Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0017.03 Sarah Lozano x3858 **SENATE BILL 26-102**

SENATE SPONSORSHIP

Kipp,

HOUSE SPONSORSHIP

Brown,

Senate Committees
Transportation & Energy

House Committees

A BILL FOR AN ACT

CONCERNING MEASURES TO ENSURE ACCOUNTABILITY FOR LARGE-LOAD DATA CENTERS.

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.)

The bill creates certain requirements for large-load data centers, which are defined in the bill as:

- A new data center that has a peak load of more than 30 megawatts or multiple new data centers with a collective peak load of more than 60 megawatts; or
- An existing data center that adds a peak load of more than

30 megawatts or multiple existing data centers that add a collective peak load of more than 60 megawatts.

No later than June 30, 2030, the public utilities commission (commission) is required to make a determination on whether 100% hourly matching by large-load data centers is technically and economically feasible. If the commission determines that 100% hourly matching is not technically and economically feasible, the commission must make a determination of the highest percentage of hourly matching by large-load data centers that is technically and economically feasible (hourly matching requirement), which percentage the commission must update on a regular basis.

Beginning January 1, 2031, an operator of a large-load data center (operator) must generate, purchase, or otherwise acquire a quantity of electricity generated from renewable resources necessary to meet 100% of the operator's large-load data center's total annual electricity consumption. An operator must also achieve the hourly matching requirement. An operator must comply with these requirements through a tariff, contract, or program entered into with a utility, one or more power purchase agreements entered into with an independent power producer, or a self-supply of electricity.

An operator must enter into contracts of at least 15 years with a utility to pay for certain infrastructure and resource costs. An operator must also contribute to utility demand-side management programs and comply with certain operational water management and on-site backup generation requirements.

No later than June 30, 2028, and no later than each June 30 thereafter, an operator must report to the department of public health and environment certain information about the large-load data center, including information about the large-load data center's annual electricity and water consumption. The department of public health and environment must compile the information reported and provide a report to the general assembly and commission and make the report publicly available on the department's website.

A utility is prohibited from interconnecting or supplying electricity to a large-load data center unless:

- The operator has either provided an up-front payment or entered into a contract of at least 15 years with the utility, which up-front payment or contract must require the operator to pay for certain infrastructure and resource costs;
- On or after January 1, 2031, the utility has verified that the operator is in compliance with the hourly matching requirement; and
- The utility determines and ensures that the addition of the large-load data center to the utility's system does not negatively affect the utility's ability to provide reliable

service to customers or meet applicable clean energy targets or increase the utility's greenhouse gas emissions.

A utility is prohibited from offering economic development rates to large-load data centers and is required to develop and offer demand response programs or flexible connection tariffs to the utility's customers that are operators. A utility is required to solicit and accept voluntary financial contributions from operators to certain utility programs, which contributions must supplement, rather than substitute, the utility's funding of those programs. A utility that is rate-regulated by the commission with customers that are operators is required to describe efforts to comply with the bill in the utility's annual report filed with the commission.

On or before June 30, 2027, the department of local affairs must publish model codes for the development of large-load data centers, which model codes must consider certain best practices. In developing the model codes, the department of local affairs must conduct a robust stakeholder and engagement process and evaluate, update, and review the model codes every 5 years.

With its development permit application for a large-load data center, the person responsible for the initial development of a large-load data center (developer) must submit a site assessment to the local government reviewing the application. A site assessment must include certain components.

If the siting of a large-load data center is proposed in a disproportionately impacted community or if an operator of an existing data center in a disproportionately impacted community plans to expand the data center's peak load such that the data center will become a large-load data center, the developer or operator must undergo a cumulative impacts analysis before the development or expansion begins. The developer or operator is required to contract with a third-party contractor selected by the department of public health and environment to perform the cumulative impacts analysis.

In reviewing a development permit application for a large-load data center that is in a disproportionately impacted community or is proposed to be in a disproportionately impacted community, the applicable local government is required to consider the applicant's cumulative impacts analysis and whether the mitigation strategies described by the applicant are sufficient to avoid any negative impacts identified in the cumulative impacts analysis. Prior to applying for a development permit that is in a disproportionately impacted community or is proposed to be in a disproportionately impacted community, a developer or operator must comply with certain public hearing, notice, and community outreach requirements.

If the siting of a large-load data center is proposed in a disproportionately impacted community or if an operator of an existing data center in a disproportionately impacted community plans to expand

the data center's peak load such that the data center will become a large-load data center, the developer or operator must enter into a community benefit agreement with the disproportionately impacted community before the development or expansion begins. The developer is required to consult with the applicable local government and certain coalition groups and consider certain topics during community benefit agreement negotiations.

An operator is required to comply with certain labor standards.

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

SECTION 1. Legislative declaration. (1) The general assembly finds that:

(a) Colorado and the United States are experiencing rapid and unprecedented growth in data centers, which presents significant challenges for electric utilities, the electric grid, regulators, and electricity consumers statewide;

(b) Absent clear statutory direction and appropriate safeguards, the costs of serving new large-load data centers may be shifted to residential, commercial, and other existing ratepayers, increasing electricity bills and creating financial risk from overbuilt or stranded generation, transmission, and distribution infrastructure;

(c) At a time when electricity demand is increasing and affordability is a growing concern for Colorado households, costs to serve large-load data centers should not shift onto other ratepayers;

(d) Unchecked growth in large-load data centers may increase reliance on fossil fuel generation, hinder electric utilities' ability to meet state and utility clean energy and greenhouse gas emission reduction requirements, and adversely affect public health and disproportionately impacted communities;

(e) The general assembly has established statewide climate, clean

energy, and emission reduction goals, including a goal of reaching net-zero emissions by 2050, which require that new electricity demand be met through prudent planning, investment in zero-emission resources, and avoidance of unnecessary fossil fuel expansion;

(f) Maintaining affordable electricity for all Coloradans requires consumer protection guardrails to ensure that large-load data centers bear the incremental costs of the generation, transmission, and distribution infrastructure necessary to serve them;

(g) Operators of large-load data centers should help Colorado meet its clean energy and climate goals and be responsible for paying their fair share of the costs of new energy infrastructure and grid investments needed to meet the demand of large-load data centers;

(h) Flexible load and behind-the-meter resources, when designed and deployed to provide dispatchable capacity, can reduce peak demand, defer or avoid distribution and transmission system upgrades, and mitigate ratepayer impacts associated with large-load data center interconnections;

(i) Managing large-load data center growth should advance affordability, reliability, and electrification, ensuring that large-load data center development strengthens, rather than undermines, Colorado's clean energy transition;

(j) Colorado rivers have experienced severe water stress in recent years due to overuse and climate change. New large water users like large-load data centers may threaten Colorado's water supply security and the state's ability to provide reliable water resources for other critical water users, including communities, tribal nations, agricultural users, recreational users, and the environment.

(k) Promoting the efficient and maximum utilization of Colorado's water resources by large-load data centers through requiring transparency of use and sourcing and maximizing sustainable and water-smart cooling technologies can increase communities' resilience to drought and climate change, reduce the sale of agricultural water rights in response to increased demand for municipal water use, and protect river flows and aquifer levels;

(l) Certain information regarding sources and usage of both water and energy by large-load data centers is critical to decision-making processes and should be made available to relevant local and state authorities;

(m) Colorado has experienced decades of population growth that has resulted in greatly increased pressure on natural resources, including land, water, and wildlife. The siting and development of new large-load data centers and associated infrastructure, including on-site generation resources and other electrical infrastructure, can result in habitat loss and fragmentation without appropriate measures to avoid, minimize, and mitigate direct, indirect, and cumulative impacts to wildlife resources. The siting and development of new large-load data centers must be balanced with the obligation of the state to protect wildlife resources and the hunting, fishing, and recreation traditions that they support, which traditions are an important part of the economy and culture of Colorado.

(n) The cumulative impacts of pollution are even more devastating for communities of color and low-income communities who bear outsized environmental burdens due to past and present discriminatory environmental and land use policies, endure higher health risks from pollution exposure, experience systemic injustice, and have faced

exclusion from government and industry decision-making and enforcement efforts; and

(o) Data center development should support Colorado's workforce and communities by adhering to high labor standards.

(2) It is therefore in the best interests of the state of Colorado to establish a comprehensive framework for large-load data centers that:

(a) Ensures electricity service that is clean, affordable, and reliable;

(b) Protects consumers and communities, including disproportionately impacted communities;

(c) Advances the state's climate and clean energy goals; and

(d) Affirms the authority of the public utilities commission and local governments to oversee new large-load data center development in an equitable and responsible manner.

(3) It is the intent of the general assembly that nothing in this act:

(a) Alters the greenhouse gas emission reduction goals and deadlines established in section 25-7-102 (2)(g), Colorado Revised Statutes;

(b) Diminishes the air quality control commission's existing authority to require more than the minimum greenhouse gas emission reduction goals and deadlines established in section 25-7-102 (2)(g), Colorado Revised Statutes; or

(c) Prevents state or local authorities from enacting additional requirements for large-load data centers.

SECTION 2. In Colorado Revised Statutes, **add** article 2.5 to title 40 as follows:

ARTICLE 2.5

Large-load Data Centers

40-2.5-101. Definitions.

AS USED IN THIS ARTICLE 2.5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CLOSED-LOOP COOLING SYSTEM" MEANS A COOLING CONFIGURATION THAT OPERATES BY RECIRCULATING AIR, WATER, REFRIGERANTS, OR OTHER HEAT-TRANSFER MEDIUMS WITHIN SEALED OR SELF-CONTAINED EQUIPMENT TO ABSORB AND REJECT HEAT WITHOUT EXPOSURE TO THE ATMOSPHERE OR ROUTINE EVAPORATIVE WATER LOSS.

(2) "CUMULATIVE IMPACTS" MEANS THE INCREMENTAL EFFECTS THAT A LARGE-LOAD DATA CENTER HAS ON THE ENVIRONMENT, INCLUDING EFFECTS ON AIR QUALITY, WATER QUALITY, WATER RESOURCE AVAILABILITY, CLIMATE, NOISE, ODOR, WILDLIFE, AND PUBLIC HEALTH, WHEN ADDED TO THE IMPACTS FROM OTHER PAST, PRESENT, AND REASONABLY FORESEEABLE FUTURE DEVELOPMENT OF ANY TYPE ON A DISPROPORTIONATELY IMPACTED COMMUNITY.

(3) "DATA CENTER" MEANS A FACILITY THAT:

(a) HOUSES INFORMATION TECHNOLOGY EQUIPMENT USED FOR DATA PROCESSING, DATA STORAGE, OR TELECOMMUNICATIONS; AND

(b) HAS THE PRIMARY FUNCTION OF DELIVERING ONE OR MORE INFORMATION TECHNOLOGY SERVICES, INCLUDING:

(I) PROVIDING DATA STORAGE, PROCESSING, AND TRANSPORT SERVICES;

(II) SUPPORTING THE DELIVERY OF CLOUD COMPUTING SERVICES;

(III) PROVIDING NETWORK CONNECTIVITY SERVICES; AND

(IV) SUPPORTING ARTIFICIAL INTELLIGENCE, MACHINE LEARNING, OR SIMILAR COMPUTATIONAL SERVICES.

(4) "EMERGENCY" MEANS AN UNPLANNED AND INVOLUNTARY INTERRUPTION OF UTILITY ELECTRIC SERVICE OR A CONDITION POSING AN IMMINENT RISK TO PUBLIC HEALTH OR SAFETY THAT IS DOCUMENTED AND VERIFIED BY THE SERVING ELECTRIC UTILITY.

(5) "HOURLY MATCHING" MEANS THE DEMONSTRATED PROPORTION OF A LARGE-LOAD DATA CENTER'S HOURLY ENERGY USAGE MET BY PURCHASED OR GENERATED RENEWABLE RESOURCES, REPRESENTED AS A PERCENTAGE AND DEMONSTRATED WITH CERTIFIED THIRD-PARTY ACCOUNTING, AS APPROVED BY THE COMMISSION.

(6) "LARGE-LOAD DATA CENTER" MEANS:

(a) A DATA CENTER THAT BEGINS OPERATION ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION:

(I) WITH A PEAK LOAD OF MORE THAN THIRTY MEGAWATTS; OR

(II) THAT IS COVERED BY AN INTERCONNECTION AGREEMENT THAT ALLOWS FOR A PEAK LOAD OF MORE THAN THIRTY MEGAWATTS;

(b) MULTIPLE DATA CENTERS THAT BEGIN OPERATION ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION AND THAT:

(I) HAVE A COLLECTIVE PEAK LOAD OF MORE THAN SIXTY MEGAWATTS; OR

(II) ARE COVERED BY AN INTERCONNECTION AGREEMENT OR MULTIPLE INTERCONNECTION AGREEMENTS THAT ALLOW FOR A COLLECTIVE PEAK LOAD OF MORE THAN SIXTY MEGAWATTS;

(c) A DATA CENTER EXISTING BEFORE THE EFFECTIVE DATE OF THIS SECTION THAT, ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION:

(I) ADDS A PEAK LOAD OF MORE THAN THIRTY MEGAWATTS; OR

(II) SIGNS A NEW INTERCONNECTION AGREEMENT THAT ALLOWS FOR ADDING A PEAK LOAD OF MORE THAN THIRTY MEGAWATTS; OR

(d) MULTIPLE DATA CENTERS EXISTING BEFORE THE EFFECTIVE DATE OF THIS SECTION THAT, ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION:

(I) ADD A COLLECTIVE PEAK LOAD OF MORE THAN SIXTY MEGAWATTS AT MULTIPLE DATA CENTERS; OR

(II) SIGN A NEW INTERCONNECTION AGREEMENT THAT ALLOWS FOR ADDING A COLLECTIVE PEAK LOAD OF MORE THAN SIXTY MEGAWATTS AT MULTIPLE DATA CENTERS.

(7) "LARGE-LOAD DATA CENTER DEVELOPER" OR "DEVELOPER" MEANS A PERSON THAT IS RESPONSIBLE FOR THE INITIAL DEVELOPMENT OF A LARGE-LOAD DATA CENTER, INCLUDING THE PURCHASE OF LAND AND THE CONSTRUCTION OF INFRASTRUCTURE INTENDED FOR A LARGE-LOAD DATA CENTER.

(8) "LARGE-LOAD DATA CENTER OPERATOR" OR "OPERATOR" MEANS AN OWNER OR OPERATOR OF A LARGE-LOAD DATA CENTER.

(9) "LOCAL GOVERNMENT" MEANS A STATUTORY OR HOME RULE CITY, TOWN, COUNTY, OR CITY AND COUNTY.

(10) "MULTIPLE DATA CENTERS" MEANS ALL DATA CENTERS THAT ARE:

(a) LOCATED ON A SINGLE SITE OR ON CONTIGUOUS SITES; AND

(b) OWNED OR OPERATED BY THE SAME PERSON OR BY A PERSON THAT CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH THE OTHER PERSON.

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

(12) "PEAK LOAD" MEANS THE PEAK POWER CONSUMPTION TO BE USED BY A LARGE-LOAD DATA CENTER, MEASURED IN MEGAWATTS.

(13) "POWER-USAGE EFFECTIVENESS" MEANS THE TOTAL ELECTRICITY CONSUMPTION OF A LARGE-LOAD DATA CENTER DIVIDED BY THE ELECTRICITY CONSUMPTION OF INFORMATION TECHNOLOGY EQUIPMENT, INCLUDING COMPUTING, STORAGE, AND NETWORKING EQUIPMENT, IN THE LARGE-LOAD DATA CENTER ON AN ANNUAL BASIS, EXPRESSED AS A NUMBER.

(14) "RENEWABLE ENERGY STORAGE" HAS THE MEANING SET FORTH IN SECTION 40-2-124 (1)(a)(VII.5).

(15) "RENEWABLE RESOURCE" HAS THE SAME MEANING AS "RENEWABLE ENERGY RESOURCES" AS DEFINED IN SECTION 40-2-124 (1)(a)(VII).

(16) "USE BY RIGHT" MEANS A LAND USE THAT PROCEEDS UNDER OBJECTIVE STANDARDS SET FORTH IN ZONING OR OTHER LOCAL GOVERNMENT LAWS AND THAT DOES NOT HAVE A DISCRETIONARY APPROVAL PROCESS.

(17) "WATER-USAGE EFFECTIVENESS" MEANS THE TOTAL WATER CONSUMPTION OF A LARGE-LOAD DATA CENTER, INCLUDING DIRECT AND INDIRECT WATER USAGE, DIVIDED BY THE ELECTRICITY CONSUMPTION OF INFORMATION TECHNOLOGY EQUIPMENT, INCLUDING COMPUTING, STORAGE, AND NETWORKING EQUIPMENT, IN THE LARGE-LOAD DATA CENTER ON AN ANNUAL BASIS, EXPRESSED AS LITERS PER KILOWATT-HOUR.

40-2.5-102. Hourly matching requirements - determination by commission.

(1) NO LATER THAN JUNE 30, 2030, THE COMMISSION SHALL, IN CONSULTATION WITH THE OFFICE AND THE AIR POLLUTION CONTROL DIVISION IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND

FOLLOWING A NONADJUDICATORY PROCEEDING WITH THE OPPORTUNITY FOR PUBLIC INPUT, MAKE A DETERMINATION ON WHETHER ONE-HUNDRED-PERCENT HOURLY MATCHING BY LARGE-LOAD DATA CENTERS IS TECHNICALLY AND ECONOMICALLY FEASIBLE.

(2) IF THE COMMISSION DETERMINES THAT ACHIEVING ONE-HUNDRED-PERCENT HOURLY MATCHING BY LARGE-LOAD DATA CENTERS IS NOT TECHNICALLY AND ECONOMICALLY FEASIBLE, THE COMMISSION, IN CONSULTATION WITH THE OFFICE AND THE AIR POLLUTION CONTROL DIVISION AND FOLLOWING A NONADJUDICATORY PROCEEDING WITH THE OPPORTUNITY FOR PUBLIC INPUT, SHALL MAKE A DETERMINATION OF THE HIGHEST PERCENTAGE OF HOURLY MATCHING BY LARGE-LOAD DATA CENTERS THAT IS TECHNICALLY AND ECONOMICALLY FEASIBLE.

(3) AFTER THE COMMISSION DETERMINES THE HIGHEST PERCENTAGE OF HOURLY MATCHING BY LARGE-LOAD DATA CENTERS THAT IS TECHNICALLY AND ECONOMICALLY FEASIBLE, THE COMMISSION, IN CONSULTATION WITH THE OFFICE AND THE AIR POLLUTION CONTROL DIVISION AND FOLLOWING A NONADJUDICATORY PROCEEDING WITH THE OPPORTUNITY FOR PUBLIC INPUT, SHALL UPDATE THIS PERCENTAGE ON A REGULAR BASIS BUT NO LESS FREQUENTLY THAN EVERY THREE YEARS AFTER THE DATE OF THE MOST RECENT DETERMINATION.

(4) IN MAKING A DETERMINATION UNDER THIS SECTION, THE COMMISSION MAY CONSIDER THE ROLE OF FLEXIBLE LOAD, ENERGY EFFICIENCY, DISTRIBUTED ENERGY RESOURCES, AND VIRTUAL POWER PLANTS IN REDUCING PEAK DEMAND AND IMPROVING UTILIZATION OF RENEWABLE RESOURCES.

40-2.5-103. Large-load data center requirements - utilization

of renewable resources - utility infrastructure and program contribution obligations - backup generation requirements.

(1) A LARGE-LOAD DATA CENTER OPERATOR SHALL, BEGINNING JANUARY 1, 2031:

(a) GENERATE, PURCHASE, OR OTHERWISE ACQUIRE A QUANTITY OF ELECTRICITY GENERATED FROM RENEWABLE RESOURCES NECESSARY TO MEET ONE HUNDRED PERCENT OF THE OPERATOR'S LARGE-LOAD DATA CENTER'S TOTAL ANNUAL ELECTRICITY CONSUMPTION FOR EACH YEAR THAT THE LARGE-LOAD DATA CENTER IS OPERATIONAL;

(b) GENERATE, PURCHASE, OR OTHERWISE ACQUIRE A QUANTITY OF ELECTRICITY AND ASSOCIATED RENEWABLE ENERGY CREDITS GENERATED FROM RENEWABLE RESOURCES FOR THE OPERATOR'S LARGE-LOAD DATA CENTER NECESSARY TO ACHIEVE AT LEAST THE HIGHEST PERCENTAGE OF HOURLY MATCHING THAT THE COMMISSION DETERMINES IS TECHNICALLY AND ECONOMICALLY FEASIBLE FOR LARGE-LOAD DATA CENTERS PURSUANT TO SECTION 40-2.5-102; AND

(c) ENSURE THAT THE OPERATOR'S LARGE-LOAD DATA CENTER COMPLIES WITH THE HOURLY MATCHING REQUIREMENT DETERMINED BY THE COMMISSION PURSUANT TO SECTION 40-2.5-102 IN EFFECT AT THE TIME THAT THE LARGE-LOAD DATA CENTER ENTERS INTO, RENEWS, OR MATERIALLY AMENDS A POWER PURCHASE AGREEMENT, RENEWABLE ENERGY CONTRACT, OR COMMISSION-APPROVED CLEAN ENERGY TARIFF USED FOR COMPLIANCE WITH THIS SECTION.

(2) (a) THE RENEWABLE RESOURCES DESCRIBED IN SUBSECTION (1) OF THIS SECTION MUST BE NEW AND INCREMENTAL RESOURCES DELIVERABLE TO THE ELECTRIC GRID SERVING THE LARGE-LOAD DATA CENTER OR DELIVERABLE DIRECTLY TO THE LARGE-LOAD DATA CENTER.

(b) ANY RENEWABLE ENERGY CREDITS ASSOCIATED WITH THE ELECTRICITY GENERATED FROM RENEWABLE RESOURCES USED TO MEET THE REQUIREMENTS DESCRIBED IN SUBSECTION (1) OF THIS SECTION MUST BE RETIRED BY THE LARGE-LOAD DATA CENTER OPERATOR OR ON BEHALF OF THE LARGE-LOAD DATA CENTER OPERATOR IN THE YEAR THAT THE ELECTRICITY IS GENERATED.

(3) A LARGE-LOAD DATA CENTER OPERATOR SHALL IMPLEMENT ITS COMPLIANCE WITH THE REQUIREMENTS DESCRIBED IN SUBSECTION (1) OF THIS SECTION THROUGH ONE OF THE FOLLOWING OR A COMBINATION OF THE FOLLOWING METHODS, WHICH MUST COVER ALL OF THE OPERATOR'S LARGE-LOAD DATA CENTER'S ELECTRICITY DEMANDS:

(a) A TARIFF, CONTRACT, OR PROGRAM ENTERED INTO WITH THE UTILITY SUPPLYING THE LARGE-LOAD DATA CENTER WITH ELECTRICITY;

(b) ONE OR MORE POWER PURCHASE AGREEMENTS ENTERED INTO WITH AN INDEPENDENT POWER PRODUCER SUPPLYING THE LARGE-LOAD DATA CENTER WITH ELECTRICITY; OR

(c) SELF-SUPPLY OF ELECTRICITY, INCLUDING BEHIND-THE-METER GENERATION OF RENEWABLE RESOURCES, OR RENEWABLE ENERGY STORAGE USED TO SERVE THE LARGE-LOAD DATA CENTER'S ELECTRICITY DEMANDS.

(4) THROUGH CONTRACTS WITH UTILITIES OF AT LEAST FIFTEEN YEARS, IF USING UTILITY POWER SUPPLY, A LARGE-LOAD DATA CENTER OPERATOR SHALL PAY FOR THE FOLLOWING:

(a) ALL OF THE COSTS ASSOCIATED WITH A UTILITY CONSTRUCTING OR PROCURING GENERATION, TRANSMISSION, AND DISTRIBUTION INFRASTRUCTURE NECESSARY TO SUPPLY THE OPERATOR'S LARGE-LOAD DATA CENTER WITH ELECTRICITY;

(b) THE OPERATOR'S SHARE OF EXISTING GENERATION, TRANSMISSION, DISTRIBUTION, AND OTHER RESOURCES NEEDED TO SERVE THE OPERATOR'S LARGE-LOAD DATA CENTER AND OTHER ENERGY SUPPLY AND OPERATIONS INFRASTRUCTURE AND EQUIPMENT REQUIRED TO MAINTAIN GRID RELIABILITY AND OPERATIONAL PERFORMANCE FOR OTHER CUSTOMERS; AND

(c) ALL OF THE COSTS OF RENEWABLE RESOURCE ELECTRICITY CURTAILMENTS AND RESERVE REQUIREMENTS ASSOCIATED WITH THE OPERATOR'S RENEWABLE RESOURCE ELECTRICITY PURCHASES AND OF INFRASTRUCTURE AND INVESTMENTS REQUIRED TO MAINTAIN GRID SERVICE, STABILITY, AND RELIABILITY DUE TO STRESS ON THE ELECTRICAL SYSTEM CAUSED BY THE OPERATOR'S LARGE-LOAD DATA CENTER.

(5) (a) A LARGE-LOAD DATA CENTER OPERATOR SHALL CONTRIBUTE TO UTILITY DEMAND-SIDE MANAGEMENT PROGRAMS. THE AMOUNT OF MONEY THAT THE OPERATOR IS REQUIRED TO CONTRIBUTE MUST BE BASED ON THE LARGE-LOAD DATA CENTER'S TOTAL ANNUAL ELECTRICITY CONSUMPTION AND THE COST-RECOVERY MECHANISMS THAT FUND THE DEMAND-SIDE MANAGEMENT PROGRAMS.

(b) SUBSECTION (5)(a) OF THIS SECTION APPLIES TO A LARGE-LOAD DATA CENTER OPERATOR REGARDLESS OF WHETHER THE ELECTRICITY IS SUPPLIED BY A UTILITY OR ANOTHER SOURCE AS LONG AS THE LARGE-LOAD DATA CENTER IS CONNECTED TO THE UTILITY'S SYSTEM.

(6) A LARGE-LOAD DATA CENTER OPERATOR SHALL OPTIMIZE OPERATIONAL WATER MANAGEMENT THROUGH THE IMPLEMENTATION OF WATER-EFFICIENT TECHNOLOGY, AS DETERMINED BY A LOCAL GOVERNMENT WITH JURISDICTION OVER THE LARGE-LOAD DATA CENTER.

(7) (a) (I) ON-SITE BACKUP POWER SERVING A LARGE-LOAD DATA

CENTER MUST MAXIMIZE RELIANCE ON RENEWABLE RESOURCES AND RENEWABLE ENERGY STORAGE, TO THE EXTENT TECHNICALLY AND ECONOMICALLY FEASIBLE.

(II) A LARGE-LOAD DATA CENTER OPERATOR MAY RELY ON ON-SITE, COMBUSTION-BASED BACKUP GENERATION ONLY AFTER EVALUATING AND DEPLOYING NONCOMBUSTION BACKUP ALTERNATIVES TO THE MAXIMUM EXTENT PRACTICABLE.

(b) IF A LARGE-LOAD DATA CENTER USES ONE OR MORE ON-SITE COMBUSTION GENERATORS FOR BACKUP GENERATION, THE GENERATOR MUST:

(I) BE LIMITED TO USE IN AN EMERGENCY AND FOR REQUIRED TESTING AND MAINTENANCE. THE TOTAL AMOUNT OF USE FOR REQUIRED TESTING AND MAINTENANCE MUST BE FOR NO MORE THAN FIFTY HOURS PER YEAR.

(II) NOT BE USED FOR ROUTINE PEAK SHAVING, ECONOMIC DISPATCH, CAPACITY OR ANCILLARY SERVICE MARKETS, OR ANY NONEMERGENCY GRID SUPPORT; AND

(III) USE NONRESETTABLE METERS TO TRACK OPERATING HOURS.

(c) IF A LARGE-LOAD DATA CENTER USES ONE OR MORE ON-SITE COMBUSTION GENERATORS POWERED BY FUEL OIL FOR BACKUP GENERATION, THE GENERATOR MUST:

(I) MEET OR EXCEED THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S TIER 4 FINAL EMISSIONS STANDARDS FOR STATIONARY COMPRESSION-IGNITION ENGINES IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION;

(II) UTILIZE ULTRA-LOW SULFUR DIESEL; AND

(III) BE EQUIPPED WITH THE BEST AVAILABLE EMISSIONS CONTROL

TECHNOLOGIES TO ACHIEVE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S TIER 4 FINAL EMISSIONS STANDARDS FOR STATIONARY COMPRESSION-IGNITION ENGINES IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION, INCLUDING DIESEL PARTICULATE FILTERS AND SELECTIVE CATALYTIC REDUCTION CONTROLS, WHICH MUST BE PROPERLY OPERATED AND MAINTAINED.

(d) IF A LARGE-LOAD DATA CENTER USES ONE OR MORE ON-SITE, GAS-POWERED COMBUSTION GENERATORS FOR BACKUP GENERATION:

(I) ANY STATIONARY SPARK-IGNITION ENGINES MUST MEET OR EXCEED THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S EMISSIONS STANDARDS FOR STATIONARY SPARK-IGNITION ENGINES IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION;

(II) ANY STATIONARY COMBUSTION TURBINES MUST MEET OR EXCEED THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S EMISSIONS STANDARDS FOR STATIONARY COMBUSTION TURBINES IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION; AND

(III) THE GENERATORS MUST EMPLOY THE BEST AVAILABLE METHANE LEAK DETECTION AND REPAIR PRACTICES AND PROHIBIT ROUTINE VENTING OR BYPASSING OF EMISSIONS CONTROLS.

40-2.5-104. Reporting to the department of public health and environment.

(1) NO LATER THAN JUNE 30, 2028, AND NO LATER THAN EACH JUNE 30 THEREAFTER, A LARGE-LOAD DATA CENTER OPERATOR SHALL REPORT TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT THE FOLLOWING INFORMATION FOR THE PREVIOUS CALENDAR YEAR FOR THE OPERATOR'S LARGE-LOAD DATA CENTER:

(a) TOTAL ANNUAL ELECTRICITY CONSUMPTION;

(b) PEAK LOAD;

(c) TOTAL ANNUAL ELECTRICITY SUPPLY SERVING THE LARGE-LOAD DATA CENTER, DISAGGREGATED BY:

(I) ELECTRICITY PURCHASED FROM OFF-SITE RENEWABLE RESOURCES, BY SOURCE;

(II) ELECTRICITY PURCHASED FROM OFF-SITE NONRENEWABLE RESOURCES, BY SOURCE;

(III) ELECTRICITY GENERATED ON SITE FROM RENEWABLE RESOURCES;

(IV) ELECTRICITY DISCHARGED ON SITE FROM RENEWABLE ENERGY STORAGE; AND

(V) ELECTRICITY GENERATED ON SITE FROM NONRENEWABLE RESOURCES, INCLUDING COMBUSTION-BASED BACKUP GENERATION;

(d) HOURLY CONSUMPTION OF ELECTRICITY PROVIDED FOR EIGHT THOUSAND SEVEN HUNDRED SIXTY HOURS;

(e) HOURLY ELECTRICITY SUPPLY FROM RENEWABLE RESOURCES FOR EIGHT THOUSAND SEVEN HUNDRED SIXTY HOURS;

(f) TOTAL INSTALLED CAPACITY OF:

(I) ON-SITE RENEWABLE RESOURCES, BY FUEL TYPE AND IN MEGAWATTS;

(II) ON-SITE RENEWABLE ENERGY STORAGE CAPACITY, IN MEGAWATTS AND IN MEGAWATT-HOURS; AND

(III) ON-SITE BACKUP GENERATION, BY FUEL TYPE AND IN MEGAWATTS;

(g) TOTAL ANNUAL HOURS OF OPERATION FOR EACH ON-SITE BACKUP GENERATOR, DISAGGREGATED BY FUEL TYPE AND BY USE CATEGORY, INCLUDING FOR EMERGENCY USE AND USE IN TESTING OR

MAINTENANCE;

(h) TOTAL ANNUAL DISCHARGE FROM RENEWABLE ENERGY STORAGE;

(i) POWER-USAGE EFFECTIVENESS;

(j) TOTAL ANNUAL WATER CONSUMPTION, INCLUDING PEAK WATER DEMAND PER DAY, TYPES OF COOLING TECHNOLOGIES EMPLOYED, AND EFFORTS TO IMPROVE ON-SITE WATER EFFICIENCY AND REUSE;

(k) TOTAL WATER INPUT IN CUBIC METERS THAT INCLUDES ALL WATER VOLUMES THAT ENTER THE LARGE-LOAD DATA CENTER THAT ARE USED FOR THE FUNCTIONS OF THE LARGE-LOAD DATA CENTER;

(l) THE SOURCES OF WATER FOR THE LARGE-LOAD DATA CENTER, INCLUDING MUNICIPAL WATER SUPPLY, GROUNDWATER, AND SURFACE WATER, AND WHETHER WATER FROM THE SOURCES IS POTABLE OR RECLAIMED. IF THE LARGE-LOAD DATA CENTER UTILIZES MORE THAN ONE WATER SOURCE, THE OPERATOR SHALL PROVIDE INFORMATION REGARDING WATER USAGE FROM EACH SOURCE AS A PERCENTAGE OF TOTAL WATER USAGE.

(m) WATER-USAGE EFFECTIVENESS; AND

(n) THE TOTAL AMOUNT OF INCENTIVES OR SUBSIDIES RECEIVED BY THE LARGE-LOAD DATA CENTER OPERATOR FROM LOCAL GOVERNMENTS, ECONOMIC DEVELOPMENT ORGANIZATIONS, OR OTHER ENTITIES FOR THE DEVELOPMENT OF THE LARGE-LOAD DATA CENTER.

(2) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL COMPILE THE INFORMATION REPORTED TO THE DEPARTMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION AND PROVIDE AN ANNUAL REPORT TO THE GENERAL ASSEMBLY AND THE COMMISSION AND MAKE THE ANNUAL REPORT

PUBLICLY AVAILABLE ON THE DEPARTMENT'S WEBSITE.

40-2.5-105. Utility requirements - definition.

(1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "UTILITY" INCLUDES:

(a) A COOPERATIVE ELECTRIC ASSOCIATION, AS DEFINED IN SECTION 40-9.5-102 (1);

(b) A MUNICIPAL ELECTRIC UTILITY; AND

(c) A WHOLESALE ELECTRIC COOPERATIVE, AS DEFINED IN SECTION 40-2-134 (2).

(2) (a) A UTILITY SHALL NOT INTERCONNECT OR SUPPLY ELECTRICITY TO A LARGE-LOAD DATA CENTER UNLESS THE LARGE-LOAD DATA CENTER OPERATOR HAS EITHER FIRST PROVIDED AN UP-FRONT PAYMENT OR ENTERED INTO A CONTRACT OF AT LEAST FIFTEEN YEARS WITH THE UTILITY, WHICH UP-FRONT PAYMENT OR CONTRACT MUST REQUIRE THE OPERATOR TO PAY FOR THE FOLLOWING:

(I) ALL OF THE COSTS ASSOCIATED WITH THE UTILITY CONSTRUCTING OR PROCURING GENERATION, TRANSMISSION, AND DISTRIBUTION INFRASTRUCTURE NECESSARY TO SUPPLY THE OPERATOR'S LARGE-LOAD DATA CENTER WITH ELECTRICITY;

(II) THE OPERATOR'S SHARE OF EXISTING GENERATION, TRANSMISSION, DISTRIBUTION, AND OTHER RESOURCES NEEDED TO SERVE THE OPERATOR'S LARGE-LOAD DATA CENTER AND OTHER ENERGY SUPPLY AND OPERATIONS INFRASTRUCTURE AND EQUIPMENT REQUIRED TO MAINTAIN GRID RELIABILITY AND OPERATIONAL PERFORMANCE FOR THE UTILITY'S OTHER CUSTOMERS; AND

(III) ALL OF THE COSTS OF RENEWABLE RESOURCE ELECTRICITY CURTAILMENTS AND RESERVE REQUIREMENTS ASSOCIATED WITH THE

OPERATOR'S RENEWABLE RESOURCE ELECTRICITY PURCHASES AND THE COSTS OF INFRASTRUCTURE AND INVESTMENTS REQUIRED TO MAINTAIN GRID SERVICE, STABILITY, AND RELIABILITY DUE TO STRESS ON THE ELECTRICAL SYSTEM CAUSED BY THE OPERATOR'S LARGE-LOAD DATA CENTER.

(b) IN ESTABLISHING COST ALLOCATION IN ELECTRICITY RATES, A UTILITY SHALL ACCOUNT FOR COST CAUSATION FOR LARGE-LOAD DATA CENTERS ACROSS ALL HOURS OF THE YEAR.

(c) A UTILITY MAY REQUIRE A LARGE-LOAD DATA CENTER IN THE UTILITY'S SERVICE TERRITORY WITH A SELF-SUPPLY OF ELECTRICITY TO ENTER INTO A CONTRACT OR PROVIDE UP-FRONT PAYMENTS FOR THE COSTS THAT THE LARGE-LOAD DATA CENTER IMPOSES ON THE UTILITY TO PROVIDE BACKUP POWER.

(3) A UTILITY SHALL NOT INTERCONNECT OR SUPPLY ELECTRICITY TO A LARGE-LOAD DATA CENTER ON OR AFTER JANUARY 1, 2031, UNLESS IT HAS VERIFIED THAT THE LARGE-LOAD DATA CENTER OPERATOR IS IN COMPLIANCE WITH THE HOURLY MATCHING REQUIREMENT DETERMINED BY THE COMMISSION PURSUANT TO SECTION 40-2.5-102.

(4) A UTILITY SHALL NOT OFFER ECONOMIC DEVELOPMENT RATES PURSUANT TO SECTION 40-3-104.3 TO LARGE-LOAD DATA CENTERS.

(5) (a) A UTILITY SHALL DEVELOP AND OFFER AT LEAST ONE OF THE FOLLOWING TO THE UTILITY'S CUSTOMERS THAT ARE LARGE-LOAD DATA CENTER OPERATORS:

(I) ONE OR MORE DEMAND RESPONSE PROGRAMS, WHICH PROGRAMS MUST NOT ALLOW THE USE OF DIESEL GENERATORS, THAT ENCOURAGE LARGE-LOAD DATA CENTER OPERATORS TO SIGNIFICANTLY REDUCE THE POWER DEMAND OF THE OPERATOR'S LARGE-LOAD DATA

CENTER DURING PEAK PERIODS THROUGH LOAD-SHIFTING, BATTERY STORAGE, UNINTERRUPTIBLE POWER SUPPLY, OR ON-SITE OR ZERO-EMISSIONS BACKUP GENERATION; OR

(II) FLEXIBLE CONNECTION TARIFFS OR OTHER TARIFFS THAT ENCOURAGE OR REQUIRE LARGE-LOAD DATA CENTER OPERATORS TO SIGNIFICANTLY REDUCE THE POWER DEMAND OF THE OPERATOR'S LARGE-LOAD DATA CENTER DURING PEAK PERIODS.

(b) A UTILITY MAY:

(I) PROVIDE EXPEDITED INTERCONNECTION TO A LARGE-LOAD DATA CENTER OPERATOR THAT COMMITS TO FLEXIBLE INTERCONNECTION OR COMMITS TO ACHIEVING AT LEAST EIGHTY-PERCENT HOURLY MATCHING OF RENEWABLE RESOURCES WITH THE LARGE-LOAD DATA CENTER'S ELECTRICITY CONSUMPTION BY 2030; AND

(II) REQUIRE FLEXIBLE INTERCONNECTION AS A CONDITION FOR INTERCONNECTION OF A LARGE-LOAD DATA CENTER.

(c) AN INTERCONNECTION AGREEMENT BETWEEN A UTILITY AND A LARGE-LOAD DATA CENTER OPERATOR MUST INCLUDE A REQUIREMENT FOR AN UP-FRONT PAYMENT OR SECURITY BY THE LARGE-LOAD DATA CENTER OPERATOR AND SIGNIFICANT MONTHLY DEMAND CHARGES, UNLESS THE OPERATOR PARTICIPATES IN A FLEXIBLE INTERCONNECTION TARIFF OR PROGRAM THAT PROVIDES SYSTEM BENEFITS FOR WHICH CORRESPONDING CHARGES MAY BE REDUCED WITHOUT CREATING CROSS-SUBSIDIZATION BY OTHER CUSTOMER CLASSES.

(6) (a) A UTILITY SHALL NOT INTERCONNECT OR SUPPLY ELECTRICITY TO A LARGE-LOAD DATA CENTER UNLESS THE UTILITY HAS DETERMINED AND ENSURES THAT THE ADDITION OF THE LARGE-LOAD DATA CENTER TO THE UTILITY'S SYSTEM:

(I) DOES NOT NEGATIVELY AFFECT THE UTILITY'S ABILITY TO PROVIDE RELIABLE ELECTRIC SERVICE TO EXISTING CUSTOMERS;

(II) DOES NOT NEGATIVELY AFFECT THE UTILITY'S ABILITY TO COMPLY WITH SECTION 25-7-105 OR THE RULES ADOPTED PURSUANT TO SECTION 25-7-105 OR THE UTILITY'S ACHIEVEMENT OF THE CLEAN ENERGY TARGETS DESCRIBED IN SECTION 40-2-125.5 (3), IF APPLICABLE, OR OTHER APPLICABLE CLEAN ENERGY AND EMISSIONS TARGETS, INCLUDING ECONOMY-WIDE TARGETS; AND

(III) DOES NOT INCREASE THE UTILITY'S GREENHOUSE GAS EMISSIONS FOR THE FIFTEEN YEARS AFTER THE ADDITION OF THE LARGE-LOAD DATA CENTER, COMPARED TO PROJECTED GREENHOUSE GAS EMISSIONS BY THE UTILITY WITHOUT THE ADDITION OF THE LARGE-LOAD DATA CENTER.

(b) ANY COSTS INCURRED BY A UTILITY IN MAKING THE DETERMINATION DESCRIBED IN SUBSECTION (6)(a) OF THIS SECTION MUST BE BORNE BY THE LARGE-LOAD DATA CENTER SEEKING INTERCONNECTION.

(7) (a) A UTILITY SHALL SOLICIT AND ACCEPT, IF OFFERED BY A LARGE-LOAD DATA CENTER OPERATOR, VOLUNTARY FINANCIAL CONTRIBUTIONS TO THE UTILITY'S INCOME-QUALIFIED ENERGY EFFICIENCY, ELECTRIFICATION, DEMAND RESPONSE, DISTRIBUTED ENERGY RESOURCES, OR VIRTUAL POWER PLANT PROGRAMS.

(b) IF A LARGE-LOAD DATA CENTER OPERATOR PROVIDES A VOLUNTARY FINANCIAL CONTRIBUTION, THE VOLUNTARY FINANCIAL CONTRIBUTION MUST SUPPLEMENT, RATHER THAN SUBSTITUTE, THE UTILITY'S FUNDING OF THE PROGRAMS DESCRIBED IN SUBSECTION (7)(a) OF THIS SECTION. A VOLUNTARY FINANCIAL CONTRIBUTION BY A LARGE-LOAD DATA CENTER OPERATOR IS NOT SUBJECT TO COST-EFFECTIVENESS

TESTING AND SHALL NOT BE COUNTED AS PART OF UTILITY EXPENDITURES RELATIVE TO ANY BUDGET CAPS FOR THE PROGRAMS DESCRIBED IN SUBSECTION (7)(a) OF THIS SECTION.

(c) A UTILITY THAT RECEIVES A VOLUNTARY FINANCIAL CONTRIBUTION FROM ONE OR MORE LARGE-LOAD DATA CENTER OPERATORS SHALL INCLUDE INFORMATION ABOUT THE VOLUNTARY FINANCIAL CONTRIBUTION, INCLUDING THE AMOUNT RECEIVED, HOW THE MONEY WAS USED, AND ANY DEMONSTRATED CUSTOMER OR GRID BENEFITS, IN THE UTILITY'S ANNUAL ENERGY EFFICIENCY AND ELECTRIFICATION REPORTS.

(8) (a) A UTILITY RATE-REGULATED BY THE COMMISSION WITH ONE OR MORE CUSTOMERS THAT ARE LARGE-LOAD DATA CENTER OPERATORS SHALL DESCRIBE THE UTILITY'S EFFORTS TO COMPLY WITH THIS SECTION IN THE UTILITY'S ANNUAL REPORT FILED WITH THE COMMISSION.

(b) A UTILITY RATE-REGULATED BY THE COMMISSION WITH ONE OR MORE CUSTOMERS THAT ARE LARGE-LOAD DATA CENTER OPERATORS SHALL PROVIDE MONTHLY REPORTING TO THE COMMISSION ON THE FOLLOWING:

(I) NUMBER AND CAPACITY OF NEW LARGE-LOAD DATA CENTER INTERCONNECTION REQUESTS;

(II) NUMBER AND CAPACITY OF NEW LARGE-LOAD DATA CENTER INTERCONNECTION REQUESTS REJECTED BY THE UTILITY OR WITHDRAWN;

(III) TOTAL CAPACITY OF NEW LARGE-LOAD DATA CENTER INTERCONNECTION REQUESTS IN QUEUE WITH A SIGNED INTERCONNECTION AGREEMENT; AND

(IV) NUMBER AND CAPACITY OF NEW LARGE-LOAD DATA CENTER CUSTOMER INTERCONNECTIONS COMPLETED AND IN OPERATION.

(9) NOTHING IN THIS SECTION PROHIBITS THE COMMISSION FROM ADOPTING A TARIFF FOR LARGE-LOAD DATA CENTER OPERATORS, OR A SUBSET OF LARGE-LOAD DATA CENTER OPERATORS, THAT INCLUDES MORE STRINGENT REQUIREMENTS THAN THIS SECTION.

40-2.5-106. Model local codes by the department of local affairs - site assessments.

(1) (a) ON OR BEFORE JUNE 30, 2027, THE DEPARTMENT OF LOCAL AFFAIRS SHALL PUBLISH MODEL CODES FOR THE DEVELOPMENT OF LARGE-LOAD DATA CENTERS. THE MODEL CODES MUST CONSIDER, AT A MINIMUM, BEST PRACTICES FOR THE FOLLOWING:

(I) UPDATING LOCAL ZONING LAWS TO RESPOND TO THE PROLIFERATION OF LARGE-LOAD DATA CENTERS;

(II) AVOIDING AND MITIGATING POTENTIAL NEW IMPACTS TO RESIDENTS FROM NOISE, LIGHT, AIR, ELECTROMAGNETIC FIELDS, AND OTHER SOURCES OF POLLUTION, INCLUDING FROM ON-SITE BACKUP GENERATION;

(III) UPDATING PUBLIC ENGAGEMENT PROCESSES RELATED TO LARGE-LOAD DATA CENTER DEVELOPMENT;

(IV) ESTABLISHING WATER AND LAND USE POLICY MECHANISMS AND DEVELOPMENT REVIEW PROCESSES TO ALIGN LARGE WATER USER DEVELOPMENT WITH SUSTAINABLE WATER MANAGEMENT, INCLUDING WATER-RELATED SITING CONSIDERATIONS, THE USE OF NONPOTABLE SUPPLIES AND ON-SITE WATER REUSE, AND WATER EFFICIENCY TOOLS AND TECHNOLOGY. THE POLICY MECHANISMS AND DEVELOPMENT REVIEW PROCESSES MAY INCLUDE:

(A) ESTABLISHING ADDITIONAL REQUIREMENTS FOR LARGE WATER USERS;

(B) IMPLEMENTING WATER DEMAND OFFSET OR NET NEUTRAL GROWTH POLICIES;

(C) ADOPTING WATER ALLOCATION POLICIES WITH QUANTIFIED WATER RESOURCES FOR WATER INTENSIVE INDUSTRIAL GROWTH;

(D) REQUIRING CONSERVATION PLANS WITH IDENTIFIED EFFICIENCY AND REUSE BEST PRACTICES IN WATER SERVICE APPLICATIONS; OR

(E) DEVELOPING REPORTING GUIDANCE AND TEMPLATES FOR WATER AND WASTE USE STREAMS;

(V) REQUIRING A LARGE-LOAD DATA CENTER DEVELOPER TO PROVE TO A LOCAL GOVERNMENT IN ITS DEVELOPMENT PERMIT APPLICATION HOW THE LARGE-LOAD DATA CENTER PROJECT WILL FIT WITHIN LOCAL GOVERNMENT STRATEGIC PLANNING AND LAWS WITH CLEAR AND TRANSPARENT TIMELINES, PLANS, AND ACCOUNTABILITY MEASURES;

(VI) CREATING AND IMPLEMENTING COMMUNITY BENEFIT AGREEMENTS, INCLUDING RECOMMENDATIONS FOR PUBLIC ENGAGEMENT; AND

(VII) IMPLEMENTING REPORTING REQUIREMENTS TO LOCAL GOVERNMENTS AND IMPACTED COMMUNITIES RELATED TO ON-SITE FOSSIL FUEL GENERATION.

(b) THE DEPARTMENT OF LOCAL AFFAIRS SHALL CONDUCT A ROBUST STAKEHOLDER AND ENGAGEMENT PROCESS IN DEVELOPING THE MODEL CODES DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION, INCLUDING ENGAGEMENT WITH:

(I) STATE AGENCIES, INCLUDING THE AIR POLLUTION CONTROL DIVISION AND THE WATER QUALITY CONTROL DIVISION IN THE

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, THE COMMISSION, THE OFFICE, AND THE DEPARTMENT OF NATURAL RESOURCES;

(II) COLORADO CONSUMER PROTECTION ORGANIZATIONS;

(III) STATEWIDE LABOR AND TRADE ASSOCIATIONS;

(IV) STATEWIDE ENERGY AND CLIMATE ORGANIZATIONS;

(V) COLORADO AGRICULTURAL INTERESTS;

(VI) DISPROPORTIONATELY IMPACTED COMMUNITIES;

(VII) LARGE-LOAD DATA CENTER DEVELOPERS;

(VIII) LARGE-LOAD DATA CENTER OPERATORS;

(IX) TRIBAL GOVERNMENTS;

(X) MUNICIPAL WATER UTILITIES; AND

(XI) MUNICIPAL ELECTRIC UTILITIES AND COOPERATIVE ELECTRIC ASSOCIATIONS.

(c) THE DEPARTMENT OF LOCAL AFFAIRS SHALL EVALUATE, UPDATE, AND REVIEW THE MODEL CODES DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION EVERY FIVE YEARS AFTER THE DATE OF THE PUBLISHING OF THE MODEL CODES.

(2) WITH ITS DEVELOPMENT PERMIT APPLICATION FOR A LARGE-LOAD DATA CENTER, A LARGE-LOAD DATA CENTER DEVELOPER SHALL SUBMIT A SITE ASSESSMENT TO THE LOCAL GOVERNMENT REVIEWING THE DEVELOPMENT PERMIT APPLICATION. A SITE ASSESSMENT MUST INCLUDE DESCRIPTIONS OF:

(a) ANTICIPATED TOTAL WATER FOOTPRINT, INCLUDING DIRECT AND INDIRECT WATER USAGE AND TOTAL WATER INPUT IN CUBIC METERS;

(b) PLANNED WATER SOURCES, INCLUDING INFORMATION REGARDING WATER USAGE FROM EACH SOURCE AS A PERCENTAGE OF TOTAL WATER USAGE;

(c) ANTICIPATED ON-SITE AIR EMISSIONS, INCLUDING EMISSIONS OF GREENHOUSE GASES; TOXIC AIR CONTAMINANTS, AS DEFINED IN SECTION 25-7-109.5 (1)(i); AND CRITERIA POLLUTANTS, AS DEFINED IN SECTION 43-1-128 (2)(b);

(d) ANY POTENTIAL IMPACTS ON AGRICULTURAL, HISTORIC, AND CULTURAL RESOURCES WITHIN THE LOCAL GOVERNMENT'S JURISDICTION;

(e) EFFORTS TO LOCATE BACKUP GENERATION AND OTHER SOURCES OF AIR, NOISE, AND LIGHT POLLUTION AS FAR AS REASONABLY POSSIBLE FROM RESIDENCES, SCHOOLS, AND HEALTH CLINICS; AND

(f) A DESCRIPTION OF INITIAL AND ONGOING OPPORTUNITIES FOR PUBLIC ENGAGEMENT.

(3) NOTHING IN THIS SECTION ESTABLISHES, ALTERS, IMPAIRS, OR NEGATES THE ABILITY OF A LOCAL GOVERNMENT TO REGULATE LAND USE RELATED TO LARGE-LOAD DATA CENTERS; EXCEPT THAT A LOCAL GOVERNMENT SHALL NOT ALLOW LARGE-LOAD DATA CENTERS TO BE ZONED AS A USE BY RIGHT.

40-2.5-107. Disproportionately impacted communities - cumulative impacts analysis - review of development permit application by local governments - community engagement - community benefit agreements.

(1) (a) IF THE SITING OF A LARGE-LOAD DATA CENTER IS PROPOSED IN A DISPROPORTIONATELY IMPACTED COMMUNITY OR IF AN OPERATOR OF A DATA CENTER IN A DISPROPORTIONATELY IMPACTED COMMUNITY THAT EXISTS BEFORE THE EFFECTIVE DATE OF THIS SECTION PLANS TO EXPAND THE DATA CENTER'S PEAK LOAD SUCH THAT THE DATA CENTER WILL BECOME A LARGE-LOAD DATA CENTER, THE LARGE-LOAD DATA CENTER DEVELOPER OR LARGE-LOAD DATA CENTER OPERATOR, AS APPLICABLE,

SHALL UNDERGO A CUMULATIVE IMPACTS ANALYSIS BEFORE THE DEVELOPMENT OR EXPANSION BEGINS.

(b) IN CONDUCTING THE CUMULATIVE IMPACTS ANALYSIS DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION, A DEVELOPER OR OPERATOR SHALL CONTRACT WITH A THIRD-PARTY CONTRACTOR SELECTED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO PERFORM THE CUMULATIVE IMPACTS ANALYSIS IN A SCIENTIFICALLY RIGOROUS MANNER. THE COSTS OF THE THIRD-PARTY CONTRACTOR MUST BE BORNE ENTIRELY BY THE DEVELOPER OR OPERATOR.

(2) IN REVIEWING, APPROVING, DENYING, OR AMENDING A DEVELOPMENT PERMIT APPLICATION FOR A LARGE-LOAD DATA CENTER THAT IS IN A DISPROPORTIONATELY IMPACTED COMMUNITY OR IS PROPOSED TO BE IN A DISPROPORTIONATELY IMPACTED COMMUNITY, INCLUDING A DEVELOPMENT PERMIT MODIFICATION THAT WOULD CAUSE A DATA CENTER IN A DISPROPORTIONATELY IMPACTED COMMUNITY TO BECOME A LARGE-LOAD DATA CENTER, THE APPLICABLE LOCAL GOVERNMENT SHALL CONSIDER THE APPLICANT'S CUMULATIVE IMPACTS ANALYSIS. IF THE LOCAL GOVERNMENT FINDS THAT THE LARGE-LOAD DATA CENTER PROPOSED BY THE APPLICATION WILL HAVE NET NEGATIVE CUMULATIVE IMPACTS ON A DISPROPORTIONATELY IMPACTED COMMUNITY, THE LOCAL GOVERNMENT SHALL CONSIDER IF MITIGATION STRATEGIES DESCRIBED BY THE APPLICANT ARE SUFFICIENT TO AVOID THE NEGATIVE IMPACTS IDENTIFIED IN THE CUMULATIVE IMPACTS ANALYSIS. THE LOCAL GOVERNMENT MAY CONSULT WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT REGARDING THE RESULTS OF THE CUMULATIVE IMPACTS ANALYSIS AND PROPOSED MITIGATION STRATEGIES. IN REVIEWING, APPROVING, DENYING, OR AMENDING AN APPLICATION, THE

LOCAL GOVERNMENT SHALL INCLUDE A PLAIN LANGUAGE SUMMARY OF ITS DETERMINATION.

(3) (a) PRIOR TO APPLYING FOR A DEVELOPMENT PERMIT FOR A LARGE-LOAD DATA CENTER THAT IS IN A DISPROPORTIONATELY IMPACTED COMMUNITY OR IS PROPOSED TO BE IN A DISPROPORTIONATELY IMPACTED COMMUNITY, INCLUDING A DEVELOPMENT PERMIT MODIFICATION THAT WOULD CAUSE A DATA CENTER IN A DISPROPORTIONATELY IMPACTED COMMUNITY TO BECOME A LARGE-LOAD DATA CENTER, THE LARGE-LOAD DATA CENTER DEVELOPER OR LARGE-LOAD DATA CENTER OPERATOR, AS APPLICABLE, SHALL:

(I) HOST A MINIMUM OF THREE PUBLIC HEARINGS OR COMMENT PERIODS AT LEAST SIXTY DAYS PRIOR TO SUBMITTING THE DEVELOPMENT PERMIT APPLICATION. AT LEAST ONE OF THE PUBLIC HEARINGS OR COMMENT PERIODS MUST BE HELD WITHIN THE DISPROPORTIONATELY IMPACTED COMMUNITY WHERE THE DEVELOPER OR OPERATOR PLANS TO OPERATE THE LARGE-LOAD DATA CENTER OR IS CURRENTLY OPERATING THE DATA CENTER.

(II) SCHEDULE VARIABLE TIMES OF DAY AND DAYS OF THE WEEK FOR OPPORTUNITIES FOR PUBLIC INPUT ON THE PROJECT, INCLUDING AT LEAST ONE TIME ON SATURDAY OR SUNDAY, ONE TIME AFTER 5 P.M., AND ONE TIME BEFORE 12 NOON;

(III) PROVIDE PUBLIC NOTICE AT LEAST THIRTY DAYS BEFORE ANY PUBLIC HEARING OR BEFORE THE START OF ANY COMMENT PERIOD, WHICH PUBLIC NOTICE MUST INCLUDE THE TIME, PLACE, AND LOCATION OF THE PUBLIC HEARING AND A SUMMARY OF THE PROJECT AND MAY BE PROVIDED THROUGH SEVERAL DIFFERENT OUTLETS AND LOCATIONS, INCLUDING:

(A) SCHOOLS;

(B) HEALTH CLINICS;

(C) SOCIAL MEDIA;

(D) SOCIAL AND ACTIVITY CLUBS;

(E) LOCAL GOVERNMENTS;

(F) TRIBAL GOVERNMENTS;

(G) RELIGIOUS OR CIVIC ORGANIZATIONS;

(H) COMMUNITY-BASED ENVIRONMENTAL JUSTICE ORGANIZATIONS; OR

(I) OTHER LOCAL SERVICES;

(IV) PROVIDE OUTREACH MATERIALS TRANSLATED INTO THE TOP TWO LANGUAGES SPOKEN IN THE DISPROPORTIONATELY IMPACTED COMMUNITY WHERE THE DEVELOPER OR OPERATOR PLANS TO DEVELOP OR OPERATE OR IS OPERATING THE LARGE-LOAD DATA CENTER, WHICH MATERIALS INFORM THE DISPROPORTIONATELY IMPACTED COMMUNITY ABOUT OPPORTUNITIES TO PROVIDE INPUT ON THE PROJECT, THE RIGHTS OF THE COMMUNITY, THE POSSIBLE OUTCOMES OF THE PROJECT, AND ANY UPCOMING PUBLIC HEARINGS OR COMMENT PERIODS; AND

(V) IMPLEMENT OTHER BEST PRACTICES FOR OUTREACH AND ENGAGEMENT SET FORTH IN SECTION 24-4-109 (3)(b).

(b) DURING A PUBLIC HEARING OR COMMENT PERIOD DESCRIBED IN THIS SUBSECTION (3), THE LARGE-LOAD DATA CENTER DEVELOPER OR LARGE-LOAD DATA CENTER OPERATOR SHALL EXPLICITLY DISCLOSE THE RESULTS OF THE CUMULATIVE IMPACTS ANALYSIS CONDUCTED BY A THIRD-PARTY CONTRACTOR PURSUANT TO SUBSECTION (1) OF THIS SECTION. THE DEVELOPER OR OPERATOR SHALL ALSO DESCRIBE THE EFFORTS THAT THE DEVELOPER OR OPERATOR WILL MAKE TO REDUCE ANTICIPATED NEGATIVE IMPACTS TO THE DISPROPORTIONATELY IMPACTED

COMMUNITY OR ITS ENVIRONMENT FROM THE PROPOSED LARGE-LOAD DATA CENTER PROJECT.

(4) (a) IF A LARGE-LOAD DATA CENTER IS PROPOSED IN A DISPROPORTIONATELY IMPACTED COMMUNITY OR IF AN OPERATOR OF A DATA CENTER IN A DISPROPORTIONATELY IMPACTED COMMUNITY THAT EXISTS BEFORE THE EFFECTIVE DATE OF THIS SECTION PLANS TO EXPAND THE DATA CENTER'S PEAK LOAD SUCH THAT THE DATA CENTER WILL BECOME A LARGE-LOAD DATA CENTER, THE DEVELOPER OR OPERATOR, AS APPLICABLE, SHALL ENTER INTO A LEGALLY BINDING AND PUBLICLY DISCLOSED COMMUNITY BENEFIT AGREEMENT WITH THE DISPROPORTIONATELY IMPACTED COMMUNITY BEFORE THE DEVELOPMENT OR EXPANSION BEGINS.

(b) (I) DURING COMMUNITY BENEFIT AGREEMENT NEGOTIATIONS, THE DEVELOPER OR OPERATOR SHALL CONSULT WITH THE LOCAL GOVERNMENT WITH JURISDICTION OVER THE LARGE-LOAD DATA CENTER OR PROPOSED LARGE-LOAD DATA CENTER PROJECT AND A COALITION OF AT LEAST THREE COMMUNITY-BASED ORGANIZATIONS WITHIN A TWO-MILE RADIUS OF THE LARGE-LOAD DATA CENTER OR PROPOSED LARGE-LOAD DATA CENTER PROJECT. THE DEVELOPER OR OPERATOR SHALL HOST A SERIES OF AT LEAST FIVE MEETINGS WITH KEY STAKEHOLDER GROUPS IDENTIFIED BY THE LOCAL GOVERNMENT AND COALITION. AT LEAST TWO OF THE MEETINGS MUST OFFER THE OPPORTUNITY FOR PUBLIC COMMENT. THE MEETINGS MUST COMPLY WITH THE BEST PRACTICES FOR OUTREACH AND ENGAGEMENT SET FORTH IN SECTION 24-4-109 (3)(b).

(II) IN NEGOTIATING A COMMUNITY BENEFIT AGREEMENT, THE PARTIES SHALL CONSIDER:

(A) THE PRIORITIZATION OF DISPROPORTIONATELY IMPACTED

COMMUNITIES THROUGH FIRST-SOURCE HIRING PROGRAMS, REVENUE SHARING, COMMUNITY PROGRAM FUNDING, COMMUNITY OR PUBLIC OWNERSHIP REQUIREMENTS, AND OTHER STATE-INITIATED MECHANISMS; AND

(B) REGULAR EQUITY IMPACT ASSESSMENTS, PROTECTIONS FOR RENTERS AND SMALL BUSINESSES, AND PUBLIC DASHBOARDS FOR DISCLOSURE OF INFORMATION DEEMED RELEVANT BY THE COALITION OF COMMUNITY ORGANIZATIONS DESCRIBED IN SUBSECTION (4)(b)(I) OF THIS SECTION.

(c) (I) A COMMUNITY BENEFIT AGREEMENT SHOULD AIM TO AVOID AND MITIGATE NEGATIVE IMPACTS FROM THE LARGE-LOAD DATA CENTER, DRIVE INVESTMENTS AND SERVICES REQUESTED BY DISPROPORTIONATELY IMPACTED COMMUNITIES, AND SUPPORT LOCAL WORKFORCE DEVELOPMENT.

(II) A COMMUNITY BENEFIT AGREEMENT MAY CONTEMPLATE A COMMUNITY BENEFIT FUND TIED TO PROJECT SCALE, ENVIRONMENTAL AND PUBLIC HEALTH, LONG-TERM SUBSIDIES AND MONITORING, AND SUPPORTING HOUSING, BROADBAND, HEALTH-CARE AND CHILD CARE CENTERS, AND COMMUNITY RESILIENCE.

(d) A LOCAL GOVERNMENT MAY DETERMINE APPROPRIATE PENALTIES FOR NONCOMPLIANCE WITH A COMMUNITY BENEFIT AGREEMENT.

40-2.5-108. Labor standards.

(1) A LARGE-LOAD DATA CENTER OPERATOR SHALL:

(a) PROVIDE PREVAILING WAGES, AS DEFINED IN SECTION 24-92-201 (6) AND DETERMINED BY THE DIRECTOR OF THE DEPARTMENT OF PERSONNEL PURSUANT TO SECTION 24-92-205 (1), TO EMPLOYEES THAT

ARE FULLY EMPLOYED, AS DEFINED IN SECTION 8-70-103 (12.5);

(b) PARTICIPATE IN AN APPRENTICESHIP PROGRAM REGISTERED WITH THE UNITED STATES DEPARTMENT OF LABOR OR A STATE APPRENTICESHIP AGENCY RECOGNIZED BY THE UNITED STATES DEPARTMENT OF LABOR;

(c) REQUIRE PARTICIPATION IN THE "OSHA 10" CLASS OR A CLASS OFFERED BY THE FEDERAL OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION COMPRISED OF SUBSTANTIALLY SIMILAR CONTENT;

(d) COMPLY WITH ANY APPLICABLE WORKPLACE SITE SAFETY PLAN REQUIREMENTS OF THE FEDERAL OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION; AND

(e) NOT HAVE A DOCUMENTED PATTERN OF WAGE THEFT OR MISCLASSIFICATION OF EMPLOYEES, AS DEFINED IN SECTION 8-72-114 (2)(f).

SECTION 3. Applicability. This act applies to conduct occurring on or after the effective date of this act.

SECTION 4. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.