

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

PREAMENDED

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

LLS NO. 25-0849.01 Jennifer Berman x3286

HOUSE BILL 25-1269

HOUSE SPONSORSHIP

Willford and Valdez,

SENATE SPONSORSHIP

Ball and Kipp,

House Committees

Energy & Environment
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING BUILDING DECARBONIZATION MEASURES, AND, IN**
102 **CONNECTION THEREWITH, CREATING A BUILDING**
103 **DECARBONIZATION ENTERPRISE AND MAKING AN**
104 **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 bill updates energy use benchmarking and performance standard requirements for owners of certain buildings (covered building owners), including:

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.

- A requirement to meet 2040 performance standards, as adopted by the air quality control commission, in consultation with the Colorado energy office (office) and in consideration of recommendations made by a task force convened by the office;
- Authorizing an alternative compliance mechanism for covered building owners to comply with certain performance standards; and
- Aligning civil penalties owed for a violation of the benchmarking and performance standard requirements with civil penalties owed for other air quality violations.

The bill also creates a building decarbonization enterprise (enterprise) to provide financial assistance, technical assistance, and other programmatic assistance to covered building owners to effectively and efficiently implement building decarbonization measures, including energy efficiency measures, electrification measures, energy upgrades, and participation in utility on-bill repayment programs. The enterprise is authorized to impose and collect from covered building owners an annual building decarbonization fee to cover the enterprise's costs in providing the financial, technical, and programmatic assistance.

The bill exempts a local government that adopts building codes from the requirement to adopt an energy code if the local government has adopted an approved wildfire resiliency code.

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

2 **SECTION 1.** In Colorado Revised Statutes, 30-28-211, **add**
 3 (3.5)(g) as follows:

4 **30-28-211. Energy efficient building codes - legislative**
 5 **declaration - definitions.** (3.5) (g) NOTWITHSTANDING THE
 6 REQUIREMENTS SET FORTH IN SUBSECTIONS (3.5)(a) AND (3.5)(b) OF THIS
 7 SECTION, A BOARD OF COUNTY COMMISSIONERS IS NOT REQUIRED TO
 8 ADOPT AND ENFORCE AN ENERGY CODE THAT MEETS THE REQUIREMENTS
 9 OF SUBSECTIONS (3.5)(a) AND (3.5)(b) OF THIS SECTION **SOLELY** AS A
 10 RESULT OF ADOPTING THE WILDFIRE RESILIENCY CODE.

11 **SECTION 2.** In Colorado Revised Statutes, 31-15-602, **add**
 12 (3.5)(f) as follows:

1 **31-15-602. Energy efficient building codes - legislative**
2 **declaration - definitions - repeal.** (3.5) (f) NOTWITHSTANDING THE
3 REQUIREMENTS SET FORTH IN SUBSECTIONS (3.5)(a) AND (3.5)(b) OF THIS
4 SECTION, A GOVERNING BODY OF A MUNICIPALITY IS NOT REQUIRED TO
5 ADOPT AND ENFORCE AN ENERGY CODE THAT MEETS THE REQUIREMENTS
6 OF SUBSECTIONS (3.5)(a) AND (3.5)(b) OF THIS SECTION SOLELY AS A
7 RESULT OF ADOPTING THE WILDFIRE RESILIENCY CODE.

8 **SECTION 3.** In Colorado Revised Statutes, 25-7-142, **amend**
9 (2)(s), (3), (8)(c)(III), (8)(c)(IV), and (8)(f); and **add** (1.5), (2)(q.5), (8.5),
10 (8.6), (8.7), and (8.8) as follows:

11 **25-7-142. Energy benchmarking - data collection and access**
12 **- utility requirements - task force - rules - reports - definitions -**
13 **legislative declaration - repeal.** (1.5) THE GENERAL ASSEMBLY FURTHER
14 FINDS AND DECLARES THAT:

15 (a) ENERGY CONSUMPTION BY COLORADO'S BUILT ENVIRONMENT,
16 INCLUDING LARGE COMMERCIAL AND RESIDENTIAL PROPERTIES, IS A
17 SIGNIFICANT CONTRIBUTOR TO STATEWIDE GREENHOUSE GAS POLLUTION;

18 (b) REDUCING THE GREENHOUSE GAS EMISSIONS ARISING FROM
19 ENERGY CONSUMPTION BY THE BUILT ENVIRONMENT IS NECESSARY TO
20 ACHIEVE THE 2050 NET-ZERO GREENHOUSE GAS EMISSION REDUCTION
21 GOAL SET FORTH IN SECTION 25-7-102 (2)(g);

22 (c) THE COMMISSION ADOPTED RULES ESTABLISHING
23 BENCHMARKING AND PERFORMANCE STANDARDS IN AUGUST 2023 IN
24 ACCORDANCE WITH SUBSECTIONS (8)(a)(II) AND (8)(c)(II) OF THIS
25 SECTION; AND

26 (d) IN IMPLEMENTING THE REQUIREMENTS OF THIS SECTION AND
27 THE COMMISSION'S RULES ADOPTED PURSUANT TO THIS SECTION, THE

1 DIVISION SHOULD, CONSISTENT WITH SECTION 25-7-122 (2), CONSIDER AN
2 OWNER'S EFFORT TO COMPLY WITH BUILDING PERFORMANCE STANDARDS
3 WHEN IMPLEMENTING ENFORCEMENT AND ASSESSING PENALTIES
4 PURSUANT TO SECTION 25-7-122 AND THIS SECTION.

5 (2) **Definitions.** As used in this section, unless the context
6 otherwise requires:

7 (q.5) "OPERATOR" MEANS AN OWNER, TENANT, OR OTHER
8 INDIVIDUAL OR ENTITY:

9 (I) OCCUPYING OR NAMED ON THE UTILITY BILL FOR A COVERED
10 BUILDING; AND

11 (II) THAT HAS ACCESS TO UTILITY DATA FOR THE COVERED
12 BUILDING.

13 (s) "Performance standards" means standards that the commission
14 establishes by rule pursuant to ~~subsection (8)(c)~~ SUBSECTION (8)(c) OR
15 (8.5)(a) of this section AND with which owners of covered buildings are
16 required to comply.

17 (3) **Benchmarking requirements on owners and operators.**

18 (a) ~~On or before December 1, 2022, and on or before June 1 of each~~
19 ~~subsequent year~~ NOTWITHSTANDING THE RULES THAT THE COMMISSION
20 ADOPTED BEFORE JULY 2025, BEGINNING IN 2026 FOR 2025
21 BENCHMARKING DATA AND FOR EACH SUBSEQUENT YEAR, the owner of a
22 covered building shall submit a report of the benchmarking data for the
23 previous calendar year to the office ON OR BEFORE NOVEMBER 1.

24 (b) NOTWITHSTANDING SUBSECTION (3)(a) OF THIS SECTION,
25 BEGINNING IN 2025 FOR 2024 BENCHMARKING DATA AND FOR EACH
26 SUBSEQUENT YEAR, IF AN OWNER OF A COVERED BUILDING DEMONSTRATES
27 TO THE OFFICE THAT IT LACKS ACCESS TO BENCHMARKING DATA, THE

1 OPERATOR OF THE COVERED BUILDING SHALL, ON OR BEFORE NOVEMBER
2 1 OF EACH YEAR, SUBMIT TO THE OFFICE A REPORT OF THE BENCHMARKING
3 DATA FOR THE COVERED BUILDING FOR THE PREVIOUS CALENDAR YEAR.

4 ~~(b)~~ (c) Before providing a benchmarking report pursuant to
5 subsection (3)(a) of this section, an owner OF A COVERED BUILDING OR
6 OPERATOR shall run any automated data checking function of the
7 benchmarking tool and correct any errors discovered.

8 ~~(c)~~ (d) The following owners AND OPERATORS may comply with
9 this subsection (3) collectively at the campus-wide level:

10 (I) The owner OR OPERATOR of multiple covered buildings that are
11 part of a master metered group of buildings without submetering;

12 (II) The owner OR OPERATOR of a correctional facility; and

13 (III) The owner OR OPERATOR of a public building that is a
14 covered building.

15 (8) **Task force recommendations for implementation - rules -**
16 **repeal.** (c) (III) The commission shall not adopt rules to rescind or
17 modify the exemptions for owners of public buildings from payment of
18 the annual fee, as set forth in section 24-38.5-112 (1)(e)(II); FROM
19 PAYMENT OF THE BUILDING DECARBONIZATION FEE, AS SET FORTH IN
20 SECTION 24-38.5-123 (5)(b); or from payment of civil penalties, as set
21 forth in section 25-7-122 (1)(i).

22 (IV) The commission shall, as necessary, adopt rules to modify or
23 continue the performance standards BEYOND 2030 AND until 2050 in order
24 to achieve or exceed greenhouse gas emission reduction targets set forth
25 in section 25-7-102 (2)(g).

26 (f) Subsections (8)(a), (8)(b), ~~(8)(c)(I)~~, ~~(8)(c)(II)~~, (8)(d), and
27 (8)(e) of this section and this subsection (8)(f) are repealed, effective July

1 1, 2025.

2 (8.5) **2040 performance standard targets - division to propose**
3 **standards - commission to adopt rules - task force - membership -**
4 **repeal.** (a) (I) TO HELP ACHIEVE OR EXCEED GREENHOUSE GAS EMISSION
5 REDUCTION TARGETS PURSUANT TO SUBSECTION (8)(c)(IV) OF THIS
6 SECTION, THE COMMISSION SHALL ADOPT, BY RULE, 2040 PERFORMANCE
7 STANDARDS IN ACCORDANCE WITH SECTION 25-7-102 (2)(g).

8 (II) ON OR BEFORE JUNE 1, 2029, THE DIVISION, AFTER
9 CONSULTATION WITH THE OFFICE, SHALL CONSIDER RECOMMENDATIONS
10 FROM THE TASK FORCE CREATED PURSUANT TO SUBSECTION (8.5)(c) OF
11 THIS SECTION AND SHALL PROPOSE 2040 PERFORMANCE STANDARDS TO
12 THE COMMISSION FOR CONSIDERATION IN THE RULES ADOPTED PURSUANT
13 TO SUBSECTION (8.5)(a)(I) OF THIS SECTION.

14 (b) (I) THE DIVISION, IN PROPOSING 2040 PERFORMANCE
15 STANDARDS, AND THE COMMISSION, IN ADOPTING 2040 PERFORMANCE
16 STANDARDS, SHALL CONSIDER WHETHER TARGETS THAT ARE INCLUDED IN
17 THE 2040 PERFORMANCE STANDARDS TO REDUCE EMISSIONS FROM
18 COVERED BUILDINGS ARE CONSISTENT WITH MEETING THE ECONOMY-WIDE
19 EMISSION REDUCTION GOALS SET FORTH IN SECTION 25-7-102 (2)(g),
20 TAKING INTO CONSIDERATION:

21 (A) THE CAPITAL PLANNING PERIODS FOR COVERED BUILDINGS;

22 (B) THE FEASIBILITY OF AN OWNER PLANNING AND IMPLEMENTING
23 A BUILDING UPGRADE PROJECT AHEAD OF THE COMPLIANCE DATE FOR THE
24 2040 PERFORMANCE STANDARD THAT THE COMMISSION SETS BY RULE
25 PURSUANT TO SUBSECTION (8.5)(a)(I) OF THIS SECTION; AND

26 (C) THE PRACTICAL AND FINANCIAL FEASIBILITY OF MEETING THE
27 TARGETS.

1 (II) THE RULES ADOPTED PURSUANT TO THIS SUBSECTION (8.5)
2 MUST INCLUDE A REQUIREMENT THAT AN OWNER OF A COVERED BUILDING
3 SUBMIT WITH ITS BENCHMARKING REPORT SUBMITTED IN 2035 AN INTERIM
4 STATUS REPORT REGARDING THE OWNER'S PROGRESS TOWARD THE 2040
5 PERFORMANCE STANDARDS AND SUBMITTED IN A FORMAT DETERMINED BY
6 THE OFFICE.

7 (c) (I) ON OR BEFORE JULY 1, 2027, THE DIRECTOR OF THE OFFICE
8 SHALL APPOINT AND CONVENE A TASK FORCE. THE TASK FORCE SHALL
9 REVIEW THE BENCHMARKING DATA SUBMITTED FOR CALENDAR YEARS
10 2021 THROUGH 2026 AND, ON OR BEFORE JULY 1, 2028, DEVELOP AND
11 PROVIDE RECOMMENDATIONS TO THE DIVISION REGARDING THE 2040
12 PERFORMANCE STANDARDS, INCLUDING RECOMMENDATIONS ON THE
13 CONTENT OF THE INTERIM STATUS REPORTS SUBMITTED PURSUANT TO
14 RULES ADOPTED IN ACCORDANCE WITH SUBSECTION (8.5)(b)(II) OF THIS
15 SECTION.

16 (II) AS PART OF THE RECOMMENDATIONS DEVELOPED PURSUANT
17 TO SUBSECTION (8.5)(c)(I) OF THIS SECTION, THE TASK FORCE SHALL
18 CONSIDER:

19 (A) THE [REDACTED] ECONOMY-WIDE EMISSION REDUCTION GOALS SET
20 FORTH IN SECTION 25-7-102 (2)(g); AND

21 (B) THE CAPITAL PLANNING PERIODS FOR COVERED BUILDINGS AND
22 THE FEASIBILITY OF AN OWNER PLANNING AND IMPLEMENTING A BUILDING
23 UPGRADE PROJECT AHEAD OF THE COMPLIANCE DATE FOR THE 2040
24 PERFORMANCE STANDARD THAT THE COMMISSION SETS BY RULE
25 PURSUANT TO SUBSECTION (8.5)(a)(I) OF THIS SECTION.

26 (d) THE TASK FORCE CONSISTS OF THE FOLLOWING MEMBERS, ALL
27 OF WHOM, EXCEPT THE REPRESENTATIVES OF THE OFFICE, THE PUBLIC

1 UTILITIES COMMISSION, AND THE DIVISION, ARE VOTING MEMBERS:

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

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

4 (III) THE DIRECTOR OF THE PUBLIC UTILITIES COMMISSION OR THE

5 DIRECTOR'S DESIGNEE;

6 (IV) ONE MEMBER WHO IS AN OWNER OF COMMERCIAL COVERED

7 BUILDINGS OR WHO REPRESENTS OWNERS OF COMMERCIAL COVERED

8 BUILDINGS;

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) ONE MEMBER WHO HAS DIRECT EXPERIENCE IN, OR IS A

15 MEMBER OF AN ORGANIZATION REPRESENTING WORKERS IN, MECHANICAL,

16 HVAC, OR ELECTRICAL WORK AT THE COMMERCIAL OR MULTIFAMILY

17 BUILDING LEVEL;

18 (VIII) ONE MEMBER WHO REPRESENTS ARCHITECTS;

19 (IX) ONE MEMBER WHO REPRESENTS PROFESSIONAL ENGINEERS

20 AND WHO HAS EXPERIENCE WORKING ON SYSTEMS FOR BUILDINGS;

21 (X) ONE MEMBER WHO HAS EXTENSIVE EXPERIENCE AS A BUILDING

22 OPERATING ENGINEER;

23 (XI) ONE MEMBER WHO REPRESENTS AN ELECTRIC UTILITY, A GAS

24 UTILITY, OR A COMBINED ELECTRIC AND GAS UTILITY;

25 (XII) ONE MEMBER WHO IS FROM AN ENVIRONMENTAL

26 CONSERVATION OR ENVIRONMENTAL JUSTICE GROUP WITH EXPERIENCE IN

27 ENERGY EFFICIENCY OR THE BUILT ENVIRONMENT;

1 (XIII) ONE MEMBER WHO IS FROM A LOCAL GOVERNMENT THAT
2 HAS ENACTED OR ADOPTED A BENCHMARKING OR BUILDING ENERGY
3 PERFORMANCE ORDINANCE OR RESOLUTION;

4 (XIV) TWO MEMBERS WHO HAVE RELEVANT BUILDING
5 PERFORMANCE EXPERTISE, AS DETERMINED BY THE DIRECTOR OF THE
6 OFFICE; AND

7 (XV) ONE MEMBER REPRESENTING HOSPITALS OR OTHER
8 HEALTH-CARE FACILITIES.

9 (e) AN INDIVIDUAL APPLYING TO SERVE ON THE TASK FORCE MUST
10 SUBMIT A RECOMMENDATION FROM A MEMBER OF THE GROUP THAT THE
11 INDIVIDUAL SEEKS TO REPRESENT ON THE TASK FORCE OR, IF A TRADE
12 ORGANIZATION EXISTS THAT REPRESENTS THE GROUP, A
13 RECOMMENDATION FROM THE TRADE ORGANIZATION.

14 (f) IN MAKING APPOINTMENTS TO THE TASK FORCE, THE DIRECTOR
15 OF THE OFFICE SHALL STRIVE TO ENSURE VARIED GEOGRAPHIC
16 REPRESENTATION.

17 (g) THE TASK FORCE SHALL CONDUCT A COMPREHENSIVE
18 ECONOMIC ANALYSIS OF ITS RECOMMENDATIONS FOR THE 2040
19 PERFORMANCE STANDARDS PRIOR TO PROVIDING THE RECOMMENDATIONS
20 TO THE DIVISION.

21 (8.6) NOTWITHSTANDING ANY RULES THAT THE COMMISSION
22 ADOPTS PURSUANT TO THIS SECTION BEFORE JULY 1, 2025:

23 (a) (I) AN OWNER OF A COVERED BUILDING MAY COMPLY WITH
24 BUILDING PERFORMANCE STANDARDS ADOPTED BY THE COMMISSION BY:

25 (A) SUBMITTING COMPLETE AND ACCURATE 2019 BENCHMARKING
26 DATA TO THE OFFICE NO LATER THAN JANUARY 1, 2026;

27 (B) IN 2026, ACHIEVING AND MAINTAINING A STANDARD PERCENT

1 REDUCTION OF AT LEAST THIRTEEN PERCENT IN COMPARISON TO THE
2 COVERED BUILDING'S 2019 BENCHMARKED BASELINE
3 WEATHER-NORMALIZED SITE ENERGY USE INTENSITY; AND

4 (C) IN 2030, ACHIEVING AND MAINTAINING A STANDARD PERCENT
5 REDUCTION OF AT LEAST TWENTY-NINE PERCENT IN COMPARISON TO THE
6 COVERED BUILDING'S 2019 BENCHMARKED BASELINE
7 WEATHER-NORMALIZED ENERGY USE INTENSITY; [REDACTED]

8 (II) AN OWNER OF A COVERED BUILDING LOCATED WITHIN THE
9 JURISDICTION OF A LOCAL GOVERNMENT THAT HAS ADOPTED AND
10 IMPLEMENTED A BUILDING PERFORMANCE STANDARDS PROGRAM OR
11 OTHER SIMILAR PROGRAM INTENDED TO REDUCE GREENHOUSE GAS
12 EMISSIONS FROM COVERED BUILDINGS IS DEEMED IN COMPLIANCE WITH
13 THIS SECTION AND RULES ADOPTED BY THE COMMISSION PURSUANT TO
14 THIS SECTION BY COMPLYING WITH THE REQUIREMENTS OF THE LOCAL
15 PROGRAM IF:

16 (A) THE OWNER OF THE COVERED BUILDING MAINTAINS
17 COMPLIANCE WITH THE LOCAL PROGRAM AND CERTIFIES ITS AFFIRMATIVE
18 COMPLIANCE STATUS BY SUBMITTING AN AFFIDAVIT, WHICH AFFIDAVIT
19 ATTESTS THAT THE COVERED BUILDING MEETS THE REQUIREMENTS OF THE
20 LOCAL PROGRAM, IN ANNUAL BENCHMARKING REPORTS SUBMITTED TO
21 THE OFFICE; AND

22 (B) THE OFFICE HAS DETERMINED THAT THE GREENHOUSE GAS
23 EMISSION REDUCTIONS FROM COVERED BUILDINGS COMPLYING WITH THE
24 LOCAL PROGRAM ARE REASONABLY SIMILAR TO THE GREENHOUSE GAS
25 EMISSION REDUCTIONS THAT WOULD HAVE BEEN ACHIEVED THROUGH
26 COMPLIANCE WITH THIS SECTION AND THE COMMISSION'S RULES ADOPTED
27 PURSUANT TO THIS SECTION;

1 (III) A LOCAL JURISDICTION THAT HAS ADOPTED AND
2 IMPLEMENTED A BUILDING PERFORMANCE STANDARDS PROGRAM MAY
3 ISSUE A CERTIFICATION OR REPORT TO THE OFFICE CONFIRMING WHICH
4 COVERED BUILDINGS ARE IN COMPLIANCE WITH THE PROGRAM; AND

5 (IV) DECISIONS MADE BY THE OFFICE REGARDING EQUIVALENCE
6 PURSUANT TO SUBSECTION (8.6)(a)(II)(B) OF THIS SECTION ARE SUBJECT
7 TO JUDICIAL REVIEW PURSUANT TO SECTION 24-4-106.

8 (b) (I) NOTWITHSTANDING SUBSECTION (8.6)(a) OF THIS SECTION
9 AND ANY RULES ADOPTED BY THE COMMISSION BEFORE JULY 1, 2025, AN
10 OWNER MAY EITHER COMPLY WITH THE 2026 PERFORMANCE STANDARDS
11 OR, AS PART OF THE OWNER'S BENCHMARKING REPORTS SUBMITTED TO THE
12 OFFICE IN 2026 THROUGH 2029:

13 (A) TRACK ITS PROGRESS TOWARD COMPLIANCE WITH THE
14 PERFORMANCE STANDARDS;

15 (B) EXPRESS ANY NEED FOR TECHNICAL ASSISTANCE FROM THE
16 OFFICE; AND

17 (C) PROVIDE OTHER INFORMATION THAT THE OFFICE DEEMS
18 NECESSARY DEMONSTRATING MEASURES PLANNED OR BEING TAKEN TO
19 COMPLY WITH THE 2030 PERFORMANCE STANDARDS.

20 (II) ANY RULES THAT THE COMMISSION ADOPTED BEFORE JULY 1,
21 2025, THAT IMPOSE ADDITIONAL COMPLIANCE OBLIGATIONS UPON A
22 COVERED BUILDING OWNER THAT FAILS TO TIMELY MEET A BUILDING
23 PERFORMANCE STANDARD DO NOT APPLY UNTIL 2031 FOR THE 2030
24 BUILDING PERFORMANCE STANDARDS.

25 (III) THE OFFICE SHALL PRIORITIZE ANY GRANT MONEY THAT IS
26 MADE AVAILABLE FOR OWNERS OF COVERED BUILDINGS:

27 (A) THAT COMPLY WITH OR ESTABLISH PLANS TO GO BEYOND THE

1 2026 PERFORMANCE STANDARDS; OR

2 (B) THAT COMPLY WITH THE 2030 PERFORMANCE STANDARD
3 EARLY OR ESTABLISH PLANS TO GO BEYOND THE 2030 PERFORMANCE
4 STANDARDS.

5 (IV) NOTHING IN THIS SUBSECTION (8.6)(b) PRECLUDES OR
6 MODIFIES THE DIVISION'S AUTHORITY TO ENFORCE AGAINST AN OWNER OF
7 A COVERED BUILDING FOR NONCOMPLIANCE WITH 2030 PERFORMANCE
8 STANDARDS OR PERFORMANCE STANDARDS SET FOR SUBSEQUENT YEARS.

9 (8.7) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION
10 (8)(a)(II) OF THIS SECTION OR RULES ADOPTED PURSUANT TO THAT
11 SUBSECTION, SUBSECTION (8.6) OF THIS SECTION IS NECESSARY FOR
12 COVERED BUILDINGS TO EFFECTIVELY IMPLEMENT THE PERFORMANCE
13 STANDARDS. THE COMMISSION IS NOT REQUIRED TO REVISE RULES THAT
14 WERE ADOPTED PURSUANT TO THIS SECTION BEFORE JULY 1, 2025.

15 (8.8) ENERGY USE THAT A COVERED BUILDING OWNER
16 DEMONSTRATES IS ATTRIBUTABLE TO ELECTRIC VEHICLE CHARGING SHALL
17 NOT BE INCLUDED IN A COVERED BUILDING'S TOTAL ENERGY USAGE FOR
18 PURPOSES OF COMPLIANCE WITH BUILDING PERFORMANCE STANDARDS.

19 SECTION 4. In Colorado Revised Statutes, add 24-38.5-123 as
20 follows:

21 24-38.5-123. Building decarbonization enterprise - creation
22 - membership - powers and duties - building decarbonization
23 enterprise cash fund - legislative declaration - definitions - rules -
24 report - repeal. (1) Legislative declaration. (a) THE GENERAL
25 ASSEMBLY FINDS THAT:

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

1 (A) IS NECESSARY TO HELP THE STATE ACHIEVE ITS STATEWIDE
2 GREENHOUSE GAS EMISSION REDUCTION GOALS SET FORTH IN SECTION
3 25-7-102 (2)(g), INCLUDING THE GOAL TO REACH NET-ZERO GREENHOUSE
4 GAS EMISSIONS BY 2050; AND

5 (B) PRESENTS SIGNIFICANT OPPORTUNITIES TO LOWER AND
6 STABILIZE ENERGY BILLS, PROVIDE FOR MORE COMFORTABLE LIVING AND
7 WORKING SPACES, AND REDUCE LOCAL AIR POLLUTION THAT CONTRIBUTES
8 TO GROUND-LEVEL OZONE;

9 (II) COVERED BUILDING OWNERS ARE REQUIRED TO COMPLY WITH
10 BENCHMARKING REQUIREMENTS AND PERFORMANCE STANDARD
11 REQUIREMENTS AND WOULD BENEFIT FROM ADDITIONAL FINANCIAL AND
12 TECHNICAL ASSISTANCE TO MEET THOSE REQUIREMENTS; AND

13 (III) WITH ADDITIONAL FINANCING AND TECHNICAL ASSISTANCE,
14 COVERED BUILDING OWNERS MAY MORE EFFECTIVELY AND EFFICIENTLY
15 IMPLEMENT BUILDING DECARBONIZATION MEASURES, INCLUDING, BUT NOT
16 LIMITED TO, PROGRAMS THAT:

17 (A) HELP FINANCE ENERGY EFFICIENCY MEASURES,
18 ELECTRIFICATION MEASURES, AND OTHER ENERGY UPGRADES; AND

19 (B) PROVIDE ASSISTANCE FOR CONDUCTING BUILDING ENERGY
20 AUDITS, DEVELOPING ANALYSES TO HELP BUILDING OWNERS EVALUATE
21 THE BEST STRATEGIES FOR ACHIEVING FUTURE PERFORMANCE STANDARD
22 TARGETS, EMPLOYING OR CONSULTING WITH BUILDING ENGINEERS,
23 PURCHASING ENERGY USE TRACKING SOFTWARE FOR COVERED BUILDING
24 OWNERS TO MORE EFFECTIVELY TRACK ENERGY USE, AND PROVIDING
25 TRAINING ON SUCH SOFTWARE.

26 (b) NOW, THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT:

27 (I) IT IS IN THE PUBLIC INTEREST TO CREATE AN ENTERPRISE

1 WITHIN THE OFFICE THAT IS COMMITTED TO FINANCING AND PROVIDING
2 TECHNICAL AND OTHER SUPPORT FOR THE IMPLEMENTATION OF BUILDING
3 DECARBONIZATION MEASURES;

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

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

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

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

19 (B) IMPROVE BUILDING COMFORT; AND

20 (C) INCREASE THE MARKET VALUE AND DESIRABILITY OF COVERED
21 BUILDINGS TO TENANTS;

22 (V) CONSISTENT WITH THE DETERMINATION OF THE COLORADO
23 SUPREME COURT IN *NICHOLL V. E-470 PUBLIC HIGHWAY AUTHORITY*, 896
24 P.2d 859 (COLO. 1995), THAT THE POWER TO IMPOSE TAXES IS
25 INCONSISTENT WITH ENTERPRISE STATUS UNDER SECTION 20 OF ARTICLE
26 X OF THE STATE CONSTITUTION, THE GENERAL ASSEMBLY CONCLUDES
27 THAT THE BUILDING DECARBONIZATION FEE IS A FEE, NOT A TAX, AND THE

1 ENTERPRISE OPERATES AS A BUSINESS BECAUSE THE BUILDING
2 DECARBONIZATION FEE IS:

3 (A) IMPOSED FOR THE SPECIFIC BUSINESS PURPOSES OF PROVIDING
4 FINANCING AND TECHNICAL ASSISTANCE TO COVERED BUILDING OWNERS
5 TO MORE EFFECTIVELY AND EFFICIENTLY IMPLEMENT BUILDING
6 DECARBONIZATION MEASURES, INCLUDING FEASIBILITY ANALYSES AND
7 IMPROVEMENTS THAT WILL REDUCE ENERGY USE AND EMISSIONS; AND

8 (B) COLLECTED AT A RATE THAT IS REASONABLY RELATED TO THE
9 OVERALL COST OF THE BUSINESS SERVICES BEING PROVIDED; AND

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

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

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

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

27 (c) "BUILDING DECARBONIZATION ENTERPRISE CASH FUND" OR

1 "BUILDING DECARBONIZATION FUND" MEANS THE BUILDING
2 DECARBONIZATION ENTERPRISE CASH FUND CREATED IN SUBSECTION
3 (6)(a) OF THIS SECTION.

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

7 (e) "COVERED BUILDING" HAS THE MEANING SET FORTH IN SECTION
8 25-7-142 (2)(j).

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

11 (g) "ENTERPRISE" MEANS THE BUILDING DECARBONIZATION
12 ENTERPRISE CREATED IN SUBSECTION (3) OF THIS SECTION.

13

14 (h) "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE
15 IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR
16 STATISTICS CONSUMER PRICE INDEX, OR A SUCCESSOR INDEX, FOR
17 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID FOR BY URBAN
18 CONSUMERS.

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

21 (j) "ON-BILL [REDACTED] PROGRAM" MEANS A UTILITY'S ON-BILL [REDACTED]
22 PROGRAM THROUGH WHICH ENERGY EFFICIENCY MEASURES,
23 ELECTRIFICATION MEASURES, AND ENERGY UPGRADES INSTALLED AT A
24 PARTICIPATING CUSTOMER'S PREMISES THAT IS ASSOCIATED WITH THE
25 UTILITY METER ARE FINANCED THROUGH LOANS THAT ARE REPAYED
26 THROUGH MONTHLY UTILITY BILL PAYMENTS.

27 (k) "PERFORMANCE STANDARDS" HAS THE MEANING SET FORTH IN

1 SECTION 25-7-142 (2)(s).

2

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

4 (a) THE BUILDING DECARBONIZATION ENTERPRISE IS CREATED IN THE
5 OFFICE AND EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND
6 FUNCTIONS AS A GOVERNMENT-OWNED BUSINESS IN THE OFFICE TO
7 EXECUTE ITS BUSINESS PURPOSES SET FORTH IN THIS SUBSECTION (3). THE
8 ENTERPRISE IS CREATED FOR THE PURPOSES OF:

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

11 (II) PROVIDING TECHNICAL ASSISTANCE, FINANCING, AND OTHER
12 PROGRAMMATIC SUPPORT FOR COVERED BUILDING OWNERS' BUILDING
13 DECARBONIZATION MEASURES, INCLUDING, BUT NOT LIMITED TO,
14 CONDUCTING BUILDING ENERGY AUDITS, DEVELOPING ANALYSES TO HELP
15 BUILDING OWNERS EVALUATE THE BEST STRATEGIES FOR ACHIEVING
16 FUTURE PERFORMANCE STANDARD TARGETS, CONSULTING BUILDING
17 ENGINEERS, PURCHASING ENERGY USE TRACKING SOFTWARE, AND
18 PROVIDING TRAINING ON SUCH SOFTWARE;

19 (III) HAVING AND EXERCISING ALL RIGHTS AND POWERS
20 NECESSARY OR INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS
21 AND DUTIES GRANTED UNDER THIS SECTION; AND

22 (IV) ENSURING THAT THE BUILDING DECARBONIZATION FEE PAID
23 BY COVERED BUILDING OWNERS IS USED SOLELY TO SUPPORT PROGRAMS,
24 TECHNICAL ASSISTANCE, AND FINANCIAL ASSISTANCE FOR THE COVERED
25 BUILDING OWNERS THAT PAY THE BUILDING DECARBONIZATION FEE.

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

1 (c) (I) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR
2 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO
3 LONG AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND
4 RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS, AS
5 DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND
6 LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN
7 ENTERPRISE, THE ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE
8 X OF THE STATE CONSTITUTION.

9 (II) THE ENTERPRISE IS AUTHORIZED TO ISSUE REVENUE BONDS FOR
10 THE EXPENSES OF THE ENTERPRISE, SECURED BY REVENUE OF THE
11 ENTERPRISE.

12 (d) (I) THE OFFICE MAY TRANSFER MONEY FROM ANY LEGALLY
13 AVAILABLE SOURCE TO THE ENTERPRISE FOR THE PURPOSE OF DEFRAYING
14 EXPENSES INCURRED BY THE ENTERPRISE BEFORE IT RECEIVES FEE
15 REVENUE. THE ENTERPRISE MAY ACCEPT AND EXPEND ANY MONEY SO
16 TRANSFERRED, AND, NOTWITHSTANDING ANY STATE FISCAL RULE OR
17 GENERALLY ACCEPTED ACCOUNTING PRINCIPLE THAT COULD OTHERWISE
18 BE INTERPRETED TO REQUIRE A CONTRARY CONCLUSION, SUCH A
19 TRANSFER IS A LOAN FROM THE OFFICE TO THE ENTERPRISE THAT IS
20 REQUIRED TO BE REPAID AND IS NOT A GRANT FOR PURPOSES OF SECTION
21 20 (2)(d) OF ARTICLE X OF THE STATE CONSTITUTION OR AS DEFINED IN
22 SECTION 24-77-102 (7).

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

27 (4) **Enterprise board of directors created - membership -**

1 **duties - repeal.** (a) THE ENTERPRISE BOARD OF DIRECTORS IS CREATED TO
2 ADMINISTER THE ENTERPRISE. THE BOARD CONSISTS OF THE FOLLOWING
3 ~~NINE~~ MEMBERS:

4 (I) THE FOLLOWING ~~SIX~~ MEMBERS APPOINTED BY THE GOVERNOR
5 AND CONFIRMED BY THE SENATE:

6 (A) A REPRESENTATIVE OF RESIDENTIAL BUILDINGS;

7 (B) TWO REPRESENTATIVES OF COMMERCIAL BUILDINGS, SUCH AS
8 OFFICES, MIXED-USE PROPERTIES, MULTIFAMILY HOMES, OR HOSPITALS;

9 (C) AN EXPERT IN BUILDING ENERGY EFFICIENCY AND
10 DECARBONIZATION;

11 (D) A LOCAL GOVERNMENT REPRESENTATIVE WITH EXPERTISE IN
12 PLANNING, ENERGY CODES, OR BUILDING DECARBONIZATION;

13 (E) A UTILITY REPRESENTATIVE;

14 (II) THE DIRECTOR OF THE OFFICE OR THE DIRECTOR'S DESIGNEE;

15 (III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC
16 HEALTH AND ENVIRONMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE;
17 AND

18 (IV) THE DIRECTOR OF THE PUBLIC UTILITIES COMMISSION OR THE
19 DIRECTOR'S DESIGNEE.

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

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

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

27 (II) NOTWITHSTANDING SUBSECTION (4)(c)(I) OF THIS SECTION,

1 THE GOVERNOR SHALL MAKE THE INITIAL TERMS OF TWO OF THE BOARD
2 MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION (4)(a)(I) OF
3 THIS SECTION TWO YEARS.

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

8 (e) (I) THE CHAIR AND VICE-CHAIR OF THE BOARD ARE SELECTED
9 BY THE MEMBERS OF THE BOARD IN ACCORDANCE WITH THE BOARD'S
10 BYLAWS.

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

15 (B) THIS SUBSECTION (4)(e)(II) IS REPEALED, EFFECTIVE JULY 1,
16 2026.

17 (5) **Powers and duties - building decarbonization fee.** (a) IN
18 ADDITION TO ANY OTHER POWERS AND DUTIES SPECIFIED IN THIS SECTION,
19 THE BOARD HAS THE FOLLOWING POWERS AND DUTIES ON BEHALF OF THE
20 ENTERPRISE:

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

23 (II) TO ENGAGE THE SERVICES OF CONTRACTORS, CONSULTANTS,
24 THE DIVISION OF ADMINISTRATION DESCRIBED IN SECTION 25-1-102 (2)(a),
25 AND THE STAFF OF THE OFFICE FOR PROFESSIONAL AND TECHNICAL
26 ASSISTANCE AND ADVICE AND TO SUPPLY OTHER SERVICES RELATED TO
27 THE CONDUCT OF THE AFFAIRS OF THE ENTERPRISE WITHOUT REGARD TO

1 THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24. THE
2 ENTERPRISE SHALL ENGAGE THE ATTORNEY GENERAL'S OFFICE FOR LEGAL
3 SERVICES. THE ENTERPRISE MAY CONTRACT WITH THE OFFICE FOR THE
4 PROVISION OF OFFICE SPACE AND ADMINISTRATIVE STAFF TO THE
5 ENTERPRISE AT A FAIR MARKET RATE.

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

15 (IV) TO IMPOSE THE BUILDING DECARBONIZATION FEE DESCRIBED
16 IN SUBSECTION (5)(b) OF THIS SECTION; AND

17 (V) TO HAVE AND EXERCISE ALL RIGHTS AND POWERS NECESSARY
18 OR INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS AND DUTIES
19 GRANTED BY THIS SECTION.

20 (b) (I) BEGINNING IN STATE FISCAL YEAR 2026-27 AND IN
21 FURTHERANCE OF THE ENTERPRISE'S BUSINESS PURPOSES, THE BOARD
22 SHALL ADOPT RULES FOR THE PURPOSE OF SETTING THE AMOUNT OF THE
23 BUILDING DECARBONIZATION FEE AT THE MAXIMUM AMOUNT AUTHORIZED
24 IN THIS SECTION TO BE IMPOSED UPON ALL COVERED BUILDING OWNERS;
25 EXCEPT THAT THE FEE SHALL NOT BE IMPOSED ON THE OWNER OF A PUBLIC
26 BUILDING, AS DEFINED IN SECTION 25-7-142 (2)(t).

27 (II) ON OR BEFORE NOVEMBER 1, 2025, AND ON OR BEFORE EACH

1 NOVEMBER 1 OF EACH YEAR THEREAFTER, AND EXCEPT AS PROVIDED IN
2 SUBSECTION (5)(b)(III) OF THIS SECTION, EACH OWNER OF A COVERED
3 BUILDING SHALL PAY A BUILDING DECARBONIZATION FEE IN AN AMOUNT
4 OF FOUR HUNDRED DOLLARS TO THE OFFICE, WHICH SHALL COLLECT THE
5 BUILDING DECARBONIZATION FEE ON BEHALF OF THE ENTERPRISE.

6 (III) BEGINNING IN STATE FISCAL YEAR 2027-28, THE BOARD MAY
7 INCREASE THE BUILDING DECARBONIZATION FEE FROM THE PREVIOUS
8 YEAR'S BUILDING DECARBONIZATION FEE, AS ADJUSTED FOR INFLATION
9 AND, ON OR BEFORE MARCH 15 OF EACH OF THE STATE FISCAL YEARS
10 THEREAFTER, SHALL NOTIFY THE OFFICE OF THE ADJUSTED AMOUNT OF
11 THE BUILDING DECARBONIZATION FEE, IF THE BUILDING DECARBONIZATION
12 FEE HAS BEEN ADJUSTED, ON OR BEFORE APRIL 15 OF EACH OF THE STATE
13 FISCAL YEARS THEREAFTER, THE ENTERPRISE SHALL PUBLISH THE UPDATED
14 AMOUNT OF THE FEE ON THE ENTERPRISE'S WEBSITE.

15 (IV) MONEY COLLECTED AS A BUILDING DECARBONIZATION FEE
16 SHALL BE CREDITED TO THE BUILDING DECARBONIZATION ENTERPRISE
17 CASH FUND.

18 (V) MONEY COLLECTED BY THE OFFICE FOR TRANSFER TO THE
19 BUILDING DECARBONIZATION FUND PURSUANT TO SUBSECTION (5)(b)(IV)
20 OF THIS SECTION:

21 (A) IS COLLECTED FOR THE ENTERPRISE;

22 (B) IS CUSTODIAL MONEY INTENDED FOR THE ENTERPRISE AND
23 HELD TEMPORARILY BY THE OFFICE AND THE STATE TREASURER SOLELY
24 FOR THE PURPOSE OF TRANSFERRING THE MONEY TO THE BUILDING
25 DECARBONIZATION FUND FOR USE BY THE ENTERPRISE; AND

26 (C) BASED ON THE ENTERPRISE'S STATUS AS AN ENTERPRISE, IS
27 NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION

1 AT ANY TIME DURING THE MONEY'S COLLECTION, TRANSFER, AND USE.

2 (6) **Building decarbonization enterprise cash fund - creation**

3 **- repeal.** (a) THE BUILDING DECARBONIZATION ENTERPRISE CASH FUND
4 IS CREATED IN THE STATE TREASURY. THE BUILDING DECARBONIZATION
5 FUND CONSISTS OF:

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

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

10 (III) ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY
11 APPROPRIATE OR TRANSFER TO THE BUILDING DECARBONIZATION FUND.

12 (b) (I) SECTION 24-77-108 DOES NOT APPLY TO THE ENTERPRISE
13 BECAUSE THE TOTAL AMOUNT OF MONEY CREDITED OR APPROPRIATED TO
14 THE BUILDING DECARBONIZATION FUND AS A BUILDING DECARBONIZATION
15 FEE SHALL NOT EXCEED ONE HUNDRED MILLION DOLLARS IN THE FIRST
16 FIVE FISCAL YEARS OF THE ENTERPRISE'S EXISTENCE.

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

18 (c) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
19 ASSEMBLY, THE ENTERPRISE MAY EXPEND MONEY FROM THE BUILDING
20 DECARBONIZATION FUND FOR THE PURPOSES SET FORTH IN THIS SECTION
21 AND TO PAY THE ENTERPRISE'S REASONABLE AND NECESSARY OPERATING
22 EXPENSES. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
23 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
24 BUILDING DECARBONIZATION FUND TO THE BUILDING DECARBONIZATION
25 FUND.

26 (d) ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING
27 IN THE BUILDING DECARBONIZATION FUND AT THE END OF A FISCAL YEAR

1 REMAINS IN THE BUILDING DECARBONIZATION FUND AND IS NOT CREDITED
2 OR TRANSFERRED TO THE GENERAL FUND.

3 **(7) Legislative review of building decarbonization enterprise.**

4 ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE ENTERPRISE SHALL
5 SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY DETAILING THE
6 ENTERPRISE'S EXPENDITURES AND PROGRAM OUTCOMES FROM THE
7 PRECEDING YEAR AND THE ENTERPRISE'S FINANCIAL PROJECTIONS FOR THE
8 FOLLOWING YEAR.

9 **SECTION 5.** In Colorado Revised Statutes, 25-7-122, **amend**
10 **(1)(i)** as follows:

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

16 (i) (I) On and after ~~January 1, 2024~~ JULY 1, 2025, and except
17 as provided in subsection (1)(i)(II) of this section, an owner of a covered
18 building that violates section 25-7-142 ~~(3) or (6)~~ OR RULES ADOPTED BY
19 THE COMMISSION TO IMPLEMENT SECTION 25-7-142 is subject to a civil
20 penalty of:

21 (A) Up to ~~five hundred~~ TWO THOUSAND THREE HUNDRED dollars
22 FOR EVERY THIRTY DAYS THAT THE OWNER IS IN VIOLATION for a first
23 violation, ~~and up to two thousand dollars for each subsequent violation.~~
24 ~~As part of the requirement that the commission adopt rules to establish~~
25 ~~performance standards pursuant to section 25-7-142 (8)(c), the~~
26 ~~commission shall establish by rule, with regard to a violation of the~~
27 ~~performance standards, civil penalties in an amount not to exceed two~~

1 ~~thousand dollars for a first violation and five thousand dollars for a~~
2 ~~subsequent violation.~~ WHICH AMOUNT THE COMMISSION SHALL, BY RULE,
3 ANNUALLY ADJUST BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE
4 UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS
5 CONSUMER PRICE INDEX, OR A SUCCESSOR INDEX, FOR
6 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID FOR BY URBAN
7 CONSUMERS; AND

8 (B) FOR EACH SUBSEQUENT VIOLATION, UP TO FIVE THOUSAND
9 EIGHT HUNDRED DOLLARS FOR EVERY THIRTY DAYS THAT THE OWNER IS
10 IN VIOLATION, WHICH AMOUNT THE COMMISSION MAY, BY RULE,
11 ANNUALLY ADJUST IN ACCORDANCE WITH SUBSECTION (1)(i)(I)(A) OF THIS
12 SECTION.

13 (II) The division shall not assess a civil penalty for a violation
14 related to a public building.

15 (II.5) NOTWITHSTANDING RULES THAT THE COMMISSION ADOPTED
16 BEFORE JULY 1, 2025, A CIVIL PENALTY FOR A VIOLATION OF SECTION
17 25-7-142 OR RULES ADOPTED BY THE COMMISSION TO IMPLEMENT SECTION
18 25-7-142 SHALL BE DETERMINED IN A MANNER CONSISTENT WITH THIS
19 SUBSECTION (1)(i) AND SUBSECTION (2) OF THIS SECTION.

20 (III) Notwithstanding section 25-7-129, ~~the division shall transmit~~
21 ~~civil penalties collected pursuant to this subsection (1)(i) to the state~~
22 ~~treasurer, who~~ THIS SUBSECTION (1)(i), AS PAID BY OWNERS OF COVERED
23 BUILDINGS FOR A VIOLATION OF SECTION 25-7-142 OR RULES ADOPTED BY
24 THE COMMISSION TO IMPLEMENT SECTION 25-7-142, shall ~~credit them~~ BE
25 CREDITED to the climate change mitigation and adaptation fund created
26 in section 24-38.5-102.6.

27 ~~(IV) As used in this subsection (1)(i):~~

1 ~~(A) "Covered building" has the meaning set forth in section~~
2 ~~25-7-142 (2)(j).~~

3 ~~(B) "Owner" has the meaning set forth in section 25-7-142 (2)(r).~~

4 **SECTION 6.** In Colorado Revised Statutes, 24-38.5-403, **add** (4)
5 as follows:

6 **24-38.5-403. Energy code training - energy code adoption -**
7 **grant writing assistance.** (4) NOTWITHSTANDING SUBSECTION (3) OF
8 THIS SECTION, THE COLORADO ENERGY OFFICE MAY USE FUNDING
9 PROVIDED THROUGH SUBSECTION (3) OF THIS SECTION TO **COVER THE**
10 **COSTS OF THE FOLLOWING:**

11 (a) **THE ENERGY CODE BOARD CONVENED PURSUANT TO SECTION**
12 **24-38.5-401 (2);**

13 (b) **THE TASK FORCE CREATED IN SECTION 25-7-142 (8.5); AND**

14 (c) **THE** COSTS TO THE COLORADO ENERGY OFFICE FOR
15 PARTICIPATING IN RULE-MAKING THAT THE AIR QUALITY CONTROL
16 COMMISSION ENGAGES IN PURSUANT TO SECTION 25-7-142.

17 **SECTION 7.** In Colorado Revised Statutes, 24-38.5-102.6,
18 **amend** (1) introductory portion and (1)(a) as follows:

19 **24-38.5-102.6. Climate change mitigation and adaptation fund**
20 **- creation - use.** (1) The climate change mitigation and adaptation fund,
21 referred to in this section as the "fund", is ~~hereby~~ created in the state
22 treasury. The fund consists of:

23 (a) **Civil penalties ASSESSED PURSUANT TO SECTION 25-7-122**
24 **(1)(b) AND credited to the fund pursuant to section 25-7-122 (1)(i)(III);**

25 **SECTION 8.** In Colorado Revised Statutes, 24-38.5-112, **amend**
26 **(1)(a)(III) and (1)(a)(IV); and add (1)(a)(V) as follows:**

27 **24-38.5-112. Building performance program - duties of the**

1 **office - county assessor records database - fees - definitions.** (1) The
2 Colorado energy office shall implement a building performance program
3 as follows:

4 (a) Based on county assessor records and other available sources
5 of information, the office shall administer the building performance
6 program by:

7 (III) Maintaining a list of noncompliant owners; ~~and~~

8 (IV) In a form and manner determined by the office, in
9 consultation with the division of administration in the department of
10 public health and environment, periodically providing the division with
11 a list of noncompliant owners for the division's enforcement of the
12 building performance program pursuant to ~~section 25-7-122 (1)(i)~~
13 SECTIONS 25-7-115, 25-7-121, AND 25-7-122 (1)(b) AND (1)(i).

14 **SECTION 9. Appropriation.** (1) For the 2025-26 state fiscal
15 year, \$1,992,000 is appropriated to the office of the governor for use by
16 the Colorado energy office. This appropriation is from the building
17 decarbonization enterprise cash fund created in section 25-7-142.5 (6)(a),
18 C.R.S. To implement this act, the office may use this appropriation for the
19 building decarbonization enterprise.

20 **SECTION 10. Effective date - applicability.** (1) This act takes
21 effect upon passage; except that section 4 of this act takes effect only if
22 House Bill 25-1268 does not become law.

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

25 **SECTION 11. Safety clause.** The general assembly finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, or safety or for appropriations for

- 1 the support and maintenance of the departments of the state and state
- 2 institutions.