

First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0072.01 Jennifer Berman x3286

HOUSE BILL 21-1286

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HOUSE SPONSORSHIP

**Kipp and Valdez A.,** Bernett

SENATE SPONSORSHIP

**Priola and Pettersen,**

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**House Committees**  
Energy & Environment

**Senate Committees**

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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.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

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

**Section 1** of the bill requires owners of certain large buildings (covered buildings), on an annual basis, to collect and report to the Colorado energy office (office) the covered building's energy use. The bill establishes a process requiring certain electric and gas utilities to provide energy-use data to a covered building owner when requested by the covered building owner.

Section 1 also requires that, on or before June 1, 2027, a covered building owner demonstrate that, in 2026, the covered building met performance standards set forth in the bill. A covered building owner must demonstrate compliance with the performance standards every 5 years after June 1, 2027. The air quality control commission (commission) is required to adopt rules in 2026 or 2027 that extend or modify the performance standards. Thereafter, the commission may, as the commission deems necessary, modify the performance standards by rule.

**Section 2** requires the office to assist covered building owners with the reporting requirements set forth in section 1 by:

- Creating a database of covered buildings and owners required to comply with section 1;
- Developing publicly available, digitally interactive maps and lists showing the energy-use and performance-standard data reported;
- Coordinating with any local government that implements its own energy benchmarking requirements or energy performance program, including coordination of reporting requirements; and
- Collecting an annual fee from owners of covered buildings of \$100 per covered building. The office is required to transfer the fees collected to the state treasurer, who will credit the fees to the climate change mitigation and adaptation fund (fund) created in section 2.

**Section 3** imposes penalties for violations of section 1, ranging from \$500 to \$5,000, depending on whether the violations are first violations or subsequent violations, and requires that the civil penalty payments be credited to the fund. Certain subsequent violations are also subject to a penalty of 2 cents per square foot of gross floor area of the covered building for each day that the violations continue.

**Section 4** modifies the definition of an "energy performance contract" that a governing body of a municipality, county, special district, or school district (board) enters into for evaluation, recommendations, or implementation of energy-saving measures to remove requirements that a board's payment for goods and services pursuant to the contract be made within a certain number of years of the contract's execution.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add 25-7-142** as  
3 follows:

4 **25-7-142. Energy benchmarking - data collection and access**  
5 **- utility requirements - performance standards - rules - reports -**  
6 **definitions - legislative declaration. (1) Legislative declaration.** THE

7 GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT THE  
8 REGULATION OF BUILDING PERFORMANCE IS A MATTER OF STATEWIDE  
9 CONCERN BECAUSE:

10 (a) AS OF 2020, BUILDINGS REPRESENTED A SIGNIFICANT SOURCE  
11 OF GREENHOUSE GAS POLLUTION IN THE STATE OF COLORADO;

12 (b) ENERGY CONSUMPTION AND GREENHOUSE GAS EMISSIONS  
13 ASSOCIATED WITH A BUILDING PRODUCE IMPACTS FAR BEYOND ITS WALLS  
14 AND THE BOUNDARIES OF THE LOCAL GOVERNMENT WITHIN WHICH THE  
15 BUILDING IS LOCATED, INCLUDING COSTS TO UTILITY RATEPAYERS FOR  
16 INCREASED ENERGY PRODUCTION, COMMUNITY HEALTH COSTS  
17 ASSOCIATED WITH AIR POLLUTION, AND BROADER SOCIETAL COSTS OF  
18 ANTHROPOGENIC CLIMATE CHANGE;

19 (c) LARGE BUILDINGS REPRESENT A DISPROPORTIONATE AMOUNT  
20 OF THE ENERGY USE AND GREENHOUSE GAS EMISSIONS IN THE STATE, YET  
21 BUILDING TENANTS THAT PAY THOSE ENERGY COSTS OFTEN LACK THE  
22 ABILITY TO IMPLEMENT BUILDING UPGRADES THAT COULD IMPROVE  
23 PERFORMANCE, REDUCE EMISSIONS, AND REDUCE THOSE COSTS;

24 (d) THE COMMISSION HAS BOTH THE STATUTORY AUTHORITY AND  
25 OBLIGATION TO REQUIRE A REDUCTION OF GREENHOUSE GAS EMISSIONS IN  
26 THE STATE IN EVERY SECTOR INCLUDING BUILDINGS;

27 (e) (I) BENCHMARKING AND BUILDING PERFORMANCE STANDARDS

1 WILL SUPPORT JOB GROWTH IN COLORADO. ACCORDING TO THE UNITED  
2 STATES CLIMATE ALLIANCE, BEFORE JANUARY 1, 2020, THE FASTEST  
3 GROWING CLEAN ENERGY INDUSTRIES IN COLORADO INCLUDED:

4 (A) TRADITIONAL HEATING, VENTILATION, AND AIR CONDITIONING,  
5 TOTALING TEN THOUSAND FOUR HUNDRED THIRTY-EIGHT JOBS; AND

6 (B) ENERGY STAR AND EFFICIENT LIGHTING, TOTALING ELEVEN  
7 THOUSAND ONE HUNDRED FIFTY-SIX JOBS.

8 (II) ADDITIONALLY, ANALYSIS CONDUCTED BY ADVANCED  
9 ENERGY ECONOMY IDENTIFIED MORE THAN SIXTY THOUSAND ADVANCED  
10 ENERGY JOBS IN COLORADO, WITH MORE THAN FIFTY PERCENT OF THOSE  
11 JOBS IN ENERGY EFFICIENCY.

12 (f) THE STATE OF COLORADO PROVIDES MANY LOW- AND NO-COST  
13 OPTIONS FOR COLORADO PROPERTY OWNERS TO FINANCE BUILDING  
14 PERFORMANCE IMPROVEMENTS, INCLUDING:

15 (I) PROPERTY-ASSESSED CLEAN ENERGY FINANCING THAT THE  
16 COLORADO NEW ENERGY IMPROVEMENT DISTRICT CREATED IN SECTION  
17 32-20-104 PROVIDES, WHEREBY QUALIFYING ENERGY EFFICIENCY AND  
18 RENEWABLE ENERGY IMPROVEMENTS ARE PAID BACK VIA AN ASSESSMENT  
19 ON ANNUAL PROPERTY TAXES; AND

20 (II) PERFORMANCE CONTRACTING, WHEREBY IMPROVEMENTS ARE  
21 PAID FOR BY CONTRACTUALLY GUARANTEED SAVINGS FROM EFFICIENCY  
22 UPGRADES;

23 (g) MANY PUBLIC UTILITIES IN THE STATE ALSO PROVIDE  
24 TECHNICAL ASSISTANCE AND FINANCIAL INCENTIVES TO HELP PROPERTY  
25 OWNERS IMPLEMENT BUILDING PERFORMANCE IMPROVEMENTS; AND

26 (h) IT IS IN THE INTEREST OF THE STATE TO:

27 (I) ESTABLISH A PROGRAM TO HELP COLORADO CITIZENS

1 UNDERSTAND AND TRACK ENERGY USE AND GREENHOUSE GAS EMISSIONS  
2 FROM LARGE BUILDINGS; AND

3 (II) ENACT PERFORMANCE STANDARDS NECESSARY TO MEET STATE  
4 GREENHOUSE-GAS-EMISSION-REDUCTION GOALS.

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

7 (a) "AGGREGATED DATA" MEANS ELECTRIC OR GAS METER DATA  
8 FROM WHICH ANY UNIQUE IDENTIFIER OR OTHER PERSONAL INFORMATION  
9 HAS BEEN REMOVED AND THAT A QUALIFYING UTILITY COLLECTS AND  
10 AGGREGATES IN AT LEAST MONTHLY INTERVALS FOR AN ENTIRE COVERED  
11 BUILDING.

12 (b) "AGGREGATION THRESHOLD" MEANS, FOR EACH QUALIFYING  
13 UTILITY, THE MINIMUM NUMBER OF CUSTOMER ACCOUNTS ASSOCIATED  
14 WITH A COVERED BUILDING FOR WHICH THE QUALIFYING UTILITY MAY  
15 PROVIDE THE OWNER OF THE COVERED BUILDING WITH AGGREGATED DATA  
16 UPON REQUEST WITHOUT REQUIRING EACH CUSTOMER'S CONSENT TO HAVE  
17 THE CUSTOMER'S ENERGY-USE DATA ACCESSED OR SHARED.

18 (c) "ANSI" MEANS THE AMERICAN NATIONAL STANDARDS  
19 INSTITUTE OR ITS SUCCESSOR ORGANIZATION.

20 (d) "ASHRAE" MEANS THE AMERICAN SOCIETY OF HEATING,  
21 REFRIGERATING, AND AIR-CONDITIONING ENGINEERS OR ITS SUCCESSOR  
22 SOCIETY.

23 (e) "BASELINE YEAR" MEANS A YEAR TO WHICH A PERFORMANCE  
24 YEAR IS COMPARED, STARTING IN 2021 AND CONTINUING EVERY FIVE  
25 YEARS THEREAFTER.

26 (f) "BENCHMARK" MEANS TO INPUT BENCHMARKING DATA INTO A  
27 BENCHMARKING TOOL TO MEASURE AND ASSESS THE ENERGY

1 PERFORMANCE AND GREENHOUSE GAS POLLUTION FOR A COVERED  
2 BUILDING FOR THE REPORTING YEAR.

3 (g) EXCEPT AS THE COMMISSION MAY MODIFY BY RULE PURSUANT  
4 TO SUBSECTION (7) OF THIS SECTION, "BENCHMARKING DATA" MEANS THE  
5 INFORMATION RELATED TO A COVERED BUILDING THAT IS INPUT INTO OR  
6 CALCULATED BY A BENCHMARKING TOOL AND INCLUDES, AT A MINIMUM:

7 (I) A PHYSICAL DESCRIPTION OF THE COVERED BUILDING AND  
8 DESCRIPTIONS OF ITS OPERATIONAL CHARACTERISTICS, INCLUDING:

- 9 (A) THE NAME OF THE COVERED BUILDING, IF ANY;
- 10 (B) THE ADDRESS OF THE COVERED BUILDING;
- 11 (C) THE PRIMARY USES OF THE COVERED BUILDING;
- 12 (D) THE COVERED BUILDING'S GROSS FLOOR AREA; AND
- 13 (E) THE YEARS IN WHICH THE COVERED BUILDING HAS BEEN  
14 CERTIFIED BY ENERGY STAR AND THE MOST RECENT DATE OF  
15 CERTIFICATION, IF APPLICABLE; AND

16 (II) DATA GENERATED BY THE BENCHMARKING TOOL, INCLUDING:

- 17 (A) THE ENERGY STAR SCORE, IF AVAILABLE;
- 18 (B) MONTHLY ENERGY USE BY FUEL TYPE;
- 19 (C) SITE AND SOURCE ENERGY-USE INTENSITY;
- 20 (D) WEATHER-NORMALIZED SITE AND SOURCE ENERGY-USE  
21 INTENSITY;
- 22 (E) CONFIRMATION THAT DATA QUALITY HAS BEEN CHECKED;
- 23 (F) ANNUAL MAXIMUM ELECTRICITY DEMAND, IN KILOWATTS;
- 24 (G) IF AVAILABLE FOR REPORTING THROUGH THE BENCHMARKING  
25 TOOL, MONTHLY PEAK ELECTRICITY DEMAND; AND
- 26 (H) GREENHOUSE GAS EMISSIONS, INCLUDING TOTAL, INDIRECT,  
27 AND DIRECT EMISSIONS.

1 (h) EXCEPT AS THE COMMISSION MAY MODIFY BY RULE PURSUANT  
2 TO SUBSECTION (7) OF THIS SECTION, "BENCHMARKING TOOL" MEANS THE  
3 ENERGY STAR PORTFOLIO MANAGER® OR A SUCCESSOR ONLINE RESOURCE  
4 USED TO TRACK AND ASSESS THE PERFORMANCE OF CERTAIN PROPERTIES  
5 RELATIVE TO SIMILAR PROPERTIES.

6 (i) "BIOMEDICAL RESEARCH LABORATORY" MEANS A SCIENTIFIC  
7 LABORATORY USED TO CONDUCT RESEARCH RELATING TO BOTH BIOLOGY  
8 AND MEDICINE.

9 (j) "CAMPUS" MEANS TWO OR MORE ADJACENT BUILDINGS THAT  
10 ARE OWNED AND OPERATED BY THE SAME PERSON AND HAVE A SINGLE,  
11 SHARED PRIMARY FUNCTION.

12 (k) "COLORADO ENERGY OFFICE" OR "OFFICE" MEANS THE  
13 COLORADO ENERGY OFFICE CREATED IN SECTION 24-38.5-101.

14 (l) "CORRECTIONAL FACILITY" MEANS:

15 (I) A CORRECTIONAL FACILITY, AS DEFINED IN SECTION 17-1-102  
16 (1.7); AND

17 (II) A PRIVATE CONTRACT PRISON, AS DEFINED IN SECTION  
18 17-1-102 (7.3).

19 (m) (I) EXCEPT AS THE COMMISSION MAY MODIFY BY RULE  
20 PURSUANT TO SUBSECTION (7) OF THIS SECTION, "COVERED BUILDING"  
21 MEANS A BUILDING COMPRISING A GROSS FLOOR AREA OF FIFTY THOUSAND  
22 SQUARE FEET OR MORE THAT IS OCCUPIED BY A SINGLE OCCUPANT OR  
23 GROUP OF TENANTS.

24 (II) "COVERED BUILDING" DOES NOT INCLUDE:

25 (A) A STORAGE FACILITY OR STAND-ALONE PARKING GARAGE  
26 THAT LACKS HEATING AND COOLING;

27 (B) A BUILDING IN WHICH MORE THAN HALF OF THE GROSS FLOOR

1 AREA IS USED FOR MANUFACTURING, INDUSTRIAL, OR AGRICULTURAL  
2 PURPOSES; OR

3 (C) A SINGLE-FAMILY HOME, DUPLEX, OR TRIPLEX.

4 (n) "ENERGY STAR" MEANS THE FEDERAL PROGRAM AUTHORIZED  
5 BY 42 U.S.C. SEC. 6294a, AS AMENDED, TO HELP CUSTOMERS, BUSINESSES,  
6 AND INDUSTRY SAVE MONEY AND PROTECT THE ENVIRONMENT THROUGH  
7 THE ADOPTION OF ENERGY-EFFICIENT PRODUCTS AND PRACTICES.

8 (o) "ENERGY STAR SCORE" MEANS THE ONE-TO-ONE-HUNDRED  
9 NUMERIC RATING GENERATED BY THE ENERGY STAR PORTFOLIO  
10 MANAGER<sup>®</sup> AS A MEASUREMENT OF A BUILDING'S ENERGY EFFICIENCY.

11 (p) "ENERGY-USE INTENSITY" MEANS A BUILDING'S ENERGY USE,  
12 EXPRESSED AS TOTAL SITE ENERGY USE PER SQUARE FOOT PER YEAR.

13 (q) "FINANCIAL HARDSHIP" MEANS THAT A PROPERTY IS  
14 EXPERIENCING AT LEAST ONE OF THE FOLLOWING CONDITIONS:

15 (I) THE PROPERTY HAS BEEN INCLUDED ON A CITY'S, COUNTY'S, OR  
16 CITY AND COUNTY'S ANNUAL TAX LIEN SALE LIST WITHIN THE PREVIOUS  
17 TWO YEARS;

18 (II) THE PROPERTY IS AN ASSET SUBJECT TO A COURT-APPOINTED  
19 RECEIVER THAT CONTROLS THE ASSET DUE TO FINANCIAL STRESS;

20 (III) THE PROPERTY IS OWNED BY A FINANCIAL INSTITUTION AS A  
21 RESULT OF A DEFAULT BY A BORROWER;

22 (IV) THE PROPERTY HAS BEEN ACQUIRED BY A DEED IN LIEU OF  
23 FORECLOSURE;

24 (V) THE PROPERTY IS THE SUBJECT OF A SENIOR MORTGAGE  
25 SUBJECT TO A NOTICE OF DEFAULT; OR

26 (VI) DUE TO THE GOVERNOR DECLARING A DISASTER EMERGENCY  
27 PURSUANT TO SECTION 24-33.5-704 (4), THE PROPERTY, IN AT LEAST TWO



1 OF THE PREVIOUS FIVE YEARS, GENERATED ANNUAL RENTAL INCOME OR  
2 REVENUE THAT TOTALS SIXTY PERCENT OR LESS OF THE FIVE-YEAR  
3 AVERAGE IMMEDIATELY PRECEDING THE DISASTER EMERGENCY  
4 DECLARATION.

5 (r) "GREENHOUSE GAS" HAS THE MEANING SET FORTH IN SECTION  
6 25-7-140 (6).

7 (s) "GROSS FLOOR AREA" MEANS THE TOTAL BUILDING AREA, AS  
8 MEASURED FROM THE OUTSIDE SURFACE OF EACH EXTERIOR WALL OF THE  
9 BUILDING, INCLUDING ABOVE-GRADE AND BELOW-GRADE SPACE.

10 (t) "IES" MEANS THE ILLUMINATING ENGINEERING SOCIETY OR ITS  
11 SUCCESSOR SOCIETY.

12 (u) "LOCAL GOVERNMENT" MEANS A STATUTORY OR HOME RULE  
13 MUNICIPALITY, COUNTY, OR CITY AND COUNTY.

14 (v) "OWNER" MEANS A PERSON POSSESSING TITLE TO A PROPERTY  
15 OR THE PERSON'S DESIGNATED AGENT.

16 (w) "PERFORMANCE YEAR" MEANS THE YEAR IN WHICH  
17 PERFORMANCE STANDARDS ARE REQUIRED TO BE MET PURSUANT TO  
18 SUBSECTION (8) OF THIS SECTION, BEGINNING IN 2026 AND CONTINUING  
19 EVERY FIVE YEARS THEREAFTER UNTIL 2051.

20 (x) "QUALIFYING UTILITY" MEANS:

21 (I) AN ELECTRIC OR GAS UTILITY WITH FIVE THOUSAND OR MORE  
22 ACTIVE COMMERCIAL AND INDUSTRIAL SERVICE CONNECTIONS, ACCOUNTS,  
23 OR CUSTOMERS IN THE STATE, INCLUDING:

24 (A) AN INVESTOR-OWNED ELECTRIC OR GAS UTILITY;

25 (B) A COOPERATIVE ELECTRIC ASSOCIATION; OR

26 (C) A MUNICIPALLY OWNED ELECTRIC OR GAS UTILITY; OR

27 (II) A NATURAL GAS SUPPLIER WITH FIVE OR MORE ACTIVE

1 COMMERCIAL OR INDUSTRIAL CONNECTIONS, ACCOUNTS, OR CUSTOMERS  
2 IN THE STATE.

3 (y) "RENEWABLE ENERGY" MEANS ENERGY:

4 (I) THAT MEETS THE DEFINITION OF "ELIGIBLE ENERGY  
5 RESOURCES" SET FORTH IN SECTION 40-2-124 (1)(a);

6 (II) THAT, TO THE MAXIMUM EXTENT TECHNICALLY FEASIBLE AND  
7 LEGALLY ALLOWABLE, IS PRODUCED AS RETAIL DISTRIBUTED GENERATION,  
8 AS DEFINED IN SECTION 40-2-124 (1)(a)(VIII), WITH THE REMAINDER  
9 PRODUCED BY OFF-SITE SOURCES; AND

10 (III) FOR WHICH ITS RENEWABLE ENERGY CERTIFICATES HAVE  
11 BEEN RETIRED ON BEHALF OF THE COVERED BUILDING, AFTER BEING USED  
12 FOR COMPLIANCE WITH THE PERFORMANCE STANDARDS SET FORTH IN  
13 SUBSECTION (8) OF THIS SECTION.

14 (z) "RENEWABLE ENERGY CERTIFICATE" MEANS THE  
15 ENVIRONMENTAL ATTRIBUTES OF ONE MEGAWATT-HOUR OF RENEWABLE  
16 ENERGY.

17 (aa) "STATE INSTITUTION OF HIGHER EDUCATION":

18 (I) HAS THE MEANING SET FORTH IN SECTION 23-1-108 (7)(g)(II);

19 (II) INCLUDES THE AURARIA HIGHER EDUCATION CENTER,  
20 GOVERNED PURSUANT TO ARTICLE 70 OF TITLE 23; AND

21 (III) DOES NOT INCLUDE A BIOMEDICAL RESEARCH LABORATORY.

22 (bb) "TENANT" MEANS A PERSON THAT, PURSUANT TO A RENTAL  
23 OR LEASE AGREEMENT, OCCUPIES OR HOLDS POSSESSION OF A BUILDING OR  
24 PART OF A BUILDING OR PREMISES.

25 (cc) "UNIQUE IDENTIFIER" MEANS A CUSTOMER'S CONTACT  
26 INFORMATION DISPLAYED ON A UTILITY BILL SUCH AS THE CUSTOMER'S  
27 NAME, MAILING ADDRESS, TELEPHONE NUMBER, OR E-MAIL ADDRESS.

1 (dd) "UTILITY CUSTOMER" MEANS THE BUILDING OWNER OR  
2 TENANT LISTED ON THE UTILITY'S RECORDS AS THE CUSTOMER LIABLE FOR  
3 PAYMENT OF THE UTILITY SERVICE OR ADDITIONAL CHARGES ASSESSED ON  
4 THE UTILITY ACCOUNT.

5 (3) **Benchmarking requirements on owners.** (a) ON OR BEFORE  
6 DECEMBER 1, 2022, AND ON OR BEFORE JUNE 1 OF EACH SUBSEQUENT  
7 YEAR, THE OWNER OF A COVERED BUILDING SHALL SUBMIT A REPORT OF  
8 THE BENCHMARKING DATA FOR THE PREVIOUS CALENDAR YEAR TO THE  
9 OFFICE.

10 (b) BEFORE PROVIDING A BENCHMARKING REPORT PURSUANT TO  
11 SUBSECTION (3)(a) OF THIS SECTION, AN OWNER SHALL RUN ANY  
12 AUTOMATED DATA CHECKING FUNCTION OF THE BENCHMARKING TOOL  
13 AND CORRECT ANY ERRORS DISCOVERED.

14 (c) THE FOLLOWING OWNERS MAY COMPLY WITH THIS SUBSECTION  
15 (3) COLLECTIVELY AT THE CAMPUS-WIDE LEVEL:

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

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

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

20 (4) **Utility data requirements.** (a) ON OR BEFORE JANUARY 1,  
21 2022, A QUALIFYING UTILITY SHALL:

22 (I) ESTABLISH AN AGGREGATION THRESHOLD THAT IS FOUR OR  
23 FEWER UTILITY CUSTOMER ACCOUNTS;

24 (II) PUBLISH ITS AGGREGATION THRESHOLD ON ITS PUBLIC  
25 WEBSITE; AND

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

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

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

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

9 (III) DIRECTLY UPLOADED TO THE OWNER'S BENCHMARKING TOOL  
10 ACCOUNT, DELIVERED IN THE SPREADSHEET TEMPLATE SPECIFIED BY THE  
11 BENCHMARKING TOOL, OR DELIVERED IN ANOTHER FORMAT APPROVED BY  
12 THE OFFICE;

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

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

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

23 (I) MAY BE IN WRITTEN OR ELECTRONIC FORM;

24 (II) MAY BE PROVIDED IN A LEASE AGREEMENT PROVISION;

25 (III) IS VALID UNTIL THE UTILITY CUSTOMER REVOKES IT; AND

26 (IV) IS NOT REQUIRED IF A UTILITY CUSTOMER VACATES THE  
27 COVERED BUILDING BEFORE EXPLICITLY DENYING THE OWNER CONSENT TO

1 ACCESS AND SHARE THE UTILITY CUSTOMER'S ENERGY-USE DATA.

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

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

11 (II) A DEMOLITION PERMIT WAS ISSUED FOR THE ENTIRE COVERED  
12 BUILDING;

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

15 (IV) THE COVERED BUILDING DOES NOT MEET A QUALIFYING  
16 UTILITY'S AGGREGATION THRESHOLD, ONE OR MORE OF THE UTILITY  
17 CUSTOMERS REFUSED TO PROVIDE THE OWNER WITH PERMISSION TO  
18 ACCESS THE UTILITY CUSTOMER'S RELEVANT ENERGY-USE DATA, THE  
19 OWNER PROVIDES PROOF TO THE OFFICE THAT IT REQUESTED PERMISSION  
20 FROM THE UTILITY CUSTOMER OR UTILITY CUSTOMERS WITHHOLDING  
21 CONSENT AT LEAST THIRTY DAYS BEFORE THE BENCHMARKING REPORT  
22 WAS DUE, AND THE OWNER SUBMITS A PLAN TO INCLUDE AN ENERGY-USE  
23 DATA SHARING PERMISSION PROVISION IN THE NEXT LEASE RENEWAL.

24 (b) AN OWNER OF A COVERED BUILDING MAY REQUEST A TIME  
25 EXTENSION FROM THE OFFICE TO SUBMIT A BENCHMARKING REPORT IF THE  
26 OWNER SUBMITS DOCUMENTATION TO THE OFFICE DEMONSTRATING THAT,  
27 DESPITE THE OWNER'S GOOD-FAITH EFFORT, THE OWNER WAS UNABLE TO

1 COMPLETE THE BENCHMARKING REPORT IN A TIMELY MANNER BECAUSE OF  
2 THE FAILURE OR REFUSAL OF A QUALIFYING UTILITY OR A UTILITY  
3 CUSTOMER TO PROVIDE THE NECESSARY INFORMATION OR PERMISSION, AS  
4 APPLICABLE.

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

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

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

12 (a) AT THE TIME OF LISTING A COVERED BUILDING OR A PORTION OF A  
13 COVERED BUILDING FOR SALE OR LEASE, THE OWNER OF THE COVERED  
14 BUILDING SHALL FURNISH A COPY OF REPORTED BENCHMARKING DATA  
15 FROM THE PREVIOUS CALENDAR YEAR OR FROM THE MOST RECENT  
16 TWELVE-MONTH PERIOD OF CONTINUOUS OCCUPANCY TO THE FOLLOWING:

17 (I) PROSPECTIVE BUYERS OR LESSEES;

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

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

22 (b) UPON RECEIPT OF THE BENCHMARKING DATA, A COMMERCIAL  
23 REAL ESTATE LISTING SERVICE THAT LISTS PROPERTIES IN THE STATE  
24 SHALL INCLUDE IN THE PROPERTY'S LISTING, AT A MINIMUM, THE  
25 PROPERTY'S ENERGY STAR SCORE, IF APPLICABLE, AND THE PROPERTY'S  
26 ENERGY-USE INTENSITY.

27 (c) IF A COVERED BUILDING CHANGES OWNERSHIP, THE FORMER

1 OWNER SHALL MAKE AVAILABLE TO THE NEW OWNER THE ENERGY-USE  
2 DATA; UTILITY CUSTOMER CONSENT DOCUMENTATION, IF ANY; AND ANY  
3 OTHER INFORMATION ABOUT THE PROPERTY THAT IS NECESSARY TO  
4 BENCHMARK THE COVERED BUILDING. THE FORMER OWNER SHALL  
5 TRANSFER TO THE NEW OWNER BOTH THE RECORD REPRESENTING THE  
6 COVERED BUILDING WITHIN THE BENCHMARKING TOOL AND THE REQUEST  
7 TO A QUALIFIED UTILITY FOR AGGREGATED DATA. THE NEW OWNER MAY  
8 REQUEST AND RECEIVE FROM A QUALIFYING UTILITY THE AGGREGATED  
9 DATA NECESSARY TO FULFILL BENCHMARKING REPORTING REQUIREMENTS.

10 (7) **Benchmarking rules.** THE COMMISSION MAY PROMULGATE  
11 RULES TO IMPLEMENT THE BENCHMARKING PROGRAM SET FORTH IN THIS  
12 SECTION. ADDITIONALLY, THE COMMISSION MAY, BY RULE, MODIFY THE  
13 FOLLOWING:

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

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

18 (I) IS CAPABLE OF BEING RECORDED BY THE BENCHMARKING TOOL;  
19 AND

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

22 (c) THE BENCHMARKING TOOL THAT OWNERS ARE REQUIRED TO  
23 USE TO BENCHMARK;

24 (d) DATA VERIFICATION REQUIREMENTS; AND

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

27 (8) **Performance standard requirements.** (a) TO HELP ACHIEVE

1 THE STATEWIDE GREENHOUSE-GAS-EMISSION-REDUCTION TARGETS SET  
2 FORTH IN SECTION 25-7-102 (2)(g), THE STATE SHALL IMPLEMENT  
3 PERFORMANCE STANDARDS FOR COVERED BUILDINGS.

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

14 (II) FOR A COVERED BUILDING OWNED BY THE STATE, THE OWNER  
15 NEED COMPLY WITH THE PERFORMANCE REQUIREMENTS SET FORTH IN THIS  
16 SUBSECTION (8) ONLY IF THE OWNER COMMENCES WORK ON A  
17 CONSTRUCTION OR RENOVATION PROJECT THAT HAS AN ESTIMATED COST  
18 OF AT LEAST FIVE HUNDRED THOUSAND DOLLARS.

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

- 25 (I) THE COVERED BUILDING RECEIVED AN ENERGY STAR SCORE OF:  
26 (A) SEVENTY-FIVE OR HIGHER; OR  
27 (B) FIFTEEN POINTS HIGHER THAN THE ENERGY STAR SCORE THAT



1 THE COVERED BUILDING RECEIVED DURING ITS MOST RECENT BASELINE  
2 YEAR;

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

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

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

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

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

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

1 GENERATED FROM RENEWABLE ENERGY AND:

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

3 (A) SIXTY-FIVE OR HIGHER; OR

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

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

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

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

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

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

26 (e) IN SUBMITTING A PERFORMANCE REPORT DEMONSTRATING  
27 THAT A COVERED BUILDING HAS MET PERFORMANCE STANDARDS, THE

1 OWNER OF THE COVERED BUILDING MAY SUBSTITUTE A YEAR WITHIN TWO  
2 YEARS BEFORE OR AFTER THE RELEVANT BASELINE YEAR AS THE YEAR TO  
3 WHICH THE PERFORMANCE YEAR MAY BE COMPARED.

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 (10) 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) THE COVERED BUILDING IS A TENANT-OWNED MULTIFAMILY  
21 RESIDENTIAL BUILDING;

22 (III) AT LEAST EIGHTY PERCENT OF THE RESIDENTIAL TENANTS IN  
23 THE COVERED BUILDING HAVE A HOUSEHOLD INCOME THAT IS LESS THAN  
24 EIGHTY PERCENT OF THE AREA MEDIAN INCOME;

25 (IV) THE COVERED BUILDING IS DESIGNATED A HISTORIC  
26 PROPERTY UNDER FEDERAL, STATE, OR LOCAL LAW OR REGISTRY AND:

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

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

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

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

17 (A) ONE OF THE TWO MOST RECENT EDITIONS OF THE  
18 INTERNATIONAL CODE COUNCIL'S, OR ITS SUCCESSOR ORGANIZATION'S,  
19 INTERNATIONAL ENERGY CONSERVATION CODE;

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

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

26 (b) AN OWNER OF A COVERED BUILDING MAY REQUEST AN  
27 EXTENSION OF TIME FROM THE OFFICE IF THE OWNER SUBMITS

1 DOCUMENTATION TO THE OFFICE DEMONSTRATING THAT:

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

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

9 (III) THE BUILDING CHANGED OWNERSHIP SINCE THE MOST RECENT  
10 BASELINE YEAR.

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

20 (b) ON OR BEFORE DECEMBER 1 OF EACH SUBSEQUENT BASELINE  
21 YEAR THROUGH 2047, THE COMMISSION, AFTER CONSULTATION WITH  
22 AFFECTED STAKEHOLDERS, SHALL PROMULGATE RULES TO EXTEND OR  
23 MODIFY THE PERFORMANCE STANDARDS TO ACHIEVE OR EXCEED EMISSION  
24 REDUCTIONS THAT ARE CONSISTENT WITH THE STATEWIDE  
25 GREENHOUSE-GAS-EMISSION-REDUCTION TARGETS SET FORTH IN SECTION  
26 25-7-102 (2)(g).

27 (c) THE CALCULATION OF GREENHOUSE GAS REDUCTIONS

1 PURSUANT TO THIS SUBSECTION (10) MUST NOT INCLUDE SAVINGS FROM  
2 SYSTEM-WIDE DECARBONIZATION OF ELECTRICITY OR NATURAL GAS  
3 UTILITY GRIDS, BUT THE REDUCTIONS MAY INCLUDE SAVINGS FROM  
4 UTILITY OR LOCAL ENERGY EFFICIENCY PROGRAMS.

5 (d) THE COMMISSION'S RULES MUST NOT UNDULY BURDEN ANY OF  
6 THE FOLLOWING BUILDINGS:

7 (I) HIGH-PERFORMANCE BUILDINGS;

8 (II) TENANT-OWNED MULTIFAMILY RESIDENTIAL BUILDINGS;

9 (III) RESIDENTIAL BUILDINGS PRIMARILY USED TO HOUSE  
10 LOW-INCOME HOUSEHOLDS;

11 (IV) PROPERTIES BUILT BEFORE 1950 THAT HAVE BEEN  
12 DESIGNATED HISTORIC PROPERTIES; OR

13 (V) BUILDINGS OWNED BY A LOCAL GOVERNMENT.

14 (e) ON OR AFTER JUNE 1, 2029, BUT BEFORE JUNE 1, 2030, THE  
15 COMMISSION SHALL COMMENCE A RULE-MAKING PROCEEDING TO  
16 CONSIDER REDUCING THE SIZE THRESHOLD OF A COVERED BUILDING FOR  
17 PURPOSES OF MEETING THE PERFORMANCE STANDARDS SET FORTH IN  
18 SUBSECTION (8) OF THIS SECTION OR RULES PROMULGATED PURSUANT TO  
19 THIS SUBSECTION (10). THE COMMISSION MAY ADOPT SUBSEQUENT RULES  
20 TO LOWER THE SIZE THRESHOLD.

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

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

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

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

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

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

13 **SECTION 2.** In Colorado Revised Statutes, **add** 24-38.5-102.6  
14 and 24-38.5-110 as follows:

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

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

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

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

27 (d) ANY MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE

1 OR TRANSFER TO THE FUND; AND

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

3 (2) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE  
4 COLORADO ENERGY OFFICE FOR THE PURPOSE OF FINANCING AND  
5 ADMINISTERING PROGRAMS AND POLICIES DEVELOPED TO MITIGATE OR  
6 ADAPT TO CLIMATE CHANGE THROUGHOUT THE STATE.

7 (3) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND  
8 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE  
9 FUND TO THE FUND.

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

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

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

22 (c) THE OFFICE SHALL MAKE PUBLICLY AVAILABLE, THROUGH  
23 DIGITALLY INTERACTIVE MAPS, LISTS, OR OTHER TECHNOLOGY AS  
24 DETERMINED BY THE OFFICE, BENCHMARKING DATA FOR ALL COVERED  
25 BUILDINGS THAT HAVE REPORTED IN EACH YEAR PURSUANT TO SECTION  
26 25-7-142 (3). THE PUBLICLY AVAILABLE DATA MUST NOT INCLUDE ANY  
27 CONTACT INFORMATION FOR A COVERED BUILDING THAT IS NOT



1 OTHERWISE PUBLICLY AVAILABLE.

2 (d) THE OFFICE SHALL COORDINATE WITH ANY LOCAL  
3 GOVERNMENT THAT IMPLEMENTS ITS OWN ENERGY BENCHMARKING OR  
4 ENERGY PERFORMANCE PROGRAM, INCLUDING THE COORDINATION OF  
5 REPORTING REQUIREMENTS.

6 (e) (I) EXCEPT AS PROVIDED IN SUBSECTION (1)(e)(II) OF THIS  
7 SECTION, TO FINANCE THE OFFICE'S ADMINISTRATION OF THE BUILDING  
8 PERFORMANCE PROGRAM, THE OFFICE SHALL COLLECT FROM EACH OWNER  
9 OF A COVERED BUILDING AN ANNUAL FEE OF ONE HUNDRED DOLLARS PER  
10 COVERED BUILDING. THE OFFICE SHALL TRANSFER THE FEES COLLECTED  
11 TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE CLIMATE  
12 CHANGE MITIGATION AND ADAPTATION FUND CREATED IN SECTION  
13 24-38.5-102.6.

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

16 (A) A STATUTORY OR HOME RULE CITY, CITY AND COUNTY, OR  
17 COUNTY; OR

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

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

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

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

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

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

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

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

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

12 (i) (I) ON AND AFTER JANUARY 1, 2024, AND EXCEPT AS PROVIDED  
13 IN SUBSECTION (1)(i)(II) OF THIS SECTION, AN OWNER OF A COVERED  
14 BUILDING THAT VIOLATES SECTION 25-7-142 (3) OR (6) IS SUBJECT TO A  
15 CIVIL PENALTY OF UP TO FIVE HUNDRED DOLLARS FOR A FIRST VIOLATION  
16 AND UP TO TWO THOUSAND DOLLARS FOR EACH SUBSEQUENT VIOLATION.  
17 AN OWNER OF A COVERED BUILDING THAT VIOLATES SECTION 25-7-142 (8)  
18 IS SUBJECT TO A CIVIL PENALTY OF UP TO TWO THOUSAND DOLLARS FOR A  
19 FIRST VIOLATION AND FOR A SUBSEQUENT VIOLATION UP TO FIVE  
20 THOUSAND DOLLARS PLUS, FOR EACH DAY THAT THE VIOLATION  
21 CONTINUES, UP TO TWO CENTS PER SQUARE FOOT OF GROSS FLOOR AREA  
22 OF THE COVERED BUILDING.

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

25 (A) THE STATE;

26 (B) A STATUTORY OR HOME RULE CITY, CITY AND COUNTY, OR  
27 COUNTY;

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

2 (D) A STATE INSTITUTION OF HIGHER EDUCATION AS DEFINED IN  
3 SECTION 23-1-108 (7)(g)(II), BUT INCLUDING THE AURARIA HIGHER  
4 EDUCATION CENTER GOVERNED PURSUANT TO ARTICLE 70 OF TITLE 23; OR

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

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

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

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

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

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

18 **SECTION 4.** In Colorado Revised Statutes, 29-12.5-101, **amend**  
19 (3) introductory portion, (3)(f), and (3)(h); and **repeal** (3)(g) as follows:

20 **29-12.5-101. Definitions.** As used in this article 12.5:

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

26 (f) Requires ~~such~~ A board, upon termination or expiration of the  
27 contract, to return to ~~such~~ THE party any ~~moneys~~ MONEY THAT THE PARTY

1 deposited with ~~such~~ THE board ~~that are~~ AND DID not ~~forfeited~~ FORFEIT to  
2 ~~such~~ THE board pursuant to ~~paragraph (c) of this subsection (3)~~  
3 SUBSECTION (3)(e) OF THIS SECTION; AND

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

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

14 **SECTION 5. Act subject to petition - effective date -**  
15 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
16 the expiration of the ninety-day period after final adjournment of the  
17 general assembly; except that, if a referendum petition is filed pursuant  
18 to section 1 (3) of article V of the state constitution against this act or an  
19 item, section, or part of this act within such period, then the act, item,  
20 section, or part will not take effect unless approved by the people at the  
21 general election to be held in November 2022 and, in such case, will take  
22 effect on the date of the official declaration of the vote thereon by the  
23 governor.

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