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HOUSE BILL 25-1269

BY REPRESENTATIVE(S) Willford and Valdez, Bacon, Boesenecker, Brown, Clifford, Froelich, Joseph, Lindstedt, Mabrey, McCormick, Phillips, Ricks, Rutinel, Story, Woodrow, Duran, Jackson, Smith, Velasco, McCluskie;

also SENATOR(S) Ball and Kipp, Amabile, Bridges, Cutter, Jodeh, Michaelson Jenet, Wallace, Weissman, Winter F.

CONCERNING BUILDING DECARBONIZATION MEASURES, AND, IN CONNECTION THEREWITH, CREATING A BUILDING DECARBONIZATION ENTERPRISE AND MAKING AN APPROPRIATION.

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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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 declaration - definitions - repeal. (3.5) (f) NOTWITHSTANDING THE REQUIREMENTS SET FORTH IN SUBSECTIONS (3.5)(a) AND (3.5)(b) OF THIS SECTION, A GOVERNING BODY OF A MUNICIPALITY 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 3. In Colorado Revised Statutes, 25-7-142, **amend** (2)(s), (3), (8)(c)(III), and (8)(f); and **add** (1.5), (2)(q.5), (8.5), (8.6), (8.7), and (8.8) as follows:

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

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

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

(c) THE COMMISSION SATISFIED THE OBJECTIVES SET FORTH IN SUBSECTIONS (8)(a)(II) AND (8)(c)(II) OF THIS SECTION BY ADOPTING BENCHMARKING AND PERFORMANCE STANDARD RULES IN AUGUST 2023; AND

(d) IN IMPLEMENTING THE REQUIREMENTS OF THIS SECTION AND THE COMMISSION'S RULES ADOPTED PURSUANT TO THIS SECTION, THE DIVISION SHOULD, CONSISTENT WITH SECTION 25-7-122 (2), CONSIDER AN OWNER'S EFFORT TO COMPLY WITH BUILDING PERFORMANCE STANDARDS WHEN IMPLEMENTING ENFORCEMENT AND ASSESSING PENALTIES PURSUANT TO

SECTION 25-7-122 AND THIS SECTION.

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

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

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

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

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

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

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

(b) NOTWITHSTANDING SUBSECTION (3)(a) OF THIS SECTION, BEGINNING IN 2025 FOR 2024 BENCHMARKING DATA AND FOR EACH SUBSEQUENT YEAR, IF AN OWNER OF A COVERED BUILDING DEMONSTRATES TO THE OFFICE THAT IT LACKS ACCESS TO BENCHMARKING DATA, THE OPERATOR OF THE COVERED BUILDING SHALL, ON OR BEFORE NOVEMBER 1 OF EACH YEAR, SUBMIT TO THE OFFICE A REPORT OF THE BENCHMARKING DATA FOR THE COVERED BUILDING FOR THE PREVIOUS CALENDAR YEAR.

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

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

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

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

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

(8) Task force recommendations for implementation - rules - repeal. (c) (III) The commission shall not adopt rules to rescind or modify the exemptions for owners of public buildings from payment of the annual fee, as set forth in section 24-38.5-112 (1)(e)(II); FROM PAYMENT OF THE BUILDING DECARBONIZATION FEE, AS SET FORTH IN SECTION 24-38.5-125 (5)(b); or from payment of civil penalties, as set forth in section 25-7-122 (1)(i).

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

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

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

(b) THE DIVISION, IN PROPOSING 2040 PERFORMANCE STANDARDS, AND THE COMMISSION, IN ADOPTING 2040 PERFORMANCE STANDARDS, SHALL CONSIDER WHETHER TARGETS THAT ARE INCLUDED IN THE 2040 PERFORMANCE STANDARDS TO REDUCE EMISSIONS FROM COVERED

BUILDINGS ARE CONSISTENT WITH MEETING THE ECONOMY-WIDE EMISSION REDUCTION GOALS SET FORTH IN SECTION 25-7-102 (2)(g), TAKING INTO CONSIDERATION:

(I) THE CAPITAL PLANNING PERIODS FOR COVERED BUILDINGS;

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

(III) THAT ALL RULES THAT THE COMMISSION ADOPTS MUST BE TECHNOLOGICALLY FEASIBLE AND ECONOMICALLY REASONABLE PURSUANT TO THE REQUIREMENTS SET FORTH IN SECTION 25-7-102 (1).

(c) (I) ON OR BEFORE JULY 1, 2027, THE DIRECTOR OF THE OFFICE SHALL APPOINT AND CONVENE A TASK FORCE. THE TASK FORCE SHALL REVIEW THE BENCHMARKING DATA SUBMITTED FOR CALENDAR YEARS 2021 THROUGH 2026 AND, ON OR BEFORE JULY 1, 2028, DEVELOP AND PROVIDE RECOMMENDATIONS TO THE DIVISION REGARDING THE 2040 PERFORMANCE STANDARDS.

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

(A) THE ECONOMY-WIDE EMISSION REDUCTION GOALS SET FORTH IN SECTION 25-7-102 (2)(g);

(B) THE CAPITAL PLANNING PERIODS FOR COVERED BUILDINGS AND THE FEASIBILITY OF AN OWNER PLANNING AND IMPLEMENTING A BUILDING UPGRADE PROJECT AHEAD OF THE COMPLIANCE DATE;

(C) WHETHER THE BUILDING PERFORMANCE PROGRAM SHOULD ALLOW A COVERED BUILDING OWNER TO MEET PERFORMANCE TARGETS THROUGH THE IMPLEMENTATION OF ENERGY EFFICIENCY IMPROVEMENTS OR OTHER ELIGIBLE MEASURES;

(D) IMPROVEMENTS THAT MATERIALLY ADVANCE COMPLIANCE WITH THE PERFORMANCE STANDARD AND AVOID PREMATURE REPLACEMENT OF EQUIPMENT THAT REMAINS WITHIN ITS USEFUL SERVICE LIFE;

(E) THE ESTABLISHMENT OF INDIVIDUALIZED COMPLIANCE PATHWAYS, INCLUDING THE ABILITY OF THE OFFICE TO ENTER INTO AGREEMENTS WITH COVERED BUILDING OWNERS TO DEFINE ALTERNATIVE COMPLIANCE METRICS AND SCHEDULES THAT ARE CONSISTENT WITH OPERATIONAL NECESSITY AND THAT AVOID UNNECESSARY FINANCIAL BURDENS; AND

(F) ELEMENTS FROM PRIOR RULES REGARDING BUILDING PERFORMANCE STANDARDS, WHICH RULES MAY REQUIRE REVISION. THE TASK FORCE SHALL MAKE RECOMMENDATIONS REGARDING ANY RULE REVISIONS THAT IT BELIEVES ARE NECESSARY.

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

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

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

(III) THE DIRECTOR OF THE PUBLIC UTILITIES COMMISSION OR THE DIRECTOR'S DESIGNEE;

(IV) ONE MEMBER WHO IS AN OWNER OF COMMERCIAL COVERED BUILDINGS OR WHO REPRESENTS OWNERS OF COMMERCIAL COVERED BUILDINGS;

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

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

(VII) ONE MEMBER WHO HAS DIRECT EXPERIENCE IN, OR IS A MEMBER OF AN ORGANIZATION REPRESENTING WORKERS IN, MECHANICAL, HVAC, OR ELECTRICAL WORK AT THE COMMERCIAL OR MULTIFAMILY BUILDING LEVEL;

(VIII) ONE MEMBER WHO REPRESENTS ARCHITECTS;

(IX) ONE MEMBER WHO REPRESENTS PROFESSIONAL ENGINEERS AND WHO HAS EXPERIENCE WORKING ON SYSTEMS FOR BUILDINGS;

(X) ONE MEMBER WHO HAS EXTENSIVE EXPERIENCE AS A BUILDING OPERATING ENGINEER;

(XI) ONE MEMBER WHO REPRESENTS AN ELECTRIC UTILITY, A GAS UTILITY, OR A COMBINED ELECTRIC AND GAS UTILITY;

(XII) ONE MEMBER WHO IS FROM AN ENVIRONMENTAL CONSERVATION OR ENVIRONMENTAL JUSTICE GROUP WITH EXPERIENCE IN ENERGY EFFICIENCY OR THE BUILT ENVIRONMENT;

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

(XIV) THREE MEMBERS WHO HAVE RELEVANT BUILDING PERFORMANCE EXPERTISE, AS DETERMINED BY THE DIRECTOR OF THE OFFICE;

(XV) ONE MEMBER REPRESENTING HOSPITALS OR OTHER HEALTH-CARE FACILITIES; AND

(XVI) ONE MEMBER WHO IS A REPRESENTATIVE OF A MIXED-USE COMMERCIAL OFFICE.

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

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

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

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

(a) (I) AN OWNER OF A COVERED BUILDING THAT MEETS ITS PERFORMANCE STANDARDS USING THE STANDARD PERCENTAGE REDUCTION BUILDING PERFORMANCE PATHWAY, AS ESTABLISHED BY RULE OF THE COMMISSION, MAY USE 2019 BENCHMARKING DATA AS AN ALTERNATE BASELINE IF THE OWNER SUBMITS COMPLETE AND ACCURATE 2019 BENCHMARKING DATA TO THE OFFICE NO LATER THAN NOVEMBER 1, 2027;

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

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

(B) THE OFFICE HAS DETERMINED THAT THE GREENHOUSE GAS EMISSION REDUCTIONS FROM COVERED BUILDINGS COMPLYING WITH THE LOCAL PROGRAM ARE REASONABLY SIMILAR TO THE GREENHOUSE GAS EMISSION REDUCTIONS THAT WOULD HAVE BEEN ACHIEVED THROUGH COMPLIANCE WITH PERFORMANCE STANDARDS ESTABLISHED UNDER THIS SECTION;

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

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

(b) (I) NOTWITHSTANDING SUBSECTION (8.6)(a) OF THIS SECTION AND ANY RULES ADOPTED BY THE COMMISSION BEFORE JULY 1, 2025, AN OWNER MAY EITHER COMPLY WITH THE 2026 PERFORMANCE STANDARDS OR TRACK ITS PROGRESS TOWARD COMPLIANCE BY SUBMITTING BENCHMARKING REPORTS IN ACCORDANCE WITH SUBSECTIONS (3) AND (8.6)(b)(II) OF THIS SECTION.

(II) BEGINNING WITH THE 2025 BENCHMARKING REPORTS SUBMITTED IN 2026, AND EACH YEAR THEREAFTER, A COVERED BUILDING OWNER OR OPERATOR SHALL, AS PART OF ITS BENCHMARKING REPORTS SUBMITTED TO THE OFFICE:

(A) RESPOND TO ANY STANDARD PROGRESS-RELATED QUESTIONS INCLUDED IN THE BENCHMARKING FORM TO HELP ASSESS WHETHER THE BUILDING IS ON A PATH TOWARD FUTURE COMPLIANCE;

(B) INDICATE WHETHER TECHNICAL ASSISTANCE OR GUIDANCE FROM THE OFFICE WOULD BE HELPFUL; AND

(C) PROVIDE ANY ADDITIONAL NONPROPRIETARY INFORMATION REQUESTED BY THE OFFICE THAT IS RELEVANT TO UNDERSTANDING IMPLEMENTATION TRENDS OR COMMON BARRIERS TO COMPLIANCE.

(III) THE REPORTS REQUIRED UNDER SUBSECTION (8.6)(b)(II) OF THIS SECTION MUST INCLUDE ONLY ANSWERS TO THE QUESTIONS THAT ARE MINIMALLY NECESSARY TO ASSESS THE COVERED BUILDING OWNER'S PROGRESS TOWARD THE PERFORMANCE STANDARD TARGETS.

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

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

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

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

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

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

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

(b) A COVERED BUILDING OWNER MAY, AFTER CONSULTATION WITH THE OFFICE, REQUEST DOCUMENTATION DEMONSTRATING THAT:

(I) THE COVERED BUILDING IS IN CURRENT COMPLIANCE WITH THE COMMISSION'S RULES ADOPTED IN ACCORDANCE WITH THIS SECTION; AND

(II) THE COVERED BUILDING IS ON A PATH TOWARD MEETING UPCOMING COMPLIANCE OBLIGATIONS, BASED ON THE PERFORMANCE STANDARDS, CONDITIONS, AND BUILDING-SPECIFIC PLANS THAT ARE IN EFFECT AT THE TIME OF THE COVERED BUILDING OWNER'S REQUEST.

(c) CONSISTENT WITH RULES ADOPTED BY THE COMMISSION, THE OFFICE SHALL DEVELOP GUIDANCE CONCERNING INDIVIDUALIZED TARGET AND COMPLIANCE GUIDELINES FOR COVERED BUILDING OWNERS THAT DEMONSTRATE A SIGNIFICANT INCREASE IN ENERGY USE DUE TO THE EXPANSION OF A DATA CENTER OR TELECOMMUNICATIONS OPERATION. A COVERED BUILDING OWNER'S INDIVIDUALIZED ENERGY EFFICIENCY TARGET CAN REFLECT INCREASED ELECTRICITY CONSUMPTION OVER TIME FROM A DATA CENTER OR TELECOMMUNICATIONS OPERATION IF ALL COST-EFFECTIVE ENERGY EFFICIENCY AND ELECTRIFICATION MEASURES HAVE BEEN

PERFORMED. CONSISTENT WITH RULES ADOPTED BY THE COMMISSION REGARDING TIMELINES AND ADJUSTMENTS FOR BUILDING PERFORMANCE STANDARD TARGETS, INDIVIDUALIZED TARGETS AND COMPLIANCE TIMELINES MAY BE ADJUSTED MULTIPLE TIMES BASED ON THE EVOLVING GROWTH OF ENERGY CONSUMPTION BY THE COVERED BUILDING.

SECTION 4. In Colorado Revised Statutes, **add** 24-38.5-125 as follows:

24-38.5-125. Building decarbonization enterprise - creation - membership - powers and duties - building decarbonization enterprise cash fund - legislative declaration - definitions - rules - report - repeal.

(1) Legislative declaration. (a) THE GENERAL ASSEMBLY FINDS THAT:

(I) REDUCING GREENHOUSE GAS EMISSIONS FROM COMBUSTION DEVICES IN RESIDENTIAL AND COMMERCIAL BUILDINGS IS NECESSARY TO HELP THE STATE ACHIEVE ITS STATEWIDE GREENHOUSE GAS EMISSION REDUCTION GOALS SET FORTH IN SECTION 25-7-102 (2)(g);

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

(III) WITH ADDITIONAL FINANCING AND TECHNICAL ASSISTANCE, COVERED BUILDING OWNERS MAY MORE EFFECTIVELY AND EFFICIENTLY IMPLEMENT BUILDING DECARBONIZATION MEASURES, INCLUDING, BUT NOT LIMITED TO, PROGRAMS THAT PROVIDE ASSISTANCE FOR CONDUCTING BUILDING ENERGY AUDITS, DEVELOPING ANALYSES TO HELP BUILDING OWNERS EVALUATE THE BEST STRATEGIES FOR ACHIEVING FUTURE PERFORMANCE STANDARD TARGETS, EMPLOYING OR CONSULTING WITH BUILDING ENGINEERS, PURCHASING ENERGY USE TRACKING SOFTWARE FOR COVERED BUILDING OWNERS TO MORE EFFECTIVELY TRACK ENERGY USE, AND PROVIDING TRAINING ON SUCH SOFTWARE.

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

(I) IT IS IN THE PUBLIC INTEREST TO CREATE AN ENTERPRISE WITHIN THE OFFICE THAT IS COMMITTED TO FINANCING AND PROVIDING TECHNICAL AND OTHER SUPPORT FOR THE IMPLEMENTATION OF BUILDING

DECARBONIZATION MEASURES;

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

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

(IV) COVERED BUILDING OWNERS BENEFIT FROM THE IMPLEMENTATION OF BUILDING DECARBONIZATION MEASURES BECAUSE SUCH MEASURES CAN REDUCE COVERED BUILDING OWNERS' LONG-TERM COSTS RELATED TO ENERGY USE;

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

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

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

(VI) SO LONG AS THE ENTERPRISE QUALIFIES AS AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, THE REVENUE FROM THE BUILDING DECARBONIZATION FEE IMPOSED, COLLECTED, AND ADMINISTERED BY THE ENTERPRISE IS NOT STATE FISCAL YEAR

SPENDING, AS DEFINED IN SECTION 24-77-102 (17), OR STATE REVENUES, AS DEFINED IN SECTION 24-77-103.6 (6)(c), AND DOES NOT COUNT AGAINST EITHER THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(G).

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

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

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

(c) "BUILDING DECARBONIZATION ENTERPRISE CASH FUND" OR "BUILDING DECARBONIZATION FUND" MEANS THE BUILDING DECARBONIZATION ENTERPRISE CASH FUND CREATED IN SUBSECTION (6)(a) OF THIS SECTION.

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

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

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

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

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

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

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

(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 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND RECEIVES LESS

THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS, AS DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN ENTERPRISE, THE ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

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

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

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

(4) Enterprise board of directors created - membership - duties - repeal. (a) THE ENTERPRISE BOARD OF DIRECTORS IS CREATED TO ADMINISTER THE ENTERPRISE. THE BOARD CONSISTS OF THE FOLLOWING NINE MEMBERS:

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

(A) A REPRESENTATIVE OF RESIDENTIAL BUILDINGS;

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

(C) AN EXPERT IN BUILDING ENERGY EFFICIENCY AND

DECARBONIZATION;

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

(E) A UTILITY REPRESENTATIVE;

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

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

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

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

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

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

(II) NOTWITHSTANDING SUBSECTION (4)(c)(I) OF THIS SECTION, THE GOVERNOR SHALL MAKE THE INITIAL TERMS OF TWO OF THE BOARD MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION (4)(a)(I) OF THIS SECTION TWO YEARS.

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

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

(II) (A) THE DIRECTOR OF THE OFFICE OR THE DIRECTOR'S DESIGNEE SHALL CALL THE FIRST MEETING OF THE BOARD, AND THE BOARD SHALL

SELECT THE CHAIR AND VICE-CHAIR AT THAT MEETING IN ACCORDANCE WITH SUBSECTION (4)(e)(I) OF THIS SECTION.

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

(5) Powers and duties - building decarbonization fee - rules.

(a) IN ADDITION TO ANY OTHER POWERS AND DUTIES SPECIFIED IN THIS SECTION, THE BOARD HAS THE FOLLOWING POWERS AND DUTIES ON BEHALF OF THE ENTERPRISE:

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

(II) TO ENGAGE THE SERVICES OF CONTRACTORS, CONSULTANTS, THE DIVISION OF ADMINISTRATION DESCRIBED IN SECTION 25-1-102 (2)(a), AND THE STAFF OF THE OFFICE FOR PROFESSIONAL AND TECHNICAL ASSISTANCE AND ADVICE AND TO SUPPLY OTHER SERVICES RELATED TO THE CONDUCT OF THE AFFAIRS OF THE ENTERPRISE WITHOUT REGARD TO THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF THIS TITLE 24. THE ENTERPRISE SHALL ENGAGE THE ATTORNEY GENERAL'S OFFICE FOR LEGAL SERVICES. THE ENTERPRISE MAY CONTRACT WITH THE OFFICE FOR THE PROVISION OF OFFICE SPACE AND ADMINISTRATIVE STAFF TO THE ENTERPRISE AT A FAIR MARKET RATE.

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

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

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

(b) (I) BEGINNING IN STATE FISCAL YEAR 2026-27 AND IN FURTHERANCE OF THE ENTERPRISE'S BUSINESS PURPOSES, THE BOARD SHALL ADOPT RULES FOR THE PURPOSE OF SETTING THE AMOUNT OF THE BUILDING DECARBONIZATION FEE AT THE MAXIMUM AMOUNT AUTHORIZED IN THIS SUBSECTION (5) TO BE IMPOSED UPON ALL COVERED BUILDING OWNERS; EXCEPT THAT THE FEE SHALL NOT BE IMPOSED ON THE OWNER OF A PUBLIC BUILDING, AS DEFINED IN SECTION 25-7-142 (2)(t).

(II) ON OR BEFORE NOVEMBER 1, 2025, AND ON OR BEFORE EACH NOVEMBER 1 OF EACH YEAR THEREAFTER, AND EXCEPT AS PROVIDED IN SUBSECTION (5)(b)(III) OF THIS SECTION, EACH OWNER OF A COVERED BUILDING SHALL PAY A BUILDING DECARBONIZATION FEE IN AN AMOUNT OF FOUR HUNDRED DOLLARS TO THE OFFICE, WHICH SHALL COLLECT THE BUILDING DECARBONIZATION FEE ON BEHALF OF THE ENTERPRISE.

(III) BEGINNING IN STATE FISCAL YEAR 2027-28, THE BOARD MAY ONLY INCREASE THE BUILDING DECARBONIZATION FEE FROM THE PREVIOUS YEAR'S BUILDING DECARBONIZATION FEE TO ADJUST FOR INFLATION AND, ON OR BEFORE MARCH 15 OF EACH OF THE STATE FISCAL YEARS THEREAFTER, SHALL NOTIFY THE OFFICE OF THE ADJUSTED AMOUNT OF THE BUILDING DECARBONIZATION FEE, IF THE BUILDING DECARBONIZATION FEE HAS BEEN ADJUSTED. ON OR BEFORE APRIL 15 OF EACH OF THE STATE FISCAL YEARS THEREAFTER, THE ENTERPRISE SHALL PUBLISH THE UPDATED AMOUNT OF THE FEE ON THE ENTERPRISE'S WEBSITE.

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

(V) NOTWITHSTANDING SUBSECTION (5)(b)(I) OF THIS SECTION, THE BOARD SHALL NOT SET THE BUILDING DECARBONIZATION FEE IN AN AMOUNT HIGHER THAN THAT AUTHORIZED BY SUBSECTIONS (5)(b)(II) AND (5)(b)(III) OF THIS SECTION.

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

(A) IS COLLECTED FOR THE ENTERPRISE;

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

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

(6) Building decarbonization enterprise cash fund - creation - repeal. (a) THE BUILDING DECARBONIZATION ENTERPRISE CASH FUND IS CREATED IN THE STATE TREASURY. THE BUILDING DECARBONIZATION FUND CONSISTS OF:

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

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

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

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

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

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

(d) ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING IN

THE BUILDING DECARBONIZATION FUND AT THE END OF A FISCAL YEAR REMAINS IN THE BUILDING DECARBONIZATION FUND AND IS NOT CREDITED OR TRANSFERRED TO THE GENERAL FUND.

(7) Legislative review of building decarbonization enterprise. ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE ENTERPRISE SHALL SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY DETAILING THE ENTERPRISE'S EXPENDITURES AND PROGRAM OUTCOMES FROM THE PRECEDING YEAR AND THE ENTERPRISE'S FINANCIAL PROJECTIONS FOR THE FOLLOWING YEAR.

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

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

(i) (I) ~~On and after January 1, 2024, and~~ Except as provided in subsection (1)(i)(II) of this section, an owner of a covered building that violates:

(A) Section 25-7-142 (3) or (6) is subject to a civil penalty of up to five hundred SEVENTY-SEVEN dollars for a first violation and up to two thousand THREE HUNDRED dollars for each subsequent violation, ~~As part of the requirement that the commission adopt rules to establish performance standards pursuant to section 25-7-142 (8)(c), the commission shall establish by rule, with regard to a violation of the performance standards, civil penalties in an amount not to exceed two thousand dollars for a first violation and five thousand dollars for a subsequent violation~~ WHICH AMOUNTS THE COMMISSION SHALL, BY RULE, ANNUALLY ADJUST BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX, OR A SUCCESSOR INDEX, FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY URBAN CONSUMERS.

(B) ON AND AFTER JANUARY 1, 2030, PERFORMANCE STANDARDS ADOPTED BY THE COMMISSION PURSUANT TO SECTION 25-7-142 OR THAT VIOLATES THE REQUIREMENTS OF SECTION 25-7-142 (8.6) IS, FOR A FIRST

VIOLATION, SUBJECT TO A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND THREE HUNDRED DOLLARS FOR EVERY THIRTY DAYS THAT THE OWNER IS IN VIOLATION AND, FOR EACH SUBSEQUENT VIOLATION, SUBJECT TO A PENALTY IN AN AMOUNT NOT TO EXCEED FIVE THOUSAND EIGHT HUNDRED DOLLARS FOR EVERY THIRTY DAYS THAT THE OWNER IS IN VIOLATION, WHICH AMOUNTS THE COMMISSION, BEGINNING IN 2026, SHALL, BY RULE, ANNUALLY ADJUST IN ACCORDANCE WITH SUBSECTION (1)(i)(I)(A) OF THIS SECTION.

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

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

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

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

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

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

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

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

FOLLOWING:

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

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

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

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

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

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

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

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

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

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

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

SECTION 9. Appropriation. For the 2025-26 state fiscal year, \$3,000,000 is appropriated to the office of the governor for use by the Colorado energy office. This appropriation is from the building decarbonization enterprise cash fund created in section 24-38.5-125 (6)(a), C.R.S. To implement this act, the office may use this appropriation for the building decarbonization enterprise.

SECTION 10. Applicability. This act applies to conduct occurring on or after the effective date of this act.

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

the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO