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The Real Estate Roundtable -- Comments on CEC BEPS Strategy Report

Please consider the attached memo from The Real Estate Roundtable (www.rer.org), regarding the CEC's draft strategy report for a California Building Energy Performance Standard. Please contact Duane J. Desiderio, Senior Vice President and Counsel with RER (ddesiderio@rer.org), for questions regarding these comments

Additional submitted attachment is included below.



The Real Estate Roundtable

August 18, 2026

TO: Commissioner Andrew McAllister
California Energy Commission
Docket Unit, MS-4
715 P Street
Sacramento, CA 95814

FROM: The Real Estate Roundtable (www.rer.org)
Contact: Duane J. Desiderio
Senior Vice President and Counsel
ddesiderio@rer.org

RE: Docket 24-BPS-01, "Building Energy Performance Strategy Report"

Dear Commissioner McAllister:

The Real Estate Roundtable (www.rer.org) ("RER")¹ appreciates this opportunity to provide our perspectives regarding the Commission's Building Energy Performance Strategy ("BEPS") Report referenced above.

We joined and support comments submitted by a coalition of real estate industry stakeholders led by the California Business Properties Association ("CBPA"). We write separately to supplement CBPA's comments and offer national viewpoints regarding state and local trends in building energy and emissions performance regulations. We also thank the Commission for its attention to and referencing of RER's [20-Point BPS Policy Guide](#) ("RER Guide") in the BEPS Report.

The RER Guide was peer reviewed for accuracy and captures "lessons learned" by our members in seeking fair and reasonable BPS laws. We caution that RER's position on BPS matters was mischaracterized in the BEPS Report, and we appreciate this opportunity to clarify our perspectives.

We agree with the Commission's Report insofar as it recommends that any statewide building performance standard should:

- Consider housing affordability and energy cost impacts on families and businesses;
- Reject standards where compliance is not within a building owner's ability to control;
- Use years of high-value and accurate data collected through "benchmarking" laws in California regarding actual building performance;
- Respect capital expenditure planning cycles and budgets, and eschew rules that would require destroying or retiring functioning equipment before the end of their useful lives;

¹ The addendum to this letter provides more information on RER.



- Rely on ENERGY STAR program resources, especially Portfolio Manager; and
- Focus on reasonable energy efficiency targets, particularly Site EUI normalized by building asset type, occupancy, and climate zone.

The BEPS Report states RER “generally supports” the trajectory approach offered by IMT’s model law.² This misrepresents our position. For the record, RER does **not** generally support IMT’s model law. We also believe key points in the RER Guide were not fully considered in the BEPS Report and others should have been more prominent.

Amidst certain elements of BPS policy design with which we align, we do not agree with the BEPS Report’s conclusion that the trajectory approach “would be the least cost solution”³ for ambitious yet reachable building performance standards. In our view, IMT’s model overall does not fulfill key objectives such as regulatory simplicity or cost-effectiveness. Importantly, components of IMT’s model approach do not reflect “aspects of a building that a building owner can control.”⁴ We have similar concerns regarding ASHRAE 100, the other framework the Commission recommends as a “starting point” for a potential statewide BPS.⁵

A study of BPS laws nationwide conducted by New York University concluded that “[i]mplementing a BPS policy is a complex, resource-intensive task for local governments” and lawmakers “should take into account regulated buildings’ financial circumstances” as well as the “high costs of compliance.”⁶ We agree with those findings and urge the Commission to consider more closely points highlighted below from the RER Guide.

- ***Policy makers must avoid a “patchwork” of different BPS requirements. (RER Guide, Point 1)***

While the Commission states one of its main objectives is to “prevent[] the complexity of a patchwork of local policies,”⁷ it does the opposite and endorses different BPS requirements within California. The BEPS Report states an “effective standard” would “[e]ncourage, or authorize, local jurisdictions to implement **their own** BPS policies, if those programs apply to buildings not covered by the state program, but apply a single statewide standard to all large buildings” greater than 50K square feet.⁸

In fact, buildings smaller than 50K square feet are owned predominantly by those businesses that will be hit the hardest by costly compliance burdens, relative to total building value. We recommend that any BPS adopted by the State Legislature should be the **only** BPS applicable throughout California. A

² BEPS Report at 31.

³ Id. at 98.

⁴ Id. at 26.

⁵ Id. at 99.

⁶ NYU Marron Inst. of Urban Mgmt. and NYU School of Law Guarini Center on Environmental, Energy, and Land Use Law, [*The Implementation of Local Building Performance Standards: An Analysis of Progress to Date and Future Policy*](#) (March 2026).

⁷ BEPS Report at 1, 98.

⁸ Id.



regulatory “patchwork” in California will only be avoided with plain and explicit legislative direction that localities must not deviate from any statewide BPS.

- ***The Commission should clarify how much emissions are caused directly by building occupants and real estate generally in California, and further show that other industry sectors are on a commensurate path to attain the state’s “net zero” decarbonization goals. (RER Guide, Point 2)***

The BEPS Report states, “[b]uildings are responsible for **more than a quarter** of California’s total statewide GHG emissions.”⁹ However, this statement is not supported by the very California Air Resources Board (CARB) study to which the BEPS Report cites. CARB’s study states: “Commercial and residential emissions ... **accounted for 12.0%** of the state’s total.”¹⁰ Real estate stakeholders’ confidence in any ultimate statewide BPS will depend on accurate, fact-based, balanced, and data-driven government analyses. We hope the Commission will explain this apparent discrepancy between its BEPS Report and the cited CARB study.

Importantly, we urge the Commission to be clear in its messaging that buildings *per se* do not emit GHGs. Buildings are where we live, work, learn, compute, shop, vacation, dine, heal, research, and worship. Occupants of buildings consume the energy that produces GHG emissions. Those occupants dictate their own activities. Their consumptive behaviors are generally outside the control of building owners upon whom BPS compliance responsibilities will likely rest in California.

Furthermore, the Commission recommends “final performance targets in 2045 for each property type”¹¹ should “align with the state’s **economywide**, net-zero-carbon goal.”¹² The CARB study cited in the BEPS Report accounts for California’s GHG inventory as follows:

- 37.1% from the transportation sector, the state’s largest source;
- 18.6% from the industrial sector;
- 15.9% from the electricity sector; and
- 8.1% from the agricultural sector.¹³

If an ultimate statewide BPS includes emissions metrics as part of a holistic “economywide” strategy, policy makers should assure that real estate stakeholders and their tenants are bearing a **proportionate** regulatory burden to reach “net zero by 2045.” The Commission should show how similar mandates – not merely aspirational goals – likewise regulate transportation, industrial, electric power, agriculture, and other sectors identified in the state’s overall GHG inventory. **All** economic sectors must address their allocable share to meet any interim and long-term regulatory emissions targets for economywide “net zero” attainment by any year, let alone 2045.

⁹ Id. at 4.

¹⁰ CARB, [California Greenhouse Gas Emissions from 2000 to 2023: Trends of Emissions and Other Indicators](#) (Nov. 4, 2025) at 10, at 12, Fig. 5.

¹¹ BEPS Report at 99.

¹² Id. at 44.

¹³ CARB Study, *supra* note 10, at 9-10; at 12, Figure 5.



- ***Policy makers should adopt BPS compliance pathways that are easy to understand, ambitious yet attainable, not punitive, and practicable for all real estate market participants and asset classes. (RER Guide Points 18, 19)***

NYU's study of BPS laws recommends: "Given the challenges of standing up and implementing new BPS programs, and the potentially high costs of compliance, local and state governments should consider alternative or complementary approaches to building decarbonization."¹⁴ We agree. A BPS law can be effective and meaningful with compliance pathways that are uncomplicated, understandable, avoid unnecessary paperwork, and minimize expensive consultant fees. We echo CBPA's comments and recommend at least three compliance pathways:

- (1) **Site EUI Improvement Pathway:** This pathway would drive real improvement where it is needed most. It would put low performing buildings on track to achieve meaningful and quantifiable gains in energy efficiency. It would avoid penalizing inefficient assets that cannot cost effectively reach the highest tiers of energy performance or realistically meet "net zero" aspirations. It would support the Commission's "critical" recognition that "the costs of energy-efficient upgrades [must] not come at the expense of a building owner's financial stability."¹⁵

We concur with CBPA that a Site EUI Improvement Pathway should be modeled after the U.S. Department of Energy's [Better Buildings Challenge](#)¹⁶ and include the following criteria:

- Reduce Site EUI by at least 20 percent over 10 years;
- Benchmark and measure progress using [ENERGY STAR Portfolio Manager](#);
- Publicly report and disclose Site EUI improvement results; and
- Submit a transparent compliance plan outlining how Site EUI reductions will be achieved through capital improvements, operational changes, efficiency measures, demand-side management, and other building-specific strategies.

If California's tranche of poorly performing buildings can lower energy use by 20% within 10 years after BPS enactment, we think the law would be highlighted as a national success story. We hope the Commission supports this recommendation.

- (2) **Efficient High-Performance Compliance Pathway:** This pathway is intended to reduce regulatory complexity and unnecessary compliance costs for leading buildings that already perform at top levels. We join CBPA in recommending that this pathway include three (3) elements for a building to demonstrate:

- **Superior Energy Performance:** Top quartile performance as evidenced by ENERGY STAR certification – or by normalized Site EUI levels better than 75% of like-kind assets based on California benchmarking data verified for high-value and integrity (particularly where

¹⁴ NYU BPS study, supra note 6, at 4.

¹⁵ BEPS Report at 75.

¹⁶ See <https://betterbuildingssolutioncenter.energy.gov/challenge>.



ENERGY STAR scores are unavailable for an asset type, such as “retail malls” and “strip centers”).

- **Direct Emissions Target:** Onsite direct emissions at or below a normalized GHGi target.¹⁷
- **Clean Energy Use:** At least 30 percent of total energy consumed must come from non-emission sources. If electricity accounts for less than 30% of the site's total energy consumption, then 100% of the electricity must derive from non-emission sources.

Much of the heavy-lifting has already been completed to develop the criteria for this recommended High Performance Compliance Pathway. We urge California policy makers to consult the white papers, FAQs, and guidance for the [ENERGY STAR NextGen](#)¹⁸ commercial building certification program, developed with heavy input from and support by NGO advocates and industry stakeholders.

RER has engaged with NGO advocates regarding BPS design for many years, including during the development of ENERGY STAR NextGen criteria. Over the course of our discussions, NGOs expressed to us that “high performers” meeting the three ENERGY STAR NextGen criteria likely meet at least *interim* targets adopted in BPS jurisdictions. We agree – and believe this recommendation also reduces compliance burdens and provides greater regulatory certainty compared to the Trajectory Approach or ASHRAE 100.

Simplified criteria for high performers would also relieve enforcement costs and burdens on regulators. NYU’s study on BPS laws confirms, “[l]ocal governments are implementing BPS programs with limited resources.”¹⁹ Busy agency staff under pressure to enforce a statewide BPS could more swiftly and easily check and confirm compliance with certifications and verifications submitted by owners meeting the criteria. Ease of demonstrating compliance would especially help jurisdictions where “implementation of a BPS may present technical and staffing challenges for local agencies.”²⁰

(3) ***Housing Affordability Compliance Pathway:*** California policymakers should provide exemptions, deadline extensions, and relaxed BPS requirements for affordable housing. This should include deed-restricted low-income housing. It should also encompass housing that serves essential middle-class workers such as teachers, first responders, government staff, and employees in health care, elder care, agriculture, retail, hospitality, and the construction trades.

¹⁷ For more information on how US-EPA established direct GHGi emissions targets for the purposes of NextGen building certifications, see *infra* notes 45-46 and accompanying text.

¹⁸ E.g., US-EPA, ENERGY STAR NextGen Certification for Commercial Buildings [website](#); [ENERGY STAR NextGen Criteria](#) (March 2024); [Technical Reference: ENERGY STAR NextGen GHGi Targets](#); [US-EPA Green Power Partnership Requirements](#) (finalized Jan 10, 2025); [ENERGY STAR NextGen Certification, Comment Summary and Responses](#) (March 2024).

¹⁹ NYU BPS study, *supra* note 6, at 3.

²⁰ BEPS Report at 60.



We recommend adoption of the federal Community Reinvestment Act income framework.²¹ It defines middle-income households as those earning 80%-120% percent of Area Median Income (AMI). The CRA's purpose of ensuring that banks serve the credit needs of entire communities, regardless of income, reflects similar principles for equitable BPS design. Namely, policy makers should provide assurance that building performance mandates will not increase housing costs or energy bills for middle income families earning 120% AMI or less.

The BEPS Report notes that existing California law "requires the CEC to 'avoid increasing utility and rental cost burdens for ... tenants of covered buildings.'" ²² Furthermore, "building owners of affordable housing face several potential challenges in complying with BPS, including low cash flow and limited staff capacity."²³ Accordingly, we recommend that any statewide BPS include a Housing Affordability Compliance Pathway. Residential buildings serving households at or below 120% AMI should receive extended deadlines, adjusted interim and long-term targets, less stringent performance requirements, and expanded access to incentives and technical assistance to help with BPS compliance.

- ***Compliance Must be Within a Building Owner's Ability to Control. Tenants Must be Accountable for Their Roles to Help Owners Comply. (RER Guide Points 2, 7, and 18)***

The Commission intends that building owners "should be the primary party responsible for compliance and should be liable for penalties for noncompliance."²⁴ Any provisions in a BPS law that place the compliance burden on owners should be paired – fairly and logically – with a legal mandate, not a recommendation, that tenants must provide owners with the data and information they need to comply.

The BEPS Report acknowledges the "split incentive" problem when it comes to energy and emissions reduction investments in buildings.²⁵ Lawmakers should not expect that all tenants and landlords will negotiate "green leases" in their private contracts for purposes of resolving BPS questions created solely by statute.²⁶ We urge California legislators to avoiding imposing statutory compliance responsibilities unequally, on only the "ownership side" of a lease.

Fundamentally, whole-building building energy and environmental performance must be recognized as a shared responsibility of owners and tenants in a commercial building. If BPS non-compliance is due to tenant action or inaction, then as a matter of fairness any law should impose penalties directly on the tenant creating the infraction; expressly authorize the landlord to pass on monetary penalties to the tenant; and/or provide the landlord with an opportunity to avoid paying unfair fees or penalties upon showing that a BPS violation is the result of tenant-controlled behaviors in their leased spaces.

²¹ 12 CFR § 345.12.

²² BEPS Report at 79 (referencing SB 48).

²³ Id. at 83.

²⁴ Id. at 99.

²⁵ Id. at 75.

²⁶ Id. at G-13.



- ***“Double regulations” between building energy codes and building performance standards must be avoided. (RER Guide, Point 11)***

The BEPS Report states: “Unlike the California Building Standards Code that sets standards for new construction, BPS would track and enforce building performance over the life of the building, ***after a building finishes construction and goes into service***”²⁷ In other words, new construction can fully satisfy energy code requirements – but as soon as the asset is placed on the market for tenancy and occupancy, it could immediately fail to satisfy stricter BPS requirements stretching beyond the code. The consequence is that even more stringent measures than legally required by California’s building code could apply “through the back door,” as necessary to attain a BPS’s Site EUI targets. The regulatory impact could mean unfair retroactive application of later-in-time code updates on a building that met the prior code version in effect when it was constructed.

To achieve regulatory clarity and certainty for agency staff and building stakeholders alike, code requirements and BPS requirements should not be in conflict for new buildings. We suggest that a newly built asset should be exempt from BPS mandates for the first full-term of any BPS compliance cycle after the new building goes into service. For example, if the BPS incorporates a five-year cycle (as the Commission recommends)²⁸ that starts on a term specific to the asset, a new building entering service in 2030 should not be required to satisfy BPS requirements until 2036. Or – if the BPS law itself sets compliance cycles for specific terms that begin in 2030 and run every five years thereafter – a new building going into service in 2032 should not have to satisfy BPS requirements until 2041 (i.e., the initial partial cycle from 2032-2035, and then the full cycle from 2036-2040).

A new building owner should be afforded the option to voluntarily satisfy BPS targets immediately after the asset starts service because it may be advantageous for investment, marketing, reporting, or other purposes. But an owner should not be ***mandated*** to do so for the initial full BPS compliance cycle – after new construction enters the market for the first time – to avoid conflicts in regulations and enforcement with the California energy code. Of course, benchmarking, audit, retrocommissioning, and any other independent obligations under California state or local laws regarding real estate performance²⁹ would remain applicable upon the building’s initial occupancy right after it enters service.

- ***Energy Usage Targets Should be “Normalized” – and Reflect Pandemic-Induced Changes in Building Occupancy (RER Guide, Point 12)***

The Commission recommends “a combination of two ***normalized*** metrics” – namely Site EUI and GHGI.³⁰ Normalization in this context includes adjustments for a building’s operations to allow

²⁷ Id. at 3.

²⁸ Id. at 99

²⁹ BEPS Report at 3-7. See also IMT [map](#), “U.S. City, County, and State Policies for Existing Buildings: Benchmarking, Transparency, and Beyond” (updated April 2026); Rimkus, [California Building Performance Standards: What Commercial Property Owners Need to Know](#) (July 28, 2026).

³⁰ BEPS Report at 99.



“apples-to-apples” comparisons for the same types of assets across variables such as hours of operations, climate/weather conditions – and occupancy.

In this regard, our members report that the impact of COVID-19 on Bay Area building occupancy has been more extreme compared to other jurisdictions. The impact of reduced occupancy from the pandemic, combined with efficiency improvements implemented from 2020-2025, would make any EUI baseline during this period extremely low for certain buildings – especially for office assets that stayed open during the predominant “work from home” era. However, the Commission’s BEPS Report recommends the “chosen baseline” years for compliance “will likely be between Calendar Years 2025 and 2028”³¹ – that is, *after* the pandemic – thus failing to account for the post-COVID “rebound effect” outside of owners’ control regarding recent higher occupancy in office and certain other building types.

More productive buildings with greater levels of occupancy should be celebrated, not punished. Indeed, the Commission touts building energy benchmarking as a lever that can “increase occupancy rates.”³² Furthermore, issues with the “quality of [benchmarking] data create[] challenges for new BPS programs.”³³ Valid data to support Site EUI targets must reflect normalized occupancy, including effects from the pandemic.

We accordingly urge California BPS policymakers to select pre-COVID regulatory baseline years (e.g., 2015-2019), or develop some other strategy to account for pandemic-induced building occupancy trends.

- ***BPS policy makers should avoid imposing complicated emissions reduction and electrification mandates that are not attainable and/or cost feasible for many buildings. (RER Guide Points 13, 14, and 16)***

One reason the Commission supports a mandatory statewide BPS is to “encourage proactive investments in ... electrification.”³⁴ It endorses a Site GHGi metric because it “favors electrification,”³⁵ “targets onsite combustion,”³⁶ and aligns with “policies to shift building space and water heating to efficient electrical heat pumps.”³⁷

Using emissions metrics in a BPS makes policy design much more complicated and expensive. “[E]stablishing local emissions factors and coefficients, particularly in future compliance years, has been a challenge, given the changing landscape for grid-level decarbonization; coefficients set today may not reflect the actual level of GHG emissions in the future.”³⁸

³¹ Id. at 32.

³² Id. at 4.

³³ NYU BPS study, *supra* note 6, at 3.

³⁴ BEPS Report at 3.

³⁵ Id. at 29.

³⁶ Id. at 99.

³⁷ Id. at 21.

³⁸ NYU BPS study, *supra* note 6, at 20.



Moreover, families and smaller firms unfamiliar with complex building performance standards may not fully grasp how the Commission’s recommendations could affect day-to-day behaviors, consumer preferences, household budgets, or business investments. In our experience, and in the context of other U.S. jurisdictions that have adopted overall net-zero goals, RER understands the recommendation here for a Site GHGi metric to mean – in plain language: ***“Many families, tenants, and businesses must stop using heating, cooling, cooking, back-up generation and other equipment reliant on gas, propane, diesel and other fossil fuels – and switch to electric equipment instead. Residential and business tenants may need to be displaced or relocated from their leased spaces because of the state’s BPS requirements to address climate change, so landlords can revamp and retrofit buildings as necessary to meet the new law from Sacramento.”***

If we misperceive the Commission’s intentions and have misstated the “bottom line” impacts of potential Site GHGi targets, then we stand to be corrected and request more clarity. One of RER’s key functions is to educate our members and their tenants regarding their likely responsibilities under all sorts of regulatory programs. As the BEPS Report states, policy makers should convey information regarding GHGi metrics “in an easily understandable format and terminology so building owners understand the policy objectives” and can “successfully comply with desired outcomes.”³⁹ Emissions metrics in particular “may not be simple if they are not clearly defined.”⁴⁰

If we are correct that a California BPS with emissions metrics could result in a possible ban on fossil fuel systems and equipment in most (or all) buildings in the state, we do not think such a mandate would be practical or practicable. It would not work in all cases, for all buildings, considering all climate zones, use types, sizes, and other variables. HVAC and generators fueled by natural gas and/or diesel are frequently necessary as back-up to ensure the safety and well-being of residential and commercial tenants during emergencies or in colder climates during the winter. A potential fossil fuel ban would disserve families, businesses, and community service providers from performing essential functions.

We do not advise policy makers to pursue any BPS tantamount to a building electrification mandate. If structured properly, a BPS laws might ***encourage*** electrification and make it ***voluntary*** under appropriate circumstances – but electrification should not be ***required***. In this regard, the performance standard for federal buildings (“Federal BPS”) issued in December 2022⁴¹ is instructive. The Federal BPS recognizes that ***“full decarbonization may not be practicable”*** considering variables such as a building’s use, size, age, and climate zone.⁴² “Market availability” of electrification equipment and “cost-effectiveness” are key to “practicable electrification” for purposes of the Federal BPS.⁴³

³⁹ BEPS Report at 25.

⁴⁰ Id. at 26.

⁴¹ Federal BPS, available at: <https://www.sustainability.gov/pdfs/federal-building-performance-standard.pdf>.

⁴² Id. at 9.

⁴³ Id. at 18.



If California policy makers pursue Site GHGi metrics that “favor electrification” as a requirement, then we recommend that any BPS should include exemptions, extensions, and other regulatory safety-valves based on:

- Cost effectiveness of installing electrification technologies – especially for properties designated as “historic,” older buildings generally, existing towers, and other assets where space is constrained to accommodate electrification retrofits;
- Emergency generation back-up equipment that frequently requires on-site fossil fuel combustion to safeguard the health and safety of residents, patients, businesses, and communities;
- Market availability and supply chains of equipment, and related needs for overseas imports;
- Whether families’ and businesses’ electric bills will increase because of fuel switching away from less expensive gas-fired equipment; and
- Public studies – with review and analyses by grid owners, operators and oversight bodies – as to whether a community’s electricity infrastructure can handle the massive extra loads that BPS mandates would occasion by imposing all-electric building requirements throughout the state.

GHGi targets should not become the means to impose a fossil fuel ban. Energy efficiency should be the Commission’s focus. This is precisely why we recommend the compliance pathway discussed above for “Efficient High-Performance.”⁴⁴ Any direct GHGi target under our proposed pathway would not ban fossil fuels, but rather encourage their efficient use. GHGi targets would need to be normalized for building type and climate/weather.⁴⁵ This is the approach used by US-EPA, which did extensive analyses of the nation’s top performing buildings to determine the direct GHGi targets for NextGen certifications across climate zones. More information on the GHGi targets developed by EPA are provided in its technical analysis.⁴⁶

• ***BPS Laws Must be Supported by Fair, Balanced, and Understandable Cost-Effectiveness Studies. (RER Guide Points 3, 4)***

We agree with the Commission that cost effectiveness and affordability of any BPS are paramount considerations. As NYU’s analysis confirms, “there is considerable concern among local governments, building owners, and others about the costs of the changes that BPS laws may require buildings to undertake in order to meet future targets.”⁴⁷ We support the Commission’s “critical” recognition that

⁴⁴ Supra note 17 and accompanying text.

⁴⁵ Because direct GHG emissions are related to heating needs, compliance with direct emissions targets would need to factor the number of Heating Degree Days (HDD) experienced by the building in a given year – and account for the fact that buildings using fuels for water and cooking have a baseload level of fuel consumption, regardless of HDD.

⁴⁶ US-EPA, Technical Reference, [ENERGY STAR NextGen Direct GHGi Targets](#).

⁴⁷ NYU BPS study, supra note 6, at 3.



“the costs of energy-efficient upgrades [must] not come at the expense of a building owner’s financial stability.”⁴⁸ We further endorse the BEPS Report’s acknowledgment that:

“Detailed cost-benefit analyses based on California’s existing buildings can help develop a better understanding of implementation costs. Localized studies can help ensure that a policy reflects the state’s unique challenges and opportunities and support more equitable and effective outcomes.”⁴⁹

As statewide BPS development may advance to its next phases, buy-in from consumers and businesses must be a priority – with affordability and cost impacts delivered through clear and straightforward communications. In this regard, we commend for the Commission’s consideration a February 2026 analysis from the New York State Energy Research and Development Agency (“NYSERDA”). It concluded that full implementation to meet 2030 targets in the Empire State’s clean energy and decarbonization law would “yield high costs for New York households and businesses”:

- Increased gasoline prices by as much as \$2.23 per gallon, on top of current levels.
- Increases household utility bills by as much as \$4,000 per year.⁵⁰

NYU’s analysis of BPS laws recommends that “[t]he success of BPS policy implementation is affected by state and federal policies, particularly with regard to energy rates and the sources of grid supplied electricity.”⁵¹ If Site EUI and/or GHGi performance metrics favoring electrification are projected to impact fuel prices and utility bills in the near- and long-terms, then families, business tenants, and building owners deserve plain messaging on those effects (like NYSERDA delivered for its constituents). If California policy makers conclude a BPS is not expected to directly or indirectly raise fuels costs and utility bills, then we urge them to explain why that is the case and provide their reasoned analyses.

Proponents of energy codes and other regulations regarding building energy use and emissions have justified economic impacts from those laws through extended “life cycle cost” analyses spanning decades, and “social cost of carbon” frameworks estimating global or society-wide monetary damages from climate change. We believe that relying **solely** on these types of cost-benefit analyses obscures the more immediate and direct economic costs that households, businesses, and governments must bear. Virtually any BPS will be deemed “cost effective” through the lens of worldwide climate financial impacts.

Similarly, virtually any BPS will be deemed “cost-effective” over 30- to 40-year lifecycle investment horizons where future parties **might** see projected economic benefits decades in the future, while households and businesses paying for BPS investments **now** bear concrete upfront costs. A BPS law might not be cost-effective within shorter term compliance payback windows that reflect “real

⁴⁸ BEPS Report at 75.

⁴⁹ Id.

⁵⁰ NYSERDA memo available at City & State New York, [Climate law mandates could cost New Yorkers \\$4,000 in higher energy bills, state analysis shows](#) (Feb. 26, 2026).

⁵¹ NYU BPS study, *supra* note 6, at 3.



world” building ownership and lending horizons in the marketplace; higher discount rates reflecting various rates of lending and equity returns in the “capital stack” that finances commercial real estate; or the budgets of households and the balance sheets of businesses that must account for home prices, rents, and energy bills in conversations today around the kitchen table.

RER recently submitted extensive comments to a request for information from the US-DOE regarding its methodologies for evaluating the cost effectiveness of commercial energy codes.⁵² We believe our comments to US-DOE resonate in the context of developing a statewide BPS in California, and we hope the Commission considers them.

* * *

For questions regarding these comments, please contact Duane J. Desiderio, Senior VP and Counsel with The Real Estate Roundtable (www.rer.org).

⁵² RER’s comments to DOE’s RFI are available on the federal public comment docket at: <https://www.regulations.gov/comment/EERE-2026-BT-BC-0034-0089>.



ADDENDUM

About The Real Estate Roundtable

www.rer.org

The Real Estate Roundtable is an invitation-only organization whose members are the Chairs, Presidents, and CEOs of top public and privately-owned real estate entities and trade associations, across every segment of the commercial real estate industry – as well as the Managing Directors of major national and international financial, pension, and lending entities. Roundtable members also include significant local and regional real estate leaders and advisors, along with the elected leaders of 18 national real estate trade associations.

Members of The Real Estate Roundtable work closely with Washington lawmakers and regulators to produce meaningful results on key national issues that affect the industry. The organization is committed to fact-based analysis of issues and sound, asset-related policies that have a positive impact on economic growth, job-creation, and local communities.

Real Estate's Impact on the U.S. economy:

(See [Commercial Real Estate by the Numbers: 2026](#))

- **\$26.8 trillion:** Total value of investable commercial real estate in the U.S.
- **\$2.5 trillion:** Real estate's contribution to U.S. GDP
- **14.2 million:** U.S. jobs directly supported by real estate
- **\$630 billion:** Yearly property taxes paid by CRE owners to local governments
- **\$900 billion:** Amount invested in U.S. real estate by pension funds, educational endowments, and charitable foundations