

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 21-0072.01 Jennifer Berman x3286

HOUSE BILL 21-1286

HOUSE SPONSORSHIP

Kipp and Valdez A., Bernett, Amabile, Benavidez, Bird, Boesenecker, Cutter, Duran, Froelich, Gonzales-Gutierrez, Gray, Hooton, Jackson, Jodeh, Lontine, McCormick, Michaelson Jenet, Mullica, Ricks, Sirota, Woodrow

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House Committees

Energy & Environment
Finance
Appropriations

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 RULES REGARDING**
105 **PERFORMANCE STANDARDS RELATED TO ENERGY AND**
106 **GREENHOUSE GAS EMISSIONS AND MODIFYING STATUTORY**
107 **REQUIREMENTS REGARDING ENERGY PERFORMANCE**
108 **CONTRACTS.**

Bill Summary

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

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.

SENATE
Amended 3rd Reading
June 7, 2021

SENATE
Amended 2nd Reading
June 4, 2021

HOUSE
3rd Reading Unamended
May 26, 2021

HOUSE
Amended 2nd Reading
May 24, 2021

<http://leg.colorado.gov>.)

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 - task force - rules - reports - definitions -**
6 **legislative declaration - repeal.** (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) MANY BUILDING OWNERS HAVE MADE PROACTIVE EFFORTS TO
20 REDUCE THE ENERGY USE AND GREENHOUSE GAS EMISSIONS OF THEIR
21 BUILDINGS, YET MORE REMAINS TO BE DONE TO HELP THE STATE MEET ITS
22 GREENHOUSE GAS REDUCTION GOALS;

23 (d) BUILDING TENANTS THAT PAY ENERGY BILLS OFTEN LACK THE
24 ABILITY TO IMPLEMENT BUILDING UPGRADES THAT COULD IMPROVE
25 PERFORMANCE, REDUCE EMISSIONS, AND REDUCE THOSE COSTS;

26 (e) THE COMMISSION HAS BOTH THE STATUTORY AUTHORITY AND

1 OBLIGATION TO REQUIRE A REDUCTION OF GREENHOUSE GAS EMISSIONS IN
2 THE STATE IN EVERY SECTOR INCLUDING BUILDINGS;

3 (f) (I) BENCHMARKING AND BUILDING PERFORMANCE STANDARDS
4 WILL SUPPORT JOB GROWTH IN COLORADO. ACCORDING TO THE UNITED
5 STATES CLIMATE ALLIANCE, BEFORE JANUARY 1, 2020, THE FASTEST
6 GROWING CLEAN ENERGY INDUSTRIES IN COLORADO INCLUDED:

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

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

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

15 (g) THE STATE OF COLORADO PROVIDES MANY LOW- AND NO-COST
16 OPTIONS FOR COLORADO PROPERTY OWNERS TO FINANCE BUILDING
17 PERFORMANCE IMPROVEMENTS, INCLUDING:

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

23 (II) PERFORMANCE CONTRACTING, WHEREBY IMPROVEMENTS ARE
24 PAID FOR BY CONTRACTUALLY GUARANTEED SAVINGS FROM EFFICIENCY
25 UPGRADES;

26 (h) MANY PUBLIC UTILITIES IN THE STATE ALSO PROVIDE
27 TECHNICAL ASSISTANCE AND FINANCIAL INCENTIVES TO HELP PROPERTY

1 OWNERS IMPLEMENT BUILDING PERFORMANCE IMPROVEMENTS; AND

2 (i) IT IS IN THE INTEREST OF THE STATE TO:

3 (I) ESTABLISH A PROGRAM TO HELP COLORADO CITIZENS
4 UNDERSTAND AND TRACK ENERGY USE AND GREENHOUSE GAS EMISSIONS
5 FROM LARGE BUILDINGS; AND

6 (II) DEVELOP PERFORMANCE STANDARDS NECESSARY TO MEET
7 STATE GREENHOUSE-GAS-EMISSION-REDUCTION GOALS.

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

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

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

21

22 (c) "BENCHMARK" MEANS TO INPUT BENCHMARKING DATA INTO
23 A BENCHMARKING TOOL TO MEASURE AND ASSESS THE ENERGY
24 PERFORMANCE AND GREENHOUSE GAS POLLUTION FOR A COVERED
25 BUILDING FOR THE REPORTING YEAR.

26 (d) EXCEPT AS THE COMMISSION MAY MODIFY BY RULE PURSUANT
27 TO SUBSECTION (7) OF THIS SECTION, "BENCHMARKING DATA" MEANS THE

1 INFORMATION RELATED TO A COVERED BUILDING THAT IS INPUT INTO OR
2 CALCULATED BY A BENCHMARKING TOOL AND INCLUDES, AT A MINIMUM:

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

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

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

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

24 (e) EXCEPT AS THE COMMISSION MAY MODIFY BY RULE PURSUANT
25 TO SUBSECTION (7) OF THIS SECTION, "BENCHMARKING TOOL" MEANS THE
26 ENERGY STAR PORTFOLIO MANAGER® OR A SUCCESSOR ONLINE RESOURCE
27 USED TO TRACK AND ASSESS THE PERFORMANCE OF CERTAIN PROPERTIES

1 RELATIVE TO SIMILAR PROPERTIES.

2 (f) "BIOMEDICAL RESEARCH LABORATORY" MEANS A SCIENTIFIC
3 LABORATORY USED TO CONDUCT RESEARCH RELATING TO BOTH BIOLOGY
4 AND MEDICINE.

5 (g) (I) "CAMPUS" MEANS A COLLECTION OF TWO OR MORE
6 BUILDINGS THAT ARE OWNED AND OPERATED BY THE SAME PERSON AND
7 THAT HAVE A SHARED PURPOSE AND FUNCTION AS A SINGLE PROPERTY.

8 (II) "CAMPUS" INCLUDES TWO OR MORE OF THE BUILDINGS THAT
9 COMPRISE THE CAPITOL COMPLEX.

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

12 (i) "CORRECTIONAL FACILITY" MEANS:

13 (I) A CORRECTIONAL FACILITY, AS DEFINED IN SECTION 17-1-102
14 (1.7);

15 (II) A PRIVATE CONTRACT PRISON, AS DEFINED IN SECTION
16 17-1-102 (7.3);

17 (III) A LOCAL JAIL AS DEFINED IN SECTION 17-1-102 (7);

18 (IV) A MUNICIPAL JAIL AS AUTHORIZED IN SECTION 31-15-401
19 (1)(j); AND

20 (V) A JUVENILE DETENTION FACILITY GOVERNED BY PART 4 OF
21 ARTICLE 2 OF TITLE 19.

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

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

1 (A) A STORAGE FACILITY, STAND-ALONE PARKING GARAGE, OR
2 AIRPLANE HANGAR THAT LACKS HEATING AND COOLING;

3 (B) A BUILDING IN WHICH MORE THAN HALF OF THE GROSS FLOOR
4 AREA IS USED FOR MANUFACTURING, INDUSTRIAL, OR AGRICULTURAL
5 PURPOSES; OR

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

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

11 (l) "ENERGY STAR SCORE" MEANS THE ONE-TO-ONE-HUNDRED
12 NUMERIC RATING GENERATED BY THE ENERGY STAR PORTFOLIO
13 MANAGER® AS A MEASUREMENT OF A BUILDING'S ENERGY EFFICIENCY.

14 (m) "ENERGY-USE INTENSITY" MEANS A BUILDING'S ENERGY USE,
15 EXPRESSED AS TOTAL SITE ENERGY USE PER SQUARE FOOT PER YEAR.

16 (n) "FINANCIAL HARDSHIP" MEANS THAT A PROPERTY IS
17 EXPERIENCING AT LEAST ONE OF THE FOLLOWING CONDITIONS:

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

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

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

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

27 (V) THE PROPERTY IS THE SUBJECT OF A SENIOR MORTGAGE

1 SUBJECT TO A NOTICE OF DEFAULT; OR

2 (VI) DUE TO THE GOVERNOR DECLARING A DISASTER EMERGENCY
3 PURSUANT TO SECTION 24-33.5-704 (4), THE PROPERTY, IN AT LEAST TWO
4 OF THE PREVIOUS FIVE YEARS, GENERATED ANNUAL RENTAL INCOME OR
5 REVENUE THAT TOTALS SIXTY PERCENT OR LESS OF THE FIVE-YEAR
6 AVERAGE IMMEDIATELY PRECEDING THE DISASTER EMERGENCY
7 DECLARATION.

8 (o) "GREENHOUSE GAS" HAS THE MEANING SET FORTH IN SECTION
9 25-7-140 (6).

10 (p) "GROSS FLOOR AREA" MEANS THE TOTAL BUILDING AREA, AS
11 MEASURED FROM THE OUTSIDE SURFACE OF EACH EXTERIOR WALL OF THE
12 BUILDING, INCLUDING ABOVE-GRADE AND BELOW-GRADE SPACE.

13 ==

14 (q) "LOCAL GOVERNMENT" MEANS A STATUTORY OR HOME RULE
15 MUNICIPALITY, COUNTY, OR CITY AND COUNTY.

16 (r) "OWNER" MEANS A PERSON POSSESSING TITLE TO A PROPERTY
17 OR THE PERSON'S DESIGNATED AGENT.

18 (s) "PERFORMANCE STANDARDS" MEANS STANDARDS THAT THE
19 COMMISSION ESTABLISHES BY RULE PURSUANT TO SUBSECTION (8)(c) OF
20 THIS SECTION WITH WHICH OWNERS OF COVERED BUILDINGS ARE REQUIRED
21 TO COMPLY.

22 (t) "PUBLIC BUILDING" MEANS A COVERED BUILDING OWNED BY:

23 (I) THE STATE;

24 (II) A LOCAL GOVERNMENT;

25 (III) A DISTRICT OR SPECIAL DISTRICT REGULATED UNDER TITLE

26 32;

27 (IV) A STATE INSTITUTION OF HIGHER EDUCATION;

1 (V) A PRIVATE INSTITUTION OF HIGHER EDUCATION AS DEFINED IN
2 SECTION 23-18-102 (9);

3 (VI) A SCHOOL DISTRICT CREATED PURSUANT TO ARTICLE 30 OF
4 TITLE 22; AND

5 (VII) A CHARTER SCHOOL AUTHORIZED PURSUANT TO PART 1 OF
6 ARTICLE 30.5 OF TITLE 22.

7 (u) "QUALIFYING UTILITY" MEANS:

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

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

12 (B) A COOPERATIVE ELECTRIC ASSOCIATION; OR

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

14 (II) A NATURAL GAS SUPPLIER WITH FIVE OR MORE ACTIVE
15 COMMERCIAL OR INDUSTRIAL CONNECTIONS, ACCOUNTS, OR CUSTOMERS
16 IN THE STATE.

17 ==

18 (v) "STATE INSTITUTION OF HIGHER EDUCATION":

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

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

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

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

26 (x) "UNIQUE IDENTIFIER" MEANS A CUSTOMER'S CONTACT
27 INFORMATION DISPLAYED ON A UTILITY BILL SUCH AS THE CUSTOMER'S

1 NAME, MAILING ADDRESS, TELEPHONE NUMBER, OR E-MAIL ADDRESS.

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

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

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

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

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

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

20 (III) THE OWNER OF A PUBLIC BUILDING THAT IS A COVERED
21 BUILDING.

22 **(4) Utility data requirements.** (a) ON OR BEFORE JUNE 1, 2022,
23 A QUALIFYING UTILITY SHALL:

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

26 (II) PUBLISH ITS AGGREGATION THRESHOLD ON ITS PUBLIC
27 WEBSITE; AND

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

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

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

9 (II) PROVIDED TO THE OWNER WITHIN:

10 (A) NINETY DAYS AFTER RECEIVING THE OWNER'S VALID WRITTEN
11 OR ELECTRONIC REQUEST IF THE REQUEST IS RECEIVED IN 2022;

12 (B) THIRTY DAYS AFTER RECEIVING THE OWNER'S VALID WRITTEN
13 OR ELECTRONIC REQUEST IF THE REQUEST IS RECEIVED IN 2023 OR LATER;

14 (III) DIRECTLY UPLOADED TO THE OWNER'S BENCHMARKING TOOL
15 ACCOUNT, DELIVERED IN THE SPREADSHEET TEMPLATE SPECIFIED BY THE
16 BENCHMARKING TOOL, OR DELIVERED IN ANOTHER FORMAT APPROVED BY
17 THE OFFICE;

18 (IV) PROVIDED TO THE OWNER ON AT LEAST AN ANNUAL BASIS
19 UNTIL THE OWNER REVOKES THE REQUEST FOR ENERGY-USE DATA OR
20 SELLS THE COVERED BUILDING;

21 (V) PROVIDED IN ACCORDANCE WITH THIS SUBSECTION (4),
22 REGARDLESS OF WHETHER THE OWNER IS NAMED ON THE UTILITY
23 ACCOUNT FOR THE COVERED BUILDING; AND

24 (VI) IF THE QUALIFYING UTILITY IS AN INVESTOR-OWNED UTILITY,
25 PROVIDED IN ACCORDANCE WITH THE PUBLIC UTILITIES COMMISSION'S
26 RULES CONCERNING CUSTOMER DATA AND PERSONALLY IDENTIFYING
27 INFORMATION.

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

- 5 (I) MAY BE IN WRITTEN OR ELECTRONIC FORM;
- 6 (II) MAY BE PROVIDED IN A LEASE AGREEMENT PROVISION;
- 7 (III) IS VALID UNTIL THE UTILITY CUSTOMER REVOKES IT; AND
- 8 (IV) IS NOT REQUIRED IF A UTILITY CUSTOMER VACATES THE
9 COVERED BUILDING BEFORE EXPLICITLY DENYING THE OWNER CONSENT TO
10 ACCESS AND SHARE THE UTILITY CUSTOMER'S ENERGY-USE DATA.

11 (d) TO MEET THE REQUIREMENTS OF THIS SUBSECTION (4), A
12 QUALIFYING UTILITY THAT IS NOT AN INVESTOR-OWNED UTILITY MAY SEEK
13 AND USE GRANT FUNDING FROM THE COLORADO CLEAN ENERGY FUND, A
14 NONPROFIT CORPORATION, OR THE ENERGY FUND CREATED IN SECTION
15 24-38.5-102.4 (1)(a)(I).

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

- 23 (I) THE COVERED BUILDING WAS UNOCCUPIED FOR AT LEAST
24 THIRTY CONSECUTIVE DAYS OF THE YEAR;
- 25 (II) A DEMOLITION PERMIT WAS ISSUED FOR THE ENTIRE COVERED
26 BUILDING;
- 27 (III) THE COVERED BUILDING MET ONE OR MORE OF THE

1 CONDITIONS FOR FINANCIAL HARDSHIP; ■

2 (IV) THE COVERED BUILDING DOES NOT MEET A QUALIFYING
3 UTILITY'S AGGREGATION THRESHOLD, ONE OR MORE OF THE UTILITY
4 CUSTOMERS REFUSED TO PROVIDE THE OWNER WITH PERMISSION TO
5 ACCESS THE UTILITY CUSTOMER'S RELEVANT ENERGY-USE DATA, THE
6 OWNER PROVIDES PROOF TO THE OFFICE THAT IT REQUESTED PERMISSION
7 FROM THE UTILITY CUSTOMER OR UTILITY CUSTOMERS WITHHOLDING
8 CONSENT AT LEAST THIRTY DAYS BEFORE THE BENCHMARKING REPORT
9 WAS DUE, AND THE OWNER SUBMITS A PLAN TO INCLUDE AN ENERGY-USE
10 DATA SHARING PERMISSION PROVISION IN THE NEXT LEASE RENEWAL; OR

11 (V) THE COVERED BUILDING HAS FOUR OR MORE UTILITY
12 CUSTOMERS, IS NOT LOCATED WITHIN A QUALIFYING UTILITY'S SERVICE
13 TERRITORY, AND IS UNABLE TO GET AGGREGATED DATA FROM THE UTILITY
14 THAT SERVES THE COVERED BUILDING.

15 (b) AN OWNER OF A COVERED BUILDING MAY REQUEST A TIME
16 EXTENSION FROM THE OFFICE TO SUBMIT A BENCHMARKING REPORT IF THE
17 OWNER SUBMITS DOCUMENTATION TO THE OFFICE DEMONSTRATING THAT,
18 DESPITE THE OWNER'S GOOD-FAITH EFFORT, THE OWNER WAS UNABLE TO
19 COMPLETE THE BENCHMARKING REPORT IN A TIMELY MANNER BECAUSE OF
20 THE FAILURE OR REFUSAL OF A QUALIFYING UTILITY OR A UTILITY
21 CUSTOMER TO PROVIDE THE NECESSARY INFORMATION OR PERMISSION, AS
22 APPLICABLE.

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

26 (d) PURSUANT TO SUBSECTION (7) OF THIS SECTION, THE
27 COMMISSION MAY, BY RULE, MODIFY THE REQUIREMENTS FOR OBTAINING

1 A WAIVER OR EXTENSION OF TIME PURSUANT TO THIS SUBSECTION (5).

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

3 (a) AT THE TIME OF LISTING A COVERED BUILDING OR A PORTION OF A
4 COVERED BUILDING FOR SALE OR LEASE, THE OWNER OF THE COVERED
5 BUILDING SHALL FURNISH AN ELECTRONIC COPY OF REPORTED
6 BENCHMARKING DATA FROM THE PREVIOUS CALENDAR YEAR OR FROM THE
7 MOST RECENT TWELVE-MONTH PERIOD OF CONTINUOUS OCCUPANCY TO
8 THE FOLLOWING:

9 (I) PROSPECTIVE BUYERS OR LESSEES;

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

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

14 (b) UPON RECEIPT OF THE BENCHMARKING DATA, A COMMERCIAL
15 REAL ESTATE LISTING SERVICE THAT LISTS PROPERTIES IN THE STATE
16 SHALL INCLUDE IN THE PROPERTY'S LISTING, AT A MINIMUM, THE
17 PROPERTY'S ENERGY STAR SCORE, IF APPLICABLE, AND THE PROPERTY'S
18 ENERGY-USE INTENSITY.

19 (c) IF A COVERED BUILDING CHANGES OWNERSHIP, THE FORMER
20 OWNER SHALL MAKE AVAILABLE TO THE NEW OWNER THE ENERGY-USE
21 DATA; UTILITY CUSTOMER CONSENT DOCUMENTATION, IF ANY; AND ANY
22 OTHER INFORMATION ABOUT THE PROPERTY THAT IS NECESSARY TO
23 BENCHMARK THE COVERED BUILDING. THE FORMER OWNER SHALL
24 TRANSFER TO THE NEW OWNER BOTH THE RECORD REPRESENTING THE
25 COVERED BUILDING WITHIN THE BENCHMARKING TOOL AND THE REQUEST
26 TO A QUALIFIED UTILITY FOR AGGREGATED DATA. THE NEW OWNER MAY
27 REQUEST AND RECEIVE FROM A QUALIFYING UTILITY THE AGGREGATED

1 DATA NECESSARY TO FULFILL BENCHMARKING REPORTING REQUIREMENTS.

2 (7) **Benchmarking rules.** THE COMMISSION MAY PROMULGATE
3 RULES TO IMPLEMENT THE BENCHMARKING PROGRAM SET FORTH IN THIS
4 SECTION. ADDITIONALLY, THE COMMISSION MAY, BY RULE, MODIFY THE
5 FOLLOWING:

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

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

10 (I) IS CAPABLE OF BEING RECORDED BY THE BENCHMARKING TOOL;

11 AND

12 (II) INCLUDES THE GREENHOUSE GAS EMISSIONS, THE ENERGY
13 STAR SCORE, IF APPLICABLE, AND ENERGY-USE INTENSITY;

14 (c) THE BENCHMARKING TOOL THAT OWNERS ARE REQUIRED TO
15 USE TO BENCHMARK;

16 (d) DATA VERIFICATION REQUIREMENTS; AND

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

19 == == ==

20 **(8) Task force recommendations for implementation - rules -**

21 **repeal.** (a) (I) NO LATER THAN OCTOBER 1, 2021, THE DIRECTOR OF THE

22 OFFICE SHALL APPOINT AND CONVENE A TASK FORCE TO DEVELOP AND

23 PROVIDE RECOMMENDATIONS TO THE COMMISSION, THE GENERAL

24 ASSEMBLY, AND THE GOVERNOR ON PERFORMANCE STANDARDS FOR

25 COVERED BUILDINGS. ANY RECOMMENDATIONS MUST BE APPROVED BY AT

26 LEAST TWO-THIRDS OF THE MEMBERS APPOINTED TO THE TASK FORCE.

27 ==

1 (II) THE TASK FORCE SHALL DEVELOP RECOMMENDATIONS
2 REGARDING THE RULES THAT THE COMMISSION SHALL PROMULGATE
3 PURSUANT TO SUBSECTION (8)(c) OF THIS SECTION, FOR:

4 (A) INTERIM PERFORMANCE STANDARDS THAT WOULD ACHIEVE A
5 REDUCTION IN GREENHOUSE GAS EMISSIONS OF SEVEN PERCENT BY 2026
6 AS COMPARED TO 2021 LEVELS AS REPORTED IN 2022 FOR 2021
7 BENCHMARKING DATA;

8 (B) PERFORMANCE STANDARDS THAT WOULD ACHIEVE A
9 REDUCTION IN GREENHOUSE GAS EMISSIONS OF TWENTY PERCENT BY 2030
10 AS COMPARED TO 2021 LEVELS; AND

11 (C) THE PROCESS FOR ADVISING, SOLICITING PUBLIC INPUT ON, AND
12 MAKING RECOMMENDATIONS TO THE COMMISSION ON PERFORMANCE
13 STANDARDS FOR 2030 TO 2050.

14 (III) IN DEVELOPING RECOMMENDATIONS, THE TASK FORCE SHALL:

15 (A) SOLICIT FEEDBACK FROM A BROAD RANGE OF INDUSTRIES AND
16 BUILDING OWNERS; AND

17 (B) EXAMINE BUILDING TYPES WITH UNIQUE ENERGY NEEDS
18 INCLUDING AVIATION FACILITIES, NURSING HOMES, AND HOSPITALS.

19 (IV) IN CALCULATING GREENHOUSE GAS REDUCTIONS PURSUANT
20 TO THIS SUBSECTION (8), THE CALCULATION MUST NOT INCLUDE SAVINGS
21 FROM STATEWIDE DECARBONIZATION OF ELECTRICITY OR NATURAL GAS
22 UTILITY GRIDS, BUT MAY INCLUDE SAVINGS FROM UTILITIES' OR LOCAL
23 GOVERNMENTS' ENERGY EFFICIENCY PROGRAMS.

24 (V) ADDITIONALLY, THE TASK FORCE MAY CONSIDER MAKING
25 RECOMMENDATIONS RELATED TO:

26 (A) WORKFORCE AVAILABILITY AND DEVELOPMENT RELATED TO
27 BUILDING ENERGY PERFORMANCE;

1 (B) FINANCIAL AND NONFINANCIAL COSTS AND BENEFITS OF
2 UPGRADED BUILDING ENERGY PERFORMANCE;

3 (C) AVAILABILITY OF PROGRAMS, TECHNICAL ASSISTANCE, AND
4 INCENTIVES TO SUPPORT BUILDING OWNERS, UTILITIES, AND LOCAL
5 GOVERNMENTS;

6 (D) OPPORTUNITIES TO IMPROVE COMMERCIAL BUILDING ENERGY
7 USE IN COLORADO; AND

8 (E) HOW REGULATIONS AND AGENCY SUPPORT COULD HELP
9 ENSURE BUILDING OWNERS AVOID FINES THROUGH COMPLIANCE WITH
10 PERFORMANCE STANDARDS.

11 (VI) IN DEVELOPING ITS RECOMMENDATIONS, THE TASK FORCE
12 MAY CONSIDER:

13 (A) BENCHMARKING DATA REPORTED PURSUANT TO SUBSECTION
14 (3) OF THIS SECTION;

15 (B) BENCHMARKING DATA FROM COMMUNITIES THAT ARE
16 CURRENTLY CONDUCTING COMMERCIAL BUILDING BENCHMARKING;

17 (C) ANY OTHER PUBLICLY AVAILABLE BUILDING BENCHMARKING
18 DATA THROUGH WHICH BENCHMARKING IS REPORTED TO A BUILDING
19 BENCHMARKING PROGRAM IN COLORADO; AND

20 (D) ANY OTHER INFORMATION THAT THE OFFICE DETERMINES IS
21 AVAILABLE REGARDING ENERGY USE IN COMMERCIAL BUILDINGS IN
22 COLORADO.

23 (b) ON OR BEFORE OCTOBER 1, 2022, THE TASK FORCE SHALL
24 DELIVER TO THE DIRECTOR OF THE OFFICE ANY FINAL RECOMMENDATIONS
25 DEVELOPED. THE DIRECTOR OF THE OFFICE SHALL SEND COPIES OF THE
26 TASK FORCE'S FINAL RECOMMENDATIONS TO THE COMMISSION, THE
27 GENERAL ASSEMBLY, AND THE GOVERNOR.

1 (c) (I) IF AT LEAST TWO-THIRDS OF THE MEMBERS APPOINTED TO
2 THE TASK FORCE AGREE ON RECOMMENDATIONS PURSUANT TO
3 SUBSECTION (8)(a)(I) OF THIS SECTION, AND THE DIRECTOR OF THE OFFICE
4 IN CONSULTATION WITH THE DIVISION DETERMINES THAT THE
5 RECOMMENDATIONS MEET THE GREENHOUSE GAS EMISSION REDUCTION
6 REQUIREMENTS SET FORTH IN SUBSECTION (8)(a)(II) OF THIS SECTION, THE
7 DIVISION SHALL, ON OR BEFORE JANUARY 31, 2023, REQUEST THAT THE
8 COMMISSION PUBLISH A NOTICE OF PROPOSED RULE-MAKING TO ADOPT
9 RULES TO IMPLEMENT PERFORMANCE STANDARDS. ON OR BEFORE JUNE 1,
10 2023, THE COMMISSION, UPON CAREFUL CONSIDERATION OF THE
11 RECOMMENDATIONS OF THE TASK FORCE AS PRESENTED BY THE DIVISION,
12 SHALL PROMULGATE RULES TO ESTABLISH PERFORMANCE STANDARDS.
13 THE COMMISSION SHALL ALSO ADOPT RULES REGARDING WAIVERS AND
14 EXTENSIONS OF TIME REGARDING THE PERFORMANCE STANDARD
15 REQUIREMENTS. THE COMMISSION'S RULES MUST INCLUDE A PROVISION
16 THAT AN OWNER OF A PUBLIC BUILDING NEED ONLY COMPLY WITH
17 PERFORMANCE STANDARDS WITH REGARD TO WORK ON A CONSTRUCTION
18 OR RENOVATION PROJECT THAT:

19 (A) HAS AN ESTIMATED COST OF AT LEAST FIVE HUNDRED
20 THOUSAND DOLLARS;

21 (B) IMPACTS AT LEAST TWENTY-FIVE PERCENT OF THE COVERED
22 BUILDING'S SQUARE FOOTAGE; AND

23 (C) EXCLUDES UPGRADES SUCH AS PAINTING, FLOORING, OR
24 TENANT FINISHES THAT DO NOT IMPACT ENERGY USE.

25 (II) IF TWO-THIRDS OF THE MEMBERS OF THE TASK FORCE CANNOT
26 AGREE ON RECOMMENDATIONS OR IF THE DIRECTOR OF THE OFFICE IN
27 CONSULTATION WITH THE COMMISSION DETERMINES THAT THE TASK _____

1 FORCE'S RECOMMENDATIONS DO NOT MEET THE GREENHOUSE GAS
2 EMISSION REDUCTION REQUIREMENTS SET FORTH IN SUBSECTION (8)(a)(II)
3 OF THIS SECTION, THE COMMISSION, ON OR BEFORE JUNE 1, 2023, SHALL,
4 BY RULE, ADOPT PERFORMANCE STANDARDS THAT MEET THE GREENHOUSE
5 GAS EMISSION REDUCTION REQUIREMENTS SET FORTH IN SUBSECTION
6 (8)(a)(II) OF THIS SECTION. THE COMMISSION SHALL ALSO ADOPT RULES
7 REGARDING WAIVERS AND EXTENSIONS OF TIME REGARDING THE
8 PERFORMANCE STANDARD REQUIREMENTS. THE COMMISSION'S RULES
9 MUST INCLUDE A PROVISION THAT AN OWNER OF A PUBLIC BUILDING NEED
10 ONLY COMPLY WITH PERFORMANCE STANDARDS WITH REGARD TO WORK
11 ON A CONSTRUCTION OR RENOVATION PROJECT THAT:

12 (A) HAS AN ESTIMATED COST OF AT LEAST FIVE HUNDRED
13 THOUSAND DOLLARS;

14 (B) IMPACTS AT LEAST TWENTY-FIVE PERCENT OF THE COVERED
15 BUILDING'S SQUARE FOOTAGE; AND

16 (C) EXCLUDES UPGRADES SUCH AS PAINTING, FLOORING, OR
17 TENANT FINISHES THAT DO NOT IMPACT ENERGY USE.

18 (III) THE COMMISSION SHALL NOT ADOPT RULES TO RESCIND OR
19 MODIFY THE EXEMPTIONS FOR OWNERS OF PUBLIC BUILDINGS FROM
20 PAYMENT OF THE ANNUAL FEE, AS SET FORTH IN SECTION 24-38.5-110
21 (1)(e)(II), OR FROM PAYMENT OF CIVIL PENALTIES, AS SET FORTH IN
22 SECTION 25-7-122 (1)(i).

23 (IV) THE COMMISSION SHALL, AS NECESSARY, ADOPT RULES TO
24 MODIFY OR CONTINUE THE PERFORMANCE STANDARDS UNTIL 2050 IN
25 ORDER TO ACHIEVE OR EXCEED GREENHOUSE GAS EMISSION REDUCTION
26 TARGETS SET FORTH IN SECTION 25-7-102 (2)(g).

27 (d) THE TASK FORCE CONSISTS OF THE FOLLOWING MEMBERS, ALL

1 OF WHOM, EXCEPT THE REPRESENTATIVES OF THE OFFICE AND THE
2 DIVISION, ARE VOTING MEMBERS:

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

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

5 (III) TWO MEMBERS WHO ARE OWNERS OF COMMERCIAL COVERED
6 BUILDINGS OR WHO REPRESENT OWNERS OF COMMERCIAL COVERED
7 BUILDINGS;

8 (IV) ONE MEMBER WHO IS A BUILDING OPERATING ENGINEER;

9 (V) ONE MEMBER WHO IS AN OWNER OF A MULTIFAMILY
10 RESIDENTIAL COVERED BUILDING OR WHO REPRESENTS OWNERS OF
11 MULTIFAMILY RESIDENTIAL COVERED BUILDINGS;

12 (VI) ONE MEMBER WHO REPRESENTS AN AFFORDABLE HOUSING
13 ORGANIZATION;

14 (VII) TWO MEMBERS WHO HAVE DIRECT EXPERIENCE IN, OR ARE
15 MEMBERS OF ORGANIZATIONS REPRESENTING WORKERS IN, MECHANICAL,
16 PLUMBING, OR ELECTRICAL WORK;

17 (VIII) ONE MEMBER REPRESENTING ARCHITECTS;

18 (IX) ONE MEMBER REPRESENTING PROFESSIONAL ENGINEERS WITH
19 EXPERIENCE WORKING ON SYSTEMS FOR BUILDINGS;

20 (X) ONE MEMBER REPRESENTING DEVELOPERS, CONSTRUCTION
21 ORGANIZATIONS, OR BUILDING CONTRACTORS;

22 (XI) ONE MEMBER REPRESENTING AN ELECTRIC UTILITY, A GAS
23 UTILITY, OR A COMBINED ELECTRIC AND GAS UTILITY;

24 (XII) TWO MEMBERS OF ENVIRONMENTAL CONSERVATION OR
25 ENVIRONMENTAL JUSTICE GROUPS WITH EXPERIENCE IN ENERGY
26 EFFICIENCY OR THE BUILT ENVIRONMENT;

27 (XIII) ONE MEMBER FROM A LOCAL GOVERNMENT THAT HAS

1 ENACTED OR ADOPTED A BENCHMARKING OR BUILDING ENERGY
2 PERFORMANCE ORDINANCE OR RESOLUTION;

3 (XIV) ONE MEMBER FROM A LOCAL GOVERNMENT THAT HAS NOT
4 ENACTED OR ADOPTED A BENCHMARKING OR BUILDING ENERGY
5 PERFORMANCE ORDINANCE OR RESOLUTION; AND

6 (XV) THREE MEMBERS WITH RELEVANT BUILDING PERFORMANCE
7 EXPERTISE, AS DETERMINED BY THE DIRECTOR OF THE OFFICE.

8 (e) AN APPLICANT FOR THE TASK FORCE MUST SUBMIT WITH THE
9 APPLICATION A RECOMMENDATION FROM A RELEVANT MEMBER OR TRADE
10 ORGANIZATION, IF SUCH MEMBER OR TRADE ORGANIZATION EXISTS. IN
11 MAKING APPOINTMENTS TO THE TASK FORCE, THE DIRECTOR OF THE OFFICE
12 SHALL STRIVE TO ENSURE GEOGRAPHIC DIVERSITY.

13 (f) SUBSECTIONS (8)(a), (8)(b), (8)(d), AND (8)(e), AND THIS
14 SUBSECTION (8)(f) ARE REPEALED, EFFECTIVE JULY 1, 2025.

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16 (9) Saving clause. THIS SECTION DOES NOT RESTRICT:

17 (a) THE ABILITY OF A QUALIFYING UTILITY TO PROVIDE INCENTIVES
18 OR OTHER ENERGY EFFICIENCY PROGRAM SERVICES FOR COVERED
19 BUILDINGS;

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

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

26 (d) A LOCAL GOVERNMENT FROM ADOPTING OR IMPLEMENTING AN
27 ORDINANCE OR RESOLUTION THAT IMPOSES MORE STRINGENT

1 BENCHMARKING OR PERFORMANCE STANDARD REQUIREMENTS.

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

4 **24-38.5-102.4. Energy fund - creation - use of fund -**
5 **definitions - repeal.** (2) (b) The Colorado energy office may expend
6 money from the energy fund:

7 (VII) To educate the general public on energy issues and
8 opportunities; and

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

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

14 **24-38.5-102.6. Climate change mitigation and adaptation fund**
15 **- creation - use.** (1) THE CLIMATE CHANGE MITIGATION AND ADAPTATION
16 FUND, REFERRED TO IN THIS SECTION AS THE "FUND", IS HEREBY CREATED
17 IN THE STATE TREASURY. THE FUND CONSISTS OF:

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

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

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

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

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

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

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 ADMINISTER THE BUILDING
16 PERFORMANCE PROGRAM BY:

17 (I) CREATING A DATABASE OF COVERED BUILDINGS AND OF
18 OWNERS REQUIRED TO COMPLY WITH THE BUILDING PERFORMANCE
19 PROGRAM;

20 (II) TRACKING COMPLIANCE WITH THE BUILDING PERFORMANCE
21 PROGRAM;

22 (III) MAINTAINING A LIST OF NONCOMPLIANT OWNERS; AND

23 (IV) IN A FORM AND MANNER DETERMINED BY THE OFFICE, IN
24 CONSULTATION WITH THE DIVISION OF ADMINISTRATION IN THE
25 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, PERIODICALLY
26 PROVIDING THE DIVISION WITH A LIST OF NONCOMPLIANT OWNERS FOR THE
27 DIVISION'S ENFORCEMENT OF THE BUILDING PERFORMANCE PROGRAM

1 PURSUANT TO SECTION 25-7-122 (1)(i).

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

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

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

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

25

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26 (II) THE OWNER OF A PUBLIC BUILDING IS EXEMPT FROM PAYING
27 THE ANNUAL FEE DESCRIBED IN SUBSECTION (1)(e)(I) OF THIS SECTION.

1 (2) TO IMPLEMENT THE BUILDING PERFORMANCE PROGRAM, THE
2 COLORADO ENERGY OFFICE SHALL ASSIST BUILDING OWNERS TO INCREASE
3 ENERGY EFFICIENCY AND REDUCE GREENHOUSE GAS EMISSIONS FROM
4 THEIR BUILDINGS, INCLUDING BY PROVIDING OUTREACH, TRAINING,
5 TECHNICAL ASSISTANCE, AND GRANTS TO BUILDING OWNERS TO HELP
6 THEIR BUILDINGS COME INTO COMPLIANCE WITH THE BUILDING
7 PERFORMANCE PROGRAM.

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

10 (a) "BENCHMARKING DATA" HAS THE MEANING SET FORTH IN
11 SECTION 25-7-142 (2)(d).

12 (b) "BUILDING PERFORMANCE PROGRAM" MEANS THE
13 BENCHMARKING REQUIREMENTS SET FORTH IN SECTION 25-7-142 (3) AND
14 PERFORMANCE STANDARD REQUIREMENTS SET BY THE COMMISSION BY
15 RULE PURSUANT TO SECTION 25-7-142 (8)(c).

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

18 (d) "COMMISSION" MEANS THE AIR QUALITY CONTROL COMMISSION
19 CREATED IN SECTION 25-7-104 (1).

20 (e) "COVERED BUILDING" HAS THE MEANING SET FORTH IN SECTION
21 25-7-142 (2)(j).

22 (f) "OWNER" HAS THE MEANING SET FORTH IN SECTION 25-7-142
23 (2)(r).

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

26 **25-7-122. Civil penalties - rules - definitions.** (1) Upon
27 application of the division, the division may collect penalties as

1 determined under this article 7 by instituting an action in the district court
2 for the district in which the air pollution source affected is located, in
3 accordance with the following provisions:

4 (i) (I) ON AND AFTER JANUARY 1, 2024, AND EXCEPT AS PROVIDED
5 IN SUBSECTION (1)(i)(II) OF THIS SECTION, AN OWNER OF A COVERED
6 BUILDING THAT VIOLATES SECTION 25-7-142 (3) OR (6) IS SUBJECT TO A
7 CIVIL PENALTY OF UP TO FIVE HUNDRED DOLLARS FOR A FIRST VIOLATION
8 AND UP TO TWO THOUSAND DOLLARS FOR EACH SUBSEQUENT VIOLATION.
9 AS PART OF THE REQUIREMENT THAT THE COMMISSION ADOPT RULES TO
10 ESTABLISH PERFORMANCE STANDARDS PURSUANT TO SECTION 25-7-142
11 (8)(c), THE COMMISSION SHALL ESTABLISH BY RULE, WITH REGARD TO A
12 VIOLATION OF THE PERFORMANCE STANDARDS, CIVIL PENALTIES IN AN
13 AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS FOR A FIRST
14 VIOLATION AND FIVE THOUSAND DOLLARS FOR A SUBSEQUENT VIOLATION.

15 (II) THE DIVISION SHALL NOT ASSESS A CIVIL PENALTY FOR A
16 VIOLATION RELATED TO A PUBLIC BUILDING.

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

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

23 (A) "COVERED BUILDING" HAS THE MEANING SET FORTH IN
24 SECTION 25-7-142 (2)(j).

25 ==

26 (B) "OWNER" HAS THE MEANING SET FORTH IN SECTION 25-7-142
27 (2)(r).

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

3 **29-12.5-101. Definitions.** As used in this article 12.5:

4 (3) "Energy performance contract" means a contract for
5 evaluations, recommendations, or implementation of one or more energy
6 saving measures designed to produce utility ~~costs~~ COST savings, operation
7 and maintenance cost savings, or vehicle fleet operational and fuel cost
8 savings, which contract:

9 (f) Requires ~~such~~ A board, upon termination or expiration of the
10 contract, to return to ~~such~~ THE party any ~~moneys~~ MONEY THAT THE PARTY
11 deposited with ~~such~~ THE board ~~that are~~ AND DID not ~~forfeited~~ FORFEIT to
12 ~~such~~ THE board pursuant to ~~paragraph (c) of this subsection (3)~~
13 SUBSECTION (3)(e) OF THIS SECTION; AND

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

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

24 **SECTION 6. Act subject to petition - effective date -**
25 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
26 the expiration of the ninety-day period after final adjournment of the
27 general assembly; except that, if a referendum petition is filed pursuant

1 to section 1 (3) of article V of the state constitution against this act or an
2 item, section, or part of this act within such period, then the act, item,
3 section, or part will not take effect unless approved by the people at the
4 general election to be held in November 2022 and, in such case, will take
5 effect on the date of the official declaration of the vote thereon by the
6 governor.

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