

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 21-0072.01 Jennifer Berman x3286

HOUSE BILL 21-1286

HOUSE SPONSORSHIP

Kipp and Valdez A., Bernett

SENATE SPONSORSHIP

Priola and Pettersen,

House Committees

Energy & Environment
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO IMPROVE ENERGY EFFICIENCY, AND, IN**
102 **CONNECTION THEREWITH, REQUIRING OWNERS OF LARGE**
103 **BUILDINGS TO COLLECT AND REPORT ON ENERGY-USE**
104 **BENCHMARKING DATA AND COMPLY WITH PERFORMANCE**
105 **STANDARDS RELATED TO ENERGY AND GREENHOUSE GAS**
106 **EMISSIONS AND MODIFYING STATUTORY REQUIREMENTS**
107 **REGARDING ENERGY PERFORMANCE CONTRACTS.**

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>.)

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.

HOUSE
Amended 2nd Reading
May 24, 2021

Section 1 of the bill requires owners of certain large buildings (covered buildings), on an annual basis, to collect and report to the Colorado energy office (office) the covered building's energy use. The bill establishes a process requiring certain electric and gas utilities to provide energy-use data to a covered building owner when requested by the covered building owner.

Section 1 also requires that, on or before June 1, 2027, a covered building owner demonstrate that, in 2026, the covered building met performance standards set forth in the bill. A covered building owner must demonstrate compliance with the performance standards every 5 years after June 1, 2027. The air quality control commission (commission) is required to adopt rules in 2026 or 2027 that extend or modify the performance standards. Thereafter, the commission may, as the commission deems necessary, modify the performance standards by rule.

Section 2 requires the office to assist covered building owners with the reporting requirements set forth in section 1 by:

- Creating a database of covered buildings and owners required to comply with section 1;
- Developing publicly available, digitally interactive maps and lists showing the energy-use and performance-standard data reported;
- Coordinating with any local government that implements its own energy benchmarking requirements or energy performance program, including coordination of reporting requirements; and
- Collecting an annual fee from owners of covered buildings of \$100 per covered building. The office is required to transfer the fees collected to the state treasurer, who will credit the fees to the climate change mitigation and adaptation fund (fund) created in section 2.

Section 3 imposes penalties for violations of section 1, ranging from \$500 to \$5,000, depending on whether the violations are first violations or subsequent violations, and requires that the civil penalty payments be credited to the fund. Certain subsequent violations are also subject to a penalty of 2 cents per square foot of gross floor area of the covered building for each day that the violations continue.

Section 4 modifies the definition of an "energy performance contract" that a governing body of a municipality, county, special district, or school district (board) enters into for evaluation, recommendations, or implementation of energy-saving measures to remove requirements that a board's payment for goods and services pursuant to the contract be made within a certain number of years of the contract's execution.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add 25-7-142** as
3 follows:

4 **25-7-142. Energy benchmarking - data collection and access**
5 **- utility requirements - performance standards - rules - reports -**
6 **definitions - legislative declaration - repeal.** (1) **Legislative**

7 **declaration.** THE GENERAL ASSEMBLY FINDS, DETERMINES, AND
8 DECLARES THAT THE REGULATION OF BUILDING PERFORMANCE IS A
9 MATTER OF STATEWIDE CONCERN BECAUSE:

10 (a) AS OF 2020, BUILDINGS REPRESENTED A SIGNIFICANT SOURCE
11 OF GREENHOUSE GAS POLLUTION IN THE STATE OF COLORADO;

12 (b) ENERGY CONSUMPTION AND GREENHOUSE GAS EMISSIONS
13 ASSOCIATED WITH A BUILDING PRODUCE IMPACTS FAR BEYOND ITS WALLS
14 AND THE BOUNDARIES OF THE LOCAL GOVERNMENT WITHIN WHICH THE
15 BUILDING IS LOCATED, INCLUDING COSTS TO UTILITY RATEPAYERS FOR
16 INCREASED ENERGY PRODUCTION, COMMUNITY HEALTH COSTS
17 ASSOCIATED WITH AIR POLLUTION, AND BROADER SOCIETAL COSTS OF
18 ANTHROPOGENIC CLIMATE CHANGE;

19 (c) LARGE BUILDINGS REPRESENT A DISPROPORTIONATE AMOUNT
20 OF THE ENERGY USE AND GREENHOUSE GAS EMISSIONS IN THE STATE, YET
21 BUILDING TENANTS THAT PAY THOSE ENERGY COSTS OFTEN LACK THE
22 ABILITY TO IMPLEMENT BUILDING UPGRADES THAT COULD IMPROVE
23 PERFORMANCE, REDUCE EMISSIONS, AND REDUCE THOSE COSTS;

24 (d) THE COMMISSION HAS BOTH THE STATUTORY AUTHORITY AND
25 OBLIGATION TO REQUIRE A REDUCTION OF GREENHOUSE GAS EMISSIONS IN
26 THE STATE IN EVERY SECTOR INCLUDING BUILDINGS;

27 (e) (I) BENCHMARKING AND BUILDING PERFORMANCE STANDARDS

1 WILL SUPPORT JOB GROWTH IN COLORADO. ACCORDING TO THE UNITED
2 STATES CLIMATE ALLIANCE, BEFORE JANUARY 1, 2020, THE FASTEST
3 GROWING CLEAN ENERGY INDUSTRIES IN COLORADO INCLUDED:

4 (A) TRADITIONAL HEATING, VENTILATION, AND AIR CONDITIONING,
5 TOTALING TEN THOUSAND FOUR HUNDRED THIRTY-EIGHT JOBS; AND

6 (B) ENERGY STAR AND EFFICIENT LIGHTING, TOTALING ELEVEN
7 THOUSAND ONE HUNDRED FIFTY-SIX JOBS.

8 (II) ADDITIONALLY, ANALYSIS CONDUCTED BY ADVANCED
9 ENERGY ECONOMY IDENTIFIED MORE THAN SIXTY THOUSAND ADVANCED
10 ENERGY JOBS IN COLORADO, WITH MORE THAN FIFTY PERCENT OF THOSE
11 JOBS IN ENERGY EFFICIENCY.

12 (f) THE STATE OF COLORADO PROVIDES MANY LOW- AND NO-COST
13 OPTIONS FOR COLORADO PROPERTY OWNERS TO FINANCE BUILDING
14 PERFORMANCE IMPROVEMENTS, INCLUDING:

15 (I) PROPERTY-ASSESSED CLEAN ENERGY FINANCING THAT THE
16 COLORADO NEW ENERGY IMPROVEMENT DISTRICT CREATED IN SECTION
17 32-20-104 PROVIDES, WHEREBY QUALIFYING ENERGY EFFICIENCY AND
18 RENEWABLE ENERGY IMPROVEMENTS ARE PAID BACK VIA AN ASSESSMENT
19 ON ANNUAL PROPERTY TAXES; AND

20 (II) PERFORMANCE CONTRACTING, WHEREBY IMPROVEMENTS ARE
21 PAID FOR BY CONTRACTUALLY GUARANTEED SAVINGS FROM EFFICIENCY
22 UPGRADES;

23 (g) MANY PUBLIC UTILITIES IN THE STATE ALSO PROVIDE
24 TECHNICAL ASSISTANCE AND FINANCIAL INCENTIVES TO HELP PROPERTY
25 OWNERS IMPLEMENT BUILDING PERFORMANCE IMPROVEMENTS; AND

26 (h) IT IS IN THE INTEREST OF THE STATE TO:

27 (I) ESTABLISH A PROGRAM TO HELP COLORADO CITIZENS

1 UNDERSTAND AND TRACK ENERGY USE AND GREENHOUSE GAS EMISSIONS
2 FROM LARGE BUILDINGS; AND

3 (II) ENACT PERFORMANCE STANDARDS NECESSARY TO MEET STATE
4 GREENHOUSE-GAS-EMISSION-REDUCTION GOALS.

5 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
6 OTHERWISE REQUIRES:

7 (a) "AGGREGATED DATA" MEANS ELECTRIC OR GAS METER DATA
8 FROM WHICH ANY UNIQUE IDENTIFIER OR OTHER PERSONAL INFORMATION
9 HAS BEEN REMOVED AND THAT A QUALIFYING UTILITY COLLECTS AND
10 AGGREGATES IN AT LEAST MONTHLY INTERVALS FOR AN ENTIRE COVERED
11 BUILDING.

12 (b) "AGGREGATION THRESHOLD" MEANS, FOR EACH QUALIFYING
13 UTILITY, THE MINIMUM NUMBER OF CUSTOMER ACCOUNTS ASSOCIATED
14 WITH A COVERED BUILDING FOR WHICH THE QUALIFYING UTILITY MAY
15 PROVIDE THE OWNER OF THE COVERED BUILDING WITH AGGREGATED DATA
16 UPON REQUEST WITHOUT REQUIRING EACH CUSTOMER'S CONSENT TO HAVE
17 THE CUSTOMER'S ENERGY-USE DATA ACCESSED OR SHARED.

18 (c) "ANSI" MEANS THE AMERICAN NATIONAL STANDARDS
19 INSTITUTE OR ITS SUCCESSOR ORGANIZATION.

20 (d) "ASHRAE" MEANS THE AMERICAN SOCIETY OF HEATING,
21 REFRIGERATING, AND AIR-CONDITIONING ENGINEERS OR ITS SUCCESSOR
22 SOCIETY.

23 (e) "BASELINE YEAR" MEANS A YEAR TO WHICH A PERFORMANCE
24 YEAR IS COMPARED, STARTING IN 2021 AND CONTINUING EVERY FIVE
25 YEARS THEREAFTER.

26 (f) "BENCHMARK" MEANS TO INPUT BENCHMARKING DATA INTO A
27 BENCHMARKING TOOL TO MEASURE AND ASSESS THE ENERGY

1 PERFORMANCE AND GREENHOUSE GAS POLLUTION FOR A COVERED
2 BUILDING FOR THE REPORTING YEAR.

3 (g) EXCEPT AS THE COMMISSION MAY MODIFY BY RULE PURSUANT
4 TO SUBSECTION (7) OF THIS SECTION, "BENCHMARKING DATA" MEANS THE
5 INFORMATION RELATED TO A COVERED BUILDING THAT IS INPUT INTO OR
6 CALCULATED BY A BENCHMARKING TOOL AND INCLUDES, AT A MINIMUM:

7 (I) A PHYSICAL DESCRIPTION OF THE COVERED BUILDING AND
8 DESCRIPTIONS OF ITS OPERATIONAL CHARACTERISTICS, INCLUDING:

9 (A) THE NAME OF THE COVERED BUILDING, IF ANY;

10 (B) THE ADDRESS OF THE COVERED BUILDING;

11 (C) THE PRIMARY USES OF THE COVERED BUILDING;

12 (D) THE COVERED BUILDING'S GROSS FLOOR AREA; AND

13 (E) THE YEARS IN WHICH THE COVERED BUILDING HAS BEEN
14 CERTIFIED BY ENERGY STAR AND THE MOST RECENT DATE OF
15 CERTIFICATION, IF APPLICABLE; AND

16 (II) DATA GENERATED BY THE BENCHMARKING TOOL, INCLUDING:

17 (A) THE ENERGY STAR SCORE, IF AVAILABLE;

18 (B) MONTHLY ENERGY USE BY FUEL TYPE;

19 (C) SITE AND SOURCE ENERGY-USE INTENSITY;

20 (D) WEATHER-NORMALIZED SITE AND SOURCE ENERGY-USE
21 INTENSITY;

22 (E) CONFIRMATION THAT DATA QUALITY HAS BEEN CHECKED;

23 (F) ANNUAL MAXIMUM ELECTRICITY DEMAND, IN KILOWATTS;

24 (G) IF AVAILABLE FOR REPORTING THROUGH THE BENCHMARKING
25 TOOL, MONTHLY PEAK ELECTRICITY DEMAND; AND

26 (H) GREENHOUSE GAS EMISSIONS, INCLUDING TOTAL, INDIRECT,
27 AND DIRECT EMISSIONS.

1 (h) EXCEPT AS THE COMMISSION MAY MODIFY BY RULE PURSUANT
2 TO SUBSECTION (7) OF THIS SECTION, "BENCHMARKING TOOL" MEANS THE
3 ENERGY STAR PORTFOLIO MANAGER® OR A SUCCESSOR ONLINE RESOURCE
4 USED TO TRACK AND ASSESS THE PERFORMANCE OF CERTAIN PROPERTIES
5 RELATIVE TO SIMILAR PROPERTIES.

6 (i) "BIOMEDICAL RESEARCH LABORATORY" MEANS A SCIENTIFIC
7 LABORATORY USED TO CONDUCT RESEARCH RELATING TO BOTH BIOLOGY
8 AND MEDICINE.

9 (j) "CAMPUS" MEANS TWO OR MORE ADJACENT BUILDINGS THAT
10 ARE OWNED AND OPERATED BY THE SAME PERSON AND HAVE A SINGLE,
11 SHARED PRIMARY FUNCTION.

12 (k) "COLORADO ENERGY OFFICE" OR "OFFICE" MEANS THE
13 COLORADO ENERGY OFFICE CREATED IN SECTION 24-38.5-101.

14 (l) "CORRECTIONAL FACILITY" MEANS:

15 (I) A CORRECTIONAL FACILITY, AS DEFINED IN SECTION 17-1-102
16 (1.7);

17 (II) A PRIVATE CONTRACT PRISON, AS DEFINED IN SECTION
18 17-1-102 (7.3);

19 (III) A LOCAL JAIL AS DEFINED IN SECTION 17-1-102 (7);

20 (IV) A MUNICIPAL JAIL AS AUTHORIZED IN SECTION 31-15-401
21 (1)(j); AND

22 (V) A JUVENILE DETENTION FACILITY GOVERNED BY PART 4 OF
23 ARTICLE 2 OF TITLE 19.

24 (m) (I) EXCEPT AS THE COMMISSION MAY MODIFY BY RULE
25 PURSUANT TO SUBSECTION (7) OF THIS SECTION, "COVERED BUILDING"
26 MEANS A BUILDING COMPRISING A GROSS FLOOR AREA OF FIFTY THOUSAND
27 SQUARE FEET OR MORE THAT IS OCCUPIED BY A SINGLE OCCUPANT OR

1 GROUP OF TENANTS.

2 (II) "COVERED BUILDING" DOES NOT INCLUDE:

3 (A) A STORAGE FACILITY, STAND-ALONE PARKING GARAGE, OR
4 AIRPLANE HANGAR THAT LACKS HEATING AND COOLING;

5 (B) A BUILDING IN WHICH MORE THAN HALF OF THE GROSS FLOOR
6 AREA IS USED FOR MANUFACTURING, INDUSTRIAL, OR AGRICULTURAL
7 PURPOSES; OR

8 (C) A SINGLE-FAMILY HOME, DUPLEX, OR TRIPLEX.

9 (n) "ENERGY STAR" MEANS THE FEDERAL PROGRAM AUTHORIZED
10 BY 42 U.S.C. SEC. 6294a, AS AMENDED, TO HELP CUSTOMERS, BUSINESSES,
11 AND INDUSTRY SAVE MONEY AND PROTECT THE ENVIRONMENT THROUGH
12 THE ADOPTION OF ENERGY-EFFICIENT PRODUCTS AND PRACTICES.

13 (o) "ENERGY STAR SCORE" MEANS THE ONE-TO-ONE-HUNDRED
14 NUMERIC RATING GENERATED BY THE ENERGY STAR PORTFOLIO
15 MANAGER[®] AS A MEASUREMENT OF A BUILDING'S ENERGY EFFICIENCY.

16 (p) "ENERGY-USE INTENSITY" MEANS A BUILDING'S ENERGY USE,
17 EXPRESSED AS TOTAL SITE ENERGY USE PER SQUARE FOOT PER YEAR.

18 (q) "FINANCIAL HARDSHIP" MEANS THAT A PROPERTY IS
19 EXPERIENCING AT LEAST ONE OF THE FOLLOWING CONDITIONS:

20 (I) THE PROPERTY HAS BEEN INCLUDED ON A CITY'S, COUNTY'S, OR
21 CITY AND COUNTY'S ANNUAL TAX LIEN SALE LIST WITHIN THE PREVIOUS
22 TWO YEARS;

23 (II) THE PROPERTY IS AN ASSET SUBJECT TO A COURT-APPOINTED
24 RECEIVER THAT CONTROLS THE ASSET DUE TO FINANCIAL STRESS;

25 (III) THE PROPERTY IS OWNED BY A FINANCIAL INSTITUTION AS A
26 RESULT OF A DEFAULT BY A BORROWER;

27 (IV) THE PROPERTY HAS BEEN ACQUIRED BY A DEED IN LIEU OF

1 FORECLOSURE;

2 (V) THE PROPERTY IS THE SUBJECT OF A SENIOR MORTGAGE
3 SUBJECT TO A NOTICE OF DEFAULT; OR

4 (VI) DUE TO THE GOVERNOR DECLARING A DISASTER EMERGENCY
5 PURSUANT TO SECTION 24-33.5-704 (4), THE PROPERTY, IN AT LEAST TWO
6 OF THE PREVIOUS FIVE YEARS, GENERATED ANNUAL RENTAL INCOME OR
7 REVENUE THAT TOTALS SIXTY PERCENT OR LESS OF THE FIVE-YEAR
8 AVERAGE IMMEDIATELY PRECEDING THE DISASTER EMERGENCY
9 DECLARATION.

10 (r) "GREENHOUSE GAS" HAS THE MEANING SET FORTH IN SECTION
11 25-7-140 (6).

12 (s) "GROSS FLOOR AREA" MEANS THE TOTAL BUILDING AREA, AS
13 MEASURED FROM THE OUTSIDE SURFACE OF EACH EXTERIOR WALL OF THE
14 BUILDING, INCLUDING ABOVE-GRADE AND BELOW-GRADE SPACE.

15 (t) "IES" MEANS THE ILLUMINATING ENGINEERING SOCIETY OR ITS
16 SUCCESSOR SOCIETY.

17 (u) "LOCAL GOVERNMENT" MEANS A STATUTORY OR HOME RULE
18 MUNICIPALITY, COUNTY, OR CITY AND COUNTY.

19 (v) "OWNER" MEANS A PERSON POSSESSING TITLE TO A PROPERTY
20 OR THE PERSON'S DESIGNATED AGENT.

21 (w) "PERFORMANCE YEAR" MEANS THE YEAR IN WHICH
22 PERFORMANCE STANDARDS ARE REQUIRED TO BE MET PURSUANT TO
23 SUBSECTION (8) OF THIS SECTION, BEGINNING IN 2026 AND CONTINUING
24 EVERY FIVE YEARS THEREAFTER UNTIL 2051.

25 (x) "QUALIFYING UTILITY" MEANS:

26 (I) AN ELECTRIC OR GAS UTILITY WITH FIVE THOUSAND OR MORE
27 ACTIVE COMMERCIAL AND INDUSTRIAL SERVICE CONNECTIONS, ACCOUNTS,

1 OR CUSTOMERS IN THE STATE, INCLUDING:

2 (A) AN INVESTOR-OWNED ELECTRIC OR GAS UTILITY;

3 (B) A COOPERATIVE ELECTRIC ASSOCIATION; OR

4 (C) A MUNICIPALLY OWNED ELECTRIC OR GAS UTILITY; OR

5 (II) A NATURAL GAS SUPPLIER WITH FIVE OR MORE ACTIVE

6 COMMERCIAL OR INDUSTRIAL CONNECTIONS, ACCOUNTS, OR CUSTOMERS

7 IN THE STATE.

8 (y) "RENEWABLE ENERGY" MEANS ENERGY:

9 (I) THAT MEETS THE DEFINITION OF "ELIGIBLE ENERGY

10 RESOURCES" SET FORTH IN SECTION 40-2-124 (1)(a);

11 (II) THAT, TO THE MAXIMUM EXTENT TECHNICALLY FEASIBLE AND

12 LEGALLY ALLOWABLE, IS PRODUCED AS RETAIL DISTRIBUTED GENERATION,

13 AS DEFINED IN SECTION 40-2-124 (1)(a)(VIII), WITH THE REMAINDER

14 PRODUCED BY OFF-SITE SOURCES; AND

15 (III) FOR WHICH ITS RENEWABLE ENERGY CERTIFICATES HAVE

16 BEEN RETIRED ON BEHALF OF THE COVERED BUILDING, AFTER BEING USED

17 FOR COMPLIANCE WITH THE PERFORMANCE STANDARDS SET FORTH IN

18 SUBSECTION (8) OF THIS SECTION.

19 (z) "RENEWABLE ENERGY CERTIFICATE" MEANS THE

20 ENVIRONMENTAL ATTRIBUTES OF ONE MEGAWATT-HOUR OF RENEWABLE

21 ENERGY.

22 (aa) "STATE INSTITUTION OF HIGHER EDUCATION":

23 (I) HAS THE MEANING SET FORTH IN SECTION 23-1-108 (7)(g)(II);

24 (II) INCLUDES THE AURARIA HIGHER EDUCATION CENTER,

25 GOVERNED PURSUANT TO ARTICLE 70 OF TITLE 23; AND

26 (III) DOES NOT INCLUDE A BIOMEDICAL RESEARCH LABORATORY.

27 (bb) "TENANT" MEANS A PERSON THAT, PURSUANT TO A RENTAL

1 OR LEASE AGREEMENT, OCCUPIES OR HOLDS POSSESSION OF A BUILDING OR
2 PART OF A BUILDING OR PREMISES.

3 (cc) "UNIQUE IDENTIFIER" MEANS A CUSTOMER'S CONTACT
4 INFORMATION DISPLAYED ON A UTILITY BILL SUCH AS THE CUSTOMER'S
5 NAME, MAILING ADDRESS, TELEPHONE NUMBER, OR E-MAIL ADDRESS.

6 (dd) "UTILITY CUSTOMER" MEANS THE BUILDING OWNER OR
7 TENANT LISTED ON THE UTILITY'S RECORDS AS THE CUSTOMER LIABLE FOR
8 PAYMENT OF THE UTILITY SERVICE OR ADDITIONAL CHARGES ASSESSED ON
9 THE UTILITY ACCOUNT.

10 (3) **Benchmarking requirements on owners.** (a) ON OR BEFORE
11 DECEMBER 1, 2022, AND ON OR BEFORE JUNE 1 OF EACH SUBSEQUENT
12 YEAR, THE OWNER OF A COVERED BUILDING SHALL SUBMIT A REPORT OF
13 THE BENCHMARKING DATA FOR THE PREVIOUS CALENDAR YEAR TO THE
14 OFFICE.

15 (b) BEFORE PROVIDING A BENCHMARKING REPORT PURSUANT TO
16 SUBSECTION (3)(a) OF THIS SECTION, AN OWNER SHALL RUN ANY
17 AUTOMATED DATA CHECKING FUNCTION OF THE BENCHMARKING TOOL
18 AND CORRECT ANY ERRORS DISCOVERED.

19 (c) THE FOLLOWING OWNERS MAY COMPLY WITH THIS SUBSECTION
20 (3) COLLECTIVELY AT THE CAMPUS-WIDE LEVEL:

21 (I) THE OWNER OF MULTIPLE COVERED BUILDINGS THAT ARE PART
22 OF A MASTER METERED GROUP OF BUILDINGS WITHOUT SUBMETERING;

23 (II) THE OWNER OF A CORRECTIONAL FACILITY; ■

24 (III) THE OWNER OF A STATE INSTITUTION OF HIGHER EDUCATION;

25 AND

26 (IV) THE OWNER OF A PRIVATE INSTITUTION OF HIGHER
27 EDUCATION AS DEFINED IN SECTION 23-18-102 (9).

1 (4) **Utility data requirements.** (a) ON OR BEFORE JUNE 1, 2022,
2 A QUALIFYING UTILITY SHALL:

3 (I) ESTABLISH AN AGGREGATION THRESHOLD THAT IS FOUR OR
4 FEWER UTILITY CUSTOMER ACCOUNTS;

5 (II) PUBLISH ITS AGGREGATION THRESHOLD ON ITS PUBLIC
6 WEBSITE; AND

7 (III) UPON REQUEST OF AN OWNER OF A COVERED BUILDING, BEGIN
8 PROVIDING ENERGY-USE DATA TO THE OWNER.

9 (b) ENERGY-USE DATA THAT A QUALIFYING UTILITY PROVIDES AN
10 OWNER PURSUANT TO THIS SUBSECTION (4) MUST BE:

11 (I) AVAILABLE ON, OR ABLE TO BE REQUESTED THROUGH, AN
12 EASILY NAVIGABLE WEB PORTAL OR ONLINE REQUEST FORM USING
13 UP-TO-DATE STANDARDS FOR DIGITAL AUTHENTICATION, INCLUDING
14 SINGLE ONE-TIME PASSWORDS OR MULTI-FACTOR AUTHENTICATION;

15 (II) PROVIDED TO THE OWNER WITHIN:

16 (A) NINETY DAYS AFTER RECEIVING THE OWNER'S VALID WRITTEN
17 OR ELECTRONIC REQUEST IF THE REQUEST IS RECEIVED IN 2022;

18 (B) THIRTY DAYS AFTER RECEIVING THE OWNER'S VALID WRITTEN
19 OR ELECTRONIC REQUEST IF THE REQUEST IS RECEIVED IN 2023 OR LATER;

20 (III) DIRECTLY UPLOADED TO THE OWNER'S BENCHMARKING TOOL
21 ACCOUNT, DELIVERED IN THE SPREADSHEET TEMPLATE SPECIFIED BY THE
22 BENCHMARKING TOOL, OR DELIVERED IN ANOTHER FORMAT APPROVED BY
23 THE OFFICE;

24 (IV) PROVIDED TO THE OWNER ON AT LEAST AN ANNUAL BASIS
25 UNTIL THE OWNER REVOKES THE REQUEST FOR ENERGY-USE DATA OR
26 SELLS THE COVERED BUILDING; ■

27 (V) PROVIDED IN ACCORDANCE WITH THIS SUBSECTION (4),

1 REGARDLESS OF WHETHER THE OWNER IS NAMED ON THE UTILITY
2 ACCOUNT FOR THE COVERED BUILDING; AND

3 (VI) IF THE QUALIFYING UTILITY IS AN INVESTOR-OWNED UTILITY,
4 PROVIDED IN ACCORDANCE WITH THE PUBLIC UTILITIES COMMISSION'S
5 RULES CONCERNING CUSTOMER DATA AND PERSONALLY IDENTIFYING
6 INFORMATION.

7 (c) FOR COVERED BUILDINGS THAT DO NOT MEET THE QUALIFYING
8 UTILITY'S AGGREGATION THRESHOLD, AND THUS REQUIRE UTILITY
9 CUSTOMER CONSENT TO ACCESS OR SHARE ENERGY-USE DATA, THE
10 CONSENT:

11 (I) MAY BE IN WRITTEN OR ELECTRONIC FORM;

12 (II) MAY BE PROVIDED IN A LEASE AGREEMENT PROVISION;

13 (III) IS VALID UNTIL THE UTILITY CUSTOMER REVOKES IT; AND

14 (IV) IS NOT REQUIRED IF A UTILITY CUSTOMER VACATES THE
15 COVERED BUILDING BEFORE EXPLICITLY DENYING THE OWNER CONSENT TO
16 ACCESS AND SHARE THE UTILITY CUSTOMER'S ENERGY-USE DATA.

17 (5) **Benchmarking waivers and extensions of time.** (a) AN
18 OWNER OF A COVERED BUILDING MAY SEEK A WAIVER FROM THE
19 BENCHMARKING REQUIREMENTS SET FORTH IN SUBSECTION (3) OF THIS
20 SECTION IF THE OWNER SUBMITS DOCUMENTATION TO, AND RECEIVES
21 APPROVAL FROM, THE OFFICE, WHICH DOCUMENTATION ESTABLISHES THAT
22 THE COVERED BUILDING HAS MET ONE OR MORE OF THE FOLLOWING
23 CONDITIONS FOR THE CALENDAR YEAR TO BE BENCHMARKED:

24 (I) THE COVERED BUILDING WAS UNOCCUPIED FOR AT LEAST
25 THIRTY CONSECUTIVE DAYS OF THE YEAR;

26 (II) A DEMOLITION PERMIT WAS ISSUED FOR THE ENTIRE COVERED
27 BUILDING;

1 (III) THE COVERED BUILDING MET ONE OR MORE OF THE
2 CONDITIONS FOR FINANCIAL HARDSHIP; ■

3 (IV) THE COVERED BUILDING DOES NOT MEET A QUALIFYING
4 UTILITY'S AGGREGATION THRESHOLD, ONE OR MORE OF THE UTILITY
5 CUSTOMERS REFUSED TO PROVIDE THE OWNER WITH PERMISSION TO
6 ACCESS THE UTILITY CUSTOMER'S RELEVANT ENERGY-USE DATA, THE
7 OWNER PROVIDES PROOF TO THE OFFICE THAT IT REQUESTED PERMISSION
8 FROM THE UTILITY CUSTOMER OR UTILITY CUSTOMERS WITHHOLDING
9 CONSENT AT LEAST THIRTY DAYS BEFORE THE BENCHMARKING REPORT
10 WAS DUE, AND THE OWNER SUBMITS A PLAN TO INCLUDE AN ENERGY-USE
11 DATA SHARING PERMISSION PROVISION IN THE NEXT LEASE RENEWAL; OR

12 (V) THE COVERED BUILDING HAS FOUR OR MORE UTILITY
13 CUSTOMERS, IS NOT LOCATED WITHIN A QUALIFYING UTILITY'S SERVICE
14 TERRITORY, AND IS UNABLE TO GET AGGREGATED DATA FROM THE UTILITY
15 THAT SERVES THE COVERED BUILDING.

16 (b) AN OWNER OF A COVERED BUILDING MAY REQUEST A TIME
17 EXTENSION FROM THE OFFICE TO SUBMIT A BENCHMARKING REPORT IF THE
18 OWNER SUBMITS DOCUMENTATION TO THE OFFICE DEMONSTRATING THAT,
19 DESPITE THE OWNER'S GOOD-FAITH EFFORT, THE OWNER WAS UNABLE TO
20 COMPLETE THE BENCHMARKING REPORT IN A TIMELY MANNER BECAUSE OF
21 THE FAILURE OR REFUSAL OF A QUALIFYING UTILITY OR A UTILITY
22 CUSTOMER TO PROVIDE THE NECESSARY INFORMATION OR PERMISSION, AS
23 APPLICABLE.

24 (c) THE OFFICE SHALL NOTIFY THE DIVISION OF ALL APPROVED
25 WAIVERS AND EXTENSIONS OF TIME, THE APPROVAL OF WHICH IS SOLELY
26 WITHIN THE OFFICE'S DISCRETION.

27 (d) PURSUANT TO SUBSECTION (7) OF THIS SECTION, THE

1 COMMISSION MAY, BY RULE, MODIFY THE REQUIREMENTS FOR OBTAINING
2 A WAIVER OR EXTENSION OF TIME PURSUANT TO THIS SUBSECTION (5).

3 **(6) Requirements upon sale or lease of a covered building.**

4 (a) AT THE TIME OF LISTING A COVERED BUILDING OR A PORTION OF A
5 COVERED BUILDING FOR SALE OR LEASE, THE OWNER OF THE COVERED
6 BUILDING SHALL FURNISH AN ELECTRONIC COPY OF REPORTED
7 BENCHMARKING DATA FROM THE PREVIOUS CALENDAR YEAR OR FROM THE
8 MOST RECENT TWELVE-MONTH PERIOD OF CONTINUOUS OCCUPANCY TO
9 THE FOLLOWING:

10 (I) PROSPECTIVE BUYERS OR LESSEES;

11 (II) ANY BROKERS, AS DEFINED IN SECTION 12-10-201 (6), WHO
12 MAKE INQUIRY ABOUT THE PROPERTY; AND

13 (III) MAJOR COMMERCIAL REAL ESTATE LISTING SERVICES ON
14 WHICH THE PROPERTY IS LISTED.

15 (b) UPON RECEIPT OF THE BENCHMARKING DATA, A COMMERCIAL
16 REAL ESTATE LISTING SERVICE THAT LISTS PROPERTIES IN THE STATE
17 SHALL INCLUDE IN THE PROPERTY'S LISTING, AT A MINIMUM, THE
18 PROPERTY'S ENERGY STAR SCORE, IF APPLICABLE, AND THE PROPERTY'S
19 ENERGY-USE INTENSITY.

20 (c) IF A COVERED BUILDING CHANGES OWNERSHIP, THE FORMER
21 OWNER SHALL MAKE AVAILABLE TO THE NEW OWNER THE ENERGY-USE
22 DATA; UTILITY CUSTOMER CONSENT DOCUMENTATION, IF ANY; AND ANY
23 OTHER INFORMATION ABOUT THE PROPERTY THAT IS NECESSARY TO
24 BENCHMARK THE COVERED BUILDING. THE FORMER OWNER SHALL
25 TRANSFER TO THE NEW OWNER BOTH THE RECORD REPRESENTING THE
26 COVERED BUILDING WITHIN THE BENCHMARKING TOOL AND THE REQUEST
27 TO A QUALIFIED UTILITY FOR AGGREGATED DATA. THE NEW OWNER MAY

1 REQUEST AND RECEIVE FROM A QUALIFYING UTILITY THE AGGREGATED
2 DATA NECESSARY TO FULFILL BENCHMARKING REPORTING REQUIREMENTS.

3 (7) **Benchmarking rules.** THE COMMISSION MAY PROMULGATE
4 RULES TO IMPLEMENT THE BENCHMARKING PROGRAM SET FORTH IN THIS
5 SECTION. ADDITIONALLY, THE COMMISSION MAY, BY RULE, MODIFY THE
6 FOLLOWING:

7 (a) THE PROVISIONS REGARDING WAIVERS AND EXTENSIONS OF
8 TIME SET FORTH IN SUBSECTION (5) OF THIS SECTION;

9 (b) THE DEFINITION OF "BENCHMARKING DATA", BUT ONLY IF THE
10 MODIFIED DEFINITION CONCERNS DATA THAT:

11 (I) IS CAPABLE OF BEING RECORDED BY THE BENCHMARKING TOOL;

12 AND

13 (II) INCLUDES THE ENERGY STAR SCORE, IF APPLICABLE, AND
14 ENERGY-USE INTENSITY;

15 (c) THE BENCHMARKING TOOL THAT OWNERS ARE REQUIRED TO
16 USE TO BENCHMARK;

17 (d) DATA VERIFICATION REQUIREMENTS; AND

18 (e) AFTER JUNE 1, 2029, THE MINIMUM GROSS FLOOR AREA
19 INCLUDED IN THE DEFINITION OF "COVERED BUILDING".

20 (8) **Performance standard requirements.** (a) TO HELP ACHIEVE
21 THE STATEWIDE GREENHOUSE-GAS-EMISSION-REDUCTION TARGETS SET
22 FORTH IN SECTION 25-7-102 (2)(g), THE STATE SHALL IMPLEMENT
23 PERFORMANCE STANDARDS FOR COVERED BUILDINGS.

24 (b) (I) EXCEPT AS PROVIDED IN SUBSECTION (8)(b)(II) OF THIS
25 SECTION, ON OR BEFORE JUNE 1 OF A YEAR FOLLOWING A PERFORMANCE
26 YEAR, AN OWNER OF A COVERED BUILDING SHALL SUBMIT TO THE OFFICE
27 A REPORT, IN A FORM AND MANNER DETERMINED BY THE OFFICE,

1 DEMONSTRATING THAT, IN THE MOST RECENT PERFORMANCE YEAR, THE
2 COVERED BUILDING MET THE PERFORMANCE STANDARDS SET FORTH IN
3 SUBSECTION (8)(c) OR (8)(d) OF THIS SECTION OR, IF THE COMMISSION BY
4 RULE MODIFIES THE PERFORMANCE STANDARDS PURSUANT TO SUBSECTION
5 (11) OF THIS SECTION, THE MODIFIED PERFORMANCE STANDARDS SET
6 FORTH IN THE COMMISSION'S RULES.

7 (II) FOR A COVERED BUILDING OWNED BY THE STATE, A LOCAL
8 GOVERNMENT, A SPECIAL DISTRICT REGULATED UNDER TITLE 32, A STATE
9 INSTITUTION OF HIGHER EDUCATION, A SCHOOL DISTRICT CREATED
10 PURSUANT TO ARTICLE 30 OF TITLE 22, OR A CHARTER SCHOOL
11 AUTHORIZED PURSUANT TO PART 1 OF ARTICLE 30.5 OF TITLE 22, THE
12 OWNER NEED COMPLY WITH THE PERFORMANCE REQUIREMENTS SET
13 FORTH IN THIS SUBSECTION (8) ONLY IF THE OWNER COMPLETES WORK ON
14 A CONSTRUCTION OR RENOVATION PROJECT THAT HAS AN ESTIMATED
15 COST OF AT LEAST FIVE HUNDRED THOUSAND DOLLARS AND IMPACTS AT
16 LEAST TWENTY-FIVE PERCENT OF THE COVERED BUILDING'S SQUARE
17 FOOTAGE.

18 (c) FOR PERFORMANCE YEAR 2026, AN OWNER OF A COVERED
19 BUILDING SHALL DEMONSTRATE IN ACCORDANCE WITH THE REPORTING
20 REQUIREMENT SET FORTH IN SUBSECTION (8)(b)(I) OF THIS SECTION THAT
21 THE COVERED BUILDING MET ONE OR MORE OF THE FOLLOWING
22 PERFORMANCE STANDARDS OR THE PERFORMANCE STANDARD SET FORTH
23 IN SUBSECTION (8)(d) OF THIS SECTION:

24 (I) THE COVERED BUILDING RECEIVED AN ENERGY STAR SCORE
25 OF:

26 (A) SEVENTY-FIVE OR HIGHER; OR

27 (B) FIFTEEN POINTS HIGHER THAN THE ENERGY STAR SCORE THAT

1 THE COVERED BUILDING RECEIVED DURING ITS MOST RECENT BASELINE
2 YEAR;

3 (II) THE COVERED BUILDING'S WEATHER-NORMALIZED SITE AND
4 SOURCE ENERGY-USE INTENSITY WAS REDUCED BY AT LEAST FIFTEEN
5 PERCENT COMPARED TO ITS PERFORMANCE DURING THE MOST RECENT
6 BASELINE YEAR;

7 (III) THE COVERED BUILDING'S ENERGY-USE INTENSITY MET OR
8 SURPASSED:

9 (A) THE SECTOR-SPECIFIC AND CLIMATE-ZONE-SPECIFIC TARGET
10 DETERMINED BY THE COMMISSION BY RULE; OR

11 (B) IF THE COMMISSION HAS NOT YET PROMULGATED A RULE
12 ESTABLISHING THE TARGET DESCRIBED IN SUBSECTION (8)(c)(III)(A) OF
13 THIS SECTION, THE TWENTY-FIFTH PERCENTILE SECTOR-SPECIFIC AND
14 CLIMATE-ZONE-SPECIFIC TARGET CONTAINED IN THE MOST RECENT
15 EDITION OF ANSI/ASHRAE/IES STANDARD 100-2018, "ENERGY
16 EFFICIENCY IN EXISTING BUILDINGS", OR ITS SUCCESSOR STANDARD; OR

17 (IV) THE COVERED BUILDING IS A MIXED-USE PROPERTY AND THE
18 OWNER OF THE COVERED BUILDING SUBMITS PROOF THAT THE COVERED
19 BUILDING MEETS OR EXCEEDS THE ENERGY-USE INTENSITY STANDARD SET
20 FORTH IN SUBSECTION (8)(c)(III) OF THIS SECTION, AS DETERMINED BY A
21 WEIGHTED AVERAGE OF SQUARE FOOTAGE BY FUNCTION OR USE.

22 (d) AS AN ALTERNATIVE TO THE PERFORMANCE STANDARDS SET
23 FORTH IN SUBSECTION (8)(c) OF THIS SECTION, AN OWNER MAY COMPLY
24 WITH THE PERFORMANCE STANDARD REQUIREMENT FOR PERFORMANCE
25 YEAR 2026 BY DEMONSTRATING THAT, FOR AT LEAST FOUR OF THE FIVE
26 YEARS IMMEDIATELY AFTER THE MOST RECENT BASELINE YEAR, AT LEAST
27 FIFTY PERCENT OF THE COVERED BUILDING'S ELECTRICITY WAS

1 GENERATED FROM RENEWABLE ENERGY AND:

2 (I) THE COVERED BUILDING RECEIVED AN ENERGY STAR SCORE
3 OF:

4 (A) SIXTY-FIVE OR HIGHER; OR

5 (B) TEN POINTS HIGHER THAN THE ENERGY STAR SCORE THAT THE
6 COVERED BUILDING RECEIVED DURING ITS MOST RECENT BASELINE YEAR;

7 (II) THE COVERED BUILDING'S WEATHER-NORMALIZED SITE AND
8 SOURCE ENERGY-USE INTENSITY WAS REDUCED BY AT LEAST TEN PERCENT
9 COMPARED TO ITS PERFORMANCE DURING THE MOST RECENT BASELINE
10 YEAR; OR

11 (III) THE COVERED BUILDING'S ENERGY-USE INTENSITY WAS
12 WITHIN TEN PERCENT OF:

13 (A) THE SECTOR-SPECIFIC AND CLIMATE-ZONE-SPECIFIC TARGET
14 DETERMINED BY THE COMMISSION BY RULE;

15 (B) IF THE COMMISSION HAS NOT YET PROMULGATED A RULE
16 ESTABLISHING THE TARGET DESCRIBED IN SUBSECTION (8)(d)(III)(A) OF
17 THIS SECTION, THE TWENTY-FIFTH PERCENTILE SECTOR-SPECIFIC AND
18 CLIMATE-ZONE-SPECIFIC TARGET CONTAINED IN ANSI/ASHRAE/IES
19 STANDARD 100-2018, "ENERGY EFFICIENCY IN EXISTING BUILDINGS", OR
20 ITS SUCCESSOR STANDARD; OR

21 (C) IF THE COVERED BUILDING IS A MIXED-USE PROPERTY, THE
22 SECTOR-SPECIFIC AND CLIMATE-ZONE-SPECIFIC TARGET DETERMINED BY
23 THE COMMISSION BY RULE OR, IF THE COMMISSION HAS NOT YET
24 PROMULGATED A RULE ESTABLISHING THE TARGET, BY THE STANDARD
25 REFERENCED IN SUBSECTION (8)(d)(III)(B) OF THIS SECTION, AS
26 DETERMINED BY A WEIGHTED AVERAGE OF SQUARE FOOTAGE BY
27 FUNCTION OR USE.

1 (e) IN SUBMITTING A PERFORMANCE REPORT DEMONSTRATING
2 THAT A COVERED BUILDING HAS MET PERFORMANCE STANDARDS, THE
3 OWNER OF THE COVERED BUILDING MAY SUBSTITUTE A YEAR WITHIN TWO
4 YEARS BEFORE OR AFTER THE RELEVANT BASELINE YEAR AS THE YEAR TO
5 WHICH THE PERFORMANCE YEAR MAY BE COMPARED IF ENERGY-USE DATA
6 FOR THE SUBSTITUTE YEAR IS AVAILABLE FROM THE QUALIFYING UTILITY.

7 (f) THE FOLLOWING MAY COMPLY WITH THIS SUBSECTION (8)
8 COLLECTIVELY AT THE CAMPUS-WIDE LEVEL:

9 (I) THE OWNER OF MULTIPLE COVERED BUILDINGS THAT ARE PART
10 OF A MASTER METERED GROUP OF BUILDINGS WITHOUT SUBMETERING;

11 (II) THE OWNER OF A CORRECTIONAL FACILITY; AND

12 (III) THE OWNER OF A STATE INSTITUTION OF HIGHER EDUCATION.

13 (9) **Performance standard waivers or extensions of time.**

14 (a) FOR PERFORMANCE YEAR 2026 AND, IF EXTENDED BY THE
15 COMMISSION BY RULE PURSUANT TO SUBSECTION (11) OF THIS SECTION,
16 FOR SUBSEQUENT PERFORMANCE YEARS, THE OFFICE SHALL GRANT AN
17 OWNER OF A COVERED BUILDING A WAIVER FROM THE REQUIREMENT TO
18 MEET THE PERFORMANCE STANDARDS BY DEMONSTRATING IN THE
19 PERFORMANCE REPORT THAT:

20 (I) IN THE MOST RECENT FIVE YEARS, THE OFFICE GRANTED A
21 WAIVER FROM BENCHMARKING REPORTING FOR THE COVERED BUILDING
22 IN AT LEAST TWO OF THE FIVE YEARS;

23 (II) IN AT LEAST TWO OF THE MOST RECENT FIVE YEARS, THE
24 COVERED BUILDING MET ONE OR MORE OF THE CONDITIONS FOR FINANCIAL
25 HARDSHIP;

26 (III) THE COVERED BUILDING IS A TENANT-OWNED MULTIFAMILY
27 RESIDENTIAL BUILDING;

1 (IV) AT LEAST SIXTY-SIX PERCENT OF THE RESIDENTIAL TENANTS
2 IN THE COVERED BUILDING HAVE A HOUSEHOLD INCOME THAT IS LESS
3 THAN EIGHTY PERCENT OF THE AREA MEDIAN INCOME;

4 (V) THE COVERED BUILDING IS DESIGNATED A HISTORIC PROPERTY
5 UNDER FEDERAL, STATE, OR LOCAL LAW OR REGISTRY AND:

6 (A) THE COVERED BUILDING WAS BUILT BEFORE 1950;

7 (B) THE OWNER OF THE COVERED BUILDING SUBMITS PROOF THAT
8 THE OWNER CANNOT PERFORM ANY ADDITIONAL ENERGY EFFICIENCY
9 UPGRADES IN WHICH THE INITIAL COSTS OF THE UPGRADES COULD BE
10 RECOVERED FROM ENERGY BILL SAVINGS IN FEWER THAN FIVE YEARS
11 WITHOUT JEOPARDIZING THE HISTORIC DESIGNATION OR STRUCTURAL
12 INTEGRITY OF THE PROPERTY; AND

13 (C) THE OWNER SUBMITS PROOF THAT THE COVERED BUILDING
14 HAS BEEN COMMISSIONED OR RECOMMISSIONED SINCE THE MOST RECENT
15 BASELINE YEAR IN ACCORDANCE WITH ANSI/ASHRAE/IES STANDARD
16 202-2018, "COMMISSIONING PROCESS FOR BUILDINGS AND SYSTEMS", OR
17 ITS SUCCESSOR STANDARD; OR

18 (VI) IN OR AFTER THE MOST RECENT BASELINE YEAR, THE
19 COVERED BUILDING RECEIVED A CERTIFICATE OF OCCUPANCY AND THE
20 OWNER SUBMITS PROOF TO THE OFFICE THAT THE COVERED BUILDING WAS
21 CONSTRUCTED TO MEET OR SURPASS THE EFFICIENCY LEVELS IN ONE OF
22 THE FOLLOWING:

23 (A) ONE OF THE TWO MOST RECENT EDITIONS OF THE
24 INTERNATIONAL CODE COUNCIL'S, OR ITS SUCCESSOR ORGANIZATION'S,
25 INTERNATIONAL ENERGY CONSERVATION CODE;

26 (B) ANSI/ASHRAE/IES STANDARD 90.1-2019, "ENERGY
27 STANDARD FOR BUILDINGS EXCEPT LOW-RISE RESIDENTIAL BUILDINGS",

1 OR ITS SUCCESSOR STANDARD; OR

2 (C) ANSI/ASHRAE STANDARD 90.2-2018, "ENERGY-EFFICIENT
3 DESIGN OF LOW-RISE RESIDENTIAL BUILDINGS", OR ITS SUCCESSOR
4 STANDARD OR CODE.

5 (b) AN OWNER OF A COVERED BUILDING MAY REQUEST AN
6 EXTENSION OF TIME FROM THE OFFICE IF THE OWNER SUBMITS
7 DOCUMENTATION TO THE OFFICE DEMONSTRATING THAT:

8 (I) AFTER THE MOST RECENT BASELINE YEAR, THE BENCHMARKING
9 TOOL CONDUCTED A LARGE-SCALE RECALIBRATION, RENDERING THE
10 COVERED BUILDING'S ENERGY STAR SCORE INSUFFICIENT TO MEET THE
11 PERFORMANCE STANDARDS SET FORTH IN SUBSECTION (8) OF THIS
12 SECTION;

13 (II) THE PRIMARY FUNCTION OF THE BUILDING HAS CHANGED
14 SINCE THE LAST PERFORMANCE YEAR; OR

15 (III) THE BUILDING CHANGED OWNERSHIP SINCE THE MOST RECENT
16 BASELINE YEAR.

17 **(10) Task force recommendations for implementation - repeal.**

18 (a) (I) NO LATER THAN OCTOBER 1, 2021, THE DIRECTOR OF THE OFFICE
19 SHALL APPOINT AND CONVENE A TASK FORCE TO DEVELOP AND PROVIDE
20 RECOMMENDATIONS TO THE COMMISSION, THE GENERAL ASSEMBLY, AND
21 THE GOVERNOR ON MODIFICATIONS TO THE PERFORMANCE STANDARDS
22 FOR COVERED BUILDINGS SET FORTH IN SUBSECTION (8) OF THIS SECTION.
23 ANY RECOMMENDATIONS MUST BE APPROVED BY AT LEAST TWO-THIRDS
24 OF THE MEMBERS APPOINTED TO THE TASK FORCE.

25 (II) THE TASK FORCE MAY DEVELOP RECOMMENDATIONS
26 REGARDING THE RULES THAT THE COMMISSION MAY PROMULGATE:

27 (A) PURSUANT TO SUBSECTION (11)(a) OF THIS SECTION, FOR

1 MODIFICATIONS TO THE PERFORMANCE STANDARDS FOR PERFORMANCE
2 YEAR 2026 IF THE PERFORMANCE STANDARDS WOULD ACHIEVE A
3 REDUCTION IN CARBON DIOXIDE EMISSIONS FROM THE PERFORMANCE
4 STANDARDS SET FORTH IN SUBSECTION (8) OF THIS SECTION;

5 (B) PURSUANT TO SUBSECTION (11)(b) OF THIS SECTION, FOR
6 PERFORMANCE STANDARDS FOR PERFORMANCE YEAR 2031 AND BEYOND
7 IF THE RECOMMENDATIONS WOULD ALIGN WITH THE
8 GREENHOUSE-GAS-EMISSION-REDUCTION TARGETS SET FORTH IN SECTION
9 25-7-102 (2)(g).

10 (III) ADDITIONALLY, THE TASK FORCE MAY CONSIDER MAKING
11 RECOMMENDATIONS RELATED TO:

12 (A) WORKFORCE AVAILABILITY AND DEVELOPMENT RELATED TO
13 BUILDING ENERGY PERFORMANCE;

14 (B) FINANCIAL AND NONFINANCIAL COSTS AND BENEFITS OF
15 UPGRADED BUILDING ENERGY PERFORMANCE;

16 (C) AVAILABILITY OF PROGRAMS, TECHNICAL ASSISTANCE, AND
17 INCENTIVES TO SUPPORT BUILDING OWNERS, UTILITIES, AND LOCAL
18 GOVERNMENTS; AND

19 (D) OPPORTUNITIES TO IMPROVE COMMERCIAL BUILDING ENERGY
20 USE IN COLORADO.

21 (IV) IN DEVELOPING ITS RECOMMENDATIONS, THE TASK FORCE
22 MAY CONSIDER:

23 (A) BENCHMARKING DATA REPORTED PURSUANT TO SUBSECTION
24 (3) OF THIS SECTION;

25 (B) BENCHMARKING DATA FROM COMMUNITIES THAT ARE
26 CURRENTLY CONDUCTING COMMERCIAL BUILDING BENCHMARKING;

27 (C) ANY OTHER PUBLICLY AVAILABLE BUILDING BENCHMARKING

1 DATA THROUGH WHICH BENCHMARKING IS REPORTED TO A BUILDING
2 BENCHMARKING PROGRAM IN COLORADO; AND

3 (D) ANY OTHER INFORMATION THAT THE OFFICE DETERMINES IS
4 AVAILABLE REGARDING ENERGY USE IN COMMERCIAL BUILDINGS IN
5 COLORADO.

6 (b) (I) IF AT LEAST TWO-THIRDS OF THE MEMBERS APPOINTED TO
7 THE TASK FORCE AGREE ON RECOMMENDATIONS PURSUANT TO
8 SUBSECTION (10)(a)(II)(A) OF THIS SECTION, AND THE DIRECTOR OF THE
9 OFFICE IN CONSULTATION WITH THE COMMISSION DETERMINES THAT THE
10 RECOMMENDATIONS MEET THE CARBON DIOXIDE REDUCTION
11 REQUIREMENT SET FORTH IN SUBSECTION (10)(a)(II)(A) OF THIS SECTION,
12 THE DIVISION SHALL, ON OR BEFORE JULY 1, 2023, REQUEST THAT THE
13 COMMISSION, PURSUANT TO SUBSECTION (11)(a) OF THIS SECTION,
14 PUBLISH A NOTICE OF PROPOSED RULE-MAKING TO ADOPT RULES TO
15 IMPLEMENT THE TASK FORCE'S RECOMMENDATIONS.

16 (II) IF TWO-THIRDS OF THE MEMBERS OF THE TASK FORCE CANNOT
17 AGREE ON RECOMMENDATIONS OR IF THE DIRECTOR OF THE OFFICE IN
18 CONSULTATION WITH THE COMMISSION DETERMINES THAT THE TASK
19 FORCE'S RECOMMENDATIONS WOULD NOT MEET THE CARBON DIOXIDE
20 REDUCTION REQUIREMENT SET FORTH IN SUBSECTION (10)(a)(II)(A) OF
21 THIS SECTION, THE PERFORMANCE STANDARDS SET FORTH IN SUBSECTION
22 (8) OF THIS SECTION CONTINUE IN EFFECT UNTIL THE COMMISSION,
23 PURSUANT TO SUBSECTION (11)(b) OF THIS SECTION, ADOPTS ANY RULES
24 MODIFYING THE PERFORMANCE STANDARDS.

25 (c) ON OR BEFORE OCTOBER 1, 2022, THE TASK FORCE SHALL
26 DELIVER TO THE DIRECTOR OF THE OFFICE ANY INTERIM
27 RECOMMENDATIONS DEVELOPED. ON OR BEFORE JANUARY 1, 2023, THE

1 TASK FORCE SHALL DELIVER TO THE DIRECTOR OF THE OFFICE ANY FINAL
2 RECOMMENDATIONS DEVELOPED. THE DIRECTOR OF THE OFFICE SHALL
3 SEND COPIES OF THE TASK FORCE'S FINAL RECOMMENDATIONS TO THE
4 COMMISSION, THE GENERAL ASSEMBLY, AND THE GOVERNOR.

5 (d) THE TASK FORCE CONSISTS OF THE FOLLOWING MEMBERS, ALL
6 OF WHOM, EXCEPT THE REPRESENTATIVES OF THE OFFICE AND THE
7 DIVISION, ARE VOTING MEMBERS:

8 (I) THE DIRECTOR OF THE OFFICE OR THE DIRECTOR'S DESIGNEE;

9 (II) THE DIRECTOR OF THE DIVISION OR THE DIRECTOR'S DESIGNEE;

10 (III) TWO MEMBERS WHO ARE OWNERS OF COMMERCIAL COVERED
11 BUILDINGS OR WHO REPRESENT OWNERS OF COMMERCIAL COVERED
12 BUILDINGS;

13 (IV) ONE MEMBER WHO IS A BUILDING SYSTEMS OPERATOR;

14 (V) ONE MEMBER WHO IS AN OWNER OF A MULTIFAMILY
15 RESIDENTIAL COVERED BUILDING OR WHO REPRESENTS OWNERS OF
16 MULTIFAMILY RESIDENTIAL COVERED BUILDINGS;

17 (VI) ONE MEMBER WHO REPRESENTS AN AFFORDABLE HOUSING
18 ORGANIZATION;

19 (VII) TWO MEMBERS WHO HAVE DIRECT EXPERIENCE IN, OR ARE
20 MEMBERS OF ORGANIZATIONS REPRESENTING WORKERS IN, MECHANICAL,
21 PLUMBING, OR ELECTRICAL WORK;

22 (VIII) ONE MEMBER REPRESENTING ARCHITECTS, PROFESSIONAL
23 ENGINEERS WITH EXPERIENCE WORKING ON SYSTEMS FOR BUILDINGS, OR
24 OTHER DESIGN PROFESSIONALS;

25 (IX) ONE MEMBER REPRESENTING DEVELOPERS, CONSTRUCTION
26 ORGANIZATIONS, OR BUILDING CONTRACTORS;

27 (X) ONE MEMBER REPRESENTING AN ELECTRIC UTILITY, A GAS

1 UTILITY, OR A COMBINED ELECTRIC AND GAS UTILITY;

2 (XI) TWO MEMBERS OF ENVIRONMENTAL CONSERVATION OR

3 ENVIRONMENTAL JUSTICE GROUPS WITH EXPERIENCE IN ENERGY

4 EFFICIENCY OR THE BUILT ENVIRONMENT;

5 (XII) ONE MEMBER FROM A LOCAL GOVERNMENT THAT HAS

6 ENACTED OR ADOPTED A BENCHMARKING OR BUILDING ENERGY

7 PERFORMANCE ORDINANCE OR RESOLUTION;

8 (XIII) ONE MEMBER FROM A LOCAL GOVERNMENT THAT HAS NOT

9 ENACTED OR ADOPTED A BENCHMARKING OR BUILDING ENERGY

10 PERFORMANCE ORDINANCE OR RESOLUTION; AND

11 (XIV) THREE MEMBERS WITH RELEVANT BUILDING PERFORMANCE

12 EXPERTISE, AS DETERMINED BY THE DIRECTOR OF THE OFFICE.

13 (e) AN APPLICANT FOR THE TASK FORCE MUST SUBMIT WITH THE

14 APPLICATION A RECOMMENDATION FROM A RELEVANT MEMBER OR TRADE

15 ORGANIZATION, IF SUCH MEMBER OR TRADE ORGANIZATION EXISTS.

16 (f) THIS SUBSECTION (10) IS REPEALED, EFFECTIVE JULY 1, 2025.

17 (11) **Performance standard rules.** (a) ON OR BEFORE JANUARY

18 1, 2024, IF THE DIVISION, PURSUANT TO SUBSECTION (10)(b) OF THIS

19 SECTION, REQUESTS THAT THE COMMISSION PUBLISH A NOTICE OF

20 PROPOSED RULE-MAKING TO ADOPT RULES TO IMPLEMENT

21 RECOMMENDATIONS OF THE TASK FORCE, THE COMMISSION MAY ENGAGE

22 IN SUCH A RULE-MAKING PROCEEDING TO MODIFY THE PERFORMANCE

23 STANDARDS FOR PERFORMANCE YEAR 2026.

24 (b) ON OR AFTER DECEMBER 1, 2026, BUT NO LATER THAN

25 DECEMBER 1, 2027, THE COMMISSION, AFTER CONSULTATION WITH

26 AFFECTED STAKEHOLDERS, SHALL PROMULGATE RULES TO EITHER EXTEND

27 OR MODIFY THE PERFORMANCE STANDARDS, WAIVERS, OR EXTENSIONS OF

1 TIME SET FORTH IN SUBSECTIONS (8)(c), (8)(d), (9)(a), AND (9)(b) OF THIS
2 SECTION, OR ANY MODIFIED PERFORMANCE STANDARDS SET FORTH IN
3 RULES THAT THE COMMISSION PROMULGATES PURSUANT TO SUBSECTION
4 (11)(a) OF THIS SECTION, TO REQUIRE ALL COVERED BUILDINGS, IN THE
5 AGGREGATE, TO ACHIEVE OR EXCEED TWENTY PERCENT ENERGY AND
6 GREENHOUSE GAS REDUCTIONS AS MEASURED IN 2031 COMPARED TO THE
7 ENERGY AND GREENHOUSE GAS LEVELS IN 2021.

8 (c) ON OR BEFORE DECEMBER 1 OF EACH SUBSEQUENT BASELINE
9 YEAR THROUGH 2047, THE COMMISSION, AFTER CONSULTATION WITH
10 AFFECTED STAKEHOLDERS, SHALL PROMULGATE RULES TO EXTEND OR
11 MODIFY THE PERFORMANCE STANDARDS TO ACHIEVE OR EXCEED EMISSION
12 REDUCTIONS THAT ARE CONSISTENT WITH THE STATEWIDE
13 GREENHOUSE-GAS-EMISSION-REDUCTION TARGETS SET FORTH IN SECTION
14 25-7-102 (2)(g).

15 (d) THE CALCULATION OF GREENHOUSE GAS REDUCTIONS
16 PURSUANT TO THIS SUBSECTION (11) MUST NOT INCLUDE SAVINGS FROM
17 SYSTEM-WIDE DECARBONIZATION OF ELECTRICITY OR NATURAL GAS
18 UTILITY GRIDS, BUT THE REDUCTIONS MAY INCLUDE SAVINGS FROM
19 UTILITY OR LOCAL ENERGY EFFICIENCY PROGRAMS.

20 (e) THE COMMISSION'S RULES MUST NOT UNDULY BURDEN ANY OF
21 THE FOLLOWING BUILDINGS:

22 (I) HIGH-PERFORMANCE BUILDINGS;

23 (II) TENANT-OWNED MULTIFAMILY RESIDENTIAL BUILDINGS;

24 (III) RESIDENTIAL BUILDINGS PRIMARILY USED TO HOUSE
25 LOW-INCOME HOUSEHOLDS;

26 (IV) PROPERTIES BUILT BEFORE 1950 THAT HAVE BEEN
27 DESIGNATED HISTORIC PROPERTIES; OR

1 (V) BUILDINGS OWNED BY A LOCAL GOVERNMENT.

2 (f) ON OR AFTER JUNE 1, 2029, BUT BEFORE JUNE 1, 2030, THE
3 COMMISSION SHALL COMMENCE A RULE-MAKING PROCEEDING TO
4 CONSIDER REDUCING THE SIZE THRESHOLD OF A COVERED BUILDING FOR
5 PURPOSES OF MEETING THE PERFORMANCE STANDARDS SET FORTH IN
6 SUBSECTION (8) OF THIS SECTION OR RULES PROMULGATED PURSUANT TO
7 THIS SUBSECTION (11). THE COMMISSION MAY ADOPT SUBSEQUENT RULES
8 TO LOWER THE SIZE THRESHOLD.

9 (g) THE COMMISSION SHALL NOT ADOPT RULES TO RESCIND OR
10 MODIFY THE EXEMPTIONS FOR LOCAL GOVERNMENTS AND DISTRICTS FROM
11 PAYMENT OF THE ANNUAL FEE, AS SET FORTH IN SECTION 24-38.5-110
12 (1)(e)(II), OR THE EXEMPTIONS FOR LOCAL GOVERNMENTS AND DISTRICTS
13 FROM PAYMENT OF CIVIL PENALTIES, AS SET FORTH IN SECTION 25-7-122
14 (1)(i).

15 (12) **Saving clause.** THIS SECTION DOES NOT RESTRICT:

16 (a) THE ABILITY OF A QUALIFYING UTILITY TO PROVIDE
17 INCENTIVES OR OTHER ENERGY EFFICIENCY PROGRAM SERVICES FOR
18 COVERED BUILDINGS;

19 (b) THE ABILITY OF AN INVESTOR-OWNED UTILITY TO TAKE
20 CREDIT, AS DEEMED APPROPRIATE BY THE PUBLIC UTILITIES COMMISSION,
21 FOR ENERGY OR GREENHOUSE GAS EMISSION SAVINGS ACHIEVED FOR
22 COVERED BUILDINGS;

23 (c) THE ABILITY OF A QUALIFIED UTILITY TO SET AN AGGREGATION
24 THRESHOLD THAT IS LESS THAN FOUR; OR

25 (d) A LOCAL GOVERNMENT FROM ADOPTING OR IMPLEMENTING AN
26 ORDINANCE OR RESOLUTION THAT IMPOSES MORE STRINGENT
27 BENCHMARKING OR PERFORMANCE STANDARD REQUIREMENTS.

1 **SECTION 2.** In Colorado Revised Statutes, 24-38.5-102.4,
2 **amend** (2)(b)(VII); and **add** (2)(b)(VII.5) as follows:

3 **24-38.5-102.4. Energy fund - creation - use of fund -**
4 **definitions - repeal.** (2) (b) The Colorado energy office may expend
5 money from the energy fund:

6 (VII) To educate the general public on energy issues and
7 opportunities; **and**

8 (VII.5) TO IMPLEMENT THE BUILDING PERFORMANCE PROGRAM
9 DEFINED IN SECTION 24-38.5-110 (2)(b) AND DESCRIBED IN THAT SECTION
10 AND SECTION 25-7-142; AND

11 **SECTION 3.** In Colorado Revised Statutes, **add** 24-38.5-102.6
12 and 24-38.5-110 as follows:

13 **24-38.5-102.6. Climate change mitigation and adaptation fund**
14 **- creation - use.** (1) THE CLIMATE CHANGE MITIGATION AND
15 ADAPTATION FUND, REFERRED TO IN THIS SECTION AS THE "FUND", IS
16 HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF:

17 (a) CIVIL PENALTIES CREDITED TO THE FUND PURSUANT TO
18 SECTION 25-7-122 (1)(i)(III);

19 (b) BUILDING PERFORMANCE PROGRAM FEES CREDITED TO THE
20 FUND PURSUANT TO SECTION 24-38.5-110 (1)(e), WHICH FEES MUST BE
21 SEPARATELY ACCOUNTED FOR IN THE FUND;

22 (c) GIFTS, GRANTS, AND DONATIONS MADE TO THE COLORADO
23 ENERGY OFFICE TO HELP FINANCE ITS ADMINISTRATION OF CLIMATE
24 CHANGE MITIGATION OR ADAPTATION PROGRAMS AND POLICIES;

25 (d) ANY MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE
26 OR TRANSFER TO THE FUND; AND

27 (e) ANY OTHER MONEY CREDITED TO THE FUND.

1 (2) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
2 COLORADO ENERGY OFFICE FOR THE PURPOSE OF FINANCING AND
3 ADMINISTERING THE BUILDING PERFORMANCE PROGRAM DEFINED IN
4 SECTION 24-38.5-110 (3)(b) AND DESCRIBED IN THAT SECTION AND
5 SECTION 25-7-142.

6 (3) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
7 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
8 FUND TO THE FUND.

9 **24-38.5-110. Building performance program - duties of the**
10 **office - county assessor records database - fees - definitions.** (1) THE
11 COLORADO ENERGY OFFICE SHALL IMPLEMENT A BUILDING PERFORMANCE
12 PROGRAM AS FOLLOWS:

13 (a) BASED ON COUNTY ASSESSOR RECORDS AND OTHER AVAILABLE
14 SOURCES OF INFORMATION, THE OFFICE SHALL ADMINISTER THE BUILDING
15 PERFORMANCE PROGRAM BY:

16 (I) CREATING A DATABASE OF COVERED BUILDINGS AND OF
17 OWNERS REQUIRED TO COMPLY WITH THE BUILDING PERFORMANCE
18 PROGRAM;

19 (II) TRACKING COMPLIANCE WITH THE BUILDING PERFORMANCE
20 PROGRAM;

21 (III) MAINTAINING A LIST OF NONCOMPLIANT OWNERS; AND

22 (IV) IN A FORM AND MANNER DETERMINED BY THE OFFICE, IN
23 CONSULTATION WITH THE DIVISION OF ADMINISTRATION IN THE
24 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, PERIODICALLY
25 PROVIDING THE DIVISION WITH A LIST OF NONCOMPLIANT OWNERS FOR THE
26 DIVISION'S ENFORCEMENT OF THE BUILDING PERFORMANCE PROGRAM
27 PURSUANT TO SECTION 25-7-122 (1)(i).

1 (b) UPON REQUEST OF THE OFFICE, A COUNTY ASSESSOR SHALL, IF
2 FEASIBLE USING EXISTING RESOURCES, PROVIDE READILY AVAILABLE
3 PROPERTY DATA FROM EXISTING RECORDS TO THE OFFICE AS NECESSARY
4 FOR IMPLEMENTATION OF THIS SECTION.

5 (c) THE OFFICE SHALL MAKE PUBLICLY AVAILABLE, THROUGH
6 DIGITALLY INTERACTIVE MAPS, LISTS, OR OTHER TECHNOLOGY AS
7 DETERMINED BY THE OFFICE, BENCHMARKING DATA FOR ALL COVERED
8 BUILDINGS THAT HAVE REPORTED IN EACH YEAR PURSUANT TO SECTION
9 25-7-142 (3). THE PUBLICLY AVAILABLE DATA MUST NOT INCLUDE ANY
10 CONTACT INFORMATION FOR A COVERED BUILDING THAT IS NOT
11 OTHERWISE PUBLICLY AVAILABLE.

12 (d) THE OFFICE SHALL COORDINATE WITH ANY LOCAL
13 GOVERNMENT THAT IMPLEMENTS ITS OWN ENERGY BENCHMARKING OR
14 ENERGY PERFORMANCE PROGRAM, INCLUDING THE COORDINATION OF
15 REPORTING REQUIREMENTS.

16 (e) (I) EXCEPT AS PROVIDED IN SUBSECTION (1)(e)(II) OF THIS
17 SECTION, TO FINANCE THE OFFICE'S ADMINISTRATION OF THE BUILDING
18 PERFORMANCE PROGRAM, THE OFFICE SHALL COLLECT FROM EACH OWNER
19 OF A COVERED BUILDING AN ANNUAL FEE OF ONE HUNDRED DOLLARS PER
20 COVERED BUILDING. THE OFFICE SHALL TRANSFER THE FEES COLLECTED
21 TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE CLIMATE
22 CHANGE MITIGATION AND ADAPTATION FUND CREATED IN SECTION
23 24-38.5-102.6.

24 (II) THE FOLLOWING ENTITIES ARE EXEMPT FROM PAYING THE
25 ANNUAL FEE DESCRIBED IN SUBSECTION (1)(e)(I) OF THIS SECTION:

26 (A) A STATUTORY OR HOME RULE CITY, CITY AND COUNTY, OR
27 COUNTY; ■

- 1 (B) A DISTRICT OR SPECIAL DISTRICT GOVERNED BY TITLE 32;
- 2 (C) A STATE INSTITUTION OF HIGHER EDUCATION;
- 3 (D) A SCHOOL DISTRICT CREATED PURSUANT TO ARTICLE 30 OF
- 4 TITLE 22; OR
- 5 (E) A CHARTER SCHOOL AUTHORIZED PURSUANT TO PART 1 OF
- 6 ARTICLE 30.5 OF TITLE 22.

7 (2) TO IMPLEMENT THE BUILDING PERFORMANCE PROGRAM, THE

8 COLORADO ENERGY OFFICE SHALL ASSIST BUILDING OWNERS TO INCREASE

9 ENERGY EFFICIENCY AND REDUCE GREENHOUSE GAS EMISSIONS FROM

10 THEIR BUILDINGS, INCLUDING BY PROVIDING OUTREACH, TRAINING,

11 TECHNICAL ASSISTANCE, AND GRANTS TO BUILDING OWNERS TO HELP

12 THEIR BUILDINGS COME INTO COMPLIANCE WITH THE BUILDING

13 PERFORMANCE PROGRAM.

14 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE

15 REQUIRES:

16 (a) "BENCHMARKING DATA" HAS THE MEANING SET FORTH IN

17 SECTION 25-7-142 (2)(g).

18 (b) "BUILDING PERFORMANCE PROGRAM" MEANS THE

19 BENCHMARKING AND PERFORMANCE STANDARD REQUIREMENTS SET

20 FORTH IN SECTION 25-7-142 (3) AND (8).

21 (c) "COLORADO ENERGY OFFICE" OR "OFFICE" MEANS THE

22 COLORADO ENERGY OFFICE CREATED IN SECTION 24-38.5-101.

23 (d) "COVERED BUILDING" HAS THE MEANING SET FORTH IN

24 SECTION 25-7-142 (2)(m).

25 (e) "OWNER" HAS THE MEANING SET FORTH IN SECTION 25-7-142

26 (2)(v).

27 **SECTION 4.** In Colorado Revised Statutes, 25-7-122, **add** (1)(i)

1 as follows:

2 **25-7-122. Civil penalties - rules - definitions.** (1) Upon
3 application of the division, the division may collect penalties as
4 determined under this article 7 by instituting an action in the district court
5 for the district in which the air pollution source affected is located, in
6 accordance with the following provisions:

7 (i) (I) ON AND AFTER JANUARY 1, 2024, AND EXCEPT AS PROVIDED
8 IN SUBSECTION (1)(i)(II) OF THIS SECTION, AN OWNER OF A COVERED
9 BUILDING THAT VIOLATES SECTION 25-7-142 (3) OR (6) IS SUBJECT TO A
10 CIVIL PENALTY OF UP TO FIVE HUNDRED DOLLARS FOR A FIRST VIOLATION
11 AND UP TO TWO THOUSAND DOLLARS FOR EACH SUBSEQUENT VIOLATION.
12 AN OWNER OF A COVERED BUILDING THAT VIOLATES SECTION 25-7-142
13 (8) IS SUBJECT TO A CIVIL PENALTY OF UP TO TWO THOUSAND DOLLARS
14 FOR A FIRST VIOLATION AND UP TO FIVE THOUSAND DOLLARS FOR A
15 SUBSEQUENT VIOLATION.

16 (II) THE DIVISION SHALL NOT ASSESS A CIVIL PENALTY WITH
17 REGARD TO A BUILDING OWNED BY:

18 (A) THE STATE;

19 (B) A STATUTORY OR HOME RULE CITY, CITY AND COUNTY, OR
20 COUNTY;

21 (C) A SCHOOL DISTRICT CREATED PURSUANT TO ARTICLE 30 OF
22 TITLE 22 OR A CHARTER SCHOOL AUTHORIZED PURSUANT TO PART 1 OF
23 ARTICLE 30.5 OF TITLE 22;

24 (D) A STATE INSTITUTION OF HIGHER EDUCATION AS DEFINED IN
25 SECTION 23-1-108 (7)(g)(II), BUT INCLUDING THE AURARIA HIGHER
26 EDUCATION CENTER GOVERNED PURSUANT TO ARTICLE 70 OF TITLE 23; OR

27 (E) A DISTRICT OR SPECIAL DISTRICT GOVERNED BY TITLE 32.

1 (III) NOTWITHSTANDING SECTION 25-7-129, THE DIVISION SHALL
2 TRANSMIT CIVIL PENALTIES COLLECTED PURSUANT TO THIS SUBSECTION
3 (1)(i) TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE
4 CLIMATE CHANGE MITIGATION AND ADAPTATION FUND CREATED IN
5 SECTION 24-38.5-102.6.

6 (IV) AS USED IN THIS SUBSECTION (1)(i):

7 (A) "COVERED BUILDING" HAS THE MEANING SET FORTH IN
8 SECTION 25-7-142 (2)(m).

9 (B) "GROSS FLOOR AREA" HAS THE MEANING SET FORTH IN
10 SECTION 25-7-142 (2)(s).

11 (C) "OWNER" HAS THE MEANING SET FORTH IN SECTION 25-7-142
12 (2)(v).

13 **SECTION 5.** In Colorado Revised Statutes, 29-12.5-101, **amend**
14 (3) introductory portion, (3)(f), and (3)(h); and **repeal** (3)(g) as follows:

15 **29-12.5-101. Definitions.** As used in this article 12.5:

16 (3) "Energy performance contract" means a contract for
17 evaluations, recommendations, or implementation of one or more energy
18 saving measures designed to produce utility ~~costs~~ COST savings, operation
19 and maintenance cost savings, or vehicle fleet operational and fuel cost
20 savings, which contract:

21 (f) Requires ~~such~~ A board, upon termination or expiration of the
22 contract, to return to ~~such~~ THE party any ~~moneys~~ MONEY THAT THE PARTY
23 deposited with ~~such~~ THE board ~~that are~~ AND DID not ~~forfeited~~ FORFEIT to
24 ~~such~~ THE board pursuant to ~~paragraph (c) of this subsection (3)~~
25 SUBSECTION (3)(e) OF THIS SECTION; AND

26 (g) ~~Requires that not less than one-tenth of all payments, except~~
27 ~~payments for maintenance and repairs and obligations on the termination~~

1 ~~of the contract prior to expiration, to be made by such board shall be~~
2 ~~made within two years from the date of execution of the contract; and~~

3 (h) Requires that the ~~remaining such payments to be made by such~~
4 ~~board shall be made within twelve years from the date of execution of the~~
5 ~~contract; except that the maximum term of the payments shall~~ THAT THE
6 BOARD MAKES MUST be less than the cost-weighted average useful life of
7 energy cost-savings equipment for which the contract is made, not to
8 exceed twenty-five years.

9 **SECTION 6. Act subject to petition - effective date -**
10 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
11 the expiration of the ninety-day period after final adjournment of the
12 general assembly; except that, if a referendum petition is filed pursuant
13 to section 1 (3) of article V of the state constitution against this act or an
14 item, section, or part of this act within such period, then the act, item,
15 section, or part will not take effect unless approved by the people at the
16 general election to be held in November 2022 and, in such case, will take
17 effect on the date of the official declaration of the vote thereon by the
18 governor.

19 (2) This act applies to conduct occurring on or after the applicable
20 effective date of this act.