

HOUSE COMMITTEE OF REFERENCE REPORT

\_\_\_\_\_ Date May 5, 2022  
Chair of Committee

Committee on Finance.

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 Appropriations with favorable recommendation:

1 Amend reengrossed bill, page 6, strike line 14 and substitute "(1)(e)(IX)  
2 and (1)(e)(XIII) introductory portion; and **add** (1)(e)(IX.3), (1)(e)(IX.5),  
3 (1)(e)(IX.7), (1)(e)(XIV), and (1)(e)(XV) as follows:".

4 Page 6, line 16, strike "**definitions.**" and substitute "**definitions -**  
5 **repeal.**".

6 Page 6, strike line 20 and substitute:

7 "(e) (IX) (A) In addressing greenhouse gas emissions from an  
8 energy-intensive, trade-exposed manufacturing source, the commission  
9 shall require the source to execute an energy and emission control audit,  
10 according to criteria established by the commission, of the source's  
11 operations every five years through at least 2035. A qualified third party,  
12 as determined by the commission, shall conduct the audit and submit the  
13 results to the commission.

14 (B) If the commission determines that the source currently  
15 employs best available emission control technologies for greenhouse gas  
16 emissions and best available energy efficiency practices, the commission  
17 shall not impose a direct nonadministrative cost on the source directly  
18 associated with at least ninety-five percent of the source's greenhouse gas  
19 emissions attributable to manufacturing a good in this state for a period  
20 of five years, if the source's emissions are not greater than the emissions  
21 associated with use of the best available emission control technologies as  
22 determined by the commission.

23 (C) The commission shall consider how program design as  
24 relevant to those sources can further mitigate the cost of reducing  
25 emissions for such manufacturers while providing an incentive to

1 improve efficiency and reduce emissions. Specifically, the commission  
2 shall design the program as relevant to those sources such that as the  
3 sources are subject to emission reduction requirements, those sources will  
4 have, under the program, a pathway to obtain equivalent lower-cost  
5 emission reductions at other regulated sources to satisfy their compliance  
6 obligations.

7 ~~(B)~~ (IX.3) As used in this subsection (1)(e)(IX) OF THIS SECTION,  
8 "energy-intensive, trade-exposed manufacturing source" means: ~~an~~

9 (A) ANY entity, INCLUDING AN entity that principally manufactures  
10 iron, steel, aluminum, pulp, paper, or cement, ~~and~~ WHICH ENTITIES SHALL  
11 BE DEEMED PRESUMPTIVELY ENERGY-INTENSIVE, TRADE-EXPOSED  
12 MANUFACTURING SOURCES; OR

13 (B) AN ENTITY that is engaged in the manufacture of goods  
14 through one or more emissions-intensive, trade-exposed processes, as  
15 determined by the commission UPON A PETITION BY SUCH ENTITY, USING  
16 THE DEFINITIONS SET FORTH IN SUBSECTION (1)(e)(IX.5) OF THIS SECTION.

17 (IX.5) AS USED IN THIS SUBSECTION (1)(e):

18 (A) "EMISSIONS-INTENSIVE" MEANS THAT AN ENTITY REPORTS  
19 DIRECT GREENHOUSE GAS EMISSIONS EQUAL TO OR GREATER THAN  
20 TWENTY-FIVE THOUSAND METRIC TONS OF CARBON DIOXIDE EQUIVALENT  
21 PER YEAR UNDER FEDERAL REGULATIONS OR STATE RULES.

22 (B) "TRADE-EXPOSED" MEANS THAT AN ENTITY THAT  
23 MANUFACTURES GOODS IN THE INDUSTRIAL AND MANUFACTURING SECTOR  
24 INCURS COSTS TO COMPLY WITH STATE RULES TO WHICH OUT-OF-STATE  
25 COMPETITORS ARE NOT SUBJECT OR THAT SUCH ENTITY WOULD OTHERWISE  
26 BE DISADVANTAGED COMPETITIVELY IF REQUIRED TO COMPLY WITH THE  
27 RULES THAT THE COMMISSION ADOPTS PURSUANT TO SUBSECTION  
28 (1)(e)(XIII) OF THIS SECTION.

29 (IX.7) ON OR BEFORE AUGUST 1, 2023, THE COMMISSION SHALL  
30 MODIFY ANY RULES ADOPTED PURSUANT TO SUBSECTION (1)(e)(IX) OF  
31 THIS SECTION TO REFLECT THE DEFINITIONS SET FORTH IN SUBSECTION  
32 (1)(e)(IX.5) OF THIS SECTION.

33 (XIII) In implementing this subsection (1)(e), the commission".

34 Page 7, line 7, before "GREENHOUSE" insert "DIRECT FACILITY".

35 Page 7, strike line 11 and substitute:

36 "(XIV) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

37 (A) PURSUANT TO SUBSECTION (1)(e)(XIII) OF THIS SECTION, THE  
38 COMMISSION IS REQUIRED TO ADOPT RULES ON OR BEFORE AUGUST 1,  
39 2023, TO REDUCE GREENHOUSE GAS EMISSIONS FROM SOURCES WITHIN THE  
40 INDUSTRIAL AND MANUFACTURING SECTOR THAT REPORTED, PURSUANT

1 TO PART A OF 5 CCR 1001-26, REFERRED TO IN THIS SUBSECTION  
2 (1)(e)(XIV) AS "REGULATION NUMBER 22", DIRECT FACILITY GREENHOUSE  
3 GAS EMISSIONS OF GREATER THAN TWENTY-FIVE THOUSAND METRIC TONS  
4 FROM CALENDAR YEAR 2020;

5 (B) THE LIMITATION SET FORTH IN SUBSECTION (1)(e)(XIII) OF  
6 THIS SECTION TO REPORT "DIRECT FACILITY" GREENHOUSE GAS EMISSIONS  
7 IS INTENDED TO EXCLUDE FROM THE TWENTY-FIVE THOUSAND METRIC TON  
8 TRIGGER THE INDIRECT GREENHOUSE GAS EMISSIONS REPORTED UNDER  
9 REGULATION NUMBER 22, SUCH AS INDIRECT EMISSIONS REPORTED BY  
10 MIDSTREAM NATURAL GAS LIQUID FRACTIONATORS PURSUANT TO SUBPART  
11 NN, SUPPLIERS OF NATURAL GAS LIQUIDS, OF 40 CFR PART 98 REGARDING  
12 MANDATORY GREENHOUSE GAS REPORTING, INCLUDING EMISSIONS  
13 RESULTING FROM THE COMBUSTION OR RELEASE OF PRODUCTS BEING  
14 SUPPLIED BY NATURAL GAS LIQUID FRACTIONATOR SUPPLIERS;

15 (C) THROUGH REGULATION NUMBER 22, THE COMMISSION  
16 ADOPTED A SEPARATE RULE IN DECEMBER 2021 REGARDING, AMONG  
17 OTHER THINGS, THE CONTROL OF INDUSTRIAL AND MANUFACTURING  
18 DIRECT EMISSIONS FROM FUEL COMBUSTION EQUIPMENT UTILIZED BY  
19 MIDSTREAM NATURAL GAS FRACTIONATORS;

20 (D) THE LIMITATION DESCRIBED IN SUBSECTION (1)(e)(XIV)(B) OF  
21 THIS SECTION IS NOT INTENDED TO ALTER THE EXISTING STATUTORY  
22 DEFINITION OF "INDUSTRIAL AND MANUFACTURING SECTOR" SET FORTH IN  
23 SUBSECTION (1)(e)(XI)(B.5) OF THIS SECTION, WHICH DEFINITION  
24 INCLUDES EMISSIONS FROM BOTH ENERGY COMBUSTION AND ENERGY USE  
25 AND INDUSTRIAL PROCESSES BY SOURCES IN THE INDUSTRIAL AND  
26 MANUFACTURING SECTOR; AND

27 (E) THE PHRASE "AT A MINIMUM" IN SUBSECTION (1)(e)(XIII) OF  
28 THIS SECTION IS INTENDED TO CLARIFY THAT THE COMMISSION HAS A  
29 MANDATORY DUTY TO REGULATE CERTAIN INDUSTRIAL AND  
30 MANUFACTURING SOURCES IN THE 2023 RULE-MAKING REQUIRED UNDER  
31 SUBSECTION (1)(e)(XIII) OF THIS SECTION AND THAT THE COMMISSION  
32 RETAINS THE DISCRETION TO INCLUDE OTHER INDUSTRIAL AND  
33 MANUFACTURING SOURCES IN THAT RULE-MAKING.

34 (XV) THIS SUBSECTION (1)(e)(XV) AND SUBSECTION (1)(e)(XIV)  
35 OF THIS SECTION ARE REPEALED, EFFECTIVE JULY 1, 2025."

36 Page 16, line 3, strike "2030," and substitute "2027,".

37 Page 17, line 26, strike "2039." and substitute "2036.".

38 Page 17, after line 26 insert:

39 **"SECTION 13.** In Colorado Revised Statutes, 40-2-127, **amend**

1 (5)(b)(II) as follows:

2 **40-2-127. Community energy funds - community solar**  
3 **gardens - definitions - rules - legislative declaration - repeal.**

4 (5) **Purchases of the output from community solar gardens.**

5 (b) (II) (A) The purchase of the output of a community solar garden by  
6 a qualifying retail utility shall MUST take the form of a net metering credit  
7 against the qualifying retail utility's electric bill to each community solar  
8 garden subscriber at the premises set forth in the subscriber's subscription.

9 (B) FOR A SUBSCRIBER ORGANIZATION THAT DIRECTS THE  
10 QUALIFYING RETAIL UTILITY TO PROVIDE THE SUBSCRIBER  
11 ORGANIZATION'S SUBSCRIBERS WITH A BILL CREDIT THAT CHANGES  
12 ANNUALLY, the net metering credit shall be calculated by multiplying the  
13 subscriber's share of the electricity production from the community solar  
14 garden by the qualifying retail utility's total aggregate retail rate as  
15 charged to the subscriber, minus a reasonable charge as determined by the  
16 commission to cover the utility's costs of delivering to the subscriber's  
17 premises the electricity generated by the community solar garden,  
18 integrating the solar generation with the utility's system, and  
19 administering the community solar garden's contracts and net metering  
20 credits. The commission shall ensure that this charge does not reflect  
21 costs that are already recovered by the utility from the subscriber through  
22 other charges. If, and to the extent that, a subscriber's net metering credit  
23 exceeds the subscriber's electric bill in any billing period, the net metering  
24 credit shall be carried forward and applied against future bills. The  
25 qualifying retail utility and the owner of the community solar garden shall  
26 agree on whether the purchase of the renewable energy credits from  
27 subscribers will be accomplished through a credit on each subscriber's  
28 electricity bill or by a payment to the owner of the community solar  
29 garden.

30 (C) FOR A SUBSCRIBER ORGANIZATION THAT DIRECTS THE  
31 QUALIFYING RETAIL UTILITY TO PROVIDE THE SUBSCRIBER  
32 ORGANIZATION'S SUBSCRIBERS WITH A FIXED BILL CREDIT, THE NET  
33 METERING CREDIT SHALL BE CALCULATED BY MULTIPLYING THE  
34 SUBSCRIBER'S SHARE OF THE ELECTRICITY PRODUCTION FROM THE  
35 COMMUNITY SOLAR GARDEN BY THE QUALIFYING RETAIL UTILITY'S TOTAL  
36 AGGREGATE RETAIL RATE AS CHARGED TO THE SUBSCRIBER AT THE TIME  
37 THE SUBSCRIBER ORGANIZATION APPLIES FOR, OR BIDS CAPACITY INTO, A  
38 UTILITY COMMUNITY SOLAR GARDEN PROGRAM, MINUS A REASONABLE  
39 CHARGE, AS DETERMINED BY THE COMMISSION, AT THE TIME THE  
40 SUBSCRIBER ORGANIZATION APPLIES FOR, OR BIDS CAPACITY INTO, A  
41 UTILITY COMMUNITY SOLAR PROGRAM, TO COVER THE UTILITY'S COSTS OF  
42 DELIVERING TO THE SUBSCRIBER'S PREMISES THE ELECTRICITY GENERATED  
43 BY THE COMMUNITY SOLAR GARDEN, INTEGRATING THE SOLAR

1 GENERATION WITH THE UTILITY'S SYSTEM, AND ADMINISTERING THE  
2 COMMUNITY SOLAR GARDEN'S CONTRACTS AND NET METERING CREDITS.  
3 THE COMMISSION SHALL ENSURE THAT THIS CHARGE DOES NOT REFLECT  
4 COSTS THAT ARE ALREADY RECOVERED BY THE UTILITY FROM THE  
5 SUBSCRIBER THROUGH OTHER CHARGES. FOR COMMUNITY SOLAR  
6 GARDENS ELIGIBLE FOR A FIXED BILL CREDIT, AND SOLELY FOR THE  
7 PURPOSE OF APPLYING THE BILL CREDIT TO A SUBSCRIBER'S BILL, THE BILL  
8 CREDIT SHALL NOT BE APPLIED TOWARD RATE RIDER CHARGES THAT  
9 PROMOTE CLEAN ENERGY TECHNOLOGIES INCLUDING BENEFICIAL  
10 ELECTRIFICATION, PROVIDE LOW-INCOME BILL ASSISTANCE, OR PROVIDE  
11 OTHER PUBLIC BENEFITS AS DETERMINED BY THE COMMISSION UNLESS  
12 SUCH RIDERS ARE INCLUDED IN THE REASONABLE CHARGE. IF, AND TO THE  
13 EXTENT THAT, A SUBSCRIBER'S NET METERING CREDIT EXCEEDS THE  
14 SUBSCRIBER'S ELECTRIC BILL IN ANY BILLING PERIOD, THE NET METERING  
15 CREDIT SHALL BE CARRIED FORWARD AND APPLIED AGAINST FUTURE BILLS.  
16 THE QUALIFYING RETAIL UTILITY AND THE OWNER OF THE COMMUNITY  
17 SOLAR GARDEN SHALL AGREE ON WHETHER THE PURCHASE OF THE  
18 RENEWABLE ENERGY CREDITS FROM SUBSCRIBERS WILL BE ACCOMPLISHED  
19 THROUGH A CREDIT ON EACH SUBSCRIBER'S ELECTRICITY BILL OR BY A  
20 PAYMENT TO THE OWNER OF THE COMMUNITY SOLAR GARDEN. BY MARCH  
21 1, 2023, THE COMMISSION SHALL ADOPT RULES TO IMPLEMENT THE FIXED  
22 BILL CREDIT, WHICH RULES MUST CONSIDER THE CHANGE OF VALUE TO  
23 COMMUNITY SOLAR GARDEN CUSTOMERS OF THE FIXED BILL CREDIT OVER  
24 TIME THROUGH RATE ADJUSTMENTS OR OTHER MECHANISMS."

25 Renumber succeeding sections accordingly.

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