

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 25-0849.01 Jennifer Berman x3286

HOUSE BILL 25-1269

HOUSE SPONSORSHIP

Willford and Valdez,

SENATE SPONSORSHIP

Ball and Kipp,

House Committees

Energy & Environment
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING BUILDING DECARBONIZATION MEASURES, AND, IN**
102 **CONNECTION THEREWITH, CREATING A BUILDING**
103 **DECARBONIZATION ENTERPRISE AND MAKING AN**
104 **APPROPRIATION.**

Bill Summary

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

The bill updates energy use benchmarking and performance standard requirements for owners of certain buildings (covered building owners), including:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
Amended 2nd Reading
April 22, 2025

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (8.5) **2040 performance standard targets - division to propose**
26 **standards - commission to adopt rules - task force - membership -**
27 **repeal.** (a) (I) TO HELP ACHIEVE OR EXCEED GREENHOUSE GAS EMISSION

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

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

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

17 (I) THE CAPITAL PLANNING PERIODS FOR COVERED BUILDINGS;

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

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

25 (c) (I) ON OR BEFORE JULY 1, 2027, THE DIRECTOR OF THE OFFICE
26 SHALL APPOINT AND CONVENE A TASK FORCE. THE TASK FORCE SHALL
27 REVIEW THE BENCHMARKING DATA SUBMITTED FOR CALENDAR YEARS

1 2021 THROUGH 2026 AND, ON OR BEFORE JULY 1, 2028, DEVELOP AND
2 PROVIDE RECOMMENDATIONS TO THE DIVISION REGARDING THE 2040
3 PERFORMANCE STANDARDS.

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

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

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

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

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

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

26 (F) ELEMENTS FROM PRIOR RULES REGARDING BUILDING
27 PERFORMANCE STANDARDS, WHICH RULES MAY REQUIRE REVISION. THE

1 TASK FORCE SHALL MAKE RECOMMENDATIONS REGARDING ANY RULE
2 REVISIONS THAT IT BELIEVES ARE NECESSARY.

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

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

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

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

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

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

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

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

22 (VIII) ONE MEMBER WHO REPRESENTS ARCHITECTS;

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

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

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

- 1 UTILITY, OR A COMBINED ELECTRIC AND GAS UTILITY;
- 2 (XII) ONE MEMBER WHO IS FROM AN ENVIRONMENTAL
- 3 CONSERVATION OR ENVIRONMENTAL JUSTICE GROUP WITH EXPERIENCE IN
- 4 ENERGY EFFICIENCY OR THE BUILT ENVIRONMENT;
- 5 (XIII) ONE MEMBER WHO IS FROM A LOCAL GOVERNMENT THAT
- 6 HAS ENACTED OR ADOPTED A BENCHMARKING OR BUILDING ENERGY
- 7 PERFORMANCE ORDINANCE OR RESOLUTION;
- 8 (XIV) THREE MEMBERS WHO HAVE RELEVANT BUILDING
- 9 PERFORMANCE EXPERTISE, AS DETERMINED BY THE DIRECTOR OF THE
- 10 OFFICE;
- 11 (XV) ONE MEMBER REPRESENTING HOSPITALS OR OTHER
- 12 HEALTH-CARE FACILITIES; AND
- 13 (XVI) ONE MEMBER WHO IS A REPRESENTATIVE OF A MIXED-USE
- 14 COMMERCIAL OFFICE.
- 15 (e) AN INDIVIDUAL APPLYING TO SERVE ON THE TASK FORCE MUST
- 16 SUBMIT A RECOMMENDATION FROM A MEMBER OF THE GROUP THAT THE
- 17 INDIVIDUAL SEEKS TO REPRESENT ON THE TASK FORCE OR, IF A TRADE
- 18 ORGANIZATION EXISTS THAT REPRESENTS THE GROUP, A
- 19 RECOMMENDATION FROM THE TRADE ORGANIZATION.
- 20 (f) IN MAKING APPOINTMENTS TO THE TASK FORCE, THE DIRECTOR
- 21 OF THE OFFICE SHALL STRIVE TO ENSURE VARIED GEOGRAPHIC
- 22 REPRESENTATION.
- 23 (g) THE TASK FORCE SHALL CONDUCT A COMPREHENSIVE
- 24 ECONOMIC ANALYSIS OF ITS RECOMMENDATIONS FOR THE 2040
- 25 PERFORMANCE STANDARDS PRIOR TO PROVIDING THE RECOMMENDATIONS
- 26 TO THE DIVISION.
- 27 (8.6) NOTWITHSTANDING ANY RULES THAT THE COMMISSION

1 ADOPTS PURSUANT TO THIS SECTION BEFORE JULY 1, 2025:

2

3 (a) (I) AN OWNER OF A COVERED BUILDING THAT MEETS ITS
4 PERFORMANCE STANDARDS USING THE STANDARD PERCENTAGE
5 REDUCTION BUILDING PERFORMANCE PATHWAY, AS ESTABLISHED BY RULE
6 OF THE COMMISSION, MAY USE 2019 BENCHMARKING DATA AS AN
7 ALTERNATE BASELINE IF THE OWNER SUBMITS COMPLETE AND ACCURATE
8 2019 BENCHMARKING DATA TO THE OFFICE NO LATER THAN NOVEMBER 1,
9 2027; AND

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

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

24 (B) THE OFFICE HAS DETERMINED THAT THE GREENHOUSE GAS
25 EMISSION REDUCTIONS FROM COVERED BUILDINGS COMPLYING WITH THE
26 LOCAL PROGRAM ARE REASONABLY SIMILAR TO THE GREENHOUSE GAS
27 EMISSION REDUCTIONS THAT WOULD HAVE BEEN ACHIEVED THROUGH

1 COMPLIANCE WITH PERFORMANCE STANDARDS ESTABLISHED UNDER THIS
2 SECTION;

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

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

10 (b) (I) NOTWITHSTANDING SUBSECTION (8.6)(a) OF THIS SECTION
11 AND ANY RULES ADOPTED BY THE COMMISSION BEFORE JULY 1, 2025, AN
12 OWNER MAY EITHER COMPLY WITH THE 2026 PERFORMANCE STANDARDS
13 OR TRACK ITS PROGRESS TOWARD COMPLIANCE BY SUBMITTING
14 BENCHMARKING REPORTS IN ACCORDANCE WITH SUBSECTIONS (3) AND
15 (8.6)(b)(II) OF THIS SECTION.

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

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

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

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

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

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

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

12 (A) THAT COMPLY WITH OR ESTABLISH PLANS TO GO BEYOND THE
13 2026 PERFORMANCE STANDARDS; OR

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

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

21 (8.7) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION
22 (8)(a)(II) OF THIS SECTION OR RULES ADOPTED PURSUANT TO THAT
23 SUBSECTION, SUBSECTION (8.6) OF THIS SECTION IS NECESSARY FOR
24 COVERED BUILDINGS TO EFFECTIVELY IMPLEMENT THE PERFORMANCE
25 STANDARDS. THE COMMISSION IS NOT REQUIRED TO REVISE RULES THAT
26 WERE ADOPTED PURSUANT TO THIS SECTION BEFORE JULY 1, 2025.

27 (8.8) (a) ENERGY USE THAT A COVERED BUILDING OWNER

1 DEMONSTRATES IS ATTRIBUTABLE TO ELECTRIC VEHICLE CHARGING SHALL
2 NOT BE INCLUDED IN A COVERED BUILDING'S TOTAL ENERGY USAGE FOR
3 PURPOSES OF COMPLIANCE WITH BUILDING PERFORMANCE STANDARDS.

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

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

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

12 (c) CONSISTENT WITH RULES ADOPTED BY THE COMMISSION, THE
13 OFFICE SHALL DEVELOP GUIDANCE CONCERNING INDIVIDUALIZED TARGET
14 AND COMPLIANCE GUIDELINES FOR COVERED BUILDING OWNERS THAT
15 DEMONSTRATE A SIGNIFICANT INCREASE IN ENERGY USE DUE TO THE
16 EXPANSION OF A DATA CENTER OR TELECOMMUNICATIONS OPERATION. A
17 COVERED BUILDING OWNER'S INDIVIDUALIZED ENERGY EFFICIENCY
18 TARGET CAN REFLECT INCREASED ELECTRICITY CONSUMPTION OVER TIME
19 FROM A DATA CENTER OR TELECOMMUNICATIONS OPERATION IF ALL
20 COST-EFFECTIVE ENERGY EFFICIENCY AND ELECTRIFICATION MEASURES
21 HAVE BEEN PERFORMED. CONSISTENT WITH RULES ADOPTED BY THE
22 COMMISSION REGARDING TIMELINES AND ADJUSTMENTS FOR BUILDING
23 PERFORMANCE STANDARD TARGETS, INDIVIDUALIZED TARGETS AND
24 COMPLIANCE TIMELINES MAY BE ADJUSTED MULTIPLE TIMES BASED ON THE
25 EVOLVING GROWTH OF ENERGY CONSUMPTION BY THE COVERED BUILDING.

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

1 **24-38.5-123. Building decarbonization enterprise - creation**
2 **- membership - powers and duties - building decarbonization**
3 **enterprise cash fund - legislative declaration - definitions - rules -**
4 **report - repeal. (1) Legislative declaration. (a) THE GENERAL**

5 ASSEMBLY FINDS THAT:

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

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

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

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

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

1 DECARBONIZATION MEASURES;

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

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

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

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

24 (A) IMPOSED FOR THE SPECIFIC BUSINESS PURPOSES OF PROVIDING
25 FINANCING AND TECHNICAL ASSISTANCE TO COVERED BUILDING OWNERS
26 TO MORE EFFECTIVELY AND EFFICIENTLY IMPLEMENT BUILDING
27 DECARBONIZATION MEASURES, INCLUDING FEASIBILITY ANALYSES AND

1 IMPROVEMENTS THAT WILL REDUCE ENERGY USE AND EMISSIONS; AND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 [REDACTED]
24 (3) **Enterprise created - loan from the office - repayment.**

25 (a) THE BUILDING DECARBONIZATION ENTERPRISE IS CREATED IN THE
26 OFFICE AND EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND
27 FUNCTIONS AS A GOVERNMENT-OWNED BUSINESS IN THE OFFICE TO

1 EXECUTE ITS BUSINESS PURPOSES SET FORTH IN THIS SUBSECTION (3). THE
2 ENTERPRISE IS CREATED FOR THE PURPOSES OF:

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

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

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

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

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

22 (c) (I) THE ENTERPRISE CONSTITUTES AN ENTERPRISE FOR
23 PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO
24 LONG AS IT RETAINS THE AUTHORITY TO ISSUE REVENUE BONDS AND
25 RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL REVENUES IN GRANTS, AS
26 DEFINED IN SECTION 24-77-102 (7), FROM ALL COLORADO STATE AND
27 LOCAL GOVERNMENTS COMBINED. SO LONG AS IT CONSTITUTES AN

1 ENTERPRISE, THE ENTERPRISE IS NOT SUBJECT TO SECTION 20 OF ARTICLE
2 X OF THE STATE CONSTITUTION.

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

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

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

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

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

27 (A) A REPRESENTATIVE OF RESIDENTIAL BUILDINGS;

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

3 (C) AN EXPERT IN BUILDING ENERGY EFFICIENCY AND
4 DECARBONIZATION;

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

7 (E) A UTILITY REPRESENTATIVE;

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

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

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

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

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

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

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

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

1 THE PERFORMANCE OF THEIR DUTIES.

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

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

9 (B) THIS SUBSECTION (4)(e)(II) IS REPEALED, EFFECTIVE JULY 1,
10 2026.

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

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

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

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

27 (III) TO ESTABLISH AND ADMINISTER A PROGRAM THROUGH WHICH

1 OWNERS OF COVERED BUILDINGS MAY APPLY FOR, AND THE BOARD MAY
2 REVIEW AND APPROVE APPLICATIONS FOR, FINANCING OR TECHNICAL
3 ASSISTANCE FOR BUILDING DECARBONIZATION MEASURES, INCLUDING, BUT
4 NOT LIMITED TO, PARTICIPATING IN █ PROGRAMS THAT HELP FINANCE
5 ENERGY EFFICIENCY MEASURES, ELECTRIFICATION MEASURES, AND OTHER
6 ENERGY UPGRADES; CONDUCTING BUILDING ENERGY AUDITS; EMPLOYING
7 OR CONSULTING WITH BUILDING ENGINEERS; AND PURCHASING ENERGY
8 USE TRACKING SOFTWARE AND PROVIDING TRAINING ON SUCH SOFTWARE;

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

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

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

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

27 (III) BEGINNING IN STATE FISCAL YEAR 2027-28, THE BOARD MAY

1 INCREASE THE BUILDING DECARBONIZATION FEE FROM THE PREVIOUS
2 YEAR'S BUILDING DECARBONIZATION FEE, AS ADJUSTED FOR INFLATION
3 AND, ON OR BEFORE MARCH 15 OF EACH OF THE STATE FISCAL YEARS
4 THEREAFTER, SHALL NOTIFY THE OFFICE OF THE ADJUSTED AMOUNT OF
5 THE BUILDING DECARBONIZATION FEE, IF THE BUILDING DECARBONIZATION
6 FEE HAS BEEN ADJUSTED. ON OR BEFORE APRIL 15 OF EACH OF THE STATE
7 FISCAL YEARS THEREAFTER, THE ENTERPRISE SHALL PUBLISH THE UPDATED
8 AMOUNT OF THE FEE ON THE ENTERPRISE'S WEBSITE.

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

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

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

19 (A) IS COLLECTED FOR THE ENTERPRISE;

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

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

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

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

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

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

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

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

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

16 (c) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
17 ASSEMBLY, THE ENTERPRISE MAY EXPEND MONEY FROM THE BUILDING
18 DECARBONIZATION FUND FOR THE PURPOSES SET FORTH IN THIS SECTION
19 AND TO PAY THE ENTERPRISE'S REASONABLE AND NECESSARY OPERATING
20 EXPENSES. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
21 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
22 BUILDING DECARBONIZATION FUND TO THE BUILDING DECARBONIZATION
23 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, and~~ Except as provided
15 in subsection (1)(i)(II) of this section, an owner of a covered building that
16 violates:

17 (A) Section 25-7-142 (3) or (6) is subject to a civil penalty of up
18 to five hundred SEVENTY-SEVEN dollars for a first violation and up to two
19 thousand THREE HUNDRED dollars for each subsequent violation, ~~As part~~
20 ~~of the requirement that the commission adopt rules to establish~~
21 ~~performance standards pursuant to section 25-7-142 (8)(c), the~~
22 ~~commission shall establish by rule, with regard to a violation of the~~
23 ~~performance standards, civil penalties in an amount not to exceed two~~
24 ~~thousand dollars for a first violation and five thousand dollars for a~~
25 ~~subsequent violation~~ WHICH AMOUNTS THE COMMISSION SHALL, BY RULE,
26 ANNUALLY ADJUST BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE
27 UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS

1 CONSUMER PRICE INDEX, OR A SUCCESSOR INDEX, FOR
2 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY URBAN
3 CONSUMERS.

4 (B) ON AND AFTER JANUARY 1, 2030, PERFORMANCE STANDARDS
5 ADOPTED BY THE COMMISSION PURSUANT TO SECTION 25-7-142 OR THAT
6 VIOLATES THE REQUIREMENTS OF SECTION 25-7-142 (8.6) IS, FOR A FIRST
7 VIOLATION, SUBJECT TO A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED
8 TWO THOUSAND THREE HUNDRED DOLLARS FOR EVERY THIRTY DAYS THAT
9 THE OWNER IS IN VIOLATION AND, FOR EACH SUBSEQUENT VIOLATION,
10 SUBJECT TO A PENALTY IN AN AMOUNT NOT TO EXCEED FIVE THOUSAND
11 EIGHT HUNDRED DOLLARS FOR EVERY THIRTY DAYS THAT THE OWNER IS
12 IN VIOLATION, WHICH AMOUNTS THE COMMISSION, BEGINNING IN 2026,
13 SHALL, BY RULE, ANNUALLY ADJUST IN ACCORDANCE WITH SUBSECTION
14 (1)(i)(I)(A) OF THIS SECTION.

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

17 (II.5) NOTWITHSTANDING RULES THAT THE COMMISSION ADOPTED
18 BEFORE JULY 1, 2025, A CIVIL PENALTY FOR A VIOLATION OF SECTION
19 25-7-142 OR RULES ADOPTED BY THE COMMISSION TO IMPLEMENT SECTION
20 25-7-142 SHALL BE DETERMINED IN A MANNER CONSISTENT WITH THIS
21 SUBSECTION (1)(i) AND SUBSECTION (2) OF THIS SECTION.

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

1 in section 24-38.5-102.6.

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

3 ~~(A) "Covered building" has the meaning set forth in section~~
4 ~~25-7-142 (2)(j).~~

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

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

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

13 (a) **THE ENERGY CODE BOARD CONVENED PURSUANT TO SECTION**
14 **24-38.5-401 (2);**

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

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

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

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

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

27 **SECTION 8.** In Colorado Revised Statutes, 24-38.5-112, **amend**

1 (1)(a)(III) and (1)(a)(IV); and **add** (1)(a)(V) as follows:

2 **24-38.5-112. Building performance program - duties of the**
3 **office - county assessor records database - fees - definitions.** (1) The
4 Colorado energy office shall implement a building performance program
5 as follows:

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

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

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

15 **SECTION 9. Appropriation.** (1) For the 2025-26 state fiscal
16 year, \$3,000,000 is appropriated to the office of the governor for use by
17 the Colorado energy office. This appropriation is from the building
18 decarbonization enterprise cash fund created in section 25-7-142.5 (6)(a),
19 C.R.S. To implement this act, the office may use this appropriation for the
20 building decarbonization enterprise.

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

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

26 **SECTION 11. Safety clause.** The general assembly finds,
27 determines, and declares that this act is necessary for the immediate

- 1 preservation of the public peace, health, or safety or for appropriations for
- 2 the support and maintenance of the departments of the state and state
- 3 institutions.