

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Energy & Environment.

HB25-1268 be amended as follows:

1 Amend proposed committee amendment (HB1268_L.001), page 12, after
2 line 16 insert:

3 **"SECTION 5.** In Colorado Revised Statutes, **add 24-38.5-123** as
4 follows:

5 **24-38.5-123. Building decarbonization enterprise - creation -**
6 **membership - powers and duties - building decarbonization**
7 **enterprise cash fund - on-bill program administration cash fund -**
8 **legislative declaration - definitions - rules - report - repeal.**

9 **(1) Legislative declaration.** (a) THE GENERAL ASSEMBLY FINDS THAT:

10 (I) REDUCING GREENHOUSE GAS EMISSIONS FROM COMBUSTION
11 DEVICES IN RESIDENTIAL AND COMMERCIAL BUILDINGS:

12 (A) IS NECESSARY TO HELP THE STATE ACHIEVE ITS STATEWIDE
13 GREENHOUSE GAS EMISSION REDUCTION GOALS SET FORTH IN SECTION
14 25-7-102 (2)(g), INCLUDING THE GOAL TO REACH NET-ZERO GREENHOUSE
15 GAS EMISSIONS BY 2050; AND

16 (B) PRESENTS SIGNIFICANT OPPORTUNITIES TO LOWER AND
17 STABILIZE ENERGY BILLS, PROVIDE FOR MORE COMFORTABLE LIVING AND
18 WORKING SPACES, AND REDUCE LOCAL AIR POLLUTION THAT CONTRIBUTES
19 TO GROUND-LEVEL OZONE;

20 (II) COVERED BUILDING OWNERS ARE REQUIRED TO COMPLY WITH
21 BENCHMARKING REQUIREMENTS AND PERFORMANCE STANDARD
22 REQUIREMENTS AND WOULD BENEFIT FROM ADDITIONAL FINANCIAL AND
23 TECHNICAL ASSISTANCE TO MEET OR EXCEED THOSE REQUIREMENTS;

24 (III) WITH ADDITIONAL FINANCING AND TECHNICAL ASSISTANCE,
25 COVERED BUILDING OWNERS MAY MORE EFFECTIVELY AND EFFICIENTLY
26 IMPLEMENT BUILDING DECARBONIZATION MEASURES, INCLUDING, BUT NOT
27 LIMITED TO, PROGRAMS THAT:

28 (A) HELP FINANCE ENERGY EFFICIENCY MEASURES,
29 ELECTRIFICATION MEASURES, AND OTHER ENERGY UPGRADES; AND

30 (B) PROVIDE ASSISTANCE FOR CONDUCTING BUILDING ENERGY
31 AUDITS, DEVELOPING ANALYSES TO HELP BUILDING OWNERS EVALUATE
32 THE BEST STRATEGIES FOR ACHIEVING FUTURE PERFORMANCE STANDARD
33 TARGETS, EMPLOYING OR CONSULTING WITH BUILDING ENGINEERS,
34 PURCHASING ENERGY USE TRACKING SOFTWARE FOR COVERED BUILDING
35 OWNERS TO MORE EFFECTIVELY TRACK ENERGY USE, AND PROVIDING
36 TRAINING ON SUCH SOFTWARE;

37 (IV) UTILITY CUSTOMERS WOULD BENEFIT FROM HAVING ACCESS
38 TO SIGNIFICANT AMOUNTS OF PUBLIC AND PRIVATE CAPITAL FOR
39 LOW-COST FINANCING SOLUTIONS FOR ENERGY-RELATED IMPROVEMENTS,
40 INCLUDING END-OF-LIFE EQUIPMENT REPLACEMENT; AND

(V) UTILITIES SERVING COLORADANS HAVE VARYING LEVELS OF EXPERIENCE, AVAILABLE CAPITAL, AND AVAILABLE STAFF TO SUPPORT THE ESTABLISHMENT AND ADMINISTRATION OF ON-BILL PROGRAMS.

(b) NOW, THEREFORE, THE GENERAL ASSEMBLY DECLares THAT:

(I) IT IS IN THE PUBLIC INTEREST TO CREATE AN ENTERPRISE WITHIN THE OFFICE THAT IS COMMITTED TO FINANCING AND PROVIDING TECHNICAL AND OTHER SUPPORT FOR THE IMPLEMENTATION OF BUILDING DECARBONIZATION MEASURES AND FOR THE ESTABLISHMENT OF UTILITY ON-BILL PROGRAMS;

(II) THE ACTIVITIES OF THE ENTERPRISE SHALL BE FUNDED BY REVENUE GENERATED FROM A BUILDING DECARBONIZATION FEE PAID BY COVERED BUILDING OWNERS AND ANY GIFTS, GRANTS, AND DONATIONS RECEIVED;

(III) IT IS APPROPRIATE THAT COVERED BUILDING OWNERS SHOULD PAY A BUILDING DECARBONIZATION FEE, AS COVERED BUILDING OWNERS ARE THE DIRECT BENEFICIARIES OF SERVICES PROVIDED BY THE ENTERPRISE, WHICH SERVICES INCLUDE THE FINANCING AND TECHNICAL ASSISTANCE PROVIDED FOR THE BUILDING DECARBONIZATION MEASURES DESCRIBED IN SUBSECTION (1)(a)(III) OF THIS SECTION;

(IV) COVERED BUILDING OWNERS BENEFIT FROM THE IMPLEMENTATION OF BUILDING DECARBONIZATION MEASURES BECAUSE SUCH MEASURES CAN:

(A) REDUCE COVERED BUILDING OWNERS' LONG-TERM COSTS RELATED TO ENERGY USE:

(B) IMPROVE BUILDING COMFORT; AND

(C) INCREASE THE MARKET VALUE AND DESIRABILITY OF COVERED BUILDINGS TO TENANTS:

(V) IT IS IN THE PUBLIC INTEREST TO CREATE A BUILDING DECARBONIZATION ENTERPRISE CASH FUND WITHIN THE BUILDING DECARBONIZATION ENTERPRISE, THE USE OF WHICH IS DEDICATED TO FINANCING THE PROVISION OF TECHNICAL SUPPORT FOR UTILITIES SEEKING TO ESTABLISH OR EXPAND ON-BILL PROGRAMS PURSUANT TO THIS SECTION AND SECTION 25-7-142;

(VI) CONSISTENT WITH THE DETERMINATION OF THE COLORADO SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE GENERAL ASSEMBLY CONCLUDES THAT THE BUILDING DECARBONIZATION FEE IS A FEE, NOT A TAX, AND THE ENTERPRISE OPERATES AS A BUSINESS BECAUSE THE BUILDING DECARBONIZATION FEE AND ON-BILL PROGRAM ADMINISTRATION FEE ARE:

(A) IN THE CASE OF THE BUILDING DECARBONIZATION FEE, IMPOSED FOR THE SPECIFIC BUSINESS PURPOSES OF PROVIDING FINANCING AND TECHNICAL ASSISTANCE TO COVERED BUILDING OWNERS TO MORE EFFECTIVELY AND EFFICIENTLY IMPLEMENT BUILDING DECARBONIZATION

1 MEASURES, INCLUDING FEASIBILITY ANALYSES AND IMPROVEMENTS THAT
2 WILL REDUCE ENERGY USE AND EMISSIONS, AND COLLECTED AT A RATE
3 THAT IS REASONABLY RELATED TO THE OVERALL COST OF THE BUSINESS
4 SERVICES BEING PROVIDED; AND

5 (B) IN THE CASE OF THE ON-BILL PROGRAM ADMINISTRATION FEE,
6 IMPOSED FOR THE SPECIFIC PURPOSE OF PROVIDING TECHNICAL
7 ASSISTANCE TO A UTILITY THAT INTENDS TO ESTABLISH OR EXPAND
8 ON-BILL PROGRAMS FOR ITS RETAIL CUSTOMERS; AND

9 (VII) SO LONG AS THE ENTERPRISE QUALIFIES AS AN ENTERPRISE
10 FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION,
11 THE REVENUE FROM THE BUILDING DECARBONIZATION FEE AND THE
12 ON-BILL PROGRAM ADMINISTRATION FEE IMPOSED, COLLECTED, AND
13 ADMINISTERED BY THE ENTERPRISE IS NOT STATE FISCAL YEAR SPENDING,
14 AS DEFINED IN SECTION 24-77-102 (17), OR STATE REVENUES, AS DEFINED
15 IN SECTION 24-77-103.6 (6)(c), AND DOES NOT COUNT AGAINST EITHER
16 THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED BY SECTION 20 OF
17 ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES
18 CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(G).

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

21 (a) "BENCHMARKING REQUIREMENTS" MEANS THE ENERGY
22 BENCHMARKING REQUIREMENTS SET FORTH IN SECTION 25-7-142 (3) WITH
23 WHICH AN OWNER OR OPERATOR OF A COVERED BUILDING IS REQUIRED TO
24 COMPLY.

25 (b) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE ENTERPRISE
26 APPOINTED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION.

27 (c) "BUILDING DECARBONIZATION ENTERPRISE CASH FUND" OR
28 "BUILDING DECARBONIZATION FUND" MEANS THE BUILDING
29 DECARBONIZATION ENTERPRISE CASH FUND CREATED IN SUBSECTION
30 (6)(a) OF THIS SECTION.

31 (d) "BUILDING DECARBONIZATION FEE" OR "FEE" MEANS THE FEE
32 PAID BY THE OWNER OF A COVERED BUILDING PURSUANT TO SUBSECTION
33 (5)(b) OF THIS SECTION.

34 (e) "COVERED BUILDING" HAS THE MEANING SET FORTH IN SECTION
35 25-7-142 (2)(j).

36 (f) "COVERED BUILDING OWNER" MEANS AN "OWNER", AS DEFINED
37 IN SECTION 25-7-142 (2)(r), OF A COVERED BUILDING.

38 (g) "ELECTRIFICATION" HAS THE MEANING SET FORTH IN SECTION
39 24-38.5-602 (3).

40 (h) "ENERGY EFFICIENCY MEASURE" HAS THE MEANING SET FORTH
41 IN SECTION 24-38.5-602 (4).

42 (i) "ENERGY UPGRADE" HAS THE MEANING SET FORTH IN SECTION
43 24-38.5-602 (5).

44 (j) "ENTERPRISE" MEANS THE BUILDING DECARBONIZATION
45 ENTERPRISE CREATED IN SUBSECTION (3) OF THIS SECTION.

1 (k) "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE
2 IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR
3 STATISTICS CONSUMER PRICE INDEX, OR A SUCCESSOR INDEX, FOR
4 DENVER-AURORA-LAKWOOD FOR ALL ITEMS PAID FOR BY URBAN
5 CONSUMERS.

6 (l) "OFFICE" MEANS THE COLORADO ENERGY OFFICE CREATED IN
7 SECTION 24-38.5-101.

(m) "ON-BILL CASH FUND" HAS THE MEANING SET FORTH IN SECTION 24-38.5-602 (7).

10 (n) "ON-BILL PROGRAM" MEANS A UTILITY'S ON-BILL PROGRAM
11 THROUGH WHICH ENERGY EFFICIENCY MEASURES, ELECTRIFICATION
12 MEASURES, AND ENERGY UPGRADES INSTALLED AT A PARTICIPATING
13 CUSTOMER'S PREMISES THAT IS ASSOCIATED WITH THE UTILITY METER ARE
14 FINANCED THROUGH LOANS THAT ARE REPAYED THROUGH MONTHLY
15 UTILITY BILL PAYMENTS.

16 (o) "ON-BILL PROGRAM ADMINISTRATION CASH FUND" OR
17 "ADMINISTRATION FUND" MEANS THE ON-BILL PROGRAM ADMINISTRATION
18 CASH FUND CREATED IN SUBSECTION (8) OF THIS SECTION.

19 (p) "ON-BILL PROGRAM ADMINISTRATION FEE" OR
20 "ADMINISTRATION FEE" MEANS THE FEE PAID BY A UTILITY SEEKING TO
21 ESTABLISH OR EXPAND ITS ON-BILL PROGRAM PURSUANT TO SECTION
22 24-38.5-606.

23 (q) "PARTICIPATING UTILITY" HAS THE MEANING SET FORTH IN
24 SECTION 24-38.5-602 (9).

25 (r) "PERFORMANCE STANDARDS" HAS THE MEANING SET FORTH IN
26 SECTION 25-7-142 (2)(s).

27 (s) "UTILITY" HAS THE MEANING SET FORTH IN SECTION
28 24-38.5-602 (13).

(3) Enterprise created - loan from the office - repayment.

30 (a) THE BUILDING DECARBONIZATION ENTERPRISE IS CREATED IN THE
31 OFFICE AND EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND
32 FUNCTIONS AS A GOVERNMENT-OWNED BUSINESS IN THE OFFICE TO
33 EXECUTE ITS BUSINESS PURPOSES SET FORTH IN THIS SUBSECTION (3). THE
34 ENTERPRISE IS CREATED FOR THE PURPOSES OF:

35 (I) IMPOSING AND ASSESSING A BUILDING DECARBONIZATION FEE
36 ON OWNERS OF COVERED BUILDINGS;

45 (III) HAVING AND EXERCISING ALL RIGHTS AND POWERS

1 NECESSARY OR INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS
2 AND DUTIES GRANTED UNDER THIS SECTION;

3 (IV) ENSURING THAT THE BUILDING DECARBONIZATION FEE PAID
4 BY COVERED BUILDING OWNERS IS USED SOLELY TO SUPPORT PROGRAMS,
5 TECHNICAL ASSISTANCE, AND FINANCIAL ASSISTANCE FOR THE COVERED
6 BUILDING OWNERS THAT PAY THE BUILDING DECARBONIZATION FEE;

7 (V) IMPOSING AND ASSESSING AN ON-BILL PROGRAM
8 ADMINISTRATION FEE ON UTILITIES THAT SEEK FINANCING FROM THE
9 ON-BILL CASH FUND TO DEVELOP OR EXPAND THEIR ON-BILL PROGRAMS;

10 (VI) PROVIDING TECHNICAL ASSISTANCE AND OTHER
11 PROGRAMMATIC SUPPORT TO PARTICIPATING UTILITIES SEEKING TO
12 ESTABLISH OR EXPAND AN ON-BILL PROGRAM. THE AMOUNT OF TECHNICAL
13 ASSISTANCE AND OTHER PROGRAMMATIC SUPPORT PROVIDED IS
14 COMMENSURATE WITH THE AMOUNT OF FINANCIAL SUPPORT LOANED TO
15 A PARTICIPATING UTILITY FROM THE ON-BILL CASH FUND AND INCLUDES:

16 (A) DEVELOPING A FULL SET OF ON-BILL PROGRAM MODELS,
17 INCLUDING MODELS THAT ARE RUN BY THIRD-PARTY OPT-IN PROGRAMS
18 THAT PARTICIPATING UTILITIES ADOPT;

19 (B) ASSISTING UTILITIES IN MEETING REPORTING OBLIGATIONS;
20 AND

21 (C) PROVIDING TECHNICAL ASSISTANCE FOR THE IMPLEMENTATION
22 AND ADMINISTRATION OF ON-BILL PROGRAMS; AND

23 (VII) ENSURING THAT THE ON-BILL PROGRAM ADMINISTRATION
24 FEE THAT A UTILITY PAYS IS USED SOLELY TO SUPPORT ON-BILL PROGRAM
25 DESIGNS, TECHNICAL ASSISTANCE, AND FINANCIAL ASSISTANCE FOR THE
26 PARTICIPATING UTILITIES THAT PAY THE ADMINISTRATION FEE.

27 (b) THE BOARD, IN CONSULTATION WITH THE OFFICE, SHALL
28 ADMINISTER THE ENTERPRISE IN ACCORDANCE WITH THIS SECTION.

29 (c) (I) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR
30 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO
31 LONG AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND
32 RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS, AS
33 DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND
34 LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN
35 ENTERPRISE, THE ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE
36 X OF THE STATE CONSTITUTION.

37 (II) THE ENTERPRISE IS AUTHORIZED TO ISSUE REVENUE BONDS FOR
38 THE EXPENSES OF THE ENTERPRISE, SECURED BY REVENUE OF THE
39 ENTERPRISE.

40 (d) (I) THE OFFICE MAY TRANSFER MONEY FROM ANY LEGALLY
41 AVAILABLE SOURCE TO THE ENTERPRISE FOR THE PURPOSE OF DEFRAYING
42 EXPENSES INCURRED BY THE ENTERPRISE BEFORE IT RECEIVES FEE
43 REVENUE. THE ENTERPRISE MAY ACCEPT AND EXPEND ANY MONEY SO
44 TRANSFERRED, AND, NOTWITHSTANDING ANY STATE FISCAL RULE OR
45 GENERALLY ACCEPTED ACCOUNTING PRINCIPLE THAT COULD OTHERWISE

1 BE INTERPRETED TO REQUIRE A CONTRARY CONCLUSION, SUCH A
2 TRANSFER IS A LOAN FROM THE OFFICE TO THE ENTERPRISE THAT IS
3 REQUIRED TO BE REPAYED AND IS NOT A GRANT FOR PURPOSES OF SECTION
4 20 (2)(d) OF ARTICLE X OF THE STATE CONSTITUTION OR AS DEFINED IN
5 SECTION 24-77-102 (7).

6 (II) AS THE ENTERPRISE RECEIVES SUFFICIENT REVENUE IN EXCESS
7 OF ITS EXPENSES, THE ENTERPRISE SHALL REIMBURSE THE OFFICE FOR THE
8 PRINCIPAL AMOUNT OF ANY LOAN MADE BY THE OFFICE, PLUS INTEREST AT
9 A RATE AGREED UPON BY THE OFFICE AND THE ENTERPRISE.

10 (4) **Enterprise board of directors created - membership -**
11 **duties - repeal.** (a) THE ENTERPRISE BOARD OF DIRECTORS IS CREATED TO
12 ADMINISTER THE ENTERPRISE. THE BOARD CONSISTS OF THE FOLLOWING
13 SEVEN MEMBERS:

14 (I) THE FOLLOWING FOUR MEMBERS APPOINTED BY THE GOVERNOR
15 AND CONFIRMED BY THE SENATE:

16 (A) A REPRESENTATIVE OF COVERED BUILDING OWNERS;
17 (B) AN EXPERT IN BUILDING ENERGY EFFICIENCY AND
18 DECARBONIZATION;

19 (C) A LOCAL GOVERNMENT REPRESENTATIVE WITH EXPERTISE IN
20 PLANNING OR ENERGY CODES; AND

21 (D) A UTILITY REPRESENTATIVE;
22 (II) THE DIRECTOR OF THE OFFICE OR THE DIRECTOR'S DESIGNEE;
23 (III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC
24 HEALTH AND ENVIRONMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE;
25 AND

26 (IV) THE DIRECTOR OF THE PUBLIC UTILITIES COMMISSION OR THE
27 DIRECTOR'S DESIGNEE.

28 (b) (I) THE GOVERNOR SHALL APPOINT INITIAL MEMBERS TO THE
29 BOARD PURSUANT TO SUBSECTION (4)(a)(I) OF THIS SECTION ON OR
30 BEFORE SEPTEMBER 1, 2025.

31 (II) THIS SUBSECTION (4)(b) IS REPEALED, EFFECTIVE JULY 1, 2026.

32 (c) (I) BOARD MEMBERS APPOINTED PURSUANT TO SUBSECTION
33 (4)(a)(I) OF THIS SECTION SERVE THREE-YEAR TERMS. A BOARD MEMBER
34 MAY SERVE AN UNLIMITED NUMBER OF TERMS.

35 (II) NOTWITHSTANDING SUBSECTION (4)(c)(I) OF THIS SECTION,
36 THE GOVERNOR SHALL MAKE THE INITIAL TERMS OF TWO OF THE BOARD
37 MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION (4)(a)(I) OF
38 THIS SECTION TWO YEARS.

39 (d) BOARD MEMBERS SERVING PURSUANT TO SUBSECTION (4)(a)(I)
40 OF THIS SECTION MAY RECEIVE COMPENSATION FROM THE ENTERPRISE ON
41 A PER DIEM BASIS FOR REASONABLE EXPENSES ACTUALLY INCURRED IN
42 THE PERFORMANCE OF THEIR DUTIES.

43 (e) (I) THE CHAIR AND VICE-CHAIR OF THE BOARD ARE SELECTED
44 BY THE MEMBERS OF THE BOARD IN ACCORDANCE WITH THE BOARD'S
45 BYLAWS.

(II) (A) THE DIRECTOR OF THE OFFICE OR THE DIRECTOR'S DESIGNEE SHALL CALL THE FIRST MEETING OF THE BOARD, AND THE BOARD SHALL SELECT THE CHAIR AND VICE-CHAIR AT THAT MEETING IN ACCORDANCE WITH SUBSECTION (4)(e)(I) OF THIS SECTION.

(B) THIS SUBSECTION (4)(e)(II) IS REPEALED, EFFECTIVE JULY 1, 2026.

(5) Powers and duties - building decarbonization fee - on-bill program administration fee - rules. (a) IN ADDITION TO ANY OTHER POWERS AND DUTIES SPECIFIED IN THIS SECTION, THE BOARD HAS THE FOLLOWING POWERS AND DUTIES ON BEHALF OF THE ENTERPRISE:

(I) TO ADOPT PROCEDURES FOR CONDUCTING THE BOARD'S AFFAIRS;

(II) TO ENGAGE THE SERVICES OF CONTRACTORS, CONSULTANTS, THE DIVISION OF ADMINISTRATION DESCRIBED IN SECTION 25-1-102 (2)(a), AND THE STAFF OF THE OFFICE FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE AND TO SUPPLY OTHER SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE ENTERPRISE WITHOUT REGARD TO THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24. THE ENTERPRISE SHALL ENGAGE THE ATTORNEY GENERAL'S OFFICE FOR LEGAL SERVICES. THE ENTERPRISE MAY CONTRACT WITH THE OFFICE FOR THE PROVISION OF OFFICE SPACE AND ADMINISTRATIVE STAFF TO THE ENTERPRISE AT A FAIR MARKET RATE.

(III) TO ESTABLISH AND ADMINISTER A PROGRAM THROUGH WHICH OWNERS OF COVERED BUILDINGS MAY APPLY FOR, AND THE BOARD MAY REVIEW AND APPROVE APPLICATIONS FOR, FINANCING OR TECHNICAL ASSISTANCE FOR BUILDING DECARBONIZATION MEASURES, INCLUDING, BUT NOT LIMITED TO, PARTICIPATING IN PROGRAMS THAT HELP FINANCE ENERGY EFFICIENCY MEASURES, ELECTRIFICATION MEASURES, AND OTHER ENERGY UPGRADES; CONDUCTING BUILDING ENERGY AUDITS; EMPLOYING OR CONSULTING WITH BUILDING ENGINEERS; AND PURCHASING ENERGY USE TRACKING SOFTWARE AND PROVIDING TRAINING ON SUCH SOFTWARE;

(IV) TO IMPOSE THE BUILDING DECARBONIZATION FEE DESCRIBED IN SUBSECTION (5)(b) OF THIS SECTION:

(V) IN ACCORDANCE WITH SUBSECTION (5)(c) OF THIS SECTION, TO IMPOSE THE ON-BILL PROGRAM ADMINISTRATION FEE ON UTILITIES THAT SEEK FINANCING FROM THE ON-BILL CASH FUND TO DEVELOP OR EXPAND THEIR ON-BILL PROGRAMS:

(VI) TO ESTABLISH AND ADMINISTER A PROGRAM THROUGH WHICH PARTICIPATING UTILITIES MAY RECEIVE ASSISTANCE FOR ESTABLISHING OR EXPANDING AN ON-BILL PROGRAM, WHICH PROGRAM INCLUDES DEVELOPING EFFECTIVE PROGRAM DESIGNS, TECHNICAL ASSISTANCE FOR PARTICIPATING UTILITIES TO IMPLEMENT AN ON-BILL PROGRAM, AND CONSUMER EDUCATION AND MARKETING SUPPORT; AND

(VII) TO HAVE AND EXERCISE ALL RIGHTS AND POWERS
NECESSARY OR INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS

1 AND DUTIES GRANTED BY THIS SECTION.

2 (b) (I) BEGINNING IN STATE FISCAL YEAR 2026-27 AND IN
3 FURTHERANCE OF THE ENTERPRISE'S BUSINESS PURPOSES, THE BOARD
4 SHALL ADOPT RULES FOR THE PURPOSE OF SETTING THE AMOUNT OF THE
5 BUILDING DECARBONIZATION FEE AT THE MAXIMUM AMOUNT AUTHORIZED
6 IN THIS SECTION TO BE IMPOSED UPON ALL COVERED BUILDING OWNERS;
7 EXCEPT THAT THE FEE SHALL NOT BE IMPOSED ON THE OWNER OF A PUBLIC
8 BUILDING, AS DEFINED IN SECTION 25-7-142 (2)(t). THE BOARD SHALL
9 ONLY ADOPT RULES PURSUANT TO THIS SUBSECTION (5)(b)(I) AND
10 SUBSECTION (5)(c)(I) OF THIS SECTION.

11 (II) ON OR BEFORE NOVEMBER 1, 2025, AND ON OR BEFORE
12 NOVEMBER 1 OF EACH YEAR THEREAFTER, AND EXCEPT AS PROVIDED IN
13 SUBSECTION (5)(b)(III) OF THIS SECTION, EACH OWNER OF A COVERED
14 BUILDING SHALL PAY A BUILDING DECARBONIZATION FEE IN AN AMOUNT
15 OF FOUR HUNDRED DOLLARS TO THE OFFICE, WHICH SHALL COLLECT THE
16 BUILDING DECARBONIZATION FEE ON BEHALF OF THE ENTERPRISE.

17 (III) BEGINNING IN STATE FISCAL YEAR 2027-28, THE BOARD MAY
18 INCREASE THE BUILDING DECARBONIZATION FEE FROM THE PREVIOUS
19 YEAR'S BUILDING DECARBONIZATION FEE AMOUNT, AS ADJUSTED FOR
20 INFLATION AND, ON OR BEFORE MARCH 15 OF EACH OF THE STATE FISCAL
21 YEARS THEREAFTER, SHALL NOTIFY THE OFFICE OF THE ADJUSTED AMOUNT
22 OF THE BUILDING DECARBONIZATION FEE, IF THE BUILDING
23 DECARBONIZATION FEE HAS BEEN ADJUSTED. ON OR BEFORE APRIL 15 OF
24 EACH OF THE STATE FISCAL YEARS THEREAFTER, THE OFFICE SHALL
25 PUBLISH THE UPDATED AMOUNT OF THE BUILDING DECARBONIZATION FEE
26 ON THE ENTERPRISE'S WEBSITE.

27 (IV) MONEY COLLECTED AS A BUILDING DECARBONIZATION FEE
28 SHALL BE CREDITED TO THE BUILDING DECARBONIZATION ENTERPRISE
29 CASH FUND.

30 (V) MONEY COLLECTED BY THE OFFICE FOR TRANSFER TO THE
31 BUILDING DECARBONIZATION FUND PURSUANT TO SUBSECTION (5)(b)(IV)
32 OF THIS SECTION:

33 (A) IS COLLECTED FOR THE ENTERPRISE;

34 (B) IS CUSTODIAL MONEY INTENDED FOR THE ENTERPRISE AND
35 HELD TEMPORARILY BY THE OFFICE AND THE STATE TREASURER SOLELY
36 FOR THE PURPOSE OF TRANSFERRING THE MONEY TO THE BUILDING
37 DECARBONIZATION FUND FOR USE BY THE ENTERPRISE; AND

38 (C) BASED ON THE ENTERPRISE'S STATUS AS AN ENTERPRISE, IS
39 NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION
40 AT ANY TIME DURING THE MONEY'S COLLECTION, TRANSFER, AND USE.

41 (c) (I) BEGINNING IN STATE FISCAL YEAR 2025-26, AND IN
42 FURTHERANCE OF THE ENTERPRISE'S BUSINESS PURPOSES, THE BOARD
43 SHALL ADOPT RULES FOR THE PURPOSE OF SETTING THE AMOUNT OF THE
44 ON-BILL PROGRAM ADMINISTRATION FEE AT OR BELOW THE MAXIMUM
45 AMOUNT AUTHORIZED IN THIS SUBSECTION (5)(c) TO BE IMPOSED ON

1 PARTICIPATING UTILITIES.

2 (II) EXCEPT AS PROVIDED IN SUBSECTION (5)(c)(III) OF THIS
3 SECTION, A PARTICIPATING UTILITY SHALL PAY THE ON-BILL PROGRAM
4 ADMINISTRATION FEE TO THE ENTERPRISE ON OR BEFORE NOVEMBER 1,
5 2025, AND ON OR BEFORE NOVEMBER 1 OF EACH YEAR THEREAFTER, UNTIL
6 THE PARTICIPATING UTILITY HAS PAID BACK THE AMOUNT OF THE LOAN
7 RECEIVED FROM THE ON-BILL CASH FUND, BASED ON THE AMOUNT OF THE
8 MONEY LOANED TO THE PARTICIPATING UTILITY FROM THE ON-BILL CASH
9 FUND, AS FOLLOWS:

10 (A) IF THE PARTICIPATING UTILITY BORROWS TEN MILLION
11 DOLLARS OR LESS FROM THE ON-BILL CASH FUND, THE ADMINISTRATION
12 FEE SHALL BE IMPOSED IN AN AMOUNT OF UP TO FIFTY THOUSAND
13 DOLLARS;

14 (B) IF THE PARTICIPATING UTILITY BORROWS MORE THAN TEN
15 MILLION DOLLARS BUT TWENTY MILLION DOLLARS OR LESS FROM THE
16 ON-BILL CASH FUND, THE ADMINISTRATION FEE SHALL BE IMPOSED IN AN
17 AMOUNT BETWEEN FIFTY THOUSAND DOLLARS AND SEVENTY-FIVE
18 THOUSAND DOLLARS;

19 (C) IF THE PARTICIPATING UTILITY BORROWS MORE THAN TWENTY
20 MILLION DOLLARS BUT FORTY MILLION DOLLARS OR LESS FROM THE
21 ON-BILL CASH FUND, THE ADMINISTRATION FEE SHALL BE IMPOSED IN AN
22 AMOUNT BETWEEN SEVENTY-FIVE THOUSAND DOLLARS AND ONE HUNDRED
23 THOUSAND DOLLARS;

24 (D) IF THE PARTICIPATING UTILITY BORROWS MORE THAN FORTY
25 MILLION DOLLARS BUT SIXTY MILLION DOLLARS OR LESS FROM THE
26 ON-BILL CASH FUND, THE ADMINISTRATION FEE SHALL BE IMPOSED IN AN
27 AMOUNT BETWEEN ONE HUNDRED THOUSAND DOLLARS AND TWO
28 HUNDRED THOUSAND DOLLARS;

29 (E) IF A PARTICIPATING UTILITY BORROWS MORE THAN SIXTY
30 MILLION DOLLARS BUT EIGHTY MILLION DOLLARS OR LESS FROM THE
31 ON-BILL CASH FUND, THE ADMINISTRATION FEE SHALL BE IMPOSED IN AN
32 AMOUNT BETWEEN TWO HUNDRED THOUSAND DOLLARS AND THREE
33 HUNDRED THOUSAND DOLLARS; AND

34 (F) IF A PARTICIPATING UTILITY BORROWS MORE THAN EIGHTY
35 MILLION DOLLARS FROM THE ON-BILL CASH FUND, THE ADMINISTRATION
36 FEE SHALL BE IMPOSED IN AN AMOUNT BETWEEN THREE HUNDRED
37 THOUSAND DOLLARS AND FOUR HUNDRED THOUSAND DOLLARS.

38 (III) A PARTICIPATING UTILITY SHALL BEGIN PAYING THE
39 APPLICABLE ADMINISTRATION FEE TO THE ENTERPRISE ON OR BEFORE THE
40 FIRST NOVEMBER 1 THAT FOLLOWS THE UTILITY'S EXECUTION OF A LOAN
41 AGREEMENT WITH THE OFFICE.

42 (IV) BEGINNING IN STATE FISCAL YEAR 2026-27, THE BOARD MAY
43 INCREASE THE ADMINISTRATION FEE FROM THE PREVIOUS YEAR'S
44 ADMINISTRATION FEE IN AN AMOUNT ADJUSTED FOR INFLATION. ON OR
45 BEFORE MARCH 15, 2026, AND ON OR BEFORE MARCH 15 OF EACH YEAR

1 THEREAFTER, THE BOARD SHALL NOTIFY THE OFFICE OF THE ADJUSTED
2 AMOUNT OF THE ADMINISTRATION FEE IF THE ADMINISTRATION FEE HAS
3 BEEN ADJUSTED FOR INFLATION, AND, ON OR BEFORE APRIL 15, 2026, AND
4 ON OR BEFORE APRIL 15 OF EACH YEAR THEREAFTER, THE BOARD SHALL
5 PUBLISH THE UPDATED AMOUNT OF THE ADMINISTRATION FEE ON THE
6 ENTERPRISE'S WEBSITE.

7 (V) MONEY COLLECTED AS AN ON-BILL PROGRAM
8 ADMINISTRATION FEE SHALL BE CREDITED TO THE ON-BILL PROGRAM
9 ADMINISTRATION CASH FUND.

10 **(6) Building decarbonization enterprise cash fund - creation
- repeal.** (a) THE BUILDING DECARBONIZATION ENTERPRISE CASH FUND
11 IS CREATED IN THE STATE TREASURY. THE BUILDING DECARBONIZATION
12 FUND CONSISTS OF:

13 (I) MONEY RECEIVED FROM A BUILDING DECARBONIZATION FEE
14 IMPOSED PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION;

15 (II) ANY MONEY RECEIVED FROM THE ISSUANCE OF REVENUE
16 BONDS, AS DESCRIBED IN SUBSECTION (3)(c)(II) OF THIS SECTION; AND

17 (III) ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY
18 APPROPRIATE OR TRANSFER TO THE FUND.

19 (b) (I) SECTION 24-77-108 DOES NOT APPLY TO THE ENTERPRISE
20 BECAUSE THE TOTAL AMOUNT OF MONEY CREDITED OR APPROPRIATED TO
21 THE BUILDING DECARBONIZATION FUND AND THE ON-BILL PROGRAM
22 ADMINISTRATION CASH FUND AS A FEE SHALL NOT EXCEED ONE HUNDRED
23 MILLION DOLLARS IN THE FIRST FIVE FISCAL YEARS OF THE ENTERPRISE'S
24 EXISTENCE.

25 (II) THIS SUBSECTION (6)(b) IS REPEALED, EFFECTIVE JULY 1, 2031.

26 (c) MONEY CREDITED TO THE BUILDING DECARBONIZATION FUND
27 IS CONTINUOUSLY APPROPRIATED TO THE ENTERPRISE FOR THE PURPOSES
28 SET FORTH IN THIS SECTION AND TO PAY THE ENTERPRISE'S REASONABLE
29 AND NECESSARY OPERATING EXPENSES. THE STATE TREASURER SHALL
30 CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
31 INVESTMENT OF MONEY IN THE BUILDING DECARBONIZATION FUND TO THE
32 BUILDING DECARBONIZATION FUND.

33 (d) ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING
34 IN THE BUILDING DECARBONIZATION FUND AT THE END OF A FISCAL YEAR
35 REMAINS IN THE BUILDING DECARBONIZATION FUND AND IS NOT CREDITED
36 OR TRANSFERRED TO THE GENERAL FUND.

37 **(7) Legislative review of building decarbonization enterprise.**
38 ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE ENTERPRISE SHALL
39 SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY DETAILING THE
40 ENTERPRISE'S EXPENDITURES AND PROGRAM OUTCOMES FROM THE
41 PRECEDING YEAR AND THE ENTERPRISE'S FINANCIAL PROJECTIONS FOR THE
42 FOLLOWING YEAR.

43 **(8) On-bill program administration cash fund - creation -
44 repeal.** (a) THE ON-BILL PROGRAM ADMINISTRATION CASH FUND IS

1 CREATED IN THE STATE TREASURY. THE ADMINISTRATION FUND CONSISTS
2 OF:

3 (I) MONEY RECEIVED FROM AN ON-BILL PROGRAM
4 ADMINISTRATION FEE IMPOSED PURSUANT TO SUBSECTION (5)(c) OF THIS
5 SECTION;

6 (II) ANY MONEY RECEIVED FROM THE ISSUANCE OF REVENUE
7 BONDS AS DESCRIBED IN SUBSECTION (3)(c)(II) OF THIS SECTION; AND

8 (III) ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY
9 APPROPRIATE OR TRANSFER TO THE ADMINISTRATION FUND.

10 (b) (I) SECTION 24-77-108 DOES NOT APPLY TO THE ENTERPRISE
11 BECAUSE THE TOTAL AMOUNT OF MONEY CREDITED OR APPROPRIATED TO
12 THE ON-BILL PROGRAM ADMINISTRATION CASH FUND AND THE BUILDING
13 DECARBONIZATION ENTERPRISE CASH FUND SHALL NOT EXCEED ONE
14 HUNDRED MILLION DOLLARS IN THE FIRST FIVE YEARS OF THE ENTERPRISE'S
15 EXISTENCE.

16 (II) THIS SUBSECTION (8)(b) IS REPEALED, EFFECTIVE JULY 1, 2031.

17 (c) MONEY CREDITED TO THE ON-BILL PROGRAM ADMINISTRATION
18 CASH FUND IS CONTINUOUSLY APPROPRIATED TO THE ENTERPRISE FOR THE
19 PURPOSES SET FORTH IN THIS SECTION AND TO PAY THE ENTERPRISE'S
20 REASONABLE AND NECESSARY OPERATING EXPENSES. THE STATE
21 TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE
22 DEPOSIT AND INVESTMENT OF MONEY IN THE ON-BILL PROGRAM
23 ADMINISTRATION CASH FUND TO THE ON-BILL PROGRAM ADMINISTRATION
24 FUND.

25 (d) ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING
26 IN THE ON-BILL PROGRAM ADMINISTRATION CASH FUND AT THE END OF A
27 FISCAL YEAR REMAINS IN THE ON-BILL PROGRAM ADMINISTRATION FUND
28 AND IS NOT CREDITED OR TRANSFERRED TO THE GENERAL FUND.

29 **SECTION 6. Effective date.** This act takes effect upon passage;
30 except that section 5 of this act takes effect only if House Bill 25-1269
31 becomes law, in which case section 5 takes effect upon the effective date
32 of this act or House Bill 25-1269, whichever is later.".

33 Rerumber succeeding section accordingly.

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