

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0514.01 Jennifer Berman x3286

SENATE BILL 23-092

SENATE SPONSORSHIP

Simpson and Hansen,

HOUSE SPONSORSHIP

McCormick and Soper,

Senate Committees

Agriculture & Natural Resources
Appropriations

House Committees

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.*

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 AQUAVOLTAICS 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) and (5) 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) Task force. (a) ON OR BEFORE SEPTEMBER 1, 2023, THE
24 OFFICE SHALL CONVENE AN AGRIVOLTAICS TASK FORCE TO CONDUCT A
25 STUDY IN CONSULTATION WITH THE DEPARTMENT, THE COLORADO
26 ENERGY OFFICE CREATED IN SECTION 24-38.5-101 (1), AND THE DIVISION
27 OF PARKS AND WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES

1 CREATED IN SECTION 33-9-104(1) TO EVALUATE THE OPPORTUNITIES AND
2 CHALLENGES ASSOCIATED WITH AGRIVOLTAICS IN THE STATE, INCLUDING:

3 (I) THE TECHNICAL, OPERATIONAL, ENVIRONMENTAL, OR
4 FINANCIAL BARRIERS TO AN EXPANSION OF THE ADOPTION OF
5 AGRIVOLTAICS IN THE STATE; AND

6 (II) POTENTIAL STATE-LEVEL POLICIES AND PROGRAMS TO
7 MINIMIZE THE BARRIERS.

8 (b) ON OR BEFORE FEBRUARY 15, 2024, THE TASK FORCE SHALL
9 PRESENT THE RESULTS OF THE STUDY, INCLUDING ANY
10 RECOMMENDATIONS FOR LEGISLATION, TO THE JOINT COMMITTEE OF THE
11 HOUSE OF REPRESENTATIVES AGRICULTURE, WATER, AND NATURAL
12 RESOURCES COMMITTEE AND THE SENATE AGRICULTURE AND NATURAL
13 RESOURCES COMMITTEE, OR THEIR SUCCESSOR COMMITTEES.

14 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
15 REQUIRES:

16 (a) "AGRIVOLTAICS" MEANS ONE OR MORE SOLAR ENERGY
17 GENERATION FACILITIES DIRECTLY INTEGRATED WITH AGRICULTURAL
18 ACTIVITIES, INCLUDING CROP PRODUCTION, GRAZING, ANIMAL
19 HUSBANDRY, APIARIES, COVER CROPPING TO IMPROVE SOIL HEALTH OR
20 INSECT HABITAT BENEFITS OR CARBON SEQUESTRATION, OR PRODUCTION
21 OF AGRICULTURAL COMMODITIES FOR SALE IN THE RETAIL OR WHOLESALE
22 MARKET.

23 == ==
24 (b) "OFFICE" MEANS THE AGRICULTURAL DROUGHT AND CLIMATE
25 RESILIENCE OFFICE CREATED IN SUBSECTION (2) OF THIS SECTION.

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

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

9 (A) SOIL HEALTH MANAGEMENT PRACTICES, INCLUDING COVER
10 CROPPING, MANURE MANAGEMENT, SOIL AMENDMENTS, ROTATIONAL
11 GRAZING, RANGELAND MANAGEMENT, LOW- AND NO-TILL PRACTICES, AND
12 HEDGE GROWS;

13 (B) THE USE OF DRY DIGESTERS; AND

14 (C) AN INVESTIGATION INTO THE POTENTIAL FOR CREATING AND
15 OFFERING A CERTIFIED GREENHOUSE GAS OFFSET PROGRAM AND CREDIT
16 INSTRUMENTS TO PROVIDE FUNGIBLE GREENHOUSE GAS OFFSETS FOR
17 AGRICULTURAL PRODUCERS AND IN AGRICULTURAL LAND MANAGEMENT.

18 (II) THE COMMISSIONER OR COMMISSIONER'S DESIGNEE SHALL
19 CONDUCT THE STUDY IN CONSULTATION WITH THE COLORADO ENERGY
20 OFFICE CREATED IN SECTION 24-38.5-101, THE AIR QUALITY CONTROL
21 COMMISSION CREATED IN SECTION 25-7-104 (1), THE NATURAL AND
22 WORKING LANDS TASK FORCE CONVENED BY THE DEPARTMENT OF
23 NATURAL RESOURCES, THE COLORADO STATE FOREST SERVICE, AND AN
24 INSTITUTION OF HIGHER EDUCATION WITH EXPERTISE IN CLIMATE CHANGE
25 MITIGATION, ADAPTATION BENEFITS, AND OTHER ENVIRONMENTAL
26 BENEFITS RELATED TO AGRICULTURAL RESEARCH.

27 (b) (I) ANY CERTIFIED GREENHOUSE GAS OFFSET PROGRAM AND

1 CREDIT INSTRUMENTS OFFERED MUST REFLECT REAL, ADDITIONAL,
2 QUANTIFIABLE, PERMANENT, VERIFIABLE, AND ENFORCEABLE REDUCTIONS
3 IN GREENHOUSE GAS EMISSIONS THAT ARE EQUIVALENT TO THE OFFSETS
4 PROVIDED AND MUST NOT REQUIRE AGRICULTURAL PRODUCERS'
5 PARTICIPATION.

6 (II) GREENHOUSE GAS OFFSETS DEVELOPED FOR AGRICULTURAL
7 PRODUCERS AND IN AGRICULTURAL LAND MANAGEMENT IN ACCORDANCE
8 WITH THIS SECTION:

9 (A) MAY BE INCORPORATED INTO THE AIR QUALITY CONTROL
10 COMMISSION'S RULES, INCLUDING RULES ADOPTED UNDER SECTION
11 25-7-105 (1)(e), AND, SPECIFICALLY, RULES CONCERNING COORDINATION
12 WITH OTHER JURISDICTIONS PURSUANT TO THE AUTHORITY GRANTED IN,
13 AND THE CONSIDERATIONS REQUIRED UNDER, SECTION 25-7-105 (1)(e)(V);

14 (B) MAY BE USED AS COMPLIANCE INSTRUMENTS BY A SOURCE
15 REGULATED UNDER ARTICLE 7 OF TITLE 25, WITH EMISSION REDUCTION
16 OBLIGATIONS ESTABLISHED BY THE AIR QUALITY CONTROL COMMISSION
17 THAT ENSURE THAT THE ANNUAL, OVERALL, ABSOLUTE EMISSIONS FROM
18 THE SOURCE, SECTOR, OR GROUP OF SOURCES DECLINE CONSISTENT WITH
19 THE STATEWIDE GREENHOUSE GAS EMISSION REDUCTION GOALS SET FORTH
20 IN SECTION 25-7-102 (2)(g), PROVIDED THAT THE SOURCE IS LOCATED IN
21 A DISPROPORTIONATELY IMPACTED COMMUNITY. THE COMMISSION SHALL
22 ESTABLISH BY RULE AN ANNUAL, ABSOLUTE EMISSION REDUCTION
23 OBLIGATION SPECIFIC TO THE SOURCE.

24 (C) MUST NOT BE AVAILABLE AS AN INSTRUMENT FOR EMISSIONS
25 REDUCTION COMPLIANCE UNDER SECTION 25-7-105 (1)(e)(V) UNLESS THE
26 COMMISSION HAS ADOPTED RULES ESTABLISHING AN ANNUAL, ABSOLUTE
27 EMISSION REDUCTION OBLIGATION FOR THE RELEVANT SECTOR THAT IS

1 CONSISTENT WITH THE STATEWIDE GREENHOUSE GAS EMISSION REDUCTION
2 GOALS.

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

6 (2) THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE SHALL
7 SUBMIT TO THE GENERAL ASSEMBLY:

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

10 (b) A FINAL REPORT ON THE STUDY ON OR BEFORE OCTOBER 1,
11 2025. THE FINAL REPORT MUST INCLUDE ANY LEGISLATIVE, REGULATORY,
12 OR OTHER RECOMMENDATIONS FOR DESIGNING AND IMPLEMENTING
13 GREENHOUSE GAS REDUCTION AND CARBON SEQUESTRATION
14 OPPORTUNITIES FOR THE AGRICULTURAL SECTOR AND IN AGRICULTURAL
15 LAND MANAGEMENT IN THE STATE.

16 (3) (a) (I) UPON CONCLUSION OF THE STUDY, WITH REGARD TO ANY
17 RECOMMENDATIONS IN THE STUDY THAT DO NOT REQUIRE LEGISLATIVE
18 CHANGES, THE COMMISSIONER, IN CONSULTATION WITH THE COLORADO
19 ENERGY OFFICE AND THE AIR QUALITY CONTROL COMMISSION, MAY ADOPT
20 RULES TO IMPLEMENT THE RECOMMENDATIONS.

21 (II) ANY RULES ADOPTED PURSUANT TO THIS SUBSECTION (3)(a)
22 MUST NOT MANDATE PARTICIPATION BY AGRICULTURAL PRODUCERS IN
23 ANY GREENHOUSE GAS OFFSET PROGRAM OR ANY OTHER GREENHOUSE GAS
24 REDUCTION AND CARBON SEQUESTRATION PROGRAMS OR MECHANISMS
25 DEVELOPED IN RULE, BUT THE RULES MAY PROVIDE INCENTIVES TO
26 AGRICULTURAL PRODUCERS FOR THEIR VOLUNTARY PARTICIPATION IN ANY
27 PROGRAM OR MECHANISM DEVELOPED IN RULE PURSUANT TO THIS

1 SUBSECTION (3)(a).

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

8 (4) NOTHING IN THIS SECTION REQUIRES THE AIR QUALITY
9 CONTROL COMMISSION TO ADOPT RULES FOR GREENHOUSE GAS EMISSION
10 OFFSETS OR CREDIT MECHANISMS OR TO ACCEPT ANY GREENHOUSE GAS
11 EMISSION OFFSETS OR CREDIT MECHANISMS AS COMPLIANCE INSTRUMENTS
12 FOR EMISSION REDUCTION COMPLIANCE OR VERIFICATION.

13 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
14 REQUIRES:

15 (a) "ANAEROBIC DIGESTER" MEANS A SEALED, OXYGEN-FREE TANK
16 INTO WHICH FEEDSTOCK, SUCH AS FOOD WASTE, ANIMAL MANURE, OR
17 WASTEWATER SLUDGE, IS PLACED FOR ANAEROBIC DIGESTION BY
18 MICROORGANISMS. AN ANAEROBIC DIGESTER CAN BE USED AS A MEANS OF
19 WASTE DISPOSAL OR ENERGY PRODUCTION.

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

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

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

26 **37-60-115. Water studies - rules - reports - definitions - repeal.**
27 **(12) (a) Study. (I) THE BOARD, IN CONSULTATION WITH THE STATE**

1 ENGINEER, THE COLORADO ENERGY OFFICE, AND THE INSTITUTE, SHALL
2 CONDUCT A STUDY TO DETERMINE THE FEASIBILITY OF THE USE OF
3 AQUAVOLTAICS AS A MEANS OF INCREASING THE BENEFICIAL
4 CONSUMPTIVE USE OF STATE WATERS BY REDUCING EVAPORATION FROM,
5 AND LOWERING TEMPERATURES OF, IRRIGATION CANALS AND RESERVOIRS
6 UPON WHICH AQUAVOLTAIC INFRASTRUCTURE IS PLACED. IN STUDYING
7 THE FEASIBILITY OF USING AQUAVOLTAICS, THE BOARD SHALL ENSURE
8 THAT ANY AQUAVOLTAIC INFRASTRUCTURE USED IN THE STUDY DOES NOT
9 INTERFERE WITH INSTREAM FLOWS, AS DESCRIBED IN SECTION 37-92-102
10 (3), OR WITH WATER RIGHTS OWNERS' ABILITY TO DIVERT WATER FOR
11 BENEFICIAL USE.

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

18 (b) Report. ON OR BEFORE JANUARY 1, 2025, THE BOARD SHALL
19 SUBMIT A REPORT OF THE FINDINGS AND CONCLUSIONS OF THE STUDY TO
20 THE HOUSE OF REPRESENTATIVES AGRICULTURE, WATER, AND NATURAL
21 RESOURCES COMMITTEE AND THE SENATE AGRICULTURE AND NATURAL
22 RESOURCES COMMITTEE, OR THEIR SUCCESSOR COMMITTEES.

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

25 (I) "AQUAVOLTAICS" MEANS ONE OR MORE SOLAR ENERGY
26 GENERATION FACILITIES PLACED OVER, OR FLOATING ON, IRRIGATION
27 CANALS OR RESERVOIRS IN THE STATE.

1 (II) "BENEFICIAL USE" HAS THE MEANING SET FORTH IN SECTION
2 37-92-103 (4).

3 (III) "DIVERT" HAS THE MEANING SET FORTH IN SECTION
4 37-92-103 (7).

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

7 (V) "WATER RIGHT" HAS THE MEANING SET FORTH IN SECTION
8 37-92-103 (12).

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

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

13 **39-3-122. Agricultural equipment used in production of**
14 **agricultural products - CEA facilities - exemption - definition. (3) ON**
15 **AND AFTER JANUARY 1, 2024, BUT BEFORE JANUARY 2, 2029, PERSONAL**
16 **PROPERTY IS EXEMPTED FROM THE LEVY AND COLLECTION OF PROPERTY**
17 **TAX IF THE PROPERTY IS MACHINERY OR EQUIPMENT THAT IS PART OF A**
18 **SOLAR ENERGY GENERATING SYSTEM THAT IS USED FOR AGRIVOLTAICS,**
19 **AND IF THE PROPERTY:**

20 (a) INCORPORATES NOVEL DESIGNS, TECHNOLOGIES, OR
21 CONFIGURATIONS THAT SIGNIFICANTLY EXPAND THE POTENTIAL FOR
22 AGRICULTURAL ACTIVITIES, INCLUDING BY:

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

25 (II) UTILIZING TRANSLUCENT PANELS;

26 (III) INCORPORATING ALTERNATIVE SOLAR TRACKING ALGORITHMS
27 THAT ARE TAILORED TO OPTIMIZE VEGETATIVE GROWTH; OR

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

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

11 (4) AS USED IN THIS SECTION, "AGRIVOLTAICS" HAS THE MEANING
12 SET FORTH IN SECTION 35-1-114 (5)(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 (5)(a), AND FOR
2 AQUAVOLTAICS, AS DEFINED IN SECTION 37-60-115 (12)(c)(I), THAT
3 DELIVER TO THE INTERCONNECTION METER ELECTRICAL ENERGY IN EXCESS
4 OF FIVE HUNDRED KILOWATTS

5 **SECTION 7.** In Colorado Revised Statutes, 39-27-102, **amend**
6 **(12)** as follows:

7 **39-27-102. Tax imposed on gasoline and special fuel - deposits**
8 **- penalties.** (12) On and after January 1, 2022, ~~no~~ A supplier, distributor,
9 importer, or terminal operator may SHALL NOT sell gasoline or special fuel
10 on a tax-deferred or tax-exempt basis, except as provided in section
11 39-27-102.5 OR 39-27-103.7.

12 **SECTION 8.** In Colorado Revised Statutes, **add** 39-27-103.7 as
13 follows:

14 **39-27-103.7. Exemption on tax imposed for certain special**
15 **fuels and blended special fuels - invoice requirements - certification**
16 **- definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
17 OTHERWISE REQUIRES:

18 (a) "BIODIESEL" MEANS FUEL COMPOSED OF MONO-ALKYL ESTERS
19 OF LONG-CHAIN FATTY ACIDS DERIVED FROM VEGETABLE OILS OR ANIMAL
20 FATS THAT:

21 (I) MEETS THE REGISTRATION REQUIREMENTS THAT THE FEDERAL
22 ENVIRONMENTAL PROTECTION AGENCY ESTABLISHES FOR FUEL OR FUEL
23 ADDITIVES UNDER SECTION 211 OF THE FEDERAL "CLEAN AIR ACT", 42
24 U.S.C. SEC. 7545, AS AMENDED;

25 (II) MEETS THE MOST CURRENT SPECIFICATIONS FOR ASTM
26 D6751, WHICH IS THE "STANDARD SPECIFICATION FOR BIODIESEL FUEL
27 BLEND STOCK (B100) FOR MIDDLE DISTILLATE FUELS";

1 (III) IS INTENDED FOR USE IN ENGINES DESIGNED TO RUN ON
2 CONVENTIONAL, PETROLEUM-DERIVED DIESEL FUEL; AND

3 (IV) IS DERIVED FROM AGRICULTURAL PRODUCTS, VEGETABLE
4 OILS, RECYCLED GREASES, BIOMASS, OR ANIMAL FATS, OR FROM THE
5 WASTES OF THOSE PRODUCTS OR FATS.

6 (b) "RENEWABLE DIESEL" MEANS DIESEL FUEL CONFORMING TO
7 THE SPECIFICATIONS OF ASTM D975, WHICH IS THE "STANDARD
8 SPECIFICATION FOR DIESEL FUEL OIL, BIODIESEL BLEND (B0-B5)", THAT
9 IS A HYDROCARBON OIL MADE FROM NONPETROLEUM FEEDSTOCKS.

10 (2) (a) THE TAX IMPOSED ON SPECIAL FUEL PURSUANT TO SECTION
11 39-27-102 (1)(a)(II)(B) DOES NOT APPLY TO THE PORTION OF A BLENDED
12 BIODIESEL FUEL OR BLENDED RENEWABLE DIESEL FUEL THAT IS EQUAL TO
13 THE VOLUME OF BIODIESEL OR RENEWABLE DIESEL THAT IS BLENDED IN
14 WITH THE TAXABLE PETROLEUM-BASED DIESEL FUEL, AS DEMONSTRATED
15 BY PROOF OF THE CERTIFICATION REQUIRED PURSUANT TO SUBSECTION (4)
16 OF THIS SECTION.

17 (b) A LICENSED FUEL DISTRIBUTOR THAT IS RESPONSIBLE FOR
18 PAYING STATE EXCISE TAX ON THE UNDERLYING DIESEL PORTION OF THE
19 FUEL IS ELIGIBLE FOR THE TAX EXEMPTION SET FORTH IN THIS SUBSECTION
20 (2).

21 (3) (a) THE VOLUME OF BIODIESEL OR RENEWABLE DIESEL MUST BE
22 IDENTIFIED ON A SALES INVOICE FOR EACH SALES TRANSACTION AND MUST
23 CONTINUE TO BE IDENTIFIED ON EACH SALES INVOICE UNTIL THE BLENDED
24 BIODIESEL OR BLENDED RENEWABLE DIESEL FUEL PRODUCT IS SOLD TO THE
25 END USER.

26 (b) A SALES INVOICE MUST:

27 (I) IDENTIFY A BIODIESEL, RENEWABLE DIESEL, BIODIESEL BLEND,

1 OR RENEWABLE DIESEL BLEND BY A COMMONLY ACCEPTED COMMERCIAL
2 OR INDUSTRY NAME FOR THE BLENDED SPECIAL FUEL PRODUCT BEING
3 SOLD, SUCH AS B100 FOR BIODIESEL OR B20 FOR A BIODIESEL BLEND THAT
4 CONTAINS EIGHTY PERCENT TAXABLE PETROLEUM-BASED DIESEL FUEL
5 AND TWENTY PERCENT BIODIESEL;

6 (II) LIST THE VOLUME IN GALLONS, ROUNDED TO THE NEAREST
7 WHOLE GALLON, OR THE PERCENTAGE, ROUNDED TO THE NEAREST WHOLE
8 PERCENTAGE, OF THE FOLLOWING CONTAINED IN THE BLENDED SPECIAL
9 FUEL PRODUCT:

10 (A) BIODIESEL OR RENEWABLE DIESEL; AND

11 (B) TAXABLE PETROLEUM-BASED DIESEL FUEL; AND

12 (III) INCLUDE THE AMOUNT OF TAX PER GALLON THAT APPLIES TO
13 THE BIODIESEL BLEND OR RENEWABLE DIESEL BLEND.

14 (4) (a) A BLENDER MUST PROVIDE TO A PURCHASER OF BIODIESEL,
15 RENEWABLE DIESEL, BLENDED BIODIESEL, OR BLENDED RENEWABLE
16 DIESEL A CERTIFICATE, INVOICE, BILL OF SALE, OR OTHER WRITTEN
17 STATEMENT THAT PROVIDES THE INFORMATION REQUIRED PURSUANT TO
18 SUBSECTION (3)(b) OF THIS SECTION AND THE FOLLOWING ADDITIONAL
19 INFORMATION:

20 (I) THE NAME OF THE SELLER;

21 (II) THE NAME OF THE PURCHASER; AND

22 (III) THE DATE OF TRANSFER OF THE BLENDED SPECIAL FUEL
23 PRODUCT.

24 (b) ANY PERSON CLAIMING THE TAX EXEMPTION PURSUANT TO
25 SUBSECTION (2) OF THIS SECTION MUST MAINTAIN THE CERTIFICATION
26 RECORDS REGARDING THE BIODIESEL, RENEWABLE DIESEL, BLENDED
27 BIODIESEL, OR BLENDED RENEWABLE DIESEL FUEL PRODUCT FOR AT LEAST

1 FOUR YEARS.

2 **SECTION 9. Appropriation.** (1) For the 2023-24 state fiscal
3 year, \$4,516,267 General Fund is appropriated to the department of
4 agriculture for use by the commissioner's office and administrative
5 services. To implement this act, the office may use this appropriation as
6 follows:

7 (a) \$412,680 for personal services, which amount is based on an
8 assumption that the office will require an additional 1.0 FTE;

9 (b) \$186,665 for operating expenses;

10 (c) \$3,862,422 for agrivoltaics grants; and

11 (e) \$54,500 for the task force.

12 (2) Any money appropriated in subsection 1 of this section not
13 expended prior to July 1, 2024, is further appropriated to the office for the
14 same purpose until expended or June 30, 2026, whichever comes first.

15 (3) For the 2023-24 state fiscal year, \$30,322 General Fund is
16 appropriated to the department of revenue. To implement this act, the
17 department may use this appropriation as follows:

18 (a) \$7,392 for use by taxations services for personal services; and

19 (b) \$22,930 for tax administration IT system (GenTax) support.

20 **SECTION 10. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly; except
23 that, if a referendum petition is filed pursuant to section 1 (3) of article V
24 of the state constitution against this act or an item, section, or part of this
25 act within such period, then the act, item, section, or part will not take
26 effect unless approved by the people at the general election to be held in

- 1 November 2024 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.