

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0335.01 Jennifer Berman x3286

SENATE BILL 22-138

SENATE SPONSORSHIP

Hansen,

HOUSE SPONSORSHIP

Valdez A.,

Senate Committees
Transportation & Energy

House Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO PROMOTE REDUCTIONS IN GREENHOUSE
102 GAS EMISSIONS IN COLORADO.

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 from the previous 12 months. The commissioner of insurance is required to post the reports on the division of insurance's website. **Section 1**

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.

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.

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

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

10-3-244. Investment climate-risk assessment - reporting - definition. (1) ON OR BEFORE JANUARY 1, 2024, AND ON OR BEFORE JANUARY 1 OF EACH YEAR THEREAFTER, AN INSURANCE COMPANY ISSUED A CERTIFICATE OF AUTHORITY TO TRANSACT INSURANCE BUSINESS PURSUANT TO PART 1 OF THIS ARTICLE 3 SHALL PREPARE AND FILE WITH THE COMMISSIONER A FINANCIAL REPORT PROVIDING A CLIMATE-RISK ASSESSMENT REGARDING ITS INVESTMENT PORTFOLIO. THE COMMISSIONER SHALL POST REPORTS RECEIVED PURSUANT TO THIS SUBSECTION (1) ON THE DIVISION'S WEBSITE.

(2) THE COMMISSIONER MAY COLLABORATE WITH OTHER STATE AGENCIES, INCLUDING THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND WITH NONPROFIT ENVIRONMENTAL ORGANIZATIONS TO DEVELOP GUIDANCE FOR AUTHORIZED INSURANCE COMPANIES ON PERFORMING CLIMATE-RISK ASSESSMENTS. IF THE COMMISSIONER DEVELOPS GUIDANCE, THE COMMISSIONER SHALL POST THE GUIDANCE ON THE DIVISION'S WEBSITE.

(3) 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, LABOR SHORTAGES, AND

1 INFRASTRUCTURE DAMAGE ARISING FROM SEVERE WEATHER EVENTS;
2 INCREASED COSTS ASSOCIATED WITH COMPETITION FOR DEPLETING
3 NONRENEWABLE RESOURCES; AND LOSS OF PRODUCTIVITY ARISING FROM
4 EXTREME TEMPERATURES, VECTOR-BORNE DISEASES, AND OTHER HEALTH
5 IMPACTS OF CLIMATE CHANGE.

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

8 **24-51-206. Investments - investment climate-risk assessment**
9 **- definition.** (4) (a) ON OR BEFORE JANUARY 1, 2024, AND ON OR BEFORE
10 JANUARY 1 OF EACH YEAR THEREAFTER, THE BOARD SHALL PREPARE A
11 FINANCIAL REPORT PROVIDING A CLIMATE-RISK ASSESSMENT REGARDING
12 ITS INVESTMENT PORTFOLIO. THE BOARD SHALL POST EACH REPORT ON ITS
13 WEBSITE.

14 (b) AS USED IN THIS SECTION, "CLIMATE-RISK ASSESSMENT" HAS
15 THE MEANING SET FORTH IN SECTION 10-3-244 (3).

16 **SECTION 3.** In Colorado Revised Statutes, 25-7-102, **amend**
17 (2)(g) as follows:

18 **25-7-102. Legislative declaration.** (2) It is further declared that:

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

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

25 (B) A FORTY PERCENT REDUCTION IN STATEWIDE GREENHOUSE
26 GAS POLLUTION BY 2028;

27 (C) A fifty percent reduction in statewide greenhouse gas

1 pollution by 2030;

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

4 (E) A ninety percent reduction in statewide greenhouse gas
5 pollution by 2050.

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

8 **SECTION 4.** In Colorado Revised Statutes, **add** 25-7-143 as
9 follows:

10 **25-7-143. Prohibit emissions from small off-road engines -**
11 **rebates and incentives - legislative declaration - definitions - rules -**
12 **repeal.** (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

13 (a) SMALL OFF-ROAD ENGINES USED PRIMARILY IN LAWN AND
14 GARDEN EQUIPMENT, SUCH AS LAWN MOWERS, LEAF BLOWERS, HEDGE
15 TRIMMERS, AND CHAINSAWS, EMIT HIGH LEVELS OF AIR POLLUTANTS,
16 INCLUDING OXIDES OF NITROGEN AND REACTIVE ORGANIC GASES THAT,
17 TOGETHER, FORM OZONE, AND PARTICULATE MATTER;

18 (b) CURRENTLY, THERE ARE BATTERY-POWERED, ZERO-EMISSIONS
19 ALTERNATIVES FOR SMALL OFF-ROAD EQUIPMENT, INCLUDING FOR
20 COMMERCIAL-GRADE EQUIPMENT;

21 (c) ELECTRIFYING SMALL OFF-ROAD EQUIPMENT CAN REDUCE
22 OZONE POLLUTION BY AS MUCH AS FOUR PARTS PER BILLION, WHICH
23 COULD HELP NONATTAINMENT AREAS REACH ATTAINMENT STATUS; AND

24 (d) THE STATE SHOULD IMPLEMENT MEASURES TO ACHIEVE ONE
25 HUNDRED PERCENT ZERO EMISSIONS FROM SMALL OFF-ROAD EQUIPMENT,
26 INCLUDING PROHIBITING THE SALE OF NEW, SMALL OFF-ROAD ENGINES IN
27 NONATTAINMENT AREAS AND DEVELOPING A REBATE PROGRAM AND

1 OTHER FINANCIAL INCENTIVES TO ENCOURAGE THE VOLUNTARY PHASING
2 OUT OF SMALL OFF-ROAD ENGINES.

3 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
4 REQUIRES:

5 (a) "NONATTAINMENT AREA" MEANS AN AREA OF THE STATE THAT
6 IS SUBJECT TO PART D OF THE FEDERAL ACT.

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

10 (c) "SMALL OFF-ROAD EQUIPMENT" MEANS:

11 (I) A LAWN MOWER, LEAF BLOWER, OR OTHER LAWN OR GARDEN
12 EQUIPMENT AS DETERMINED BY THE COMMISSION BY RULE;

13 (II) ANY OTHER OFF-ROAD EQUIPMENT AS DETERMINED BY THE
14 COMMISSION BY RULE.

15 (3) ON OR BEFORE JANUARY 1, 2023, THE COMMISSION SHALL
16 PROMULGATE RULES:

17 (a) PROHIBITING THE SALE, OFFER FOR SALE, ADVERTISING, OR
18 MARKETING IN NONATTAINMENT AREAS OF ANY SMALL OFF-ROAD
19 EQUIPMENT POWERED WITH A SMALL OFF-ROAD ENGINE ON OR AFTER
20 JANUARY 1, 2030; AND

21 (b) (I) ESTABLISHING A COMMERCIAL REBATE PROGRAM THROUGH
22 WHICH A PERSON WHO OWNS COMMERCIAL-GRADE, SMALL OFF-ROAD
23 EQUIPMENT THAT IS POWERED WITH A SMALL OFF-ROAD ENGINE OR WHO
24 USES SMALL OFF-ROAD EQUIPMENT THAT IS POWERED WITH A SMALL
25 OFF-ROAD ENGINE AS PART OF A COMMERCIAL LAWN OR GARDEN CARE
26 BUSINESS MAY EARN A REBATE FOR VOLUNTARILY PURCHASING
27 ELECTRIC-POWERED, SMALL OFF-ROAD EQUIPMENT TO REPLACE SMALL

1 OFF-ROAD EQUIPMENT POWERED WITH A SMALL OFF-ROAD ENGINE IF
2 PURCHASED BEFORE JANUARY 1, 2030.

3 (II) THIS SUBSECTION (3)(b) IS REPEALED JANUARY 1, 2032.

4 **SECTION 5.** In Colorado Revised Statutes, 33-1-110, **add** (9) as
5 follows:

6 **33-1-110. Duties of the director of the division.** (9) FOR
7 RESEARCH PROJECTS FOR WHICH THE COLORADO AGRICULTURAL
8 VALUE-ADDED DEVELOPMENT BOARD AWARDS MONEY PURSUANT TO
9 SECTION 35-75-204 (1)(a)(II) TO STUDY THE USE OF AGRIVOLTAICS, AS
10 DEFINED IN SECTION 35-75-205 (1)(c), THE DIRECTOR OR THE DIRECTOR'S
11 DESIGNEE SHALL CONSULT ON THE RESEARCH PROJECT REGARDING THE
12 WILDLIFE IMPACTS OF AGRIVOLTAIC USE.

13 **SECTION 6.** In Colorado Revised Statutes, 34-60-106, **amend**
14 (9)(a) as follows:

15 **34-60-106. Additional powers of commission - rules -**
16 **definition.** (9) (a) Notwithstanding section 34-60-120 or any other
17 provision of law, the commission, as to class II AND CLASS VI injection
18 wells classified in 40 CFR 144.6, may perform all acts for the ~~purpose~~
19 PURPOSES of protecting underground sources of drinking water in
20 accordance with state programs authorized by 42 U.S.C. sec. 300f et seq.,
21 and regulations under those sections, as amended, AND ENSURING THE
22 SAFE AND EFFECTIVE SEQUESTRATION OF GREENHOUSE GASES, AS THAT
23 TERM IS DEFINED IN SECTION 25-7-140 (6). THE COMMISSION MAY ISSUE
24 AND ENFORCE PERMITS AS NECESSARY FOR THOSE PURPOSES.

25 **SECTION 7.** In Colorado Revised Statutes, **add** 35-1-116 as
26 follows:

27 **35-1-116. Study of carbon reduction and sequestration**

1 **opportunities in agriculture - reporting - repeal.** (1) INCONSULTATION
2 WITH THE COLORADO ENERGY OFFICE CREATED IN SECTION 24-38.5-101
3 AND THE AIR QUALITY CONTROL COMMISSION CREATED IN SECTION
4 25-7-104 (1), THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE
5 SHALL CONDUCT A STUDY TO EXAMINE CARBON REDUCTION AND
6 SEQUESTRATION OPPORTUNITIES IN THE AGRICULTURAL SECTOR IN THE
7 STATE, INCLUDING AN INVESTIGATION INTO THE POTENTIAL FOR CREATING
8 AND OFFERING A CERTIFIED CARBON OFFSET PROGRAM AND CREDIT
9 INSTRUMENTS TO PROVIDE FUNGIBLE CARBON OFFSETS FOR AGRICULTURAL
10 PRODUCERS.

11 (2) ON OR BEFORE DECEMBER 15, 2022, THE COMMISSIONER OR
12 COMMISSIONER'S DESIGNEE SHALL SUBMIT TO THE GENERAL ASSEMBLY A
13 REPORT SUMMARIZING THE STUDY, INCLUDING ANY LEGISLATIVE
14 RECOMMENDATIONS FOR DESIGNING AND IMPLEMENTING CARBON
15 REDUCTION AND SEQUESTRATION OPPORTUNITIES FOR THE AGRICULTURAL
16 SECTOR IN THE STATE.

17 (3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2023.

18 **SECTION 8.** In Colorado Revised Statutes, 35-75-204, **amend**
19 (1) as follows:

20 **35-75-204. Duties of board - agriculture value-added grants,**
21 **loans and loan guarantees, and equity investments - agrivoltaics.**

22 (1) (a) The board ~~has the power to~~ MAY make grants, loans and loan
23 guarantees, and equity investments to any person, including eligible
24 agricultural value-added cooperatives ~~as defined in section 35-75-202(4),~~
25 for:

26 (I) New or ongoing agricultural projects and research that add
27 value to Colorado agricultural products and aid the economy of rural

1 Colorado communities; and for

2 (II) Agricultural projects AND RESEARCH, INCLUDING RESEARCH
3 ON THE USE OF AGRIVOLTAICS, AS DEFINED IN SECTION 35-75-205 (1)(c),
4 that will reduce energy costs for agricultural producers or businesses. IN
5 ALLOCATING MONEY FOR RESEARCH ON THE USE OF AGRIVOLTAICS, THE
6 BOARD SHALL REQUIRE THAT A RECIPIENT CONSULT WITH THE DIRECTOR
7 OF THE DIVISION OF PARKS AND WILDLIFE OR THE DIRECTOR'S DESIGNEE
8 REGARDING WILDLIFE IMPACTS OF AGRIVOLTAICS USE.

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

11 **SECTION 9.** In Colorado Revised Statutes, 35-75-205, **amend**
12 (1)(b); and **add** (1)(c) as follows:

13 **35-75-205. Grants, loans and loan guarantees, and equity**
14 **investments - agriculture value-added cash fund - created - gifts,**
15 **grants, and donations - report - definition - repeal.** (1) (b) ~~As used in~~
16 ~~this section, "agrivoltaics" means one or more solar energy generation~~
17 ~~facilities colocated on the same parcel of land as agricultural production,~~
18 ~~including crop production, grazing, apiaries, or other production of~~
19 ~~agricultural commodities for sale in the retail or wholesale market~~ THE
20 BOARD MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS
21 FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS PART 2,
22 WHICH MONEY SHALL BE CREDITED TO THE AGRICULTURE VALUE-ADDED
23 CASHFUND PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION. THE BOARD
24 MAY ALSO SEEK, ACCEPT, AND UTILIZE DONATIONS OF IN-KIND RESOURCES
25 SUCH AS SOLAR PANELS FOR USE IN AGRIVOLTAIC RESEARCH PROJECTS.

26 (c) AS USED IN THIS SECTION, "AGRIVOLTAICS" MEANS ONE OR
27 MORE SOLAR ENERGY GENERATION FACILITIES COLOCATED ON THE SAME

1 PARCEL OF LAND AS AGRICULTURAL ACTIVITIES, INCLUDING CROP
2 PRODUCTION, GRAZING, ANIMAL HUSBANDRY, APIARIES, COVER CROPPING
3 FOR SOIL HEALTH BENEFITS OR CARBON SEQUESTRATION, OR PRODUCTION
4 OF AGRICULTURAL COMMODITIES FOR SALE IN THE RETAIL OR WHOLESALE
5 MARKET.

6 **SECTION 10.** In Colorado Revised Statutes, 39-4-101, **amend**
7 (3.5) as follows:

8 **39-4-101. Definitions.** As used in this article 4, unless the context
9 otherwise requires:

10 (3.5) (a) "Solar energy facility" means a new facility first placed
11 in production on or after January 1, 2009, that uses real and personal
12 property, including but not limited to one or more solar energy devices as
13 defined in section 38-32.5-100.3 (2), leaseholds, and easements, to
14 generate and deliver to the interconnection meter any source of electrical,
15 thermal, or mechanical energy in excess of two megawatts by harnessing
16 the radiant energy of the sun, including any connected device for which
17 the primary purpose is to store energy, and that is not primarily designed
18 to supply electricity for consumption on site.

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

21 **SECTION 11.** In Colorado Revised Statutes, **add** 39-22-543 as
22 follows:

23 **39-22-543. Tax credit for reducing emissions from small**
24 **off-road engines - reports - definitions - legislative declaration -**
25 **repeal.** (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

26 (I) SMALL OFF-ROAD ENGINES USED PRIMARILY IN LAWN AND
27 GARDEN EQUIPMENT, SUCH AS LAWN MOWERS, LEAF BLOWERS, HEDGE

1 TRIMMERS, AND CHAINSAWS, EMIT HIGH LEVELS OF AIR POLLUTANTS,
2 INCLUDING OXIDES OF NITROGEN AND REACTIVE ORGANIC GASES THAT,
3 TOGETHER, FORM OZONE, AND PARTICULATE MATTER;

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

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

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

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

19 (II) IN ORDER TO ALLOW THE GENERAL ASSEMBLY AND THE STATE
20 AUDITOR TO MEASURE THE EFFECTIVENESS OF THE CREDIT, THE
21 DEPARTMENT OF REVENUE SHALL SUBMIT TO THE GENERAL ASSEMBLY
22 AND THE STATE AUDITOR AN ANNUAL REPORT IN ACCORDANCE WITH
23 SUBSECTION (4) OF THIS SECTION COMPARING THE SALES OF
24 ELECTRIC-POWERED, SMALL OFF-ROAD EQUIPMENT PURCHASED IN THE
25 STATE BEFORE THE TAX CREDIT GOES INTO EFFECT AND THE SALES OF
26 ELECTRIC-POWERED, SMALL OFF-ROAD EQUIPMENT PURCHASED IN THE
27 STATE IN THE TWELVE MONTHS PRECEDING THE REPORT.

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

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

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

1 ELECTRIC-POWERED, SMALL OFF-ROAD EQUIPMENT INCREASE BY TEN
2 PERCENT WITHIN FIVE YEARS AFTER THE TAX CREDIT BECOMES EFFECTIVE.

3 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
4 REQUIRES:

5 (a) "SMALL OFF-ROAD ENGINE" HAS THE MEANING SET FORTH IN
6 SECTION 25-7-143 (2)(b).

7 (b) "SMALL OFF-ROAD EQUIPMENT" HAS THE MEANING SET FORTH
8 IN SECTION 25-7-143 (2)(c).

9 (c) "TAXPAYER" HAS THE MEANING SET FORTH IN SECTION
10 39-21-101 (4).

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

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