

**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
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.

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 FORTH
13 IN THIS SUBSECTION (8) ONLY IF THE OWNER COMPLETES WORK ON A
14 CONSTRUCTION OR RENOVATION PROJECT THAT HAS AN ESTIMATED COST
15 OF AT LEAST FIVE HUNDRED THOUSAND DOLLARS AND IMPACTS AT LEAST
16 TWENTY-FIVE PERCENT OF THE COVERED BUILDING'S SQUARE FOOTAGE.

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

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

24 (A) SEVENTY-FIVE OR HIGHER; OR

25 (B) FIFTEEN POINTS HIGHER THAN THE ENERGY STAR SCORE THAT
26 THE COVERED BUILDING RECEIVED DURING ITS MOST RECENT BASELINE
27 YEAR;

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

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

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

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

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

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

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

1 (A) SIXTY-FIVE OR HIGHER; OR

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

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

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

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

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

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

25 (e) IN SUBMITTING A PERFORMANCE REPORT DEMONSTRATING
26 THAT A COVERED BUILDING HAS MET PERFORMANCE STANDARDS, THE
27 OWNER OF THE COVERED BUILDING MAY SUBSTITUTE A YEAR WITHIN TWO

1 YEARS BEFORE OR AFTER THE RELEVANT BASELINE YEAR AS THE YEAR TO
2 WHICH THE PERFORMANCE YEAR MAY BE COMPARED IF ENERGY-USE DATA
3 FOR THE SUBSTITUTE YEAR IS AVAILABLE FROM THE QUALIFYING UTILITY.

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

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

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

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

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

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

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

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

23 (III) THE COVERED BUILDING IS A TENANT-OWNED MULTIFAMILY
24 RESIDENTIAL BUILDING;

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

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

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

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

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

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

20 (A) ONE OF THE TWO MOST RECENT EDITIONS OF THE
21 INTERNATIONAL CODE COUNCIL'S, OR ITS SUCCESSOR ORGANIZATION'S,
22 INTERNATIONAL ENERGY CONSERVATION CODE;

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

26 (C) ANSI/ASHRAE STANDARD 90.2-2018, "ENERGY-EFFICIENT
27 DESIGN OF LOW-RISE RESIDENTIAL BUILDINGS", OR ITS SUCCESSOR

1 STANDARD OR CODE.

2 (b) AN OWNER OF A COVERED BUILDING MAY REQUEST AN
3 EXTENSION OF TIME FROM THE OFFICE IF THE OWNER SUBMITS
4 DOCUMENTATION TO THE OFFICE DEMONSTRATING THAT:

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

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

12 (III) THE BUILDING CHANGED OWNERSHIP SINCE THE MOST RECENT
13 BASELINE YEAR.

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

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

22 (II) THE TASK FORCE MAY DEVELOP RECOMMENDATIONS
23 REGARDING THE RULES THAT THE COMMISSION MAY PROMULGATE:

24 (A) PURSUANT TO SUBSECTION (11)(a) OF THIS SECTION, FOR
25 MODIFICATIONS TO THE PERFORMANCE STANDARDS FOR PERFORMANCE
26 YEAR 2026 IF THE PERFORMANCE STANDARDS WOULD ACHIEVE A
27 REDUCTION IN CARBON DIOXIDE EMISSIONS FROM THE PERFORMANCE

1 STANDARDS SET FORTH IN SUBSECTION (8) OF THIS SECTION;

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

7 (III) ADDITIONALLY, THE TASK FORCE MAY CONSIDER MAKING
8 RECOMMENDATIONS RELATED TO:

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

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

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

16 (D) OPPORTUNITIES TO IMPROVE COMMERCIAL BUILDING ENERGY
17 USE IN COLORADO.

18 (IV) IN DEVELOPING ITS RECOMMENDATIONS, THE TASK FORCE
19 MAY CONSIDER:

20 (A) BENCHMARKING DATA REPORTED PURSUANT TO SUBSECTION
21 (3) OF THIS SECTION;

22 (B) BENCHMARKING DATA FROM COMMUNITIES THAT ARE
23 CURRENTLY CONDUCTING COMMERCIAL BUILDING BENCHMARKING;

24 (C) ANY OTHER PUBLICLY AVAILABLE BUILDING BENCHMARKING
25 DATA THROUGH WHICH BENCHMARKING IS REPORTED TO A BUILDING
26 BENCHMARKING PROGRAM IN COLORADO; AND

27 (D) ANY OTHER INFORMATION THAT THE OFFICE DETERMINES IS

1 AVAILABLE REGARDING ENERGY USE IN COMMERCIAL BUILDINGS IN
2 COLORADO.

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

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

22 (c) ON OR BEFORE OCTOBER 1, 2022, THE TASK FORCE SHALL
23 DELIVER TO THE DIRECTOR OF THE OFFICE ANY INTERIM
24 RECOMMENDATIONS DEVELOPED. ON OR BEFORE JANUARY 1, 2023, THE
25 TASK FORCE SHALL DELIVER TO THE DIRECTOR OF THE OFFICE ANY FINAL
26 RECOMMENDATIONS DEVELOPED. THE DIRECTOR OF THE OFFICE SHALL
27 SEND COPIES OF THE TASK FORCE'S FINAL RECOMMENDATIONS TO THE

1 COMMISSION, THE GENERAL ASSEMBLY, AND THE GOVERNOR.

2 (d) THE TASK FORCE CONSISTS OF THE FOLLOWING MEMBERS:

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

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

5 (III) TWO MEMBERS WHO ARE OWNERS OF COVERED BUILDINGS OR

6 WHO REPRESENT OWNERS OF COVERED BUILDINGS, WITH ONE

7 REPRESENTING OWNERS OF COMMERCIAL BUILDINGS AND ONE

8 REPRESENTING OWNERS OF MULTIFAMILY RESIDENTIAL BUILDINGS;

9 (IV) TWO MEMBERS WHO HAVE DIRECT EXPERIENCE IN, OR ARE

10 MEMBERS OF ORGANIZATIONS REPRESENTING WORKERS IN, MECHANICAL,

11 PLUMBING, OR ELECTRICAL WORK;

12 (V) ONE MEMBER REPRESENTING ARCHITECTS, PROFESSIONAL

13 ENGINEERS WITH EXPERIENCE WORKING ON SYSTEMS FOR BUILDINGS, OR

14 OTHER DESIGN PROFESSIONALS;

15 (VI) ONE MEMBER REPRESENTING DEVELOPERS, CONSTRUCTION

16 ORGANIZATIONS, OR BUILDING CONTRACTORS;

17 (VII) ONE MEMBER REPRESENTING AN ELECTRIC UTILITY, A GAS

18 UTILITY, OR A COMBINED ELECTRIC AND GAS UTILITY;

19 (VIII) TWO MEMBERS OF ENVIRONMENTAL CONSERVATION OR

20 ENVIRONMENTAL JUSTICE GROUPS WITH EXPERIENCE IN ENERGY

21 EFFICIENCY OR THE BUILT ENVIRONMENT;

22 (IX) ONE MEMBER FROM A LOCAL GOVERNMENT THAT HAS

23 ENACTED OR ADOPTED A BENCHMARKING OR BUILDING ENERGY

24 PERFORMANCE ORDINANCE OR RESOLUTION;

25 (X) ONE MEMBER FROM A LOCAL GOVERNMENT THAT HAS NOT

26 ENACTED OR ADOPTED A BENCHMARKING OR BUILDING ENERGY

27 PERFORMANCE ORDINANCE OR RESOLUTION; AND

1 (XI) TWO MEMBERS WITH RELEVANT BUILDING PERFORMANCE
2 EXPERTISE, AS DETERMINED BY THE DIRECTOR OF THE OFFICE.

3 (e) THIS SUBSECTION (10) IS REPEALED, EFFECTIVE JULY 1, 2025.

4 (11) **Performance standard rules.** (a) ON OR BEFORE JANUARY
5 1, 2024, IF THE DIVISION, PURSUANT TO SUBSECTION (10)(b) OF THIS
6 SECTION, REQUESTS THAT THE COMMISSION PUBLISH A NOTICE OF
7 PROPOSED RULE-MAKING TO ADOPT RULES TO IMPLEMENT
8 RECOMMENDATIONS OF THE TASK FORCE, THE COMMISSION MAY ENGAGE
9 IN SUCH A RULE-MAKING PROCEEDING TO MODIFY THE PERFORMANCE
10 STANDARDS FOR PERFORMANCE YEAR 2026.

11 (b) ON OR AFTER DECEMBER 1, 2026, BUT NO LATER THAN
12 DECEMBER 1, 2027, THE COMMISSION, AFTER CONSULTATION WITH
13 AFFECTED STAKEHOLDERS, SHALL PROMULGATE RULES TO EITHER EXTEND
14 OR MODIFY THE PERFORMANCE STANDARDS, WAIVERS, OR EXTENSIONS OF
15 TIME SET FORTH IN SUBSECTIONS (8)(c), (8)(d), (9)(a), AND (9)(b) OF THIS
16 SECTION, OR ANY MODIFIED PERFORMANCE STANDARDS SET FORTH IN
17 RULES THAT THE COMMISSION PROMULGATES PURSUANT TO SUBSECTION
18 (11)(a) OF THIS SECTION, TO REQUIRE ALL COVERED BUILDINGS, IN THE
19 AGGREGATE, TO ACHIEVE OR EXCEED TWENTY PERCENT ENERGY AND
20 GREENHOUSE GAS REDUCTIONS AS MEASURED IN 2031 COMPARED TO THE
21 ENERGY AND GREENHOUSE GAS LEVELS IN 2021.

22 (c) ON OR BEFORE DECEMBER 1 OF EACH SUBSEQUENT BASELINE
23 YEAR THROUGH 2047, THE COMMISSION, AFTER CONSULTATION WITH
24 AFFECTED STAKEHOLDERS, SHALL PROMULGATE RULES TO EXTEND OR
25 MODIFY THE PERFORMANCE STANDARDS TO ACHIEVE OR EXCEED EMISSION
26 REDUCTIONS THAT ARE CONSISTENT WITH THE STATEWIDE
27 GREENHOUSE-GAS-EMISSION-REDUCTION TARGETS SET FORTH IN SECTION

1 25-7-102 (2)(g).

2 (d) THE CALCULATION OF GREENHOUSE GAS REDUCTIONS
3 PURSUANT TO THIS SUBSECTION (11) MUST NOT INCLUDE SAVINGS FROM
4 SYSTEM-WIDE DECARBONIZATION OF ELECTRICITY OR NATURAL GAS
5 UTILITY GRIDS, BUT THE REDUCTIONS MAY INCLUDE SAVINGS FROM
6 UTILITY OR LOCAL ENERGY EFFICIENCY PROGRAMS.

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

9 (I) HIGH-PERFORMANCE BUILDINGS;

10 (II) TENANT-OWNED MULTIFAMILY RESIDENTIAL BUILDINGS;

11 (III) RESIDENTIAL BUILDINGS PRIMARILY USED TO HOUSE
12 LOW-INCOME HOUSEHOLDS;

13 (IV) PROPERTIES BUILT BEFORE 1950 THAT HAVE BEEN
14 DESIGNATED HISTORIC PROPERTIES; OR

15 (V) BUILDINGS OWNED BY A LOCAL GOVERNMENT.

16 (f) ON OR AFTER JUNE 1, 2029, BUT BEFORE JUNE 1, 2030, THE
17 COMMISSION SHALL COMMENCE A RULE-MAKING PROCEEDING TO
18 CONSIDER REDUCING THE SIZE THRESHOLD OF A COVERED BUILDING FOR
19 PURPOSES OF MEETING THE PERFORMANCE STANDARDS SET FORTH IN
20 SUBSECTION (8) OF THIS SECTION OR RULES PROMULGATED PURSUANT TO
21 THIS SUBSECTION (11). THE COMMISSION MAY ADOPT SUBSEQUENT RULES
22 TO LOWER THE SIZE THRESHOLD.

23 (g) THE COMMISSION SHALL NOT ADOPT RULES TO RESCIND OR
24 MODIFY THE EXEMPTIONS FOR LOCAL GOVERNMENTS AND DISTRICTS FROM
25 PAYMENT OF THE ANNUAL FEE, AS SET FORTH IN SECTION 24-38.5-110
26 (1)(e)(II), OR THE EXEMPTIONS FOR LOCAL GOVERNMENTS AND DISTRICTS
27 FROM PAYMENT OF CIVIL PENALTIES, AS SET FORTH IN SECTION 25-7-122

1 (1)(i).

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

3 (a) THE ABILITY OF A QUALIFYING UTILITY TO PROVIDE INCENTIVES
4 OR OTHER ENERGY EFFICIENCY PROGRAM SERVICES FOR COVERED
5 BUILDINGS;

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

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

12 (d) A LOCAL GOVERNMENT FROM ADOPTING OR IMPLEMENTING AN
13 ORDINANCE OR RESOLUTION THAT IMPOSES MORE STRINGENT
14 BENCHMARKING OR PERFORMANCE STANDARD REQUIREMENTS.

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

17 **24-38.5-102.4. Energy fund - creation - use of fund -**
18 **definitions - repeal.** (2) (b) The Colorado energy office may expend
19 money from the energy fund:

20 (VII) To educate the general public on energy issues and
21 opportunities; ~~and~~

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

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

27 **24-38.5-102.6. Climate change mitigation and adaptation fund**

1 **- creation - use.** (1) THE CLIMATE CHANGE MITIGATION AND ADAPTATION
2 FUND, REFERRED TO IN THIS SECTION AS THE "FUND", IS HEREBY CREATED
3 IN THE STATE TREASURY. THE FUND CONSISTS OF:

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

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

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

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

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

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

20 (3) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
21 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
22 FUND TO THE FUND.

23 **24-38.5-110. Building performance program - duties of the**
24 **office - county assessor records database - fees - definitions.** (1) THE
25 COLORADO ENERGY OFFICE SHALL IMPLEMENT A BUILDING PERFORMANCE
26 PROGRAM AS FOLLOWS:

27 (a) BASED ON COUNTY ASSESSOR RECORDS AND OTHER AVAILABLE

1 SOURCES OF INFORMATION, THE OFFICE SHALL CREATE A DATABASE OF
2 COVERED BUILDINGS AND OF OWNERS REQUIRED TO COMPLY WITH THE
3 BUILDING PERFORMANCE PROGRAM.

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

8 (c) THE OFFICE SHALL MAKE PUBLICLY AVAILABLE, THROUGH
9 DIGITALLY INTERACTIVE MAPS, LISTS, OR OTHER TECHNOLOGY AS
10 DETERMINED BY THE OFFICE, BENCHMARKING DATA FOR ALL COVERED
11 BUILDINGS THAT HAVE REPORTED IN EACH YEAR PURSUANT TO SECTION
12 25-7-142 (3). THE PUBLICLY AVAILABLE DATA MUST NOT INCLUDE ANY
13 CONTACT INFORMATION FOR A COVERED BUILDING THAT IS NOT
14 OTHERWISE PUBLICLY AVAILABLE.

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

19 (e) (I) EXCEPT AS PROVIDED IN SUBSECTION (1)(e)(II) OF THIS
20 SECTION, TO FINANCE THE OFFICE'S ADMINISTRATION OF THE BUILDING
21 PERFORMANCE PROGRAM, THE OFFICE SHALL COLLECT FROM EACH OWNER
22 OF A COVERED BUILDING AN ANNUAL FEE OF ONE HUNDRED DOLLARS PER
23 COVERED BUILDING. THE OFFICE SHALL TRANSFER THE FEES COLLECTED
24 TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE CLIMATE
25 CHANGE MITIGATION AND ADAPTATION FUND CREATED IN SECTION
26 24-38.5-102.6.

27 (II) THE FOLLOWING ENTITIES ARE EXEMPT FROM PAYING THE

1 ANNUAL FEE DESCRIBED IN SUBSECTION (1)(e)(I) OF THIS SECTION:

2 (A) A STATUTORY OR HOME RULE CITY, CITY AND COUNTY, OR
3 COUNTY; ■

4 (B) A DISTRICT OR SPECIAL DISTRICT GOVERNED BY TITLE 32;

5 (C) A STATE INSTITUTION OF HIGHER EDUCATION;

6 (D) A SCHOOL DISTRICT CREATED PURSUANT TO ARTICLE 30 OF
7 TITLE 22; OR

8 (E) A CHARTER SCHOOL AUTHORIZED PURSUANT TO PART 1 OF
9 ARTICLE 30.5 OF TITLE 22.

10 (2) TO IMPLEMENT THE BUILDING PERFORMANCE PROGRAM, THE
11 COLORADO ENERGY OFFICE SHALL ASSIST BUILDING OWNERS TO INCREASE
12 ENERGY EFFICIENCY AND REDUCE GREENHOUSE GAS EMISSIONS FROM
13 THEIR BUILDINGS, INCLUDING BY PROVIDING OUTREACH, TRAINING,
14 TECHNICAL ASSISTANCE, AND GRANTS TO BUILDING OWNERS TO HELP
15 THEIR BUILDINGS COME INTO COMPLIANCE WITH THE BUILDING
16 PERFORMANCE PROGRAM.

17 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
18 REQUIRES:

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

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

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

26 (d) "COVERED BUILDING" HAS THE MEANING SET FORTH IN SECTION
27 25-7-142 (2)(m).

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

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

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

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

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

21 (A) THE STATE;

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

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

27 (D) A STATE INSTITUTION OF HIGHER EDUCATION AS DEFINED IN

1 SECTION 23-1-108 (7)(g)(II), BUT INCLUDING THE AURARIA HIGHER
2 EDUCATION CENTER GOVERNED PURSUANT TO ARTICLE 70 OF TITLE 23; OR

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

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

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

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

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

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

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

18 **29-12.5-101. Definitions.** As used in this article 12.5:

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

24 (f) Requires ~~such~~ A board, upon termination or expiration of the
25 contract, to return to ~~such~~ THE party any ~~moneys~~ MONEY THAT THE PARTY
26 deposited with ~~such~~ THE board ~~that are~~ AND DID not ~~forfeited~~ FORFEIT to
27 ~~such~~ THE board pursuant to ~~paragraph (c) of this subsection (3)~~

1 SUBSECTION (3)(e) OF THIS SECTION; AND

2 (g) ~~Requires that not less than one-tenth of all payments, except~~
3 ~~payments for maintenance and repairs and obligations on the termination~~
4 ~~of the contract prior to expiration, to be made by such board shall be~~
5 ~~made within two years from the date of execution of the contract; and~~

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

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

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