

# BETTER BUILDINGS ACT OF 2014

FEBRUARY 28, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. UPTON, from the Committee on Energy and Commerce,  
submitted the following

## R E P O R T

[To accompany H.R. 2126]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 2126) to facilitate better alignment, cooperation, and best practices between commercial real estate landlords and tenants regarding energy efficiency in buildings, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:  
Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Better Buildings Act of 2014”.

**SEC. 2. ENERGY EFFICIENCY IN FEDERAL AND OTHER BUILDINGS.**

(a) **DEFINITIONS.**—In this section:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of General Services.

(2) **COST-EFFECTIVE ENERGY EFFICIENCY MEASURE.**—The term “cost-effective energy efficiency measure” means any building product, material, equipment, or service, and the installing, implementing, or operating thereof, that provides energy savings in an amount that is not less than the cost of such installing, implementing, or operating.

(3) **COST-EFFECTIVE WATER EFFICIENCY MEASURE.**—The term “cost-effective water efficiency measure” means any building product, material, equipment, or service, and the installing, implementing, or operating thereof, that provides water savings in an amount that is not less than the cost of such installing, implementing, or operating.

(b) **MODEL PROVISIONS, POLICIES, AND BEST PRACTICES.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy and after providing the public with an opportunity for notice and comment, shall develop model leasing provisions and best practices in accordance with this subsection.

(2) **COMMERCIAL LEASING.**—

(A) **IN GENERAL.**—The model commercial leasing provisions developed under this subsection shall, at a minimum, align the interests of building owners and tenants with regard to investments in cost-effective energy efficiency measures and cost-effective water efficiency measures to encourage building owners and tenants to collaborate to invest in such measures.

(B) **USE OF MODEL PROVISIONS.**—The Administrator may use the model provisions developed under this subsection in any standard leasing document that designates a Federal agency (or other client of the Administrator) as a landlord or tenant.

(C) **PUBLICATION.**—The Administrator shall periodically publish the model leasing provisions developed under this subsection, along with explanatory materials, to encourage building owners and tenants in the private sector to use such provisions and materials.

(3) **REALTY SERVICES.**—The Administrator shall develop policies and practices to implement cost-effective energy efficiency measures and cost-effective water efficiency measures for the realty services provided by the Administrator to Federal agencies (or other clients of the Administrator), including periodic training of appropriate Federal employees and contractors on how to identify and evaluate those measures.

(4) **STATE AND LOCAL ASSISTANCE.**—The Administrator, in consultation with the Secretary of Energy, shall make available model leasing provisions and best practices developed under this subsection to State, county, and municipal governments to manage owned and leased building space in accordance with the goal of encouraging investment in all cost-effective energy efficiency measures and cost-effective water efficiency measures.

**SEC. 3. SEPARATE SPACES WITH HIGH-PERFORMANCE ENERGY EFFICIENCY MEASURES.**

(a) **IN GENERAL.**—Subtitle B of title IV of the Energy Independence and Security Act of 2007 (42 U.S.C. 17081 et seq.) is amended by adding at the end the following:

**“SEC. 424. SEPARATE SPACES WITH HIGH-PERFORMANCE ENERGY EFFICIENCY MEASURES.**

“(a) **DEFINITIONS.**—In this section:

“(1) **HIGH-PERFORMANCE ENERGY EFFICIENCY MEASURE.**—The term ‘high-performance energy efficiency measure’ means a technology, product, or practice that will result in substantial operational cost savings by reducing energy consumption and utility costs.

“(2) **SEPARATE SPACES.**—The term ‘separate spaces’ means areas within a commercial building that are leased or otherwise occupied by a tenant or other occupant for a period of time pursuant to the terms of a written agreement.

“(b) **STUDY.**—

“(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this section, the Secretary, acting through the Assistant Secretary of Energy Efficiency and Renewable Energy, shall complete a study on the feasibility of—

“(A) significantly improving energy efficiency in commercial buildings through the design and construction, by owners and tenants, of separate spaces with high-performance energy efficiency measures; and

“(B) encouraging owners and tenants to implement high-performance energy efficiency measures in separate spaces.

“(2) SCOPE.—The study shall, at a minimum, include—

“(A) descriptions of—

“(i) high-performance energy efficiency measures that should be considered as part of the initial design and construction of separate spaces;

“(ii) processes that owners, tenants, architects, and engineers may replicate when designing and constructing separate spaces with high-performance energy efficiency measures;

“(iii) policies and best practices to achieve reductions in energy intensities for lighting, plug loads, heating, cooling, cooking, laundry, and other systems to satisfy the needs of the commercial building tenant;

“(iv) return on investment and payback analyses of the incremental cost and projected energy savings of the proposed set of high-performance energy efficiency measures, including consideration of available incentives;

“(v) models and simulation methods that predict the quantity of energy used by separate spaces with high-performance energy efficiency measures and that compare that predicted quantity to the quantity of energy used by separate spaces without high-performance energy efficiency measures but that otherwise comply with applicable building code requirements;

“(vi) measurement and verification platforms demonstrating actual energy use of high-performance energy efficiency measures installed in separate spaces, and whether such measures generate the savings intended in the initial design and construction of the separate spaces;

“(vii) best practices that encourage an integrated approach to designing and constructing separate spaces to perform at optimum energy efficiency in conjunction with the central systems of a commercial building; and

“(viii) any impact on employment resulting from the design and construction of separate spaces with high-performance energy efficiency measures; and

“(B) case studies reporting economic and energy savings returns in the design and construction of separate spaces with high-performance energy efficiency measures.

“(3) PUBLIC PARTICIPATION.—Not later than 90 days after the date of the enactment of this section, the Secretary shall publish a notice in the Federal Register requesting public comments regarding effective methods, measures, and practices for the design and construction of separate spaces with high-performance energy efficiency measures.

“(4) PUBLICATION.—The Secretary shall publish the study on the website of the Department of Energy.”

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Energy Independence and Security Act of 2007 is amended by inserting after the item relating to section 423 the following new item:

“Sec. 424. Separate spaces with high-performance energy efficiency measures.”

#### **SEC. 4. TENANT STAR PROGRAM.**

(a) IN GENERAL.—Subtitle B of title IV of the Energy Independence and Security Act of 2007 (42 U.S.C. 17081 et seq.) (as amended by section 3) is amended by adding at the end the following:

##### **“SEC. 425. TENANT STAR PROGRAM.**

“(a) DEFINITIONS.—In this section:

“(1) HIGH-PERFORMANCE ENERGY EFFICIENCY MEASURE.—The term ‘high-performance energy efficiency measure’ has the meaning given the term in section 424.

“(2) SEPARATE SPACES.—The term ‘separate spaces’ has the meaning given the term in section 424.

“(b) TENANT STAR.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, shall develop a voluntary program within the Energy Star program established by section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a), which may be known as Tenant Star, to promote energy efficiency in separate spaces leased by tenants or otherwise occupied within commercial buildings.

“(c) EXPANDING SURVEY DATA.—The Secretary of Energy, acting through the Administrator of the Energy Information Administration, shall—

“(1) collect, through each Commercial Buildings Energy Consumption Survey of the Energy Information Administration that is conducted after the date of enactment of this section, data on—

“(A) categories of building occupancy that are known to consume significant quantities of energy, such as occupancy by data centers, trading floors, and restaurants; and

“(B) other aspects of the property, building operation, or building occupancy determined by the Administrator of the Energy Information Administration, in consultation with the Administrator of the Environmental Protection Agency, to be relevant in lowering energy consumption;

“(2) with respect to the first Commercial Buildings Energy Consumption Survey conducted after the date of enactment of this section, to the extent full compliance with the requirements of paragraph (1) is not feasible, conduct activities to develop the capability to collect such data and begin to collect such data; and

“(3) make data collected under paragraphs (1) and (2) available to the public in aggregated form and provide such data, and any associated results, to the Administrator of the Environmental Protection Agency for use in accordance with subsection (d).

“(d) RECOGNITION OF OWNERS AND TENANTS.—

“(1) OCCUPANCY-BASED RECOGNITION.—Not later than 1 year after the date on which sufficient data is received pursuant to subsection (c), the Administrator of the Environmental Protection Agency shall, following an opportunity for public notice and comment—

“(A) in a manner similar to the Energy Star rating system for commercial buildings, develop policies and procedures to recognize tenants in commercial buildings that voluntarily achieve high levels of energy efficiency in separate spaces;

“(B) establish building occupancy categories eligible for Tenant Star recognition based on the data collected under subsection (c) and any other appropriate data sources; and

“(C) consider other forms of recognition for commercial building tenants or other occupants that lower energy consumption in separate spaces.

“(2) DESIGN- AND CONSTRUCTION-BASED RECOGNITION.—After the study required by section 424(b) is completed, the Administrator of the Environmental Protection Agency, in consultation with the Secretary and following an opportunity for public notice and comment, may develop a voluntary program to recognize commercial building owners and tenants that use high-performance energy efficiency measures in the design and construction of separate spaces.”

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Energy Independence and Security Act of 2007 is amended by inserting after the item relating to section 424 (as added by section 3(b)) the following new item:

“Sec. 425. Tenant Star program.”.

#### PURPOSE AND SUMMARY

H.R. 2126, the “Better Buildings Act of 2014,” was introduced by Reps. McKinley (R-WV) and Welch (D-VT) on May 23, 2013. H.R. 2126 facilitates the ability of landlords and tenants to lower energy consumption in commercial buildings through a market-driven, voluntary, “best practices” approach. This bill authorizes the Administrator of the General Services Administration (GSA) to consult with the Secretary of Energy to develop model leasing provisions and voluntary best leasing practices that will align the interests of landlords and tenants to achieve greater energy and water efficiency in commercial buildings. The bill also directs the Department of Energy (DOE) to conduct a study that identifies voluntary best practices for commercial building owners and tenants to consider when they design and construct new tenant spaces, which are rented at the start of a lease and are “fitted-out” before the tenant takes occupancy. Finally, H.R. 2126 establishes a “Tenant Star” voluntary recognition program developed by the Administrator of the Environmental Protection Agency (EPA), in consultation with the Secretary of Energy.

## BACKGROUND AND NEED FOR LEGISLATION

Owners and managers of large commercial buildings report that tenants consume 50 percent or more of their structures' total energy.<sup>1</sup> Therefore, Choices made by office tenants in designing and operating within leased spaces have a significant impact on U.S. energy consumption. Tenants and building occupants have an essential role to play within spaces they control to improve overall building efficiency, particularly office tenants that use significant amounts of energy, such as data centers, banks, trading floors, restaurants, and retail stores.

To date, energy efficiency efforts have primarily focused on how real estate owners and developers may lower energy consumption at the "whole-building" level. For example, the ENERGY STAR program for commercial "whole-buildings" administered by EPA is based on "whole-building" recognition for "top of the class" energy performers. The program is a voluntary, public-private program, which has improved how real estate owners, utilities, governments, and businesses interact with their customers to improve energy efficiency in buildings and lower energy costs.

In 2012, more than 20,000 ENERGY STAR certified buildings across the United States helped save more than \$2.7 billion in annual utility bills.<sup>2</sup> Further, the cumulative number of ENERGY STAR certified buildings increased by more than 24 percent from 2011 to 2012, representing more than 3 billion square feet of floor space nationwide. In 2012 alone, more than 8,200 buildings earned EPA's Energy Star certification.<sup>3</sup>

In contrast to energy efficiency programs that focus solely on the whole building, H.R. 2126 takes into consideration the energy consumption impacts and behaviors of office tenants, a focus that presently is lacking under existing Federal efficiency programs.

Commercial tenants are most likely to make structural investments in the building areas they occupy when they enter into new leases, or renew leases. In order to encourage high-performance design and construction of leased spaces at the point of new "fit-outs" that suit tenants' needs, H.R. 2126 directs DOE to study and learn from private sector "best practices" of how commercially leased spaces are designed "up front" to (1) achieve high performance, (2) implement cost effective measures with viable pay-back periods given lease duration, and (3) reduce utility costs for businesses. Based on DOE's study, EPA then may develop a voluntary program to reward and recognize tenants that design and construct high performance leased spaces.

H.R. 2126 also builds upon the existing ENERGY STAR program for whole buildings by establishing a voluntary, market-based program by which tenant spaces can be certified as "Tenant Star" spaces within ENERGY STAR whole buildings. Establishing recogni-

<sup>1</sup> See Natural Resources Defense Council, "High Performance Tenant Demonstration Project," available at <http://www.nrdc.org/business/cgi/process.asp>; National Association of Real Estate Investment Trusts, "Kimco Looks to Lower Retail Tenant Energy Usage," (June 2013), available at <http://www.reit.com/Articles/Kimco-Looks-to-Lower-Retail-Tenant-Energy-Usage.aspx>.

<sup>2</sup> EPA ENERGY STAR, "Facts and Stats," available at <http://www.energystar.gov/buildings/about-us/facts-and-stats>.

<sup>3</sup> EPA ENERGY STAR, "Overview of 2012 Achievements," available at <http://www.energystar.gov/ia/partners/publications/pubdocs/ES%20bi-fold%20031313%20FINAL%20for%20print%20rev.pdf>.

tion opportunities for leased commercial spaces can transform how building owners and their tenants think about energy efficiency.

Given that the Federal government is the largest commercial office tenant in the United States, the GSA is responsible for leasing significant amounts of office space from private building owners. With stakeholder input, H.R. 2126 directs GSA to develop model leasing provisions to facilitate cooperation between Federal tenants and private sector building owners to encourage sensible, cost-effective investments in efficiency to reduce Federal energy costs. The Committee recognizes the connection between education and training for building professionals, improved building performance, and energy savings.

#### *Supporters of the legislation*

Supporters of the legislation include: Air Barrier Association of America, Air Conditioning Contractors of America, Alliance to Save Energy, American Chemistry Council, American Council for an Energy-Efficient Economy, American Gaming Association, American Hotel & Lodging Association, American Institute of Architects, American Resort Development Association, American Society of Interior Designers (ASID), ASHRAE, Association of Energy Engineers (AEE), Bayer MaterialScience LLC, Big Ass Fans, Boston Properties, Brandywine Realty Trust, Building Owners and Managers Association (BOMA) International, CBRE, Inc., CCIM Institute, Conservation Services Group, Conservatives for Responsible Stewardship, Cree, Inc., Danfoss, DESSC, The Dow Chemical Company, Earth Day Network, Efficiency.org, EIFS Industry Members Association (EIMA), Empire State Building Company/Malkin Holdings, Energy Future Coalition, Energy Systems Group, Environment America, Environmental and Energy Study Institute, First Potomac Realty Trust, Grundfos, Illuminating Engineering Society (IES), Interfaith Power & Light, International Association of Lighting Designers, Institute for Market Transformation, Institute of Real Estate Management, International Council of Shopping Centers, International Union of Painters and Allied Trades (IUPAT), Johnson Controls, Inc., Jones Lang LaSalle, Knauf Insulation, Large Public Power Council, LBA Realty, Legrand, LonMark International, Metrus Energy, Inc., NAIOP, Commercial Real Estate Development Association, National Apartment Association, National Association of Energy Service Companies (NAESCO), National Association of Home Builders, National Association of Real Estate Investment Trusts, National Association of REALTORS®, National Association of the Remodeling Industry, National Association for State Community Services Program, National Association of State Energy Officials, National Electrical Manufacturers Association, National Fenestration Rating Council (NFRC), National Institute of Building Sciences, National Insulation Association, National Multi Housing Council, Natural Resources Defense Council, National Restaurant Association, OpenADR Alliance, Passive House Institute US, Philips, Plumbing-Heating-Cooling Contractors—National Association, Polyisocyanurate Insulation Manufacturers Association, Prologis, Inc., Real Estate Board of New York, Related Companies, Rising Realty Partners, Rudin Management Company, Inc., Seattle City Light, Sheet Metal and Air Conditioning Contractors' National Association, Inc., Shorenstein Properties LLC, Siemens

Building Technologies, Inc., Sierra Club, Southern Oregon Climate Action Now, Spray Polyurethane Foam Alliance (SPFA), The Stella Group, Ltd, SUN DAY Campaign, The Real Estate Roundtable, The Stella Group, Ltd., Tishman Speyer, Transwestern, U.S. Green Building Council, USAA Real Estate Co., Vinyl Siding Institute, Vornado Realty Trust, and Window and Door Manufacturers Association.

#### HEARINGS

The Committee on Energy and Commerce has not held hearings on H.R. 2126.

#### COMMITTEE CONSIDERATION

On January 27 and 28, 2014, the Committee on Energy and Commerce met in open markup session. During the markup, an amendment in the nature of a substitute was offered and adopted by a voice vote. Mr. McNerney (D-CA) offered an amendment to the amendment in the nature of a substitute, which was adopted by a voice vote. The Committee ordered H.R. 2126 favorably reported, by a voice vote, to the House of Representatives, as amended.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 2126 reported. A motion by Mr. Upton to order H.R. 2126 reported to the House, as amended, was agreed to by a voice vote.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings that are reflected in this report.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

H.R. 2126 facilitates the ability of landlords and tenants to lower energy consumption in commercial buildings through a market-driven, voluntary, “best practices” approach.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 2126, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

#### earmark, limited tax benefits, and limited tariff benefits

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives, the Committee finds that H.R. 2126 contains no earmarks, limited tax benefits, or limited tariff benefits.

## COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, February 20, 2014.*

Hon. FRED UPTON,  
*Chairman, Committee on Energy and Commerce,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2126, the Better Buildings Act of 2014.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

ROBERT A. SUNSHINE  
(For Douglas W. Elmendorf, Director).

Enclosure.

*H.R. 2126—Better Buildings Act of 2014*

H.R. 2126 would amend federal law aimed at improving the energy efficiency of commercial office buildings. The legislation would require the General Services Administration (GSA) to develop model leasing provisions to encourage energy efficiency in privately owned buildings with federal tenants. The bill also would establish a program similar to the Environmental Protection Agency's Energy Star program to promote energy efficiency in buildings leased to the federal government. Finally, the bill would require the Department of Energy (DOE) to prepare a report to the Congress on energy efficiency in commercial buildings.

Since the 1970s, many laws and policies have been enacted to reduce energy consumption. According to the GSA, most of the provisions of the bill are broadly consistent with existing law and practices. As a result, CBO does not expect that enacting H.R. 2126 would significantly affect agencies' administrative costs or result in significant additional investments by the federal government in energy savings initiatives. Optimizing the use of energy conservation measures in buildings leased by the government could eventually reduce federal spending by lowering occupancy costs, but CBO does not expect agencies would realize any significant savings from such efforts during the next few years. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 2126 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.



The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 2126 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting H.R. 2126 specifically directs no rule makings within the meaning of 5 U.S.C. 551 to be completed.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short title*

This section provides the short title of the “Better Buildings Act of 2013.”

##### *Section 2. Energy efficiency in Federal and other buildings*

This section directs the U.S. General Services Administration (GSA) Administrator to consult with the Secretary of Energy to develop model leasing provisions and voluntary best leasing practices that align the interests of landlords and tenants to achieve greater energy and water efficiency in commercial buildings.

Section 2(a) defines “cost-effective energy efficiency measure” and “cost-effective water efficiency measure” as any building product, material, or equipment that pays for itself through energy or water savings.

Section 2(b) directs the GSA Administrator to consult with the Secretary of Energy to develop model leasing provisions and best leasing practices. These provisions and practices shall be developed with public input and no later than six months after enactment of the Act. The purpose of these provisions and practices is to assist

building owners and their tenants in making decisions about cost effective investments in energy and water efficiency measures.

- Any model provisions may be used by the GSA in standard Federal leasing documents.
- The model leasing provisions shall be published periodically with explanatory materials to encourage their use by private sector commercial building owners and tenants.
- The realty services provided by GSA to Federal agency clients shall include periodic training of Federal employees and contractors to identify and evaluate energy and water efficiency measures during Federal leasing activities.
- The model leasing provisions shall be made available to State, municipal, and local government entities that own, manage, and lease buildings, to encourage those landlords and tenants to invest in cost-effective energy and water efficiency measures.

### *Section 3. Separate spaces with high-performance energy efficiency measures*

This section directs the DOE to conduct a study that identifies voluntary best practices for commercial building owners and tenants to consider in designing and constructing new tenant spaces, which are rented at the start of a lease and are “fitted-out” before the tenant takes occupancy.

Section 3(a) contains the following definitions:

- “High-performance energy efficiency measure” means a building technology, product, or practice that results in substantial savings by reducing energy consumption and lowering utility bills.
- “Separate spaces” means areas within a commercial building that are leased or otherwise occupied by a tenant, pursuant to the terms and conditions of a lease agreement.

Section 3(b) directs the Secretary of Energy, within one year after enactment of the section, to complete a study on the feasibility of improving energy efficiency in commercial buildings through the design and construction of separate spaces with high-performance energy efficiency measures. Among other things, the scope of the study shall include descriptions of processes that owners, tenants, architects, and engineers may replicate when designing and constructing high-performance tenant spaces; policies and best practices to achieve energy intensities for lighting, plug loads, cooking, and other systems that satisfy commercial tenants’ needs; return on investment and payback analyses of the costs of high-performance energy efficiency measures that may be installed in separate spaces and their projected energy savings; and best practices that encourage design and construction of separate spaces at optimum energy efficiency to interact with a commercial building’s central systems. The study also shall include case studies reporting economic and energy savings returns in the design and construction phase of high-performance separate spaces.

### *Section 4. Tenant Star program*

This section establishes a “Tenant Star” voluntary recognition program developed by the EPA Administrator, in consultation with the Secretary of Energy.

Section 4(a) incorporates the same definitions from section 3(a) for “high-performance energy efficiency measure” and “separate spaces.”

Section 4(b) authorizes the development of the “Tenant Star” program within the existing “Energy Star” voluntary recognition program currently administered by EPA. The purpose of the “Tenant Star” recognition program is to promote energy efficiency in separate spaces leased by tenants in commercial buildings.

Section 4(c) directs that the current Commercial Building Energy Consumption Survey (CBECS), a data-gathering program administered by DOE’s Energy Information Administration (EIA), collect data on categories of building occupants that are known to consume significant quantities of energy (e.g., data centers, trading floors, and restaurants). Such tenant-based data collected through CBECS shall be used to provide baseline information for the “Tenant Star” recognition program. Section 4(c)(2) acknowledges that it may not be feasible for EIA to collect all of the necessary data in the first CBECS conducted after the date of enactment of this section.

Section 4(d) establishes two voluntary programs, developed by EPA after sufficient data is available with comments from the public, to recognize high energy efficiency practices and performance of commercial building tenants.

- The first is “occupancy” based, where EPA provides recognition to tenants that voluntarily achieve high levels of energy efficiency while they occupy leased spaces. This occupancy-based recognition for high-performance separate spaces shall be based on EPA’s current “Energy Star” rating for energy efficient whole buildings.

- The second is “design” based, where EPA (in consultation with DOE) may recognize commercial building owners and tenants that use high-performance energy efficiency measures at the start of lease terms when new spaces are “fitted-out” prior to occupancy. This program may be established after the study on high-performance design and construction of leased spaces authorized in section 3 is completed.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in *italic* and existing law in which no change is proposed is shown in *roman*):

### ENERGY INDEPENDENCE AND SECURITY ACT OF 2007

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) \* \* \*

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

\* \* \* \* \*

#### TITLE IV—ENERGY SAVINGS IN BUILDINGS AND INDUSTRY

\* \* \* \* \*

Subtitle B—High-Performance Commercial Buildings

\* \* \* \* \*

Sec. 424. *Separate spaces with high-performance energy efficiency measures.*  
 Sec. 425. Tenant Star program.

\* \* \* \* \*

## TITLE IV—ENERGY SAVINGS IN BUILDINGS AND INDUSTRY

\* \* \* \* \*

### Subtitle B—High-Performance Commercial Buildings

\* \* \* \* \*

#### SEC. 424. SEPARATE SPACES WITH HIGH-PERFORMANCE ENERGY EFFICIENCY MEASURES.

(a) *DEFINITIONS.—In this section:*

(1) *HIGH-PERFORMANCE ENERGY EFFICIENCY MEASURE.—The term “high-performance energy efficiency measure” means a technology, product, or practice that will result in substantial operational cost savings by reducing energy consumption and utility costs.*

(2) *SEPARATE SPACES.—The term “separate spaces” means areas within a commercial building that are leased or otherwise occupied by a tenant or other occupant for a period of time pursuant to the terms of a written agreement.*

(b) *STUDY.—*

(1) *IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, acting through the Assistant Secretary of Energy Efficiency and Renewable Energy, shall complete a study on the feasibility of—*

*(A) significantly improving energy efficiency in commercial buildings through the design and construction, by owners and tenants, of separate spaces with high-performance energy efficiency measures; and*

*(B) encouraging owners and tenants to implement high-performance energy efficiency measures in separate spaces.*

(2) *SCOPE.—The study shall, at a minimum, include—*

*(A) descriptions of—*

*(i) high-performance energy efficiency measures that should be considered as part of the initial design and construction of separate spaces;*

*(ii) processes that owners, tenants, architects, and engineers may replicate when designing and constructing separate spaces with high-performance energy efficiency measures;*

*(iii) policies and best practices to achieve reductions in energy intensities for lighting, plug loads, heating, cooling, cooking, laundry, and other systems to satisfy the needs of the commercial building tenant;*

*(iv) return on investment and payback analyses of the incremental cost and projected energy savings of the proposed set of high-performance energy efficiency*

measures, including consideration of available incentives;

(v) models and simulation methods that predict the quantity of energy used by separate spaces with high-performance energy efficiency measures and that compare that predicted quantity to the quantity of energy used by separate spaces without high-performance energy efficiency measures but that otherwise comply with applicable building code requirements;

(vi) measurement and verification platforms demonstrating actual energy use of high-performance energy efficiency measures installed in separate spaces, and whether such measures generate the savings intended in the initial design and construction of the separate spaces;

(vii) best practices that encourage an integrated approach to designing and constructing separate spaces to perform at optimum energy efficiency in conjunction with the central systems of a commercial building; and

(viii) any impact on employment resulting from the design and construction of separate spaces with high-performance energy efficiency measures; and

(B) case studies reporting economic and energy savings returns in the design and construction of separate spaces with high-performance energy efficiency measures.

(3) **PUBLIC PARTICIPATION.**—Not later than 90 days after the date of the enactment of this section, the Secretary shall publish a notice in the Federal Register requesting public comments regarding effective methods, measures, and practices for the design and construction of separate spaces with high-performance energy efficiency measures.

(4) **PUBLICATION.**—The Secretary shall publish the study on the website of the Department of Energy.

**SEC. 425. TENANT STAR PROGRAM.**

(a) **DEFINITIONS.**—In this section:

(1) **HIGH-PERFORMANCE ENERGY EFFICIENCY MEASURE.**—The term “high-performance energy efficiency measure” has the meaning given the term in section 424.

(2) **SEPARATE SPACES.**—The term “separate spaces” has the meaning given the term in section 424.

(b) **TENANT STAR.**—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, shall develop a voluntary program within the Energy Star program established by section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a), which may be known as Tenant Star, to promote energy efficiency in separate spaces leased by tenants or otherwise occupied within commercial buildings.

(c) **EXPANDING SURVEY DATA.**—The Secretary of Energy, acting through the Administrator of the Energy Information Administration, shall—

(1) collect, through each Commercial Buildings Energy Consumption Survey of the Energy Information Administration that is conducted after the date of enactment of this section, data on—

(A) categories of building occupancy that are known to consume significant quantities of energy, such as occupancy by data centers, trading floors, and restaurants; and

(B) other aspects of the property, building operation, or building occupancy determined by the Administrator of the Energy Information Administration, in consultation with the Administrator of the Environmental Protection Agency, to be relevant in lowering energy consumption;

(2) with respect to the first Commercial Buildings Energy Consumption Survey conducted after the date of enactment of this section, to the extent full compliance with the requirements of paragraph (1) is not feasible, conduct activities to develop the capability to collect such data and begin to collect such data; and

(3) make data collected under paragraphs (1) and (2) available to the public in aggregated form and provide such data, and any associated results, to the Administrator of the Environmental Protection Agency for use in accordance with subsection (d).

(d) **RECOGNITION OF OWNERS AND TENANTS.**—

(1) **OCCUPANCY-BASED RECOGNITION.**—Not later than 1 year after the date on which sufficient data is received pursuant to subsection (c), the Administrator of the Environmental Protection Agency shall, following an opportunity for public notice and comment—

(A) in a manner similar to the Energy Star rating system for commercial buildings, develop policies and procedures to recognize tenants in commercial buildings that voluntarily achieve high levels of energy efficiency in separate spaces;

(B) establish building occupancy categories eligible for Tenant Star recognition based on the data collected under subsection (c) and any other appropriate data sources; and

(C) consider other forms of recognition for commercial building tenants or other occupants that lower energy consumption in separate spaces.

(2) **DESIGN- AND CONSTRUCTION-BASED RECOGNITION.**—After the study required by section 424(b) is completed, the Administrator of the Environmental Protection Agency, in consultation with the Secretary and following an opportunity for public notice and comment, may develop a voluntary program to recognize commercial building owners and tenants that use high-performance energy efficiency measures in the design and construction of separate spaces.

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