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116TH CONGRESS
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S. 1245

To improve energy performance in Federal buildings, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 30, 2019

Mr. HOEVEN (for himself and Mr. MANCHIN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To improve energy performance in Federal buildings, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''All-of-the-Above Federal Building Energy Conservation Act of 2019''.

SEC. 2. ENERGY PERFORMANCE REQUIREMENT FOR FEDERAL BUILDINGS.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) ENERGY PERFORMANCE REQUIREMENT FOR FEDERAL BUILDINGS.—

"(1) IN GENERAL.—Subject to paragraph (2), to the maximum extent life cycle cost-effective, each agency shall apply energy conservation measures to, and shall improve the design for the construction of, the Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption per gross square foot of the Federal buildings of the agency in fiscal years 2020 through 2027 is reduced, as compared with the energy consumption per gross square foot of the Federal buildings of the agency in fiscal year 2018, by the percentage specified in the following table:

"Fiscal Year	**Percentage Reduction**
2020	2.5
2021	5
2022	7.5
2023	10
2024	12.5
2025	15
2026	17.5
2027	20.

''(2) EXCLUSION FOR BUILDINGS WITH ENERGY INTENSIVE ACTIVITIES.—

''(A) IN GENERAL.—An agency may exclude from the requirements of paragraph (1) any building (including the associated energy consumption and gross square footage of the building) in which energy intensive activities are carried out.

''(B) REPORTS.—Each agency shall identify and include in each report under section 548(a) each building designated by the agency for exclusion under subparagraph (A) during the period covered by the report.

''(3) RECOMMENDATIONS.—Not later than December 31, 2026, the Secretary shall—

''(A) review the results of the implementation of the energy performance requirement established under paragraph (1); and

''(B) submit to Congress recommendations concerning energy performance requirements for fiscal years 2028 through 2037.

''(b) ENERGY MANAGEMENT REQUIREMENT FOR FEDERAL AGENCIES.—

''(1) IN GENERAL.—Each agency shall—

''(A) not later than October 1, 2019, begin installing in Federal buildings owned by the United States all energy and water conservation measures determined by the Secretary to be life-cycle cost-effective; and

''(B) complete the installation described in subparagraph (A) as soon as practicable after the date referred to in that subparagraph.

''(2) EXPLANATION OF NONCOMPLIANCE.—

''(A) IN GENERAL.—If an agency fails to comply with paragraph (1), the agency shall submit to the Secretary, using guidelines developed by the Secretary, an explanation of the reasons for the failure.

''(B) REPORT TO CONGRESS.—Not later than October 1, 2021, and every 2 years thereafter, the Secretary shall submit to Congress a report describing any noncompliance with the requirements of paragraph (1).''; and

(2) in subsection (f)—

(A) in paragraph (1)—

(i) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (F), (G), and (H), respectively; and

(ii) by inserting after subparagraph (D) the following:

''(E) ONGOING COMMISSIONING.—The term 'ongoing commissioning' means an ongoing process of commissioning using monitored data, the primary goal of which is to ensure continuous optimum performance of a facility, in accordance with design or operating needs, over the useful life of the facility, while meeting facility occupancy requirements.'';

(B) in paragraph (2), by adding at the end the following:

''(C) ENERGY MANAGEMENT SYSTEM.—An energy manager designated for a facility under subparagraph (A) shall take into consideration—

''(i) the use of a system to manage energy use at the facility; and

''(ii) the applicability of certification of the facility in accordance with the International Organization for Standardization standard numbered 50001 and entitled 'Energy Management Systems'.''; and

(C) by striking paragraphs (3) and (4) and inserting the following:

''(3) ENERGY AND WATER EVALUATIONS AND COMMISSIONING.—

''(A) EVALUATIONS.—Except as provided in subparagraph (B), not later than the date that is 180 days after the date of enactment of the All-of-the-Above Federal Building Energy Conservation Act of 2019, and annually thereafter, each energy manager shall complete, for the preceding calendar year, a comprehensive energy and water evaluation and recommissioning or retrocommissioning for approximately 25 percent of the facilities of the applicable agency that meet the criteria under paragraph (2)(B) in a manner that ensures that an evaluation of each such facility is completed not less frequently than once every 4 years.

''(B) EXCEPTIONS.—An evaluation and recommissioning or retrocommissioning shall not be required under subparagraph (A) with respect to a facility that, as of the date on which the evaluation and recommissioning or retrocommissioning would otherwise occur—

''(i) has had a comprehensive energy and water evaluation during the preceding 8-year period;

''(ii)(I) has been commissioned, recommissioned, or retrocommissioned during the preceding 10-year period; or

''(II) is under ongoing commissioning;

''(iii) has not had a major change in function or use since the previous evaluation and recommissioning;

''(iv) has been benchmarked with public disclosure under paragraph (8) during the preceding calendar year; and

''(v)(I) based on the benchmarking described in clause (iv), has achieved at a facility level the most-recent cumulative energy savings target under subsection (a), as compared to the earlier of—

''(aa) the date of the most recent evaluation; and

''(bb) the date—

''(AA) of the most recent commissioning, recommissioning, or retrocommissioning; or

''(BB) on which ongoing commissioning began; or

''(II) has a long-term contract in place guaranteeing energy savings at least

as great as the energy savings target under subclause (I).

''(4) IMPLEMENTATION OF IDENTIFIED ENERGY AND WATER EFFICIENCY MEASURES.—Not later than 2 years after the completion of each evaluation under paragraph (3), each energy manager shall—

''(A) implement any energy- or water-saving measure that the Federal agency identified in the evaluation conducted that is life cycle cost-effective; and

''(B) bundle individual measures of varying paybacks together into combined projects.''.

SEC. 3. FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS; CERTIFICATION SYSTEM AND LEVEL FOR GREEN BUILDINGS.

(a) DEFINITIONS.—Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832) is amended—

(1) in each of paragraphs (1) through (16), by inserting a paragraph heading, the text of which is comprised of the term defined in that paragraph;

(2) by redesignating paragraphs (2) through (16) (as so amended) as paragraphs (3), (4), (6), (7), (8), (10), (12), (13), (14), (15), (16), (9), (17),

(5), and (2), respectively, and moving the paragraphs so as to appear in numerical order; and

(3) by inserting after paragraph (10) (as so redesignated) the following:

''(11) MAJOR RENOVATION.—The term 'major renovation' means a modification of the energy systems of a building that is sufficiently extensive to ensure that the entire building can achieve compliance with applicable energy standards for new buildings, based on such criteria as the Secretary shall establish, by regulation.''.

(b) FEDERAL BUILDING ENERGY EFFICIENCY STANDARDS.—Section 305(a)(2)(A) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(2)(A)) is amended by striking ''the 2004 International Energy Conservation Code (in the case of residential buildings) or ASHRAE Standard 90.1–2004 (in the case of commercial buildings)'' and inserting ''the most recently published edition of the International Energy Conservation Code (in the case of residential buildings) or ASHRAE Standard 90.1 (in the case of commercial buildings) on the date of enactment of the All-of-the-Above Federal Building Energy Conservation Act of 2019''.

(c) REVISED FEDERAL BUILDING EFFICIENCY STANDARDS.—Section 305(a)(3) of the Energy Conserva-

tion and Production Act (42 U.S.C. 6834(a)(3)) is amended—

(1) by striking ''(3)(A) Not later than'' and all that follows through subparagraph (B) and inserting the following:

''(3) REVISED FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS; CERTIFICATION FOR GREEN BUILDINGS.—

''(A) REVISED FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS.—

''(i) IN GENERAL.—Not later than 1 year after the date of enactment of the All-of-the-Above Federal Building Energy Conservation Act of 2019, the Secretary shall establish, by regulation, revised Federal building energy efficiency performance standards that require that—

''(I) unless demonstrated not to be life-cycle cost-effective for new Federal buildings and Federal buildings with major renovations—

''(aa) the buildings shall be designed to achieve energy consumption levels that are not less

than 30 percent below the levels established in the most recently published version of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, on the date of enactment of the All-of-the-Above Federal Building Energy Conservation Act of 2019, unless the Secretary determines, pursuant to subparagraph (B), that a subsequent version of such a standard or code shall apply; and

"(bb) sustainable design principles are applied to the location, siting, design, and construction of all new Federal buildings and replacement Federal buildings;

"(II) if water is used to achieve energy efficiency, water conservation technologies shall be applied to the extent that the technologies are life-cycle cost-effective; and

''(III) if life-cycle cost-effective, as compared to other reasonably available technologies, not less than 30 percent of the hot water demand for each new Federal building or Federal building undergoing a major renovation shall be met through the installation and use of solar hot water heaters.

''(B) UPDATES.—Not later than 1 year after the date of approval of each subsequent revision of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, the Secretary shall determine whether the revised standards established under subparagraph (A) and the Federal building energy standards established under paragraph (1) should be updated to reflect the revisions, based on the energy savings and life-cycle cost-effectiveness of the revisions.'';

(2) in subparagraph (C)—

(A) by striking ''(C) In the budget request'' and inserting the following:

''(C) BUDGET REQUEST.—In the budget request''; and

(B) by indenting clauses (i) and (ii) appropriately; and

(3) in subparagraph (D)—

(A) in the matter preceding clause (i), by striking ''that require that:'' and inserting ''that require the following:'';

(B) in clause (i), by striking ''annually for inflation for other buildings:'' in the matter preceding subclause (I) and all that follows through ''(III) Sustainable design principles'' and inserting ''annually for inflation for other buildings, sustainable design principles'';

(C) in clause (v), by striking ''clause (i)(III)'' each place it appears and inserting ''clause (i)''; and

(D) in clause (vi)—

(i) by striking ''subclauses (I) and (III) of''; and

(ii) by striking ''energy savings, sustainable design, and green building performance'' and inserting ''sustainable design and green building performance''.

(d) FEDERAL COMPLIANCE.—Section 306 of the Energy Conservation and Production Act (42 U.S.C. 6835) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''(1) The head'' and inserting the following:

''(1) IN GENERAL.—The head''; and

(ii) by striking ''assure that new Federal buildings'' and inserting ''ensure that new Federal buildings and Federal buildings with major renovations''; and

(B) in paragraph (2)—

(i) by striking the second sentence and inserting the following:

''(B) PROCEDURES.—The Architect of the Capitol shall adopt procedures necessary to ensure that the buildings referred to in subparagraph (A) meet or exceed the standards described in that subparagraph.''; and

(ii) in the first sentence—

(I) by inserting ''and Federal buildings with major renovations'' after ''new buildings''; and

(II) by striking ''(2) The Federal'' and inserting the following:

''(2) APPLICABILITY.—

''(A) IN GENERAL.—The Federal''; and

(2) in subsection (b), by striking the subsection designation and heading and all that follows through ''new Federal building'' and inserting the following:

''(b) EXPENDITURES.—The head of a Federal agency may expend Federal funds for the construction of a new Federal building or a Federal building with major renovations''.

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