

SENATE COMMITTEE OF REFERENCE REPORT

\_\_\_\_\_  
Chair of Committee

April 13, 2023  
Date

Committee on Agriculture & Natural Resources.

After consideration on the merits, the Committee recommends the following:

SB23-092 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 3, line 10, strike "(2)" and substitute "(1)(c)(II),  
2 (2)".
- 3 Page 3, strike line 14 and substitute "**- rules - definitions. (1) Legislative  
4 declaration.** The general assembly hereby:  
5 (c) Declares that:  
6 (II) The agricultural drought and climate resilience office can best  
7 address and mitigate agricultural climate-related issues on a wide scale by  
8 providing support to and assisting ~~bona-fide~~ agricultural producers in  
9 implementing practices that minimize the impacts of climate change.  
10 (2) **Office created.** (a) (I) There is ~~hereby~~ created".
- 11 Page 3, strike line 26 and substitute "STUDY THE POTENTIAL, BENEFITS,  
12 AND TRADEOFFS OF AGRIVOLTAICS IN THE STATE. ANY AGRIVOLTAIC  
13 STUDY AWARDED A GRANT PURSUANT TO THIS SUBSECTION (2)(a)(II) MUST  
14 INCLUDE FINDINGS ON THE ADDITIONAL COSTS, INCLUDING THE  
15 ADDITIONAL CAPITAL AND ONGOING MAINTENANCE COSTS, FOR THE USE  
16 OF AGRIVOLTAICS AS COMPARED TO TRADITIONAL PHOTOVOLTAICS. THE  
17 ADDITIONAL COSTS MUST BE QUANTIFIED ON BOTH A  
18 DOLLAR-PER-MEGAWATT AND A DOLLAR-PER-MEGAWATT-HOUR BASIS."
- 19 Page 4, strike lines 11 and 12 and substitute "agricultural commodities  
20 produced in Colorado, ~~and~~ members of the state conservation board  
21 created in section 35-70-103 (1)(a), AND REPRESENTATIVES OF THE SOLAR  
22 ENERGY DEVELOPMENT INDUSTRY. The stakeholder".
- 23 Page 4, line 15, strike "production. For" and substitute "production For".

1 Page 4, strike line 20 and substitute "~~agricultural products~~ AND  
2 SOLUTIONS FROM THE SOLAR ENERGY DEVELOPMENT INDUSTRY ON  
3 PROVIDING FEASIBLE SOLUTIONS FOR PRODUCING ELECTRICITY ON  
4 AGRICULTURAL LANDS WHILE CONTRIBUTING ECOLOGICAL AND  
5 AGRICULTURAL BENEFITS."

6 Page 4, strike lines 26 and 27 and substitute "by the office must ~~be~~  
7 ~~designed to benefit bona fide agricultural producers actively engaged in~~  
8 ~~agriculture~~ INCLUDE NEW OR ONGOING".

9 Page 5, strike line 5 and substitute:

10 (B) REDUCE ENERGY COSTS IN AGRICULTURE;

11 (C) IMPROVE THE ECONOMIC RESILIENCE OF AGRICULTURAL  
12 PRODUCERS;

13 (D) MINIMIZE NEGATIVE ENVIRONMENTAL IMPACTS OF  
14 PHOTOVOLTAIC ENERGY PRODUCTION FACILITIES ON SOIL HEALTH, NATIVE  
15 VEGETATION, STATE AND FEDERAL LISTED SPECIES, WILDLIFE MIGRATION  
16 CORRIDORS, AND THE SPECIES, HABITATS, AND ECOSYSTEMS THAT ARE OF  
17 THE GREATEST CONSERVATION NEED; AND".

18 Reletter succeeding sub-subparagraph accordingly.

19 Page 5, lines 13 and 14, strike "a bona fide" and substitute "~~bona fide~~  
20 AN".

21 Page 5, line 17, strike "BONA fide" and substitute "~~fide~~".

22 Page 5, strike lines 26 and 27.

23 Page 6, strike lines 1 through 12 and substitute:

24 "(4) **Task force.** (a) ON OR BEFORE SEPTEMBER 1, 2023, THE  
25 OFFICE SHALL CONVENE AN AGRIVOLTAICS TASK FORCE TO CONDUCT A  
26 STUDY IN CONSULTATION WITH THE DEPARTMENT, THE COLORADO  
27 ENERGY OFFICE CREATED IN SECTION 24-38.5-101 (1), AND THE DIVISION  
28 OF PARKS AND WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES  
29 CREATED IN SECTION 33-9-104 (1) TO EVALUATE THE OPPORTUNITIES AND  
30 CHALLENGES ASSOCIATED WITH AGRIVOLTAICS IN THE STATE, INCLUDING:

31 (I) THE TECHNICAL, OPERATIONAL, ENVIRONMENTAL, OR  
32 FINANCIAL BARRIERS TO AN EXPANSION OF THE ADOPTION OF  
33 AGRIVOLTAICS IN THE STATE; AND

34 (II) POTENTIAL STATE-LEVEL POLICIES AND PROGRAMS TO

1 MINIMIZE THE BARRIERS.

2 (b) ON OR BEFORE FEBRUARY 15, 2024, THE TASK FORCE SHALL  
3 PRESENT THE RESULTS OF THE STUDY, INCLUDING ANY  
4 RECOMMENDATIONS FOR LEGISLATION, TO THE JOINT COMMITTEE OF THE  
5 HOUSE OF REPRESENTATIVES AGRICULTURE, WATER, AND NATURAL  
6 RESOURCES COMMITTEE AND THE SENATE AGRICULTURE AND NATURAL  
7 RESOURCES COMMITTEE, OR THEIR SUCCESSOR COMMITTEES."

8 Page 6, line 18, strike "FOR SOIL HEALTH" and substitute "TO IMPROVE  
9 SOIL HEALTH OR INSECT HABITAT".

10 Page 6, strike lines 21 through 27.

11 Page 7, strike line 1.

12 Reletter succeeding paragraph accordingly.

13 Page 7, strike line 14 and substitute:

14 "(A) SOIL HEALTH MANAGEMENT PRACTICES, INCLUDING COVER  
15 CROPPING, MANURE MANAGEMENT, SOIL AMENDMENTS, ROTATIONAL  
16 GRAZING, RANGELAND MANAGEMENT, LOW- AND NO-TILL PRACTICES, AND  
17 HEDGE GROWS;

18 (B) THE USE OF DRY DIGESTERS; AND".

19 Reletter succeeding sub-subparagraph accordingly.

20 Page 7, line 22, after "(1)," insert "THE NATURAL AND WORKING LANDS  
21 TASK FORCE CONVENED BY THE DEPARTMENT OF NATURAL RESOURCES,  
22 THE COLORADO STATE FOREST SERVICE,".

23 Page 8, strike lines 7 and 8 and substitute "WITH THIS SECTION:

24 (A) MAY BE INCORPORATED INTO THE AIR QUALITY CONTROL".

25 Page 8, strike lines 13 through 18 and substitute:

26 "(B) MAY BE USED AS COMPLIANCE INSTRUMENTS BY A SOURCE  
27 REGULATED UNDER ARTICLE 7 OF TITLE 25, WITH EMISSION REDUCTION  
28 OBLIGATIONS ESTABLISHED BY THE AIR QUALITY CONTROL COMMISSION  
29 THAT ENSURE THAT THE ANNUAL, OVERALL, ABSOLUTE EMISSIONS FROM  
30 THE SOURCE, SECTOR, OR GROUP OF SOURCES DECLINE CONSISTENT WITH  
31 THE STATEWIDE GREENHOUSE GAS EMISSION REDUCTION GOALS SET FORTH  
32 IN SECTION 25-7-102 (2)(g), PROVIDED THAT THE SOURCE IS LOCATED IN  
33 A DISPROPORTIONATELY IMPACTED COMMUNITY. THE COMMISSION SHALL  
34 ESTABLISH BY RULE AN ANNUAL, ABSOLUTE EMISSION REDUCTION

1 OBLIGATION SPECIFIC TO THE SOURCE.  
2 (C) MUST NOT BE AVAILABLE AS AN INSTRUMENT FOR EMISSIONS  
3 REDUCTION COMPLIANCE UNDER SECTION 25-7-105 (1)(e)(V) UNLESS THE  
4 COMMISSION HAS ADOPTED RULES ESTABLISHING AN ANNUAL, ABSOLUTE  
5 EMISSION REDUCTION OBLIGATION FOR THE RELEVANT SECTOR THAT IS  
6 CONSISTENT WITH THE STATEWIDE GREENHOUSE GAS EMISSION REDUCTION  
7 GOALS."

8 Page 8, line 19, strike "MITIGATE" and substitute "AVOID".

9 Page 8, line 21, strike "HAS" and substitute "COULD HAVE".

10 Page 9, after line 23 insert:

11 "(4) NOTHING IN THIS SECTION REQUIRES THE AIR QUALITY  
12 CONTROL COMMISSION TO ADOPT RULES FOR GREENHOUSE GAS EMISSION  
13 OFFSETS OR CREDIT MECHANISMS OR TO ACCEPT ANY GREENHOUSE GAS  
14 EMISSION OFFSETS OR CREDIT MECHANISMS AS COMPLIANCE INSTRUMENTS  
15 FOR EMISSION REDUCTION COMPLIANCE OR VERIFICATION."

16 Renumber succeeding subsection accordingly.

17 Page 10, strike lines 10 through 12 and substitute:

18 "**37-60-115. Water studies - rules - reports - definitions -**  
19 **repeal.** (12) (a) **Study.** (I) THE BOARD, IN CONSULTATION WITH THE  
20 STATE ENGINEER, THE COLORADO ENERGY OFFICE, AND THE INSTITUTE,  
21 SHALL CONDUCT A STUDY TO DETERMINE THE FEASIBILITY OF THE USE OF  
22 AQUAVOLTAICS".

23 Page 10, strike lines 16 through 22 and substitute "AQUAVOLTAIC  
24 INFRASTRUCTURE IS PLACED. IN STUDYING THE FEASIBILITY OF USING  
25 AQUAVOLTAICS, THE".

26 Page 10, after line 26 insert:

27 "(II) THE BOARD MAY CONTRACT WITH THE INSTITUTE, A THIRD  
28 PARTY, OR BOTH, TO DESIGN, CARRY OUT, AND ANALYZE THE RESULTS OF  
29 THE STUDY REQUIRED IN THIS SUBSECTION (12)(a). IF THE BOARD DEEMS  
30 APPROPRIATE, THE STUDY MUST BE CONDUCTED IN CONSIDERATION OF  
31 AND RELIANCE ON RELEVANT STUDIES COMPLETED IN THE STATE AND  
32 NATIONALLY.

33 (b) **Report.** ON OR BEFORE JANUARY 1, 2025, THE BOARD SHALL  
34 SUBMIT A REPORT OF THE FINDINGS AND CONCLUSIONS OF THE STUDY TO

1 THE HOUSE OF REPRESENTATIVES AGRICULTURE, WATER, AND NATURAL  
2 RESOURCES COMMITTEE AND THE SENATE AGRICULTURE AND NATURAL  
3 RESOURCES COMMITTEE, OR THEIR SUCCESSOR COMMITTEES."

4 Reletter succeeding paragraph accordingly.

5 Page 11, after line 8 insert:

6 "(IV) "INSTITUTE" MEANS THE COLORADO WATER INSTITUTE  
7 CREATED IN SECTION 23-31-801."

8 Renumber succeeding subparagraphs accordingly.

9 Page 11, after line 12 insert:

10 "SECTION 5. In Colorado Revised Statutes, 39-3-122, add (3)  
11 and (4) as follows:

12 **39-3-122. Agricultural equipment used in production of**  
13 **agricultural products - CEA facilities - exemption - definition.** (3) ON  
14 AND AFTER JANUARY 1, 2024, BUT BEFORE JANUARY 2, 2029, PERSONAL  
15 PROPERTY IS EXEMPTED FROM THE LEVY AND COLLECTION OF PROPERTY  
16 TAX IF THE PROPERTY IS MACHINERY OR EQUIPMENT THAT IS PART OF A  
17 SOLAR ENERGY GENERATING SYSTEM THAT IS USED FOR AGRIVOLTAICS,  
18 AND IF THE PROPERTY:

19 (a) INCORPORATES NOVEL DESIGNS, TECHNOLOGIES, OR  
20 CONFIGURATIONS THAT SIGNIFICANTLY EXPAND THE POTENTIAL FOR  
21 AGRICULTURAL ACTIVITIES, INCLUDING BY:

22 (I) ELEVATING THE BOTTOM EDGE HEIGHT OF THE PANELS AT  
23 LEAST SIX FEET ABOVE THE GROUND;

24 (II) UTILIZING TRANSLUCENT PANELS;

25 (III) INCORPORATING ALTERNATIVE SOLAR TRACKING ALGORITHMS  
26 THAT ARE TAILORED TO OPTIMIZE VEGETATIVE GROWTH; OR

27 (IV) INCORPORATING EXTENDED ROW OR PANEL SPACING IN A  
28 MANNER THAT ENABLES AGRICULTURAL ACTIVITIES;

29 (b) IS CONSTRUCTED IN A MANNER THAT MINIMIZES SOIL  
30 COMPACTION UNDERNEATH AND IN BETWEEN PANELS; AND

31 (c) IS CONSTRUCTED TO INCORPORATE DESIGN STRATEGIES THAT  
32 MINIMIZE THE NEGATIVE ENVIRONMENTAL IMPACT OF PHOTOVOLTAIC  
33 ENERGY PRODUCTION FACILITIES ON ECOSYSTEMS, NATIVE VEGETATION,  
34 STATE AND FEDERALLY LISTED SPECIES, WILDLIFE MIGRATION CORRIDORS,  
35 AND THE SPECIES, HABITATS, AND ECOSYSTEMS OF GREATEST  
36 CONSERVATION NEED.

37 (4) AS USED IN THIS SECTION, "AGRIVOLTAICS" HAS THE MEANING

1 SET FORTH IN SECTION 35-1-114 (5)(a)."

2 Renumber succeeding sections accordingly.

3 Page 12, line 1, strike "(4)(a)," and substitute "(5)(a)."

4 Page 12, line 2, strike "(12)(d)(I)," and substitute "(12)(c)(I)."

5 Page 12, after line 4 insert:

6 "SECTION 7. In Colorado Revised Statutes, 39-27-102, **amend**  
7 (12) as follows:

8 **39-27-102. Tax imposed on gasoline and special fuel - deposits**  
9 **- penalties.** (12) On and after January 1, 2022, ~~no~~ A supplier, distributor,  
10 importer, or terminal operator ~~may~~ SHALL NOT sell gasoline or special fuel  
11 on a tax-deferred or tax-exempt basis, except as provided in section  
12 39-27-102.5 OR 39-27-103.7.

13 **SECTION 8.** In Colorado Revised Statutes, **add** 39-27-103.7 as  
14 follows:

15 **39-27-103.7. Exemption on tax imposed for certain special**  
16 **fuels and blended special fuels - invoice requirements - certification**  
17 **- definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT  
18 OTHERWISE REQUIRES:

19 (a) "BIODIESEL" MEANS FUEL COMPOSED OF MONO-ALKYL ESTERS  
20 OF LONG-CHAIN FATTY ACIDS DERIVED FROM VEGETABLE OILS OR ANIMAL  
21 FATS THAT:

22 (I) MEETS THE REGISTRATION REQUIREMENTS THAT THE FEDERAL  
23 ENVIRONMENTAL PROTECTION AGENCY ESTABLISHES FOR FUEL OR FUEL  
24 ADDITIVES UNDER SECTION 211 OF THE FEDERAL "CLEAN AIR ACT", 42  
25 U.S.C. SEC. 7545, AS AMENDED;

26 (II) MEETS THE MOST CURRENT SPECIFICATIONS FOR ASTM  
27 D6751, WHICH IS THE "STANDARD SPECIFICATION FOR BIODIESEL FUEL  
28 BLEND STOCK (B100) FOR MIDDLE DISTILLATE FUELS";

29 (III) IS INTENDED FOR USE IN ENGINES DESIGNED TO RUN ON  
30 CONVENTIONAL, PETROLEUM-DERIVED DIESEL FUEL; AND

31 (IV) IS DERIVED FROM AGRICULTURAL PRODUCTS, VEGETABLE  
32 OILS, RECYCLED GREASES, BIOMASS, OR ANIMAL FATS, OR FROM THE  
33 WASTES OF THOSE PRODUCTS OR FATS.

34 (b) "RENEWABLE DIESEL" MEANS DIESEL FUEL CONFORMING TO  
35 THE SPECIFICATIONS OF ASTM D975, WHICH IS THE "STANDARD  
36 SPECIFICATION FOR DIESEL FUEL OIL, BIODIESEL BLEND (B0-B5)", THAT  
37 IS A HYDROCARBON OIL MADE FROM NONPETROLEUM FEEDSTOCKS.

38 (2) (a) THE TAX IMPOSED ON SPECIAL FUEL PURSUANT TO SECTION

1 39-27-102 (1)(a)(II)(B) DOES NOT APPLY TO THE PORTION OF A BLENDED  
2 BIODIESEL FUEL OR BLENDED RENEWABLE DIESEL FUEL THAT IS EQUAL TO  
3 THE VOLUME OF BIODIESEL OR RENEWABLE DIESEL THAT IS BLENDED IN  
4 WITH THE TAXABLE PETROLEUM-BASED DIESEL FUEL, AS DEMONSTRATED  
5 BY PROOF OF THE CERTIFICATION REQUIRED PURSUANT TO SUBSECTION (4)  
6 OF THIS SECTION.

7 (b) A LICENSED FUEL DISTRIBUTOR THAT IS RESPONSIBLE FOR  
8 PAYING STATE EXCISE TAX ON THE UNDERLYING DIESEL PORTION OF THE  
9 FUEL IS ELIGIBLE FOR THE TAX EXEMPTION SET FORTH IN THIS SUBSECTION  
10 (2).

11 (3) (a) THE VOLUME OF BIODIESEL OR RENEWABLE DIESEL MUST BE  
12 IDENTIFIED ON A SALES INVOICE FOR EACH SALES TRANSACTION AND MUST  
13 CONTINUE TO BE IDENTIFIED ON EACH SALES INVOICE UNTIL THE BLENDED  
14 BIODIESEL OR BLENDED RENEWABLE DIESEL FUEL PRODUCT IS SOLD TO THE  
15 END USER.

16 (b) A SALES INVOICE MUST:

17 (I) IDENTIFY A BIODIESEL, RENEWABLE DIESEL, BIODIESEL BLEND,  
18 OR RENEWABLE DIESEL BLEND BY A COMMONLY ACCEPTED COMMERCIAL  
19 OR INDUSTRY NAME FOR THE BLENDED SPECIAL FUEL PRODUCT BEING  
20 SOLD, SUCH AS B100 FOR BIODIESEL OR B20 FOR A BIODIESEL BLEND THAT  
21 CONTAINS EIGHTY PERCENT TAXABLE PETROLEUM-BASED DIESEL FUEL  
22 AND TWENTY PERCENT BIODIESEL;

23 (II) LIST THE VOLUME IN GALLONS, ROUNDED TO THE NEAREST  
24 WHOLE GALLON, OR THE PERCENTAGE, ROUNDED TO THE NEAREST WHOLE  
25 PERCENTAGE, OF THE FOLLOWING CONTAINED IN THE BLENDED SPECIAL  
26 FUEL PRODUCT:

27 (A) BIODIESEL OR RENEWABLE DIESEL; AND

28 (B) TAXABLE PETROLEUM-BASED DIESEL FUEL; AND

29 (III) INCLUDE THE AMOUNT OF TAX PER GALLON THAT APPLIES TO  
30 THE BIODIESEL BLEND OR RENEWABLE DIESEL BLEND.

31 (4) (a) A BLENDER MUST PROVIDE TO A PURCHASER OF BIODIESEL,  
32 RENEWABLE DIESEL, BLENDED BIODIESEL, OR BLENDED RENEWABLE  
33 DIESEL A CERTIFICATE, INVOICE, BILL OF SALE, OR OTHER WRITTEN  
34 STATEMENT THAT PROVIDES THE INFORMATION REQUIRED PURSUANT TO  
35 SUBSECTION (3)(b) OF THIS SECTION AND THE FOLLOWING ADDITIONAL  
36 INFORMATION:

37 (I) THE NAME OF THE SELLER;

38 (II) THE NAME OF THE PURCHASER; AND

39 (III) THE DATE OF TRANSFER OF THE BLENDED SPECIAL FUEL  
40 PRODUCT.

41 (b) ANY PERSON CLAIMING THE TAX EXEMPTION PURSUANT TO  
42 SUBSECTION (2) OF THIS SECTION MUST MAINTAIN THE CERTIFICATION  
43 RECORDS REGARDING THE BIODIESEL, RENEWABLE DIESEL, BLENDED

- 1 BIODIESEL, OR BLENDED RENEWABLE DIESEL FUEL PRODUCT FOR AT LEAST
- 2 FOUR YEARS."
  
- 3 Renumber succeeding section accordingly.

\*\* \*\* \*\* \*\* \*\*