

**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.**

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:

- A requirement to meet 2040 performance standards, as adopted by the air quality control commission, in

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.

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.

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

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

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

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

31-15-602. Energy efficient building codes - legislative

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

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

10 **25-7-142. Energy benchmarking - data collection and access**
11 **- utility requirements - task force - rules - reports - definitions -**
12 **legislative declaration - repeal.** (1.5) THE GENERAL ASSEMBLY FURTHER
13 FINDS AND DECLARES THAT:

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

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

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

25 (d) IN IMPLEMENTING THE REQUIREMENTS OF THIS SECTION AND
26 THE COMMISSION'S RULES ADOPTED PURSUANT TO THIS SECTION, THE
27 DIVISION SHOULD, CONSISTENT WITH SECTION 25-7-122 (2), CONSIDER AN

1 OWNER'S EFFORT TO COMPLY WITH BUILDING PERFORMANCE STANDARDS
2 WHEN IMPLEMENTING ENFORCEMENT AND ASSESSING PENALTIES
3 PURSUANT TO SECTION 25-7-122 AND THIS SECTION.

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

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

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

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

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

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

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

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

1 1 OF EACH YEAR, SUBMIT TO THE OFFICE A REPORT OF THE BENCHMARKING
2 DATA FOR THE COVERED BUILDING FOR THE PREVIOUS CALENDAR YEAR.

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

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

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

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

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

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

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

25 (f) Subsections (8)(a), (8)(b), **(8)(c)(I), (8)(c)(II)**, (8)(d), and
26 (8)(e) of this section and this subsection (8)(f) are repealed, effective July
27 1, 2025.

1 **(8.5) 2040 performance standard targets - division to propose**
2 **standards - commission to adopt rules - task force - membership -**
3 **repeal. (a) (I) TO HELP ACHIEVE OR EXCEED GREENHOUSE GAS EMISSION**

4 REDUCTION TARGETS PURSUANT TO SUBSECTION (8)(c)(IV) OF THIS
5 SECTION, THE COMMISSION SHALL ADOPT, BY RULE, 2040 PERFORMANCE
6 STANDARDS IN ACCORDANCE WITH SECTION 25-7-102 (2)(g).

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

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

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

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

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

27 (II) THE RULES ADOPTED PURSUANT TO THIS SUBSECTION (8.5)

1 MUST INCLUDE A REQUIREMENT THAT AN OWNER OF A COVERED BUILDING
2 SUBMIT WITH ITS BENCHMARKING REPORT SUBMITTED IN 2035 AN INTERIM
3 STATUS REPORT REGARDING THE OWNER'S PROGRESS TOWARD THE 2040
4 PERFORMANCE STANDARDS AND SUBMITTED IN A FORMAT DETERMINED BY
5 THE OFFICE.

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

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

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

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

25 (d) THE TASK FORCE CONSISTS OF THE FOLLOWING MEMBERS, ALL
26 OF WHOM, EXCEPT THE REPRESENTATIVES OF THE OFFICE, THE PUBLIC
27 UTILITIES COMMISSION, AND THE DIVISION, ARE VOTING MEMBERS:

- 1 (I) THE DIRECTOR OF THE OFFICE OR THE DIRECTOR'S DESIGNEE;
- 2 (II) THE DIRECTOR OF THE DIVISION OR THE DIRECTOR'S DESIGNEE;
- 3 (III) THE DIRECTOR OF THE PUBLIC UTILITIES COMMISSION OR THE
- 4 DIRECTOR'S DESIGNEE;
- 5 (IV) ONE MEMBER WHO IS AN OWNER OF COMMERCIAL COVERED
- 6 BUILDINGS OR WHO REPRESENTS OWNERS OF COMMERCIAL COVERED
- 7 BUILDINGS;
- 8 (V) ONE MEMBER WHO IS AN OWNER OF A MULTIFAMILY
- 9 RESIDENTIAL COVERED BUILDING OR WHO REPRESENTS OWNERS OF
- 10 MULTIFAMILY RESIDENTIAL COVERED BUILDINGS;
- 11 (VI) ONE MEMBER WHO REPRESENTS AN AFFORDABLE HOUSING
- 12 ORGANIZATION;
- 13 (VII) ONE MEMBER WHO HAS DIRECT EXPERIENCE IN, OR IS A
- 14 MEMBER OF AN ORGANIZATION REPRESENTING WORKERS IN, MECHANICAL,
- 15 HVAC, OR ELECTRICAL WORK AT THE COMMERCIAL OR MULTIFAMILY
- 16 BUILDING LEVEL;
- 17 (VIII) ONE MEMBER WHO REPRESENTS ARCHITECTS;
- 18 (IX) ONE MEMBER WHO REPRESENTS PROFESSIONAL ENGINEERS
- 19 AND WHO HAS EXPERIENCE WORKING ON SYSTEMS FOR BUILDINGS;
- 20 (X) ONE MEMBER WHO HAS EXTENSIVE EXPERIENCE AS A BUILDING
- 21 OPERATING ENGINEER;
- 22 (XI) ONE MEMBER WHO REPRESENTS AN ELECTRIC UTILITY, A GAS
- 23 UTILITY, OR A COMBINED ELECTRIC AND GAS UTILITY;
- 24 (XII) ONE MEMBER WHO IS FROM AN ENVIRONMENTAL
- 25 CONSERVATION OR ENVIRONMENTAL JUSTICE GROUP WITH EXPERIENCE IN
- 26 ENERGY EFFICIENCY OR THE BUILT ENVIRONMENT;
- 27 (XIII) ONE MEMBER WHO IS FROM A LOCAL GOVERNMENT THAT

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

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

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

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

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

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

20 (8.6) NOTWITHSTANDING ANY RULES THAT THE COMMISSION
21 ADOPTS PURSUANT TO THIS SECTION BEFORE JULY 1, 2025:

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

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

26 (B) IN 2026, ACHIEVING AND MAINTAINING A STANDARD PERCENT
27 REDUCTION OF AT LEAST THIRTEEN PERCENT IN COMPARISON TO THE

1 COVERED BUILDING'S 2019 BENCHMARKED BASELINE
2 WEATHER-NORMALIZED SITE ENERGY USE INTENSITY; AND

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

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

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

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

27 (III) A LOCAL JURISDICTION THAT HAS ADOPTED AND

1 IMPLEMENTED A BUILDING PERFORMANCE STANDARDS PROGRAM MAY
2 ISSUE A CERTIFICATION OR REPORT TO THE OFFICE CONFIRMING WHICH
3 COVERED BUILDINGS ARE IN COMPLIANCE WITH THE PROGRAM; AND

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

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

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

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

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

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

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

26 (A) THAT COMPLY WITH OR ESTABLISH PLANS TO GO BEYOND THE
27 2026 PERFORMANCE STANDARDS; OR

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

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

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

14 (8.8) ENERGY USE THAT A COVERED BUILDING OWNER
15 DEMONSTRATES IS ATTRIBUTABLE TO ELECTRIC VEHICLE CHARGING SHALL
16 NOT BE INCLUDED IN A COVERED BUILDING'S TOTAL ENERGY USAGE FOR
17 PURPOSES OF COMPLIANCE WITH BUILDING PERFORMANCE STANDARDS.

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

20 24-38.5-123. Building decarbonization enterprise - creation
21 - membership - powers and duties - building decarbonization
22 enterprise cash fund - legislative declaration - definitions - rules -
23 report - repeal. (1) Legislative declaration. (a) THE GENERAL

24 ASSEMBLY FINDS THAT:

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

27 (A) IS NECESSARY TO HELP THE STATE ACHIEVE ITS STATEWIDE

1 GREENHOUSE GAS EMISSION REDUCTION GOALS SET FORTH IN SECTION
2 25-7-102 (2)(g), INCLUDING THE GOAL TO REACH NET-ZERO GREENHOUSE
3 GAS EMISSIONS BY 2050; AND

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

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

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

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

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

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

26 (I) IT IS IN THE PUBLIC INTEREST TO CREATE AN ENTERPRISE
27 WITHIN THE OFFICE THAT IS COMMITTED TO FINANCING AND PROVIDING

1 TECHNICAL AND OTHER SUPPORT FOR THE IMPLEMENTATION OF BUILDING
2 DECARBONIZATION MEASURES;

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

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

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

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

18 (B) IMPROVE BUILDING COMFORT; AND

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

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

1 DECARBONIZATION FEE IS:

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

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

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

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

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

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

26 (c) "BUILDING DECARBONIZATION ENTERPRISE CASH FUND" OR
27 "BUILDING DECARBONIZATION FUND" MEANS THE BUILDING

1 DECARBONIZATION ENTERPRISE CASH FUND CREATED IN SUBSECTION
2 (6)(a) OF THIS SECTION.

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

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



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

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

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

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

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

26 (k) "PERFORMANCE STANDARDS" HAS THE MEANING SET FORTH IN
27 SECTION 25-7-142 (2)(s).

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

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

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

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

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

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

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

(c) (I) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR

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

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

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

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

26 (4) **Enterprise board of directors created - membership -**
27 **duties - repeal.** (a) THE ENTERPRISE BOARD OF DIRECTORS IS CREATED TO

1 ADMINISTER THE ENTERPRISE. THE BOARD CONSISTS OF THE FOLLOWING
2 NINE MEMBERS:

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

5 (A) A REPRESENTATIVE OF RESIDENTIAL BUILDINGS;

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

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

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

12 (E) A UTILITY REPRESENTATIVE;

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

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

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

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

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

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

26 (II) NOTWITHSTANDING SUBSECTION (4)(c)(I) OF THIS SECTION,
27 THE GOVERNOR SHALL MAKE THE INITIAL TERMS OF TWO OF THE BOARD

1 MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION (4)(a)(I) OF
2 THIS SECTION TWO YEARS.

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

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

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

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

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

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

22 (II) TO ENGAGE THE SERVICES OF CONTRACTORS, CONSULTANTS,
23 THE DIVISION OF ADMINISTRATION DESCRIBED IN SECTION 25-1-102 (2)(a),
24 AND THE STAFF OF THE OFFICE FOR PROFESSIONAL AND TECHNICAL
25 ASSISTANCE AND ADVICE AND TO SUPPLY OTHER SERVICES RELATED TO
26 THE CONDUCT OF THE AFFAIRS OF THE ENTERPRISE WITHOUT REGARD TO
27 THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24. THE

1 ENTERPRISE SHALL ENGAGE THE ATTORNEY GENERAL'S OFFICE FOR LEGAL
2 SERVICES. THE ENTERPRISE MAY CONTRACT WITH THE OFFICE FOR THE
3 PROVISION OF OFFICE SPACE AND ADMINISTRATIVE STAFF TO THE
4 ENTERPRISE AT A FAIR MARKET RATE.

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

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

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

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

26 (II) ON OR BEFORE NOVEMBER 1, 2025, AND ON OR BEFORE EACH
27 NOVEMBER 1 OF EACH YEAR THEREAFTER, AND EXCEPT AS PROVIDED IN

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

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

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

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

20 (A) IS COLLECTED FOR THE ENTERPRISE;

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

25 (C) BASED ON THE ENTERPRISE'S STATUS AS AN ENTERPRISE, IS
26 NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION
27 AT ANY TIME DURING THE MONEY'S COLLECTION, TRANSFER, AND USE.

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

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

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

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

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

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

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

17 (c) MONEY CREDITED TO THE BUILDING DECARBONIZATION FUND
18 IS CONTINUOUSLY APPROPRIATED TO THE ENTERPRISE FOR THE PURPOSES
19 SET FORTH IN THIS SECTION AND TO PAY THE ENTERPRISE'S REASONABLE
20 AND NECESSARY OPERATING EXPENSES. THE STATE TREASURER SHALL
21 CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND
22 INVESTMENT OF MONEY IN THE BUILDING DECARBONIZATION FUND TO THE
23 BUILDING DECARBONIZATION FUND.

24 (d) ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING
25 IN THE BUILDING DECARBONIZATION FUND AT THE END OF A FISCAL YEAR
26 REMAINS IN THE BUILDING DECARBONIZATION FUND AND IS NOT CREDITED
27 OR TRANSFERRED TO THE GENERAL FUND.

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

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

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

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

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

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

1 ANNUALLY ADJUST BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE
2 UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS
3 CONSUMER PRICE INDEX, OR A SUCCESSOR INDEX, FOR
4 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID FOR BY URBAN
5 CONSUMERS; AND

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

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

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

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

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

26 ~~(A) "Covered building" has the meaning set forth in section~~
27 ~~25-7-142 (2)(j).~~

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

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

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

9 (a) **THE ENERGY CODE BOARD CONVENED PURSUANT TO SECTION**
10 **24-38.5-401 (2);**

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

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

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

17 **24-38.5-102.6. Climate change mitigation and adaptation fund**
18 **- creation - use.** (1) The climate change mitigation and adaptation fund,
19 referred to in this section as the "fund", is ~~hereby~~ created in the state
20 treasury. The fund consists of:

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

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

25 **24-38.5-112. Building performance program - duties of the**
26 **office - county assessor records database - fees - definitions.** (1) The
27 Colorado energy office shall implement a building performance program

1 as follows:

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

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

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

12 **SECTION 9. Effective date - applicability.** (1) This act takes
13 effect upon passage; except that section 4 of this act takes effect only if
14 House Bill 25-1268 does not become law.

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

17 **SECTION 10. Safety clause.** The general assembly finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, or safety or for appropriations for
20 the support and maintenance of the departments of the state and state
21 institutions.