

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0335.01 Jennifer Berman x3286

SENATE BILL 22-138

SENATE SPONSORSHIP

Hansen,

HOUSE SPONSORSHIP

Valdez A.,

Senate Committees

Transportation & Energy
Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO PROMOTE REDUCTIONS IN GREENHOUSE**
102 **GAS EMISSIONS IN COLORADO, AND, IN CONNECTION**
103 **THEREWITH, MAKING AN APPROPRIATION.**

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>.)

Section 1 of the bill requires each insurance company issued a certificate of authority to transact insurance business to prepare and file an annual report with the insurance commissioner providing a climate-risk assessment for the insurance company's investment portfolio

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

from the previous 12 months. The commissioner of insurance is required to post the reports on the division of insurance's website. **Section 1** defines "climate-risk assessment" as a determination of the economic and business risks that climate change poses to an investment.

Section 2 requires the board of trustees of the public employees' retirement association (PERA board) to prepare a similar annual report and post it on the PERA board's website.

Section 3 updates the statewide greenhouse gas (GHG) emission reduction goals to add a 40% reduction goal for 2028 compared to 2005 GHG pollution levels and a 75% reduction goal for 2040 compared to 2005 GHG pollution levels.

Section 4 defines a small off-road engine as a gasoline-powered engine of 50 horsepower or less used to fuel small off-road equipment like lawn mowers and leaf blowers. **Section 4** phases out the use of small off-road engines by prohibiting their sale in nonattainment areas of the state on or after January 1, 2030, and by providing financial incentives to promote the replacement of small off-road engines with electric-powered, small off-road equipment before 2030.

Section 11 establishes a state income tax credit in an amount equal to 30% of the purchase price for new, electric-powered, small off-road equipment for purchases made in income tax years 2023 through 2029.

Section 6 gives the oil and gas conservation commission authority over class VI injection wells used for sequestration of GHG, including through the issuance and enforcement of permits.

Section 7 requires the commissioner of agriculture or the commissioner's designee, in consultation with the Colorado energy office and the air quality control commission, to conduct a study examining carbon reduction and sequestration opportunities in the agricultural sector in the state, including the potential development of certified carbon offset programs or credit instruments. On or before December 15, 2022, the commissioner of agriculture or the commissioner's designee is required to submit a report summarizing the study, including any legislative recommendations, to the general assembly.

In support of the use of agrivoltaics, which is the colocation of solar energy generation facilities on a parcel of land with agricultural activities, **section 8** authorizes the Colorado agriculture value-added development board (board) to provide financing, including grants or loans, for agricultural research on the use of agrivoltaics. For a research project for which the board awards money to study the use of agrivoltaics, **sections 5 and 8** require the director of the division of parks and wildlife to consult on the research project regarding the wildlife impacts of agrivoltaic use.

Section 9 authorizes the board to seek, accept, and expend gifts, grants, and donations, including donations of in-kind resources such as solar panels, for use in agricultural research projects. **Section 9** also

updates the statutory definition of "agrivoltaics" to list additional agricultural activities on the parcel of land on which solar panel generation facilities may be colocated, including animal husbandry, cover cropping for soil health, and carbon sequestration.

Section 10 amends the statutory definition of "solar energy facility" used in determining the valuation of public utilities for property tax purposes to include agrivoltaics.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-3-244 as
3 follows:

4 **10-3-244. Investment climate-risk assessment - reporting -**
5 **rules - definition.** (1) THE COMMISSIONER SHALL ADOPT RULES
6 REQUIRING THAT, BEGINNING IN 2023, INSURERS ISSUED A CERTIFICATE OF
7 AUTHORITY TO TRANSACT BUSINESS PURSUANT TO PART 1 OF THIS ARTICLE
8 3 THAT REPORT MORE THAN ONE HUNDRED MILLION DOLLARS ON THEIR
9 ANNUAL NAIC SCHEDULE T FILING PARTICIPATE IN AND COMPLETE THE
10 NAIC'S ANNUAL "INSURER CLIMATE RISK DISCLOSURE SURVEY". IF AN
11 INSURER REPORTS LESS THAN ONE HUNDRED MILLION DOLLARS ON ITS
12 ANNUAL NAIC SCHEDULE T FILING, THE INSURER MAY PARTICIPATE IN
13 AND COMPLETE THE SURVEY VOLUNTARILY.

14 (2) AS USED IN THIS SECTION, "NAIC" MEANS THE NATIONAL
15 ASSOCIATION OF INSURANCE COMMISSIONERS, AN ORGANIZATION OF
16 INSURANCE REGULATORS FROM THE FIFTY STATES, THE DISTRICT OF
17 COLUMBIA, AND THE FOUR UNITED STATES TERRITORIES.

18 **SECTION 2.** In Colorado Revised Statutes, 24-51-206, **add** (4)
19 as follows:

20 **24-51-206. Investments - investment climate-risk assessment**
21 **- definition.** (4) (a) ON OR BEFORE JANUARY 1, 2024, AND ON OR BEFORE
22 JANUARY 1 OF EACH YEAR THEREAFTER, THE BOARD SHALL PREPARE A

1 FINANCIAL REPORT PROVIDING A CLIMATE-RISK ASSESSMENT REGARDING
2 ITS INVESTMENT PORTFOLIO. THE BOARD SHALL POST EACH REPORT ON ITS
3 WEBSITE.

4 (b) AS USED IN THIS SECTION, "CLIMATE-RISK ASSESSMENT" MEANS
5 A DETERMINATION OF THE ECONOMIC AND BUSINESS RISKS THAT CLIMATE
6 CHANGE POSES TO AN INVESTMENT. SUCH RISKS INCLUDE
7 TRANSPORTATION AND SUPPLY DISRUPTIONS AND INFRASTRUCTURE
8 DAMAGE ARISING FROM SEVERE WEATHER EVENTS; INCREASED COSTS
9 ASSOCIATED WITH COMPETITION FOR DEPLETING NONRENEWABLE
10 RESOURCES; AND REDUCED PRODUCTIVITY ARISING FROM EXTREME
11 TEMPERATURES, VECTOR-BORNE DISEASES, AND OTHER HEALTH IMPACTS
12 OF CLIMATE CHANGE.

13 **SECTION 3.** In Colorado Revised Statutes, 25-6.5-201, **amend**
14 **(2); and add (3) as follows:**

15 **25-6.5-201. Definitions.** As used in this part 2, unless the context
16 otherwise requires:

17 (2) (a) "Pollution control equipment" means any personal
18 property, including, but not limited to, equipment, machinery, devices,
19 systems, buildings, or structures, that is installed, constructed, or used in
20 or as a part of a facility that creates a product in a manner that generates
21 less pollution by the utilization of an alternative manufacturing or
22 generating technology.

23 (b) "Pollution control equipment" includes, but is not limited to:

24 (I) Gas or wind turbines and associated compressors or
25 equipment; or

26 (II) Solar, thermal, or photovoltaic equipment; OR

27 (III) WASTEWATER THERMAL ENERGY EQUIPMENT.

1 (3) "WASTEWATER THERMAL ENERGY EQUIPMENT" MEANS
2 EQUIPMENT USED AS PART OF A SYSTEM THAT USES THERMAL ENERGY IN
3 WASTEWATER TO GENERATE ELECTRICITY, TO HEAT OR COOL A SPACE, OR
4 FOR ANY OTHER USEFUL THERMAL PURPOSE.

5 **SECTION 4.** In Colorado Revised Statutes, 25-7-102, **amend**
6 (2)(g) as follows:

7 **25-7-102. Legislative declaration.** (2) It is further declared that:

8 (g) (I) Accordingly, Colorado shall strive to increase renewable
9 energy generation and eliminate statewide greenhouse gas pollution by
10 the middle of the twenty-first century and have goals of achieving, at a
11 minimum:

12 (A) A twenty-six percent reduction in statewide greenhouse gas
13 pollution by 2025;

14 (B) A FORTY PERCENT REDUCTION IN STATEWIDE GREENHOUSE
15 GAS POLLUTION BY 2028;

16 (C) A fifty percent reduction in statewide greenhouse gas
17 pollution by 2030;

18 (D) A SEVENTY-FIVE PERCENT REDUCTION IN STATEWIDE
19 GREENHOUSE GAS POLLUTION BY 2040; and

20 (E) A ninety percent reduction in statewide greenhouse gas
21 pollution by 2050.

22 (II) The reductions identified in this subsection (2)(g) are
23 measured relative to 2005 statewide greenhouse gas pollution levels.

24 **SECTION 5.** In Colorado Revised Statutes, 25-7-105, **amend**
25 (1)(e)(XIII) introductory portion as follows:

26 **25-7-105. Duties of commission - rules - legislative declaration**
27 **- definitions.** (1) Except as provided in sections 25-7-130 and 25-7-131,

1 the commission shall promulgate rules that are consistent with the
2 legislative declaration set forth in section 25-7-102 and necessary for the
3 proper implementation and administration of this article 7, including:

4 (e) (XIII) In implementing this subsection (1)(e), the commission
5 shall adopt rules to reduce statewide greenhouse gas emissions from the
6 industrial and manufacturing sector in the state by at least twenty percent
7 by 2030 below the 2015 baseline established pursuant to section 25-7-140
8 (2)(a)(II), taking into account the factors set out in subsections (1)(e)(II)
9 to (1)(e)(VI) of this section. The rules must include protections for
10 disproportionately impacted communities and prioritize emission
11 reductions that will reduce emissions of co-pollutants that adversely
12 affect disproportionately impacted communities, be designed to accelerate
13 near-term reductions, and secure meaningful emission reductions from
14 this sector to be realized beginning no later than September 30, 2024. THE
15 COMMISSION SHALL ADOPT THE RULES PURSUANT TO THIS SUBSECTION
16 (1)(e)(XIII) ON OR BEFORE DECEMBER 31, 2022. The rules must:

17 =====

18 **SECTION 6.** In Colorado Revised Statutes, 33-1-110, **add** (9) as
19 follows:

20 **33-1-110. Duties of the director of the division.** (9) FOR
21 RESEARCH PROJECTS FOR WHICH THE COLORADO AGRICULTURAL
22 VALUE-ADDED DEVELOPMENT BOARD AWARDS MONEY PURSUANT TO
23 SECTION 35-75-204 (1)(a)(II) TO STUDY THE USE OF AGRIVOLTAICS, AS
24 DEFINED IN SECTION 35-75-205 (1)(c), THE DIRECTOR OR THE DIRECTOR'S
25 DESIGNEE SHALL CONSULT ON THE RESEARCH PROJECT REGARDING THE
26 WILDLIFE IMPACTS OF AGRIVOLTAIC USE.

27 **SECTION 7.** In Colorado Revised Statutes, 34-60-106, **amend**

1 (9)(a); and add (9)(c) as follows:

2 **34-60-106. Additional powers of commission - rules -**
3 **definitions.** (9) (a) Notwithstanding section 34-60-120 or any other
4 provision of law, SUBJECT TO SUBSECTION (9)(c) OF THIS SECTION AND
5 ONLY AFTER THE GOVERNOR AND COMMISSION HAVE MADE AN
6 AFFIRMATIVE DETERMINATION THAT THE STATE HAS SUFFICIENT
7 RESOURCES NECESSARY TO ENSURE THE SAFE AND EFFECTIVE REGULATION
8 OF THE SEQUESTRATION OF GREENHOUSE GASES IN ACCORDANCE WITH
9 FINDINGS FROM THE COMMISSION'S STUDY CONDUCTED PURSUANT TO
10 SUBSECTION (9)(b) OF THIS SECTION, the commission, as to class II AND
11 CLASS VI injection wells classified in 40 CFR 144.6, may perform all acts
12 for the ~~purpose~~ PURPOSES of protecting underground sources of drinking
13 water in accordance with state programs authorized by 42 U.S.C. sec.
14 300f et seq., and regulations under those sections, as amended, AND
15 ENSURING THE SAFE AND EFFECTIVE SEQUESTRATION OF GREENHOUSE
16 GASES, AS THAT TERM IS DEFINED IN SECTION 25-7-140 (6).

17 (c) (I) THE COMMISSION MAY SEEK CLASS VI INJECTION WELL
18 PRIMACY UNDER THE FEDERAL "CLEAN AIR ACT", 42 U.S.C. SEC. 7401 ET
19 SEQ., AS AMENDED, AFTER OBTAINING AND PUBLICLY DETERMINING THAT
20 THE COMMISSION HAS THE NECESSARY RESOURCES FOR THE APPLICATION
21 OUTLINED IN THE COMMISSION'S STUDY PERFORMED PURSUANT TO
22 SUBSECTION (9)(b) OF THIS SECTION.

23 (II) THE COMMISSION MAY ISSUE AND ENFORCE PERMITS AS
24 NECESSARY FOR THE PURPOSE SET FORTH IN THIS SUBSECTION (9)(c) AFTER
25 THE DETERMINATION SET FORTH IN SUBSECTION (9)(c)(I) OF THIS SECTION
26 HAS BEEN MADE AND THE REQUIREMENTS SET FORTH IN SUBSECTION (9)(a)
27 OF THIS SECTION HAVE BEEN SATISFIED. IN ISSUING AND ENFORCING

1 PERMITS PURSUANT TO THIS SUBSECTION (9)(c), THE COMMISSION SHALL
2 ENSURE THAT THE PERMITTING OF CLASS VI INJECTION WELLS DOES NOT
3 ADVERSELY AND DISPROPORTIONATELY AFFECT THE HEALTH AND
4 WELL-BEING OF DISPROPORTIONATELY IMPACTED COMMUNITIES.

5 (III) NOTWITHSTANDING THE PERMITTING OF A WELL BY THE
6 COMMISSION, THE OPERATOR IS FINANCIALLY RESPONSIBLE FOR ALL
7 OUTCOMES, AND THE COMMISSION SHALL REQUIRE THE OPERATOR TO
8 PROVIDE ADEQUATE BONDING TO ENSURE THAT THE OPERATOR IS
9 FINANCIALLY ABLE TO MEET ALL OBLIGATIONS RELATED TO THE WELL
10 THROUGHOUT THE LIFE OF THE WELL. THE COMMISSION SHALL ALSO
11 ENSURE THAT THE OPERATOR CARRIES ADEQUATE INSURANCE TO COVER
12 ACCIDENTS AT AND ENVIRONMENTAL DAMAGE CAUSED BY THE WELL.

13 (IV) AS USED IN THIS SUBSECTION (9), "DISPROPORTIONATELY
14 IMPACTED COMMUNITY" HAS THE MEANING SET FORTH IN SECTION
15 24-4-109 (2)(b)(II).

16 **SECTION 8.** In Colorado Revised Statutes, **add** 35-1-116 as
17 follows:

18 **35-1-116. Study of carbon reduction and sequestration**
19 **opportunities in agriculture and land management - definition -**
20 **reporting - repeal.** (1) (a) IN CONSULTATION WITH THE COLORADO
21 ENERGY OFFICE CREATED IN SECTION 24-38.5-101 AND THE AIR QUALITY
22 CONTROL COMMISSION CREATED IN SECTION 25-7-104 (1), THE
23 COMMISSIONER OR THE COMMISSIONER'S DESIGNEE, IN CONSULTATION
24 WITH AN INSTITUTION OF HIGHER EDUCATION WITH EXPERTISE IN CLIMATE
25 CHANGE MITIGATION, ADAPTATION BENEFITS, AND OTHER
26 ENVIRONMENTAL BENEFITS RELATED TO AGRICULTURAL RESEARCH, SHALL
27 CONDUCT A STUDY TO EXAMINE CARBON REDUCTION AND SEQUESTRATION

1 OPPORTUNITIES IN THE AGRICULTURAL SECTOR AND IN LAND
2 MANAGEMENT IN THE STATE, INCLUDING AN INVESTIGATION INTO THE
3 POTENTIAL FOR CREATING AND OFFERING A CERTIFIED CARBON OFFSET
4 PROGRAM AND CREDIT INSTRUMENTS TO PROVIDE FUNGIBLE CARBON
5 OFFSETS FOR AGRICULTURAL PRODUCERS AND IN LAND MANAGEMENT. A
6 CERTIFIED CARBON OFFSET PROGRAM AND CREDIT INSTRUMENTS OFFERED
7 MUST REFLECT REAL, ADDITIONAL, QUANTIFIABLE, PERMANENT,
8 VERIFIABLE, AND ENFORCEABLE REDUCTIONS IN GREENHOUSE GAS
9 EMISSIONS THAT ARE EQUIVALENT TO THE OFFSETS PROVIDED.

10 (b) CARBON OFFSETS DEVELOPED FOR AGRICULTURAL PRODUCERS
11 IN ACCORDANCE WITH THIS SECTION MAY BE:

12 (I) INCORPORATED INTO THE AIR QUALITY CONTROL COMMISSION'S
13 RULES, INCLUDING RULES ADOPTED UNDER SECTION 25-7-105 (1)(e), SUCH
14 AS RULES CONCERNING COORDINATION WITH OTHER JURISDICTIONS
15 PURSUANT TO THE AUTHORITY GRANTED IN, AND THE CONSIDERATIONS
16 REQUIRED UNDER, SECTION 25-7-105 (1)(e)(V); AND

17 (II) USED AS COMPLIANCE INSTRUMENTS BY A SOURCE REGULATED
18 UNDER ARTICLE 7 OF TITLE 25 WITH EMISSION REDUCTION OBLIGATIONS
19 THAT ENSURE THAT THE SOURCE'S OVERALL, ABSOLUTE EMISSIONS
20 DECLINE CONSISTENT WITH THE STATEWIDE GREENHOUSE GAS EMISSION
21 REDUCTION GOALS SET FORTH IN SECTION 25-7-102 (2)(g).

22 (c) (I) THE STUDY SHALL IDENTIFY POLICY MECHANISMS TO
23 MITIGATE THE IMPACTS THAT REGULATED SOURCES' USE OF CARBON
24 OFFSETS HAVE ON DISPROPORTIONATELY IMPACTED COMMUNITIES.

25 (II) AS USED IN THIS SUBSECTION (1)(c), "DISPROPORTIONATELY
26 IMPACTED COMMUNITY" HAS THE MEANING SET FORTH IN SECTION
27 24-4-109 (2)(b)(II).

1 (2) ON OR BEFORE OCTOBER 1, 2024, THE COMMISSIONER OR
2 COMMISSIONER'S DESIGNEE SHALL SUBMIT TO THE GENERAL ASSEMBLY A
3 REPORT SUMMARIZING THE STUDY, INCLUDING ANY LEGISLATIVE,
4 REGULATORY, OR OTHER RECOMMENDATIONS FOR DESIGNING AND
5 IMPLEMENTING CARBON REDUCTION AND SEQUESTRATION OPPORTUNITIES
6 FOR THE AGRICULTURAL SECTOR AND IN LAND MANAGEMENT IN THE
7 STATE. THE COMMISSIONER OR COMMISSIONER'S DESIGNEE SHALL SUBMIT
8 TO THE GENERAL ASSEMBLY AN UPDATE ON THE PROGRESS OF THE STUDY
9 ON OR BEFORE OCTOBER 1, 2023.

10 (3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

11 **SECTION 9.** In Colorado Revised Statutes, 35-75-204, **amend**
12 (1) as follows:

13 **35-75-204. Duties of board - agriculture value-added grants,**
14 **loans and loan guarantees, and equity investments - agrivoltaics -**
15 **repeal.** (1) (a) The board ~~has the power to~~ MAY make grants, loans and
16 loan guarantees, and equity investments to any person, including eligible
17 agricultural value-added cooperatives ~~as defined in section 35-75-202(4),~~
18 for:

19 (I) New or ongoing agricultural projects and research that add
20 value to Colorado agricultural products and aid the economy of rural
21 Colorado communities; and for

22 (II) Agricultural projects AND RESEARCH, INCLUDING RESEARCH
23 ON THE USE, COSTS, AND BENEFITS OF AGRIVOLTAICS, AS DEFINED IN
24 SECTION 35-75-205 (1)(c), that will reduce energy costs for agricultural
25 producers or businesses OR PROVIDE OTHER ENVIRONMENTAL, SOCIAL, OR
26 ECONOMIC BENEFITS TO THE STATE. IN ALLOCATING MONEY FOR
27 RESEARCH ON THE USE OF AGRIVOLTAICS, THE BOARD SHALL REQUIRE

1 THAT A RECIPIENT CONSULT WITH THE DIRECTOR OF THE DIVISION OF
2 PARKS AND WILDLIFE OR THE DIRECTOR'S DESIGNEE REGARDING WILDLIFE
3 IMPACTS OF AGRIVOLTAICS USE.

4 (III) TO IMPLEMENT SUBSECTION (1)(a)(II) OF THIS SECTION, THE
5 STATE TREASURER SHALL TRANSFER ONE MILLION EIGHT HUNDRED
6 THOUSAND DOLLARS FROM THE GENERAL FUND TO THE AGRICULTURE
7 VALUE-ADDED CASH FUND CREATED IN SECTION 35-75-205:

8 (A) ON THE EFFECTIVE DATE OF THIS SUBSECTION (1)(a)(III); AND

9 (B) ON JULY 1, 2023, AND ON EACH JULY 1 THEREAFTER THROUGH
10 JULY 1, 2027.

11 (IV) SUBSECTION (1)(a)(III) OF THIS SECTION AND THIS
12 SUBSECTION (1)(a)(IV) ARE REPEALED, EFFECTIVE JULY 1, 2028.

13 (b) The board also ~~has the power to~~ MAY fund market promotion
14 activities of the department pursuant to section 35-75-205 (2)(f).

15 **SECTION 10.** In Colorado Revised Statutes, 35-75-205, **amend**
16 (1)(b); and **add** (1)(c) as follows:

17 **35-75-205. Grants, loans and loan guarantees, and equity**
18 **investments - agriculture value-added cash fund - created - gifts,**
19 **grants, and donations - report - definition - repeal.** (1) (b) ~~As used in~~
20 ~~this section, "agrivoltaics" means one or more solar energy generation~~
21 ~~facilities colocated on the same parcel of land as agricultural production,~~
22 ~~including crop production, grazing, apiaries, or other production of~~
23 ~~agricultural commodities for sale in the retail or wholesale market~~ THE
24 BOARD MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS
25 FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS PART 2,
26 WHICH MONEY SHALL BE CREDITED TO THE AGRICULTURE VALUE-ADDED
27 CASH FUND PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION. THE BOARD

1 MAY ALSO SEEK, ACCEPT, AND UTILIZE DONATIONS OF IN-KIND RESOURCES
2 SUCH AS SOLAR PANELS FOR USE IN AGRIVOLTAIC RESEARCH PROJECTS.

3 (c) AS USED IN THIS SECTION, "AGRIVOLTAICS" MEANS ONE OR
4 MORE SOLAR ENERGY GENERATION FACILITIES DIRECTLY INTEGRATED
5 WITH AGRICULTURAL ACTIVITIES, INCLUDING CROP PRODUCTION, GRAZING,
6 ANIMAL HUSBANDRY, APIARIES, COVER CROPPING FOR SOIL HEALTH
7 BENEFITS OR CARBON SEQUESTRATION, OR PRODUCTION OF AGRICULTURAL
8 COMMODITIES FOR SALE IN THE RETAIL OR WHOLESALE MARKET.

9 **SECTION 11.** In Colorado Revised Statutes, 39-4-101, **amend**
10 (3.5) as follows:

11 **39-4-101. Definitions.** As used in this article 4, unless the context
12 otherwise requires:

13 (3.5) (a) "Solar energy facility" means a new facility first placed
14 in production on or after January 1, 2009, that uses real and personal
15 property, including but not limited to one or more solar energy devices as
16 defined in section 38-32.5-100.3 (2), leaseholds, and easements, to
17 generate and deliver to the interconnection meter any source of electrical,
18 thermal, or mechanical energy in excess of two megawatts by harnessing
19 the radiant energy of the sun, including any connected device for which
20 the primary purpose is to store energy, and that is not primarily designed
21 to supply electricity for consumption on site.

22 (b) "SOLAR ENERGY FACILITY" INCLUDES AGRIVOLTAICS AS
23 DEFINED IN SECTION 35-75-205 (1)(c).

24 **SECTION 12.** In Colorado Revised Statutes, **add** 39-22-543 as
25 follows:

26 **39-22-543. Tax credit for reducing emissions from small**
27 **off-road engines - reports - definitions - legislative declaration - rules**

1 repeal. (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

2 (I) SMALL OFF-ROAD ENGINES USED PRIMARILY IN LAWN AND
3 GARDEN EQUIPMENT, SUCH AS LAWN MOWERS, LEAF BLOWERS, HEDGE
4 TRIMMERS, AND CHAINSAWS, EMIT HIGH LEVELS OF AIR POLLUTANTS,
5 INCLUDING OXIDES OF NITROGEN AND REACTIVE ORGANIC GASES THAT,
6 TOGETHER, FORM OZONE, AND PARTICULATE MATTER;

7 (II) ELECTRIFYING SMALL OFF-ROAD EQUIPMENT CAN REDUCE
8 OZONE POLLUTION BY AS MUCH AS FOUR PARTS PER BILLION; AND

9 (III) THE PURPOSE OF THE TAX CREDIT IN SUBSECTION (2) OF THIS
10 SECTION IS TO PROVIDE AN INCENTIVE FOR THE VOLUNTARY TRANSITION
11 FROM GAS-POWERED TO ELECTRIC-POWERED SMALL OFF-ROAD
12 EQUIPMENT.

13 (b) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH
14 REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE
15 A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY
16 LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY FURTHER FINDS AND
17 DECLARES THAT:

18 (I) THE GENERAL LEGISLATIVE PURPOSE OF THE TAX CREDIT
19 ALLOWED BY SUBSECTION (2) OF THIS SECTION IS TO INDUCE CERTAIN
20 DESIGNATED BEHAVIORS BY TAXPAYERS, SPECIFICALLY THE PURCHASE OF
21 ELECTRIC, SMALL OFF-ROAD EQUIPMENT; AND

22 (II) IN ORDER TO ALLOW THE GENERAL ASSEMBLY AND THE STATE
23 AUDITOR TO MEASURE THE EFFECTIVENESS OF THE CREDIT, THE
24 DEPARTMENT OF REVENUE SHALL SUBMIT TO THE GENERAL ASSEMBLY
25 AND THE STATE AUDITOR AN ANNUAL REPORT IN ACCORDANCE WITH
26 SUBSECTION (4) OF THIS SECTION COMPARING THE SALES OF
27 ELECTRIC-POWERED, SMALL OFF-ROAD EQUIPMENT PURCHASED IN THE

1 STATE BEFORE THE TAX CREDIT GOES INTO EFFECT AND THE SALES OF
2 ELECTRIC-POWERED, SMALL OFF-ROAD EQUIPMENT PURCHASED IN THE
3 STATE IN THE TWELVE MONTHS PRECEDING THE REPORT.

4 (2) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
5 1, 2023, BUT BEFORE JANUARY 1, 2030, A TAXPAYER MAY CLAIM A CREDIT
6 AGAINST THE TAX IMPOSED PURSUANT TO THIS ARTICLE 22 IN AN AMOUNT
7 EQUAL TO THIRTY PERCENT OF THE TAXPAYER'S EXPENSES INCURRED IN
8 PURCHASING NEW, ELECTRIC-POWERED, SMALL OFF-ROAD EQUIPMENT.

9 (3) IF THE AMOUNT OF A CREDIT UNDER SUBSECTION (2) OF THIS
10 SECTION EXCEEDS A TAXPAYER'S ACTUAL TAX LIABILITY FOR AN INCOME
11 TAX YEAR, THE AMOUNT OF THE CREDIT NOT USED TO OFFSET INCOME TAX
12 LIABILITY FOR THE INCOME TAX YEAR IS NOT REFUNDED TO THE
13 TAXPAYER. THE TAXPAYER MAY CARRY FORWARD AND APPLY THE
14 UNUSED CREDIT AGAINST THE INCOME TAX DUE IN EACH OF THE FIVE
15 SUCCEEDING INCOME TAX YEARS, BUT THE TAXPAYER SHALL APPLY THE
16 CREDIT AGAINST THE INCOME TAX DUE FOR THE EARLIEST OF THE INCOME
17 TAX YEARS POSSIBLE. ANY AMOUNT OF THE TAX CREDIT THAT IS NOT USED
18 AFTER THIS PERIOD IS NOT REFUNDABLE.

19 (4) FOR THE PURPOSE OF PROVIDING DATA THAT ALLOWS THE
20 GENERAL ASSEMBLY AND THE STATE AUDITOR TO MEASURE THE
21 EFFECTIVENESS OF THE TAX CREDIT CREATED IN SUBSECTION (2) OF THIS
22 SECTION PURSUANT TO SECTION 39-21-304 (3), AND NOTWITHSTANDING
23 SECTION 24-1-136 (11)(a)(I), THE DEPARTMENT OF REVENUE, ON OR
24 BEFORE JANUARY 1, 2024, AND ON OR BEFORE JANUARY 1 OF EACH YEAR
25 THEREAFTER, SHALL SUBMIT TO THE GENERAL ASSEMBLY AND THE STATE
26 AUDITOR A REPORT COMPARING THE SALES OF ELECTRIC-POWERED, SMALL
27 OFF-ROAD EQUIPMENT IN THE STATE AS OF JANUARY 1, 2022, AND THE

1 SALES OF ELECTRIC-POWERED, SMALL OFF-ROAD EQUIPMENT IN THE STATE
2 IN THE TWELVE MONTHS PRECEDING THE REPORT. THE TAX CREDIT
3 ESTABLISHED IN THIS SECTION WILL MEET ITS PURPOSE IF SALES OF
4 ELECTRIC-POWERED, SMALL OFF-ROAD EQUIPMENT INCREASE BY TEN
5 PERCENT WITHIN FIVE YEARS AFTER THE TAX CREDIT BECOMES EFFECTIVE.

6 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
7 REQUIRES:

8 (a) "SMALL OFF-ROAD ENGINE" MEANS A GASOLINE-POWERED
9 ENGINE OF TEN HORSEPOWER OR LESS THAT IS USED TO FUEL SMALL
10 OFF-ROAD EQUIPMENT.

11 (b) "SMALL OFF-ROAD EQUIPMENT" MEANS A LAWN MOWER, LEAF
12 BLOWER, TRIMMER, OR OTHER LAWN AND GARDEN EQUIPMENT, AS
13 DETERMINED BY RULE BY THE AIR QUALITY CONTROL COMMISSION
14 CREATED IN SECTION 25-7-104 (1).

15 (c) "TAXPAYER" HAS THE MEANING SET FORTH IN SECTION
16 39-21-101 (4).

17 (6) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2039.

18 **SECTION 13.** In Colorado Revised Statutes, 40-3.2-108, **amend**
19 **(2)(c)(V); and add (2)(c)(V.5) and (2)(r) as follows:**

20 **40-3.2-108. Clean heat targets - legislative declaration -**
21 **definitions - plans - rules - reports. (2) Definitions.** As used in this
22 **section, unless the context otherwise requires:**

23 (c) "Clean heat resource" means any one or a combination of:

24 (V) Pyrolysis of tires if the pyrolysis meets a recovered methane
25 protocol; and

26 (V.5) WASTEWATER THERMAL ENERGY; AND

27 (r) "WASTEWATER THERMAL ENERGY" MEANS A SYSTEM THAT

1 USES THERMAL ENERGY IN WASTEWATER TO GENERATE ELECTRICITY, TO
2 HEAT OR COOL A SPACE, OR FOR ANY OTHER USEFUL THERMAL PURPOSE.

3 **SECTION 14. Appropriation.** For the 2022-23 state fiscal year,
4 \$2,200,000 is appropriated to the department of agriculture. This
5 appropriation is from the general fund. To implement this act, the
6 department may use this appropriation for the purpose of conducting a
7 study pursuant to section 35-1-116, C.R.S.

8 **SECTION 15. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly; except
11 that, if a referendum petition is filed pursuant to section 1 (3) of article V
12 of the state constitution against this act or an item, section, or part of this
13 act within such period, then the act, item, section, or part will not take
14 effect unless approved by the people at the general election to be held in
15 November 2022 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.