

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

March 15, 2022

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:

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

2 Page 4, strike lines 1 through 5 and substitute "**rules - definition.**
3 (1) THE COMMISSIONER SHALL ADOPT RULES REQUIRING THAT, BEGINNING
4 IN 2023, INSURERS ISSUED A CERTIFICATE OF AUTHORITY TO TRANSACT
5 BUSINESS PURSUANT TO PART 1 OF THIS ARTICLE 3 THAT REPORT MORE
6 THAN ONE HUNDRED MILLION DOLLARS ON THEIR ANNUAL NAIC
7 SCHEDULE T FILING PARTICIPATE IN AND COMPLETE THE NAIC'S ANNUAL
8 "INSURER CLIMATE RISK DISCLOSURE SURVEY". IF AN INSURER REPORTS
9 LESS THAN ONE HUNDRED MILLION DOLLARS ON ITS ANNUAL NAIC
10 SCHEDULE T FILING, THE INSURER MAY PARTICIPATE IN AND COMPLETE
11 THE SURVEY VOLUNTARILY.

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

16 Page 4, strike lines 14 and 15 and substitute:

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

26 **SECTION 3.** In Colorado Revised Statutes, 25-6.5-201, **amend**

1 (2); and **add** (3) as follows:
2 **25-6.5-201. Definitions.** As used in this part 2, unless the context
3 otherwise requires:
4 (2) (a) "Pollution control equipment" means any personal
5 property, including, but not limited to, equipment, machinery, devices,
6 systems, buildings, or structures, that is installed, constructed, or used in
7 or as a part of a facility that creates a product in a manner that generates
8 less pollution by the utilization of an alternative manufacturing or
9 generating technology.
10 (b) "Pollution control equipment" includes, but is not limited to:
11 (I) Gas or wind turbines and associated compressors or
12 equipment; ~~or~~
13 (II) Solar, thermal, or photovoltaic equipment; OR
14 (III) WASTEWATER THERMAL ENERGY EQUIPMENT.
15 (3) "WASTEWATER THERMAL ENERGY EQUIPMENT" MEANS
16 EQUIPMENT USED AS PART OF A SYSTEM THAT USES THERMAL ENERGY IN
17 WASTEWATER TO GENERATE ELECTRICITY, TO HEAT OR COOL A SPACE, OR
18 FOR ANY OTHER USEFUL THERMAL PURPOSE."

19 Renumber succeeding sections accordingly.

20 Page 5, after line 7 insert:

21 **"SECTION 4.** In Colorado Revised Statutes, 25-7-105, **amend**
22 (1)(e)(XIII) introductory portion as follows:
23 **25-7-105. Duties of commission - rules - legislative declaration**
24 **- definitions.** (1) Except as provided in sections 25-7-130 and 25-7-131,
25 the commission shall promulgate rules that are consistent with the
26 legislative declaration set forth in section 25-7-102 and necessary for the
27 proper implementation and administration of this article 7, including:
28 (e) (XIII) In implementing this subsection (1)(e), the commission
29 shall adopt rules to reduce statewide greenhouse gas emissions from the
30 industrial and manufacturing sector in the state by at least twenty percent
31 by 2030 below the 2015 baseline established pursuant to section 25-7-140
32 (2)(a)(II), taking into account the factors set out in subsections (1)(e)(II)
33 to (1)(e)(VI) of this section. The rules must include protections for
34 disproportionately impacted communities and prioritize emission
35 reductions that will reduce emissions of co-pollutants that adversely
36 affect disproportionately impacted communities, be designed to accelerate
37 near-term reductions, and secure meaningful emission reductions from
38 this sector to be realized beginning no later than September 30, 2024. THE
39 COMMISSION SHALL ADOPT THE RULES PURSUANT TO THIS SUBSECTION
40 (1)(e)(XIII) ON OR BEFORE DECEMBER 31, 2022. The rules must:"

- 1 Renumber succeeding sections accordingly.
- 2 Page 5, strike lines 8 through 27.
- 3 Strike page 6.
- 4 Page 7, strike lines 1 through 3.
- 5 Renumber succeeding sections accordingly.
- 6 Page 7, strike line 14 and substitute "(9)(a); and **add** (9)(c) as follows:".
- 7 Page 7, line 16, strike "**definition.**" and substitute "**definitions.**".
- 8 Page 7, line 17, after "law," insert "SUBJECT TO SUBSECTION (9)(c) OF THIS
9 SECTION AND ONLY AFTER THE GOVERNOR AND COMMISSION HAVE MADE
10 AN AFFIRMATIVE DETERMINATION THAT THE STATE HAS SUFFICIENT
11 RESOURCES NECESSARY TO ENSURE THE SAFE AND EFFECTIVE REGULATION
12 OF THE SEQUESTRATION OF GREENHOUSE GASES IN ACCORDANCE WITH
13 FINDINGS FROM THE COMMISSION'S STUDY CONDUCTED PURSUANT TO
14 SUBSECTION (9)(b) OF THIS SECTION,".
- 15 Page 7, strike lines 23 and 24 and substitute "TERM IS DEFINED IN SECTION
16 25-7-140 (6).
- 17 (c) (I) THE COMMISSION MAY SEEK CLASS VI INJECTION WELL
18 PRIMACY UNDER THE FEDERAL "CLEAN AIR ACT", 42 U.S.C. SEC. 7401 ET
19 SEQ., AS AMENDED, AFTER OBTAINING AND PUBLICLY DETERMINING THAT
20 THE COMMISSION HAS THE NECESSARY RESOURCES FOR THE APPLICATION
21 OUTLINED IN THE COMMISSION'S STUDY PERFORMED PURSUANT TO
22 SUBSECTION (9)(b) OF THIS SECTION.
- 23 (II) THE COMMISSION MAY ISSUE AND ENFORCE PERMITS AS
24 NECESSARY FOR THE PURPOSE SET FORTH IN THIS SUBSECTION (9)(c) AFTER
25 THE DETERMINATION SET FORTH IN SUBSECTION (9)(c)(I) OF THIS SECTION
26 HAS BEEN MADE AND THE REQUIREMENTS SET FORTH IN SUBSECTION (9)(a)
27 OF THIS SECTION HAVE BEEN SATISFIED. IN ISSUING AND ENFORCING
28 PERMITS PURSUANT TO THIS SUBSECTION (9)(c), THE COMMISSION SHALL
29 ENSURE THAT THE PERMITTING OF CLASS VI INJECTION WELLS DOES NOT
30 ADVERSELY AND DISPROPORTIONATELY AFFECT THE HEALTH AND
31 WELL-BEING OF DISPROPORTIONATELY IMPACTED COMMUNITIES.
- 32 (III) NOTWITHSTANDING THE PERMITTING OF A WELL BY THE
33 COMMISSION, THE OPERATOR IS FINANCIALLY RESPONSIBLE FOR ALL
34 OUTCOMES, AND THE COMMISSION SHALL REQUIRE THE OPERATOR TO
35 PROVIDE ADEQUATE BONDING TO ENSURE THAT THE OPERATOR IS

1 FINANCIALLY ABLE TO MEET ALL OBLIGATIONS RELATED TO THE WELL
2 THROUGHOUT THE LIFE OF THE WELL. THE COMMISSION SHALL ALSO
3 ENSURE THAT THE OPERATOR CARRIES ADEQUATE INSURANCE TO COVER
4 ACCIDENTS AT AND ENVIRONMENTAL DAMAGE CAUSED BY THE WELL.

5 (IV) AS USED IN THIS SUBSECTION (9), "DISPROPORTIONATELY
6 IMPACTED COMMUNITY" HAS THE MEANING SET FORTH IN SECTION
7 24-4-109 (2)(b)(II)."

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

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

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

17 Page 8, strike lines 10 through 17 and substitute "PRODUCERS AND IN
18 LANDMANAGEMENT. A CERTIFIED CARBON OFFSET PROGRAM AND CREDIT
19 INSTRUMENTS OFFERED MUST REFLECT REAL, ADDITIONAL, QUANTIFIABLE,
20 PERMANENT, VERIFIABLE, AND ENFORCEABLE REDUCTIONS IN
21 GREENHOUSE GAS EMISSIONS THAT ARE EQUIVALENT TO THE OFFSETS
22 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
28 PURSUANT TO THE AUTHORITY GRANTED IN, AND THE CONSIDERATIONS
29 REQUIRED UNDER, SECTION 25-7-105 (1)(e)(V); AND

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

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

38 (II) AS USED IN THIS SUBSECTION (1)(c), "DISPROPORTIONATELY
39 IMPACTED COMMUNITY" HAS THE MEANING SET FORTH IN SECTION

1 24-4-109 (2)(b)(II).
2 (2) ON OR BEFORE OCTOBER 1, 2024, THE COMMISSIONER OR
3 COMMISSIONER'S DESIGNEE SHALL SUBMIT TO THE GENERAL ASSEMBLY A
4 REPORT SUMMARIZING THE STUDY, INCLUDING ANY LEGISLATIVE,
5 REGULATORY, OR OTHER RECOMMENDATIONS FOR DESIGNING AND
6 IMPLEMENTING CARBON REDUCTION AND SEQUESTRATION OPPORTUNITIES
7 FOR THE AGRICULTURAL SECTOR AND IN LAND MANAGEMENT IN THE
8 STATE. THE COMMISSIONER OR COMMISSIONER'S DESIGNEE SHALL SUBMIT
9 TO THE GENERAL ASSEMBLY AN UPDATE ON THE PROGRESS OF THE STUDY
10 ON OR BEFORE OCTOBER 1, 2023.
11 (3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025."

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

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

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

17 Page 9, after line 8 insert:

18 "(III) TO IMPLEMENT SUBSECTION (1)(a)(II) OF THIS SECTION, THE
19 STATE TREASURER SHALL TRANSFER ONE MILLION EIGHT HUNDRED
20 THOUSAND DOLLARS FROM THE GENERAL FUND TO THE AGRICULTURE
21 VALUE-ADDED CASH FUND CREATED IN SECTION 35-75-205:
22 (A) ON THE EFFECTIVE DATE OF THIS SUBSECTION (1)(a)(III); AND
23 (B) ON JULY 1, 2023, AND ON EACH JULY 1 THEREAFTER THROUGH
24 JULY 1, 2027.
25 (IV) SUBSECTION (1)(a)(III) OF THIS SECTION AND THIS
26 SUBSECTION (1)(a)(IV) ARE REPEALED, EFFECTIVE JULY 1, 2028."

27 Page 9, strike line 27.

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

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

32 Page 13, strike lines 5 through 8 and substitute:

33 "(a) "SMALL OFF-ROAD ENGINE" MEANS A GASOLINE-POWERED

1 ENGINE OF TEN HORSEPOWER OR LESS THAT IS USED TO FUEL SMALL
2 OFF-ROAD EQUIPMENT.

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

7 Page 13, after line 11 insert:

8 "SECTION 12. **Appropriation.** For the 2022-23 state fiscal year,
9 \$2,200,000 is appropriated to the department of agriculture. This
10 appropriation is from the general fund. To implement this act, the
11 department may use this appropriation for the purpose of conducting a
12 study pursuant to section 35-1-116, C.R.S."

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

15 **40-3.2-108. Clean heat targets - legislative declaration -**
16 **definitions - plans - rules - reports. (2) Definitions.** As used in this
17 section, unless the context otherwise requires:

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

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

21 (V.5) WASTEWATER THERMAL ENERGY; AND

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

25 Renumber succeeding section accordingly.

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

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