

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 20-0920.01 Nicole Myers x4326

SENATE BILL 20-159

SENATE SPONSORSHIP

Hansen,

HOUSE SPONSORSHIP

(None),

Senate Committees

Transportation & Energy
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO LIMIT THE GLOBAL WARMING POTENTIAL**
102 **FOR CERTAIN MATERIALS USED IN PUBLIC PROJECTS, AND, IN**
103 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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 department of personnel (department) is required to establish a maximum acceptable global warming potential for each category of eligible materials used in a public project. The bill specifies which building materials are eligible materials.

The department is required to set the maximum acceptable global

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

warming potential at the industry average of facility-specific global warming potential emissions for that material and to express it as a number that states the maximum acceptable facility-specific global warming potential for each category of eligible materials.

The department is required to submit a report to the general assembly regarding the method it used to develop the maximum global warming potential for each category of eligible materials and may make periodic downward adjustments to the number to reflect industry improvements.

For invitations for bid for public projects issued after a certain date, the contractor that is awarded the contract is required to submit to the contracting agency of government a current facility-specific environmental product declaration for each eligible material proposed to be used in the public project.

A contracting agency of government is required to include in a specification for bids for a public project that the facility-specific global warming potential for any eligible material that will be used in the project shall not exceed the maximum acceptable global warming potential for that material determined by the department.

A contractor that is awarded a contract for a public project is prohibited from installing any eligible material on the project until the contractor submits a facility-specific environmental product declaration for that material.

The bill specifies that in administering the requirements of the bill, an agency of government is required to strive to achieve a continuous reduction of greenhouse gas emissions over time. The department is required to submit a report to the general assembly regarding the implementation of the bill.

The bill includes the facility-specific global warming potential for each eligible material that will be used in the project and the cost of avoided emissions for the project in the factors to be considered when making an award determination for a competitive sealed best value bid.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Climate change will have devastating global impacts;

5 (b) All scientific evidence points to the need for Colorado and the
6 world to reduce greenhouse gas emissions to avert the worst effects of
7 climate change. Climate change impacts are already apparent in Colorado,

1 where scientists have determined that annual temperature increases and
2 a long-term drought are consequences of human-induced climate change.

3 (c) The general assembly has committed to reduce greenhouse
4 gases through numerous statutes requiring regulatory and other action by
5 public agencies. Those regulations and actions do not currently encourage
6 public dollars for infrastructure projects to be spent in a way that is
7 consistent with the state's goals to reduce greenhouse gas emissions.

8 (d) Several executive orders in Colorado have highlighted the
9 importance of reducing greenhouse gas emissions in the state, supporting
10 the state's clean energy transition, maintaining progress on clean vehicles,
11 and supporting a transition to zero emission vehicles;

12 (e) Great quantities of emissions are released during the
13 manufacture and transport of products used in public construction
14 projects;

15 (f) Colorado, through its extensive purchasing power, can improve
16 environmental outcomes and accelerate necessary greenhouse gas
17 reductions to protect public health, the environment, and conserve a
18 livable climate by incorporating emissions information from throughout
19 the supply chain and product life cycle into procurement decisions, and
20 using that information to help direct expenditure; and

21 (g) Incorporating emissions information will acknowledge those
22 companies that have invested in emissions reduction technologies and
23 practices. It will encourage other companies to take action to reduce
24 emissions to become more competitive in the Colorado bidding process.

25 (2) The general assembly further finds and declares that there is
26 great potential for Colorado to reduce greenhouse gas emissions in public
27 construction projects without imposing an additional cost on those

1 projects.

2 **SECTION 2.** In Colorado Revised Statutes, **add** 24-92-116 as
3 follows:

4 **24-92-116. Maximum global warming potential for materials**
5 **used in public projects - environmental product declaration -**
6 **short title - rules - report - definitions.** (1) THE SHORT TITLE OF THIS
7 SECTION IS THE "BUY CLEAN COLORADO ACT".

8 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
9 REQUIRES:

10 (a) "DEPARTMENT" MEANS THE DEPARTMENT OF PERSONNEL.

11 (b) "ELIGIBLE MATERIALS" MEANS:

12 (I) CARBON STEEL REBAR;

13 (II) FLAT GLASS;

14 (III) MINERAL WOOL BOARD INSULATION;

15 (IV) STRUCTURAL STEEL;

16 (V) CONCRETE; AND

17 (VI) CEMENT.

18 (c) "GREENHOUSE GAS" HAS THE SAME MEANING AS SET FORTH IN
19 SECTION 25-7-140 (6).

20 (3) (a) BY JANUARY 1, 2022, THE OFFICE OF THE STATE ARCHITECT
21 WITHIN THE DEPARTMENT SHALL ESTABLISH BY POLICY A MAXIMUM
22 ACCEPTABLE GLOBAL WARMING POTENTIAL FOR EACH CATEGORY OF
23 ELIGIBLE MATERIALS USED IN A PUBLIC PROJECT IN ACCORDANCE WITH THE
24 FOLLOWING REQUIREMENTS:

25 (I) THE DEPARTMENT SHALL BASE THE MAXIMUM ACCEPTABLE
26 GLOBAL WARMING POTENTIAL ON THE INDUSTRY AVERAGE OF GLOBAL
27 WARMING POTENTIAL EMISSIONS FOR THAT MATERIAL. THE OFFICE OF THE

1 STATE ARCHITECT WITHIN THE DEPARTMENT SHALL DETERMINE THE
2 INDUSTRY AVERAGE BY CONSULTING NATIONALLY OR INTERNATIONALLY
3 RECOGNIZED DATABASES OF ENVIRONMENTAL PRODUCT DECLARATIONS
4 AND SHALL INCLUDE TRANSPORTATION-RELATED EMISSIONS AS PART OF
5 THE GLOBAL WARMING POTENTIAL EMISSIONS.

6 (II) THE DEPARTMENT SHALL EXPRESS THE MAXIMUM ACCEPTABLE
7 GLOBAL WARMING POTENTIAL AS A NUMBER THAT STATES THE MAXIMUM
8 ACCEPTABLE GLOBAL WARMING POTENTIAL FOR EACH CATEGORY OF
9 ELIGIBLE MATERIALS. THE GLOBAL WARMING POTENTIAL SHALL BE
10 PROVIDED IN A MANNER THAT IS CONSISTENT WITH CRITERIA IN AN
11 ENVIRONMENTAL PRODUCT DECLARATION.

12 (b) IN ESTABLISHING A MAXIMUM ACCEPTABLE GLOBAL WARMING
13 POTENTIAL FOR EACH CATEGORY OF ELIGIBLE MATERIALS USED IN A
14 PUBLIC PROJECT, THE DEPARTMENT MAY CONSULT WITH ANY OTHER
15 RELEVANT DEPARTMENT OR DIVISION OF STATE GOVERNMENT.

16 (c) ON OR BEFORE JANUARY 1, 2022, THE DEPARTMENT SHALL
17 SUBMIT A REPORT TO THE GENERAL ASSEMBLY THAT DESCRIBES THE
18 METHOD THAT THE DEPARTMENT USED TO DEVELOP THE MAXIMUM
19 GLOBAL WARMING POTENTIAL FOR EACH CATEGORY OF ELIGIBLE
20 MATERIALS.

21 (d) BY JANUARY 1, 2024, AND EVERY FOUR YEARS THEREAFTER,
22 THE DEPARTMENT SHALL REVIEW THE MAXIMUM ACCEPTABLE GLOBAL
23 WARMING POTENTIAL FOR EACH CATEGORY OF ELIGIBLE MATERIALS, AND
24 MAY ADJUST THE NUMBER FOR ANY ELIGIBLE MATERIAL TO REFLECT
25 INDUSTRY CONDITIONS. THE DEPARTMENT SHALL NOT ADJUST THE
26 NUMBER UPWARD FOR ANY ELIGIBLE MATERIAL.

27 (4) (a) (I) FOR INVITATION FOR BIDS FOR CONTRACTS FOR THE

1 DESIGN OF PUBLIC PROJECTS ISSUED ON OR AFTER JULY 1, 2022, AN
2 AGENCY OF GOVERNMENT SHALL REQUIRE THE DESIGNER WHO IS
3 AWARDED THE CONTRACT TO SUBMIT A CURRENT ___ ENVIRONMENTAL
4 PRODUCT DECLARATION, TYPE III, AS DEFINED BY THE INTERNATIONAL
5 ORGANIZATION FOR STANDARDIZATION STANDARD 14025:2006, OR
6 SIMILARLY ROBUST LIFE CYCLE ASSESSMENT METHODS THAT HAVE
7 UNIFORM STANDARDS IN DATA COLLECTION, AS SET BY POLICY BY THE
8 OFFICE OF THE STATE ARCHITECT WITHIN THE DEPARTMENT FOR EACH
9 ELIGIBLE MATERIAL PROPOSED TO BE USED IN THE PUBLIC PROJECT THAT
10 MEET THE MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR
11 EACH CATEGORY OF ELIGIBLE MATERIALS OR, IN THE ALTERNATIVE, A
12 MAXIMUM ACCEPTABLE GLOBAL WARMING POTENTIAL FOR THE PROJECT
13 IN THE AGGREGATE.

14 (II) IF A PRODUCT THAT MEETS THE MAXIMUM GLOBAL WARMING
15 POTENTIAL FOR A CATEGORY OF ELIGIBLE MATERIALS IS NOT PRICED OR IS
16 NOT AVAILABLE ON A REASONABLE BASIS AT THE TIME OF DESIGN OR
17 CONSTRUCTION, THE OFFICE OF THE STATE ARCHITECT WITHIN THE
18 DEPARTMENT MAY WAIVE THE REQUIREMENTS OF THIS SECTION FOR THAT
19 PRODUCT.

20 (b) FOR INVITATION FOR BIDS FOR CONTRACTS FOR PUBLIC
21 PROJECTS ISSUED ON OR AFTER JULY 1, 2022, AN AGENCY OF GOVERNMENT
22 SHALL SPECIFY THE ELIGIBLE MATERIALS THAT WILL BE USED IN THE
23 PROJECT. AN AGENCY OF GOVERNMENT MAY INCLUDE IN A SPECIFICATION
24 FOR BIDS FOR A PUBLIC PROJECT A ___ GLOBAL WARMING POTENTIAL FOR
25 ANY ELIGIBLE MATERIAL THAT IS LOWER THAN THE MAXIMUM
26 ACCEPTABLE GLOBAL WARMING POTENTIAL FOR THAT MATERIAL AS
27 DETERMINED PURSUANT TO SUBSECTION (3) OF THIS SECTION.

1 (c) A CONTRACTOR THAT IS AWARDED A CONTRACT FOR A PUBLIC
2 PROJECT SHALL NOT INSTALL ANY ELIGIBLE MATERIALS ON THE PROJECT
3 UNTIL THE CONTRACTOR SUBMITS AN ENVIRONMENTAL PRODUCT
4 DECLARATION FOR THAT MATERIAL PURSUANT TO SUBSECTION (4)(a) OF
5 THIS SECTION. THE ENVIRONMENTAL PRODUCT DECLARATION SHALL BE
6 DEEMED APPROVED IF IT COMPLIES WITH THE ORIGINAL SPECIFICATION. IF
7 AN ENVIRONMENTAL PRODUCT DECLARATION IS NOT AVAILABLE FOR AN
8 ELIGIBLE MATERIAL, THE CONTRACTOR SHALL NOTIFY THE AGENCY OF
9 GOVERNMENT AND INSTALL THE ELIGIBLE MATERIAL AS ORIGINALLY
10 SPECIFIED. IF A PRODUCT MEETING THE MAXIMUM GLOBAL WARMING
11 POTENTIAL FOR A CATEGORY OF ELIGIBLE MATERIALS IS NOT PRICED OR IS
12 NOT AVAILABLE TO THE CONTRACTOR ON A REASONABLE BASIS, THE
13 AGENCY OF GOVERNMENT MAY WAIVE THE REQUIREMENTS OF THIS
14 SECTION FOR THAT PRODUCT. THE AGENCY OF GOVERNMENT SHALL
15 REPORT WAIVERS TO THE OFFICE OF THE STATE ARCHITECT WITHIN THE
16 DEPARTMENT.

17 (5) IN ADMINISTERING THIS SECTION, AN AGENCY OF GOVERNMENT
18 SHALL STRIVE TO ACHIEVE A CONTINUOUS REDUCTION OF GREENHOUSE
19 GAS EMISSIONS OVER TIME. REDUCTION OF GREENHOUSE GAS EMISSIONS
20 ACHIEVED UNDER THIS SECTION SHALL BE CREDITED UNDER THE PROCESS
21 CREATED IN SECTION 25-7-105 (1)(e).

22 (6) ON OR BEFORE JANUARY 1, 2023, THE DEPARTMENT SHALL
23 SUBMIT A REPORT TO THE GENERAL ASSEMBLY REGARDING ANY
24 OBSTACLES TO THE IMPLEMENTATION OF THIS SECTION, AND THE
25 EFFECTIVENESS OF THIS SECTION IN REDUCING GLOBAL WARMING
26 POTENTIAL. IN PRODUCING THE REPORT, THE DEPARTMENT MAY CONSULT
27 WITH ANY OTHER RELEVANT DEPARTMENT OR DIVISION OF STATE

1 GOVERNMENT.

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SECTION 3. Appropriation. For the 2020-21 state fiscal year, \$37,676 is appropriated to the department of personnel for use by the office of the state architect. This appropriation is from the general fund and is based on an assumption that the office will require an additional 0.4 FTE. To implement this act, the office may use this appropriation for program costs.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.