

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

PREAMENDED

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

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

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.

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. (1) Legislative declaration.** THE

7 GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT THE
8 REGULATION OF BUILDING PERFORMANCE IS A MATTER OF STATEWIDE
9 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 OR STAND-ALONE PARKING GARAGE
4 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; AND

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

25 (4) **Utility data requirements.** (a) ON OR BEFORE JANUARY 1,
26 2022, A QUALIFYING UTILITY SHALL:

27 (I) ESTABLISH AN AGGREGATION THRESHOLD THAT IS FOUR OR

1 FEWER UTILITY CUSTOMER ACCOUNTS;

2 (II) PUBLISH ITS AGGREGATION THRESHOLD ON ITS PUBLIC
3 WEBSITE; AND

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

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

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

12 (II) PROVIDED TO THE OWNER WITHIN THIRTY DAYS AFTER
13 RECEIVING THE OWNER'S VALID WRITTEN OR ELECTRONIC REQUEST;

14 (III) DIRECTLY UPLOADED TO THE OWNER'S BENCHMARKING TOOL
15 ACCOUNT, DELIVERED IN THE SPREADSHEET TEMPLATE SPECIFIED BY THE
16 BENCHMARKING TOOL, OR DELIVERED IN ANOTHER FORMAT APPROVED BY
17 THE OFFICE;

18 (IV) PROVIDED TO THE OWNER ON AT LEAST AN ANNUAL BASIS
19 UNTIL THE OWNER REVOKES THE REQUEST FOR ENERGY-USE DATA OR
20 SELLS THE COVERED BUILDING; AND

21 (V) PROVIDED IN ACCORDANCE WITH THIS SUBSECTION (4),
22 REGARDLESS OF WHETHER THE OWNER IS NAMED ON THE UTILITY
23 ACCOUNT FOR THE COVERED BUILDING.

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

- 1 (I) MAY BE IN WRITTEN OR ELECTRONIC FORM;
- 2 (II) MAY BE PROVIDED IN A LEASE AGREEMENT PROVISION;
- 3 (III) IS VALID UNTIL THE UTILITY CUSTOMER REVOKES IT; AND
- 4 (IV) IS NOT REQUIRED IF A UTILITY CUSTOMER VACATES THE
- 5 COVERED BUILDING BEFORE EXPLICITLY DENYING THE OWNER CONSENT TO
- 6 ACCESS AND SHARE THE UTILITY CUSTOMER'S ENERGY-USE DATA.

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

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

16 (II) A DEMOLITION PERMIT WAS ISSUED FOR THE ENTIRE COVERED
17 BUILDING;

18 (III) THE COVERED BUILDING MET ONE OR MORE OF THE
19 CONDITIONS FOR FINANCIAL HARDSHIP; OR

20 (IV) THE COVERED BUILDING DOES NOT MEET A QUALIFYING
21 UTILITY'S AGGREGATION THRESHOLD, ONE OR MORE OF THE UTILITY
22 CUSTOMERS REFUSED TO PROVIDE THE OWNER WITH PERMISSION TO
23 ACCESS THE UTILITY CUSTOMER'S RELEVANT ENERGY-USE DATA, THE
24 OWNER PROVIDES PROOF TO THE OFFICE THAT IT REQUESTED PERMISSION
25 FROM THE UTILITY CUSTOMER OR UTILITY CUSTOMERS WITHHOLDING
26 CONSENT AT LEAST THIRTY DAYS BEFORE THE BENCHMARKING REPORT
27 WAS DUE, AND THE OWNER SUBMITS A PLAN TO INCLUDE AN ENERGY-USE

1 DATA SHARING PERMISSION PROVISION IN THE NEXT LEASE RENEWAL.

2 (b) AN OWNER OF A COVERED BUILDING MAY REQUEST A TIME
3 EXTENSION FROM THE OFFICE TO SUBMIT A BENCHMARKING REPORT IF THE
4 OWNER SUBMITS DOCUMENTATION TO THE OFFICE DEMONSTRATING THAT,
5 DESPITE THE OWNER'S GOOD-FAITH EFFORT, THE OWNER WAS UNABLE TO
6 COMPLETE THE BENCHMARKING REPORT IN A TIMELY MANNER BECAUSE OF
7 THE FAILURE OR REFUSAL OF A QUALIFYING UTILITY OR A UTILITY
8 CUSTOMER TO PROVIDE THE NECESSARY INFORMATION OR PERMISSION, AS
9 APPLICABLE.

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

13 (d) PURSUANT TO SUBSECTION (7) OF THIS SECTION, THE
14 COMMISSION MAY, BY RULE, MODIFY THE REQUIREMENTS FOR OBTAINING
15 A WAIVER OR EXTENSION OF TIME PURSUANT TO THIS SUBSECTION (5).

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

17 (a) AT THE TIME OF LISTING A COVERED BUILDING OR A PORTION OF A
18 COVERED BUILDING FOR SALE OR LEASE, THE OWNER OF THE COVERED
19 BUILDING SHALL FURNISH AN ELECTRONIC COPY OF REPORTED
20 BENCHMARKING DATA FROM THE PREVIOUS CALENDAR YEAR OR FROM THE
21 MOST RECENT TWELVE-MONTH PERIOD OF CONTINUOUS OCCUPANCY TO
22 THE FOLLOWING:

23 (I) PROSPECTIVE BUYERS OR LESSEES;

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

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

1 (b) UPON RECEIPT OF THE BENCHMARKING DATA, A COMMERCIAL
2 REAL ESTATE LISTING SERVICE THAT LISTS PROPERTIES IN THE STATE
3 SHALL INCLUDE IN THE PROPERTY'S LISTING, AT A MINIMUM, THE
4 PROPERTY'S ENERGY STAR SCORE, IF APPLICABLE, AND THE PROPERTY'S
5 ENERGY-USE INTENSITY.

6 (c) IF A COVERED BUILDING CHANGES OWNERSHIP, THE FORMER
7 OWNER SHALL MAKE AVAILABLE TO THE NEW OWNER THE ENERGY-USE
8 DATA; UTILITY CUSTOMER CONSENT DOCUMENTATION, IF ANY; AND ANY
9 OTHER INFORMATION ABOUT THE PROPERTY THAT IS NECESSARY TO
10 BENCHMARK THE COVERED BUILDING. THE FORMER OWNER SHALL
11 TRANSFER TO THE NEW OWNER BOTH THE RECORD REPRESENTING THE
12 COVERED BUILDING WITHIN THE BENCHMARKING TOOL AND THE REQUEST
13 TO A QUALIFIED UTILITY FOR AGGREGATED DATA. THE NEW OWNER MAY
14 REQUEST AND RECEIVE FROM A QUALIFYING UTILITY THE AGGREGATED
15 DATA NECESSARY TO FULFILL BENCHMARKING REPORTING REQUIREMENTS.

16 (7) **Benchmarking rules.** THE COMMISSION MAY PROMULGATE
17 RULES TO IMPLEMENT THE BENCHMARKING PROGRAM SET FORTH IN THIS
18 SECTION. ADDITIONALLY, THE COMMISSION MAY, BY RULE, MODIFY THE
19 FOLLOWING:

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

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

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

25 AND

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

1 (c) THE BENCHMARKING TOOL THAT OWNERS ARE REQUIRED TO
2 USE TO BENCHMARK;

3 (d) DATA VERIFICATION REQUIREMENTS; AND

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

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

10 (b) (I) EXCEPT AS PROVIDED IN SUBSECTION (8)(b)(II) OF THIS
11 SECTION, ON OR BEFORE JUNE 1 OF A YEAR FOLLOWING A PERFORMANCE
12 YEAR, AN OWNER OF A COVERED BUILDING SHALL SUBMIT TO THE OFFICE
13 A REPORT, IN A FORM AND MANNER DETERMINED BY THE OFFICE,
14 DEMONSTRATING THAT, IN THE MOST RECENT PERFORMANCE YEAR, THE
15 COVERED BUILDING MET THE PERFORMANCE STANDARDS SET FORTH IN
16 SUBSECTION (8)(c) OR (8)(d) OF THIS SECTION OR, IF THE COMMISSION BY
17 RULE MODIFIES THE PERFORMANCE STANDARDS PURSUANT TO SUBSECTION
18 (10) OF THIS SECTION, THE MODIFIED PERFORMANCE STANDARDS SET
19 FORTH IN THE COMMISSION'S RULES.

20 (II) FOR A COVERED BUILDING OWNED BY THE STATE, A LOCAL
21 GOVERNMENT, A SPECIAL DISTRICT REGULATED UNDER TITLE 32, A STATE
22 INSTITUTION OF HIGHER EDUCATION, A SCHOOL DISTRICT CREATED
23 PURSUANT TO ARTICLE 30 OF TITLE 22, OR A CHARTER SCHOOL
24 AUTHORIZED PURSUANT TO PART 1 OF ARTICLE 30.5 OF TITLE 22, THE
25 OWNER NEED COMPLY WITH THE PERFORMANCE REQUIREMENTS SET FORTH
26 IN THIS SUBSECTION (8) ONLY IF THE OWNER COMPLETES WORK ON A
27 CONSTRUCTION OR RENOVATION PROJECT THAT HAS AN ESTIMATED COST

1 OF AT LEAST FIVE HUNDRED THOUSAND DOLLARS AND IMPACTS AT LEAST
2 TWENTY-FIVE PERCENT OF THE COVERED BUILDING'S SQUARE FOOTAGE.

3 (c) FOR PERFORMANCE YEAR 2026, AN OWNER OF A COVERED
4 BUILDING SHALL DEMONSTRATE IN ACCORDANCE WITH THE REPORTING
5 REQUIREMENT SET FORTH IN SUBSECTION (8)(b)(I) OF THIS SECTION THAT
6 THE COVERED BUILDING MET ONE OR MORE OF THE FOLLOWING
7 PERFORMANCE STANDARDS OR THE PERFORMANCE STANDARD SET FORTH
8 IN SUBSECTION (8)(d) OF THIS SECTION:

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

10 (A) SEVENTY-FIVE OR HIGHER; OR

11 (B) FIFTEEN POINTS HIGHER THAN THE ENERGY STAR SCORE THAT
12 THE COVERED BUILDING RECEIVED DURING ITS MOST RECENT BASELINE
13 YEAR;

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

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

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

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

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

6 (d) AS AN ALTERNATIVE TO THE PERFORMANCE STANDARDS SET
7 FORTH IN SUBSECTION (8)(c) OF THIS SECTION, AN OWNER MAY COMPLY
8 WITH THE PERFORMANCE STANDARD REQUIREMENT FOR PERFORMANCE
9 YEAR 2026 BY DEMONSTRATING THAT, FOR AT LEAST FOUR OF THE FIVE
10 YEARS IMMEDIATELY AFTER THE MOST RECENT BASELINE YEAR, AT LEAST
11 FIFTY PERCENT OF THE COVERED BUILDING'S ELECTRICITY WAS
12 GENERATED FROM RENEWABLE ENERGY AND:

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

14 (A) SIXTY-FIVE OR HIGHER; OR

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

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

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

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

25 (B) IF THE COMMISSION HAS NOT YET PROMULGATED A RULE
26 ESTABLISHING THE TARGET DESCRIBED IN SUBSECTION (8)(d)(III)(A) OF
27 THIS SECTION, THE TWENTY-FIFTH PERCENTILE SECTOR-SPECIFIC AND

1 CLIMATE-ZONE-SPECIFIC TARGET CONTAINED IN ANSI/ASHRAE/IES
2 STANDARD 100-2018, "ENERGY EFFICIENCY IN EXISTING BUILDINGS", OR
3 ITS SUCCESSOR STANDARD; OR

4 (C) IF THE COVERED BUILDING IS A MIXED-USE PROPERTY, THE
5 SECTOR-SPECIFIC AND CLIMATE-ZONE-SPECIFIC TARGET DETERMINED BY
6 THE COMMISSION BY RULE OR, IF THE COMMISSION HAS NOT YET
7 PROMULGATED A RULE ESTABLISHING THE TARGET, BY THE STANDARD
8 REFERENCED IN SUBSECTION (8)(d)(III)(B) OF THIS SECTION, AS
9 DETERMINED BY A WEIGHTED AVERAGE OF SQUARE FOOTAGE BY FUNCTION
10 OR USE.

11 (e) IN SUBMITTING A PERFORMANCE REPORT DEMONSTRATING
12 THAT A COVERED BUILDING HAS MET PERFORMANCE STANDARDS, THE
13 OWNER OF THE COVERED BUILDING MAY SUBSTITUTE A YEAR WITHIN TWO
14 YEARS BEFORE OR AFTER THE RELEVANT BASELINE YEAR AS THE YEAR TO
15 WHICH THE PERFORMANCE YEAR MAY BE COMPARED.

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

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

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

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

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

23 (a) FOR PERFORMANCE YEAR 2026 AND, IF EXTENDED BY THE
24 COMMISSION BY RULE PURSUANT TO SUBSECTION (10) OF THIS SECTION,
25 FOR SUBSEQUENT PERFORMANCE YEARS, THE OFFICE SHALL GRANT AN
26 OWNER OF A COVERED BUILDING A WAIVER FROM THE REQUIREMENT TO
27 MEET THE PERFORMANCE STANDARDS BY DEMONSTRATING IN THE

1 PERFORMANCE REPORT THAT:

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

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

8 (III) THE COVERED BUILDING IS A TENANT-OWNED MULTIFAMILY
9 RESIDENTIAL BUILDING;

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

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

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

16 (B) THE OWNER OF THE COVERED BUILDING SUBMITS PROOF THAT
17 THE OWNER CANNOT PERFORM ANY ADDITIONAL ENERGY EFFICIENCY
18 UPGRADES IN WHICH THE INITIAL COSTS OF THE UPGRADES COULD BE
19 RECOVERED FROM ENERGY BILL SAVINGS IN FEWER THAN FIVE YEARS
20 WITHOUT JEOPARDIZING THE HISTORIC DESIGNATION OR STRUCTURAL
21 INTEGRITY OF THE PROPERTY; AND

22 (C) THE OWNER SUBMITS PROOF THAT THE COVERED BUILDING HAS
23 BEEN COMMISSIONED OR RECOMMISSIONED SINCE THE MOST RECENT
24 BASELINE YEAR IN ACCORDANCE WITH ANSI/ASHRAE/IES STANDARD
25 202-2018, "COMMISSIONING PROCESS FOR BUILDINGS AND SYSTEMS", OR
26 ITS SUCCESSOR STANDARD; OR

27 (VI) IN OR AFTER THE MOST RECENT BASELINE YEAR, THE

1 COVERED BUILDING RECEIVED A CERTIFICATE OF OCCUPANCY AND THE
2 OWNER SUBMITS PROOF TO THE OFFICE THAT THE COVERED BUILDING WAS
3 CONSTRUCTED TO MEET OR SURPASS THE EFFICIENCY LEVELS IN ONE OF
4 THE FOLLOWING:

5 (A) ONE OF THE TWO MOST RECENT EDITIONS OF THE
6 INTERNATIONAL CODE COUNCIL'S, OR ITS SUCCESSOR ORGANIZATION'S,
7 INTERNATIONAL ENERGY CONSERVATION CODE;

8 (B) ANSI/ASHRAE/IES STANDARD 90.1-2019, "ENERGY
9 STANDARD FOR BUILDINGS EXCEPT LOW-RISE RESIDENTIAL BUILDINGS",
10 OR ITS SUCCESSOR STANDARD; OR

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

14 (b) AN OWNER OF A COVERED BUILDING MAY REQUEST AN
15 EXTENSION OF TIME FROM THE OFFICE IF THE OWNER SUBMITS
16 DOCUMENTATION TO THE OFFICE DEMONSTRATING THAT:

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

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

24 (III) THE BUILDING CHANGED OWNERSHIP SINCE THE MOST RECENT
25 BASELINE YEAR.

26 (10) **Performance standard rules - task force**
27 **recommendations for implementation - repeal.** (a) (I) **NOLATER THAN**

1 NOVEMBER 1, 2021, THE DIRECTOR OF THE OFFICE SHALL APPOINT,
2 CONVENE, AND FACILITATE A TASK FORCE TO DEVELOP AND PROVIDE
3 CONSENSUS RECOMMENDATIONS TO THE COMMISSION, THE GENERAL
4 ASSEMBLY, AND THE GOVERNOR ON MODIFICATIONS TO THE
5 IMPLEMENTATION OF BENCHMARKING AND PERFORMANCE STANDARDS.

6 (II) THE TASK FORCE MAY CONSIDER RECOMMENDATIONS RELATED
7 TO:

8 (A) WORKFORCE AVAILABILITY AND DEVELOPMENT RELATED TO
9 BUILDING ENERGY PERFORMANCE;

10 (B) FINANCIAL AND NONFINANCIAL COSTS AND BENEFITS OF
11 UPGRADED BUILDING ENERGY PERFORMANCE;

12 (C) AVAILABILITY OF PROGRAMS, TECHNICAL ASSISTANCE, AND
13 INCENTIVES TO SUPPORT BUILDING OWNERS, UTILITIES, AND LOCAL
14 GOVERNMENTS;

15 (D) OPPORTUNITIES TO IMPROVE COMMERCIAL BUILDING ENERGY
16 USE IN COLORADO; AND

17 (E) FUTURE ACTIONS THAT THE COMMISSION AND THE GENERAL
18 ASSEMBLY MAY TAKE RELATED TO IMPLEMENTING THE BENCHMARKING
19 AND PERFORMANCE STANDARDS.

20 (III) THE TASK FORCE SHALL DEVELOP AND DELIVER TO THE
21 COMMISSION, THE GENERAL ASSEMBLY, AND THE GOVERNOR:

22 (A) INTERIM CONSENSUS RECOMMENDATIONS NO LATER THAN
23 DECEMBER 1, 2022; AND

24 (B) FINAL CONSENSUS RECOMMENDATIONS NO LATER THAN
25 DECEMBER 1, 2024.

26 (IV) THE TASK FORCE CONSISTS OF THE FOLLOWING MEMBERS:

27 (A) THE DIRECTOR OF THE OFFICE OR THE DIRECTOR'S DESIGNEE;

1 (B) THE DIRECTOR OF ENVIRONMENTAL PROGRAMS IN THE
2 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR THE DIRECTOR'S
3 DESIGNEE;

4 (C) TWO MEMBERS WHO ARE BUILDING OWNERS OR WHO
5 REPRESENT BUILDING OWNERS, WITH ONE REPRESENTING COMMERCIAL
6 BUILDINGS AND ONE REPRESENTING MULTIFAMILY RESIDENTIAL
7 BUILDINGS;

8 (D) TWO MEMBERS WHO HAVE DIRECT EXPERIENCE IN, OR ARE
9 MEMBERS OF ORGANIZATIONS REPRESENTING WORKERS IN, MECHANICAL,
10 PLUMBING, OR ELECTRICAL WORK;

11 (E) TWO MEMBERS REPRESENTING DESIGN PROFESSIONALS,
12 DEVELOPERS, BUILDING ENGINEERS, CONSTRUCTION ORGANIZATIONS, OR
13 BUILDING CONTRACTORS;

14 (F) TWO MEMBERS OF ENVIRONMENTAL CONSERVATION OR
15 ENVIRONMENTAL JUSTICE GROUPS WITH EXPERIENCE IN ENERGY
16 EFFICIENCY OR THE BUILT ENVIRONMENT;

17 (G) ONE MEMBER FROM A LOCAL GOVERNMENT THAT HAS
18 ENACTED OR ADOPTED A BENCHMARKING OR BUILDING ENERGY
19 PERFORMANCE ORDINANCE OR RESOLUTION; AND

20 (H) ONE MEMBER FROM A LOCAL GOVERNMENT THAT HAS NOT
21 ENACTED OR ADOPTED A BENCHMARKING OR BUILDING ENERGY
22 PERFORMANCE ORDINANCE OR RESOLUTION.

23 (V) THIS SUBSECTION (10)(a) IS REPEALED, EFFECTIVE JULY 1,
24 2025.

25 (b) ON OR AFTER DECEMBER 1, 2026, BUT NO LATER THAN
26 DECEMBER 1, 2027, THE COMMISSION, AFTER CONSULTATION WITH
27 AFFECTED STAKEHOLDERS, SHALL PROMULGATE RULES TO EITHER EXTEND

1 OR MODIFY THE PERFORMANCE STANDARDS, WAIVERS, OR EXTENSIONS OF
2 TIME SET FORTH IN SUBSECTIONS (8)(c), (8)(d), (9)(a), AND (9)(b) OF THIS
3 SECTION TO REQUIRE ALL COVERED BUILDINGS, IN THE AGGREGATE, TO
4 ACHIEVE OR EXCEED TWENTY PERCENT ENERGY AND GREENHOUSE GAS
5 REDUCTIONS AS MEASURED IN 2031 COMPARED TO THE ENERGY AND
6 GREENHOUSE GAS LEVELS IN 2021.

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

14 (d) THE CALCULATION OF GREENHOUSE GAS REDUCTIONS
15 PURSUANT TO THIS SUBSECTION (10) MUST NOT INCLUDE SAVINGS FROM
16 SYSTEM-WIDE DECARBONIZATION OF ELECTRICITY OR NATURAL GAS
17 UTILITY GRIDS, BUT THE REDUCTIONS MAY INCLUDE SAVINGS FROM
18 UTILITY OR LOCAL ENERGY EFFICIENCY PROGRAMS.

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

- 21 (I) HIGH-PERFORMANCE BUILDINGS;
- 22 (II) TENANT-OWNED MULTIFAMILY RESIDENTIAL BUILDINGS;
- 23 (III) RESIDENTIAL BUILDINGS PRIMARILY USED TO HOUSE
24 LOW-INCOME HOUSEHOLDS;
- 25 (IV) PROPERTIES BUILT BEFORE 1950 THAT HAVE BEEN
26 DESIGNATED HISTORIC PROPERTIES; OR
- 27 (V) BUILDINGS OWNED BY A LOCAL GOVERNMENT.

1 (f) ON OR AFTER JUNE 1, 2029, BUT BEFORE JUNE 1, 2030, THE
2 COMMISSION SHALL COMMENCE A RULE-MAKING PROCEEDING TO
3 CONSIDER REDUCING THE SIZE THRESHOLD OF A COVERED BUILDING FOR
4 PURPOSES OF MEETING THE PERFORMANCE STANDARDS SET FORTH IN
5 SUBSECTION (8) OF THIS SECTION OR RULES PROMULGATED PURSUANT TO
6 THIS SUBSECTION (10). THE COMMISSION MAY ADOPT SUBSEQUENT RULES
7 TO LOWER THE SIZE THRESHOLD.

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

14 (11) **Saving clause.** THIS SECTION DOES NOT RESTRICT:

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

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

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

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

27 **SECTION 2.** In Colorado Revised Statutes, 24-38.5-102.4,

1 **amend** (2)(b)(VII); and **add** (2)(b)(VII.5) as follows:

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

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

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

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

12 **24-38.5-102.6. Climate change mitigation and adaptation fund**
13 **- creation - use.** (1) THE CLIMATE CHANGE MITIGATION AND ADAPTATION
14 FUND, REFERRED TO IN THIS SECTION AS THE "FUND", IS HEREBY CREATED
15 IN THE STATE TREASURY. THE FUND CONSISTS OF:

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

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

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

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

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

27 (2) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE

1 COLORADO ENERGY OFFICE FOR THE PURPOSE OF FINANCING AND
2 ADMINISTERING PROGRAMS AND POLICIES DEVELOPED TO MITIGATE OR
3 ADAPT TO CLIMATE CHANGE THROUGHOUT THE STATE.

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

7 **24-38.5-110. Building performance program - duties of the**
8 **office - county assessor records database - fees - definitions.** (1) THE
9 COLORADO ENERGY OFFICE SHALL IMPLEMENT A BUILDING PERFORMANCE
10 PROGRAM AS FOLLOWS:

11 (a) BASED ON COUNTY ASSESSOR RECORDS AND OTHER AVAILABLE
12 SOURCES OF INFORMATION, THE OFFICE SHALL CREATE A DATABASE OF
13 COVERED BUILDINGS AND OF OWNERS REQUIRED TO COMPLY WITH THE
14 BUILDING PERFORMANCE PROGRAM.

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

19 (c) THE OFFICE SHALL MAKE PUBLICLY AVAILABLE, THROUGH
20 DIGITALLY INTERACTIVE MAPS, LISTS, OR OTHER TECHNOLOGY AS
21 DETERMINED BY THE OFFICE, BENCHMARKING DATA FOR ALL COVERED
22 BUILDINGS THAT HAVE REPORTED IN EACH YEAR PURSUANT TO SECTION
23 25-7-142 (3). THE PUBLICLY AVAILABLE DATA MUST NOT INCLUDE ANY
24 CONTACT INFORMATION FOR A COVERED BUILDING THAT IS NOT
25 OTHERWISE PUBLICLY AVAILABLE.

26 (d) THE OFFICE SHALL COORDINATE WITH ANY LOCAL
27 GOVERNMENT THAT IMPLEMENTS ITS OWN ENERGY BENCHMARKING OR

1 ENERGY PERFORMANCE PROGRAM, INCLUDING THE COORDINATION OF
2 REPORTING REQUIREMENTS.

3 (e) (I) EXCEPT AS PROVIDED IN SUBSECTION (1)(e)(II) OF THIS
4 SECTION, TO FINANCE THE OFFICE'S ADMINISTRATION OF THE BUILDING
5 PERFORMANCE PROGRAM, THE OFFICE SHALL COLLECT FROM EACH OWNER
6 OF A COVERED BUILDING AN ANNUAL FEE OF ONE HUNDRED DOLLARS PER
7 COVERED BUILDING. THE OFFICE SHALL TRANSFER THE FEES COLLECTED
8 TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE CLIMATE
9 CHANGE MITIGATION AND ADAPTATION FUND CREATED IN SECTION
10 24-38.5-102.6.

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

13 (A) A STATUTORY OR HOME RULE CITY, CITY AND COUNTY, OR
14 COUNTY; OR

15 (B) A DISTRICT OR SPECIAL DISTRICT GOVERNED BY TITLE 32.

16 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
17 REQUIRES:

18 (a) "BENCHMARKING DATA" HAS THE MEANING SET FORTH IN
19 SECTION 25-7-142 (2)(g).

20 (b) "BUILDING PERFORMANCE PROGRAM" MEANS THE
21 BENCHMARKING AND PERFORMANCE STANDARD REQUIREMENTS SET
22 FORTH IN SECTION 25-7-142 (3) AND (8).

23 (c) "COLORADO ENERGY OFFICE" OR "OFFICE" MEANS THE
24 COLORADO ENERGY OFFICE CREATED IN SECTION 24-38.5-101.

25 (d) "COVERED BUILDING" HAS THE MEANING SET FORTH IN SECTION
26 25-7-142 (2)(m).

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

1 (2)(v).

2 **SECTION 4.** In Colorado Revised Statutes, 25-7-122, **add** (1)(i)
3 as follows:

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

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

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

20 (A) THE STATE;

21 (B) A STATUTORY OR HOME RULE CITY, CITY AND COUNTY, OR
22 COUNTY;

23 (C) A SCHOOL DISTRICT AS DEFINED IN SECTION 22-11-103 (29);

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.