, ~~or~~ felony sexual assault in violation of section 18-3-402, ~~C.R.S.~~;
18 HUMAN TRAFFICKING FOR INVOLUNTARY SERVITUDE OF AN ADULT OR A
19 MINOR IN VIOLATION OF SECTION 18-3-503, OR HUMAN TRAFFICKING FOR
20 SEXUAL SERVITUDE OF AN ADULT IN VIOLATION OF SECTION 18-3-504 (1),
21 in any case in which the identity of the defendant or juvenile is
22 determined, in whole or in part, by patterned chemical structure of genetic
23 information, and in which the offense has been reported to a law
24 enforcement agency, as defined in section 26-1-114 (3)(a)(III)(B), ~~C.R.S.~~;
25 within ten years after the commission of the offense, there ~~shall be~~ IS no
26 limit on the period of time during which a person may be prosecuted after
27 the commission of the offense as to any offense or delinquent act charged:

1 (a.7) (I) Except as otherwise provided in ~~paragraph (a) of~~
2 ~~subsection (1)~~ SUBSECTION (1)(a) of this section pertaining to sex offenses
3 against children and except as otherwise provided in ~~paragraphs (a.3) and~~
4 ~~(a.5) of this subsection (8)~~ SUBSECTIONS (8)(a.3) AND (8)(a.5) OF THIS
5 SECTION, the period of time during which an adult person or juvenile may
6 be prosecuted ~~shall be~~ IS twenty years after the commission of the offense
7 or delinquent act as to any offense or delinquent act charged as a felony
8 under section 18-3-402, ~~€R.S.~~, 18-3-503, OR 18-3-504 (1), or as criminal
9 attempt, conspiracy, or solicitation to commit a felony under section
10 18-3-402, ~~€R.S.~~ 18-3-503, OR 18-3-504 (1).

11 (II) Except as otherwise provided in ~~paragraph (a) of subsection~~
12 ~~(1)~~ SUBSECTION (1)(a) of this section concerning sex offenses against
13 children, if the victim at the time of the commission of an offense or
14 delinquent act is a child under eighteen years of age, the period of time
15 during which an adult person or juvenile may be prosecuted ~~shall be~~ IS
16 twenty years after ~~such~~ THE victim reaches eighteen years of age as to any
17 offense or delinquent act charged as a felony under section 18-3-402,
18 ~~€R.S.~~, 18-3-503, OR 18-3-504 (1), or as criminal attempt, conspiracy, or
19 solicitation to commit a felony under section 18-3-402, ~~€R.S.~~, 18-3-503,
20 OR 18-3-504 (1).

21 **SECTION 4. Safety clause.** The general assembly finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, or safety or for appropriations for
24 the support and maintenance of the departments of the state and state
25 institutions.

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Transportation & Energy.

SB24-036 be amended as follows:

1 Amend printed bill, page 16, after line 26 insert:

2 "(e) THE ENTERPRISE SHALL NOT IMPOSE THE VULNERABLE ROAD
3 USER PROTECTION FEE ON ANY MOTOR VEHICLE THAT IS OWNED OR LEASED
4 BY THE STATE OR ANY DEPARTMENT, AGENCY, OR POLITICAL SUBDIVISION
5 OF THE STATE.

6 (f) THE BOARD OF COUNTY COMMISSIONERS OF A COUNTY THAT IS
7 NOT ONE OF THE TWELVE MOST POPULOUS COUNTIES IN THE STATE MAY,
8 BY RESOLUTION, AUTHORIZE THE ENTERPRISE TO IMPOSE THE VULNERABLE
9 ROAD USER PROTECTION FEE ON THE REGISTRATION OF PASSENGER CARS
10 AND LIGHT TRUCKS REGISTERED IN THE COUNTY AND SHALL PROVIDE A
11 COPY OF ANY SUCH RESOLUTION TO THE ENTERPRISE. AFTER RECEIVING
12 SUCH A RESOLUTION, THE ENTERPRISE, COMMENCING ON AN
13 ADMINISTRATIVELY FEASIBLE DATE DETERMINED BY THE ENTERPRISE IN
14 CONSULTATION WITH THE DEPARTMENT OF REVENUE, SHALL IMPOSE THE
15 FEE ON THE REGISTRATION OF PASSENGER CARS AND LIGHT TRUCKS
16 REGISTERED IN THE COUNTY AND INCLUDE ELIGIBLE ENTITIES IN THE
17 COUNTY WHEN MAKING GRANTS IN ACCORDANCE WITH SUBSECTION (8) OF
18 THIS SECTION."

19 Reletter succeeding paragraph accordingly.

20 Page 17, line 11, strike "IN" and substitute "WHEN".

21 Page 17, line 13, strike "TO EACH COUNTY IN AMOUNTS THAT ARE" and
22 substitute "SO THAT THE TOTAL AMOUNT OF GRANTS AWARDED TO
23 ELIGIBLE ENTITIES WITHIN EACH COUNTY IS".

24 Page 17, strike lines 18 and 19 and substitute "FIFTY THOUSAND
25 DOLLARS;".

26 Page 17, strike lines 26 and 27 and substitute "MILLION DOLLARS; AND".

27 Page 18, after line 5 insert:

28 "(c) THE DEPARTMENT SHALL REDUCE OVERSIGHT REQUIREMENTS
29 FOR FEDERAL OFF-SYSTEM AND STATE OFF-SYSTEM ELIGIBLE PROJECTS
30 THAT ARE PARTIALLY OR OF FULLY FUNDED BY THE ENTERPRISE IF NO
31 FEDERAL FUNDS ARE INVOLVED IN THE ELIGIBLE PROJECT AND THE
32 DEPARTMENT DETERMINES THAT FEDERAL REQUIREMENTS DO NOT
33 APPLY."

** ** ** ** **

SB065_L.001

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Transportation & Energy.

SB24-065 be amended as follows:

- 1 Amend printed bill, page 5, after line 16 insert:
 - 2 "(III) WHEN AN EMPLOYEE OR CONTRACTOR OF A CITY OR COUNTY
 - 3 IS ACTING WITHIN THE SCOPE OF THE EMPLOYEE'S OR CONTRACTOR'S
 - 4 DUTIES AS A CODE ENFORCEMENT OFFICER OR ANIMAL PROTECTION
 - 5 OFFICER;".
- 6 Renumber succeeding subparagraphs accordingly.

** ** ** ** **

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0290.02 Jery Payne x2157

SENATE BILL 24-106

SENATE SPONSORSHIP

Zenzinger and Coleman, Buckner, Gardner, Ginal, Kirkmeyer, Liston, Mullica, Pelton R., Roberts, Simpson, Will

HOUSE SPONSORSHIP

Bird, Bradfield, Clifford, Frizell, Lindstedt, Lynch, Pugliese, Snyder, Taggart, Wilson, Winter T.

Senate Committees

Local Government & Housing

House Committees

A BILL FOR AN ACT

101 CONCERNING LEGAL ACTIONS BASED ON CLAIMED DEFECTS IN
102 CONSTRUCTION PROJECTS.

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>.)

In the "Construction Defect Action Reform Act" (act), Colorado law establishes procedures for bringing a lawsuit for a construction defect (claim). **Section 2** of the bill clarifies that a person that has had a claim brought on the person's behalf is also considered a claimant, and therefore, the act applies to the person for whom the claim is brought.

Sections 3 and 6 create a right for a construction professional to

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remedy a claim made against the construction professional by doing remedial work or hiring another construction professional to perform the work. The following applies to the remedy:

- The construction professional must notify the claimant and diligently make sure the remedial work is performed; and
- Upon completion, the claimant is deemed to have settled and released the claim, and the claimant is limited to claims regarding improper performance of the remedial work.

Currently, a claim may be held in abeyance if the parties have agreed to mediation. **Section 3** also adds other forms of alternative dispute resolution for which the claim would be held in abeyance. Alternative dispute resolution is binding. If a settlement offer of a payment is made and accepted in a claim, the payment constitutes a settlement of the claim and the cause of action is deemed to have been released, and an offer of settlement is not admissible in any subsequent action or legal proceeding unless the proceeding is to enforce the settlement.

To bring a claim or related action, **section 4** requires a unit owners' association (association) to obtain the written consent of at least two-thirds of the actual owners of the units in the common interest community. The consent must contain the currently required notices, must be signed by each consenting owner, and must have certain attestations.

Under the act, a claimant is barred from seeking damages for failing to comply with building codes or industry standards unless the failure results in:

- Actual damage to real or personal property;
- Actual loss of the use of real or personal property;
- Bodily injury or wrongful death; or
- A risk of bodily injury or death to, or a threat to the life, health, or safety of, the occupants.

Section 5 requires the actual property damage to be the result of a building code violation and requires the risk of injury or death or the threat to life, health, or safety to be imminent and unreasonable.

Under current law, an association may institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or 2 or more unit owners on matters affecting a common interest community. For a construction defect matter to affect a common interest community, **section 7** requires that the matter concern real estate that is owned by the association or by all members of the association.

Section 7 also establishes that, when an association makes a claim or takes legal action on behalf of unit owners when the matter does not concern real estate owned by the association:

- The association and each claim are subject to each defense, limitation, claim procedure, and alternative dispute resolution procedure that each unit owner would be subject

- to if the unit owner had brought the claim; and
The association has a fiduciary duty to act in the best interest of each unit owner.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) Access to affordable, quality housing is foundational to
5 personal and financial stability and provides safety and life sustaining
6 shelter, but it is also a vehicle for reducing childhood poverty and
7 increasing economic mobility and intergenerational wealth;

8 (b) Colorado has a challenge insofar as, according to the state
9 demographer, it has the sixth most expensive housing market in the
10 nation;

11 (c) Our state's housing supply has not kept pace with our
12 population growth. Between 2010 and 2020, the state added 126,000
13 fewer housing units than in the prior decade, and as of 2022, Colorado
14 has an unmet housing need of between 65,000 and 100,000 units.

15 (d) To address this challenge, Colorado must not only increase the
16 number of homes that are available for purchase or rent, but it must also
17 ensure that the increased supply is a diverse combination of rental and
18 home ownership opportunities that will meet the needs, preferences, and
19 varied income levels of the people in our state;

20 (e) Multifamily for-sale housing is a critical component of this
21 solution because it helps close the affordability gap and adds a needed
22 element to the diverse mix of housing options the state can offer
23 Coloradans, and historically condominiums have been the most affordable
24 housing choice for owner-occupied housing;

1 (f) Notwithstanding the fact that Colorado's population today is
2 20% greater than what it was in 2008, condominium construction in the
3 front range has slowed dramatically and is now 76% lower than it was in
4 the years between 2002 and 2008, and between 2007 and 2022, the
5 number of entities developing condominiums decreased by 84%;

6 (g) Despite the downturn in construction, consumer demand for
7 condominiums remains strong in Colorado;

8 (h) There were 2.4 resold condominiums for every new
9 condominium sale in 2005, but in 2022, there were 30 condominium
10 resales for every new sale, and this is especially true for affordably priced
11 condominiums;

12 (i) At the same time that fewer mid-priced condominiums are
13 being built, they are also becoming increasingly more expensive to
14 construct, and that cost is passed on to the consumer in the form of higher
15 sales prices;

16 (j) In 2005, the majority of new and existing condominium units
17 were priced under \$300,000 because of an adequate supply, but by 2023,
18 only 2% of new condominiums built were priced under \$300,000, and due
19 to the severe lack of supply, currently only one-third of resale
20 condominiums are available for a price under \$300,000;

21 (k) While costs of labor and materials costs are increasing for all
22 types of home construction, the cost increases associated with
23 condominium construction have outpaced those associated with
24 single-family home construction, and this is particularly evident as it
25 relates to the cost for contractors' liability insurance;

26 (l) In Colorado, the high costs and frequency of construction
27 liability litigation related to condominium development have driven

1 insurance companies to raise insurance rates for developers;

2 (m) In recent years, insurance costs for condominiums surged to
3 5.5% of a project's hard costs, which was more than 233% higher than the
4 insurance costs of multifamily rental home projects; and

5 (n) Colorado needs balanced public policy that decreases
6 insurance costs by reducing the magnitude and frequency of defect
7 claims, ensures that every homeowner has the right to pursue timely and
8 effective remedies for defective construction, and ensures that such
9 remedies are fair to the home buyer but do not prevent the construction
10 of affordable multifamily for-sale housing options.

11 (2) The general assembly declares that this act will help bring
12 down the building costs of affordably priced homes and create more
13 opportunities to build wealth for Coloradans through home ownership.

14 **SECTION 2.** In Colorado Revised Statutes, 13-20-802.5, **amend**
15 (3); and **add** (6) as follows:

16 **13-20-802.5. Definitions.** As used in this part 8, unless the
17 context otherwise requires:

18 (3) (a) "Claimant" means a person other than the attorney general
19 or the district attorneys of the several judicial districts of the state ~~who~~
20 THAT:

21 (I) Asserts, AS THE OWNER OF THE AFFECTED PROPERTY OR AS A
22 PERSON THAT HAS STATUTORY STANDING TO BRING A CLAIM ON BEHALF
23 OF ANOTHER, a claim against a construction professional; ~~that~~ AND

24 (II) Alleges a defect in the construction of an improvement to real
25 property.

26 (b) "CLAIMANT" INCLUDES A PERSON THAT HAS HAD A CLAIM
27 BROUGHT ON THE PERSON'S BEHALF UNDER A STATUTE GRANTING

1 STANDING TO ANOTHER PERSON TO BRING THE CLAIM ON THE PERSON'S
2 BEHALF.

3 (6) "RIGHT TO REMEDY" MEANS THE RIGHT, DESCRIBED IN SECTION
4 13-20-809 (2), TO CURE A CLAIM, DESCRIBED IN SECTION 13-20-809 (1)(a).

5 **SECTION 3.** In Colorado Revised Statutes, 13-20-803.5, **amend**
6 (3), (5), (6), and (7) as follows:

7 **13-20-803.5. Notice of claim process.** (3) (a) Within thirty days
8 following the completion of the inspection process conducted pursuant to
9 subsection (2) of this section, or within forty-five days following the
10 completion of the inspection process in the case of a commercial
11 property, a construction professional may, BUT DOES NOT HAVE A DUTY
12 TO, send or deliver to the claimant, by certified mail, return receipt
13 requested, or BY personal service:

14 (I) An offer to settle the claim by payment of a sum certain or by
15 agreeing to remedy the claimed defect described in the notice of claim;
16 OR

17 (II) A NOTICE THAT THE CONSTRUCTION PROFESSIONAL IS
18 INVOKING THE RIGHT TO REMEDY.

19 (b) A written offer to remedy the construction defect ~~shall~~ MUST
20 include a report of the scope of the inspection, the findings and results of
21 the inspection, a description of the additional construction work necessary
22 to remedy the defect described in the notice of claim and all damage to
23 the improvement to real property caused by the defect, and a timetable for
24 the completion of the remedial construction work.

25 (5) (a) A claimant who accepts a construction professional's offer
26 to remedy or settle by payment of a sum certain a construction defect
27 claim shall do so by sending the construction professional a written notice

1 of acceptance no later than fifteen days after receipt of the offer. If an
2 offer to settle is accepted, then the monetary settlement shall be paid in
3 accordance with the offer.

4 (b) If an offer to remedy is accepted by the claimant, the
5 CONSTRUCTION PROFESSIONAL SHALL COMPLETE OR CAUSE TO BE
6 COMPLETED THE remedial construction work ~~shall be completed~~ in
7 accordance with the timetable set forth in the offer unless the delay is
8 caused by events beyond the reasonable control of the construction
9 professional.

10 (c) IF THE RIGHT TO REMEDY IS INVOKED, THE CONSTRUCTION
11 PROFESSIONAL SHALL CAUSE THE REMEDIAL WORK TO BE COMMENCED
12 AND DILIGENTLY PURSUED TO COMPLETION. UPON COMPLETION:

13 (I) THE CLAIMANT IS DEEMED TO HAVE SETTLED, COMPROMISED,
14 AND RELEASED THE CLAIM; AND

15 (II) THE CLAIMANT IS LIMITED TO CLAIMS REGARDING IMPROPER
16 PERFORMANCE OF THE REMEDIAL WORK.

17 (6) (a) If no offer is made by the construction professional, ~~or~~ if
18 the claimant rejects an offer, OR IF THE CONSTRUCTION PROFESSIONAL
19 DOES NOT INVOKE THE RIGHT TO REMEDY, the claimant may bring an
20 action against the construction professional for the construction defect
21 claim described in the notice of claim unless the parties have
22 contractually agreed to a ~~mediation procedure~~ USE A BINDING
23 ALTERNATIVE DISPUTE RESOLUTION PROCESS, in which case the ~~mediation~~
24 ~~procedure shall be satisfied prior to bringing an action~~ BINDING
25 ALTERNATIVE DISPUTE RESOLUTION PROCESS MUST DETERMINE THE
26 DISPOSITION OF THE CLAIM.

27 (b) IF AN OFFER MADE PURSUANT TO SUBSECTION (3)(a)(I) OF THIS

1 SECTION IS ACCEPTED BY THE CLAIMANT, THE PAYMENT CONSTITUTES A
2 SETTLEMENT OF THE CLAIM AND THE CLAIMANT IS DEEMED TO HAVE
3 RELEASED THE CLAIM AND THE CAUSE OF ACTION. AN OFFER OF
4 SETTLEMENT IS NOT ADMISSIBLE IN ANY SUBSEQUENT ACTION OR LEGAL
5 PROCEEDING UNLESS THE SUBSEQUENT ACTION OR LEGAL PROCEEDING IS
6 BROUGHT TO ENFORCE THE SETTLEMENT.

7 ~~(7) If an offer by a construction professional is made and~~
8 ~~accepted, and if thereafter the construction professional does not comply~~
9 ~~with its offer to remedy or settle a claim for a construction defect,~~ The
10 claimant may file an action against the construction professional for
11 claims arising out of the defect or damage described in the notice of claim
12 without further notice IF:

13 (a) AN OFFER BY A CONSTRUCTION PROFESSIONAL IS MADE AND
14 ACCEPTED AND THE CONSTRUCTION PROFESSIONAL DOES NOT COMPLY
15 WITH THE OFFER TO REMEDY OR SETTLE A CLAIM FOR A CONSTRUCTION
16 DEFECT;

17 (b) A CONSTRUCTION PROFESSIONAL INVOKES THE RIGHT TO
18 REMEDY AND DOES NOT COMPLETE THE REMEDIAL WORK FOR REASONS
19 OTHER THAN THE CLAIMANT'S FAILURE TO COOPERATE OR DELAYS
20 OUTSIDE OF THE CONSTRUCTION PROFESSIONAL'S CONTROL; OR

21 (c) THE PARTIES HAVE EITHER:

22 (I) NOT CONTRACTUALLY AGREED TO USE AN ALTERNATIVE
23 DISPUTE RESOLUTION PROCESS; OR

24 (II) SATISFIED THE ALTERNATIVE DISPUTE RESOLUTION PROCESS.

25 **SECTION 4.** In Colorado Revised Statutes, **add** 13-20-803.7 as
26 follows:

27 **13-20-803.7. Homeowners' association actions.** TO BRING A

1 CONSTRUCTION DEFECT CLAIM OR RELATED ACTION, A HOMEOWNERS'
2 ASSOCIATION MUST OBTAIN THE WRITTEN CONSENT OF AT LEAST
3 TWO-THIRDS OF THE ACTUAL OWNERS OF THE UNITS. THE WRITTEN
4 CONSENT MUST CONTAIN SUBSTANTIALLY THE SAME NOTICE REQUIRED IN
5 SECTION 38-33.3-303.5, MUST BE SIGNED BY EACH CONSENTING UNIT
6 OWNER, AND MUST INCLUDE AN AFFIDAVIT FROM EACH UNIT OWNER
7 VERIFYING THAT EACH CLAIMED DEFECT EXISTS IN THE UNIT OWNER'S
8 HOME AND ACKNOWLEDGING THAT THE UNIT OWNER HAS BEEN INFORMED
9 OF THE UNIT OWNER'S DUTY TO DISCLOSE OBLIGATIONS UNDER COLORADO
10 LAW.

11 **SECTION 5.** In Colorado Revised Statutes, 13-20-804, **amend**
12 (1) introductory portion, (1)(a), and (1)(d) as follows:

13 **13-20-804. Restriction on construction defect negligence**
14 **claims.** (1) ~~No negligence claim seeking damages for a construction~~
15 ~~defect may be asserted in~~ A CLAIMANT IS BARRED FROM BRINGING OR
16 MAINTAINING A CONSTRUCTION DEFECT CLAIM AS an action if ~~such~~ THE
17 claim arises from the failure to construct an improvement to real property
18 in substantial compliance with an applicable building code or industry
19 standard; except that ~~such~~ THE claim may be asserted if ~~such~~ THE failure
20 ~~results in~~ CAUSES one or more of the following:

21 (a) Actual damage to real or personal property CAUSED BY THE
22 VIOLATION OF A CODE ADOPTED UNDER ARTICLE 115 OR 155 OF TITLE 12,
23 PART 2 OF ARTICLE 28 OF TITLE 30, OR PART 6 OF ARTICLE 15 OF TITLE 31;

24 (d) ~~A~~ AN IMMINENT AND UNREASONABLE risk of bodily injury or
25 death to, or ~~a~~ AN IMMINENT AND UNREASONABLE threat to the life, health,
26 or safety of, the occupants of the residential real property.

27 **SECTION 6.** In Colorado Revised Statutes, **add** 13-20-809 and

1 13-20-810 as follows:

2 **13-20-809. Right to remedy.** (1) (a) AFTER RECEIVING A NOTICE
3 OF CLAIM IN ACCORDANCE WITH SECTION 13-20-803.5 (1), A
4 CONSTRUCTION PROFESSIONAL MAY INVOKE THE RIGHT TO REMEDY TO
5 CURE A CLAIM BY:

6 (I) COMPLYING WITH SUBSECTION (1)(b) OF THIS SECTION; AND

7 (II) PERFORMING THE WORK OR HIRING A CONSTRUCTION
8 PROFESSIONAL TO PERFORM THE WORK.

9 (b) TO INVOKE THE RIGHT TO REMEDY AFTER RECEIVING A NOTICE
10 OF CLAIM IN ACCORDANCE WITH SECTION 13-20-803.5 (1), A
11 CONSTRUCTION PROFESSIONAL MUST NOTIFY THE CLAIMANT THAT SENT
12 THE NOTICE OF CLAIM THAT THE CONSTRUCTION PROFESSIONAL INTENDS
13 TO INVOKE THE RIGHT TO REMEDY.

14 (2) WHEN A CONSTRUCTION PROFESSIONAL INVOKES THE RIGHT TO
15 REMEDY, THE FILING OF AN ACTION BY A CLAIMANT IS SUBJECT TO SECTION
16 13-20-803.5.

17 **13-20-810. No separate cause of action.** THIS PART 8 DOES NOT
18 CREATE A SEPARATE CAUSE OF ACTION.

19 **SECTION 7.** In Colorado Revised Statutes, 38-33.3-302, **add**
20 (3)(c) as follows:

21 **38-33.3-302. Powers of unit owners' association.** (3) (c) (I) FOR
22 A MATTER TO AFFECT THE COMMON INTEREST COMMUNITY UNDER THIS
23 SUBSECTION (3) AND SUBSECTION (1)(d) OF THIS SECTION IN A
24 CONSTRUCTION DEFECT CLAIM OR LEGAL ACTION, THE MATTER MUST
25 CONCERN REAL ESTATE THAT IS OWNED BY THE ASSOCIATION OR BY ALL
26 MEMBERS OF THE ASSOCIATION.

27 (II) IF AN ASSOCIATION TAKES AN ACTION UNDER SUBSECTION

1 (1)(d) OF THIS SECTION FOR A CONSTRUCTION DEFECT ON BEHALF OF TWO
2 OR MORE UNIT OWNERS AND THE MATTER DOES NOT CONCERN REAL
3 ESTATE OWNED BY THE ASSOCIATION:

4 (A) THE ASSOCIATION AND EACH CLAIM ARE SUBJECT TO EACH
5 DEFENSE, LIMITATION, CLAIM PROCEDURE, AND ALTERNATIVE DISPUTE
6 RESOLUTION PROCEDURE THAT EACH UNIT OWNER WOULD BE SUBJECT TO
7 IF THE UNIT OWNER HAD BROUGHT THE CLAIM; AND

8 (B) THE ASSOCIATION HAS A FIDUCIARY DUTY TO ACT IN THE BEST
9 INTEREST OF EACH UNIT OWNER, SEPARATE AND APART FROM ANY
10 INTEREST THE ASSOCIATION MAY HAVE IN THE MATTER.

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

21 (2) This act applies to actions and notices of claims received on
22 or after the applicable effective date of this act.

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0949.01 Anna Petrini x5497

SENATE BILL 24-107

SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

Evans,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING ADDING CERTAIN CRIMES TO THE LIST OF CRIMES
102 SUBJECT TO THE CRIME OF POSSESSION OF WEAPONS BY
103 PREVIOUS OFFENDERS.

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, it is illegal for a person to possess a firearm if the person was convicted of or adjudicated for certain felonies. The bill adds felonies for drug manufacture, dispensation, sale, and distribution; drug possession with intent to manufacture, dispense, sell, and distribute; and first and second degree motor vehicle theft, to the list of convictions

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.

that prohibit a person from possessing a firearm.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-12-108, **amend**
3 (7)(hhh); and **add** (7)(jjj) and (7)(kkk) as follows:

4 **18-12-108. Possession of weapons by previous offenders.** (7) In
5 addition to a conviction for felony crime as defined in section 24-4.1-302
6 (1), a felony conviction or adjudication for one of the following felonies
7 prohibits a person from possessing, using, or carrying upon the person a
8 firearm as defined in section 18-1-901 (3)(h) or any other weapon that is
9 subject to this article 12 pursuant to subsection (1) or (3) of this section:

10 (hhh) A criminal attempt, complicity, or conspiracy to commit any
11 of the offenses listed in this subsection (7); ~~and~~

12 (jjj) MOTOR VEHICLE THEFT IN THE FIRST DEGREE OR MOTOR
13 VEHICLE THEFT IN THE SECOND DEGREE IN VIOLATION OF SECTION
14 18-4-409; AND

15 (kkk) A FELONY FOR MANUFACTURE, DISPENSATION, SALE, OR
16 DISTRIBUTION OF A CONTROLLED SUBSTANCE IN VIOLATION OF ARTICLE 18
17 OF THIS TITLE 18 OR A FELONY FOR POSSESSION WITH INTENT TO
18 MANUFACTURE, DISPENSE, SELL, OR DISTRIBUTE A CONTROLLED
19 SUBSTANCE IN VIOLATION OF ARTICLE 18 OF THIS TITLE 18.

20 **SECTION 2. Applicability.** This act applies to offenses
21 committed on or after the effective date of this act.

22 **SECTION 3. Safety clause.** The general assembly finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, or safety or for appropriations for

- 1 the support and maintenance of the departments of the state and state
- 2 institutions.

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

INTRODUCED

LLS NO. 24-0541.01 Nicole Myers x4326

HOUSE BILL 24-1168

HOUSE SPONSORSHIP

Froelich and Rutinel,

SENATE SPONSORSHIP

Hinrichsen,

House Committees

Transportation, Housing & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING EQUAL ACCESS TO PUBLIC MEETINGS.**

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 requires state and local public bodies (public bodies) to ensure that the following accessibility requirements are implemented by July 1, 2025:

- Any public meeting at which public business is discussed, formal action may be taken, or recommendations to the governing body of the public body may be discussed (meeting) held by a public body is required to be accessible in real time by live streaming video or audio that is

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.

- recorded and accessible to individuals with disabilities;
- A public body is required to post on its website, at least 24 hours before a meeting, any documents that will be distributed during the meeting;
- For any meeting of a public body during which public testimony will be heard, the public body is required to allow any individual to participate in the meeting and offer public testimony by using a video conferencing platform unless the meeting occurs in a geographic location that lacks broadband internet service; and
- A public body is required to provide any auxiliary aids or services requested in time for the meeting for which they were requested. A public body may require that a request for auxiliary aids or services to attend a meeting of the public body with the use of the video conferencing platform be made up to 7 days before the date of the meeting.

Nothing in the bill prohibits a public body from promulgating rules for the administration of public testimony so long as the rules apply to both in-person and remote testimony, and nothing in the bill requires a public body to provide hardware or software or internet or phone access at an individual's home.

The failure of any public body to comply with the applicable requirements of the bill constitutes discrimination on the basis of disability. Any individual who is subjected to a violation is entitled to seek relief as currently provided in law.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) The federal "Americans with Disabilities Act of 1990" has
5 been law for over three decades;

6 (b) The federal "Americans with Disabilities Act of 1990"
7 mandates equal access to everyday activities for individuals with
8 disabilities;

9 (c) Many places of public business continue to be inaccessible to
10 individuals with disabilities; and

1 (d) It is the right of every individual to participate in public
2 discourse and it is imperative to a healthy and functional democracy that
3 all citizens have access to their government.

4 (2) The general assembly further finds and declares that it is
5 necessary to codify the right to accessible and transparent governance to
6 protect access and promote greater equity.

7 **SECTION 2.** In Colorado Revised Statutes, **add** part 17 to article
8 1 of title 29 as follows:

9

PART 17

10

ACCESSIBILITY OF LOCAL GOVERNMENT

11

29-1-1701. Local public bodies - meetings - accessibility -

12

definitions. (1) AS USED IN THIS PART 17, UNLESS THE CONTEXT

13

OTHERWISE REQUIRES:

14

(a) "AUXILIARY AIDS OR SERVICES" MEANS AN AID OR SERVICE

15

THAT IS USED TO PROVIDE INFORMATION TO AN INDIVIDUAL WITH A

16

COGNITIVE, DEVELOPMENTAL, INTELLECTUAL, NEUROLOGICAL, OR

17

PHYSICAL DISABILITY, AND IS AVAILABLE IN A FORMAT OR MANNER THAT

18

ALLOWS THE INDIVIDUAL TO BETTER UNDERSTAND THE INFORMATION.

19

(b) (I) "LOCAL PUBLIC BODY" MEANS ANY BOARD, COMMITTEE,

20

COMMISSION, AUTHORITY, OR OTHER ADVISORY, POLICY-MAKING,

21

RULE-MAKING, OR FORMALLY CONSTITUTED BODY OF ANY POLITICAL

22

SUBDIVISION OF THE STATE AND ANY PUBLIC OR PRIVATE ENTITY TO WHICH

23

A POLITICAL SUBDIVISION, OR AN OFFICIAL THEREOF, HAS DELEGATED A

24

GOVERNMENTAL DECISION-MAKING FUNCTION BUT DOES NOT INCLUDE

25

INDIVIDUALS ON THE ADMINISTRATIVE STAFF OF THE LOCAL PUBLIC BODY.

26

(II) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1)(b)(I)

27

OF THIS SECTION, TO ASSURE SCHOOL BOARD TRANSPARENCY, "LOCAL

1 PUBLIC BODY" INCLUDES MEMBERS OF A BOARD OF EDUCATION, SCHOOL
2 ADMINISTRATION PERSONNEL, OR A COMBINATION THEREOF WHO ARE
3 INVOLVED IN A MEETING WITH A REPRESENTATIVE OF EMPLOYEES AT
4 WHICH A COLLECTIVE BARGAINING AGREEMENT IS DISCUSSED.

5 (III) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1)(b)(I)
6 OF THIS SECTION, "LOCAL PUBLIC BODY" INCLUDES THE GOVERNING BOARD
7 OF AN INSTITUTE CHARTER SCHOOL THAT IS AUTHORIZED PURSUANT TO
8 PART 5 OF ARTICLE 30.5 OF TITLE 22.

9 (c) "PUBLIC MEETING" MEANS ANY MEETING HELD BY A LOCAL
10 PUBLIC BODY AT WHICH PUBLIC BUSINESS IS DISCUSSED, FORMAL ACTION
11 MAY BE TAKEN, OR RECOMMENDATIONS THAT MAY BE MADE TO THE
12 GOVERNING BODY OF A LOCAL PUBLIC BODY MAY BE DISCUSSED.

13 (2) EACH LOCAL PUBLIC BODY SHALL ENSURE THAT THE
14 ACCESSIBILITY REQUIREMENTS SPECIFIED IN THIS PART 17 ARE
15 IMPLEMENTED BY JULY 1, 2025, TO ENSURE THE FULL AND EQUAL
16 ENJOYMENT OF THE LOCAL PUBLIC BODY BY INDIVIDUALS IN PROTECTED
17 CLASSES, INCLUDING INDIVIDUALS WITH DISABILITIES, AS REQUIRED BY
18 SECTIONS 24-34-601 AND 24-34-802.

19 (3) (a) ANY PUBLIC MEETING MUST BE ACCESSIBLE IN REAL TIME
20 BY LIVE STREAMING VIDEO OR AUDIO THAT IS RECORDED AND ACCESSIBLE
21 TO INDIVIDUALS WITH DISABILITIES.

22 (b) A LOCAL PUBLIC BODY MUST POST ON ITS WEBSITE ANY
23 DOCUMENTS THAT WILL BE DISTRIBUTED OR DISCUSSED DURING A PUBLIC
24 MEETING. A LOCAL PUBLIC BODY MUST POST SUCH DOCUMENTS AT LEAST
25 TWENTY-FOUR HOURS BEFORE THE PUBLIC MEETING OR, IF POSTING THE
26 DOCUMENTS TWENTY-FOUR HOURS BEFORE THE PUBLIC MEETING IS NOT
27 POSSIBLE, AS SOON AS PRACTICABLE BEFORE THE PUBLIC MEETING; EXCEPT

1 THAT, IF THE DOCUMENTS ARE CONFIDENTIAL OR PRIVILEGED, NOT
2 AVAILABLE TO THE PUBLIC UNTIL DISTRIBUTED OR DISCUSSED, OR NOT IN
3 THE LOCAL PUBLIC BODY'S POSSESSION BEFORE THE MEETING, A LOCAL
4 PUBLIC BODY MUST POST THE DOCUMENTS IN REAL TIME DURING THE
5 PUBLIC MEETING. ANY DOCUMENTS THAT A LOCAL PUBLIC BODY POSTS
6 PURSUANT TO THIS SUBSECTION (3)(b) MUST MEET CURRENT PREVAILING
7 DOCUMENT AND INTERNET ACCESSIBILITY STANDARDS AND MUST REMAIN
8 AVAILABLE TO THE PUBLIC ON THE LOCAL PUBLIC BODY'S WEBSITE FOR
9 ON-DEMAND USE IN THE SAME MANNER IN WHICH THE LOCAL PUBLIC BODY
10 MAKES THE WRITTEN RECORD OF THE MEETING AVAILABLE TO THE PUBLIC.

11 (c) A LOCAL PUBLIC BODY MAY, IN ITS DISCRETION, MAKE THE
12 VIDEO OR AUDIO RECORDING OF ANY PUBLIC MEETING AVAILABLE TO THE
13 PUBLIC FOR ON-DEMAND USE.

14 (4) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4)(b) OF
15 THIS SECTION, FOR ANY PUBLIC MEETING DURING WHICH THE LOCAL
16 PUBLIC BODY WILL HEAR PUBLIC TESTIMONY, THE LOCAL PUBLIC BODY
17 MUST ALLOW ANY INDIVIDUAL TO PARTICIPATE IN THE PUBLIC MEETING
18 AND OFFER PUBLIC TESTIMONY BY USING A VIDEO CONFERENCING
19 PLATFORM. THE LOCAL PUBLIC BODY MUST ENSURE THAT ANY INDIVIDUAL
20 SEEKING THE USE OF A VIDEO CONFERENCING PLATFORM TO PARTICIPATE
21 IN THE PUBLIC MEETING IS PROVIDED ACCESS TO THE PUBLIC MEETING BY
22 USE OF THE VIDEO CONFERENCING PLATFORM AT THE SAME TIMES AND
23 UPON THE SAME TERMS AS INDIVIDUALS WHO APPEAR AT THE PUBLIC
24 MEETING IN PERSON. IT IS IN A LOCAL PUBLIC BODY'S DISCRETION TO
25 DETERMINE WHICH VIDEO CONFERENCING PLATFORM WILL BE USED FOR
26 SUCH PARTICIPATION SO LONG AS THE PLATFORM IS ACCESSIBLE TO
27 INDIVIDUALS WITH DISABILITIES.

1 (b) NOTHING IN THIS PART 17 PROHIBITS A LOCAL PUBLIC BODY
2 FROM PROMULGATING RULES FOR THE ADMINISTRATION OF PUBLIC
3 TESTIMONY SO LONG AS THE RULES APPLY TO BOTH IN-PERSON AND
4 REMOTE TESTIMONY.

5 (c) THE REQUIREMENTS OF SUBSECTION (4)(a) OF THIS SECTION DO
6 NOT APPLY WHEN A PUBLIC MEETING OCCURS IN A GEOGRAPHIC LOCATION
7 THAT IS IN AN UNSERVED AREA OF THE STATE, AS DEFINED IN SECTION
8 40-15-102 (32).

9 (d) A LOCAL PUBLIC BODY THAT IS EXEMPT FROM THE
10 REQUIREMENTS OF SUBSECTION (4)(a) OF THIS SECTION SHALL USE AN
11 ALTERNATIVE TO A VIDEO CONFERENCING PLATFORM, SUCH AS A
12 TELEPHONE CONFERENCE CALL, TO ALLOW PARTICIPATION IN A PUBLIC
13 MEETING. THE ALTERNATIVE OPTION USED MUST BE ACCESSIBLE TO
14 INDIVIDUALS WITH DISABILITIES.

15 (5) (a) A LOCAL PUBLIC BODY MAY REQUIRE THAT A REQUEST FOR
16 AUXILIARY AIDS OR SERVICES TO ATTEND A PUBLIC MEETING OF THE
17 LOCAL PUBLIC BODY WITH THE USE OF THE VIDEO CONFERENCING
18 PLATFORM SELECTED BY THE LOCAL PUBLIC BODY PURSUANT TO
19 SUBSECTION (4)(a) OF THIS SECTION BE MADE UP TO SEVEN DAYS BEFORE
20 THE DATE OF THE PUBLIC MEETING FOR WHICH THE AUXILIARY AIDS OR
21 SERVICES ARE REQUESTED.

22 (b) A LOCAL PUBLIC BODY SHALL PROVIDE ANY AUXILIARY AIDS
23 OR SERVICES TIMELY REQUESTED PURSUANT TO SUBSECTION (5)(a) OF THIS
24 SECTION IN TIME FOR THE PUBLIC MEETING FOR WHICH THE AUXILIARY
25 AIDS OR SERVICES WERE REQUESTED WITHOUT REQUIRING OR REQUESTING
26 AN EXPLANATION OF THE NEED FOR THE AUXILIARY AIDS OR SERVICES.

27 (c) NOTHING IN THIS PART 17 REQUIRES A LOCAL PUBLIC BODY TO

1 PROVIDE HARDWARE OR SOFTWARE OR INTERNET OR PHONE ACCESS AT AN
2 INDIVIDUAL'S HOME.

3 (6) NOTHING IN THIS PART 17 SUPERSEDES OR NEGATES THE
4 REQUIREMENTS OF THE OPEN MEETINGS LAW, PART 4 OF ARTICLE 6 OF
5 TITLE 24, OR THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE
6 72 OF TITLE 24.

7 (7) THE FAILURE OF ANY LOCAL PUBLIC BODY TO COMPLY WITH
8 THE REQUIREMENTS OF THIS PART 17 CONSTITUTES DISCRIMINATION ON
9 THE BASIS OF DISABILITY IN VIOLATION OF SECTION 24-34-802. ANY
10 INDIVIDUAL WHO IS SUBJECTED TO A VIOLATION OF THIS PART 17 IS
11 ENTITLED TO SEEK ALL RELIEF PROVIDED IN SECTION 24-34-802.

12 **SECTION 3.** In Colorado Revised Statutes, **add** part 14 to article
13 82 of title 24 as follows:

14 PART 14

15 ACCESSIBILITY OF STATE GOVERNMENT

16 **24-82-1401. State public bodies - meetings - accessibility -**
17 **definitions.** (1) AS USED IN THIS PART 14, UNLESS THE CONTEXT
18 OTHERWISE REQUIRES:

19 (a) "AUXILIARY AIDS OR SERVICES" MEANS AN AID OR SERVICE
20 THAT IS USED TO PROVIDE INFORMATION TO AN INDIVIDUAL WITH A
21 COGNITIVE, DEVELOPMENTAL, INTELLECTUAL, NEUROLOGICAL, OR
22 PHYSICAL DISABILITY, AND IS AVAILABLE IN A FORMAT OR MANNER THAT
23 ALLOWS THE INDIVIDUAL TO BETTER UNDERSTAND THE INFORMATION.

24 (b) "PUBLIC MEETING" MEANS ANY MEETING HELD BY A STATE
25 PUBLIC BODY AT WHICH PUBLIC BUSINESS IS DISCUSSED, FORMAL ACTION
26 MAY BE TAKEN, OR RECOMMENDATIONS THAT MAY BE MADE TO THE
27 GOVERNING BODY OF A STATE PUBLIC BODY MAY BE DISCUSSED.

1 (c) (I) "STATE PUBLIC BODY" MEANS ANY BOARD, COMMITTEE,
2 COMMISSION, OR OTHER ADVISORY, POLICY-MAKING, RULE-MAKING,
3 DECISION-MAKING, OR FORMALLY CONSTITUTED BODY OF ANY STATE
4 AGENCY, STATE AUTHORITY, GOVERNING BOARD OF A STATE INSTITUTION
5 OF HIGHER EDUCATION INCLUDING THE REGENTS OF THE UNIVERSITY OF
6 COLORADO, A NONPROFIT CORPORATION INCORPORATED PURSUANT TO
7 SECTION 23-5-121 (2), OR THE GENERAL ASSEMBLY, AND ANY PUBLIC OR
8 PRIVATE ENTITY TO WHICH THE STATE, OR AN OFFICIAL THEREOF, HAS
9 DELEGATED A GOVERNMENTAL DECISION-MAKING FUNCTION BUT DOES
10 NOT INCLUDE INDIVIDUALS ON THE ADMINISTRATIVE STAFF OF THE STATE
11 PUBLIC BODY.

12 (II) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1)(c)(I)
13 OF THIS SECTION, "STATE PUBLIC BODY" DOES NOT INCLUDE THE
14 GOVERNING BOARD OF AN INSTITUTE CHARTER SCHOOL THAT IS
15 AUTHORIZED PURSUANT TO PART 5 OF ARTICLE 30.5 OF TITLE 22.

16 (2) EACH STATE PUBLIC BODY SHALL ENSURE THAT THE
17 ACCESSIBILITY REQUIREMENTS SPECIFIED IN THIS PART 14 ARE
18 IMPLEMENTED BY JULY 1, 2025, TO ENSURE THE FULL AND EQUAL
19 ENJOYMENT OF THE STATE PUBLIC BODY BY INDIVIDUALS IN PROTECTED
20 CLASSES, INCLUDING INDIVIDUALS WITH DISABILITIES, AS REQUIRED BY
21 SECTIONS 24-34-601 AND 24-34-802.

22 (3) (a) ANY PUBLIC MEETING MUST BE ACCESSIBLE IN REAL TIME
23 BY LIVE STREAMING VIDEO OR AUDIO THAT IS RECORDED AND ACCESSIBLE
24 TO INDIVIDUALS WITH DISABILITIES.

25 (b) A STATE PUBLIC BODY MUST POST ON ITS WEBSITE ANY
26 DOCUMENTS THAT WILL BE DISTRIBUTED OR DISCUSSED DURING A PUBLIC
27 MEETING. A STATE PUBLIC BODY MUST POST SUCH DOCUMENTS AT LEAST

1 TWENTY-FOUR HOURS BEFORE THE PUBLIC MEETING OR, IF POSTING THE
2 DOCUMENTS TWENTY-FOUR HOURS BEFORE THE MEETING IS NOT POSSIBLE,
3 AS SOON AS PRACTICABLE BEFORE THE MEETING; EXCEPT THAT IF THE
4 DOCUMENTS ARE CONFIDENTIAL OR PRIVILEGED, NOT AVAILABLE TO THE
5 PUBLIC UNTIL DISTRIBUTED OR DISCUSSED, OR NOT IN THE STATE PUBLIC
6 BODY'S POSSESSION BEFORE THE MEETING, THE STATE PUBLIC BODY MUST
7 POST THE DOCUMENTS IN REAL TIME DURING THE PUBLIC MEETING. ANY
8 DOCUMENTS THAT A STATE PUBLIC BODY POSTS PURSUANT TO THIS
9 SUBSECTION (3)(b) MUST MEET CURRENT PREVAILING DOCUMENT AND
10 INTERNET ACCESSIBILITY STANDARDS AND MUST REMAIN AVAILABLE TO
11 THE PUBLIC ON THE STATE PUBLIC BODY'S WEBSITE FOR ON-DEMAND USE
12 IN THE SAME MANNER IN WHICH THE LOCAL STATE BODY MAKES THE
13 WRITTEN RECORD OF THE PUBLIC MEETING AVAILABLE TO THE PUBLIC.

14 (c) A STATE PUBLIC BODY MAY, IN ITS DISCRETION, MAKE THE
15 VIDEO OR AUDIO RECORDING OF ANY PUBLIC MEETING AVAILABLE TO THE
16 PUBLIC FOR ON-DEMAND USE.

17 (4) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4)(b) OF
18 THIS SECTION, FOR ANY PUBLIC MEETING DURING WHICH THE STATE PUBLIC
19 BODY WILL HEAR PUBLIC TESTIMONY, THE STATE PUBLIC BODY MUST
20 ALLOW ANY INDIVIDUAL TO PARTICIPATE IN THE PUBLIC MEETING AND
21 OFFER PUBLIC TESTIMONY WITH THE USE OF A VIDEO CONFERENCING
22 PLATFORM. THE STATE PUBLIC BODY MUST ENSURE THAT ANY INDIVIDUAL
23 SEEKING THE USE OF A VIDEO CONFERENCING PLATFORM TO PARTICIPATE
24 IN THE PUBLIC MEETING IS PROVIDED ACCESS TO THE PUBLIC MEETING BY
25 USE OF THE VIDEO CONFERENCING PLATFORM AT THE SAME TIMES AND
26 UPON THE SAME TERMS AS INDIVIDUALS WHO APPEAR AT THE MEETING IN
27 PERSON. IT IS IN A STATE PUBLIC BODY'S DISCRETION TO DETERMINE WHICH

1 VIDEO CONFERENCING PLATFORM WILL BE USED FOR SUCH PARTICIPATION
2 SO LONG AS THE PLATFORM IS ACCESSIBLE TO INDIVIDUALS WITH
3 DISABILITIES.

4 (b) NOTHING IN THIS PART 14 PROHIBITS A STATE PUBLIC BODY
5 FROM PROMULGATING RULES FOR THE ADMINISTRATION OF PUBLIC
6 TESTIMONY SO LONG AS THE RULES APPLY TO BOTH IN-PERSON AND
7 REMOTE TESTIMONY.

8 (c) THE REQUIREMENTS OF SUBSECTION (4)(a) OF THIS SECTION DO
9 NOT APPLY WHEN A PUBLIC MEETING OF A STATE PUBLIC BODY OCCURS IN
10 A GEOGRAPHIC LOCATION THAT IS IN AN UNSERVED AREA OF THE STATE,
11 AS DEFINED IN SECTION 40-15-102 (32).

12 (d) A STATE PUBLIC BODY THAT IS EXEMPT FROM THE
13 REQUIREMENTS OF SUBSECTION (4)(a) OF THIS SECTION SHALL USE AN
14 ALTERNATIVE TO A VIDEO CONFERENCING PLATFORM, SUCH AS A
15 TELEPHONE CONFERENCE CALL, TO ALLOW PARTICIPATION IN A PUBLIC
16 MEETING. THE ALTERNATIVE OPTION USED MUST BE ACCESSIBLE TO
17 INDIVIDUALS WITH DISABILITIES.

18 (5) (a) A STATE PUBLIC BODY MAY REQUIRE THAT A REQUEST FOR
19 AUXILIARY AIDS OR SERVICES TO ATTEND A PUBLIC MEETING WITH THE USE
20 OF THE VIDEO CONFERENCING PLATFORM SELECTED BY THE STATE PUBLIC
21 BODY PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, BE MADE UP TO
22 SEVEN DAYS BEFORE THE DATE OF THE PUBLIC MEETING FOR WHICH THE
23 AIDS OR SERVICES ARE REQUESTED.

24 (b) A STATE PUBLIC BODY SHALL PROVIDE ANY AUXILIARY AIDS OR
25 SERVICES TIMELY REQUESTED PURSUANT TO SUBSECTION (5)(a) OF THIS
26 SECTION IN TIME FOR THE PUBLIC MEETING FOR WHICH THE AUXILIARY
27 AIDS OR SERVICES WERE REQUESTED WITHOUT REQUIRING OR REQUESTING

1 AN EXPLANATION OF THE NEED FOR THE AUXILIARY AIDS AND SERVICES.

2 (c) NOTHING IN THIS PART 14 REQUIRES A STATE PUBLIC BODY TO
3 PROVIDE HARDWARE OR SOFTWARE OR INTERNET OR PHONE ACCESS AT AN
4 INDIVIDUAL'S HOME.

5 (6) NOTHING IN THIS PART 14 SUPERSEDES OR NEGATES THE
6 REQUIREMENTS OF THE OPEN MEETINGS LAW, PART 4 OF ARTICLE 6 OF THIS
7 TITLE 24, OR THE "COLORADO OPEN RECORDS ACT", PART TWO OF
8 ARTICLE 72 OF THIS TITLE 24.

9 (7) THE FAILURE OF ANY STATE PUBLIC BODY TO COMPLY WITH
10 THE REQUIREMENTS OF THIS PART 14 CONSTITUTES DISCRIMINATION ON
11 THE BASIS OF DISABILITY IN VIOLATION OF SECTION 24-34-802. ANY
12 INDIVIDUAL WHO IS SUBJECTED TO A VIOLATION OF THIS PART 14 IS
13 ENTITLED TO SEEK ALL RELIEF PROVIDED IN SECTION 24-34-802.

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

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

ENGROSSED

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

LLS NO. 24-0633.01 Caroline Martin x5902

HOUSE BILL 24-1007

HOUSE SPONSORSHIP

Rutinel and Mabrey,

SENATE SPONSORSHIP

Exum and Gonzales,

House Committees
Transportation, Housing & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING RESIDENTIAL OCCUPANCY LIMITS.**

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 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.

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

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 **SECTION 1.** In Colorado Revised Statutes, **add** 29-20-111 as
2 follows:

3 **29-20-111. Local government residential occupancy limits -**
4 **short title - legislative declaration - definition.** (1) THE SHORT TITLE OF
5 THIS SECTION IS THE "HOME (HARMONIZING OCCUPANCY MEASURES
6 EQUITABLY) ACT."

7 (2) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT
8 OCCUPANCY LIMITS AND THE INCREASED AVAILABILITY OF HOUSING ARE
9 MATTERS OF MIXED STATEWIDE AND LOCAL CONCERN.

10 (3) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

11 (a) THE GENERAL ASSEMBLY AIMS TO ENCOURAGE DENSER LIVING
12 ARRANGEMENTS, RECOGNIZING THEIR MULTIPLE SOCIETAL, ECONOMIC,
13 AND ENVIRONMENTAL BENEFITS. IT THEREFORE SEEKS TO LIMIT THE
14 ABILITY OF LOCAL GOVERNMENTS TO IMPOSE ARBITRARY OCCUPANCY
15 LIMITS THAT DO NOT ALIGN WITH THESE PRINCIPLES.

16 (b) CERTAIN ARBITRARY OCCUPANCY LIMITS RESTRICT HOUSING
17 AVAILABILITY FOR COLORADANS. REDUCING THESE BARRIERS CAN
18 INCREASE AFFORDABLE HOUSING OPTIONS THROUGHOUT THE STATE.
19 THEREFORE, IT IS NECESSARY TO MANDATE THAT ANY RESIDENTIAL
20 OCCUPANCY LIMITS WITHIN COLORADO BE DETERMINED BASED SOLELY ON
21 HEALTH AND SAFETY CONSIDERATIONS, AS DICTATED BY NATIONALLY
22 RECOGNIZED STANDARDS.

23 (4) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT
24 THE OBJECTIVES OF THIS SECTION ARE AS FOLLOWS:

25 (a) TO INCREASE THE AVAILABILITY OF AFFORDABLE HOUSING
26 OPTIONS, WHICH WILL BE ACCOMPLISHED BY ALLOWING MORE
27 INDIVIDUALS TO LEGALLY SHARE LIVING SPACES, PARTICULARLY IN AREAS

1 WITH HIGH HOUSING COSTS;

2 (b) TO ENHANCE ECONOMIC ACTIVITY, WHICH WILL BE
3 ACCOMPLISHED BY PROMOTING INCREASED OCCUPANCY IN RESIDENTIAL
4 AREAS AND THEREBY SUPPORTING BUSINESSES AND SERVICES IN THOSE
5 COMMUNITIES;

6 (c) TO REDUCE HOUSING DISCRIMINATION, THEREBY ENSURING
7 THAT ALL INDIVIDUALS, REGARDLESS OF THEIR HOUSEHOLD COMPOSITION,
8 ARE AFFORDED EQUAL ACCESS TO HOUSING;

9 (d) TO ENCOURAGE MORE EFFICIENT USE OF HOUSING AND
10 RESOURCES, THEREBY REDUCING THE PER CAPITA ENVIRONMENTAL
11 FOOTPRINT OF HOUSEHOLDS, WHICH ALIGNS WITH COLORADO'S
12 COMMITMENT TO ENVIRONMENTAL SUSTAINABILITY; AND

13 (e) TO MITIGATE LONELINESS AND SOCIAL ISOLATION AND
14 PROMOTE A SENSE OF BELONGING AND COMMUNITY COHESION BY
15 ENCOURAGING LIVING ARRANGEMENTS THAT FOSTER COMMUNITY AND
16 SOCIAL CONNECTIONS.

17 (5) A LOCAL GOVERNMENT SHALL NOT LIMIT THE NUMBER OF
18 PEOPLE WHO MAY LIVE TOGETHER IN A SINGLE DWELLING BASED ON
19 FAMILIAL RELATIONSHIP. LOCAL GOVERNMENTS RETAIN THE AUTHORITY
20 TO IMPLEMENT RESIDENTIAL OCCUPANCY LIMITS BASED ONLY ON
21 DEMONSTRATED HEALTH AND SAFETY STANDARDS, SUCH AS
22 INTERNATIONAL BUILDING CODE STANDARDS, FIRE CODE REGULATIONS, OR
23 COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
24 WASTEWATER AND WATER QUALITY STANDARDS.

25 (6) AS USED IN THIS SECTION, "LOCAL GOVERNMENT" MEANS A
26 HOME RULE OR STATUTORY CITY, HOME RULE OR STATUTORY COUNTY,
27 TOWN, TERRITORIAL CHARTER CITY, OR CITY AND COUNTY.

1 **SECTION 2. Effective date.** This act takes effect July 1, 2024.

2 **SECTION 3. Safety clause.** The general assembly finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety or for appropriations for
5 the support and maintenance of the departments of the state and state
6 institutions.

HB1007_L.005

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Transportation, Housing & Local Government.

HB24-1007 be amended as follows:

- 1 Amend printed bill, page 2, line 9, strike "DWELLING, REGARDLESS OF".

- 2 Page 2, strike lines 10 through 12 and substitute "DWELLING BASED ON
3 FAMILIAL RELATIONSHIP. LOCAL GOVERNMENTS RETAIN THE AUTHORITY
4 TO IMPLEMENT RESIDENTIAL OCCUPANCY LIMITS BASED ONLY ON
5 DEMONSTRATED HEALTH AND SAFETY STANDARDS, SUCH AS
6 INTERNATIONAL BUILDING CODE STANDARDS, FIRE CODE REGULATIONS, OR
7 COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
8 WASTEWATER AND WATER QUALITY STANDARDS."

- 9 Page 2, lines 14 and 15, strike "COUNTY, TOWN, TERRITORIAL CHARTER
10 CITY, OR CITY AND COUNTY." and substitute "HOME RULE OR STATUTORY
11 COUNTY, TOWN, TERRITORIAL CHARTER CITY, OR CITY AND COUNTY."

** ** ** ** **



CITY OF AURORA

Fiscal Impact Form

Item Title: State Legislative Update; Legislative Position Discussion
Staff contact: Liz Rogers, Intergovernmental Relations Manager
Staff Source/Legal Source: George Koumantakis, Manager of Client Services, City Attorney

TYPE OF FISCAL IMPACT

Select all that apply.

- Revenue Impact Budgeted Expenditure Impact Non-Budgeted Expenditure Impact
 Workload Impact No Fiscal Impact

FISCAL SUMMARY

Provide a plain language summary of the fiscal impact. (List program and/or service fund(s) affected. Is this request due to an internal/external audit need or mandated by State, Federal, or legal action? List all departments affected; such as IT, Fleet, HR, etc. What are the implications on performance measures in the city? Provide additional detail as necessary.)

N/A

REVENUE IMPACT

Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)

N/A

BUDGETED EXPENDITURE IMPACT

Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)

N/A

NON-BUDGETED EXPENDITURE IMPACT

Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)

N/A

WORKLOAD IMPACT

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

N/A

Water Update

MEMORANDUM



TO: Federal, State and Intergovernmental Relations

THROUGH: Marshall P. Brown, General Manager, Aurora Water
Greg Baker, Deputy Director of Internal & External Relations

FROM: Kathy Kitzmann, Water Resources Principal

DATE: February 16, 2024

SUBJECT: Aurora Water State Legislative Update

Below, please find the bill, a summary, position, and rationale as recommended by Aurora Water.

Bill Name	SB24-127 Regulate Dredge & Fill Material State Waters
Sponsors	Sen Kirkmeyer (R-23) / Rep Bird (D-29)
Summary	<p>The bill creates the stream and wetlands protection commission (commission) in the department of natural resources (department) and requires the commission to develop, adopt, and maintain a dredge-and-fill permit program (permit program) for:</p> <ul style="list-style-type: none"> • Regulating the discharge of dredged or fill material into certain state waters; and • Providing protections for state waters, which protections are no more restrictive than the protections provided under the federal "Clean Water Act" as it existed on May 24, 2023. <p>The bill creates the stream and wetlands protection division (division) in the department to administer and enforce the permit program.</p> <p>The commission is required to promulgate rules as expeditiously as is prudent and feasible concerning the issuance of permits under the permit program. Until the division implements such rules, the bill prohibits the water quality control division in the department of public health and environment from taking any enforcement action against an activity that includes the discharge of dredged or fill material into state waters if the activity causing the discharge is conducted in a manner that provides for protection of state waters consistent with the protections that would have occurred through compliance with federal law prior to May 25, 2023.</p> <p>The bill establishes enforcement mechanisms for the permit program. A person who violates the terms of a permit, a rule, or a cease-and-desist order or clean-up order is subject to a civil penalty of not more than \$10,000 per day per violation.</p> <p>The bill directs the state treasurer to transfer \$600,000 from the severance tax operational fund to the capital construction fund on July 1, 2024, for the implementation of the bill.</p>
Position Recommendation	Support

<p>Rationale</p>	<ul style="list-style-type: none"> • This bill balances the protection of our water and wetland resources with a clearly defined pathway for permitting dredge and fill activities in Colorado that are no longer considered within the U.S. Army Corps of Engineers (USACE) jurisdictional authority as a result of the Sackett decision by the US Supreme Court. • SB 127 provides the authority to regulate the discharge of dredged and fill material into certain state waters to restore protections to state waters that the USACE Permit Program Under the Clean Water Act Section 404 provided prior to the Sackett decision by the US Supreme Court on May 24, 2023. • The Sackett decision declared “significant nexus” test unlawful. This bill proposes clear lines of jurisdiction to make it clear for the public and to be constitutional. • The proposed program goal is “simple but effective” - to reduce costs to the state and to project proponents and minimize permitting delay in projects while still being protective of any adverse effects from dredge and fill activities. • The bill relies heavily on a general permitting process to reduce the administrative burden for both the permit applicants and regulatory agencies. The general permitting process would spell out specific requirements for Best Management Practices (BMPs) for different kinds of activities and require mitigation measures to minimize impacts. This would allow projects to go forward without delay and facilitate timely project completion. • SB 217 creates a new Stream and Wetlands Protection Division within the Department of Natural Resources (DNR). DNR provides the structure and expertise to balance protection of the resource with its sustainable use. It presents the opportunity for an integrated, efficient, and holistic approach to water resource management, in step with Colorado’s Water Plan. This proposed program fits neatly within other programs already regulated by DNR, such as dam and reservoir safety, water rights planning and regulation, water supply management and regulations, Parks and Wildlife management and protection, Mining and Reclamation, and implementation of the State Water Plan. • The list of permit exemptions is intended to parallel the federal statutory of regulatory exemptions and exclusions of the 404 Program while ensuring interpretations of the law are consistently applied by regulating agencies, courts, and individuals. Putting these into state law restores what was in place prior to Sackett and clarifies things for the public.
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Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0606.01 Richard Sweetman x4333

SENATE BILL 24-127

SENATE SPONSORSHIP

Kirkmeyer,

HOUSE SPONSORSHIP

Bird,

Senate Committees

Agriculture & Natural Resources

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ESTABLISHMENT OF A DREDGE-AND-FILL PERMIT**
102 **PROGRAM TO REGULATE THE DISCHARGE OF POLLUTANTS INTO**
103 **CERTAIN STATE WATERS IN RESPONSE TO RECENT CHANGES IN**
104 **FEDERAL LAW, AND, IN CONNECTION THEREWITH, ESTABLISHING**
105 **THE STREAM AND WETLANDS PROTECTION COMMISSION AND**
106 **THE STREAM AND WETLANDS PROTECTION DIVISION AND**
107 **AUTHORIZING THE STREAM AND WETLANDS PROTECTION**
108 **DIVISION TO ADMINISTER AND ENFORCE THE DREDGE-AND-FILL**
109 **PERMIT PROGRAM IN ACCORDANCE WITH RULES PROMULGATED**
110 **BY THE STREAM AND WETLANDS PROTECTION COMMISSION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does

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.

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 creates the stream and wetlands protection commission (commission) in the department of natural resources (department) and requires the commission to develop, adopt, and maintain a dredge-and-fill permit program (permit program) for:

- Regulating the discharge of dredged or fill material into certain state waters; and
- Providing protections for state waters, which protections are no more restrictive than the protections provided under the federal "Clean Water Act" as it existed on May 24, 2023.

The bill creates the stream and wetlands protection division (division) in the department to administer and enforce the permit program.

The commission is required to promulgate rules as expeditiously as is prudent and feasible concerning the issuance of permits under the permit program. Until the division implements such rules, the bill prohibits the water quality control division in the department of public health and environment from taking any enforcement action against an activity that includes the discharge of dredged or fill material into state waters if the activity causing the discharge is conducted in a manner that provides for protection of state waters consistent with the protections that would have occurred through compliance with federal law prior to May 25, 2023.

The bill establishes enforcement mechanisms for the permit program. A person who violates the terms of a permit, a rule, or a cease-and-desist order or clean-up order is subject to a civil penalty of not more than \$10,000 per day per violation.

The bill directs the state treasurer to transfer \$600,000 from the severance tax operational fund to the capital construction fund on July 1, 2024, for the implementation of the bill.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) On May 25, 2023, the United States supreme court issued an
5 opinion in *Sackett v. Environmental Protection Agency* that defined the

1 types of water resources that are considered to be "waters of the United
2 States" and are subject to federal permitting requirements under section
3 404 of the federal "Clean Water Act", Pub.L. 92-500, for the discharge of
4 dredged or fill material. The *Sackett* ruling became immediately effective
5 in Colorado, and federal permitting requirements for the discharge of
6 dredged or fill material no longer apply to certain state waters. The United
7 States supreme court effectively narrowed the scope of the federal "Clean
8 Water Act", undoing protections that have safeguarded many of
9 Colorado's waters for over fifty years.

10 (b) To date, Colorado has not had a state permit program to
11 authorize the placement of dredged or fill material into state waters but
12 has relied on the federal government's permit program. The new
13 definition of "waters of the United States" under *Sackett*, narrowing
14 federal jurisdiction in this area, has created a need for a state permit
15 program. This decision has added a tremendous amount of regulatory
16 uncertainty regarding the protection of Colorado's aquatic ecosystems and
17 put at risk sustainable land use. This decision has also shifted the burden
18 to the states to fill the void in permitting programs.

19 (c) Some projects involving the discharge of dredged or fill
20 material, such as for flood control; stream restoration; water development;
21 construction or maintenance of underground utilities, roads, transit, rail,
22 and housing; and similar efforts that are not regulated by the federal
23 "Clean Water Act", face regulatory uncertainty unless Colorado develops
24 its own dredge-and-fill permit program.

25 (2) The general assembly further finds that:

26 (a) Water is Colorado's most critical natural resource. Colorado's
27 water resources provide essential ecosystem services for a healthy

1 environment and serve as a fundamental element of the state's economic
2 growth and prosperity.

3 (b) Colorado has a strong interest in protecting water in Colorado
4 because our economy and way of life rely on clean water. Colorado's
5 rivers supply millions of people in the United States with water needed
6 for drinking, agriculture, industry, and outdoor recreation. Moreover,
7 Colorado must find a way forward to protect waters within its borders and
8 provide regulatory certainty for the economic, environmental, and social
9 quality of life in Colorado.

10 (c) The lack of a permitting program will further exacerbate the
11 unmet housing needs in Colorado and will place at risk the historic
12 investment of close to one billion dollars for affordable housing made by
13 the state over the past three years;

14 (d) A state dredge-and-fill permit program can provide a
15 mechanism for protecting the ecological integrity of Colorado's water
16 resources while accommodating their sustainable utilization to facilitate
17 a strong and prosperous economy;

18 (e) Development of the state water plan involved the largest civic
19 engagement process in the state's history. The state water plan provides
20 a policy roadmap for managing Colorado's water resources in a way that
21 leads to a productive economy, vibrant and sustainable cities, productive
22 agriculture, a strong environment, and a robust recreation industry.

23 (f) In creating a permitting program for dredge-and-fill activities,
24 Colorado can strike a balance between environmental conservation and
25 economic development, ensuring that such activities are conducted
26 responsibly while preserving critical waterways. This will further enable
27 the state to address specific regional challenges, uphold ecological

1 resilience, and provide a crucial layer of protection.

2 (3) Therefore, the general assembly declares that the state must
3 adopt a permit program to regulate the discharge of dredged or fill
4 material into state waters, and, moreover, it is imperative that the state do
5 so as soon as possible.

6 **SECTION 2.** In Colorado Revised Statutes, **add** article 21 to title
7 36 as follows:

8 **ARTICLE 21**

9 **Stream and Wetlands Protection Act**

10 **36-21-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 21 IS
11 THE "STREAM AND WETLANDS PROTECTION ACT".

12 **36-21-102. Definitions.** AS USED IN THIS ARTICLE 21, UNLESS THE
13 CONTEXT OTHERWISE REQUIRES:

14 (1) "CLEAN WATER ACT" MEANS THE "FEDERAL WATER
15 POLLUTION CONTROL ACT AMENDMENTS OF 1972", PUB.L. 92-500,
16 CODIFIED AT 33 U.S.C. SEC. 1251 ET SEQ., AS AMENDED.

17 (2) "COMMISSION" MEANS THE STREAM AND WETLANDS
18 PROTECTION COMMISSION CREATED IN SECTION 36-21-104.

19 (3) "COMPENSATORY MITIGATION" MEANS REDUCING AN
20 ACTIVITY'S ADVERSE IMPACTS TO THE AQUATIC ENVIRONMENT BY
21 REPLACING LOSSES OF STATE WATERS OR WETLANDS.

22 (4) "CORPS OF ENGINEERS" MEANS THE UNITED STATES ARMY
23 CORPS OF ENGINEERS.

24 (5) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL
25 RESOURCES CREATED IN SECTION 24-33-101.

26 (6) (a) "DISCHARGE OF DREDGED MATERIAL" MEANS, EXCEPT AS
27 DESCRIBED IN SUBSECTION (6)(b) OF THIS SECTION, ANY ADDITION OF

1 DREDGED MATERIAL INTO, INCLUDING REDEPOSIT OF DREDGED MATERIAL
2 OTHER THAN INCIDENTAL FALLBACK WITHIN, STATE WATERS. THE TERM
3 INCLUDES:

4 (I) THE ADDITION OF DREDGED MATERIAL TO A SPECIFIED
5 DISCHARGE SITE LOCATED IN STATE WATERS;

6 (II) RUNOFF OR OVERFLOW FROM A CONTAINED LAND OR WATER
7 DISPOSAL AREA; AND

8 (III) ANY ADDITION, INCLUDING REDEPOSIT OTHER THAN
9 INCIDENTAL FALLBACK, OF DREDGED MATERIAL INTO STATE WATERS THAT
10 IS INCIDENTAL TO ANY ACTIVITY, INCLUDING MECHANIZED LAND
11 CLEARING, DITCHING, CHANNELIZATION, OR OTHER EXCAVATION.

12 (b) "DISCHARGE OF DREDGED MATERIAL" DOES NOT INCLUDE:

13 (I) DISCHARGES OF POLLUTANTS INTO STATE WATERS RESULTING
14 FROM THE ONSHORE PROCESSING OF DREDGED MATERIAL THAT IS
15 EXTRACTED FOR ANY COMMERCIAL USE OTHER THAN FILL, WHICH
16 DISCHARGES ARE SUBJECT TO SECTION 402 OF THE CLEAN WATER ACT
17 EVEN THOUGH THE EXTRACTION AND DEPOSIT OF SUCH MATERIAL MAY
18 REQUIRE A SECTION 404 PERMIT OR A PERMIT ISSUED PURSUANT TO THIS
19 ARTICLE 21;

20 (II) ACTIVITIES THAT INVOLVE ONLY THE CUTTING OR REMOVING
21 OF VEGETATION ABOVE THE GROUND, SUCH AS MOWING, ROTARY CUTTING,
22 AND CHAIN-SAWING, SO LONG AS THE ACTIVITY NEITHER SUBSTANTIALLY
23 DISTURBS THE ROOT SYSTEM NOR INVOLVES MECHANIZED PUSHING,
24 DRAGGING, OR OTHER SIMILAR ACTIVITIES THAT REDEPOSIT EXCAVATED
25 SOIL MATERIAL; OR

26 (III) INCIDENTAL FALLBACK.

27 (7) (a) "DISCHARGE OF FILL MATERIAL" MEANS THE ADDITION OF

1 FILL MATERIAL INTO STATE WATERS. THE TERM INCLUDES:

2 (I) PLACEMENT OF FILL MATERIAL THAT IS NECESSARY FOR THE
3 CONSTRUCTION OF ANY STRUCTURE OR INFRASTRUCTURE IN STATE
4 WATERS;

5 (II) THE BUILDING OF ANY STRUCTURE, INFRASTRUCTURE, OR
6 IMPOUNDMENT REQUIRING ROCK, SAND, DIRT, OR OTHER MATERIAL FOR ITS
7 CONSTRUCTION;

8 (III) SITE-DEVELOPMENT FILLS FOR RECREATIONAL, INDUSTRIAL,
9 COMMERCIAL, RESIDENTIAL, OR OTHER USES;

10 (IV) CAUSEWAYS OR ROAD FILLS;

11 (V) DAMS AND DIKES;

12 (VI) ARTIFICIAL ISLANDS;

13 (VII) PROPERTY PROTECTION OR RECLAMATION DEVICES SUCH AS
14 RIPRAP;

15 (VIII) LEVEES;

16 (IX) PLACEMENT OF FILL MATERIAL FOR INFRASTRUCTURE SUCH
17 AS SEWAGE TREATMENT FACILITIES, INTAKE AND OUTFALL PIPES
18 ASSOCIATED WITH POWER PLANTS, AND SUBAQUEOUS UTILITY LINES;

19 (X) PLACEMENT OF FILL MATERIAL FOR CONSTRUCTION OR
20 MAINTENANCE OF ANY LINER, BERM, OR OTHER INFRASTRUCTURE
21 ASSOCIATED WITH SOLID WASTE LANDFILLS; AND

22 (XI) PLACEMENT OF OVERBURDEN, SLURRY, OR TAILINGS OR
23 SIMILAR MINING-RELATED MATERIALS.

24 (b) "DISCHARGE OF FILL MATERIAL" DOES NOT INCLUDE:

25 (I) PLOWING, CULTIVATING, SEEDING, OR HARVESTING FOR THE
26 PRODUCTION OF FOOD, FIBER, OR FOREST PRODUCTS; OR

27 (II) PLACEMENT OF PILINGS IN STATE WATERS UNLESS THE

1 PLACEMENT HAS OR WOULD HAVE THE EFFECT OF A DISCHARGE OF FILL
2 MATERIAL. PLACEMENT OF PILINGS FOR LINEAR PROJECTS, SUCH AS
3 BRIDGES, ELEVATED WALKWAYS, AND POWER LINE STRUCTURES,
4 GENERALLY DOES NOT HAVE THE EFFECT OF A DISCHARGE OF FILL
5 MATERIAL. FURTHERMORE, PLACEMENT OF PILINGS IN STATE WATERS FOR
6 A PIER, A WHARF, OR AN INDIVIDUAL HOUSE ON STILTS GENERALLY DOES
7 NOT HAVE THE EFFECT OF A DISCHARGE OF FILL MATERIAL.

8 (8) "DIVISION" MEANS THE STREAM AND WETLANDS PROTECTION
9 DIVISION CREATED IN SECTION 36-21-107.

10 (9) "DREDGED MATERIAL" MEANS MATERIAL THAT IS EXCAVATED
11 OR DREDGED FROM STATE WATERS.

12 (10) "DREDGED OR FILL MATERIAL" MEANS DREDGED MATERIAL
13 OR FILL MATERIAL.

14 (11) (a) "FILL MATERIAL" MEANS MATERIAL PLACED IN STATE
15 WATERS WHERE THE MATERIAL HAS THE EFFECT OF:

16 (I) REPLACING ANY PORTION OF STATE WATERS WITH DRY LAND;
17 OR

18 (II) CHANGING THE BOTTOM ELEVATION OF ANY PORTION OF ANY
19 STATE WATERS.

20 (b) "FILL MATERIAL" INCLUDES ROCK, SAND, SOIL, CLAY, PLASTICS,
21 CONSTRUCTION DEBRIS, WOOD CHIPS, OVERBURDEN FROM MINING OR
22 OTHER EXCAVATION ACTIVITIES, AND MATERIALS USED TO CREATE ANY
23 STRUCTURE OR INFRASTRUCTURE IN STATE WATERS.

24 (c) "FILL MATERIAL" DOES NOT INCLUDE SOLID WASTE.

25 (12) (a) "LOSS OF STATE WATERS" MEANS STATE WATERS THAT
26 ARE PERMANENTLY ADVERSELY AFFECTED BY FILLING, FLOODING,
27 EXCAVATION, OR DRAINAGE BECAUSE OF THE DISCHARGE OF DREDGED OR

1 FILL MATERIAL. FOR THE PURPOSES OF THIS SUBSECTION (12):

2 (I) THE ACREAGE OF LOSS OF STATE WATERS IS CALCULATED
3 WITHOUT CONSIDERING COMPENSATORY MITIGATION; IT IS NOT A NET
4 CALCULATION BASED ON THE DIFFERENCE BETWEEN LOSS OF STATE
5 WATERS AND COMPENSATORY MITIGATION;

6 (II) THE LOSS OF STREAM BED INCLUDES THE ACRES OR LINEAR
7 FEET OF STREAM BED THAT ARE FILLED OR EXCAVATED AS A RESULT OF A
8 REGULATED ACTIVITY; AND

9 (III) WHEN CALCULATING LOSS OF STATE WATERS, THE
10 FOLLOWING ARE NOT INCLUDED:

11 (A) WATERS TEMPORARILY FILLED, FLOODED, EXCAVATED, OR
12 DRAINED BUT RESTORED TO PRECONSTRUCTION CONTOURS AND
13 ELEVATIONS AFTER CONSTRUCTION; AND

14 (B) IMPACTS RESULTING FROM ACTIVITIES THAT ARE EXEMPT
15 PURSUANT TO SECTION 36-21-106 (2)(b).

16 (b) AS USED IN THIS SUBSECTION (12), "PERMANENTLY ADVERSELY
17 AFFECTED" INCLUDES PERMANENT DISCHARGES OF DREDGED OR FILL
18 MATERIAL THAT CHANGE AN AQUATIC AREA TO DRY LAND, INCREASE THE
19 BOTTOM ELEVATION OF A BODY OF WATER, OR CHANGE THE USE OF A
20 BODY OF WATER.

21 (13) "PERMIT PROGRAM" MEANS THE DREDGE-AND-FILL PERMIT
22 PROGRAM ADOPTED BY THE COMMISSION PURSUANT TO SECTION
23 36-21-105(1) AND ADMINISTERED BY THE DIVISION PURSUANT TO SECTION
24 36-21-107.

25 (14) "PRIOR-CONVERTED CROPLAND" MEANS ANY AREA THAT,
26 PRIOR TO DECEMBER 23, 1985, WAS DRAINED OR OTHERWISE
27 MANIPULATED FOR THE PURPOSE, OR HAVING THE EFFECT, OF MAKING

1 PRODUCTION OF AN AGRICULTURAL PRODUCT POSSIBLE. FOR THE
2 PURPOSES OF THIS SUBSECTION (14):

3 (a) THE COMMISSION AND THE DIVISION SHALL RECOGNIZE
4 DESIGNATIONS OF PRIOR-CONVERTED CROPLAND MADE BY THE UNITED
5 STATES SECRETARY OF AGRICULTURE;

6 (b) AN AREA IS NO LONGER CONSIDERED PRIOR-CONVERTED
7 CROPLAND IF THE AREA IS ABANDONED AND HAS REVERTED TO WETLANDS;

8 (c) ABANDONMENT OCCURS WHEN PRIOR-CONVERTED CROPLAND
9 IS NOT USED FOR, OR IN SUPPORT OF, AGRICULTURAL PURPOSES AT LEAST
10 ONCE IN THE IMMEDIATELY PRECEDING FIVE YEARS; AND

11 (d) THE DIVISION SHALL DETERMINE WHETHER PRIOR-CONVERTED
12 CROPLAND HAS BEEN ABANDONED.

13 (15) "SECTION 404 PERMIT" MEANS A PERMIT ISSUED BY THE CORPS
14 OF ENGINEERS PURSUANT TO SECTION 404 OF THE CLEAN WATER ACT.

15 (16) "STATE WATER PLAN" MEANS THE STATE WATER PLAN
16 DESCRIBED IN SECTION 37-60-106.3.

17 (17) "STATE WATERS" HAS THE MEANING SET FORTH IN SECTION
18 25-8-103 (19).

19 (18) "WETLANDS" MEANS AREAS THAT ARE INUNDATED OR
20 SATURATED BY SURFACE OR GROUNDWATER AT A FREQUENCY AND
21 DURATION SUFFICIENT TO SUPPORT, UNDER NORMAL CIRCUMSTANCES, A
22 PREVALENCE OF VEGETATION TYPICALLY ADAPTED FOR LIFE IN
23 SATURATED SOIL CONDITIONS.

24 **36-21-103. Intent and scope of article.** (1) THIS ARTICLE 21 IS
25 INTENDED TO ADDRESS THE REGULATORY GAP IN REGULATION CREATED
26 BY THE UNITED STATES SUPREME COURT'S MAY 2023 *SACKETT V.*
27 *ENVIRONMENTAL PROTECTION AGENCY* DECISION BY MANAGING

1 DISCHARGES OF DREDGED OR FILL MATERIAL INTO STATE WATERS, USING
2 COLORADO-SPECIFIC CONDITIONS, IN A MANNER CONSISTENT WITH THE
3 REGULATION OF STATE WATERS UNDER THE FEDERAL REGULATIONS AND
4 STATE PROCEDURES IN EFFECT BEFORE *SACKETT*, WHILE ACCOUNTING FOR
5 CONSTITUTIONAL LIMITATIONS. THIS ARTICLE 21 IS FURTHER INTENDED TO
6 PROVIDE A SUFFICIENTLY SPECIFIC AND UNDERSTANDABLE DESCRIPTION
7 OF THOSE PROTECTED WATER RESOURCES, AS SET FORTH IN SECTION
8 36-21-106(2), TO GIVE CERTAINTY TO PERSONS CONDUCTING REGULATED
9 ACTIVITIES.

10 (2) THE PERMIT PROGRAM IMPLEMENTED PURSUANT TO THIS
11 ARTICLE 21 MUST INCORPORATE THE ELEMENTS OF, AND BE NO LESS
12 BROAD IN COVERAGE THAN, NATIONWIDE AND GENERAL SECTION 404
13 PERMITS ADDRESSING SUBJECTS THAT ARE APPLICABLE TO COLORADO.

14 (3) THE PERMIT PROGRAM IMPLEMENTED PURSUANT TO THIS
15 ARTICLE 21 MUST CARRY FORTH THE PRINCIPLES AND GOALS OF THE STATE
16 WATER PLAN AS DESCRIBED IN SECTION 37-60-106.3, SPECIFICALLY ITS
17 CALL FOR A MORE EFFICIENT PERMITTING PROCESS AND BETTER
18 INTEGRATION OF WATER QUALITY AND QUANTITY PLANNING AND
19 MANAGEMENT. THIS WILL REQUIRE COLLABORATION AND COORDINATION
20 WITHIN AND AMONG VARIOUS STATE AGENCIES.

21 (4) THE PERMIT PROGRAM IMPLEMENTED PURSUANT TO THIS
22 ARTICLE 21 IS INTENDED TO PROTECT AND MANAGE THOSE WATER
23 RESOURCES THAT WERE SUBJECT TO THE JURISDICTION OF THE SECTION
24 404 PERMIT PROGRAM PRIOR TO *SACKETT* BUT ARE NO LONGER SUBJECT TO
25 FEDERAL REGULATION. THE PERMIT PROGRAM IS NOT INTENDED TO
26 REGULATE DISCHARGES TO GROUNDWATER.

27 (5) THIS ARTICLE 21 SHALL BE CONSTRUED TO REQUIRE THE

1 PERMIT PROGRAM TO IMPOSE REGULATORY MEASURES THAT ENSURE THAT
2 THE ENVIRONMENTAL BENEFITS OF THE REGULATORY MEASURES HAVE A
3 REASONABLE RELATIONSHIP TO THE ECONOMIC, ENVIRONMENTAL,
4 ENERGY, AND PUBLIC HEALTH COSTS AND IMPACTS OF THE REGULATORY
5 MEASURES.

6 (6) (a) NO PROVISION OF THIS ARTICLE 21 SHALL BE INTERPRETED
7 SO AS TO SUPERSEDE, ABROGATE, OR IMPAIR RIGHTS TO DIVERT WATER
8 AND APPLY WATER TO BENEFICIAL USES IN ACCORDANCE WITH:

9 (I) SECTIONS 5 AND 6 OF ARTICLE XVI OF THE STATE
10 CONSTITUTION;

11 (II) ANY COMPACT ENTERED INTO BY THE STATE;

12 (III) ARTICLES 80 TO 92 OF TITLE 37; OR

13 (IV) ANY COLORADO COURT DETERMINATIONS WITH RESPECT TO
14 THE DETERMINATION AND ADMINISTRATION OF WATER RIGHTS.

15 (b) NOTHING IN THIS ARTICLE 21 SHALL BE CONSTRUED,
16 ENFORCED, OR APPLIED SO AS TO CAUSE OR RESULT IN MATERIAL INJURY
17 TO WATER RIGHTS.

18 **36-21-104. Stream and wetlands protection commission -**
19 **created - membership - compensation - public meetings - voting.**

20 (1) THE STREAM AND WETLANDS PROTECTION COMMISSION IS CREATED
21 IN THE DEPARTMENT AS A **TYPE 1** ENTITY, AS DEFINED IN SECTION
22 24-1-105. THE COMMISSION EXERCISES ITS POWERS AND PERFORMS ITS
23 DUTIES AND FUNCTIONS UNDER THE DEPARTMENT.

24 (2) THE COMMISSION CONSISTS OF NINE RESIDENTS OF THE STATE,
25 EACH OF WHOM IS APPOINTED BY THE GOVERNOR, WITH THE CONSENT OF
26 THE SENATE, FOR TERMS OF THREE YEARS; EXCEPT THAT, OF THE MEMBERS
27 WHO ARE INITIALLY APPOINTED TO THE COMMISSION, THE GOVERNOR

1 SHALL SPECIFY THREE MEMBERS WHO SHALL SERVE INITIAL TERMS OF ONE
2 YEAR AND THREE MEMBERS WHO SHALL SERVE INITIAL TERMS OF TWO
3 YEARS.

4 (3) (a) THE MEMBERSHIP OF THE COMMISSION MUST REPRESENT
5 DIVERSE REGIONS OF THE STATE AND REFLECT SUCH REGIONS' INTERESTS
6 IN WATER IN THE STATE.

7 (b) AT LEAST THREE MEMBERS OF THE COMMISSION MUST RESIDE
8 WEST OF THE CONTINENTAL DIVIDE.

9 (c) NO MORE THAN FIVE MEMBERS OF THE COMMISSION MAY BE
10 AFFILIATED WITH THE SAME POLITICAL PARTY.

11 (d) AT LEAST ONE MEMBER OF THE COMMISSION MUST BE FROM AN
12 AGRICULTURAL COMMUNITY.

13 (e) AT LEAST THREE MEMBERS OF THE COMMISSION MUST BE
14 EMPLOYED IN A SECTOR OF THE STATE'S ECONOMY THAT HAS BEEN OR IS
15 LIKELY TO BE REGULATED BY THE DIVISION.

16 (f) AT LEAST THREE MEMBERS OF THE COMMISSION MUST HAVE
17 SUBSTANTIAL AND RELEVANT SCIENTIFIC, TECHNICAL, OR LEGAL
18 EXPERIENCE.

19 (g) AT LEAST THREE MEMBERS OF THE COMMISSION MUST HAVE
20 SUBSTANTIAL EXPERIENCE WITH WATER RIGHTS OR WATER RESOURCES
21 MANAGEMENT.

22 (4) WHENEVER A VACANCY ON THE COMMISSION EXISTS, THE
23 GOVERNOR SHALL APPOINT A MEMBER FOR THE REMAINING PORTION OF
24 THE UNEXPIRED TERM CREATED BY THE VACANCY, SUBJECT TO
25 CONFIRMATION BY THE SENATE.

26 (5) (a) THE GOVERNOR MAY REMOVE A MEMBER OF THE
27 COMMISSION FOR MALFEASANCE IN OFFICE, FAILURE TO REGULARLY

1 ATTEND MEETINGS, OR ANY OTHER CAUSE THAT RENDERS THE MEMBER
2 INCAPABLE OR UNFIT TO DISCHARGE THE MEMBER'S DUTIES.

3 (b) IF ANY MEMBER OF THE COMMISSION IS ABSENT FROM TWO
4 CONSECUTIVE MEETINGS, THE CHAIR OF THE COMMISSION SHALL
5 DETERMINE WHETHER THE CAUSE OF THE ABSENCES WAS REASONABLE. IF
6 THE CHAIR DETERMINES THAT THE CAUSE OF THE ABSENCES WAS
7 UNREASONABLE, THE CHAIR SHALL NOTIFY THE GOVERNOR OF THE CHAIR'S
8 DETERMINATION. AFTER REVIEWING THE CHAIR'S DETERMINATION, THE
9 GOVERNOR MAY REMOVE THE MEMBER FROM THE COMMISSION AND
10 APPOINT A QUALIFIED PERSON FOR THE UNEXPIRED PORTION OF THE
11 MEMBER'S TERM, SUBJECT TO CONFIRMATION BY THE SENATE.

12 (6) EACH MEMBER OF THE COMMISSION WHO IS NOT A FULL-TIME
13 EMPLOYEE OF THE STATE MAY RECEIVE A PER DIEM IN AN AMOUNT EQUAL
14 TO THE AMOUNT PAID TO MEMBERS OF THE GENERAL ASSEMBLY FOR
15 ATTENDANCE AT INTERIM COMMITTEES, AS ESTABLISHED BY THE
16 EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL PURSUANT TO
17 SECTION 2-2-307 (3)(a)(IV)(A), FOR EACH DAY ACTUALLY AND
18 NECESSARILY SPENT IN THE DISCHARGE OF OFFICIAL DUTIES, NOT TO
19 EXCEED ONE THOUSAND TWO HUNDRED DOLLARS IN ANY STATE FISCAL
20 YEAR, AND EACH MEMBER SHALL RECEIVE REIMBURSEMENT FOR TRAVEL
21 AND OTHER NECESSARY EXPENSES ACTUALLY INCURRED IN THE
22 PERFORMANCE OF THE MEMBER'S OFFICIAL DUTIES.

23 (7) THE COMMISSION SHALL SELECT FROM ITS MEMBERSHIP A
24 CHAIR, A VICE-CHAIR, AND A SECRETARY. THE SECRETARY OF THE
25 COMMISSION SHALL KEEP A RECORD OF THE COMMISSION'S PROCEEDINGS.

26 (8) THE COMMISSION SHALL HOLD REGULAR PUBLIC MEETINGS AND
27 MAY HOLD OTHER MEETINGS UPON THE CALL OF THE CHAIR OR THE

1 VICE-CHAIR AT SUCH OTHER TIMES AS THE CHAIR OR VICE-CHAIR DEEM
2 NECESSARY. WRITTEN NOTICE OF THE TIME AND PLACE OF EACH MEETING
3 SHALL BE E-MAILED TO EACH MEMBER AT LEAST FIVE DAYS BEFORE THE
4 MEETING OCCURS.

5 (9) EACH MEMBER OF THE COMMISSION HAS ONE VOTE.
6 TWO-THIRDS OF THE MEMBERS OF THE COMMISSION CONSTITUTES A
7 QUORUM. THE CONCURRENCE OF A MAJORITY OF THE COMMISSION
8 MEMBERS ON ANY MATTER WITHIN THE SCOPE OF THE COMMISSION'S
9 POWERS AND DUTIES IS REQUIRED FOR ANY DETERMINATION MADE BY THE
10 COMMISSION.

11 **36-21-105. Duties of commission - rules - administrator.**

12 (1) THE COMMISSION SHALL:

13 (a) DEVELOP, ADOPT, AND MAINTAIN A DREDGE-AND-FILL PERMIT
14 PROGRAM FOR REGULATING THE DISCHARGE OF DREDGED OR FILL
15 MATERIAL INTO STATE WATERS;

16 (b) PROMULGATE RULES CONCERNING THE ISSUANCE OF PERMITS,
17 AS DESCRIBED IN SECTION 36-21-106;

18 (c) SET PERMIT FEE AMOUNTS IN ACCORDANCE WITH SECTION
19 36-21-106, WHICH FEE AMOUNTS MUST REQUIRE PERMITTEES TO PAY NO
20 MORE THAN FIFTY PERCENT OF THE COST OF ADMINISTERING THE PERMIT
21 PROGRAM, AND REVIEW THE AMOUNTS OF THE FEES AT LEAST EVERY
22 THREE YEARS;

23 (d) ADVISE, CONSULT WITH, AND COOPERATE WITH OTHER
24 AGENCIES OF THE STATE, THE FEDERAL GOVERNMENT, AND OTHER STATES
25 AND WITH GROUPS, POLITICAL SUBDIVISIONS, AND INDUSTRIES AFFECTED
26 BY THIS ARTICLE 21 AND THE POLICIES OR RULES OF THE COMMISSION;

27 (e) EXERCISE, WITH THE DIVISION, ALL INCIDENTAL POWERS

1 NECESSARY OR PROPER FOR CARRYING OUT THE PURPOSES OF THIS
2 ARTICLE 21, INCLUDING THE POWERS TO ISSUE AND ENFORCE RULES AND
3 ORDERS;

4 (f) PERFORM SUCH OTHER DUTIES AS MAY LAWFULLY BE ASSIGNED
5 TO THE COMMISSION BY LAW; AND

6 (g) ACT AS AN APPELLATE BODY TO REVIEW DETERMINATIONS OF
7 THE DIVISION, AS DESCRIBED IN SECTION 36-21-109 (4).

8 (2) (a) THE COMMISSION SHALL EMPLOY AN ADMINISTRATOR WHO
9 SHALL PERFORM SUCH DUTIES AS THE COMMISSION DEEMS NECESSARY;
10 EXCEPT THAT THE COMMISSION SHALL NOT DELEGATE TO THE
11 ADMINISTRATOR ANY AUTHORITY TO:

12 (I) PROMULGATE RULES;

13 (II) MAKE DETERMINATIONS; OR

14 (III) ISSUE ORDERS OR COUNTERMAND ORDERS OF THE
15 COMMISSION.

16 (b) THE ADMINISTRATOR MUST HAVE APPROPRIATE PRACTICAL,
17 EDUCATIONAL, AND ADMINISTRATIVE EXPERIENCE RELATED TO WATER
18 RESOURCES MANAGEMENT AND SHALL BE EMPLOYED BY THE DEPARTMENT
19 PURSUANT TO SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION.

20 (3) BEFORE TAKING ANY FINAL ACTION, THE COMMISSION SHALL
21 CONSIDER THE TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS
22 OF THE ACTION, INCLUDING AN EVALUATION OF THE BENEFITS DERIVED
23 FROM ACHIEVING THE GOALS OF THIS ARTICLE 21 AND THE ECONOMIC,
24 ENVIRONMENTAL, PUBLIC HEALTH, AND ENERGY IMPACTS TO THE PUBLIC
25 AND AFFECTED PERSONS.

26 **36-21-106. Permit program - rules.** (1) AS EXPEDITIOUSLY AS
27 IS PRUDENT AND FEASIBLE, THE COMMISSION SHALL PROMULGATE RULES

1 FOR THE DEVELOPMENT, ADOPTION, AND MAINTENANCE OF THE PERMIT
2 PROGRAM. THE COMMISSION SHALL MAXIMIZE THE USE OF GENERAL
3 PERMITS TO ENSURE THAT MOST ACTIVITIES THAT ARE SUBJECT TO THE
4 PERMIT PROGRAM MAY PROCEED WITHOUT AN INDIVIDUAL PERMIT SO
5 LONG AS THE PERMITTEE COMPLIES WITH THE TERMS OF THE GENERAL
6 PERMIT. THE COMMISSION SHALL PROMULGATE THE RULES AS FOLLOWS:

7 (a) **General permits.** THE COMMISSION SHALL PROMULGATE
8 RULES ADOPTING GENERAL PERMITS FOR CATEGORIES OF ACTIVITIES THAT
9 ARE SIMILAR IN NATURE AND CAUSE ONLY MINIMAL ADVERSE EFFECTS TO
10 STATE WATERS WHEN PERFORMED SEPARATELY. IN THE RULES, THE
11 COMMISSION SHALL INCORPORATE BY REFERENCE THE NATIONWIDE,
12 GENERAL, AND REGIONAL PERMITS ISSUED BY THE CORPS OF ENGINEERS AS
13 OF MAY 24, 2023, TO THE EXTENT THAT THE SUBJECTS OF SUCH PERMITS
14 ARE APPLICABLE IN COLORADO. THE COMMISSION SHALL ALSO
15 INCORPORATE BY REFERENCE ALL ADDITIONAL NATIONWIDE, GENERAL,
16 AND REGIONAL PERMITS ISSUED BY THE CORPS OF ENGINEERS AFTER MAY
17 24, 2023, TO THE EXTENT THAT THE SUBJECTS OF SUCH PERMITS ARE
18 APPLICABLE IN COLORADO. THE COMMISSION SHALL ALSO AFFORD
19 GENERAL PERMIT COVERAGE BY RULE FOR ADDITIONAL ACTIVITIES,
20 INCLUDING ACTIVITIES WITH EFFECTS IN EXCESS OF IMPACT THRESHOLDS
21 IN EXISTING CORPS OF ENGINEERS NATIONWIDE PERMITS, TO PROCEED
22 UPON PRECONSTRUCTION NOTIFICATION, SO LONG AS MITIGATION OF THE
23 LOSS OF STATE WATERS AT A ONE-FOR-ONE RATIO ENSURES IMPACTS TO
24 STATE WATERS ARE NO MORE THAN MINIMAL.

25 (b) **Preconstruction notifications.** THE COMMISSION SHALL
26 PROMULGATE RULES THAT UTILIZE THE EXISTING STRUCTURE OF
27 PRECONSTRUCTION NOTIFICATIONS IN THE NATIONWIDE, GENERAL, AND

1 REGIONAL PERMITS ESTABLISHED BY THE CORPS OF ENGINEERS, INCLUDING
2 RULES DESCRIBING CIRCUMSTANCES IN WHICH A PRECONSTRUCTION
3 NOTIFICATION IS NOT REQUIRED. WHERE SUCH RULES REQUIRE
4 PRECONSTRUCTION NOTIFICATION BEFORE THE COMMENCEMENT OF AN
5 ACTIVITY, THE RULES MUST REQUIRE THE PROJECT PROPONENT TO PROVIDE
6 AT LEAST THIRTY CALENDAR DAYS OF PRECONSTRUCTION NOTICE TO THE
7 DIVISION. AFTER PROVIDING SUCH PRECONSTRUCTION NOTIFICATION, THE
8 PERMITTEE MAY COMMENCE THE ACTIVITY IF:

9 (I) THE DIVISION INDICATES IN WRITING THAT THE PERMITTEE MAY
10 COMMENCE THE ACTIVITY; OR

11 (II) FORTY-FIVE CALENDAR DAYS ELAPSE WITHOUT THE DIVISION
12 PROVIDING THE PERMITTEE A WRITTEN OBJECTION TO THE ACTIVITY. A
13 NOTICE OF OBJECTION PROVIDED TO A PERMITTEE BY THE DIVISION MUST
14 STATE THE BASIS OF THE DIVISION'S OBJECTIONS WITH SPECIFICITY.

15 (c) **Individual permits.** THE COMMISSION SHALL PROMULGATE
16 RULES FOR THE ISSUANCE OF INDIVIDUAL PERMITS FOR THE DISCHARGE OF
17 DREDGED OR FILL MATERIAL INTO STATE WATERS IN ASSOCIATION WITH
18 ACTIVITIES THAT DO NOT REQUIRE A GENERAL PERMIT AS DESCRIBED IN
19 SUBSECTION (1)(a) OF THIS SECTION. THE RULES MUST STREAMLINE THE
20 APPLICATION AND ADMINISTRATIVE REVIEW PROCESS TO MINIMIZE DELAY
21 OF THE COMMENCEMENT OF ACTIVITIES SUBJECT TO THE PERMIT PROGRAM.

22 (d) THE RULES ADOPTED BY THE COMMISSION FOR THE PERMIT
23 PROGRAM MUST USE CRITERIA THAT ARE NO MORE STRINGENT THAN THE
24 CRITERIA DEVELOPED BY THE ADMINISTRATOR OF THE FEDERAL
25 ENVIRONMENTAL PROTECTION AGENCY IN CONJUNCTION WITH THE
26 SECRETARY OF THE ARMY PURSUANT TO 33 U.S.C. SEC. 1344 (b).

27 (2) **Applicability and scope of permit program.** (a) EXCEPT AS

1 INDICATED IN SUBSECTION (2)(b) OF THIS SECTION, A PERSON MUST
2 POSSESS A PERMIT ISSUED PURSUANT TO THIS ARTICLE 21 IN ORDER TO
3 DISCHARGE DREDGED OR FILL MATERIAL INTO ANY:

4 (I) STATE WATERS THAT EXHIBIT A BED, BANK, AND ORDINARY
5 HIGH WATERMARK;

6 (II) FENS; OR

7 (III) WETLANDS LYING WHOLLY OR PARTIALLY WITHIN THE
8 ONE-HUNDRED-YEAR FLOODPLAIN OR WITHIN ONE THOUSAND FIVE
9 HUNDRED FEET OF THE ORDINARY HIGH WATERMARK OF A STREAM,
10 RESERVOIR, OR LAKE.

11 (b) **Exemptions from the permit program.** NOTWITHSTANDING
12 ANY OTHER PROVISION OF THIS ARTICLE 21, AND EXCEPT AS DESCRIBED IN
13 SUBSECTION (2)(c) OF THIS SECTION, THE DISCHARGE OF DREDGED OR FILL
14 MATERIAL DOES NOT REQUIRE A PERMIT AND IS NOT PROHIBITED BY OR
15 OTHERWISE SUBJECT TO REGULATION UNDER THIS ARTICLE 21 IF THE
16 DREDGED OR FILL MATERIAL IS DISCHARGED:

17 (I) INTO A WASTE TREATMENT SYSTEM, INCLUDING A TREATMENT
18 POND OR LAGOON, THAT IS DESIGNED TO MEET THE REQUIREMENTS OF THE
19 CLEAN WATER ACT OR THE "COLORADO WATER QUALITY CONTROL ACT",
20 ARTICLE 8 OF TITLE 25;

21 (II) INTO GROUNDWATER, AS DEFINED IN SECTION 37-91-102 (7);

22 (III) INTO PRIOR-CONVERTED CROPLAND;

23 (IV) INTO HUMAN-MADE DITCHES OR CANALS THAT CONVEY
24 WATER OR WASTEWATER;

25 (V) INTO WETLANDS THAT ARE ADJACENT TO A DITCH OR CANAL
26 AND SUPPORTED BY THE WATER IN THE ADJACENT DITCH OR CANAL;

27 (VI) INTO ANY COMPONENT OF A CONVEYANCE OR SYSTEM OF

1 CONVEYANCES, INCLUDING ROADS WITH DRAINAGE SYSTEMS, MUNICIPAL
2 STREETS, CATCH BASINS, CURBS, GUTTERS, DITCHES, HUMAN-MADE
3 CHANNELS, OR STORM DRAINS THAT ARE DESIGNED TO:

4 (A) CONVEY, RETAIN, CONCENTRATE, SETTLE, REDUCE, OR
5 REMOVE POLLUTANTS, EITHER ACTIVELY OR PASSIVELY, FROM
6 WASTEWATER OR STORM WATER SYSTEMS PRIOR TO DISCHARGE; OR

7 (B) ELIMINATE SUCH DISCHARGE;

8 (VII) INTO AN ARTIFICIALLY IRRIGATED AREA THAT WOULD
9 REVERT TO DRY LAND IF THE IRRIGATION CEASED;

10 (VIII) INTO AN ARTIFICIAL LAKE OR POND CREATED BY
11 EXCAVATING OR DIKING DRY LAND, SUCH AS A FARM AND STOCK
12 WATERING POND, AN IRRIGATION POND, A SETTLING BASIN, A LOG
13 CLEANING POND, OR A COOLING POND;

14 (IX) INTO AN ARTIFICIAL REFLECTING POOL, A SWIMMING POOL, OR
15 ANY OTHER SMALL ORNAMENTAL BODY OF WATER CREATED BY
16 EXCAVATING OR DIKING DRY LAND TO RETAIN WATER FOR PRIMARILY
17 AESTHETIC REASONS;

18 (X) INTO WATER-FILLED DEPRESSIONS CREATED IN DRY LAND,
19 WHICH DEPRESSIONS ARE INCIDENTAL TO MINING OR CONSTRUCTION
20 ACTIVITY, INCLUDING ANY PITS THAT ARE EXCAVATED FOR OBTAINING
21 FILL, SAND, OR GRAVEL AND FILL WITH WATER;

22 (XI) INTO ANY SWALE OR EROSIONAL FEATURE, SUCH AS A GULLY
23 OR SMALL WASH, WHICH SWALE OR EROSIONAL FEATURE IS
24 CHARACTERIZED BY LOW-VOLUME, INFREQUENT, OR SHORT-DURATION
25 FLOW;

26 (XII) INTO A WASTEWATER RECYCLING STRUCTURE CONSTRUCTED
27 ON DRY LAND, A DETENTION AND RETENTION BASIN BUILT FOR

1 WASTEWATER RECYCLING, A GROUNDWATER RECHARGE BASIN, A
2 PERCOLATION POND BUILT FOR WASTEWATER RECYCLING, OR A WATER
3 DISTRIBUTARY STRUCTURE BUILT FOR WASTEWATER RECYCLING;

4 (XIII) INTO WATERS THAT ARE DETERMINED TO NOT BE WATERS
5 OF THE UNITED STATES IN AN APPROVED JURISDICTIONAL DETERMINATION
6 ISSUED BY THE CORPS OF ENGINEERS BEFORE MAY 25, 2023;

7 (XIV) FROM NORMAL FARMING, SILVICULTURE, AND RANCHING
8 ACTIVITIES, SUCH AS PLOWING; SEEDING; CULTIVATING; MINOR DRAINAGE;
9 HARVESTING FOR THE PRODUCTION OF FOOD, FIBER, AND FOREST
10 PRODUCTS; OR UPLAND SOIL AND WATER CONSERVATION PRACTICES;

11 (XV) FOR THE PURPOSE OF MAINTAINING CURRENTLY
12 SERVICEABLE STRUCTURES SUCH AS DIKES, DAMS, LEVEES, GROINS,
13 RIPRAP, BREAKWATERS, CAUSEWAYS, BRIDGE ABUTMENTS OR
14 APPROACHES, AND TRANSPORTATION STRUCTURES, INCLUDING:

15 (A) EMERGENCY REPAIR, RECONSTRUCTION, OR REPLACEMENT OF
16 RECENTLY DAMAGED PARTS; AND

17 (B) MINOR DEVIATIONS IN A STRUCTURE'S CONFIGURATION OR
18 FILLED AREA TO ACCOMMODATE CHANGES IN MATERIALS, CONSTRUCTION
19 TECHNIQUES, REGULATORY REQUIREMENTS, OR CONSTRUCTION CODES OR
20 SAFETY STANDARDS;

21 (XVI) FOR THE PURPOSE OF CONSTRUCTING OR MAINTAINING
22 FARM OR STOCK PONDS OR DITCHES OR CANALS;

23 (XVII) FOR THE PURPOSE OF CONSTRUCTING TEMPORARY
24 SEDIMENTATION BASINS ON A CONSTRUCTION SITE THAT DOES NOT
25 INCLUDE PLACEMENT OF FILL MATERIAL INTO STATE WATERS;

26 (XVIII) FOR THE PURPOSE OF CONSTRUCTING OR MAINTAINING
27 FARM ROADS, FOREST ROADS, OR TEMPORARY ROADS FOR MOVING MINING

1 EQUIPMENT, SO LONG AS THE ROADS ARE CONSTRUCTED AND MAINTAINED
2 IN ACCORDANCE WITH BEST MANAGEMENT PRACTICES TO ASSURE THAT
3 FLOW AND CIRCULATION PATTERNS AND CHEMICAL AND BIOLOGICAL
4 CHARACTERISTICS OF THE STATE WATERS ARE NOT IMPAIRED, THAT THE
5 REACH OF THE STATE WATERS IS NOT REDUCED, AND THAT ANY ADVERSE
6 EFFECT ON THE AQUATIC ENVIRONMENT IS MINIMIZED;

7 (XIX) FOR THE PURPOSE OF PROVIDING EMERGENCY RESPONSE TO,
8 MITIGATION OF, OR RECOVERY FROM DAMAGE CAUSED BY A FIRE, A FLOOD,
9 OR OTHER NATURAL DISASTER SO LONG AS THE DISCHARGE IS CONDUCTED
10 IN A MANNER THAT MINIMIZES THE LOSS OF STATE WATERS TO THE EXTENT
11 PRACTICABLE AND IN ACCORDANCE WITH BEST MANAGEMENT PRACTICES
12 THAT DO NOT INTERFERE WITH EFFORTS TO ADDRESS THE UNDERLYING
13 EMERGENCY;

14 (XX) AS A RESULT OF DREDGING TO RECLAIM LOST CAPACITY IN
15 A RESERVOIR, SO LONG AS THE DISCHARGE IS PERFORMED IN ACCORDANCE
16 WITH BEST MANAGEMENT PRACTICES AND IN COORDINATION WITH THE
17 DIVISION OF PARKS AND WILDLIFE CREATED IN SECTION 33-9-104 TO
18 ENSURE MINIMAL IMPACTS TO FISH AND WILDLIFE RESOURCES;

19 (XXI) IN ASSOCIATION WITH A PROJECT THAT PROCEEDS UNDER A
20 SECTION 404 PERMIT ISSUED PRIOR TO MAY 25, 2023;

21 (XXII) PURSUANT TO AUTHORIZATION UNDER A SECTION 404
22 PERMIT;

23 (XXIII) IN A MANNER THAT CAUSES A LOSS OF STATE WATERS
24 CONSISTING OF NO MORE THAN ONE-TENTH OF AN ACRE OF WETLANDS OR
25 THREE-HUNDREDTHS OF AN ACRE OF STREAM; OR

26 (XXIV) IN COMPLIANCE WITH A MINING AND RECLAMATION
27 PERMIT ISSUED BY THE DIVISION OF RECLAMATION, MINING, AND SAFETY

1 CREATED IN SECTION 34-20-103.

2 (c) EXCEPT WITH RESPECT TO DISCHARGES DESCRIBED IN
3 SUBSECTIONS (2)(b)(XXI) TO (2)(b)(XXIII), ANY DISCHARGE OF DREDGED
4 OR FILL MATERIAL INTO STATE WATERS THAT IS INCIDENTAL TO ANY
5 ACTIVITY HAVING AS ITS PURPOSE BRINGING A SIGNIFICANT AREA OF STATE
6 WATERS INTO A USE TO WHICH THE AREA WAS NOT PREVIOUSLY SUBJECT,
7 AND THAT SIGNIFICANTLY IMPAIRS OR REDUCES THE FLOW, REACH, OR
8 CIRCULATION OF STATE WATERS, REQUIRES A PERMIT UNDER THIS SECTION.
9 FURTHERMORE, ANY DISCHARGE OF DREDGED OR FILL MATERIAL INTO
10 STATE WATERS THAT CONSTITUTE A SIGNIFICANT ATTRIBUTE OF A STATE
11 GOLD MEDAL TROUT FISHERY, A NATIONAL PARK, A NATIONAL MONUMENT,
12 A NATIONAL WILDLIFE REFUGE, A DESIGNATED WILDERNESS AREA, OR A
13 STATE PARK IS REQUIRED TO HAVE A PERMIT UNDER THIS SECTION.

14 (3) THE COMMISSION SHALL PROMULGATE RULES FOR THE PERMIT
15 PROGRAM AS DESCRIBED IN THIS SECTION AS EXPEDITIOUSLY AS IS
16 PRUDENT AND FEASIBLE. UNTIL SUCH RULES ARE AVAILABLE TO BE
17 IMPLEMENTED BY THE DIVISION, THE WATER QUALITY CONTROL DIVISION
18 IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL NOT
19 TAKE ENFORCEMENT ACTION AGAINST ANY ACTIVITY THAT INCLUDES THE
20 DISCHARGE OF DREDGED OR FILL MATERIAL INTO STATE WATERS IF THE
21 ACTIVITY CAUSING THE DISCHARGE IS CONDUCTED IN A MANNER THAT
22 PROVIDES FOR PROTECTION OF STATE WATERS CONSISTENT WITH THE
23 PROTECTIONS THAT WOULD HAVE OCCURRED THROUGH COMPLIANCE WITH
24 SECTION 404 PERMIT REQUIREMENTS FOR SUCH DISCHARGES PRIOR TO
25 MAY 25, 2023.

26 **36-21-107. Stream and wetlands protection division - created**
27 **- director of division - duties of division.** (1) THE STREAM AND

1 WETLANDS PROTECTION DIVISION IS CREATED WITHIN THE DEPARTMENT
2 TO ADMINISTER AND ENFORCE THE PERMIT PROGRAM.

3 (2) THE DIRECTOR OF THE DIVISION:

4 (a) IS EMPLOYED BY THE DEPARTMENT PURSUANT TO SECTION 13
5 OF ARTICLE XII OF THE STATE CONSTITUTION;

6 (b) MUST BE A LICENSED PROFESSIONAL ENGINEER OR HAVE A
7 GRADUATE DEGREE IN ENGINEERING OR OTHER SPECIALTY DEALING WITH
8 WETLANDS OR WATER RESOURCES MANAGEMENT;

9 (c) MUST HAVE APPROPRIATE PRACTICAL AND ADMINISTRATIVE
10 EXPERIENCE IN WETLANDS OR WATER RESOURCES MANAGEMENT; AND

11 (d) MUST NOT BE THE ADMINISTRATOR EMPLOYED BY THE
12 COMMISSION PURSUANT TO SECTION 36-21-105 (2).

13 (3) THE DIVISION SHALL:

14 (a) ACT AS STAFF TO THE COMMISSION IN COMMISSION
15 PROCEEDINGS OTHER THAN ADJUDICATORY OR APPELLATE PROCEEDINGS
16 IN WHICH THE DIVISION IS A PARTY;

17 (b) CARRY OUT THE ENFORCEMENT PROVISIONS OF THIS ARTICLE
18 21;

19 (c) ADMINISTER THE PERMIT PROGRAM AS PROVIDED IN SECTION
20 36-21-106;

21 (d) MAINTAIN A MAILING LIST OF PERSONS REQUESTING NOTICE OF
22 ACTIONS BY THE DIVISION OR BY THE COMMISSION AND NOTIFY PERSONS
23 ON THE LIST OF SUCH ACTIONS; AND

24 (e) PERFORM SUCH OTHER DUTIES AS ARE LAWFULLY ASSIGNED TO
25 THE DIVISION BY THE COMMISSION.

26 (4) BEFORE TAKING ANY FINAL ACTION, THE DIVISION SHALL
27 CONSIDER THE TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS

1 OF THE ACTION, INCLUDING AN EVALUATION OF THE BENEFITS DERIVED
2 FROM ACHIEVING THE GOALS OF THIS ARTICLE 21 AND THE ECONOMIC,
3 ENVIRONMENTAL, PUBLIC HEALTH, AND ENERGY IMPACTS TO THE PUBLIC
4 AND AFFECTED PERSONS.

5 **36-21-108. Enforcement.** (1) A PERSON WHO VIOLATES THIS
6 ARTICLE 21, THE TERMS OF A PERMIT ISSUED UNDER THIS ARTICLE 21, A
7 RULE PROMULGATED PURSUANT TO THIS ARTICLE 21, OR A
8 CEASE-AND-DESIST ORDER OR CLEAN-UP ORDER ISSUED PURSUANT TO THIS
9 ARTICLE 21 IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN TEN
10 THOUSAND DOLLARS PER DAY PER VIOLATION. IN DETERMINING THE
11 AMOUNT OF A PENALTY UNDER THIS SUBSECTION (1), A COURT SHALL
12 CONSIDER:

- 13 (a) THE POTENTIAL DAMAGE CAUSED BY THE VIOLATION;
- 14 (b) THE VIOLATOR'S COMPLIANCE HISTORY;
- 15 (c) WHETHER THE VIOLATION WAS INTENTIONAL, RECKLESS, OR
16 NEGLIGENT;
- 17 (d) ANY GOOD FAITH EFFORTS BY THE VIOLATOR TO AVOID THE
18 VIOLATION;
- 19 (e) THE IMPACT UPON OR THREAT POSED TO THE PUBLIC HEALTH
20 OR ENVIRONMENT AS A RESULT OF THE VIOLATION;
- 21 (f) THE DURATION OF THE VIOLATION; AND
- 22 (g) THE ECONOMIC BENEFIT REALIZED BY THE VIOLATOR AS A
23 RESULT OF THE VIOLATION.

24 (2) WHENEVER THE DIVISION HAS REASON TO BELIEVE THAT A
25 VIOLATION OF THIS ARTICLE 21, A RULE PROMULGATED PURSUANT TO THIS
26 ARTICLE 21, OR AN ORDER OR PERMIT ISSUED PURSUANT TO THIS ARTICLE
27 21 HAS OCCURRED, THE DIVISION SHALL CAUSE WRITTEN NOTICE TO BE

1 SERVED PERSONALLY OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
2 UPON THE ALLEGED VIOLATOR OR THE ALLEGED VIOLATOR'S AGENT FOR
3 SERVICE OF PROCESS. THE NOTICE SHALL STATE THE NATURE OF THE
4 VIOLATION AND THE FACTS ALLEGED TO CONSTITUTE THE VIOLATION, AND
5 THE NOTICE MAY INCLUDE THE NATURE OF ANY PROPOSED CORRECTIVE
6 ACTION.

7 (3) THE DIVISION MAY INSTITUTE AN ADMINISTRATIVE ACTION OR
8 A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION TO IMPOSE AND
9 COLLECT PENALTIES UNDER THIS SECTION. IN SUCH AN ACTION, THE COURT
10 MAY CONSIDER THE APPROPRIATENESS OF THE AMOUNT OF THE PENALTY
11 IF THIS ISSUE IS RAISED BY THE PARTY AGAINST WHOM THE PENALTY WAS
12 ASSESSED.

13 **36-21-109. Judicial review - jurisdiction - appeals.** (1) ANY
14 FINAL RULE, ORDER, PERMIT, OR DETERMINATION BY THE COMMISSION OR
15 DIVISION IS SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH ARTICLE
16 4 OF TITLE 24.

17 (2) A STAY OF ANY ORDER OF THE DIVISION PENDING JUDICIAL
18 REVIEW DOES NOT RELIEVE ANY PERSON FROM LIABILITY UNDER SECTION
19 36-21-108, BUT THE COURT SHALL CONSIDER THE REASON FOR THE
20 REQUEST FOR JUDICIAL REVIEW IN DETERMINING THE AMOUNT OF ANY
21 PENALTY.

22 (3) A PROCEEDING FOR JUDICIAL REVIEW OF ANY FINAL ORDER,
23 PERMIT, OR DETERMINATION OF THE COMMISSION OR DIVISION SHALL BE
24 FILED IN THE DISTRICT COURT FOR THE DISTRICT IN WHICH THE AFFECTED
25 STATE WATERS ARE LOCATED. ANY PROCEEDING FOR JUDICIAL REVIEW OF
26 ANY FINAL RULE OF THE COMMISSION SHALL BE FILED IN THE DENVER
27 DISTRICT COURT.

1 (4) A FINAL DECISION OF THE DIVISION MAY BE APPEALED TO THE
2 COMMISSION, ALTHOUGH AN APPEAL TO THE COMMISSION IS NOT A
3 PREREQUISITE TO JUDICIAL REVIEW OF A FINAL DECISION OF THE DIVISION.

4 **SECTION 3.** In Colorado Revised Statutes, 24-33-104, **add** (1)(I)
5 as follows:

6 **24-33-104. Composition of the department.** (1) The department
7 of natural resources consists of the following commissions, divisions,
8 boards, offices, and councils:

9 (I) THE STREAM AND WETLANDS PROTECTION COMMISSION
10 CREATED IN SECTION 36-21-104 AND THE STREAM AND WETLANDS
11 PROTECTION DIVISION CREATED IN SECTION 36-21-107.

12 **SECTION 4.** In Colorado Revised Statutes, 25-8-202, **amend** (7)
13 introductory portion and (7)(b)(I) as follows:

14 **25-8-202. Duties of commission - rules.** (7) The commission and
15 the division shall recognize water quality responsibilities of the following
16 state agencies, referred to in this subsection (7) as the "implementing
17 agencies": The office of mined land reclamation; the state engineer; the
18 energy and carbon management commission created in section
19 34-60-104.3 (1); THE STREAM AND WETLANDS PROTECTION COMMISSION
20 CREATED IN SECTION 36-21-104; and the state agency responsible for
21 activities related to the federal "Resource Conservation and Recovery Act
22 of 1976", 42 U.S.C. sec. 6901 et seq., as amended, and related state
23 programs. Activities subject to the jurisdiction of the implementing
24 agencies that result in discharge to state waters shall be regulated as
25 follows:

26 (b) (I) The division ~~shall be~~ IS solely responsible for the issuance
27 and enforcement of permits authorizing point source discharges to surface

1 waters of the state affected by such discharges; EXCEPT THAT THE STREAM
2 AND WETLANDS PROTECTION DIVISION CREATED IN SECTION 36-21-107 IS
3 SOLELY RESPONSIBLE FOR THE ISSUANCE AND ENFORCEMENT OF PERMITS
4 AUTHORIZING DISCHARGES OF DREDGED OR FILL MATERIAL INTO STATE
5 WATERS, AS DEFINED IN SECTION 25-8-103 (19).

6 **SECTION 5.** In Colorado Revised Statutes, 39-29-109.3, **amend**
7 (1) introductory portion; and **add** (11) as follows:

8 **39-29-109.3. Severance tax operational fund - core reserve -**
9 **grant program reserve - repeal.** (1) The executive director of the
10 department of natural resources shall submit with the department's budget
11 request for each fiscal year a list and description of the programs the
12 executive director recommends to be funded from the severance tax
13 operational fund created in section 39-29-109 (2)(b), referred to in this
14 section as the "operational fund". Except as otherwise provided in
15 ~~subsection (10)~~ SUBSECTIONS (10) AND (11) of this section, the general
16 assembly may appropriate money from the total money available in the
17 operational fund to fund recommended programs as follows:

18 (11)(a) ON JULY 1, 2024, THE STATE TREASURER SHALL TRANSFER
19 SIX HUNDRED THOUSAND DOLLARS FROM THE OPERATIONAL FUND TO THE
20 CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302 (1)(a) FOR
21 THE IMPLEMENTATION OF THE "STREAM AND WETLANDS PROTECTION
22 ACT", ARTICLE 21 OF TITLE 36.

23 (b) THIS SUBSECTION (11) IS REPEALED, EFFECTIVE JULY 1, 2026.

24 **SECTION 6. Safety clause.** The general assembly finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, or safety or for appropriations for

- 1 the support and maintenance of the departments of the state and state
- 2 institutions.



CITY OF AURORA

Fiscal Impact Form

Item Title: Water Update: SB24-127 Regulate Dredge & Fill Material State Waters
Staff contact: Kathleen Kitzmann, Water Resources Principle
Staff Source/Legal Source: Rachel Allen, Manager of Client Services

TYPE OF FISCAL IMPACT

Select all that apply.

- Revenue Impact
 Budgeted Expenditure Impact
 Non-Budgeted Expenditure Impact
 Workload Impact
 No Fiscal Impact

FISCAL SUMMARY

Provide a plain language summary of the fiscal impact. (List program and/or service fund(s) affected. Is this request due to an internal/external audit need or mandated by State, Federal, or legal action? List all departments affected; such as IT, Fleet, HR, etc. What are the implications on performance measures in the city? Provide additional detail as necessary.)

N/A

REVENUE IMPACT

Provide the revenue impact or N/A if no impact. (What is the estimated impact on revenue? What funds would be impacted? Provide additional detail as necessary.)

N/A

BUDGETED EXPENDITURE IMPACT

Provide the budgeted expenditure impact or N/A if no impact. (List Org/Account # and fund. What is the amount of budget to be used? Does this shift existing budget away from existing programs/services? Provide additional detail as necessary.)

N/A

NON-BUDGETED EXPENDITURE IMPACT

Provide the non-budgeted expenditure impact or N/A if no impact. (Provide information on non-budgeted costs. Include Personal Services, Supplies and Services, Interfund Charges, and Capital needs. Provide additional detail as necessary.)

N/A

WORKLOAD IMPACT

Provide the workload impact or N/A if no impact. (Will more staff be needed or is the change absorbable? If new FTE(s) are needed, provide numbers and types of positions, and a duty summary. Provide additional detail as necessary.)

N/A