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First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

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LLS NO. 21-0072.01 Jennifer Berman x3286

HOUSE BILL

HOUSE SPONSORSHIP

Kipp and Valdez A., Bennett

SENATE SPONSORSHIP

Priola and Pettersen,

BILL TOPIC: "Energy Performance For Buildings"

DEADLINES: File by: 3/25/2021

A BILL FOR AN ACT

101 CONCERNING MEASURES TO IMPROVE ENERGY EFFICIENCY, AND, IN
102 CONNECTION THEREWITH, REQUIRING OWNERS OF LARGE
103 BUILDINGS TO COLLECT AND REPORT ON ENERGY-USE
104 BENCHMARKING DATA AND COMPLY WITH PERFORMANCE
105 STANDARDS RELATED TO ENERGY AND GREENHOUSE GAS
106 EMISSIONS AND MODIFYING STATUTORY REQUIREMENTS
107 REGARDING ENERGY PERFORMANCE CONTRACTS.

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>.)

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

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Section 1 of the bill requires owners of certain large buildings (covered buildings), on an annual basis, to collect and report to the Colorado energy office (office) the covered building's energy use. The bill establishes a process requiring certain electric and gas utilities to provide energy-use data to a covered building owner when requested by the covered building owner.

Section 1 also requires that, on or before June 1, 2027, a covered building owner demonstrate that, in 2026, the covered building met performance standards set forth in the bill. A covered building owner must demonstrate compliance with the performance standards every 5 years after June 1, 2027. The air quality control commission (commission) is required to adopt rules in 2026 or 2027 that extend or modify the performance standards. Thereafter, the commission may, as the commission deems necessary, modify the performance standards by rule.

Section 2 requires the office to assist covered building owners with the reporting requirements set forth in section 1 by:

- Creating a database of covered buildings and owners required to comply with section 1;
- Developing publicly available, digitally interactive maps and lists showing the energy-use and performance-standard data reported;
- Coordinating with any local government that implements its own energy benchmarking requirements or energy performance program, including coordination of reporting requirements; and
- Collecting an annual fee from owners of covered buildings of \$100 per covered building. The office is required to transfer the fees collected to the state treasurer, who will credit the fees to the climate change mitigation and adaptation fund (fund) created in section 2.

Section 3 imposes civil penalties for violations of section 1 up to \$47,357 per day and requires that the civil penalty payments be credited to the fund.

Section 4 modifies the definition of an "energy performance contract" that a governing body of a municipality, county, special district, or school district (board) enters into for evaluation, recommendations, or implementation of energy-saving measures to remove requirements that a board's payment for goods and services pursuant to the contract be made within a certain number of years of the contract's execution.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25-7-142 as

1 follows:

2 **25-7-142. Energy benchmarking - data collection and access**
3 **- utility requirements - performance standards - rules - reports -**
4 **definitions - legislative declaration. (1) Legislative declaration.** THE

5 GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT THE
6 REGULATION OF BUILDING PERFORMANCE IS A MATTER OF STATEWIDE
7 CONCERN BECAUSE:

8 (a) AS OF 2020, BUILDINGS REPRESENTED A SIGNIFICANT SOURCE
9 OF GREENHOUSE GAS POLLUTION IN THE STATE OF COLORADO;

10 (b) ENERGY CONSUMPTION AND GREENHOUSE GAS EMISSIONS
11 ASSOCIATED WITH A BUILDING PRODUCE IMPACTS FAR BEYOND ITS WALLS
12 AND THE BOUNDARIES OF THE LOCAL GOVERNMENT WITHIN WHICH THE
13 BUILDING IS LOCATED, INCLUDING COSTS TO UTILITY RATEPAYERS FOR
14 INCREASED ENERGY PRODUCTION, COMMUNITY HEALTH COSTS
15 ASSOCIATED WITH AIR POLLUTION, AND BROADER SOCIETAL COSTS OF
16 ANTHROPOGENIC CLIMATE CHANGE;

17 (c) LARGE BUILDINGS REPRESENT A DISPROPORTIONATE AMOUNT
18 OF THE ENERGY USE AND GREENHOUSE GAS EMISSIONS IN THE STATE, YET
19 BUILDING TENANTS THAT PAY THOSE ENERGY COSTS OFTEN LACK THE
20 ABILITY TO IMPLEMENT BUILDING UPGRADES THAT COULD IMPROVE
21 PERFORMANCE, REDUCE EMISSIONS, AND REDUCE THOSE COSTS;

22 (d) THE COMMISSION HAS BOTH THE STATUTORY AUTHORITY AND
23 OBLIGATION TO REQUIRE A REDUCTION OF GREENHOUSE GAS EMISSIONS IN
24 THE STATE IN EVERY SECTOR INCLUDING BUILDINGS;

25 (e) (I) BENCHMARKING AND BUILDING PERFORMANCE STANDARDS
26 WILL SUPPORT JOB GROWTH IN COLORADO. ACCORDING TO THE UNITED
27 STATES CLIMATE ALLIANCE, BEFORE JANUARY 1, 2020, THE FASTEST

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1 GROWING CLEAN ENERGY INDUSTRIES IN COLORADO INCLUDED:

2 (A) TRADITIONAL HEATING, VENTILATION, AND AIR CONDITIONING,

3 TOTALING TEN THOUSAND FOUR HUNDRED THIRTY-EIGHT JOBS; AND

4 (B) ENERGY STAR AND EFFICIENT LIGHTING, TOTALING ELEVEN

5 THOUSAND ONE HUNDRED FIFTY-SIX JOBS.

6 (II) ADDITIONALLY, ANALYSIS CONDUCTED BY ADVANCED

7 ENERGY ECONOMY IDENTIFIED MORE THAN SIXTY THOUSAND ADVANCED

8 ENERGY JOBS IN COLORADO, WITH MORE THAN FIFTY PERCENT OF THOSE

9 JOBS IN ENERGY EFFICIENCY.

10 (f) THE STATE OF COLORADO PROVIDES MANY LOW- AND NO-COST

11 OPTIONS FOR COLORADO PROPERTY OWNERS TO FINANCE BUILDING

12 PERFORMANCE IMPROVEMENTS, INCLUDING:

13 (I) PROPERTY-ASSESSED CLEAN ENERGY FINANCING THAT THE

14 COLORADO NEW ENERGY IMPROVEMENT DISTRICT CREATED IN SECTION

15 32-20-104 PROVIDES, WHEREBY QUALIFYING ENERGY EFFICIENCY AND

16 RENEWABLE ENERGY IMPROVEMENTS ARE PAID BACK VIA AN ASSESSMENT

17 ON ANNUAL PROPERTY TAXES; AND

18 (II) PERFORMANCE CONTRACTING, WHEREBY IMPROVEMENTS ARE

19 PAID FOR BY CONTRACTUALLY GUARANTEED SAVINGS FROM EFFICIENCY

20 UPGRADES;

21 (g) MANY PUBLIC UTILITIES IN THE STATE ALSO PROVIDE

22 TECHNICAL ASSISTANCE AND FINANCIAL INCENTIVES TO HELP PROPERTY

23 OWNERS IMPLEMENT BUILDING PERFORMANCE IMPROVEMENTS; AND

24 (h) IT IS IN THE INTEREST OF THE STATE TO:

25 (I) ESTABLISH A PROGRAM TO HELP COLORADO CITIZENS

26 UNDERSTAND AND TRACK ENERGY USE AND GREENHOUSE GAS EMISSIONS

27 FROM LARGE BUILDINGS; AND

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1 (II) ENACT PERFORMANCE STANDARDS NECESSARY TO MEET STATE
2 GREENHOUSE GAS EMISSION-REDUCTION GOALS.

3 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
4 OTHERWISE REQUIRES:

5 (a) "AGGREGATED DATA" MEANS ELECTRIC OR GAS METER DATA
6 FROM WHICH ANY UNIQUE IDENTIFIER OR OTHER PERSONAL INFORMATION
7 HAS BEEN REMOVED AND THAT A QUALIFYING UTILITY COLLECTS AND
8 AGGREGATES IN AT LEAST MONTHLY INTERVALS FOR AN ENTIRE COVERED
9 BUILDING.

10 (b) "AGGREGATION THRESHOLD" MEANS, FOR EACH QUALIFYING
11 UTILITY, THE MINIMUM NUMBER OF CUSTOMER ACCOUNTS ASSOCIATED
12 WITH A COVERED BUILDING FOR WHICH THE QUALIFYING UTILITY MAY
13 PROVIDE THE OWNER OF THE COVERED BUILDING WITH AGGREGATED DATA
14 UPON REQUEST WITHOUT REQUIRING EACH CUSTOMER'S CONSENT TO HAVE
15 THE CUSTOMER'S ENERGY-USE DATA ACCESSED OR SHARED.

16 (c) "ANSI" MEANS THE AMERICAN NATIONAL STANDARDS
17 INSTITUTE OR ITS SUCCESSOR ORGANIZATION.

18 (d) "ASHRAE" MEANS THE AMERICAN SOCIETY OF HEATING,
19 REFRIGERATING, AND AIR-CONDITIONING ENGINEERS OR ITS SUCCESSOR
20 SOCIETY.

21 (e) "BASELINE YEAR" MEANS A YEAR TO WHICH A PERFORMANCE
22 YEAR IS COMPARED, STARTING IN 2021 AND CONTINUING EVERY FIVE
23 YEARS THEREAFTER.

24 (f) "BENCHMARK" MEANS TO INPUT BENCHMARKING DATA INTO A
25 BENCHMARKING TOOL TO MEASURE AND ASSESS THE ENERGY
26 PERFORMANCE AND GREENHOUSE GAS POLLUTION FOR A COVERED
27 BUILDING FOR THE REPORTING YEAR.

1 (g) EXCEPT AS THE COMMISSION MAY MODIFY BY RULE PURSUANT
2 TO SUBSECTION (7) OF THIS SECTION, "BENCHMARKING DATA" MEANS THE
3 INFORMATION RELATED TO A COVERED BUILDING THAT IS INPUT INTO OR
4 CALCULATED BY A BENCHMARKING TOOL AND INCLUDES, AT A MINIMUM:

5 (I) A PHYSICAL DESCRIPTION OF THE COVERED BUILDING AND
6 DESCRIPTIONS OF ITS OPERATIONAL CHARACTERISTICS, INCLUDING:

- 7 (A) THE NAME OF THE COVERED BUILDING, IF ANY;
- 8 (B) THE ADDRESS OF THE COVERED BUILDING;
- 9 (C) THE PRIMARY USES OF THE COVERED BUILDING;
- 10 (D) THE COVERED BUILDING'S GROSS FLOOR AREA; AND
- 11 (E) THE YEARS IN WHICH THE COVERED BUILDING HAS BEEN
12 CERTIFIED BY ENERGY STAR AND THE MOST RECENT DATE OF
13 CERTIFICATION, IF APPLICABLE; AND

14 (II) DATA GENERATED BY THE BENCHMARKING TOOL, INCLUDING:

- 15 (A) THE ENERGY STAR SCORE, IF AVAILABLE;
- 16 (B) MONTHLY ENERGY USE BY FUEL TYPE;
- 17 (C) SITE AND SOURCE ENERGY-USE INTENSITY;
- 18 (D) WEATHER-NORMALIZED SITE AND SOURCE ENERGY-USE
19 INTENSITY;
- 20 (E) CONFIRMATION THAT DATA QUALITY HAS BEEN CHECKED;
- 21 (F) ANNUAL MAXIMUM ELECTRICITY DEMAND, IN KILOWATTS;
- 22 (G) IF AVAILABLE FOR REPORTING THROUGH THE BENCHMARKING
23 TOOL, MONTHLY PEAK ELECTRICITY DEMAND; AND
- 24 (H) GREENHOUSE GAS EMISSIONS, INCLUDING TOTAL, INDIRECT,
25 AND DIRECT EMISSIONS.

26 (h) EXCEPT AS THE COMMISSION MAY MODIFY BY RULE PURSUANT
27 TO SUBSECTION (7) OF THIS SECTION, "BENCHMARKING TOOL" MEANS THE

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1 ENERGY STAR PORTFOLIO MANAGER® OR A SUCCESSOR ONLINE RESOURCE
2 USED TO TRACK AND ASSESS THE PERFORMANCE OF CERTAIN PROPERTIES
3 RELATIVE TO SIMILAR PROPERTIES.

4 (i) "BIOMEDICAL RESEARCH LABORATORY" MEANS A SCIENTIFIC
5 LABORATORY USED TO CONDUCT RESEARCH RELATING TO BOTH BIOLOGY
6 AND MEDICINE.

7 (j) "CAMPUS" MEANS TWO OR MORE ADJACENT BUILDINGS THAT
8 ARE OWNED AND OPERATED BY THE SAME PERSON AND HAVE A SINGLE,
9 SHARED PRIMARY FUNCTION.

10 (k) "COLORADO ENERGY OFFICE" OR "OFFICE" MEANS THE
11 COLORADO ENERGY OFFICE CREATED IN SECTION 24-38.5-101 OR A
12 SUCCESSOR AGENCY.

13 (l) "CORRECTIONAL FACILITY" MEANS:
14 (I) A "CORRECTIONAL FACILITY" AS DEFINED IN SECTION 17-1-102
15 (1.7); AND

16 (II) A "PRIVATE CONTRACT PRISON" AS DEFINED IN SECTION
17 17-1-102 (7.3).

18 (m) (I) EXCEPT AS THE COMMISSION MAY MODIFY BY RULE
19 PURSUANT TO SUBSECTION (7) OF THIS SECTION, "COVERED BUILDING"
20 MEANS A BUILDING COMPRISING A GROSS FLOOR AREA OF FIFTY THOUSAND
21 SQUARE FEET OR MORE THAT IS OCCUPIED BY A SINGLE OCCUPANT OR
22 GROUP OF TENANTS. _____

23 _____

24 (II) "COVERED BUILDING" DOES NOT INCLUDE:

25 (A) A STORAGE FACILITY OR STAND-ALONE PARKING GARAGE
26 THAT LACKS HEATING AND COOLING;

27 (B) A BUILDING IN WHICH MORE THAN HALF OF THE GROSS FLOOR

1 AREA IS USED FOR MANUFACTURING, INDUSTRIAL, OR AGRICULTURAL
2 PURPOSES; OR

3 (C) A SINGLE-FAMILY HOME, DUPLEX, OR TRIPLEX.

4 (n) "ENERGY STAR" MEANS THE FEDERAL PROGRAM AUTHORIZED
5 BY 42 U.S.C. SEC. 6294a, AS AMENDED, TO HELP CUSTOMERS, BUSINESSES,
6 AND INDUSTRY SAVE MONEY AND PROTECT THE ENVIRONMENT THROUGH
7 THE ADOPTION OF ENERGY-EFFICIENT PRODUCTS AND PRACTICES.

8 (o) "ENERGY STAR SCORE" MEANS THE ONE-TO-ONE-HUNDRED
9 NUMERIC RATING GENERATED BY THE ENERGY STAR PORTFOLIO
10 MANAGER® AS A MEASUREMENT OF A BUILDING'S ENERGY EFFICIENCY.

11 (p) "ENERGY-USE INTENSITY" MEANS A BUILDING'S ENERGY USE,
12 EXPRESSED AS TOTAL SITE ENERGY USE PER SQUARE FOOT PER YEAR.

13 (q) "FINANCIAL HARDSHIP" MEANS THAT A PROPERTY IS
14 EXPERIENCING AT LEAST ONE OF THE FOLLOWING CONDITIONS:

15 (I) THE PROPERTY HAS BEEN INCLUDED ON A CITY'S, COUNTY'S, OR
16 CITY AND COUNTY'S ANNUAL TAX LIEN SALE LIST WITHIN THE PREVIOUS
17 TWO YEARS;

18 (II) THE PROPERTY IS AN ASSET SUBJECT TO A COURT-APPOINTED
19 RECEIVER THAT CONTROLS THE ASSET DUE TO FINANCIAL STRESS;

20 (III) THE PROPERTY IS OWNED BY A FINANCIAL INSTITUTION AS A
21 RESULT OF A DEFAULT BY A BORROWER;

22 (IV) THE PROPERTY HAS BEEN ACQUIRED BY A DEED IN LIEU OF
23 FORECLOSURE;

24 (V) THE PROPERTY IS THE SUBJECT OF A SENIOR MORTGAGE
25 SUBJECT TO A NOTICE OF DEFAULT; OR

26 (VI) DUE TO THE GOVERNOR DECLARING A DISASTER EMERGENCY
27 PURSUANT TO SECTION 24-33.5-704 (4), THE PROPERTY, IN AT LEAST TWO

1 OF THE PREVIOUS FIVE YEARS, GENERATED ANNUAL RENTAL INCOME OR
2 REVENUE THAT TOTALS SIXTY PERCENT OR LESS OF THE FIVE-YEAR
3 AVERAGE IMMEDIATELY PRECEDING THE DISASTER EMERGENCY
4 DECLARATION.

5 (r) "GREENHOUSE GAS" HAS THE MEANING SET FORTH IN SECTION
6 25-7-140 (6).

7 (s) "GROSS FLOOR AREA" MEANS THE TOTAL BUILDING AREA, AS
8 MEASURED FROM THE OUTSIDE SURFACE OF EACH EXTERIOR WALL OF THE
9 BUILDING, INCLUDING ABOVE-GRADE AND BELOW-GRADE SPACE.

10 (t) "IES" MEANS THE ILLUMINATING ENGINEERING SOCIETY OR ITS
11 SUCCESSOR SOCIETY.

12 (u) "LOCAL GOVERNMENT" MEANS A STATUTORY OR HOME RULE
13 MUNICIPALITY, COUNTY, OR CITY AND COUNTY.

14 (v) "OWNER" MEANS A PERSON POSSESSING TITLE TO A PROPERTY
15 OR THE PERSON'S DESIGNATED AGENT.

16 (w) "PERFORMANCE YEAR" MEANS THE YEAR IN WHICH
17 PERFORMANCE STANDARDS ARE REQUIRED TO BE MET PURSUANT TO
18 SUBSECTION (8) OF THIS SECTION, BEGINNING IN 2026 AND CONTINUING
19 EVERY FIVE YEARS THEREAFTER UNTIL 2051.

20 (x) "QUALIFYING UTILITY" MEANS:

21 (I) AN ELECTRIC OR GAS UTILITY WITH FIVE THOUSAND OR MORE
22 ACTIVE COMMERCIAL AND INDUSTRIAL SERVICE CONNECTIONS, ACCOUNTS,
23 OR CUSTOMERS IN THE STATE, INCLUDING:

24 (A) AN INVESTOR-OWNED ELECTRIC OR GAS UTILITY;

25 (B) A COOPERATIVE ELECTRIC ASSOCIATION; OR

26 (C) A MUNICIPALLY OWNED ELECTRIC OR GAS UTILITY; OR

27 (II) A NATURAL GAS SUPPLIER WITH FIVE OR MORE ACTIVE

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1 COMMERCIAL OR INDUSTRIAL CONNECTIONS, ACCOUNTS, OR CUSTOMERS
2 IN THE STATE.

3 (y) "RENEWABLE ENERGY" MEANS ENERGY:

4 (I) THAT MEETS THE DEFINITION OF "ELIGIBLE ENERGY
5 RESOURCES" SET FORTH IN SECTION 40-2-124 (1)(a);

6 (II) THAT, TO THE MAXIMUM EXTENT TECHNICALLY FEASIBLE AND
7 LEGALLY ALLOWABLE, IS PRODUCED AS RETAIL DISTRIBUTED GENERATION,
8 AS DEFINED IN SECTION 40-2-124 (1)(a)(VIII), WITH THE REMAINDER
9 PRODUCED BY OFF-SITE SOURCES; AND

10 (III) FOR WHICH ITS RENEWABLE ENERGY CERTIFICATES HAVE
11 BEEN RETIRED ON BEHALF OF THE COVERED BUILDING, AFTER BEING USED
12 FOR COMPLIANCE WITH THE PERFORMANCE STANDARDS SET FORTH IN
13 SUBSECTION (8) OF THIS SECTION.

14 (z) "RENEWABLE ENERGY CERTIFICATE" MEANS THE
15 ENVIRONMENTAL ATTRIBUTES OF ONE MEGAWATT-HOUR OF RENEWABLE
16 ENERGY.

17 (aa) "STATE INSTITUTION OF HIGHER EDUCATION":

18 (I) HAS THE MEANING SET FORTH IN SECTION 23-1-108 (7)(g)(II);

19 _____

20 (II) INCLUDES THE AURARIA HIGHER EDUCATION CENTER,
21 GOVERNED PURSUANT TO ARTICLE 70 OF TITLE 23; AND

22 (III) DOES NOT INCLUDE A BIOMEDICAL RESEARCH LABORATORY.

23 (bb) "TENANT" MEANS A PERSON THAT, PURSUANT TO A RENTAL OR
24 LEASE AGREEMENT, OCCUPIES OR HOLDS POSSESSION OF A BUILDING OR
25 PART OF A BUILDING OR PREMISES.

26 (cc) "UNIQUE IDENTIFIER" MEANS A CUSTOMER'S CONTACT
27 INFORMATION DISPLAYED ON A UTILITY BILL SUCH AS THE CUSTOMER'S

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1 NAME, MAILING ADDRESS, TELEPHONE NUMBER, OR E-MAIL ADDRESS.

2 (dd) "UTILITY CUSTOMER" MEANS THE BUILDING OWNER OR
3 TENANT LISTED ON THE UTILITY'S RECORDS AS THE CUSTOMER LIABLE FOR
4 PAYMENT OF THE UTILITY SERVICE OR ADDITIONAL CHARGES ASSESSED ON
5 THE UTILITY ACCOUNT.

6 (3) **Benchmarking requirements on owners.** (a) ON OR BEFORE
7 DECEMBER 1, 2022, AND ON OR BEFORE JUNE 1 OF EACH SUBSEQUENT
8 YEAR, THE OWNER OF A COVERED BUILDING SHALL SUBMIT A REPORT OF
9 THE BENCHMARKING DATA FOR THE PREVIOUS CALENDAR YEAR TO THE
10 OFFICE.

11 (b) BEFORE PROVIDING A BENCHMARKING REPORT PURSUANT TO
12 SUBSECTION (3)(a) OF THIS SECTION, AN OWNER SHALL RUN ANY
13 AUTOMATED DATA CHECKING FUNCTION OF THE BENCHMARKING TOOL
14 AND CORRECT ANY ERRORS DISCOVERED.

15 (c) THE FOLLOWING OWNERS MAY COMPLY WITH THIS SUBSECTION
16 (3) COLLECTIVELY AT THE CAMPUS-WIDE LEVEL:

17 (I) THE OWNER OF MULTIPLE COVERED BUILDINGS THAT ARE PART
18 OF A MASTER METERED GROUP OF BUILDINGS WITHOUT SUBMETERING;

19 (II) THE OWNER OF A CORRECTIONAL FACILITY; AND

20 (III) THE OWNER OF A STATE INSTITUTION OF HIGHER EDUCATION.

21 (4) **Utility data requirements.** (a) ON OR BEFORE JANUARY 1,
22 2022, A QUALIFYING UTILITY SHALL:

23 (I) ESTABLISH AN AGGREGATION THRESHOLD THAT IS FOUR OR
24 FEWER UTILITY CUSTOMER ACCOUNTS;

25 (II) PUBLISH ITS AGGREGATION THRESHOLD ON ITS PUBLIC
26 WEBSITE; AND

27 (III) UPON REQUEST OF AN OWNER OF A COVERED BUILDING, BEGIN

1 PROVIDING ENERGY-USE DATA TO THE OWNER.

2 (b) ENERGY-USE DATA THAT A QUALIFYING UTILITY PROVIDES AN
3 OWNER PURSUANT TO THIS SUBSECTION (4) MUST BE:

4 (I) AVAILABLE ON, OR ABLE TO BE REQUESTED THROUGH, AN
5 EASILY NAVIGABLE WEB PORTAL OR ONLINE REQUEST FORM USING
6 UP-TO-DATE STANDARDS FOR DIGITAL AUTHENTICATION, INCLUDING
7 SINGLE ONE-TIME PASSWORDS OR MULTI-FACTOR AUTHENTICATION;

8 (II) PROVIDED TO THE OWNER WITHIN THIRTY DAYS AFTER
9 RECEIVING THE OWNER'S VALID WRITTEN OR ELECTRONIC REQUEST;

10 (III) DIRECTLY UPLOADED TO THE OWNER'S BENCHMARKING TOOL
11 ACCOUNT, DELIVERED IN THE SPREADSHEET TEMPLATE SPECIFIED BY THE
12 BENCHMARKING TOOL, OR DELIVERED IN ANOTHER FORMAT APPROVED BY
13 THE OFFICE;

14 (IV) PROVIDED TO THE OWNER ON AT LEAST AN ANNUAL BASIS
15 UNTIL THE OWNER REVOKES THE REQUEST FOR ENERGY-USE DATA OR
16 SELLS THE COVERED BUILDING; AND

17 (V) PROVIDED IN ACCORDANCE WITH THIS SUBSECTION (4),
18 REGARDLESS OF WHETHER THE OWNER IS NAMED ON THE UTILITY
19 ACCOUNT FOR THE COVERED BUILDING.

20 (c) FOR COVERED BUILDINGS THAT DO NOT MEET THE QUALIFYING
21 UTILITY'S AGGREGATION THRESHOLD, AND THUS REQUIRE UTILITY
22 CUSTOMER CONSENT TO ACCESS OR SHARE ENERGY-USE DATA, THE
23 CONSENT:

24 (I) MAY BE IN WRITTEN OR ELECTRONIC FORM;

25 (II) MAY BE PROVIDED IN A LEASE AGREEMENT PROVISION;

26 (III) IS VALID UNTIL THE UTILITY CUSTOMER REVOKES IT; AND

27 (IV) IS NOT REQUIRED IF A UTILITY CUSTOMER VACATES THE

1 COVERED BUILDING BEFORE EXPLICITLY DENYING THE OWNER CONSENT TO
2 ACCESS AND SHARE THE UTILITY CUSTOMER'S ENERGY-USE DATA.

3 (5) **Benchmarking waivers and extensions of time.** (a) AN
4 OWNER OF A COVERED BUILDING MAY SEEK A WAIVER FROM THE
5 BENCHMARKING REQUIREMENTS SET FORTH IN SUBSECTION (3) OF THIS
6 SECTION IF THE OWNER SUBMITS DOCUMENTATION TO, AND RECEIVES
7 APPROVAL FROM, THE OFFICE, WHICH DOCUMENTATION ESTABLISHES THAT
8 THE COVERED BUILDING HAS MET ONE OR MORE OF THE FOLLOWING
9 CONDITIONS FOR THE CALENDAR YEAR TO BE BENCHMARKED:

10 (I) THE COVERED BUILDING WAS UNOCCUPIED FOR AT LEAST
11 THIRTY CONSECUTIVE DAYS OF THE YEAR;

12 (II) A DEMOLITION PERMIT WAS ISSUED FOR THE ENTIRE COVERED
13 BUILDING;

14 (III) THE COVERED BUILDING MET ONE OR MORE OF THE
15 CONDITIONS FOR FINANCIAL HARDSHIP; OR

16 (IV) THE COVERED BUILDING DOES NOT MEET A QUALIFYING
17 UTILITY'S AGGREGATION THRESHOLD, ONE OR MORE OF THE UTILITY
18 CUSTOMERS REFUSED TO PROVIDE THE OWNER WITH PERMISSION TO
19 ACCESS THE UTILITY CUSTOMER'S RELEVANT ENERGY-USE DATA, THE
20 OWNER PROVIDES PROOF TO THE OFFICE THAT IT REQUESTED PERMISSION
21 FROM THE UTILITY CUSTOMER OR UTILITY CUSTOMERS WITHHOLDING
22 CONSENT AT LEAST THIRTY DAYS BEFORE THE BENCHMARKING REPORT
23 WAS DUE, AND THE OWNER SUBMITS A PLAN TO INCLUDE AN ENERGY-USE
24 DATA SHARING PERMISSION PROVISION IN THE NEXT LEASE RENEWAL.

25 (b) AN OWNER OF A COVERED BUILDING MAY REQUEST A TIME
26 EXTENSION FROM THE OFFICE TO SUBMIT A BENCHMARKING REPORT IF THE
27 OWNER SUBMITS DOCUMENTATION TO THE OFFICE DEMONSTRATING THAT,

1 DESPITE THE OWNER'S GOOD-FAITH EFFORT, THE OWNER WAS UNABLE TO
2 COMPLETE THE BENCHMARKING REPORT IN A TIMELY MANNER BECAUSE OF
3 THE FAILURE OR REFUSAL OF A QUALIFYING UTILITY OR A UTILITY
4 CUSTOMER TO PROVIDE THE NECESSARY INFORMATION OR PERMISSION, AS
5 APPLICABLE.

6 (c) THE OFFICE SHALL NOTIFY THE DIVISION OF ALL APPROVED
7 WAIVERS AND EXTENSIONS OF TIME, THE APPROVAL OF WHICH IS SOLELY
8 WITHIN THE OFFICE'S DISCRETION.

9 (d) PURSUANT TO SUBSECTION (7) OF THIS SECTION, THE
10 COMMISSION MAY, BY RULE, MODIFY THE REQUIREMENTS FOR OBTAINING
11 A WAIVER OR EXTENSION OF TIME PURSUANT TO THIS SUBSECTION (5).

12 (6) **Requirements upon sale or lease of a covered building.**

13 (a) AT THE TIME OF LISTING A COVERED BUILDING OR A PORTION OF A
14 COVERED BUILDING FOR SALE OR LEASE, THE OWNER OF THE COVERED
15 BUILDING SHALL FURNISH A COPY OF REPORTED BENCHMARKING DATA
16 FROM THE PREVIOUS CALENDAR YEAR OR FROM THE MOST RECENT
17 TWELVE-MONTH PERIOD OF CONTINUOUS OCCUPANCY TO THE FOLLOWING:

- 18 (I) PROSPECTIVE BUYERS OR LESSEES;
- 19 (II) ANY BROKERS, AS DEFINED IN SECTION 12-10-201 (6), WHO
20 MAKE INQUIRY ABOUT THE PROPERTY; AND
- 21 (III) MAJOR COMMERCIAL REAL ESTATE LISTING SERVICES ON
22 WHICH THE PROPERTY IS LISTED.

23 (b) UPON RECEIPT OF THE BENCHMARKING DATA, A COMMERCIAL
24 REAL ESTATE LISTING SERVICE THAT LISTS PROPERTIES IN THE STATE
25 SHALL INCLUDE IN THE PROPERTY'S LISTING, AT A MINIMUM, THE
26 PROPERTY'S ENERGY STAR SCORE, IF APPLICABLE, AND THE PROPERTY'S
27 ENERGY-USE INTENSITY.

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1 (c) IF A COVERED BUILDING CHANGES OWNERSHIP, THE FORMER
2 OWNER SHALL MAKE AVAILABLE TO THE NEW OWNER THE ENERGY-USE
3 DATA; UTILITY CUSTOMER CONSENT DOCUMENTATION, IF ANY; AND ANY
4 OTHER INFORMATION ABOUT THE PROPERTY THAT IS NECESSARY TO
5 BENCHMARK THE COVERED BUILDING. THE FORMER OWNER SHALL
6 TRANSFER TO THE NEW OWNER BOTH THE RECORD REPRESENTING THE
7 COVERED BUILDING WITHIN THE BENCHMARKING TOOL AND THE REQUEST
8 TO A QUALIFIED UTILITY FOR AGGREGATED DATA. THE NEW OWNER MAY
9 REQUEST AND RECEIVE FROM A QUALIFYING UTILITY THE AGGREGATED
10 DATA NECESSARY TO FULFILL BENCHMARKING REPORTING REQUIREMENTS.

11 (7) **Benchmarking rules.** THE COMMISSION MAY PROMULGATE
12 RULES TO IMPLEMENT THE BENCHMARKING PROGRAM SET FORTH IN THIS
13 SECTION. ADDITIONALLY, THE COMMISSION MAY, BY RULE, MODIFY THE
14 FOLLOWING:

15 (a) THE PROVISIONS REGARDING WAIVERS AND EXTENSIONS OF
16 TIME SET FORTH IN SUBSECTION (5) OF THIS SECTION;

17 (b) THE DEFINITION OF "BENCHMARKING DATA", BUT ONLY IF THE
18 MODIFIED DEFINITION CONCERNS DATA THAT:

19 (I) IS CAPABLE OF BEING RECORDED BY THE BENCHMARKING TOOL;
20 AND

21 (II) INCLUDES THE ENERGY STAR SCORE, IF APPLICABLE, AND
22 ENERGY-USE INTENSITY;

23 (c) THE BENCHMARKING TOOL THAT OWNERS ARE REQUIRED TO
24 USE TO BENCHMARK;

25 (d) DATA VERIFICATION REQUIREMENTS; AND

26 (e) AFTER JUNE 1, 2029, THE MINIMUM GROSS FLOOR AREA
27 INCLUDED IN THE DEFINITION OF "COVERED BUILDING".

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1 **(8) Performance standard requirements.** (a) TO HELP ACHIEVE
2 THE STATEWIDE GREENHOUSE-GAS-EMISSION-REDUCTION TARGETS SET
3 FORTH IN SECTION 25-7-102 (2)(g), THE STATE SHALL IMPLEMENT
4 PERFORMANCE STANDARDS FOR COVERED BUILDINGS.

5 (b) (I) EXCEPT AS PROVIDED IN SUBSECTIONS (8)(b)(II) AND
6 (8)(b)(III) OF THIS SECTION, ON OR BEFORE JUNE 1 OF A YEAR FOLLOWING
7 A PERFORMANCE YEAR, AN OWNER OF A COVERED BUILDING SHALL SUBMIT
8 TO THE OFFICE A REPORT, IN A FORM AND MANNER DETERMINED BY THE
9 OFFICE, DEMONSTRATING THAT, IN THE MOST RECENT PERFORMANCE
10 YEAR, THE COVERED BUILDING MET THE PERFORMANCE STANDARDS SET
11 FORTH IN SUBSECTION (8)(c) OR (8)(d) OF THIS SECTION OR, IF THE
12 COMMISSION BY RULE MODIFIES THE PERFORMANCE STANDARDS
13 PURSUANT TO SUBSECTION (10) OF THIS SECTION, THE MODIFIED
14 PERFORMANCE STANDARDS SET FORTH IN THE COMMISSION'S RULES.

15 (II) FOR A COVERED BUILDING OWNED BY THE STATE, THE OWNER
16 NEED COMPLY WITH THE PERFORMANCE REQUIREMENTS SET FORTH IN THIS
17 SUBSECTION (8) ONLY IF THE OWNER COMMENCES WORK ON A
18 CONSTRUCTION OR RENOVATION PROJECT THAT HAS AN ESTIMATED COST
19 OF AT LEAST FIVE HUNDRED THOUSAND DOLLARS.

20 (III) THE OWNER OF A CORRECTIONAL FACILITY OR A STATE
21 INSTITUTION OF HIGHER EDUCATION MAY REPORT THAT IT MET THE
22 PERFORMANCE STANDARDS SET FORTH IN SUBSECTION (8)(c) OR (8)(d) of
23 this section:

24 (A) ON A CAMPUS-WIDE BASIS; OR

25 (B) ON A BUILDING-BY-BUILDING BASIS FOR THOSE BUILDINGS
26 THAT ARE COVERED BUILDINGS.

27

1 (c) FOR PERFORMANCE YEAR 2026, AN OWNER OF A COVERED
2 BUILDING SHALL DEMONSTRATE IN ACCORDANCE WITH THE REPORTING
3 REQUIREMENT SET FORTH IN SUBSECTION (8)(b)(I) OF THIS SECTION THAT
4 THE COVERED BUILDING MET ONE OR MORE OF THE FOLLOWING
5 PERFORMANCE STANDARDS OR THE PERFORMANCE STANDARD SET FORTH
6 IN SUBSECTION (8)(d) OF THIS SECTION:

7 (I) THE COVERED BUILDING RECEIVED AN ENERGY STAR SCORE OF:

8 (A) SEVENTY-FIVE OR HIGHER; OR

9 (B) FIFTEEN POINTS HIGHER THAN THE ENERGY STAR SCORE THAT
10 THE COVERED BUILDING RECEIVED DURING ITS MOST RECENT BASELINE
11 YEAR;

12 (II) THE COVERED BUILDING'S WEATHER-NORMALIZED SITE AND
13 SOURCE ENERGY-USE INTENSITY WAS REDUCED BY AT LEAST FIFTEEN
14 PERCENT COMPARED TO ITS PERFORMANCE DURING THE MOST RECENT
15 BASELINE YEAR;

16 (III) THE COVERED BUILDING'S ENERGY-USE INTENSITY MET OR
17 SURPASSED:

18 (A) THE SECTOR-SPECIFIC AND CLIMATE-ZONE-SPECIFIC TARGET
19 DETERMINED BY THE COMMISSION BY RULE; OR

20 (B) IF THE COMMISSION HAS NOT YET PROMULGATED A RULE
21 ESTABLISHING THE TARGET DESCRIBED IN SUBSECTION (8)(c)(III)(A) OF
22 THIS SECTION, THE SECTOR-SPECIFIC AND CLIMATE-ZONE-SPECIFIC TARGET
23 CONTAINED IN THE MOST RECENT EDITION OF ANSI/ASHRAE/IES
24 STANDARD 100-2018, "ENERGY EFFICIENCY IN EXISTING BUILDINGS", OR
25 ITS SUCCESSOR STANDARD; OR

26 (IV) THE COVERED BUILDING IS A MIXED-USE PROPERTY AND THE
27 OWNER OF THE COVERED BUILDING SUBMITS PROOF THAT THE COVERED

1 BUILDING MEETS OR EXCEEDS THE ENERGY-USE INTENSITY STANDARD SET
2 FORTH IN SUBSECTION (8)(c)(III) OF THIS SECTION, AS DETERMINED BY A
3 WEIGHTED AVERAGE OF SQUARE FOOTAGE BY FUNCTION OR USE.

4 (d) AS AN ALTERNATIVE TO THE PERFORMANCE STANDARDS SET
5 FORTH IN SUBSECTION (8)(c) OF THIS SECTION, AN OWNER MAY COMPLY
6 WITH THE PERFORMANCE STANDARD REQUIREMENT FOR PERFORMANCE
7 YEAR 2026 BY DEMONSTRATING THAT, FOR AT LEAST FOUR OF THE FIVE
8 YEARS IMMEDIATELY AFTER THE MOST RECENT BASELINE YEAR, AT LEAST
9 FIFTY PERCENT OF THE COVERED BUILDING'S ELECTRICITY WAS
10 GENERATED FROM RENEWABLE ENERGY AND:

11 (I) THE COVERED BUILDING RECEIVED AN ENERGY STAR SCORE OF:

12 (A) SIXTY-FIVE OR HIGHER; OR

13 (B) TEN POINTS HIGHER THAN THE ENERGY STAR SCORE THAT THE
14 COVERED BUILDING RECEIVED DURING ITS MOST RECENT BASELINE YEAR;

15 (II) THE COVERED BUILDING'S WEATHER-NORMALIZED SITE AND
16 SOURCE ENERGY-USE INTENSITY WAS REDUCED BY AT LEAST TEN PERCENT
17 COMPARED TO ITS PERFORMANCE DURING THE MOST RECENT BASELINE
18 YEAR; OR

19 (III) THE COVERED BUILDING'S ENERGY-USE INTENSITY WAS
20 WITHIN TEN PERCENT OF:

21 (A) THE SECTOR-SPECIFIC AND CLIMATE-ZONE-SPECIFIC TARGET
22 DETERMINED BY THE COMMISSION BY RULE;

23 (B) IF THE COMMISSION HAS NOT YET PROMULGATED A RULE
24 ESTABLISHING THE TARGET DESCRIBED IN SUBSECTION (8)(d)(III)(A) OF
25 THIS SECTION, THE SECTOR-SPECIFIC AND CLIMATE-ZONE-SPECIFIC TARGET
26 CONTAINED IN ANSI/ASHRAE/IES STANDARD 100-2018, "ENERGY
27 EFFICIENCY IN EXISTING BUILDINGS", OR ITS SUCCESSOR STANDARD; OR

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1 (C) IF THE COVERED BUILDING IS A MIXED-USE PROPERTY, THE
2 SECTOR-SPECIFIC AND CLIMATE-ZONE-SPECIFIC TARGET DETERMINED BY
3 THE COMMISSION BY RULE OR, IF THE COMMISSION HAS NOT YET
4 PROMULGATED A RULE ESTABLISHING THE TARGET, BY THE STANDARD
5 REFERENCED IN SUBSECTION (8)(d)(III)(B) OF THIS SECTION, AS
6 DETERMINED BY A WEIGHTED AVERAGE OF SQUARE FOOTAGE BY FUNCTION
7 OR USE.

8 (e) IN SUBMITTING A PERFORMANCE REPORT DEMONSTRATING
9 THAT A COVERED BUILDING HAS MET PERFORMANCE STANDARDS, THE
10 OWNER OF THE COVERED BUILDING MAY SUBSTITUTE A YEAR WITHIN TWO
11 YEARS BEFORE OR AFTER THE RELEVANT BASELINE YEAR AS THE YEAR TO
12 WHICH THE PERFORMANCE YEAR MAY BE COMPARED.

13 (f) AN OWNER OF MULTIPLE COVERED BUILDINGS THAT ARE PART
14 OF A MASTER METERED GROUP OF BUILDINGS WITHOUT SUBMETERING MAY
15 COMPLY WITH THIS SUBSECTION (8) COLLECTIVELY AT THE CAMPUS-WIDE
16 LEVEL.

17 (9) **Performance standard waivers or extensions of time.**

18 (a) FOR PERFORMANCE YEAR 2026 AND, IF EXTENDED BY THE
19 COMMISSION BY RULE PURSUANT TO SUBSECTION (10) OF THIS SECTION,
20 FOR SUBSEQUENT PERFORMANCE YEARS, THE OFFICE SHALL GRANT AN
21 OWNER OF A COVERED BUILDING A WAIVER FROM THE REQUIREMENT TO
22 MEET THE PERFORMANCE STANDARDS BY DEMONSTRATING IN THE
23 PERFORMANCE REPORT THAT:

24 (I) IN THE MOST RECENT FIVE YEARS, THE OFFICE GRANTED A
25 WAIVER FROM BENCHMARKING REPORTING FOR THE COVERED BUILDING
26 IN AT LEAST TWO OF THE FIVE YEARS;

27 (II) THE COVERED BUILDING IS A TENANT-OWNED MULTIFAMILY

1 RESIDENTIAL BUILDING;

2 (III) AT LEAST EIGHTY PERCENT OF THE RESIDENTIAL TENANTS IN

3 THE COVERED BUILDING HAVE A HOUSEHOLD INCOME THAT IS LESS THAN

4 EIGHTY PERCENT OF THE AREA MEDIAN INCOME;

5 (IV) THE COVERED BUILDING IS DESIGNATED A HISTORIC

6 PROPERTY UNDER FEDERAL, STATE, OR LOCAL LAW OR REGISTRY AND:

7 (A) THE COVERED BUILDING WAS BUILT BEFORE 1950;

8 (B) THE OWNER OF THE COVERED BUILDING SUBMITS PROOF THAT

9 THE OWNER CANNOT PERFORM ANY ADDITIONAL ENERGY EFFICIENCY

10 UPGRADES IN WHICH THE INITIAL COSTS OF THE UPGRADES COULD BE

11 RECOVERED FROM ENERGY BILL SAVINGS IN FEWER THAN FIVE YEARS

12 WITHOUT JEOPARDIZING THE HISTORIC DESIGNATION OR STRUCTURAL

13 INTEGRITY OF THE PROPERTY; AND

14 (C) THE OWNER SUBMITS PROOF OF COMMISSIONING OR

15 RECOMMISSIONING THE COVERED BUILDING IN ACCORDANCE WITH

16 ANSI/ASHRAE/IES STANDARD 202-2018, "COMMISSIONING PROCESS

17 FOR BUILDINGS AND SYSTEMS", OR ITS SUCCESSOR STANDARD; OR

18 (V) IN OR AFTER THE MOST RECENT BASELINE YEAR, THE COVERED

19 BUILDING RECEIVED A CERTIFICATE OF OCCUPANCY AND THE OWNER

20 SUBMITS PROOF TO THE OFFICE THAT THE COVERED BUILDING WAS

21 CONSTRUCTED TO MEET OR SURPASS THE EFFICIENCY LEVELS IN ONE OF

22 THE FOLLOWING:

23 (A) ONE OF THE TWO MOST RECENT EDITIONS OF THE

24 INTERNATIONAL CODE COUNCIL'S, OR ITS SUCCESSOR ORGANIZATION'S,

25 INTERNATIONAL ENERGY CONSERVATION CODE;

26 (B) ANSI/ASHRAE/IES STANDARD 90.1-2019, "ENERGY

27 STANDARD FOR BUILDINGS EXCEPT LOW-RISE RESIDENTIAL BUILDINGS",

1 OR ITS SUCCESSOR STANDARD; OR
2 (C) ANSI/ASHRAE STANDARD 90.2-2018, "ENERGY-EFFICIENT
3 DESIGN OF LOW-RISE RESIDENTIAL BUILDINGS", OR ITS SUCCESSOR
4 STANDARD OR CODE.

5 (b) AN OWNER OF A COVERED BUILDING MAY REQUEST AN
6 EXTENSION OF TIME FROM THE OFFICE IF THE OWNER SUBMITS
7 DOCUMENTATION TO THE OFFICE DEMONSTRATING THAT:

8 (I) AFTER THE MOST RECENT BASELINE YEAR, THE BENCHMARKING
9 TOOL CONDUCTED A LARGE-SCALE RECALIBRATION, RENDERING THE
10 COVERED BUILDING'S ENERGY STAR SCORE INSUFFICIENT TO MEET THE
11 PERFORMANCE STANDARDS SET FORTH IN SUBSECTION (8) OF THIS
12 SECTION; OR

13 (II) THE PRIMARY FUNCTION OF THE BUILDING HAS CHANGED SINCE
14 THE LAST PERFORMANCE YEAR.

15 (10) **Performance standard rules.** (a) ON OR AFTER DECEMBER
16 1, 2026, BUT NO LATER THAN DECEMBER 1, 2027, THE COMMISSION, AFTER
17 CONSULTATION WITH AFFECTED STAKEHOLDERS, SHALL PROMULGATE
18 RULES TO EITHER EXTEND OR MODIFY THE PERFORMANCE STANDARDS,
19 WAIVERS, OR EXTENSIONS OF TIME SET FORTH IN SUBSECTIONS (8)(c),
20 (8)(d), (9)(a), AND (9)(b) OF THIS SECTION TO REQUIRE ALL COVERED
21 PROPERTIES, IN THE AGGREGATE, TO ACHIEVE OR EXCEED TWENTY
22 PERCENT ENERGY AND GREENHOUSE GAS REDUCTIONS BY 2031 COMPARED
23 TO THE ENERGY AND GREENHOUSE GAS LEVELS IN 2021.

24 (b) ON OR BEFORE DECEMBER 1 OF EACH SUBSEQUENT BASELINE
25 YEAR THROUGH 2047, THE COMMISSION, AFTER CONSULTATION WITH
26 AFFECTED STAKEHOLDERS, SHALL PROMULGATE RULES TO EXTEND OR
27 MODIFY THE PERFORMANCE STANDARDS TO ACHIEVE OR EXCEED EMISSION

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1 REDUCTIONS THAT ARE CONSISTENT WITH THE STATEWIDE
2 GREENHOUSE-GAS-EMISSION-REDUCTION TARGETS SET FORTH IN SECTION
3 25-7-102 (2)(g).

4 (c) THE CALCULATION OF GREENHOUSE GAS REDUCTIONS
5 PURSUANT TO THIS SUBSECTION (10) MUST NOT INCLUDE SAVINGS FROM
6 SYSTEM-WIDE DECARBONIZATION OF ELECTRICITY OR NATURAL GAS
7 UTILITY GRIDS, BUT THE REDUCTIONS MAY INCLUDE SAVINGS FROM
8 UTILITY OR LOCAL ENERGY EFFICIENCY PROGRAMS.

9 (d) THE COMMISSION'S RULES MUST NOT UNDULY BURDEN ANY OF
10 THE FOLLOWING BUILDINGS:

11 (I) HIGH-PERFORMANCE BUILDINGS;

12 (II) TENANT-OWNED MULTIFAMILY RESIDENTIAL BUILDINGS;

13 (III) RESIDENTIAL BUILDINGS PRIMARILY USED TO HOUSE
14 LOW-INCOME HOUSEHOLDS;

15 (IV) PROPERTIES BUILT BEFORE 1950 THAT HAVE BEEN
16 DESIGNATED HISTORIC PROPERTIES; OR

17 (V) BUILDINGS OWNED BY A LOCAL GOVERNMENT.

18 (e) ON OR AFTER JUNE 1, 2029, BUT BEFORE JUNE 1, 2030, THE
19 COMMISSION SHALL COMMENCE A RULE-MAKING PROCEEDING TO
20 CONSIDER REDUCING THE SIZE THRESHOLD OF A COVERED BUILDING FOR
21 PURPOSES OF MEETING THE PERFORMANCE STANDARDS SET FORTH IN
22 SUBSECTION (8) OF THIS SECTION OR RULES PROMULGATED PURSUANT TO
23 THIS SUBSECTION (10). THE COMMISSION MAY ADOPT SUBSEQUENT RULES
24 TO LOWER THE SIZE THRESHOLD.

25 (f) THE COMMISSION SHALL NOT ADOPT RULES TO RESCIND OR
26 MODIFY THE EXEMPTIONS FOR LOCAL GOVERNMENTS AND DISTRICTS FROM
27 PAYMENT OF THE ANNUAL FEE, AS SET FORTH IN SECTION 24-38.5-110

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1 (1)(e)(II), OR THE EXEMPTIONS FOR LOCAL GOVERNMENTS AND DISTRICTS
2 FROM PAYMENT OF CIVIL PENALTIES, AS SET FORTH IN SECTION 25-7-122

3 (1)(i).

4 (11) **Saving clause.** THIS SECTION DOES NOT RESTRICT:

5 (a) THE ABILITY OF A QUALIFYING UTILITY TO PROVIDE INCENTIVES
6 OR OTHER ENERGY EFFICIENCY PROGRAM SERVICES FOR COVERED
7 BUILDINGS;

8 (b) THE ABILITY OF AN INVESTOR-OWNED UTILITY TO TAKE CREDIT,
9 AS DEEMED APPROPRIATE BY THE PUBLIC UTILITIES COMMISSION, FOR
10 ENERGY OR GREENHOUSE GAS EMISSION SAVINGS ACHIEVED FOR COVERED
11 BUILDINGS;

12 (c) THE ABILITY OF A QUALIFIED UTILITY TO SET AN AGGREGATION
13 THRESHOLD THAT IS LESS THAN FOUR; OR

14 (d) A LOCAL GOVERNMENT FROM ADOPTING OR IMPLEMENTING AN
15 ORDINANCE OR RESOLUTION THAT IMPOSES MORE STRINGENT
16 BENCHMARKING OR PERFORMANCE STANDARD REQUIREMENTS.

17 **SECTION 2.** In Colorado Revised Statutes, **add** 24-38.5-102.6
18 and 24-38.5-110 as follows:

19 **24-38.5-102.6. Climate change mitigation and adaptation fund**

20 **- creation - use.** (1) THE CLIMATE CHANGE MITIGATION AND ADAPTATION
21 FUND, REFERRED TO IN THIS SECTION AS THE "FUND", IS HEREBY CREATED
22 IN THE STATE TREASURY. THE FUND CONSISTS OF:

23 (a) CIVIL PENALTIES CREDITED TO THE FUND PURSUANT TO
24 SECTION 25-7-122 (1)(i)(II);

25 (b) BUILDING PERFORMANCE PROGRAM FEES CREDITED TO THE
26 FUND PURSUANT TO SECTION 24-38.5-110 (1)(e), WHICH FEES MUST BE
27 SEPARATELY ACCOUNTED FOR IN THE FUND;

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1 (c) GIFTS, GRANTS, AND DONATIONS MADE TO THE COLORADO
2 ENERGY OFFICE TO HELP FINANCE ITS ADMINISTRATION OF CLIMATE
3 CHANGE MITIGATION OR ADAPTATION PROGRAMS AND POLICIES;

4 (d) ANY MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE
5 OR TRANSFER TO THE FUND; AND

6 (e) ANY OTHER MONEY CREDITED TO THE FUND.

7 (2) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
8 COLORADO ENERGY OFFICE FOR THE PURPOSE OF FINANCING AND
9 ADMINISTERING PROGRAMS AND POLICIES DEVELOPED TO MITIGATE OR
10 ADAPT TO CLIMATE CHANGE THROUGHOUT THE STATE.

11 (3) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
12 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
13 FUND TO THE FUND.

14 **24-38.5-110. Building performance program - duties of the**
15 **office - county assessor records database - fees - definitions.** (1) THE
16 COLORADO ENERGY OFFICE SHALL IMPLEMENT A BUILDING PERFORMANCE
17 PROGRAM AS FOLLOWS:

18 (a) BASED ON COUNTY ASSESSOR RECORDS AND OTHER AVAILABLE
19 SOURCES OF INFORMATION, THE OFFICE SHALL CREATE A DATABASE OF
20 COVERED BUILDINGS AND OF OWNERS REQUIRED TO COMPLY WITH THE
21 BUILDING PERFORMANCE PROGRAM.

22 (b) UPON REQUEST OF THE OFFICE, A COUNTY ASSESSOR SHALL, IF
23 FEASIBLE USING EXISTING RESOURCES, PROVIDE READILY AVAILABLE
24 PROPERTY DATA FROM EXISTING RECORDS TO THE OFFICE AS NECESSARY
25 FOR IMPLEMENTATION OF THIS SECTION.

26 (c) THE OFFICE SHALL MAKE PUBLICLY AVAILABLE, THROUGH
27 DIGITALLY INTERACTIVE MAPS, LISTS, OR OTHER TECHNOLOGY AS

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1 DETERMINED BY THE OFFICE, BENCHMARKING DATA FOR ALL COVERED
2 BUILDINGS THAT HAVE REPORTED IN EACH YEAR PURSUANT TO SECTION
3 25-7-142 (3). THE PUBLICLY AVAILABLE DATA MUST NOT INCLUDE ANY
4 CONTACT INFORMATION FOR A COVERED BUILDING THAT IS NOT
5 OTHERWISE PUBLICLY AVAILABLE.

6 (d) THE OFFICE SHALL COORDINATE WITH ANY LOCAL
7 GOVERNMENT THAT IMPLEMENTS ITS OWN ENERGY BENCHMARKING OR
8 ENERGY PERFORMANCE PROGRAM, INCLUDING THE COORDINATION OF
9 REPORTING REQUIREMENTS.

10 (e) (I) EXCEPT AS PROVIDED IN SUBSECTION (1)(e)(II) OF THIS
11 SECTION, TO FINANCE THE OFFICE'S ADMINISTRATION OF THE BUILDING
12 PERFORMANCE PROGRAM, THE OFFICE SHALL COLLECT FROM EACH OWNER
13 OF A COVERED BUILDING AN ANNUAL FEE OF ONE HUNDRED DOLLARS PER
14 COVERED BUILDING. THE OFFICE SHALL TRANSFER THE FEES COLLECTED
15 TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE CLIMATE
16 CHANGE MITIGATION AND ADAPTATION FUND CREATED IN SECTION
17 24-38.5-102.6.

18 (II) THE FOLLOWING ENTITIES ARE EXEMPT FROM PAYING THE
19 ANNUAL FEE DESCRIBED IN SUBSECTION (1)(e)(I) OF THIS SECTION:

20 (A) A STATUTORY OR HOME RULE CITY, CITY AND COUNTY, OR
21 COUNTY; OR

22 (B) A DISTRICT OR SPECIAL DISTRICT GOVERNED BY TITLE 32.

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

25 (a) "BENCHMARKING DATA" HAS THE MEANING SET FORTH IN
26 SECTION 25-7-142 (2)(g).

27 (b) "BUILDING PERFORMANCE PROGRAM" MEANS THE

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1 BENCHMARKING AND PERFORMANCE STANDARD REQUIREMENTS SET
2 FORTH IN SECTION 25-7-142 (3) AND (8).

3 (c) "COLORADO ENERGY OFFICE" OR "OFFICE" MEANS THE
4 COLORADO ENERGY OFFICE CREATED IN SECTION 24-38.5-101 OR A
5 SUCCESSOR AGENCY.

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

8 (e) "OWNER" HAS THE MEANING SET FORTH IN SECTION 25-7-142
9 (2)(v).

10 SECTION 3. In Colorado Revised Statutes, 25-7-122, **amend**
11 (1)(b) introductory portion; and **add** (1)(i) as follows:

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

17 (b) Any person who violates any requirement or prohibition of an
18 applicable emission control regulation of the commission, the state
19 implementation plan, a construction permit, any provision for the
20 prevention of significant deterioration under part 2 of this article 7, any
21 provision related to attainment under part 3 of this article 7, or section
22 25-7-105, 25-7-106, 25-7-106.3, 25-7-108, 25-7-109, 25-7-111, 25-7-112,
23 25-7-113, 25-7-114.2, 25-7-114.5, 25-7-118, **25-7-142**, 25-7-206,
24 25-7-403, 25-7-404, 25-7-405, 25-7-407, 42-4-403, 42-4-404, 42-4-405,
25 42-4-406, 42-4-407, 42-4-409, 42-4-410, or 42-4-414 is subject to a civil
26 penalty of not more than forty-seven thousand three hundred fifty-seven
27 dollars per day for each day of the violation; except that:

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1 (i) (I) ON AND AFTER JANUARY 1, 2024, A PERSON THAT VIOLATES
2 SECTION 25-7-142 IS SUBJECT TO A CIVIL PENALTY PURSUANT TO
3 SUBSECTION (1)(b) OF THIS SECTION; EXCEPT THAT THE DIVISION SHALL
4 NOT ASSESS A CIVIL PENALTY WITH REGARD TO A BUILDING OWNED BY:

- 5 (A) THE STATE;
- 6 (B) A STATUTORY OR HOME RULE CITY, CITY AND COUNTY, OR
7 COUNTY;
- 8 (C) A SCHOOL DISTRICT AS DEFINED IN SECTION 22-11-103 (29);
- 9 (D) A STATE INSTITUTION OF HIGHER EDUCATION AS DEFINED IN
10 SECTION 23-1-108 (7)(g)(II), BUT INCLUDING THE AURARIA HIGHER
11 EDUCATION CENTER GOVERNED PURSUANT TO ARTICLE 70 OF TITLE 23; OR
12 (E) A DISTRICT OR SPECIAL DISTRICT GOVERNED BY TITLE 32.

13 (II) NOTWITHSTANDING SECTION 25-7-129, THE DIVISION SHALL
14 TRANSMIT CIVIL PENALTIES COLLECTED PURSUANT TO SUBSECTION
15 (1)(i)(I) OF THIS SECTION FOR A VIOLATION OF SECTION 25-7-142 TO THE
16 STATE TREASURER, WHO SHALL CREDIT THEM TO THE CLIMATE CHANGE
17 MITIGATION AND ADAPTATION FUND CREATED IN SECTION 24-38.5-102.6.

18 **SECTION 4.** In Colorado Revised Statutes, 29-12.5-101, **amend**
19 (3) introductory portion, (3)(f), and (3)(h); and **repeal** (3)(g) as follows:

20 **29-12.5-101. Definitions.** As used in this article 12.5:

21 (3) "Energy performance contract" means a contract for
22 evaluations, recommendations, or implementation of one or more energy
23 saving measures designed to produce utility ~~costs~~ COST savings, operation
24 and maintenance cost savings, or vehicle fleet operational and fuel cost
25 savings, which contract:

26 (f) Requires ~~such~~ A board, upon termination or expiration of the
27 contract, to return to ~~such~~ THE party any ~~moneys~~ MONEY THAT THE PARTY

1 deposited with ~~such~~ THE board ~~that are~~ AND DID not ~~forfeited~~ FORFEIT to
2 ~~such~~ THE board pursuant to ~~paragraph (c) of this subsection (3)~~
3 SUBSECTION (3)(e) OF THIS SECTION; AND

4 (g) ~~Requires that not less than one-tenth of all payments, except~~
5 ~~payments for maintenance and repairs and obligations on the termination~~
6 ~~of the contract prior to expiration, to be made by such board shall be~~
7 ~~made within two years from the date of execution of the contract; and~~

8 (h) Requires that the ~~remaining such payments to be made by such~~
9 ~~board shall be made within twelve years from the date of execution of the~~
10 ~~contract, except that the maximum term of the payments shall~~ THAT THE
11 BOARD MAKES MUST be less than the cost-weighted average useful life of
12 energy cost-savings equipment for which the contract is made, not to
13 exceed twenty-five years.

14 **SECTION 5. Act subject to petition - effective date -**
15 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
16 the expiration of the ninety-day period after final adjournment of the
17 general assembly; except that, if a referendum petition is filed pursuant
18 to section 1 (3) of article V of the state constitution against this act or an
19 item, section, or part of this act within such period, then the act, item,
20 section, or part will not take effect unless approved by the people at the
21 general election to be held in November 2022 and, in such case, will take
22 effect on the date of the official declaration of the vote thereon by the
23 governor.

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