SENATE COMMITTEE OF REFERENCE REPORT

March 15, 2022

Chair of Committee

Date

Committee on Transportation & Energy.

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

SB22-138 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

Amend printed bill, page 3, strike lines 5 through 23.

Page 4, strike lines 1 through 5 and substitute "rules - definition.

(1) THE COMMISSIONER SHALL ADOPT RULES REQUIRING THAT, BEGINNING IN 2023, INSURERS ISSUED A CERTIFICATE OF AUTHORITY TO TRANSACT BUSINESS PURSUANT TO PART 1 OF THIS ARTICLE 3 THAT REPORT MORE THAN ONE HUNDRED MILLION DOLLARS ON THEIR ANNUAL NAIC SCHEDULE T FILING PARTICIPATE IN AND COMPLETE THE NAIC'S ANNUAL "INSURER CLIMATE RISK DISCLOSURE SURVEY". IF AN INSURER REPORTS LESS THAN ONE HUNDRED MILLION DOLLARS ON ITS ANNUAL NAIC SCHEDULE T FILING, THE INSURER MAY PARTICIPATE IN AND COMPLETE THE SURVEY VOLUNTARILY.

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

Page 4, strike lines 14 and 15 and substitute:

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

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

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

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

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

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

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

(III) WASTEWATER THERMAL ENERGY EQUIPMENT.

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

Renumber succeeding sections accordingly.

Page 5, after line 7 insert:

"SECTION 4. In Colorado Revised Statutes, 25-7-105, amend (1)(e)(XIII) introductory portion as follows:

25-7-105. Duties of commission - rules - legislative declaration - definitions. (1) Except as provided in sections 25-7-130 and 25-7-131, the commission shall promulgate rules that are consistent with the legislative declaration set forth in section 25-7-102 and necessary for the proper implementation and administration of this article 7, including:

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

Page 5, strike lines 8 through 27.

Strike page 6.

Page 7, strike lines 1 through 3.

Renumber succeeding sections accordingly.

Page 7, strike line 14 and substitute "(9)(a); and add (9)(c) as follows:"

Page 7, line 16, strike "definition." and substitute "definitions."

Page 7, line 17, after "law," insert "SUBJECT TO SUBSECTION (9)(c) OF THIS SECTION AND ONLY AFTER THE GOVERNOR AND COMMISSION HAVE MADE AN AFFIRMATIVE DETERMINATION THAT THE STATE HAS SUFFICIENT RESOURCES NECESSARY TO ENSURE THE SAFE AND EFFECTIVE REGULATION OF THE SEQUESTRATION OF GREENHOUSE GASES IN ACCORDANCE WITH FINDINGS FROM THE COMMISSION'S STUDY CONDUCTED PURSUANT TO SUBSECTION (9)(b) OF THIS SECTION,".

Page 7, strike lines 23 and 24 and substitute "TERM IS DEFINED IN SECTION 25-7-140 (6)."

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

(II) THE COMMISSION MAY ISSUE AND ENFORCE PERMITS AS NECESSARY FOR THE PURPOSE SET FORTH IN THIS SUBSECTION (9)(c) AFTER THE DETERMINATION SET FORTH IN SUBSECTION (9)(c)(I) OF THIS SECTION HAS BEEN MADE AND THE REQUIREMENTS SET FORTH IN SUBSECTION (9)(a) OF THIS SECTION HAVE BEEN SATISFIED. IN ISSUING AND ENFORCING PERMITS PURSUANT TO THIS SUBSECTION (9)(c), THE COMMISSION SHALL ENSURE THAT THE PERMITTING OF CLASS VI INJECTION WELLS DOES NOT ADVERSELY AND DISPROPORTIONATELY AFFECT THE HEALTH AND WELL-BEING OF DISPROPORTIONATELY IMPACTED COMMUNITIES.

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

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

Page 8, strike line 1 and substitute "opportunities in agriculture and land management - definition - reporting - repeal. (1) (a) IN CONSULTATION".

Page 8, line 4, strike "DESIGNEE" and substitute "DESIGNEE, IN CONSULTATION WITH AN INSTITUTION OF HIGHER EDUCATION WITH EXPERTISE IN CLIMATE CHANGE MITIGATION, ADAPTATION BENEFITS, AND OTHER ENVIRONMENTAL BENEFITS RELATED TO AGRICULTURAL RESEARCH,".

Page 8, line 6, after "SECTOR" insert "AND IN LAND MANAGEMENT".

Page 8, strike lines 10 through 17 and substitute "PRODUCERS AND IN LAND MANAGEMENT. A CERTIFIED CARBON OFFSET PROGRAM AND CREDIT INSTRUMENTS OFFERED MUST REFLECT REAL, ADDITIONAL, QUANTIFIABLE, PERMANENT, VERIFIABLE, AND ENFORCEABLE REDUCTIONS IN GREENHOUSE GAS EMISSIONS THAT ARE EQUIVALENT TO THE OFFSETS PROVIDED."

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

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

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

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

(II) AS USED IN THIS SUBSECTION (1)(c), "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE MEANING SET FORTH IN SECTION
(2) ON OR BEFORE OCTOBER 1, 2024, THE COMMISSIONER OR COMMISSIONER’S DESIGNEE SHALL SUBMIT TO THE GENERAL ASSEMBLY A REPORT SUMMARIZING THE STUDY, INCLUDING ANY LEGISLATIVE, REGULATORY, OR OTHER RECOMMENDATIONS FOR DESIGNING AND IMPLEMENTING CARBON REDUCTION AND SEQUESTRATION OPPORTUNITIES FOR THE AGRICULTURAL SECTOR AND IN LAND MANAGEMENT IN THE STATE. THE COMMISSIONER OR COMMISSIONER’S DESIGNEE SHALL SUBMIT TO THE GENERAL ASSEMBLY AN UPDATE ON THE PROGRESS OF THE STUDY ON OR BEFORE OCTOBER 1, 2023.

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

Page 8, line 21, strike "agrivoltaics." and substitute "agrivoltaics - repeal."

Page 9, line 3, strike "USE" and substitute "USE, COSTS, AND BENEFITS".

Page 9, line 4, strike "businesses." and substitute "businesses OR PROVIDE OTHER ENVIRONMENTAL, SOCIAL, OR ECONOMIC BENEFITS TO THE STATE.".

Page 9, after line 8 insert:

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

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

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

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

Page 9, strike line 27.

Page 10, strike line 1 and substitute "MORE SOLAR ENERGY GENERATION FACILITIES DIRECTLY INTEGRATED WITH AGRICULTURAL ACTIVITIES, INCLUDING CROP"

Page 10, line 25, before "repeal." insert "rules -"

Page 13, strike lines 5 through 8 and substitute:

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

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

Page 13, after line 11 insert:

"SECTION 12. Appropriation. For the 2022-23 state fiscal year, $2,200,000 is appropriated to the department of agriculture. This appropriation is from the general fund. To implement this act, the department may use this appropriation for the purpose of conducting a study pursuant to section 35-1-116, C.R.S.".

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

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

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

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

(V.5) WASTEWATER THERMAL ENERGY; AND

(r) "WASTEWATER THERMAL ENERGY" MEANS A SYSTEM THAT USES THERMAL ENERGY IN WASTEWATER TO GENERATE ELECTRICITY, TO HEAT OR COOL A SPACE, OR FOR ANY OTHER USEFUL THERMAL PURPOSE.".

Renumber succeeding section accordingly.

Page 1, line 102, strike "COLORADO." and substitute "COLORADO, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.".

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