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INTRODUCED

LLS NO. R16-0558.01 Thomas Morris x4218

HJR16-1023

HOUSE SPONSORSHIP

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Sonnenberg and Baumgardner,

House Committees

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HOUSE JOINT RESOLUTION 16-1023

101 CONCERNING THE ENCOURAGEMENT OF STAKEHOLDER INPUT WITH
102 SUBSEQUENT LEGISLATIVE REVIEW PRIOR TO THE
103 IMPLEMENTATION OF ADDITIONAL NUTRIENT DISCHARGE
104 CONTROLS.

1 WHEREAS, While total phosphorus (TP) and total inorganic
2 nitrogen (TIN) (collectively, "nutrients") are not toxic when discharged
3 into surface waters and some levels of phosphorus and nitrogen are
4 beneficial to the environment, there can be negative impacts on aquatic
5 life and recreational uses from excessive concentrations of nutrients in a
6 particular stream segment, depending on many site-specific factors; and

7 WHEREAS, In 2012, the Water Quality Control Commission
8 (Commission) adopted a two-pronged approach to address concentrations
9 of nutrients in Colorado surface waters by adopting: Regulation #85, a

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

1 new statewide nutrients control regulation, which requires the largest
2 municipal and industrial dischargers of TP and TIN to adopt
3 technology-based treatment requirements; and Regulation #31, which
4 establishes longer-term water quality goals ("interim numeric values") for
5 TP and TIN; and

6 WHEREAS, The Commission reasoned that because
7 comprehensive nutrient reductions could potentially be a decades-long
8 process, a stepwise approach through implementation of
9 technology-based nutrient controls under Regulation #85 and associated
10 water quality monitoring was appropriate and would result in more
11 expeditious control of nutrients in the immediate future; and

12 WHEREAS, This approach is consistent with the federal
13 Environmental Protection Agency's proposed "Framework for State
14 Nutrient Reductions" as outlined in Acting Assistant Administrator Nancy
15 Stoner's March 16, 2011, memorandum to the regional administrators;
16 and

17 WHEREAS, The Commission stated that its purpose in adopting
18 interim numeric values for nutrients in Regulation #31 was "to emphasize
19 its intent to undertake further review of the evolving science regarding
20 nutrients before applying numerical nutrient standards broadly to surface
21 waters throughout Colorado"; and

22 WHEREAS, The results of the Water Quality Control Division's
23 (Division) 2011 study show that the domestic and industrial facility
24 treatment costs to achieve the interim numeric values are significantly
25 higher than the costs to achieve the effluent limits in Regulation #85 and
26 the benefits are challenging to quantify; and

27 WHEREAS, Approximately 45 of the state's largest domestic and
28 industrial dischargers are beginning to install nutrient treatment
29 technology to meet Regulation #85 requirements for TP and TIN; and

30 WHEREAS, Upgrades required under Regulation #85 will result
31 in domestic and industrial treatment facilities discharging improved
32 effluent, but because these improvements have not yet been fully
33 implemented, additional time is required to fully document and evaluate
34 water quality improvements in receiving and downstream water bodies;
35 and

1 WHEREAS, Agricultural sectors have been aggressively
2 implementing best management practices that conserve nutrients and
3 minimize costs, and municipal and industrial facilities of all sizes are
4 monitoring effluent and surface water quality for these nutrients and
5 reporting those data to the Division; and

6 WHEREAS, The Division is evaluating the data to determine
7 nutrient baseline conditions; and

8 WHEREAS, The recovery of TP at domestic wastewater treatment
9 facilities to reduce loadings to surface waters will necessarily increase
10 phosphorus concentrations in biosolids that may pose challenges to the
11 viability of biosolids land application programs due to phosphorus
12 indexing restrictions; and

13 WHEREAS, Treatment to achieve the interim numeric values for
14 phosphorus and nitrogen requires the addition of chemicals as well as
15 significant energy consumption that can cause ancillary environmental
16 impacts, including the production of greenhouse gases and consumption
17 of water resources; and

18 WHEREAS, Long-term, effective nutrient controls will require
19 active participation and solicitation of input from interested stakeholders
20 representing municipal water and wastewater treatment facilities,
21 agriculture, regulated storm water entities, industrial facilities, the
22 conservation community, and the general public; and

23 WHEREAS, The 2015 Water Environment Research
24 Foundation-funded research on Boulder Creek identified site-specific
25 conditions that affected the impact of nutrients on the classified uses such
26 that alternative levels of TP and TN could be protective; and

27 WHEREAS, Development of holistic regulatory and nutrient
28 reduction tools and strategies is needed to better predict site-specific
29 nutrient concentrations that are necessary to protect aquatic life and
30 recreational uses; and

31 WHEREAS, A delayed implementation date for Regulation #31
32 interim values beyond 2022 would allow for data collected under
33 Regulation #85 and other studies to be used for scientific
34 decision-making to develop a long-term, holistic, innovative, sustainable,
35 optimized, and cost-effective approach to nutrient management; and

1 WHEREAS, Statewide nutrient management strategies should be
2 consistent with Colorado's State Water Plan; now, therefore,

3 *Be It Resolved by the House of Representatives of the Seventieth*
4 *General Assembly of the State of Colorado, the Senate concurring herein:*

5 That we, the members of the General Assembly:

6 (1) Encourage interested stakeholders, including the Division,
7 members of the regulated community, drinking water providers, the
8 agricultural community, the conservation community, and the general
9 public, beginning in 2016 and prior to the Commission's scheduled
10 triennial review of Regulation #85 in October 2017, to participate through
11 the established Water Quality Forum workgroup process to evaluate
12 holistic regulatory alternatives and cooperative strategies to ensure that
13 additional statewide nutrient reduction approaches:

14 (a) Focus spending where it will have the most environmental
15 benefit;

16 (b) Take into consideration the technical and economic feasibility
17 of treatment;

18 (c) Are environmentally sustainable;

19 (d) Do not unnecessarily burden small, rural, or disadvantaged
20 communities;

21 (e) Are consistent with the goals of Colorado's Water Plan;

22 (f) Include strategies for measuring nutrient reductions achieved
23 over time; and

24 (g) Reflect input from participating stakeholders; and

25 (2) Encourage the Division and other participating stakeholders,
26 prior to the Commission's October 2017 triennial review of Regulation
27 #85, to present strategies identified during the Water Quality Forum
28 workgroup process to a joint meeting of the Senate Agriculture, Natural
29 Resources, and Energy Committee and the House Agriculture, Livestock,
30 and Natural Resources Committee no later than February 28, 2017.

1 *Be It Further Resolved*, That copies of this Joint Resolution be sent
2 to Governor John Hickenlooper, each member of Colorado's
3 congressional delegation, and Dr. Larry Wolk, the executive director of
4 the department of public health and environment.