

SB 870-5  
(LC 927)  
4/4/23 (TSB/ps)

Requested by Senator FINDLEY

**PROPOSED AMENDMENTS TO  
SENATE BILL 870**

1 In line 2 of the printed bill, after “buildings” insert “; and declaring an  
2 emergency”.

3 After line 2, insert:

4 “Whereas policies that encourage energy efficiency have been extremely  
5 successful in reducing energy use, avoiding costly investment in new gener-  
6 ating capacity, lowering customer energy bills and reducing air pollution and  
7 greenhouse gas emissions; and

8 “Whereas the Oregon 2022 biennial energy report states that achieving  
9 energy efficiency in existing buildings is critical for reducing greenhouse gas  
10 emissions that result from constructing and operating buildings in this state;  
11 and

12 “Whereas studies by the Northwest Power and Conservation Council and  
13 by individual Oregon utilities repeatedly show that efficiency is the region’s  
14 largest, cheapest and lowest-risk energy resource and that without improve-  
15 ments in efficiency the region would have needed to invest in additional  
16 generation capacity fueled by natural gas; and

17 “Whereas the Northwest Power and Conservation Council forecasts that,  
18 with an aggressive new energy efficiency policy, the region can potentially  
19 meet 100 percent of the electricity load growth over the next 20 years and  
20 that efficiency improvements can approach the size of the region’s  
21 hydropower system as an energy resource; and

1 “Whereas energy efficiency investments that reduce energy use in  
2 buildings also improve indoor air quality, provide more comfortable homes  
3 and workplaces, lower tenant energy bills and otherwise improve the quality  
4 of life for residents of this state; and

5 “Whereas the United States Department of Energy states in a 2017 energy  
6 and employment report that firms that provide energy efficiency goods and  
7 services created more than 65,000 jobs in this state, more than two-thirds of  
8 which are in construction, and that the number of jobs continues to grow;  
9 and

10 “Whereas buildings represent the second-largest source of greenhouse gas  
11 emissions in this state, the Legislative Assembly therefore:

12 “(1) Finds that the state has an interest in maximizing the full potential  
13 of energy efficiency standards, incentives to retrofit existing buildings, and  
14 utility programs and building codes to keep energy costs low and to meet  
15 statutory goals for increased building efficiency and reduced greenhouse gas  
16 emissions; and

17 “(2) Declares that the intent of this 2023 Act is to:

18 “(a) Provide incentives and regulations that encourage greater source  
19 energy efficiency in existing and new buildings, including source energy ef-  
20 ficiency in building design and operations and in source energy delivery and  
21 use;

22 “(b) Establish energy performance standards for existing large commercial  
23 buildings; and

24 “(c) Enhance access to commercial building source energy consumption  
25 data to assist with monitoring progress toward meeting energy performance  
26 standards; now, therefore,”.

27 Delete lines 4 through 9 and insert:

28 **“SECTION 1. As used in sections 1 to 8 of this 2023 Act:**

29 **“(1) ‘Agricultural building’ has the meaning given that term in ORS**  
30 **455.315.**

1       “(2) ‘Conditional compliance’ means a temporary method that a  
2 building owner can use to demonstrate that the building owner has  
3 implemented required source energy use reduction strategies when the  
4 building owner cannot demonstrate full compliance with a required  
5 source energy use intensity target.

6       “(3) ‘Covered commercial building’ means a tier 1 building or a tier  
7 2 building.

8       “(4) ‘Eligible building owner’ means:

9       “(a) An owner of a tier 1 building that must comply with the  
10 standard established in section 2 of this 2023 Act; or

11       “(b) An owner of tier 2 building.

12       “(5) ‘Energy’ means:

13       “(a) Electricity, including electricity that is delivered through the  
14 electric grid and electricity that is generated at a building site using  
15 solar or wind energy resources;

16       “(b) Natural gas;

17       “(c) Steam, hot water or chilled water used for heating or cooling;

18       “(d) Propane;

19       “(e) Fuel oil;

20       “(f) Wood;

21       “(g) Coal; or

22       “(h) Any other fuel that meets a covered commercial building’s  
23 energy load.

24       “(6) ‘Greenhouse gas’ has the meaning given that term in ORS  
25 468A.210.

26       “(7)(a) ‘Gross floor area’ means the total number of square feet of  
27 a building, measured from the exterior surfaces of a building’s fixed  
28 enclosing walls, including all floor space used as offices, lobbies,  
29 restrooms, equipment storage areas, mechanical rooms, break rooms  
30 and elevator shafts.

1       **“(b) ‘Gross floor area’ does not include bays or docks outside the**  
2 **building.**

3       **“(8) ‘Net energy use’ means the sum of metered and bulk fuel en-**  
4 **ergy that enters a building, multiplied by the national average source**  
5 **energy conversion factors set forth in ASHRAE Standard 90.1, minus**  
6 **the sum of metered energy that leaves the building.**

7       **“(9) ‘Savings-to-investment ratio’ means the ratio of the total**  
8 **present value of savings to the total present value of costs to imple-**  
9 **ment an energy conservation measure or water conservation measure,**  
10 **in which the numerator of the ratio is the present value of net savings**  
11 **in energy or water or in maintenance costs not related to fuel use or**  
12 **water use that are attributable to the energy conservation measure**  
13 **or water conservation measure and the denominator of the ratio is the**  
14 **present value of the net increase in investment and replacement costs,**  
15 **less the salvage value, of the energy conservation or water conserva-**  
16 **tion measure.**

17       **“(10) ‘Semiheated space’ means an enclosed space within a covered**  
18 **commercial building that is heated by a heating system with an output**  
19 **the Department of Consumer and Business Services specifies in an**  
20 **applicable specialty code.**

21       **“(11) ‘Source energy use intensity’ means a measurement that**  
22 **weather normalizes a building’s source energy use relative to the**  
23 **building’s size, calculated by dividing the total net source energy the**  
24 **building consumes in one year by the building’s gross floor area, ex-**  
25 **cluding any parking garage, and that is reported in thousands of**  
26 **British thermal units per square foot per year.**

27       **“(12) ‘Source energy use intensity target’ means a net energy use**  
28 **source intensity that complies with the standard set forth in section**  
29 **2 of this 2023 Act.**

30       **“(13) ‘Tier 1 building’ means a building, other than a school, in**

1 which the sum of gross floor area for hotel, motel and nonresidential  
2 use equals or exceeds 35,000 square feet, excluding any parking garage.

3 “(14)(a) ‘Tier 2 building’ means:

4 “(A) A building with gross floor area, excluding any parking garage,  
5 that equals or exceeds 35,000 square feet and that is used as a multi-  
6 family residential building, a hospital, a school, a dormitory or a uni-  
7 versity building; or

8 “(B) A building in which the sum of gross floor area for hotel, motel  
9 and nonresidential use exceeds 20,000 square feet but does not exceed  
10 35,000 square feet, excluding any parking garage.

11 “(b) ‘Tier 2 building’ does not include:

12 “(A) A school; or

13 “(B) A covered commercial building that is classified as a tier 1  
14 building.

15 “(15) ‘Unconditioned space’ means an enclosed space within a cov-  
16 ered commercial building that is not:

17 “(a) Heated by a heating system or cooled by a cooling system with  
18 output capacities the Department of Consumer and Business Services  
19 specifies in an applicable specialty code; or

20 “(b) Indirectly heated or cooled in accordance with standards the  
21 department specifies in an applicable specialty code.

22 “(16) ‘Weather normalized’ means a method for modifying a  
23 building’s source energy use intensity in a specific year to account for  
24 deviations from the building’s source energy use intensity as the  
25 source energy use intensity ordinarily occurs during a year in which  
26 the weather does not fluctuate substantially or vary as a consequence  
27 of extreme weather events.

28 “SECTION 2. (1)(a) Not later than December 31, 2024, the State De-  
29 partment of Energy, in consultation with the Department of Consumer  
30 and Business Services, shall adopt rules that use the American Na-

1 tional Standards Institute’s standards for Energy Efficiency in Exist-  
2 ing Buildings (ANSI/ASHRAE/IES Standard 100) as an initial model for  
3 specifying an energy performance standard for covered commercial  
4 buildings. In rulemaking proceedings to adopt or update rules under  
5 this paragraph, the State Department of Energy shall disclose the  
6 sources of information, including the model described in this para-  
7 graph and any peer-reviewed science, that the department relies on in  
8 developing or updating the energy performance standard. The depart-  
9 ment shall update the energy performance standard not later than  
10 July 1, 2029, and by the same month and day in each successive period  
11 of five years.

12 “(b) The energy performance standard described in paragraph (a)  
13 of this subsection must:

14 “(A) Comply with the requirements of sections 1 to 3 of this 2023  
15 Act;

16 “(B) Seek to maximize reductions in greenhouse gas emissions from  
17 covered commercial buildings;

18 “(C) Include source energy use intensity targets that apply to spe-  
19 cific types of buildings; and

20 “(D) Provide for methods to achieve conditional compliance with  
21 an applicable source energy use intensity target, which must, at a  
22 minimum, require:

23 “(i) Preparing an energy management plan;

24 “(ii) Developing a program for building operations and maintenance  
25 that aims at achieving the applicable source energy use intensity tar-  
26 get;

27 “(iii) Making investments in energy use efficiency measures that  
28 aim at achieving the applicable source energy use intensity target; and

29 “(iv) Submitting to energy use audits, which may be based upon or  
30 linked to ASHRAE Standard 211 audits.

1       **“(2)(a) In adopting the energy performance standard described in**  
2 **subsection (1) of this section, the department:**

3       **“(A) Shall:**

4       **“(i) Develop source energy use intensity targets that are not more**  
5 **stringent than the average source energy use intensity for each cov-**  
6 **ered commercial building occupancy classification, adjusting as nec-**  
7 **essary for a covered commercial building’s unique energy-using**  
8 **features;**

9       **“(ii) Consider, for the purpose of establishing source energy use**  
10 **intensity targets, regional and local data that identifies building en-**  
11 **ergy use, such as existing benchmarking data from the Energy Star**  
12 **program established under 42 U.S.C. 6294a;**

13       **“(iii) Consider, for the purpose of establishing the energy perform-**  
14 **ance standard, federal and local programs that relate to energy effi-**  
15 **ciency standards, aligning where possible requirements under the**  
16 **energy performance standard to avoid duplicative work by regulators**  
17 **and eligible building owners;**

18       **“(iv) Develop source energy use intensity targets for two or more**  
19 **climate zones that represent energy use in a year with normal**  
20 **weather;**

21       **“(v) Develop source energy use intensity targets that exclude en-**  
22 **ergy delivered through electric vehicle supply equipment; and**

23       **“(vi) Adopt a conditional compliance method that:**

24       **“(I) Requires eligible building owners of covered commercial**  
25 **buildings that do not meet a source energy intensity use target to take**  
26 **action to reduce energy use; and**

27       **“(II) Specifies investment criteria that meet the requirements set**  
28 **forth in paragraph (b) of this subsection and that ensure progress to-**  
29 **ward meeting the source energy use intensity target; and**

30       **“(B) May:**

1       “(i) Consider building occupancy classifications set forth in  
2 ANSI/ASHRAE/IES Standard 100 and the United States Environmental  
3 Protection Agency’s Energy Star portfolio manager; and

4       “(ii) Base source energy use intensity targets for recently con-  
5 structed covered commercial buildings on statewide energy codes that  
6 were in effect at the time the covered commercial building was con-  
7 structed.

8       “(b)(A) Investment criteria the department specifies as part of a  
9 conditional compliance method under paragraph (a) of this subsection  
10 must:

11       “(i) Ensure that an eligible building owner meets the covered com-  
12 mercial building’s source energy use intensity target by implementing  
13 energy efficiency measures identified in energy use audits; and

14       “(ii) Except as provided in subparagraph (B) of this paragraph, re-  
15 quire an eligible building owner to implement an optimized bundle of  
16 energy efficiency measures that provide maximum energy savings  
17 without resulting in a savings-to-investment ratio of less than 1.0 or  
18 require the eligible building owner to achieve the source energy use  
19 intensity target by means of an implementation plan that:

20       “(I) Is based on an energy use audit and life-cycle cost analysis  
21 from ANSI/ASHRAE/IES Standard 100 that accounts for the period  
22 during which a bundle of energy efficiency measures provide savings;

23       “(II) Reflects the eligible building owner’s net costs of implement-  
24 ing energy efficiency measures, excluding any costs that utility or  
25 government grants cover;

26       “(III) Allows an exclusion of energy efficiency measures that do not  
27 pay back the cost of the energy efficiency measure over the useful life  
28 of the energy efficiency measure;

29       “(IV) Allows an exclusion of energy efficiency measures that are  
30 excluded under subparagraph (B) of this paragraph; and



1       **“(V) Allows for phased implementation in which an eligible building**  
2 **owner need not replace a system or equipment before the useful life**  
3 **of the system or equipment ends.**

4       **“(B) An eligible building owner need not meet an energy efficiency**  
5 **requirement that would compromise the historical integrity of a cov-**  
6 **ered commercial building or part of a covered commercial building**  
7 **that:**

8       **“(i) Is listed on a state or national register of historic places;**

9       **“(ii) Is designated as an historic property under a state or local**  
10 **statute, ordinance, rule or other legislative act or a survey conducted**  
11 **under a statute, ordinance, rule or other legislative act;**

12       **“(iii) Is certified as a contributing resource within a historic district**  
13 **that is listed on a national register or is locally designated as a his-**  
14 **toric district; or**

15       **“(iv) A state historic preservation officer or the keeper of the na-**  
16 **tional register of historic places has determined in an opinion or cer-**  
17 **tification is eligible to be listed on the national or state register of**  
18 **historic places either as an individual building or as a building that**  
19 **contributes to a historic district.**

20       **“(3) The department shall create a database of eligible building**  
21 **owners and covered commercial buildings that are subject to the re-**  
22 **quirements of sections 1 to 3 of this 2023 Act based on records the de-**  
23 **partment obtains from each county assessor and on other information**  
24 **available to the department.**

25       **“(4)(a) Not later than July 1, 2025, the department shall notify eli-**  
26 **gible building owners of the requirement to comply with the provisions**  
27 **set forth for tier 1 buildings in sections 1 to 3 of this 2023 Act.**

28       **“(b) The department may approve an eligible building owner’s use**  
29 **of a conditional compliance method in lieu of full compliance with a**  
30 **source energy use intensity target if the department determines that**

1 the eligible building owner has the capacity to take the actions and  
2 make the investments required under the conditional compliance  
3 method and otherwise qualifies to use the conditional compliance  
4 method.

5 **“SECTION 3. (1) An eligible building owner of a tier 1 building shall**  
6 **report to the State Department of Energy concerning the eligible**  
7 **building owner’s compliance with the energy performance standard**  
8 **described in section 2 of this 2023 Act. The eligible building owner shall**  
9 **submit the report in accordance with the schedule specified in sub-**  
10 **section (4) of this section and shall submit a new report at the end of**  
11 **every successive five-year period. Each report the eligible building**  
12 **owner submits must include documentation that demonstrates that:**

13 **“(a) The tier 1 building’s weather normalized source energy use in-**  
14 **tensity during the previous calendar year is less than or equal to the**  
15 **applicable source energy use intensity target;**

16 **“(b) The eligible building owner is taking actions and making in-**  
17 **vestments in accordance with a conditional compliance method the**  
18 **department approved; or**

19 **“(c) The tier 1 covered commercial building is exempt from an en-**  
20 **ergy performance standard that otherwise would apply to the tier 1**  
21 **building because:**

22 **“(A) The tier 1 building did not have a certificate of occupancy or**  
23 **temporary certificate of occupancy during all of the 12 months that**  
24 **preceded the date on which the eligible building owner’s report is due;**

25 **“(B) The tier 1 building did not have an actual rate of occupancy**  
26 **that exceeded 50 percent of the tier 1 building’s capacity during all of**  
27 **the 12 months that preceded the date on which the eligible building**  
28 **owner’s report is due;**

29 **“(C) The sum of the tier 1 building’s gross floor area, minus un-**  
30 **conditioned spaces and semiheated spaces, is less than 35,000 square**

1 feet;

2 “(D) The primary use for the tier 1 building is manufacturing or  
3 another industrial use, as defined in accordance with the following use  
4 designations of the International Building Code:

5 “(i) Factory group F; or

6 “(ii) High hazard group H;

7 “(E) The tier 1 building is an agricultural building; or

8 “(F) The eligible building owner or the tier 1 building has undergone  
9 or is undergoing financial hardship, as measured in accordance with  
10 the following criteria:

11 “(i) Within the 24 months that precede the date on which the eli-  
12 gible building owner’s report is due, a city or county listed the tier 1  
13 building on the city’s or county’s annual tax lien sale list because of  
14 arrears in property taxes or water or wastewater charges;

15 “(ii) A court appointed receiver controls the tier 1 building because  
16 of financial distress;

17 “(iii) A financial institution owns the tier 1 building because of a  
18 borrower’s default;

19 “(iv) Within the 24 months that precede the date on which the eli-  
20 gible building owner’s report is due, the eligible building owner ac-  
21 quired the tier 1 building by means of a deed in lieu of foreclosure;

22 “(v) The tier 1 building has a senior mortgage that is subject to a  
23 notice of default; or

24 “(vi) Other criteria that the department specifies by rule as indic-  
25 ative of financial hardship.

26 “(2) The department shall develop methods and procedures for ad-  
27 ministering reports that eligible building owners of tier 1 buildings  
28 submit to the department under subsection (1) of this section.

29 “(3) The department shall provide a support program to eligible  
30 building owners of covered commercial buildings that includes, at a

1 **minimum, information and periodic training, technical assistance and**  
2 **telephone and electronic mail support that will assist eligible building**  
3 **owners in complying with the energy performance standard, applicable**  
4 **source energy use intensity targets and reporting requirements under**  
5 **sections 1 to 3 of this 2023 Act.**

6 **“(4) An eligible building owner must comply with the energy per-**  
7 **formance standard adopted under section 2 of this 2023 Act by the**  
8 **following dates:**

9 **“(a) If the eligible building owner’s tier 1 building has a gross floor**  
10 **area of 200,000 square feet or more, not later than June 1, 2028;**

11 **“(b) If the eligible building owner’s tier 1 building has a gross floor**  
12 **area of 90,000 square feet or more but less than 200,000 square feet, not**  
13 **later than June 1, 2029; and**

14 **“(c) If the eligible building owner’s tier 1 building has a gross floor**  
15 **area of 35,000 square feet or more but less than 90,000 square feet, not**  
16 **later than June 1, 2030.**

17 **“(5)(a) The department shall notify an eligible building owner of a**  
18 **tier 1 building of a failure to comply with sections 1 to 3 of this 2023**  
19 **Act if the eligible building owner fails to:**

20 **“(A) Submit the report described in subsection (1) of this section**  
21 **by the date required or in a form and manner the department requires;**

22 **“(B) Meet the energy performance standard or an applicable source**  
23 **energy use intensity target or, in lieu of meeting the standard or tar-**  
24 **get, fails to obtain the department’s approval to use a conditional**  
25 **compliance method;**

26 **“(C) Provide accurate reporting that meets the requirements of**  
27 **sections 1 to 3 of this 2023 Act; or**

28 **“(D) Demonstrate as provided in subsection (1)(c) of this section**  
29 **that the eligible building owner is exempt from an otherwise applicable**  
30 **energy performance standard.**

1       **“(b) In the notice described in paragraph (a) of this subsection, the**  
2 **department may specify a date by which the eligible building owner**  
3 **of a tier 1 building must correct the failure the department identified**  
4 **in the notice. In addition, the department shall specify the date by**  
5 **which the eligible building owner’s failure to comply or failure to**  
6 **correct a lack of compliance will subject the eligible building owner**  
7 **to a civil penalty under subsection (6) of this section.**

8       **“(c) At an eligible building owner’s request, the department shall**  
9 **cite the specific legal authority upon which the department relied as**  
10 **a basis for issuing a notice to the eligible building owner under para-**  
11 **graph (a) of this subsection.**

12       **“(6)(a) The department may impose a civil penalty as provided in**  
13 **ORS 183.745 upon an eligible building owner of a tier 1 building to**  
14 **which the department issued a notice under subsection (5) of this**  
15 **section if the department determines that the eligible building owner:**

16       **“(A) Has not complied with the requirement set forth in the notice**  
17 **or has not corrected a lack of compliance by the date for correction**  
18 **that the department specifies in the notice; or**

19       **“(B) Otherwise violated a provision of sections 1 to 3 of this 2023**  
20 **Act or a rule the department adopted under sections 1 to 3 of this 2023**  
21 **Act.**

22       **“(b) A civil penalty the department imposes under paragraph (a) of**  
23 **this subsection may not exceed \$5,000 plus an amount for the duration**  
24 **of a continuing violation, which may not exceed a daily amount that**  
25 **the department calculates by multiplying one dollar per year per**  
26 **square foot of gross floor area of the tier 1 building that is the subject**  
27 **of the department’s notice.**

28       **“(c) The department shall deposit the proceeds of any civil penalty**  
29 **the department imposes and collects under this subsection into the**  
30 **State Department of Energy Account established under ORS 469.120**

1 and shall allocate the proceeds for the purpose of administering the  
2 department's energy efficiency programs.

3 **“SECTION 4. (1) In addition to the energy performance standard the**  
4 **State Department of Energy adopts in accordance with section 2 of**  
5 **this 2023 Act, the department shall adopt rules to implement sections**  
6 **1 to 3 of this 2023 Act. The rules must:**

7 **“(a) Ensure timely, accurate and complete reporting of compliance**  
8 **with the requirements of sections 1 to 3 of this 2023 Act from all tier**  
9 **1 buildings;**

10 **“(b) Enable the department to effectively enforce the energy per-**  
11 **formance standard and source energy use intensity targets established**  
12 **under sections 1 to 3 of this 2023 Act;**

13 **“(c) Provide means for affected eligible building owners of tier 1**  
14 **buildings to appeal decisions and enforcement actions of the depart-**  
15 **ment that affect the eligible building owner; and**

16 **“(d) Ensure that an eligible building owner of a tier 1 building is**  
17 **responsible for paying the costs of compliance with sections 1 to 3 of**  
18 **this 2023 Act.**

19 **“(2) Before adopting rules under this section, the department shall**  
20 **establish and consult an advisory committee that includes represen-**  
21 **tatives of eligible building owners, tenants of covered commercial**  
22 **buildings, public utilities, organizations with experience in designing**  
23 **or implementing energy efficiency programs, local governments, an**  
24 **environmental organization that the Governor specifies, the Oregon**  
25 **chapter of the American Institute of Architects, the Oregon Home**  
26 **Builders Association, the Building Owners and Managers Association**  
27 **of Oregon, organizations that focus on environmental justice and**  
28 **other stakeholders the department identifies as needing represen-**  
29 **tation. The department shall consult with the advisory committee be-**  
30 **fore amending rules the department adopts under this section.**

1       **“SECTION 5. At the request of the State Department of Energy,**  
2 **each county assessor in this state shall provide information from ex-**  
3 **isting records data that the department requires to implement sections**  
4 **1 to 3 of this 2023 Act, including about covered commercial buildings**  
5 **within the county. The Department of Consumer and Business Ser-**  
6 **vices shall compensate each county assessor for the cost of providing**  
7 **the information required under this section.**

8       **“SECTION 6. The State Department of Energy shall report not later**  
9 **than January 15, 2025, and by the same month and day in each suc-**  
10 **ceeding year until 2035, to the Governor and to committees of the**  
11 **Legislative Assembly related to the environment concerning the im-**  
12 **plementation of the energy performance standard established under**  
13 **section 2 of this 2023 Act. The report must include information about**  
14 **the department’s adoption of the ANSI/ASHRAE/IES Standard 100 as**  
15 **the department’s initial model for the energy performance standard,**  
16 **the financial impact the standard has had on eligible building owners**  
17 **of tier 1 buildings, the amount of any incentives the department pro-**  
18 **vided for compliance and any other information that is relevant to the**  
19 **department’s implementation of sections 1 to 3 of this 2023 Act.**

20       **“SECTION 7. (1) Sections 1 to 3 of this 2023 Act do not require an**  
21 **eligible building owner to take action to comply with sections 1 to 3**  
22 **of this 2023 Act:**

23       **“(a) If the eligible building owner owns a tier 2 building; or**

24       **“(b) Before the State Department of Energy adopts an energy per-**  
25 **formance standard under section 2 of this 2023 Act, if the eligible**  
26 **building owner owns a tier 1 building.**

27       **“(2) The department may offer incentives for eligible building own-**  
28 **ers to voluntarily comply with, or for early compliance with,**  
29 **ANSI/ASHRAE/IES Standard 100 or the energy performance standard**  
30 **the department establishes under section 2 of this 2023 Act.**

1       **“SECTION 8. (1) The State Department of Energy by rule shall es-**  
2 **tablish a program to pay incentives to eligible building owners that**  
3 **implement ANSI/ASHRAE/IES Standard 100 or the energy perform-**  
4 **ance standard described in section 2 of this 2023 Act for covered com-**  
5 **mercial buildings before adoption and implementation is mandatory.**

6 **The program must provide for:**

7       **“(a) An application process;**

8       **“(b) Standards by which the department may qualify an eligible**  
9 **building owner to receive, or disqualify an eligible building owner from**  
10 **receiving, an incentive payment;**

11       **“(c) A method for verifying a covered commercial building’s energy**  
12 **consumption with the eligible building owner and the electric utility,**  
13 **gas company or thermal energy company that supplies energy to the**  
14 **covered commercial building for the purpose of qualifying the eligible**  
15 **building owner to receive an incentive payment;**

16       **“(d) A process for calculating the amount of any incentive payment;**

17       **“(e) An administrative process by which an eligible building owner**  
18 **may appeal the department’s decision to qualify or disqualify the eli-**  
19 **gible building owner or the department’s determination of the amount**  
20 **of an incentive payment; and**

21       **“(f) A process for authorizing incentive payments and notifying el-**  
22 **igible building owners and persons that administer incentive payments**  
23 **of the department’s authorization.**

24       **“(2) To qualify for an incentive payment, an eligible building owner**  
25 **must report to the department in accordance with section 3 of this 2023**  
26 **Act by the deadlines and for a period of time the department specifies**  
27 **by rule. In addition:**

28       **“(a) The eligible building owner must own a tier 1 building that is**  
29 **or will become subject to the requirements of sections 1 to 3 of this**  
30 **2023 Act;**



1       **“(b) The tier 1 building must have a baseline source energy use in-**  
2 **tensity that exceeds an applicable source energy use intensity target**  
3 **by at least 15 source energy use intensity units; and**

4       **“(c) The eligible building owner must comply with any other re-**  
5 **quirements the department specifies by rule.**

6       **“(3)(a) Subject to subsection (4)(b) of this section and paragraph (c)**  
7 **of this subsection, an eligible building owner that applies and qualifies**  
8 **for an incentive payment may receive as an incentive payment**  
9 **eighty-five cents per square foot of gross floor area, excluding any**  
10 **parking garage, unconditioned space or semiheated space, for the eli-**  
11 **gible building owner’s tier 1 building.**

12       **“(b) The department may authorize incentive payments to an eligi-**  
13 **ble building owner that owns a tier 2 multifamily residential building**  
14 **and that enters into a binding agreement not to displace tenants from**  
15 **the multifamily residential building.**

16       **“(c) The department may authorize an incentive payment only if**  
17 **funds are available for the payment and contingent upon an eligible**  
18 **building owner’s compliance with the requirements of this section and**  
19 **any rules the department adopts to govern incentive payments.**

20       **“(4)(a) Before qualifying an eligible building owner to receive an**  
21 **incentive payment under this section, the department shall review the**  
22 **eligible building owner’s application and verify any report the eligible**  
23 **building owner must provide under section 3 of this 2023 Act and any**  
24 **energy consumption the department must measure for the purposes**  
25 **of the qualification. If the department determines that an eligible**  
26 **building owner qualifies for an incentive payment, the department**  
27 **shall certify the qualification to the eligible building owner.**

28       **“(b) The department may not certify an eligible building owner as**  
29 **qualified for an incentive payment if the incentive payment would ex-**  
30 **ceed \$\_\_\_\_\_.**

1       “(5) Not later than September 30, 2026, and by the same month and  
2 day every two years thereafter, the department shall report to interim  
3 committees of the Legislative Assembly related to energy concerning  
4 the operations and results of the incentive program the department  
5 establishes under this section. The report must include recommen-  
6 dations for aligning the incentive program with greenhouse gas emis-  
7 sion reduction goals that meet or exceed the goals specified in ORS  
8 468A.205.

9       “SECTION 9. This 2023 Act being necessary for the immediate  
10 preservation of the public peace, health and safety, an emergency is  
11 declared to exist, and this 2023 Act takes effect on its passage.”.

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