Second Regular Session Sixty-ninth General Assembly STATE OF COLORADO

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LLS NO. 14-0252.01 Bob Lackner x4350

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INTERIM COMMITTEE BILL

Water Resources Review Committee

SHORT TITLE: "Cluster Development Modifications"

	A BILL FOR AN ACT					
01	CONCERNING	MODIFICATIONS	TO	STATUTORY	PROVISIONS	
02	AUTHORIZING CLUSTER DEVELOPMENT.					

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://www.leg.state.co.us/billsummaries.)

Water Resources Review Committee. Under current law, a cluster development is any division of land that creates parcels containing less than 35 acres each, for single-family residential purposes only, where one or more tracts are being divided pursuant to a rural land use process and where at least two-thirds of the total area of the tracts is reserved for

the preservation of open space. Under existing law, no rural land use process is permitted to approve a cluster development that would exceed one residential unit for each 17.5-acre increment. Under the bill:

- A cluster development is defined to mean any division of land that creates parcels containing not more than 10 acres each, for single-family residential purposes only, where one or more tracts are being divided pursuant to a rural land use process and where at least 70% of the total area of the tracts is reserved for the preservation of open space and agricultural production;
- No rural land use process is permitted to approve a cluster development that would exceed 2 residential units for each 35-acre increment where the total area of the tracts exceeds 70 acres;
- Language in the legislative declaration of the statute is expanded to include the protection of agricultural land and the promotion of efficient water resources;
- Where approval of a cluster development is sought to protect agricultural land, the agricultural land is required to remain in production with its associated water rights;
- An approved cluster development is exempt from subdivision regulations imposed by the county.

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

2 **SECTION 1.** In Colorado Revised Statutes, 30-28-401, amend

3 (1) (a) and (1) (c) as follows:

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30-28-401. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) It is in the public interest to encourage clustering of residential dwellings on tracts of land that are exempt from subdivision regulation by county government pursuant to section 30-28-101 (10) (c) (X), thereby providing a means of preserving common open space AND AGRICULTURAL LAND, OF PROMOTING EFFICIENT WATER USAGE, of reducing the extension of roads and utilities to serve the residential development, and of allowing landowners to implement smart growth on land that is exempt from subdivision regulations.

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1	(c) A process should be available for the development of parcels
2	of land for residential purposes that will authorize the use of clustering,
3	water augmentation, density bonuses, not to exceed two units for each
4	thirty-five acre increment, or other incentives, and the transfer of
5	development rights and fulfill the goals of the county to preserve AND
6	PROTECT open space, protect wildlife habitat, AGRICULTURAL LAND,
7	WATER RESOURCES, and critical areas, and enhance and maintain the rural
8	character of lands with contiguity to agricultural lands suitable for
9	long-range farming and ranching operations.
10	SECTION 2. In Colorado Revised Statutes, amend 30-28-403 as

SECTION 2. In Colorado Revised Statutes, **amend** 30-28-403 as follows:

30-28-403. Cluster development. (1) A cluster development is any division of land that creates parcels containing less than thirty-five NOT MORE THAN TEN acres each, for single-family residential purposes only, where one or more tracts are being divided pursuant to a rural land use process and where at least two-thirds SEVENTY PERCENT of the total area of the tract or tracts is reserved for the preservation of open space AND AGRICULTURAL PRODUCTION. No rural land use process as authorized by this section shall approve a cluster development that would exceed one TWO residential unit UNITS for each seventeen and one-half acre increment THIRTY-FIVE-ACRE INCREMENT WHERE THE TOTAL AREA OF THE TRACT OR TRACTS EXCEEDS SEVENTY ACRES.

(2) As a condition of approving a cluster development, a rural land use process shall require that the cluster development plan to set aside land to preserve OR PROTECT open space, or to protect wildlife habitat, or critical areas, AGRICULTURAL LAND, OR WATER RESOURCES not permit development of such land for at least forty years from the date the

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1	plan is approved. Where approval of a cluster development is			
2	SOUGHT TO PROTECT AGRICULTURAL LAND, THE AGRICULTURAL LAND			
3	MUST REMAIN IN PRODUCTION ALONG WITH ITS ASSOCIATED WATER			
4	RIGHTS.			
5	(3) A CLUSTER DEVELOPMENT APPROVED IN ACCORDANCE WITH			
6	THE REQUIREMENTS OF THIS SECTION IS EXEMPT FROM SUBDIVISION			
7	REGULATIONS IMPOSED BY THE COUNTY.			
8	SECTION 3. In Colorado Revised Statutes, 30-28-404, amend			
9	(1) as follows:			
10	30-28-404. Water - sewage - roadways - notification to state			
11	engineer. (1) In an effort to preserve open space, and water resources,			
12	AND AGRICULTURAL LAND, a cluster development may obtain only one			
13	well permit for each single-family residential lot pursuant to sections			
14	37-90-105 and 37-92-602, C.R.S., subject to the provisions of subsection			
15	(2) of this section.			
16	SECTION 4. In Colorado Revised Statutes, 30-28-101, add (10)			
17	(b.5) as follows:			
18	30-28-101. Definitions. As used in this part 1, unless the context			
19	otherwise requires:			
20	(10) (b.5) The terms "subdivision" and "subdivided land", as			
21	DEFINED IN PARAGRAPH (a) OF THIS SUBSECTION (10), DO NOT APPLY TO A			
22	CLUSTER DEVELOPMENT APPROVED IN ACCORDANCE WITH THE			
23	REQUIREMENTS OF PART 4 OF THIS ARTICLE.			
24	SECTION 5. Act subject to petition - effective date -			
25	applicability. (1) This act takes effect September 1, 2014; except that,			
26	if a referendum petition is filed pursuant to section 1 (3) of article V or			
27	the state constitution against this act or an item, section, or part of this act			

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- within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on January 1, 2015, or on the date of the official declaration of the vote thereon by the governor, whichever is later.
- 7 (2) This act applies to applications for cluster development 8 approved on or after the effective date of this act.

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