

**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

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 SATISFIED THE OBJECTIVES SET FORTH IN
22 SUBSECTIONS (8)(a)(II) AND (8)(c)(II) OF THIS SECTION BY ADOPTING
23 BENCHMARKING AND PERFORMANCE STANDARD RULES IN AUGUST 2023;
24 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, IF AN
24 OWNER OF A COVERED BUILDING DEMONSTRATES TO THE OFFICE THAT IT
25 LACKS ACCESS TO BENCHMARKING DATA, THE OPERATOR OF THE COVERED
26 BUILDING SHALL, ON OR BEFORE NOVEMBER 1 OF EACH YEAR, SUBMIT TO
27 THE OFFICE A REPORT OF THE BENCHMARKING DATA FOR THE COVERED

1 BUILDING FOR THE PREVIOUS CALENDAR YEAR.

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

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

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

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

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

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

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

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25 (8)(e) of this section and this subsection (8)(f) are repealed, effective July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

27 (8.5) **2040 performance standard targets - division to propose**

1 **standards - commission to adopt rules - task force - membership -**
2 **repeal.** (a) (I) TO HELP ACHIEVE OR EXCEED GREENHOUSE GAS EMISSION
3 REDUCTION TARGETS PURSUANT TO SUBSECTION (8)(c)(IV) OF THIS
4 SECTION, THE COMMISSION SHALL ADOPT RULES TO DEVELOP 2040
5 PERFORMANCE STANDARDS.

6 (II) ON OR BEFORE MARCH 31, 2029, THE DIVISION, AFTER
7 CONSULTATION WITH THE OFFICE, SHALL CONSIDER RECOMMENDATIONS
8 FROM THE TASK FORCE CREATED PURSUANT TO SUBSECTION (8.5)(d) OF
9 THIS SECTION AND SHALL PROPOSE 2040 PERFORMANCE STANDARDS TO
10 THE COMMISSION FOR CONSIDERATION IN THE RULES ADOPTED PURSUANT
11 TO SUBSECTION (8.5)(a)(I) OF THIS SECTION.

12 (b) (I) THE DIVISION, IN PROPOSING 2040 PERFORMANCE
13 STANDARDS, AND THE COMMISSION, IN ADOPTING 2040 PERFORMANCE
14 STANDARDS, SHALL CONSIDER WHETHER THE LONG-TERM TARGETS
15 INCLUDED IN THE 2040 PERFORMANCE STANDARDS SUPPORT THE 2050
16 ECONOMY-WIDE EMISSION REDUCTION GOALS SET FORTH IN SECTION
17 25-7-102 (2)(g), TAKING INTO CONSIDERATION:

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

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

23 (C) THE PRACTICAL AND FINANCIAL FEASIBILITY OF MEETING THE
24 TARGETS.

25 (II) THE RULES ADOPTED PURSUANT TO THIS SUBSECTION (8.5)
26 MUST INCLUDE A REQUIREMENT THAT AN OWNER OF A COVERED BUILDING
27 SUBMIT WITH ITS BENCHMARKING REPORT SUBMITTED IN 2035 AN INTERIM

1 STATUS REPORT REGARDING THE OWNER'S PROGRESS TOWARD THE 2040
2 PERFORMANCE STANDARDS AND SUBMITTED IN A FORMAT DETERMINED BY
3 THE OFFICE.

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

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

16 (A) THE 2050 ECONOMY-WIDE EMISSION REDUCTION GOALS SET
17 FORTH IN SECTION 25-7-102 (2)(g); AND

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

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

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

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

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

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

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

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

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

15 (VIII) ONE MEMBER WHO REPRESENTS ARCHITECTS;

16 (IX) ONE MEMBER WHO REPRESENTS PROFESSIONAL ENGINEERS
17 WITH EXPERIENCE WORKING ON SYSTEMS FOR BUILDINGS OR WITH
18 EXTENSIVE EXPERIENCE AS A BUILDING OPERATING ENGINEER;

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

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

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

27 (XIII) THREE MEMBERS WHO HAVE RELEVANT BUILDING

1 PERFORMANCE EXPERTISE, AS DETERMINED BY THE DIRECTOR OF THE
2 OFFICE; AND

3 (XIV) ONE MEMBER REPRESENTING HOSPITALS OR OTHER
4 HEALTH-CARE FACILITIES.

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

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

12 (8.6) NOTWITHSTANDING ANY RULES THAT THE COMMISSION
13 ADOPTS PURSUANT TO THIS SECTION BEFORE JULY 1, 2025:

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

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

18 (B) IN 2026, ACHIEVING AND MAINTAINING A STANDARD PERCENT
19 REDUCTION OF AT LEAST THIRTEEN PERCENT IN COMPARISON TO THE
20 COVERED BUILDING'S 2019 BENCHMARKED BASELINE
21 WEATHER-NORMALIZED SITE ENERGY USE INTENSITY; AND

22 (C) IN 2030, ACHIEVING AND MAINTAINING A STANDARD PERCENT
23 REDUCTION OF AT LEAST TWENTY-NINE PERCENT IN COMPARISON TO THE
24 COVERED BUILDING'S 2019 BENCHMARKED BASELINE
25 WEATHER-NORMALIZED ENERGY USE INTENSITY;

26 (II) AN OWNER OF A COVERED BUILDING LOCATED WITHIN THE
27 JURISDICTION OF A LOCAL GOVERNMENT THAT HAS ADOPTED AND

1 IMPLEMENTED A BUILDING PERFORMANCE STANDARDS PROGRAM OR
2 OTHER SIMILAR PROGRAM INTENDED TO REDUCE GREENHOUSE GAS
3 EMISSIONS FROM COVERED BUILDINGS IS DEEMED IN COMPLIANCE WITH
4 THIS SECTION AND RULES ADOPTED BY THE COMMISSION PURSUANT TO
5 THIS SECTION BY COMPLYING WITH THE REQUIREMENTS OF THE LOCAL
6 PROGRAM IF:

7 (A) THE OWNER OF THE COVERED BUILDING MAINTAINS
8 COMPLIANCE WITH THE LOCAL PROGRAM AND CERTIFIES ITS AFFIRMATIVE
9 COMPLIANCE STATUS BY SUBMITTING AN AFFIDAVIT, SUBJECT TO CIVIL
10 PENALTIES FOR MISREPRESENTATION, WHICH AFFIDAVIT ATTESTS THAT
11 THE COVERED BUILDING MEETS THE REQUIREMENTS OF THE LOCAL
12 PROGRAM, IN ANNUAL BENCHMARKING REPORTS SUBMITTED TO THE
13 OFFICE; AND

14 (B) THE OFFICE HAS DETERMINED THAT THE GREENHOUSE GAS
15 EMISSION REDUCTIONS FROM COVERED BUILDINGS COMPLYING WITH THE
16 LOCAL PROGRAM ARE REASONABLY SIMILAR TO THE GREENHOUSE GAS
17 EMISSION REDUCTIONS THAT WOULD HAVE BEEN ACHIEVED THROUGH
18 COMPLIANCE WITH THIS SECTION AND THE COMMISSION'S RULES ADOPTED
19 PURSUANT TO THIS SECTION;

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

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

27 (b) (I) NOTWITHSTANDING SUBSECTION (8.6)(a) OF THIS SECTION

1 AND ANY RULES ADOPTED BY THE COMMISSION BEFORE JULY 1, 2025, AN
2 OWNER MAY EITHER COMPLY WITH THE 2026 PERFORMANCE STANDARDS
3 OR, AS PART OF THE OWNER'S BENCHMARKING REPORTS SUBMITTED TO THE
4 OFFICE IN 2026 THROUGH 2029:

5 (A) TRACK ITS PROGRESS TOWARD COMPLIANCE WITH THE
6 PERFORMANCE STANDARDS;

7 (B) EXPRESS ANY NEED FOR TECHNICAL ASSISTANCE FROM THE
8 OFFICE; AND

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

12 (II) ANY RULES THAT THE COMMISSION ADOPTED BEFORE JULY 1,
13 2025, THAT IMPOSE ADDITIONAL COMPLIANCE OBLIGATIONS UPON A
14 COVERED BUILDING OWNER THAT FAILS TO TIMELY MEET A BUILDING
15 PERFORMANCE STANDARD DO NOT APPLY UNTIL 2031 FOR THE 2030
16 BUILDING PERFORMANCE STANDARDS.

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

19 (A) THAT COMPLY WITH OR ESTABLISH PLANS TO GO BEYOND THE
20 2026 PERFORMANCE STANDARDS; OR

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

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

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

7 (8.8) ENERGY USE THAT A COVERED BUILDING OWNER
8 DEMONSTRATES IS ATTRIBUTABLE TO ELECTRIC VEHICLE CHARGING SHALL
9 NOT BE INCLUDED IN A COVERED BUILDING'S TOTAL ENERGY USAGE FOR
10 PURPOSES OF COMPLIANCE WITH BUILDING PERFORMANCE STANDARDS.

11 **SECTION 4.** In Colorado Revised Statutes, add 24-38.5-123 as
12 follows:

13 **24-38.5-123. Building decarbonization enterprise - creation**
14 **- membership - powers and duties - building decarbonization**
15 **enterprise cash fund - legislative declaration - definitions - rules -**
16 **report - repeal. (1) Legislative declaration. (a) THE GENERAL**
17 **ASSEMBLY FINDS THAT:**

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

20 (A) IS NECESSARY TO HELP THE STATE ACHIEVE ITS STATEWIDE
21 GREENHOUSE GAS EMISSION REDUCTION GOALS SET FORTH IN SECTION
22 25-7-102 (2)(g), INCLUDING THE GOAL TO REACH NET-ZERO GREENHOUSE
23 GAS EMISSIONS BY 2050; AND

24 (B) PRESENTS SIGNIFICANT OPPORTUNITIES TO LOWER AND
25 STABILIZE ENERGY BILLS, PROVIDE FOR MORE COMFORTABLE LIVING AND
26 WORKING SPACES, AND REDUCE LOCAL AIR POLLUTION THAT CONTRIBUTES
27 TO GROUND-LEVEL OZONE;

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

5 (III) WITH ADDITIONAL FINANCING AND TECHNICAL ASSISTANCE,
6 COVERED BUILDING OWNERS MAY MORE EFFECTIVELY AND EFFICIENTLY
7 IMPLEMENT BUILDING DECARBONIZATION MEASURES, INCLUDING, BUT NOT
8 LIMITED TO, PROGRAMS THAT:

9 (A) HELP FINANCE ENERGY EFFICIENCY MEASURES,
10 ELECTRIFICATION MEASURES, AND OTHER ENERGY UPGRADES; AND

11 (B) PROVIDE ASSISTANCE FOR CONDUCTING BUILDING ENERGY
12 AUDITS, DEVELOPING ANALYSES TO HELP BUILDING OWNERS EVALUATE
13 THE BEST STRATEGIES FOR ACHIEVING FUTURE PERFORMANCE STANDARD
14 TARGETS, EMPLOYING OR CONSULTING WITH BUILDING ENGINEERS,
15 PURCHASING ENERGY USE TRACKING SOFTWARE FOR COVERED BUILDING
16 OWNERS TO MORE EFFECTIVELY TRACK ENERGY USE, AND PROVIDING
17 TRAINING ON SUCH SOFTWARE.

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

19 (I) IT IS IN THE PUBLIC INTEREST TO CREATE AN ENTERPRISE
20 WITHIN THE OFFICE THAT IS COMMITTED TO FINANCING AND PROVIDING
21 TECHNICAL AND OTHER SUPPORT FOR THE IMPLEMENTATION OF BUILDING
22 DECARBONIZATION MEASURES;

23 (II) THE ACTIVITIES OF THE ENTERPRISE SHALL BE FUNDED BY
24 REVENUE GENERATED FROM BUILDING DECARBONIZATION FEES PAID BY
25 COVERED BUILDING OWNERS AND ANY GIFTS, GRANTS, AND DONATIONS
26 RECEIVED;

27 (III) IT IS APPROPRIATE THAT COVERED BUILDING OWNERS SHOULD

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

6 (IV) COVERED BUILDING OWNERS BENEFIT FROM THE
7 IMPLEMENTATION OF BUILDING DECARBONIZATION MEASURES BECAUSE
8 SUCH MEASURES CAN:

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

11 (B) IMPROVE BUILDING COMFORT; AND

12 (C) INCREASE THE MARKET VALUE AND DESIRABILITY OF COVERED
13 BUILDINGS TO TENANTS;

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

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

27 (B) COLLECTED AT A RATE THAT IS REASONABLY RELATED TO THE

1 OVERALL COST OF THE BUSINESS SERVICES BEING PROVIDED; AND

2 (VI) SO LONG AS THE ENTERPRISE QUALIFIES AS AN ENTERPRISE

3 FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION,

4 THE REVENUE FROM THE BUILDING DECARBONIZATION FEE IMPOSED,

5 COLLECTED, AND ADMINISTERED BY THE ENTERPRISE IS NOT STATE FISCAL

6 YEAR SPENDING, AS DEFINED IN SECTION 24-77-102 (17), OR STATE

7 REVENUES, AS DEFINED IN SECTION 24-77-103.6 (6)(c), AND DOES NOT

8 COUNT AGAINST EITHER THE STATE FISCAL YEAR SPENDING LIMIT IMPOSED

9 BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS

10 STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I)(G).

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

12 REQUIRES:

13 (a) "BENCHMARKING REQUIREMENTS" MEANS THE ENERGY

14 BENCHMARKING REQUIREMENTS SET FORTH IN SECTION 25-7-142 (3) WITH

15 WHICH AN OWNER OR OPERATOR OF A COVERED BUILDING IS REQUIRED TO

16 COMPLY.

17 (b) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE ENTERPRISE

18 APPOINTED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION.

19 (c) "BUILDING DECARBONIZATION FEE" OR "FEE" MEANS THE FEE

20 PAID BY THE OWNER OF A COVERED BUILDING PURSUANT TO SUBSECTION

21 (5)(b) OF THIS SECTION.

22 (d) "COVERED BUILDING" HAS THE MEANING SET FORTH IN SECTION

23 25-7-142 (2)(j).

24 (e) "COVERED BUILDING OWNER" MEANS AN "OWNER", AS DEFINED

25 IN SECTION 25-7-142 (2)(r), OF A COVERED BUILDING.

26 (f) "ENTERPRISE" MEANS THE BUILDING DECARBONIZATION

27 ENTERPRISE CREATED IN SUBSECTION (3) OF THIS SECTION.

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

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

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

10 (j) "ON-BILL [REDACTED] PROGRAM" MEANS A UTILITY'S ON-BILL [REDACTED]
11 PROGRAM THROUGH WHICH ENERGY EFFICIENCY MEASURES,
12 ELECTRIFICATION MEASURES, AND ENERGY UPGRADES INSTALLED AT A
13 PARTICIPATING CUSTOMER'S PREMISES THAT IS ASSOCIATED WITH THE
14 UTILITY METER ARE FINANCED THROUGH LOANS THAT ARE REPAYED
15 THROUGH MONTHLY UTILITY BILL PAYMENTS.

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

18 [REDACTED]

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

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

25 (I) IMPOSING AND ASSESSING BUILDING DECARBONIZATION FEES
26 ON OWNERS OF COVERED BUILDINGS;

27 (II) PROVIDING TECHNICAL ASSISTANCE, FINANCING, AND OTHER

1 PROGRAMMATIC SUPPORT FOR COVERED BUILDING OWNERS' BUILDING
2 DECARBONIZATION MEASURES, INCLUDING, BUT NOT LIMITED TO,
3 CONDUCTING BUILDING ENERGY AUDITS, DEVELOPING ANALYSES TO HELP
4 BUILDING OWNERS EVALUATE THE BEST STRATEGIES FOR ACHIEVING
5 FUTURE PERFORMANCE STANDARD TARGETS, CONSULTING BUILDING
6 ENGINEERS, PURCHASING ENERGY USE TRACKING SOFTWARE, AND
7 PROVIDING TRAINING ON SUCH SOFTWARE;

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

11 (IV) ENSURING THAT THE BUILDING DECARBONIZATION FEES PAID
12 BY COVERED BUILDING OWNERS ARE USED SOLELY TO SUPPORT
13 PROGRAMS, TECHNICAL ASSISTANCE, AND FINANCIAL ASSISTANCE FOR THE
14 COVERED BUILDING OWNERS THAT PAY THE BUILDING DECARBONIZATION
15 FEES.

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

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

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

1 ENTERPRISE.

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

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

17 (4) **Enterprise board of directors created - membership -**
18 **duties - repeal.** (a) THE ENTERPRISE BOARD OF DIRECTORS IS CREATED TO
19 ADMINISTER THE ENTERPRISE. THE BOARD CONSISTS OF THE FOLLOWING
20 SEVEN MEMBERS:

21 (I) THE FOLLOWING FOUR MEMBERS APPOINTED BY THE GOVERNOR
22 AND CONFIRMED BY THE SENATE:

23 (A) A REPRESENTATIVE OF COVERED BUILDING OWNERS;

24 (B) AN EXPERT IN BUILDING ENERGY EFFICIENCY AND
25 DECARBONIZATION;

26 (C) A LOCAL GOVERNMENT REPRESENTATIVE WITH EXPERTISE IN
27 PLANNING OR ENERGY CODES; AND

1 (D) A UTILITY REPRESENTATIVE;
2 (II) THE DIRECTOR OF THE OFFICE OR THE DIRECTOR'S DESIGNEE;
3 (III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC
4 HEALTH AND ENVIRONMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE;
5 AND
6 (IV) THE DIRECTOR OF THE PUBLIC UTILITIES COMMISSION OR THE
7 DIRECTOR'S DESIGNEE.

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

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

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

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

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

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

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

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

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

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

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

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

21 (III) TO ESTABLISH AND ADMINISTER A PROGRAM THROUGH WHICH
22 OWNERS OF COVERED BUILDINGS MAY APPLY FOR, AND THE BOARD MAY
23 REVIEW AND APPROVE APPLICATIONS FOR, FINANCING OR TECHNICAL
24 ASSISTANCE FOR BUILDING DECARBONIZATION MEASURES, INCLUDING, BUT
25 NOT LIMITED TO, PARTICIPATING IN █ PROGRAMS THAT HELP FINANCE
26 ENERGY EFFICIENCY MEASURES, ELECTRIFICATION MEASURES, AND OTHER
27 ENERGY UPGRADES; CONDUCTING BUILDING ENERGY AUDITS; EMPLOYING

1 OR CONSULTING WITH BUILDING ENGINEERS; AND PURCHASING ENERGY
2 USE TRACKING SOFTWARE AND PROVIDING TRAINING ON SUCH SOFTWARE;

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

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

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

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

21 (III) BEGINNING IN STATE FISCAL YEAR 2027-28, THE BOARD MAY
22 INCREASE THE FEE FROM THE PREVIOUS YEAR'S FEE, AS ADJUSTED FOR
23 INFLATION AND, ON OR BEFORE MARCH 15 OF EACH OF THE STATE FISCAL
24 YEARS THEREAFTER, SHALL NOTIFY THE OFFICE OF THE ADJUSTED AMOUNT
25 OF THE FEE. ON OR BEFORE APRIL 15 OF EACH OF THE STATE FISCAL YEARS
26 THEREAFTER, THE OFFICE SHALL PUBLISH THE UPDATED AMOUNT OF THE
27 FEE ON THE ENTERPRISE'S WEBSITE.

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

3 (V) MONEY COLLECTED BY THE OFFICE FOR TRANSFER TO THE
4 FUND PURSUANT TO SUBSECTION (5)(b)(IV) OF THIS SECTION:

5 (A) IS COLLECTED FOR THE ENTERPRISE;

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

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

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

16 (I) MONEY RECEIVED AS BUILDING DECARBONIZATION FEES
17 PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION;

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

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

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

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

1 (c) MONEY CREDITED TO THE FUND IS CONTINUOUSLY
2 APPROPRIATED TO THE ENTERPRISE FOR THE PURPOSES SET FORTH IN THIS
3 SECTION AND TO PAY THE ENTERPRISE'S REASONABLE AND NECESSARY
4 OPERATING EXPENSES. THE STATE TREASURER SHALL CREDIT ALL
5 INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF
6 MONEY IN THE FUND TO THE FUND.

7 (d) ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING
8 IN THE FUND AT THE END OF A FISCAL YEAR REMAINS IN THE FUND AND IS
9 NOT CREDITED OR TRANSFERRED TO THE GENERAL FUND.

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

16 **SECTION 5.** In Colorado Revised Statutes, 25-7-122, **amend**
17 (1)(b) introductory portion and (1)(i) as follows:

18 **25-7-122. Civil penalties - rules - definitions.** (1) Upon
19 application of the division, the division may collect penalties as
20 determined under this article 7 by instituting an action in the district court
21 for the district in which the air pollution source affected is located, in
22 accordance with the following provisions:

23 (b) Any person who violates any requirement or prohibition of a
24 final order of the division or commission, an applicable emission control
25 regulation of the commission, the state implementation plan, a
26 construction permit, any provision for the prevention of significant
27 deterioration under part 2 of this article 7, any provision related to

1 attainment under part 3 of this article 7, or any provision of or
2 commission rule adopted pursuant to section 25-7-105, 25-7-106,
3 25-7-106.3, 25-7-108, 25-7-109, 25-7-109.5, 25-7-111, 25-7-112,
4 25-7-113, 25-7-114.2, 25-7-114.5, 25-7-118, 25-7-141, ~~25-7-142~~,
5 25-7-146, 25-7-206, 25-7-403, 25-7-404, 25-7-405, 25-7-407, 42-4-403,
6 42-4-404, 42-4-405, 42-4-406, 42-4-407, 42-4-409, 42-4-410, or
7 42-4-414 is subject to a civil penalty of not more than forty-seven
8 thousand three hundred fifty-seven dollars per day for each day of the
9 violation; except that:

10 (i) ~~(I) On and after January 1, 2024, and except as provided in~~
11 ~~subsection (1)(i)(II) of this section, an owner of a covered building that~~
12 ~~violates section 25-7-142 (3) or (6) is subject to a civil penalty of up to~~
13 ~~five hundred dollars for a first violation and up to two thousand dollars~~
14 ~~for each subsequent violation. As part of the requirement that the~~
15 ~~commission adopt rules to establish performance standards pursuant to~~
16 ~~section 25-7-142 (8)(c), the commission shall establish by rule, with~~
17 ~~regard to a violation of the performance standards, civil penalties in an~~
18 ~~amount not to exceed two thousand dollars for a first violation and five~~
19 ~~thousand dollars for a subsequent violation.~~

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

22 (II.5) NOTWITHSTANDING RULES THAT THE COMMISSION ADOPTED
23 BEFORE JULY 1, 2025, A CIVIL PENALTY FOR A VIOLATION OF SECTION
24 25-7-142 OR RULES ADOPTED BY THE COMMISSION TO IMPLEMENT SECTION
25 25-7-142 SHALL BE DETERMINED IN A MANNER CONSISTENT WITH
26 SUBSECTIONS (1)(b) AND (2) OF THIS SECTION.:-

27 (III) Notwithstanding section 25-7-129, the division shall transmit

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

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

8 ~~(A) "Covered building" has the meaning set forth in section~~
9 ~~25-7-142 (2)(j).~~

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

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

13 **24-38.5-403. Energy code training - energy code adoption -**
14 **grant writing assistance.** (4) NOTWITHSTANDING SUBSECTION (3) OF
15 THIS SECTION, THE COLORADO ENERGY OFFICE MAY USE FUNDING
16 PROVIDED THROUGH SUBSECTION (3) OF THIS SECTION TO **COVER THE**
17 **COSTS OF THE FOLLOWING:**

18 **(a) THE ENERGY CODE BOARD CONVENED PURSUANT TO SECTION**
19 **24-38.5-401 (2);**

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

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

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

26 **24-38.5-102.6. Climate change mitigation and adaptation fund**
27 **- creation - use.** (1) The climate change mitigation and adaptation fund,

1 referred to in this section as the "fund", is hereby created in the state
2 treasury. The fund consists of:

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

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

7 **24-38.5-112. Building performance program - duties of the**
8 **office - county assessor records database - fees - definitions.** (1) The
9 Colorado energy office shall implement a building performance program
10 as follows:

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

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

15 (IV) In a form and manner determined by the office, in
16 consultation with the division of administration in the department of
17 public health and environment, periodically providing the division with
18 a list of noncompliant owners for the division's enforcement of the
19 building performance program pursuant to ~~section 25-7-122 (1)(i)~~
20 SECTIONS 25-7-115, 25-7-121, AND 25-7-122 (1)(i); AND

21 (V) IN CONSULTATION WITH THE DEPARTMENT, DEVELOPING
22 GUIDANCE THAT DESCRIBES THE CRITERIA THAT THE OFFICE WILL USE TO
23 DETERMINE WHICH BUILDINGS TO REFER TO THE DEPARTMENT FOR
24 ENFORCEMENT. SPECIFIC CRITERIA MUST INCLUDE, BUT NEED NOT BE
25 LIMITED TO:

26 (A) CONSIDERATION OF MITIGATING CIRCUMSTANCES BEYOND THE
27 OWNER'S CONTROL;

1 (B) GOOD FAITH EFFORTS BY THE OWNER TO COMPLY WITH
2 BENCHMARKING AND BUILDING PERFORMANCE REQUIREMENTS; AND
3 (C) FINANCIAL SOLVENCY CONCERNS.

4 **SECTION 9. Applicability.** This act applies to conduct occurring
5 on or after the effective date of this act.

6 **SECTION 10. Safety clause.** The general assembly finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, or safety or for appropriations for
9 the support and maintenance of the departments of the state and state
10 institutions.