

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 23-0514.01 Jennifer Berman x3286

SENATE BILL 23-092

SENATE SPONSORSHIP

Simpson and Hansen, Bridges, Buckner, Coleman, Cutter, Exum, Fenberg, Fields, Gonzales, Hinrichsen, Jaquez Lewis, Marchman, Mullica, Pelton B., Pelton R., Priola, Roberts, Will, Winter F.

HOUSE SPONSORSHIP

McCormick and Soper, Amabile, Bird, Brown, Dickson, English, Hamrick, Herod, Joseph, Lindsay, Marshall, Martinez, Mauro, McCluskie, Michaelson Jenet, Parenti, Ricks, Snyder, Story, Titone, Valdez, Velasco

Senate Committees

Agriculture & Natural Resources
Appropriations

House Committees

Agriculture, Water & Natural Resources
Appropriations

A BILL FOR AN ACT

101 **CONCERNING OPPORTUNITIES FOR VOLUNTARY EMISSION REDUCTIONS**
102 **IN AGRICULTURE, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

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

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.*

HOUSE
3rd Reading Unamended
May 8, 2023

HOUSE
Amended 2nd Reading
May 7, 2023

SENATE
3rd Reading Unamended
April 24, 2023

SENATE
Amended 2nd Reading
April 21, 2023

October 1, 2023, the office is required to convene a stakeholder group to 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 FLOATOVOLTAICS 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) 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) AS USED IN THIS SECTION, UNLESS THE CONTEXT
24 OTHERWISE REQUIRES:

25 (a) "AGRIVOLTAICS" MEANS ONE OR MORE SOLAR ENERGY
26 GENERATION FACILITIES DIRECTLY INTEGRATED WITH AGRICULTURAL
27 ACTIVITIES, INCLUDING CROP PRODUCTION, GRAZING, ANIMAL

1 HUSBANDRY, APIARIES, COVER CROPPING TO IMPROVE SOIL HEALTH OR
2 INSECT HABITAT BENEFITS OR CARBON SEQUESTRATION, OR PRODUCTION
3 OF AGRICULTURAL COMMODITIES FOR SALE IN THE RETAIL OR WHOLESALE
4 MARKET.

5 == ==

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

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

10 **35-1-119. Study of greenhouse gas reduction and carbon**
11 **sequestration opportunities in agriculture and agricultural land**
12 **management - definitions - reporting - rules.** (1) (a) (I) IN
13 ACCORDANCE WITH SUBSECTION (1)(a)(II) OF THIS SECTION, THE
14 COMMISSIONER OR THE COMMISSIONER'S DESIGNEE SHALL CONDUCT A
15 STUDY TO EXAMINE GREENHOUSE GAS REDUCTION AND CARBON
16 SEQUESTRATION OPPORTUNITIES IN THE AGRICULTURAL SECTOR AND IN
17 AGRICULTURAL LAND MANAGEMENT IN THE STATE, INCLUDING:

18 (A) SOIL HEALTH MANAGEMENT PRACTICES, INCLUDING COVER
19 CROPPING, MANURE MANAGEMENT, SOIL AMENDMENTS, ROTATIONAL
20 GRAZING, RANGELAND MANAGEMENT, LOW- AND NO-TILL PRACTICES, AND
21 HEDGE GROWS;

22 (B) THE USE OF DRY DIGESTERS; AND

23 (C) AN INVESTIGATION INTO THE POTENTIAL FOR CREATING AND
24 OFFERING A CERTIFIED GREENHOUSE GAS OFFSET PROGRAM AND CREDIT
25 INSTRUMENTS TO PROVIDE FUNGIBLE GREENHOUSE GAS OFFSETS FOR
26 AGRICULTURAL PRODUCERS AND IN AGRICULTURAL LAND MANAGEMENT.

27 (II) THE COMMISSIONER OR COMMISSIONER'S DESIGNEE SHALL

1 CONDUCT THE STUDY IN CONSULTATION WITH THE COLORADO ENERGY
2 OFFICE CREATED IN SECTION 24-38.5-101, THE AIR QUALITY CONTROL
3 COMMISSION CREATED IN SECTION 25-7-104 (1), THE NATURAL AND
4 WORKING LANDS TASK FORCE CONVENED BY THE DEPARTMENT OF
5 NATURAL RESOURCES, THE COLORADO STATE FOREST SERVICE, AND AN
6 INSTITUTION OF HIGHER EDUCATION WITH EXPERTISE IN CLIMATE CHANGE
7 MITIGATION, ADAPTATION BENEFITS, AND OTHER ENVIRONMENTAL
8 BENEFITS RELATED TO AGRICULTURAL RESEARCH.

9 (b) (I) ANY CERTIFIED GREENHOUSE GAS OFFSET PROGRAM AND
10 CREDIT INSTRUMENTS OFFERED MUST REFLECT REAL, ADDITIONAL,
11 QUANTIFIABLE, PERMANENT, VERIFIABLE, AND ENFORCEABLE REDUCTIONS
12 IN GREENHOUSE GAS EMISSIONS THAT ARE EQUIVALENT TO THE OFFSETS
13 PROVIDED AND MUST NOT REQUIRE AGRICULTURAL PRODUCERS'
14 PARTICIPATION.

15 (II) GREENHOUSE GAS OFFSETS DEVELOPED FOR AGRICULTURAL
16 PRODUCERS AND IN AGRICULTURAL LAND MANAGEMENT IN ACCORDANCE
17 WITH THIS SECTION:

18 (A) MAY BE INCORPORATED INTO THE AIR QUALITY CONTROL
19 COMMISSION'S RULES, INCLUDING RULES ADOPTED UNDER SECTION
20 25-7-105 (1)(e), AND, SPECIFICALLY, RULES CONCERNING COORDINATION
21 WITH OTHER JURISDICTIONS PURSUANT TO THE AUTHORITY GRANTED IN,
22 AND THE CONSIDERATIONS REQUIRED UNDER, SECTION 25-7-105 (1)(e)(V);

23 (B) MAY BE USED AS COMPLIANCE INSTRUMENTS BY A SOURCE
24 REGULATED UNDER ARTICLE 7 OF TITLE 25, WITH EMISSION REDUCTION
25 OBLIGATIONS ESTABLISHED BY THE AIR QUALITY CONTROL COMMISSION
26 THAT ENSURE THAT THE ANNUAL, OVERALL, ABSOLUTE EMISSIONS FROM
27 THE SOURCE, SECTOR, OR GROUP OF SOURCES DECLINE CONSISTENT WITH

1 THE STATEWIDE GREENHOUSE GAS EMISSION REDUCTION GOALS SET FORTH
2 IN SECTION 25-7-102 (2)(g); EXCEPT THAT, IF THE SOURCE IS LOCATED IN
3 A DISPROPORTIONATELY IMPACTED COMMUNITY, THE COMMISSION SHALL
4 ESTABLISH BY RULE AN ANNUAL, ABSOLUTE EMISSION REDUCTION
5 OBLIGATION SPECIFIC TO THE SOURCE.

6 (C) MUST NOT BE AVAILABLE AS AN INSTRUMENT FOR EMISSIONS
7 REDUCTION COMPLIANCE UNDER SECTION 25-7-105 (1)(e)(V) UNLESS THE
8 COMMISSION HAS ADOPTED RULES ESTABLISHING AN ANNUAL, ABSOLUTE
9 EMISSION REDUCTION OBLIGATION FOR THE RELEVANT SECTOR THAT IS
10 CONSISTENT WITH THE STATEWIDE GREENHOUSE GAS EMISSION REDUCTION
11 GOALS.

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

15 (2) THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE SHALL
16 SUBMIT TO THE GENERAL ASSEMBLY:

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

19 (b) A FINAL REPORT ON THE STUDY ON OR BEFORE OCTOBER 1,
20 2025. THE FINAL REPORT MUST INCLUDE ANY LEGISLATIVE, REGULATORY,
21 OR OTHER RECOMMENDATIONS FOR DESIGNING AND IMPLEMENTING
22 GREENHOUSE GAS REDUCTION AND CARBON SEQUESTRATION
23 OPPORTUNITIES FOR THE AGRICULTURAL SECTOR AND IN AGRICULTURAL
24 LAND MANAGEMENT IN THE STATE.

25 (3) (a) (I) UPON CONCLUSION OF THE STUDY, WITH REGARD TO ANY
26 RECOMMENDATIONS IN THE STUDY THAT DO NOT REQUIRE LEGISLATIVE
27 CHANGES, THE COMMISSIONER, IN CONSULTATION WITH THE COLORADO

1 ENERGY OFFICE AND THE AIR QUALITY CONTROL COMMISSION, MAY ADOPT
2 RULES TO IMPLEMENT THE RECOMMENDATIONS.

3 (II) ANY RULES ADOPTED PURSUANT TO THIS SUBSECTION (3)(a)
4 MUST NOT MANDATE PARTICIPATION BY AGRICULTURAL PRODUCERS IN
5 ANY GREENHOUSE GAS OFFSET PROGRAM OR ANY OTHER GREENHOUSE GAS
6 REDUCTION AND CARBON SEQUESTRATION PROGRAMS OR MECHANISMS
7 DEVELOPED IN RULE, BUT THE RULES MAY PROVIDE INCENTIVES TO
8 AGRICULTURAL PRODUCERS FOR THEIR VOLUNTARY PARTICIPATION IN ANY
9 PROGRAM OR MECHANISM DEVELOPED IN RULE PURSUANT TO THIS
10 SUBSECTION (3)(a).

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

17 (4) NOTHING IN THIS SECTION REQUIRES THE AIR QUALITY
18 CONTROL COMMISSION TO ADOPT RULES FOR GREENHOUSE GAS EMISSION
19 OFFSETS OR CREDIT MECHANISMS OR TO ACCEPT ANY GREENHOUSE GAS
20 EMISSION OFFSETS OR CREDIT MECHANISMS AS COMPLIANCE INSTRUMENTS
21 FOR EMISSION REDUCTION COMPLIANCE OR VERIFICATION.

22 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
23 REQUIRES:

24 (a) "ANAEROBIC DIGESTER" MEANS A SEALED, OXYGEN-FREE TANK
25 INTO WHICH FEEDSTOCK, SUCH AS FOOD WASTE, ANIMAL MANURE, OR
26 WASTEWATER SLUDGE, IS PLACED FOR ANAEROBIC DIGESTION BY
27 MICROORGANISMS. AN ANAEROBIC DIGESTER CAN BE USED AS A MEANS OF

1 WASTE DISPOSAL OR ENERGY PRODUCTION.

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

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

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

8 **37-60-115. Water studies - rules - reports - definitions - repeal.**

9 (12) (a) Study. (I) THE BOARD, IN CONSULTATION WITH THE STATE
10 ENGINEER, THE COLORADO ENERGY OFFICE, AND THE INSTITUTE, SHALL
11 CONDUCT A STUDY TO DETERMINE THE FEASIBILITY OF THE USE OF
12 FLOATOVOLTAICS AS A MEANS OF INCREASING THE BENEFICIAL
13 CONSUMPTIVE USE OF STATE WATERS BY REDUCING EVAPORATION FROM,
14 AND LOWERING TEMPERATURES OF, IRRIGATION CANALS AND RESERVOIRS
15 UPON WHICH FLOATOVOLTAIC INFRASTRUCTURE IS PLACED. IN STUDYING
16 THE FEASIBILITY OF USING FLOATOVOLTAICS, THE BOARD SHALL ENSURE
17 THAT ANY FLOATOVOLTAIC INFRASTRUCTURE USED IN THE STUDY DOES
18 NOT INTERFERE WITH INSTREAM FLOWS, AS DESCRIBED IN SECTION
19 37-92-102 (3), OR WITH WATER RIGHTS OWNERS' ABILITY TO DIVERT
20 WATER FOR BENEFICIAL USE.

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

27 (b) Report. ON OR BEFORE JANUARY 1, 2025, THE BOARD SHALL

1 SUBMIT A REPORT OF THE FINDINGS AND CONCLUSIONS OF THE STUDY TO
2 THE HOUSE OF REPRESENTATIVES AGRICULTURE, WATER, AND NATURAL
3 RESOURCES COMMITTEE AND THE SENATE AGRICULTURE AND NATURAL
4 RESOURCES COMMITTEE, OR THEIR SUCCESSOR COMMITTEES.

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

7
8 (I) "BENEFICIAL USE" HAS THE MEANING SET FORTH IN SECTION
9 37-92-103 (4).

10 (II) "DIVERT" HAS THE MEANING SET FORTH IN SECTION 37-92-103
11 (7).

12 (III) "FLOATOVOLTAICS" MEANS ONE OR MORE SOLAR ENERGY
13 GENERATION FACILITIES PLACED OVER, NEAR, OR FLOATING ON IRRIGATION
14 CANALS OR RESERVOIRS IN THE STATE.

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

17 (V) "WATER RIGHT" HAS THE MEANING SET FORTH IN SECTION
18 37-92-103 (12).

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

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

23 **39-3-122. Agricultural equipment used in production of**
24 **agricultural products - CEA facilities - exemption - definition. (3) ON**
25 **AND AFTER JANUARY 1, 2024, BUT BEFORE JANUARY 2, 2029, PERSONAL**
26 **PROPERTY IS EXEMPTED FROM THE LEVY AND COLLECTION OF PROPERTY**
27 **TAX IF THE PROPERTY IS MACHINERY OR EQUIPMENT THAT IS PART OF A**

1 SOLAR ENERGY GENERATING SYSTEM THAT IS USED FOR AGRIVOLTAICS,
2 AND IF THE PROPERTY:

3 (a) INCORPORATES NOVEL DESIGNS, TECHNOLOGIES, OR
4 CONFIGURATIONS THAT SIGNIFICANTLY EXPAND THE POTENTIAL FOR
5 AGRICULTURAL ACTIVITIES, INCLUDING BY:

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

8 (II) UTILIZING TRANSLUCENT PANELS OR PANELS WITH TUBULAR
9 OR OTHER INNOVATIVE PANEL GEOMETRY THAT SUPPORTS AGRIVOLTAICS;

10 (III) INCORPORATING ALTERNATIVE SOLAR TRACKING ALGORITHMS
11 THAT ARE TAILORED TO OPTIMIZE VEGETATIVE GROWTH;

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

14 (V) INCORPORATING MODIFIED WIRE MANAGEMENT SYSTEMS THAT
15 SUPPORT LIVESTOCK, INCLUDING RAISING, LOWERING, OR BURYING
16 WIRING;

17 (VI) INCORPORATING INNOVATIVE PHOTOVOLTAIC RACKING
18 STRUCTURES, INCLUDING TENSIONED WIRE RACKING SYSTEMS,
19 SUSPENSION-BASED SYSTEMS, OR OTHER DYNAMIC PHOTOVOLTAIC
20 RACKING SYSTEMS OR ARRANGEMENTS;

21 (VII) INCORPORATING AGRICULTURAL INFRASTRUCTURE THAT IS
22 TYPICALLY FOUND ON A FARM OR RANCH OPERATION, SUCH AS
23 AGRICULTURAL FENCES, WATER SOURCES AND DISTRIBUTION, WATER
24 TROUGHS AND TANKS, CORRALS, LIVESTOCK PENS, OR PRODUCE HANDLING
25 EQUIPMENT; OR

26 (VIII) INCORPORATING AGRICULTURAL STRUCTURES THAT ARE
27 TYPICALLY FOUND ON AN AGRICULTURAL OPERATION, SUCH AS A TRACTOR

1 SHED, A BARN, OR STRUCTURES FOR EQUIPMENT STORAGE, PRODUCE
2 WASHING, STORAGE, PROCESSING, OR CHILLING AND PACKAGING;

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 ARE PLANNED WITH THE INTENT TO MINIMIZE THE NEGATIVE
7 ENVIRONMENTAL IMPACT OF PHOTOVOLTAIC ENERGY PRODUCTION
8 FACILITIES ON ECOSYSTEMS, NATIVE VEGETATION, STATE AND FEDERALLY
9 LISTED SPECIES, WILDLIFE MIGRATION CORRIDORS, AND THE SPECIES,
10 HABITATS, AND ECOSYSTEMS OF GREATEST CONSERVATION NEED.

11 (4) AS USED IN THIS SECTION, "AGRIVOLTAICS" HAS THE MEANING
12 SET FORTH IN SECTION 35-1-114 (4)(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 (4)(a), AND FOR
2 FLOATOVOLTAICS, AS DEFINED IN SECTION 37-60-115 (12)(c)(III).

3

4 **SECTION 7. Appropriation.** (1) For the 2023-24 state fiscal
5 year, \$611,870 General Fund is appropriated to the department of
6 agriculture for use by the commissioner's office and administrative
7 services. To implement this act, the office may use this appropriation as
8 follows:

9 (a) \$24,370 for personal services, which amount is based on an
10 assumption that the office will require an additional 0.3 FTE;

11 (b) \$87,500 for operating expenses; and

12 (c) \$500,000 for agrivoltaics grants.

13

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