

**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**

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**SENATE SPONSORSHIP**

**Hansen,**

**HOUSE SPONSORSHIP**

**Valdez A.,**

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**Senate Committees**

Transportation & Energy  
Finance  
Appropriations

**House Committees**

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**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.**

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**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.

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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, OR SUCH OTHER THRESHOLD DOLLAR  
10 AMOUNT THAT THE NAIC ESTABLISHES IN SUBSEQUENT YEARS,  
11 PARTICIPATE IN AND COMPLETE THE NAIC'S ANNUAL "INSURER CLIMATE  
12 RISK DISCLOSURE SURVEY", OR SUCH OTHER SURVEY OR REPORTING  
13 MECHANISM THAT THE NAIC REQUIRES IN SUBSEQUENT YEARS. IF AN  
14 INSURER REPORTS LESS THAN ONE HUNDRED MILLION DOLLARS ON ITS  
15 ANNUAL NAIC SCHEDULE T FILING, OR SUCH OTHER THRESHOLD DOLLAR  
16 AMOUNT THAT THE NAIC ESTABLISHES IN SUBSEQUENT YEARS, THE  
17 INSURER MAY PARTICIPATE IN AND COMPLETE THE SURVEY VOLUNTARILY.

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

22 **SECTION 2.** In Colorado Revised Statutes, **amend** 24-51-220 as

1 follows:

2 **24-51-220. Reports - periodic reports to general assembly -**  
3 **inclusion of climate risk assessment in annual stewardship report.**

4 (1) The association shall ~~provide~~ SUBMIT a report to the general assembly  
5 on January 1, 2016, and every five years thereafter, regarding the  
6 economic impact of the 2010 legislative changes to the annual increase  
7 provisions on the retirees and benefit recipients as compared to the actual  
8 rate of inflation and the progress made toward eliminating the unfunded  
9 liabilities of each division of the association.

10 (2) ON AND AFTER JANUARY 1, 2024, THE ASSOCIATION SHALL  
11 INCLUDE, AS PART OF ITS ANNUAL INVESTMENT STEWARDSHIP REPORT  
12 THAT IT POSTS ON ITS WEBSITE, A DESCRIPTION OF:

13 (a) THE ASSOCIATION'S PROCESS FOR IDENTIFYING CLIMATE  
14 CHANGE-RELATED RISKS AND ASSESSING THE FINANCIAL IMPACT THAT THE  
15 CLIMATE CHANGE-RELATED RISKS HAVE ON THE ASSOCIATION'S  
16 OPERATIONS;

17 (b) THE CURRENT OR ANTICIPATED FUTURE RISKS THAT CLIMATE  
18 CHANGE POSES TO THE ASSOCIATION'S INVESTMENT PORTFOLIO, THE  
19 IMPACT THAT CLIMATE CHANGE HAS ON THE ASSOCIATION'S INVESTMENT  
20 STRATEGIES, AND ANY STRATEGY CHANGES THAT THE ASSOCIATION HAS  
21 IMPLEMENTED IN RESPONSE TO SUCH IMPACT;

22 (c) ACTIONS THAT THE ASSOCIATION IS TAKING TO MANAGE THE  
23 RISKS THAT CLIMATE CHANGE POSES TO THE ASSOCIATION'S OPERATIONS;

24 AND

25 (d) THE ASSOCIATION'S USE AND CONSIDERATION OF ANY  
26 CLIMATE-RELATED REPORTING THAT THE FEDERAL SECURITIES AND  
27 EXCHANGE COMMISSION REQUIRES.

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

3           **25-6.5-201. Definitions.** As used in this part 2, unless the context  
4 **otherwise requires:**

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

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

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

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

15           **(III) WASTEWATER THERMAL ENERGY EQUIPMENT.**

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

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

22           **25-7-102. Legislative declaration.** (2) It is further declared that:

23           **(g) (I) Accordingly, Colorado shall strive to increase renewable**  
24 **energy generation and eliminate statewide greenhouse gas pollution by**  
25 **the middle of the twenty-first century and have goals of achieving, at a**  
26 **minimum:**

27           **(A) A twenty-six percent reduction in statewide greenhouse gas**

1 pollution by 2025;

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3 (B) A fifty percent reduction in statewide greenhouse gas  
4 pollution by 2030;

5 (C) A SIXTY-FIVE PERCENT REDUCTION IN STATEWIDE  
6 GREENHOUSE GAS POLLUTION BY 2035;

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

9 (E) A ninety percent reduction in statewide greenhouse gas  
10 pollution by 2050.

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

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

15 25-7-105. Duties of commission - rules - legislative declaration  
16 - definitions. (1) Except as provided in sections 25-7-130 and 25-7-131,  
17 the commission shall promulgate rules that are consistent with the  
18 legislative declaration set forth in section 25-7-102 and necessary for the  
19 proper implementation and administration of this article 7, including:

20 (e) (XIII) In implementing this subsection (1)(e), the commission  
21 shall adopt rules to reduce statewide greenhouse gas emissions from the  
22 industrial and manufacturing sector in the state by at least twenty percent  
23 by 2030 below the 2015 baseline established pursuant to section 25-7-140  
24 (2)(a)(II), taking into account the factors set out in subsections (1)(e)(II)  
25 to (1)(e)(VI) of this section. The rules must include protections for  
26 disproportionately impacted communities and prioritize emission  
27 reductions that will reduce emissions of co-pollutants that adversely

1 affect disproportionately impacted communities, be designed to accelerate  
2 near-term reductions, and secure meaningful emission reductions from  
3 this sector to be realized beginning no later than September 30, 2024. ON  
4 OR BEFORE AUGUST 1, 2023, THE COMMISSION SHALL ADOPT RULES TO  
5 REDUCE GREENHOUSE GAS EMISSIONS FROM, AT A MINIMUM, THE SOURCES  
6 WITHIN THE INDUSTRIAL AND MANUFACTURING SECTOR THAT, PURSUANT  
7 TO COMMISSION RULES REQUIRING GREENHOUSE GAS REPORTING,  
8 REPORTED DURING THE 2020 CALENDAR YEAR GREENHOUSE GAS  
9 EMISSIONS IN AN AMOUNT GREATER THAN TWENTY-FIVE THOUSAND  
10 METRIC TONS. The rules must:

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

14 **33-1-110. Duties of the director of the division.** (9) FOR  
15 RESEARCH PROJECTS FOR WHICH THE COLORADO AGRICULTURAL  
16 VALUE-ADDED DEVELOPMENT BOARD AWARDS MONEY PURSUANT TO  
17 SECTION 35-75-204 (1)(a)(II) TO STUDY THE USE OF AGRIVOLTAICS, AS  
18 DEFINED IN SECTION 35-75-205 (1)(c), THE DIRECTOR OR THE DIRECTOR'S  
19 DESIGNEE SHALL CONSULT ON THE RESEARCH PROJECT REGARDING THE  
20 WILDLIFE IMPACTS OF AGRIVOLTAIC USE.

21 **SECTION 7.** In Colorado Revised Statutes, 34-60-106, **amend**  
22 (9)(a); and add (9)(c) as follows:

23 **34-60-106. Additional powers of commission - rules -**  
24 **definitions.** (9) (a) Notwithstanding section 34-60-120 or any other  
25 provision of law, SUBJECT TO SUBSECTION (9)(c) OF THIS SECTION AND  
26 ONLY AFTER THE GOVERNOR AND COMMISSION HAVE MADE AN  
27 AFFIRMATIVE DETERMINATION THAT THE STATE HAS SUFFICIENT

1 RESOURCES NECESSARY TO ENSURE THE SAFE AND EFFECTIVE REGULATION  
2 OF THE SEQUESTRATION OF GREENHOUSE GASES IN ACCORDANCE WITH  
3 FINDINGS FROM THE COMMISSION'S STUDY CONDUCTED PURSUANT TO  
4 SUBSECTION (9)(b) OF THIS SECTION, the commission, as to class II AND  
5 CLASS VI injection wells classified in 40 CFR 144.6, may perform all acts  
6 for the ~~purpose~~ PURPOSES of protecting underground sources of drinking  
7 water in accordance with state programs authorized by 42 U.S.C. sec.  
8 300f et seq., and regulations under those sections, as amended, AND  
9 ENSURING THE SAFE AND EFFECTIVE SEQUESTRATION OF GREENHOUSE  
10 GASES, AS THAT TERM IS DEFINED IN SECTION 25-7-140 (6).

11 (c) (I) THE COMMISSION MAY SEEK CLASS VI INJECTION WELL  
12 PRIMACY UNDER THE FEDERAL "SAFE DRINKING WATER ACT", 42 U.S.C.  
13 SEC. 300f ET SEQ., AS AMENDED, AFTER OBTAINING AND PUBLICLY  
14 DETERMINING THAT THE COMMISSION HAS THE NECESSARY RESOURCES  
15 FOR THE APPLICATION OUTLINED IN THE COMMISSION'S STUDY PERFORMED  
16 PURSUANT TO SUBSECTION (9)(b) OF THIS SECTION.

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

26 (III) (A) THE COMMISSION SHALL REQUIRE EACH OPERATOR OF A  
27 CLASS VI INJECTION WELL TO PROVIDE ADEQUATE FINANCIAL ASSURANCE



1 DEMONSTRATING THAT THE OPERATOR IS FINANCIALLY CAPABLE OF  
2 FULFILLING EVERY OBLIGATION IMPOSED ON THE OPERATOR UNDER THIS  
3 ARTICLE 60 AND UNDER RULES THAT THE COMMISSION ADOPTS PURSUANT  
4 TO THIS ARTICLE 60.

5 (B) THE FINANCIAL ASSURANCE REQUIRED UNDER THIS  
6 SUBSECTION (9)(c)(III) MUST COVER THE COST OF CORRECTIVE ACTION,  
7 INJECTION WELL PLUGGING, POST-INJECTION SITE CARE, AND SITE  
8 CLOSURE, AS THOSE TERMS ARE DEFINED IN 40 CFR 146.81, AND THE COST  
9 OF ANY EMERGENCY AND REMEDIAL RESPONSE.

10 (C) THE COMMISSION SHALL ADOPT RULES REQUIRING THAT  
11 FINANCIAL ASSURANCE COVER THE COST OF OBLIGATIONS THAT ARE IN  
12 ADDITION TO THE OBLIGATIONS LISTED IN SUBSECTION (9)(c)(III)(B) OF  
13 THIS SECTION IF THE ADDITIONAL OBLIGATIONS ARE REASONABLY  
14 ASSOCIATED WITH CLASS VI INJECTION WELLS AND LOCATIONS.

15 (D) AN OPERATOR SHALL MAINTAIN THE FINANCIAL ASSURANCE  
16 REQUIRED UNDER THIS SUBSECTION (9)(c)(III) OR UNDER ANY RULES  
17 ADOPTED PURSUANT TO THIS SUBSECTION (9)(c)(III) UNTIL THE  
18 COMMISSION APPROVES SITE CLOSURE, AS SPECIFIED IN RULES ADOPTED BY  
19 THE COMMISSION. COMMISSION APPROVAL OF A SITE CLOSURE DOES NOT  
20 OTHERWISE MODIFY AN OPERATOR'S RESPONSIBILITY TO COMPLY WITH  
21 APPLICABLE LAWS.

22 (E) FINANCIAL ASSURANCE PROVIDED UNDER THIS SUBSECTION  
23 (9)(c)(III) MAY BE IN THE FORM OF A SURETY BOND, INSURANCE, OR ANY  
24 OTHER INSTRUMENT THAT THE COMMISSION, BY RULE, DEEMS  
25 SATISFACTORY.

26 (IV) AS USED IN THIS SUBSECTION (9), "DISPROPORTIONATELY  
27 IMPACTED COMMUNITY" HAS THE MEANING SET FORTH IN SECTION

1 24-4-109 (2)(b)(II).

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

4 **35-1-116. Study of carbon reduction and sequestration**  
5 **opportunities in agriculture and land management - definition -**

6 **reporting - rules.** (1) (a) IN CONSULTATION WITH THE COLORADO  
7 ENERGY OFFICE CREATED IN SECTION 24-38.5-101 AND THE AIR QUALITY  
8 CONTROL COMMISSION CREATED IN SECTION 25-7-104 (1), THE  
9 COMMISSIONER OR THE COMMISSIONER'S DESIGNEE, IN CONSULTATION  
10 WITH AN INSTITUTION OF HIGHER EDUCATION WITH EXPERTISE IN CLIMATE  
11 CHANGE MITIGATION, ADAPTATION BENEFITS, AND OTHER  
12 ENVIRONMENTAL BENEFITS RELATED TO AGRICULTURAL RESEARCH, SHALL  
13 CONDUCT A STUDY TO EXAMINE CARBON REDUCTION AND SEQUESTRATION  
14 OPPORTUNITIES IN THE AGRICULTURAL SECTOR AND IN LAND  
15 MANAGEMENT IN THE STATE, INCLUDING AN INVESTIGATION INTO THE  
16 POTENTIAL FOR CREATING AND OFFERING A CERTIFIED CARBON OFFSET  
17 PROGRAM AND CREDIT INSTRUMENTS TO PROVIDE FUNGIBLE CARBON  
18 OFFSETS FOR AGRICULTURAL PRODUCERS AND IN LAND MANAGEMENT. A  
19 CERTIFIED CARBON OFFSET PROGRAM AND CREDIT INSTRUMENTS OFFERED  
20 MUST REFLECT REAL, ADDITIONAL, QUANTIFIABLE, PERMANENT,  
21 VERIFIABLE, AND ENFORCEABLE REDUCTIONS IN GREENHOUSE GAS  
22 EMISSIONS THAT ARE EQUIVALENT TO THE OFFSETS PROVIDED.

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

25 (I) INCORPORATED INTO THE AIR QUALITY CONTROL COMMISSION'S  
26 RULES, INCLUDING RULES ADOPTED UNDER SECTION 25-7-105 (1)(e), SUCH  
27 AS RULES CONCERNING COORDINATION WITH OTHER JURISDICTIONS

1 PURSUANT TO THE AUTHORITY GRANTED IN, AND THE CONSIDERATIONS  
2 REQUIRED UNDER, SECTION 25-7-105 (1)(e)(V); AND

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

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

11 (II) AS USED IN THIS SUBSECTION (1)(c), "DISPROPORTIONATELY  
12 IMPACTED COMMUNITY" HAS THE MEANING SET FORTH IN SECTION  
13 24-4-109 (2)(b)(II).

14 (2) ON OR BEFORE OCTOBER 1, 2024, THE COMMISSIONER OR  
15 COMMISSIONER'S DESIGNEE SHALL SUBMIT TO THE GENERAL ASSEMBLY A  
16 REPORT SUMMARIZING THE STUDY, INCLUDING ANY LEGISLATIVE,  
17 REGULATORY, OR OTHER RECOMMENDATIONS FOR DESIGNING AND  
18 IMPLEMENTING CARBON REDUCTION AND SEQUESTRATION OPPORTUNITIES  
19 FOR THE AGRICULTURAL SECTOR AND IN LAND MANAGEMENT IN THE  
20 STATE. THE COMMISSIONER OR COMMISSIONER'S DESIGNEE SHALL SUBMIT  
21 TO THE GENERAL ASSEMBLY AN UPDATE ON THE PROGRESS OF THE STUDY  
22 ON OR BEFORE OCTOBER 1, 2023.

23 (3) (a) UPON CONCLUSION OF THE STUDY, WITH REGARD TO ANY  
24 RECOMMENDATIONS OF THE STUDY THAT DO NOT REQUIRE LEGISLATIVE  
25 CHANGES, THE COMMISSIONER, IN CONSULTATION WITH THE COLORADO  
26 ENERGY OFFICE AND THE AIR QUALITY CONTROL COMMISSION, MAY ADOPT  
27 RULES TO IMPLEMENT THE RECOMMENDATIONS.

1           (b) IF THE COMMISSIONER ADOPTS RULES PURSUANT TO  
2           SUBSECTION (3)(a) OF THIS SECTION, THE DEPARTMENT SHALL INCLUDE A  
3           SUMMARY OF THE RULES AS PART OF THE DEPARTMENT'S REGULATORY  
4           AGENDA THAT IS FILED WITH THE STAFF OF LEGISLATIVE COUNCIL AND THE  
5           SECRETARY OF STATE PURSUANT TO SECTION 2-7-203 (4) AND THAT IS  
6           INCLUDED IN THE DEPARTMENT'S "STATE MEASUREMENT FOR  
7           ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)  
8           GOVERNMENT ACT" PRESENTATION REQUIRED UNDER SECTION 2-7-203  
9           THAT IMMEDIATELY PRECEDES THE ADOPTION OF THE RULES.

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

12           **35-75-204. Duties of board - agriculture value-added grants,**  
13           **loans and loan guarantees, and equity investments - agrivoltaics -**  
14           **repeal.** (1) (a) The board ~~has the power to~~ MAY make grants, loans and  
15           loan guarantees, and equity investments to any person, including eligible  
16           agricultural value-added cooperatives ~~as defined in section 35-75-202 (4),~~  
17           for:

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

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

1 PARKS AND WILDLIFE OR THE DIRECTOR'S DESIGNEE REGARDING WILDLIFE  
2 IMPACTS OF AGRIVOLTAICS USE.

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

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

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

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

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

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

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

1 SUCH AS SOLAR PANELS FOR USE IN AGRIVOLTAIC RESEARCH PROJECTS.

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

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

10 **39-4-101. Definitions.** As used in this article 4, unless the context  
11 otherwise requires:

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

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

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

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

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

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

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

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

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

21 (II) IN ORDER TO ALLOW THE GENERAL ASSEMBLY AND THE STATE  
22 AUDITOR TO MEASURE THE EFFECTIVENESS OF THE CREDIT, THE  
23 DEPARTMENT OF REVENUE SHALL SUBMIT TO THE GENERAL ASSEMBLY  
24 AND THE STATE AUDITOR AN ANNUAL REPORT IN ACCORDANCE WITH       
25 SUBSECTION (4) OF THIS SECTION DETAILING THE SALES OF NEW,  
26 ELECTRIC-POWERED, SMALL OFF-ROAD EQUIPMENT, AS REPORTED BY  
27 TAXPAYERS CLAIMING THE CREDIT AUTHORIZED UNDER SUBSECTION (2)

1 OF THIS SECTION.

2 (2) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
3 JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2030, A TAXPAYER IS  
4 ALLOWED A CREDIT AGAINST THE TAX IMPOSED PURSUANT TO THIS  
5 ARTICLE 22 IN AN AMOUNT EQUAL TO THIRTY PERCENT OF THE AGGREGATE  
6 PURCHASE PRICE FOR ALL RETAIL SALES, AS THOSE TERMS ARE DEFINED IN  
7 SECTION 39-26-102, OF NEW, ELECTRIC-POWERED, SMALL OFF-ROAD  
8 EQUIPMENT THAT THE TAXPAYER SOLD IN THE STATE DURING THE TAX  
9 YEAR.

10 (b) IN ORDER TO QUALIFY FOR THE CREDIT ALLOWED UNDER THIS  
11 SUBSECTION (2), THE TAXPAYER SHALL PROVIDE A PURCHASER OF A PIECE  
12 OF NEW, ELECTRIC-POWERED, SMALL OFF-ROAD EQUIPMENT, A THIRTY  
13 PERCENT DISCOUNT FROM THE PURCHASE PRICE OF THE PIECE OF NEW,  
14 ELECTRIC-POWERED, SMALL OFF-ROAD EQUIPMENT AND SHALL SHOW THE  
15 DISCOUNT AS A SEPARATE ITEM ON THE RECEIPT OR INVOICE PROVIDED TO  
16 THE PURCHASER.

17 (c) TO DETERMINE WHETHER A TAXPAYER SOLD NEW,  
18 ELECTRIC-POWERED, SMALL OFF-ROAD EQUIPMENT IN THIS STATE, THE  
19 RULES OF SECTION 39-26-104 (3)(a) APPLY.

20 (3) IF THE AMOUNT OF A CREDIT UNDER SUBSECTION (2) OF THIS  
21 SECTION EXCEEDS A TAXPAYER'S ACTUAL TAX LIABILITY FOR AN INCOME  
22 TAX YEAR, THE AMOUNT OF THE CREDIT NOT USED TO OFFSET INCOME TAX  
23 LIABILITY FOR THE INCOME TAX YEAR IS NOT REFUNDED TO THE  
24 TAXPAYER. THE TAXPAYER MAY CARRY FORWARD AND APPLY THE  
25 UNUSED CREDIT AGAINST THE INCOME TAX DUE IN EACH OF THE FIVE  
26 SUCCEEDING INCOME TAX YEARS, BUT THE TAXPAYER SHALL APPLY THE  
27 CREDIT AGAINST THE INCOME TAX DUE FOR THE EARLIEST OF THE INCOME



1 TAX YEARS POSSIBLE. ANY AMOUNT OF THE TAX CREDIT THAT IS NOT USED  
2 AFTER THIS PERIOD IS NOT REFUNDABLE.

3 (4) FOR THE PURPOSE OF PROVIDING DATA THAT ALLOWS THE  
4 GENERAL ASSEMBLY AND THE STATE AUDITOR TO MEASURE THE  
5 EFFECTIVENESS OF THE TAX CREDIT CREATED IN SUBSECTION (2) OF THIS  
6 SECTION PURSUANT TO SECTION 39-21-304 (3), AND NOTWITHSTANDING  
7 SECTION 24-1-136 (11)(a)(I), THE DEPARTMENT OF REVENUE, ON OR  
8 BEFORE JANUARY 1, 2024, AND ON OR BEFORE JANUARY 1 OF EACH YEAR  
9 THEREAFTER, SHALL SUBMIT TO THE GENERAL ASSEMBLY AND THE STATE  
10 AUDITOR A REPORT DETAILING THE SALES OF NEW, ELECTRIC-POWERED,  
11 SMALL OFF-ROAD EQUIPMENT, AS REPORTED BY TAXPAYERS CLAIMING THE  
12 CREDIT AUTHORIZED UNDER SUBSECTION (2) OF THIS SECTION. THE TAX  
13 CREDIT ESTABLISHED IN THIS SECTION WILL MEET ITS PURPOSE IF SALES OF  
14 ELECTRIC-POWERED, SMALL OFF-ROAD EQUIPMENT INCREASE  
15 SIGNIFICANTLY WITHIN FIVE YEARS AFTER THE TAX CREDIT BECOMES  
16 EFFECTIVE.

17 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
18 REQUIRES:

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

22 (b) "SMALL OFF-ROAD EQUIPMENT" MEANS A LAWN MOWER, LEAF  
23 BLOWER, OR TRIMMER.

24 (c) "TAXPAYER" HAS THE MEANING SET FORTH IN SECTION  
25 39-21-101 (4).

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

27 **SECTION 13. In Colorado Revised Statutes, 40-3.2-108, amend**

1 (2)(c)(V); and add (2)(c)(V.5) and (2)(r) as follows:

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

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

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

8 (V.5) WASTEWATER THERMAL ENERGY; AND

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

12 **SECTION 14. Appropriation.** For the 2022-23 state fiscal year,  
13 \$2,200,000 is appropriated to the department of agriculture. This  
14 appropriation is from the general fund. To implement this act, the  
15 department may use this appropriation for the purpose of conducting a  
16 study pursuant to section 35-1-116, C.R.S.

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