

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

**PREAMENDED**

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

LLS NO. 23-0514.01 Jennifer Berman x3286

**SENATE BILL 23-092**

---

**SENATE SPONSORSHIP**

**Simpson and Hansen,**

**HOUSE SPONSORSHIP**

**McCormick and Soper,**

---

**Senate Committees**

Agriculture & Natural Resources  
Appropriations

**House Committees**

---

**A BILL FOR AN ACT**

101 **CONCERNING OPPORTUNITIES FOR VOLUNTARY EMISSION REDUCTIONS**  
102 **IN AGRICULTURE.**

---

**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 support of the use of agrivoltaics, which is the integration of solar energy generation facilities with agricultural activities, **section 2** of the bill authorizes the agricultural drought and climate resilience office (office) to award grants for new or ongoing demonstration or research projects that demonstrate or study the use of agrivoltaics. On or before October 1, 2023, the office is required to convene a stakeholder group to

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.

advise on whether the office should impose any operational requirements for agrivoltaic projects that apply for grants.

**Section 4** authorizes the Colorado water conservation board (board) to finance a project to study the feasibility of using aquavoltaics, which are solar energy generation facilities placed over, or floating on, irrigation canals or reservoirs.

**Section 1** requires the director of the division of parks and wildlife to consult on the impacts on wildlife of:

- Any research projects for which the office awards money to study the use of agrivoltaics; and
- The project that the board finances to study the feasibility of using aquavoltaics in the state.

**Section 5** amends the statutory definition of "solar energy facility", used in determining the valuation of public utilities for property tax purposes, to include agrivoltaics and aquavoltaics.

**Section 3** requires the commissioner of agriculture or the commissioner's designee (commissioner), in consultation with the Colorado energy office, the air quality control commission, and an institution of higher education with expertise in climate change mitigation, adaptation benefits, and other environmental benefits related to agricultural research, to examine greenhouse gas reduction and carbon sequestration opportunities in the agricultural sector, including the use of dry digesters and the potential for creating and offering a certified greenhouse gas offset program and credit instruments in the agricultural sector.

**Section 3** requires the commissioner to submit a progress report on the study to the general assembly on or before October 1, 2024, and a final report, including any recommendations, on or before October 1, 2025.

**Section 3** also authorizes the commissioner to adopt rules to implement the recommendations, but requires that any greenhouse gas offset program or other greenhouse gas reduction and carbon sequestration program or mechanism established in rule not mandate participation by agricultural producers.

---

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

2           **SECTION 1.** In Colorado Revised Statutes, 33-1-110, **add** (9) as  
3 follows:

4           **33-1-110. Duties of the director of the division - habitat**  
5 **partnership council, program, committee - created - duties.** (9) THE

1 DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL PROVIDE CONSULTATION  
2 REGARDING THE IMPACTS OF THE FOLLOWING RESEARCH PROJECTS ON  
3 WILDLIFE:

4 (a) RESEARCH PROJECTS FOR WHICH THE AGRICULTURAL DROUGHT  
5 AND CLIMATE RESILIENCE OFFICE AWARDS MONEY TO STUDY THE USE OF  
6 AGRIVOLTAICS PURSUANT TO SECTION 35-1-114; AND

7 (b) A FEASIBILITY STUDY THROUGH WHICH THE COLORADO WATER  
8 CONSERVATION BOARD, CREATED IN SECTION 37-60-102, STUDIES THE USE  
9 OF AQUAVOLTAICS PURSUANT TO SECTION 37-60-115 (12).

10 **SECTION 2.** In Colorado Revised Statutes, 35-1-114, **amend**  
11 (1)(c)(II), (2), and (3); and **add** (4) and (5) as follows:

12 **35-1-114. Agricultural drought and climate resilience office -**  
13 **creation - grants for agrivoltaic demonstration and research projects**  
14 **- rules - definitions. (1) Legislative declaration. The general assembly**  
15 **hereby:**

16 (c) Declares that:

17 (II) The agricultural drought and climate resilience office can best  
18 address and mitigate agricultural climate-related issues on a wide scale by  
19 providing support to and assisting bona fide agricultural producers in  
20 implementing practices that minimize the impacts of climate change.

21 (2) Office created. (a) (I) There is hereby created in the  
22 department the agricultural drought and climate resilience office. ~~referred~~  
23 ~~to in this section as the "office"~~. The office may provide voluntary  
24 technical assistance, nonregulatory programs, and incentives, INCLUDING  
25 GRANTS, that increase the ability to anticipate, prepare for, mitigate, adapt  
26 to, and respond to hazardous events, trends, or disturbances related to  
27 drought or the climate.

1 (II) IN AWARDING GRANTS IN ACCORDANCE WITH THE  
2 COMMISSIONER'S RULES ADOPTED PURSUANT TO SUBSECTION (3) OF THIS  
3 SECTION, THE OFFICE SHALL GIVE STRONG CONSIDERATION TO GRANT  
4 APPLICATIONS THAT PROPOSE USING GRANT MONEY TO CONDUCT A NEW  
5 OR ONGOING DEMONSTRATION OR RESEARCH PROJECT AS A MEANS TO  
6 STUDY THE POTENTIAL, BENEFITS, AND TRADEOFFS OF AGRIVOLTAICS IN  
7 THE STATE. ANY AGRIVOLTAIC STUDY AWARDED A GRANT PURSUANT TO  
8 THIS SUBSECTION (2)(a)(II) MUST INCLUDE FINDINGS ON THE ADDITIONAL  
9 COSTS, INCLUDING THE ADDITIONAL CAPITAL AND ONGOING MAINTENANCE  
10 COSTS, FOR THE USE OF AGRIVOLTAICS AS COMPARED TO TRADITIONAL  
11 PHOTOVOLTAICS. THE ADDITIONAL COSTS MUST BE QUANTIFIED ON BOTH  
12 A DOLLAR-PER-MEGAWATT AND A DOLLAR-PER-MEGAWATT-HOUR BASIS.

13 (b) The office shall advise the commissioner, the Colorado  
14 agricultural value-added development board created in section 35-75-203,  
15 other state agencies, and the governor on the impact to agriculture of  
16 drought and climate policies and programs.

17 (c) The commissioner shall appoint the head of the office.

18 (3) (a) **Rules.** The commissioner may promulgate rules necessary  
19 for the administration of the office's assistance, programs, and incentives,  
20 including grants, CONSISTENT WITH THIS SUBSECTION (3). Before  
21 promulgating the rules, the commissioner shall convene a stakeholder  
22 group, including representatives of organizations whose membership  
23 consists of agricultural producers engaged in the production of the top ten  
24 agricultural commodities produced in Colorado, and members of the state  
25 conservation board created in section 35-70-103 (1)(a), AND  
26 REPRESENTATIVES OF THE SOLAR ENERGY DEVELOPMENT INDUSTRY. The  
27 stakeholder group shall advise the commissioner as to the needs of the

1 agriculture industry to respond to and mitigate the impacts of climate  
2 change on agricultural production For the purpose of this section, "bona  
3 fide agricultural producer" means an agricultural producer that receives  
4 a majority of the producer's annual income from agriculture, an  
5 agricultural producer that spends more than one thousand forty hours per  
6 year engaged in agricultural production, or a Colorado business that  
7 processes agricultural products AND SOLUTIONS FROM THE SOLAR ENERGY  
8 DEVELOPMENT INDUSTRY ON PROVIDING FEASIBLE SOLUTIONS FOR  
9 PRODUCING ELECTRICITY ON AGRICULTURAL LANDS WHILE CONTRIBUTING  
10 ECOLOGICAL AND AGRICULTURAL BENEFITS.

11 (b) **Assistance, programs, and incentives.** (I) Except for a  
12 program, ASSISTANCE, INCENTIVE, or support administered by the office  
13 to address immediate needs as a result of disaster, including wildfire and  
14 drought, or a program that was in existence on January 1, 2021,

15 (a) a program, ASSISTANCE, INCENTIVE, OR SUPPORT administered  
16 by the office must be designed to benefit bona fide agricultural producers  
17 actively engaged in agriculture INCLUDE NEW OR ONGOING  
18 DEMONSTRATION OR RESEARCH PROJECTS TO DEMONSTRATE OR STUDY  
19 THE USE OF AGRIVOLTAICS TO:

20 (A) HELP PREPARE FOR AND MITIGATE THE IMPACTS THAT CLIMATE  
21 CHANGE OR DROUGHT HAVE ON AGRICULTURE;

22 (B) REDUCE ENERGY COSTS IN AGRICULTURE;

23 (C) IMPROVE THE ECONOMIC RESILIENCE OF AGRICULTURAL  
24 PRODUCERS;

25 (D) MINIMIZE NEGATIVE ENVIRONMENTAL IMPACTS OF  
26 PHOTOVOLTAIC ENERGY PRODUCTION FACILITIES ON SOIL HEALTH, NATIVE  
27 VEGETATION, STATE AND FEDERAL LISTED SPECIES, WILDLIFE MIGRATION

1 CORRIDORS, AND THE SPECIES, HABITATS, AND ECOSYSTEMS THAT ARE OF  
2 THE GREATEST CONSERVATION NEED; AND

3 (E) PROVIDE OTHER STATEWIDE ENVIRONMENTAL BENEFITS, AS  
4 IDENTIFIED BY THE OFFICE.

5 (II) Grants awarded by the office must pay for implementation of  
6 practices to address and mitigate the impacts of climate change or drought  
7 ON AGRICULTURE or to provide direct adaptation support for impacted  
8 agricultural communities, including mental health resources, conflict  
9 resolution assistance, and risk-management guidance. A grant award may  
10 pay no more than five percent of administrative expenses incurred by a  
11 bona fide AN agricultural producer to implement the practices.

12 ~~(b)~~ (III) The department shall, at least thirty days before opening  
13 the grant application process, make available, on its website, information  
14 related to the grant program available to bona fide agricultural producers.

15 ~~(c)~~ (IV) A grant authorized pursuant to this section must receive  
16 final approval by the commission before a final award can be issued. ~~and~~

17 ~~(d)~~ (V) The department shall post on its website all applications  
18 for grant awards. Within fifteen days after awarding a grant, the  
19 department shall post on its website the name of the individual or entity  
20 receiving a grant, the amount of the grant awarded, the project or projects  
21 to be funded by the grant, and the duration of the grant award.

22 ==  
23 (4) Task force. (a) ON OR BEFORE SEPTEMBER 1, 2023, THE  
24 OFFICE SHALL CONVENE AN AGRIVOLTAICS TASK FORCE TO CONDUCT A  
25 STUDY IN CONSULTATION WITH THE DEPARTMENT, THE COLORADO  
26 ENERGY OFFICE CREATED IN SECTION 24-38.5-101 (1), AND THE DIVISION  
27 OF PARKS AND WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES

1 CREATED IN SECTION 33-9-104(1) TO EVALUATE THE OPPORTUNITIES AND  
2 CHALLENGES ASSOCIATED WITH AGRIVOLTAICS IN THE STATE, INCLUDING:

3 (I) THE TECHNICAL, OPERATIONAL, ENVIRONMENTAL, OR  
4 FINANCIAL BARRIERS TO AN EXPANSION OF THE ADOPTION OF  
5 AGRIVOLTAICS IN THE STATE; AND

6 (II) POTENTIAL STATE-LEVEL POLICIES AND PROGRAMS TO  
7 MINIMIZE THE BARRIERS.

8 (b) ON OR BEFORE FEBRUARY 15, 2024, THE TASK FORCE SHALL  
9 PRESENT THE RESULTS OF THE STUDY, INCLUDING ANY  
10 RECOMMENDATIONS FOR LEGISLATION, TO THE JOINT COMMITTEE OF THE  
11 HOUSE OF REPRESENTATIVES AGRICULTURE, WATER, AND NATURAL  
12 RESOURCES COMMITTEE AND THE SENATE AGRICULTURE AND NATURAL  
13 RESOURCES COMMITTEE, OR THEIR SUCCESSOR COMMITTEES.

14 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
15 REQUIRES:

16 (a) "AGRIVOLTAICS" MEANS ONE OR MORE SOLAR ENERGY  
17 GENERATION FACILITIES DIRECTLY INTEGRATED WITH AGRICULTURAL  
18 ACTIVITIES, INCLUDING CROP PRODUCTION, GRAZING, ANIMAL  
19 HUSBANDRY, APIARIES, COVER CROPPING TO IMPROVE SOIL HEALTH OR  
20 INSECT HABITAT BENEFITS OR CARBON SEQUESTRATION, OR PRODUCTION  
21 OF AGRICULTURAL COMMODITIES FOR SALE IN THE RETAIL OR WHOLESALE  
22 MARKET.

23 == ==

24 (b) "OFFICE" MEANS THE AGRICULTURAL DROUGHT AND CLIMATE  
25 RESILIENCE OFFICE CREATED IN SUBSECTION (2) OF THIS SECTION.

26 **SECTION 3.** In Colorado Revised Statutes, **add** 35-1-119 as  
27 follows:

1           **35-1-119. Study of greenhouse gas reduction and carbon**  
2 **sequestration opportunities in agriculture and agricultural land**  
3 **management - definitions - reporting - rules.** (1) (a) (I) IN  
4 ACCORDANCE WITH SUBSECTION (1)(a)(II) OF THIS SECTION, THE  
5 COMMISSIONER OR THE COMMISSIONER'S DESIGNEE SHALL CONDUCT A  
6 STUDY TO EXAMINE GREENHOUSE GAS REDUCTION AND CARBON  
7 SEQUESTRATION OPPORTUNITIES IN THE AGRICULTURAL SECTOR AND IN  
8 AGRICULTURAL LAND MANAGEMENT IN THE STATE, INCLUDING:

9           (A) SOIL HEALTH MANAGEMENT PRACTICES, INCLUDING COVER  
10 CROPPING, MANURE MANAGEMENT, SOIL AMENDMENTS, ROTATIONAL  
11 GRAZING, RANGELAND MANAGEMENT, LOW- AND NO-TILL PRACTICES, AND  
12 HEDGE GROWS;

13           (B) THE USE OF DRY DIGESTERS; AND

14           (C) AN INVESTIGATION INTO THE POTENTIAL FOR CREATING AND  
15 OFFERING A CERTIFIED GREENHOUSE GAS OFFSET PROGRAM AND CREDIT  
16 INSTRUMENTS TO PROVIDE FUNGIBLE GREENHOUSE GAS OFFSETS FOR  
17 AGRICULTURAL PRODUCERS AND IN AGRICULTURAL LAND MANAGEMENT.

18           (II) THE COMMISSIONER OR COMMISSIONER'S DESIGNEE SHALL  
19 CONDUCT THE STUDY IN CONSULTATION WITH THE COLORADO ENERGY  
20 OFFICE CREATED IN SECTION 24-38.5-101, THE AIR QUALITY CONTROL  
21 COMMISSION CREATED IN SECTION 25-7-104 (1), THE NATURAL AND  
22 WORKING LANDS TASK FORCE CONVENED BY THE DEPARTMENT OF  
23 NATURAL RESOURCES, THE COLORADO STATE FOREST SERVICE, AND AN  
24 INSTITUTION OF HIGHER EDUCATION WITH EXPERTISE IN CLIMATE CHANGE  
25 MITIGATION, ADAPTATION BENEFITS, AND OTHER ENVIRONMENTAL  
26 BENEFITS RELATED TO AGRICULTURAL RESEARCH.

27           (b) (I) ANY CERTIFIED GREENHOUSE GAS OFFSET PROGRAM AND



1 CREDIT INSTRUMENTS OFFERED MUST REFLECT REAL, ADDITIONAL,  
2 QUANTIFIABLE, PERMANENT, VERIFIABLE, AND ENFORCEABLE REDUCTIONS  
3 IN GREENHOUSE GAS EMISSIONS THAT ARE EQUIVALENT TO THE OFFSETS  
4 PROVIDED AND MUST NOT REQUIRE AGRICULTURAL PRODUCERS'  
5 PARTICIPATION.

6 (II) GREENHOUSE GAS OFFSETS DEVELOPED FOR AGRICULTURAL  
7 PRODUCERS AND IN AGRICULTURAL LAND MANAGEMENT IN ACCORDANCE  
8 WITH THIS SECTION:

9 (A) MAY BE INCORPORATED INTO THE AIR QUALITY CONTROL  
10 COMMISSION'S RULES, INCLUDING RULES ADOPTED UNDER SECTION  
11 25-7-105 (1)(e), AND, SPECIFICALLY, RULES CONCERNING COORDINATION  
12 WITH OTHER JURISDICTIONS PURSUANT TO THE AUTHORITY GRANTED IN,  
13 AND THE CONSIDERATIONS REQUIRED UNDER, SECTION 25-7-105 (1)(e)(V);

14 (B) MAY BE USED AS COMPLIANCE INSTRUMENTS BY A SOURCE  
15 REGULATED UNDER ARTICLE 7 OF TITLE 25, WITH EMISSION REDUCTION  
16 OBLIGATIONS ESTABLISHED BY THE AIR QUALITY CONTROL COMMISSION  
17 THAT ENSURE THAT THE ANNUAL, OVERALL, ABSOLUTE EMISSIONS FROM  
18 THE SOURCE, SECTOR, OR GROUP OF SOURCES DECLINE CONSISTENT WITH  
19 THE STATEWIDE GREENHOUSE GAS EMISSION REDUCTION GOALS SET FORTH  
20 IN SECTION 25-7-102 (2)(g), PROVIDED THAT THE SOURCE IS LOCATED IN  
21 A DISPROPORTIONATELY IMPACTED COMMUNITY. THE COMMISSION SHALL  
22 ESTABLISH BY RULE AN ANNUAL, ABSOLUTE EMISSION REDUCTION  
23 OBLIGATION SPECIFIC TO THE SOURCE.

24 (C) MUST NOT BE AVAILABLE AS AN INSTRUMENT FOR EMISSIONS  
25 REDUCTION COMPLIANCE UNDER SECTION 25-7-105 (1)(e)(V) UNLESS THE  
26 COMMISSION HAS ADOPTED RULES ESTABLISHING AN ANNUAL, ABSOLUTE  
27 EMISSION REDUCTION OBLIGATION FOR THE RELEVANT SECTOR THAT IS

1 CONSISTENT WITH THE STATEWIDE GREENHOUSE GAS EMISSION REDUCTION  
2 GOALS.

3 (c) THE STUDY MUST IDENTIFY POLICY MECHANISMS TO AVOID THE  
4 IMPACTS THAT THE USE OF GREENHOUSE GAS OFFSETS BY REGULATED  
5 SOURCES COULD HAVE ON DISPROPORTIONATELY IMPACTED COMMUNITIES.

6 (2) THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE SHALL  
7 SUBMIT TO THE GENERAL ASSEMBLY:

8 (a) A REPORT SUMMARIZING THE PROGRESS ON THE STUDY ON OR  
9 BEFORE OCTOBER 1, 2024; AND

10 (b) A FINAL REPORT ON THE STUDY ON OR BEFORE OCTOBER 1,  
11 2025. THE FINAL REPORT MUST INCLUDE ANY LEGISLATIVE, REGULATORY,  
12 OR OTHER RECOMMENDATIONS FOR DESIGNING AND IMPLEMENTING  
13 GREENHOUSE GAS REDUCTION AND CARBON SEQUESTRATION  
14 OPPORTUNITIES FOR THE AGRICULTURAL SECTOR AND IN AGRICULTURAL  
15 LAND MANAGEMENT IN THE STATE.

16 (3)(a)(I) UPON CONCLUSION OF THE STUDY, WITH REGARD TO ANY  
17 RECOMMENDATIONS IN THE STUDY THAT DO NOT REQUIRE LEGISLATIVE  
18 CHANGES, THE COMMISSIONER, IN CONSULTATION WITH THE COLORADO  
19 ENERGY OFFICE AND THE AIR QUALITY CONTROL COMMISSION, MAY ADOPT  
20 RULES TO IMPLEMENT THE RECOMMENDATIONS.

21 (II) ANY RULES ADOPTED PURSUANT TO THIS SUBSECTION (3)(a)  
22 MUST NOT MANDATE PARTICIPATION BY AGRICULTURAL PRODUCERS IN  
23 ANY GREENHOUSE GAS OFFSET PROGRAM OR ANY OTHER GREENHOUSE GAS  
24 REDUCTION AND CARBON SEQUESTRATION PROGRAMS OR MECHANISMS  
25 DEVELOPED IN RULE, BUT THE RULES MAY PROVIDE INCENTIVES TO  
26 AGRICULTURAL PRODUCERS FOR THEIR VOLUNTARY PARTICIPATION IN ANY  
27 PROGRAM OR MECHANISM DEVELOPED IN RULE PURSUANT TO THIS

1 SUBSECTION (3)(a).

2 (b) IF THE COMMISSIONER ADOPTS RULES PURSUANT TO  
3 SUBSECTION (3)(a) OF THIS SECTION, THE DEPARTMENT SHALL INCLUDE A  
4 SUMMARY OF THE RULES AS PART OF THE DEPARTMENT'S REGULATORY  
5 AGENDA THAT IT FILES PURSUANT TO SECTION 2-7-203 (4) AND THAT IS  
6 INCLUDED IN THE DEPARTMENT'S "SMART ACT" PRESENTATION THAT  
7 IMMEDIATELY FOLLOWS THE ADOPTION OF THE RULES.

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

13 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
14 REQUIRES:

15 (a) "ANAEROBIC DIGESTER" MEANS A SEALED, OXYGEN-FREE TANK  
16 INTO WHICH FEEDSTOCK, SUCH AS FOOD WASTE, ANIMAL MANURE, OR  
17 WASTEWATER SLUDGE, IS PLACED FOR ANAEROBIC DIGESTION BY  
18 MICROORGANISMS. AN ANAEROBIC DIGESTER CAN BE USED AS A MEANS OF  
19 WASTE DISPOSAL OR ENERGY PRODUCTION.

20 (b) "DISPROPORTIONATELY IMPACTED COMMUNITIES" HAS THE  
21 MEANING SET FORTH IN SECTION 24-4-109 (2)(b)(II).

22 (c) "DRY DIGESTER" MEANS AN ANAEROBIC DIGESTER THAT  
23 PROCESSES FEEDSTOCK WITH A LOW MOISTURE CONTENT.

24 **SECTION 4.** In Colorado Revised Statutes, 37-60-115, **add** (12)  
25 as follows:

26 **37-60-115. Water studies - rules - reports - definitions - repeal.**  
27 **(12) (a) Study. (I) THE BOARD, IN CONSULTATION WITH THE STATE**

1 ENGINEER, THE COLORADO ENERGY OFFICE, AND THE INSTITUTE, SHALL  
2 CONDUCT A STUDY TO DETERMINE THE FEASIBILITY OF THE USE OF  
3 AQUAVOLTAICS AS A MEANS OF INCREASING THE BENEFICIAL  
4 CONSUMPTIVE USE OF STATE WATERS BY REDUCING EVAPORATION FROM,  
5 AND LOWERING TEMPERATURES OF, IRRIGATION CANALS AND RESERVOIRS  
6 UPON WHICH AQUAVOLTAIC INFRASTRUCTURE IS PLACED. IN STUDYING  
7 THE FEASIBILITY OF USING AQUAVOLTAICS, THE BOARD SHALL ENSURE  
8 THAT ANY AQUAVOLTAIC INFRASTRUCTURE USED IN THE STUDY DOES NOT  
9 INTERFERE WITH INSTREAM FLOWS, AS DESCRIBED IN SECTION 37-92-102  
10 (3), OR WITH WATER RIGHTS OWNERS' ABILITY TO DIVERT WATER FOR  
11 BENEFICIAL USE.

12 (II) THE BOARD MAY CONTRACT WITH THE INSTITUTE, A THIRD  
13 PARTY, OR BOTH, TO DESIGN, CARRY OUT, AND ANALYZE THE RESULTS OF  
14 THE STUDY REQUIRED IN THIS SUBSECTION (12)(a). IF THE BOARD DEEMS  
15 APPROPRIATE, THE STUDY MUST BE CONDUCTED IN CONSIDERATION OF  
16 AND RELIANCE ON RELEVANT STUDIES COMPLETED IN THE STATE AND  
17 NATIONALLY.

18 (b) Report. ON OR BEFORE JANUARY 1, 2025, THE BOARD SHALL  
19 SUBMIT A REPORT OF THE FINDINGS AND CONCLUSIONS OF THE STUDY TO  
20 THE HOUSE OF REPRESENTATIVES AGRICULTURE, WATER, AND NATURAL  
21 RESOURCES COMMITTEE AND THE SENATE AGRICULTURE AND NATURAL  
22 RESOURCES COMMITTEE, OR THEIR SUCCESSOR COMMITTEES.

23 (c) AS USED IN THIS SUBSECTION (12), UNLESS THE CONTEXT  
24 OTHERWISE REQUIRES:

25 (I) "AQUAVOLTAICS" MEANS ONE OR MORE SOLAR ENERGY  
26 GENERATION FACILITIES PLACED OVER, OR FLOATING ON, IRRIGATION  
27 CANALS OR RESERVOIRS IN THE STATE.

1 (II) "BENEFICIAL USE" HAS THE MEANING SET FORTH IN SECTION  
2 37-92-103 (4).

3 (III) "DIVERT" HAS THE MEANING SET FORTH IN SECTION  
4 37-92-103 (7).

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

7 (V) "WATER RIGHT" HAS THE MEANING SET FORTH IN SECTION  
8 37-92-103 (12).

9 (VI) "WATERS OF THE STATE" HAS THE MEANING SET FORTH IN  
10 SECTION 37-92-103 (13).

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

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

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

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

25 (II) UTILIZING TRANSLUCENT PANELS;

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

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

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

5           (c) IS CONSTRUCTED TO INCORPORATE DESIGN STRATEGIES THAT  
6 MINIMIZE THE NEGATIVE ENVIRONMENTAL IMPACT OF PHOTOVOLTAIC  
7 ENERGY PRODUCTION FACILITIES ON ECOSYSTEMS, NATIVE VEGETATION,  
8 STATE AND FEDERALLY LISTED SPECIES, WILDLIFE MIGRATION CORRIDORS,  
9 AND THE SPECIES, HABITATS, AND ECOSYSTEMS OF GREATEST  
10 CONSERVATION NEED.

11           (4) AS USED IN THIS SECTION, "AGRIVOLTAICS" HAS THE MEANING  
12 SET FORTH IN SECTION 35-1-114 (5)(a).

13           **SECTION 6.** In Colorado Revised Statutes, 39-4-101, **amend**  
14 (3.5) as follows:

15           **39-4-101. Definitions.** As used in this article 4, unless the context  
16 otherwise requires:

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

27           (b) "SOLAR ENERGY FACILITY" INCLUDES FACILITIES FOR

1 AGRIVOLTAICS, AS DEFINED IN SECTION 35-1-114 (5)(a), AND FOR  
2 AQUAVOLTAICS, AS DEFINED IN SECTION 37-60-115 (12)(c)(I), THAT  
3 DELIVER TO THE INTERCONNECTION METER ELECTRICAL ENERGY IN EXCESS  
4 OF FIVE HUNDRED KILOWATTS

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

7 **39-27-102. Tax imposed on gasoline and special fuel - deposits**  
8 **- penalties. (12) On and after January 1, 2022, no A supplier, distributor,**  
9 **importer, or terminal operator may SHALL NOT sell gasoline or special fuel**  
10 **on a tax-deferred or tax-exempt basis, except as provided in section**  
11 **39-27-102.5 OR 39-27-103.7.**

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

14 **39-27-103.7. Exemption on tax imposed for certain special**  
15 **fuels and blended special fuels - invoice requirements - certification**  
16 **- definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT**  
17 **OTHERWISE REQUIRES:**

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

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

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

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

3           (IV) IS DERIVED FROM AGRICULTURAL PRODUCTS, VEGETABLE  
4           OILS, RECYCLED GREASES, BIOMASS, OR ANIMAL FATS, OR FROM THE  
5           WASTES OF THOSE PRODUCTS OR FATS.

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

10           (2) (a) THE TAX IMPOSED ON SPECIAL FUEL PURSUANT TO SECTION  
11           39-27-102 (1)(a)(II)(B) DOES NOT APPLY TO THE PORTION OF A BLENDED  
12           BIODIESEL FUEL OR BLENDED RENEWABLE DIESEL FUEL THAT IS EQUAL TO  
13           THE VOLUME OF BIODIESEL OR RENEWABLE DIESEL THAT IS BLENDED IN  
14           WITH THE TAXABLE PETROLEUM-BASED DIESEL FUEL, AS DEMONSTRATED  
15           BY PROOF OF THE CERTIFICATION REQUIRED PURSUANT TO SUBSECTION (4)  
16           OF THIS SECTION.

17           (b) A LICENSED FUEL DISTRIBUTOR THAT IS RESPONSIBLE FOR  
18           PAYING STATE EXCISE TAX ON THE UNDERLYING DIESEL PORTION OF THE  
19           FUEL IS ELIGIBLE FOR THE TAX EXEMPTION SET FORTH IN THIS SUBSECTION  
20           (2).

21           (3) (a) THE VOLUME OF BIODIESEL OR RENEWABLE DIESEL MUST BE  
22           IDENTIFIED ON A SALES INVOICE FOR EACH SALES TRANSACTION AND MUST  
23           CONTINUE TO BE IDENTIFIED ON EACH SALES INVOICE UNTIL THE BLENDED  
24           BIODIESEL OR BLENDED RENEWABLE DIESEL FUEL PRODUCT IS SOLD TO THE  
25           END USER.

26           (b) A SALES INVOICE MUST:

27           (I) IDENTIFY A BIODIESEL, RENEWABLE DIESEL, BIODIESEL BLEND,



1 OR RENEWABLE DIESEL BLEND BY A COMMONLY ACCEPTED COMMERCIAL  
2 OR INDUSTRY NAME FOR THE BLENDED SPECIAL FUEL PRODUCT BEING  
3 SOLD, SUCH AS B100 FOR BIODIESEL OR B20 FOR A BIODIESEL BLEND THAT  
4 CONTAINS EIGHTY PERCENT TAXABLE PETROLEUM-BASED DIESEL FUEL  
5 AND TWENTY PERCENT BIODIESEL;

6 (II) LIST THE VOLUME IN GALLONS, ROUNDED TO THE NEAREST  
7 WHOLE GALLON, OR THE PERCENTAGE, ROUNDED TO THE NEAREST WHOLE  
8 PERCENTAGE, OF THE FOLLOWING CONTAINED IN THE BLENDED SPECIAL  
9 FUEL PRODUCT:

10 (A) BIODIESEL OR RENEWABLE DIESEL; AND

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

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

14 (4) (a) A BLENDER MUST PROVIDE TO A PURCHASER OF BIODIESEL,  
15 RENEWABLE DIESEL, BLENDED BIODIESEL, OR BLENDED RENEWABLE  
16 DIESEL A CERTIFICATE, INVOICE, BILL OF SALE, OR OTHER WRITTEN  
17 STATEMENT THAT PROVIDES THE INFORMATION REQUIRED PURSUANT TO  
18 SUBSECTION (3)(b) OF THIS SECTION AND THE FOLLOWING ADDITIONAL  
19 INFORMATION:

20 (I) THE NAME OF THE SELLER;

21 (II) THE NAME OF THE PURCHASER; AND

22 (III) THE DATE OF TRANSFER OF THE BLENDED SPECIAL FUEL  
23 PRODUCT.

24 (b) ANY PERSON CLAIMING THE TAX EXEMPTION PURSUANT TO  
25 SUBSECTION (2) OF THIS SECTION MUST MAINTAIN THE CERTIFICATION  
26 RECORDS REGARDING THE BIODIESEL, RENEWABLE DIESEL, BLENDED  
27 BIODIESEL, OR BLENDED RENEWABLE DIESEL FUEL PRODUCT FOR AT LEAST

1     FOUR YEARS.

2             **SECTION 9. Act subject to petition - effective date.** This act  
3 takes effect at 12:01 a.m. on the day following the expiration of the  
4 ninety-day period after final adjournment of the general assembly; except  
5 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
6 of the state constitution against this act or an item, section, or part of this  
7 act within such period, then the act, item, section, or part will not take  
8 effect unless approved by the people at the general election to be held in  
9 November 2024 and, in such case, will take effect on the date of the  
10 official declaration of the vote thereon by the governor.