

117TH CONGRESS
2D SESSION

H. R. 9586

To require the establishment of a national model building performance standards initiative, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 15, 2022

Mr. LEVIN of Michigan (for himself and Ms. CASTOR of Florida) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require the establishment of a national model building performance standards initiative, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Creating Low-cost, Efficient And Net-zero Emissions Re-
6 silient Buildings Act” or the “CLEANER Buildings Act”.

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

- Sec. 1. Short title; table of contents.
 Sec. 2. National model building performance standards initiative.
 Sec. 3. National model building performance standards.
 Sec. 4. Federal technical assistance and support.
 Sec. 5. Progress reports.
 Sec. 6. Performance standard application to existing Federal buildings.
 Sec. 7. Authorization of appropriations.
 Sec. 8. Definitions.

1 **SEC. 2. NATIONAL MODEL BUILDING PERFORMANCE**
 2 **STANDARDS INITIATIVE.**

3 (a) ESTABLISHMENT.—The Administrator, in coordi-
 4 nation with the Secretary, shall establish a national model
 5 building performance standards initiative, to—

6 (1) assist State and local governments in the
 7 development and implementation of building per-
 8 formance standards;

9 (2) advance knowledge about building energy
 10 and water performance and greenhouse gas emis-
 11 sions;

12 (3) inform efforts to reduce energy and water
 13 consumption in, and greenhouse gas emissions from,
 14 buildings nationwide; and

15 (4) achieve progress toward a 50 percent to 52
 16 percent reduction from 2005 levels in economy-wide
 17 net greenhouse gas emissions by 2030.

18 (b) INITIATIVE ELEMENTS.—In carrying out the na-
 19 tional model building performance standards initiative
 20 under subsection (a), the Administrator shall—

1 (1) develop national model building perform-
2 ance standards in accordance with section 3;

3 (2) provide assistance to State and local govern-
4 ments under section 4; and

5 (3) provide related information to relevant enti-
6 ties, including recommendations on incentives that
7 could be provided by State and local governments to
8 building owners and occupants for early compliance
9 with building performance standards.

10 (c) COORDINATION AND COLLABORATION.—In car-
11 rying out subsection (a), the Administrator may—

12 (1) coordinate with all relevant program offices
13 across Federal Government agencies; and

14 (2) collaborate with relevant stakeholders, in-
15 cluding—

16 (A) State and local governments, including
17 State air quality and utility regulators;

18 (B) metropolitan and rural planning orga-
19 nizations;

20 (C) labor union organizations;

21 (D) environmental and environmental jus-
22 tice organizations;

23 (E) building developers;

24 (F) building manufacturers;

25 (G) utilities;

- 1 (H) infrastructure providers;
2 (I) technology providers;
3 (J) infrastructure construction and compo-
4 nent parts suppliers;
5 (K) multi-State and regional entities;
6 (L) experts from academia and nonprofits;
7 (M) affordable housing providers; and
8 (N) any other entities determined appro-
9 priate by the Secretary.

10 (d) EXISTING PROGRAMS.—In carrying out sub-
11 section (a), the Administrator shall make appropriate use
12 of existing programs and resources relevant to building
13 performance standards.

14 **SEC. 3. NATIONAL MODEL BUILDING PERFORMANCE**
15 **STANDARDS.**

16 (a) IN GENERAL.—Not later than 2 years after the
17 date of enactment of this Act, the Administrator, in co-
18 ordination with the Secretary, shall develop national model
19 building performance standards.

20 (b) DEVELOPMENT.—In developing national model
21 building performance standards under subsection (a), the
22 Administrator shall—

- 23 (1) address data access, collection, trans-
24 parency, and reporting requirements needed to im-
25 plement the national model building performance

1 standards while maintaining the protection of per-
2 sonal privacy through the use of anonymized data;

3 (2) identify commercial building and multi-fam-
4 ily building property types, sizes, and occupancy
5 rates covered by the national model building per-
6 formance standards;

7 (3) establish metrics and calculations to deter-
8 mine near-term and long-term building performance
9 standards for properties covered by the national
10 model building performance standards that—

11 (A) ensure properties can meet initial per-
12 formance targets; and

13 (B) may be scaled up to achieve long-term
14 energy and water consumption targets with
15 deep greenhouse gas emissions reductions;

16 (4) develop guidelines for the development of ef-
17 fective dates for compliance with building perform-
18 ance standards, including—

19 (A) consideration of effective dates that
20 phase in based on the size of the relevant prop-
21 erty; and

22 (B) recommendations for adequate lead
23 time before compliance is required, to ensure
24 that property owners can make investments to

1 meet near-term and long-term building per-
2 formance standard targets;

3 (5) include recommendations on exemptions or
4 compliance period extensions for properties that—

5 (A) demonstrate financial hardship;

6 (B) are vacant;

7 (C) are receiving a major renovation that
8 exceeds relevant building performance stand-
9 ards;

10 (D) are pending demolition; or

11 (E) meet other criteria established by the
12 Administrator;

13 (6) develop recommendations on non-Federal
14 enforcement mechanisms for implementing building
15 performance standards; and

16 (7) consider any other matters necessary to de-
17 velop and implement national model building per-
18 formance standards, as determined by the Adminis-
19 trator.

20 (c) PERIODIC REVIEW.—The Administrator, in co-
21 ordination with the Secretary, may—

22 (1) periodically review the national model build-
23 ing performance standards developed under this sec-
24 tion; and

1 (2) on completion of a review under paragraph
2 (1), if the Administrator determines that significant
3 energy and water savings and greenhouse gas emis-
4 sions reductions could result, revise the national
5 model building performance standards.

6 **SEC. 4. FEDERAL TECHNICAL ASSISTANCE AND SUPPORT.**

7 (a) TECHNICAL ASSISTANCE.—In carrying out the
8 national model building performance standards initiative
9 established under section 2, the Administrator shall pro-
10 vide relevant technical assistance to any State or local gov-
11 ernment that intends to establish building performance
12 standards that are at least as stringent as the national
13 model building performance standards developed under
14 section 3, including—

15 (1) assistance in the development, modification,
16 or implementation of such building performance
17 standards;

18 (2) training for using relevant Federal tools or
19 databases for the purposes of building performance
20 standard implementation and enforcement, including
21 the Energy Star Portfolio Manager;

22 (3) education and outreach materials on build-
23 ing performance standards for property owners;

24 (4) internet-based information resources and
25 project tracking systems and tools established and

1 maintained by the Administrator for energy and
2 water consumption and greenhouse gas emissions re-
3 duction management; and

4 (5) education and outreach on existing applica-
5 ble Federal programs that can help property owners
6 meet such building performance standards that are
7 established by the State or local government.

8 (b) FINANCIAL ASSISTANCE.—

9 (1) IN GENERAL.—In carrying out the national
10 model building performance standards initiative es-
11 tablished under section 2, the Administrator shall
12 provide financial assistance to States and local gov-
13 ernments to establish building performance stand-
14 ards that are at least as stringent as the national
15 model building performance standards developed
16 under section 3.

17 (2) ADMINISTRATION.—Not later than 1 year
18 after the date of enactment of this Act, the Adminis-
19 trator shall establish funding award limits and appli-
20 cation requirements for financial assistance under
21 this subsection.

22 (3) PRIORITY.—In providing financial assist-
23 ance under this subsection, the Administrator shall
24 give priority to States and local governments submit-
25 ting applications that—

1 (A) identify environmental justice commu-
2 nities served or represented by the State or
3 local government that will benefit from the de-
4 velopment, implementation, and enforcement of
5 the building performance standards;

6 (B) include plans to ensure that environ-
7 mental justice communities are included in the
8 development, implementation, and enforcement
9 of the building performance standards; and

10 (C) outline the use of labor standards,
11 such as prevailing wage standards, project labor
12 agreements, and local hiring and target hiring
13 provisions, that will be applicable to the imple-
14 mentation and enforcement of the building per-
15 formance standards.

16 **SEC. 5. PROGRESS REPORTS.**

17 (a) REPORT TO CONGRESS.—Not later than 2 years
18 after the date of enactment of this Act, the Administrator
19 shall submit to Congress a report containing—

20 (1) the results of an assessment of the assist-
21 ance provided to State and local governments under
22 section 4; and

23 (2) any recommendations for modifications to
24 the national model building performance standards
25 initiative established under section 2 to improve the

1 impact of such assistance on achieving full compli-
2 ance with building performance standards in juris-
3 dictions receiving such assistance.

4 (b) PUBLIC REPORT.—The Administrator shall make
5 available on a publicly accessible website a report on State
6 and local governments that have received assistance under
7 section 4, including—

8 (1) a summary of energy and water consump-
9 tion and greenhouse gas emissions reduction statis-
10 tics; and

11 (2) an assessment of compliance rates with
12 building performance standards, and other trends
13 observed.

14 **SEC. 6. PERFORMANCE STANDARD APPLICATION TO EXIST-**
15 **ING FEDERAL BUILDINGS.**

16 (a) IN GENERAL.—Not later than 1 year after the
17 establishment of the national model building performance
18 standards under section 3, the Secretary shall prescribe
19 regulations and requirements applying such standards to
20 existing Federal buildings, including the Capitol and con-
21 gressional buildings and facilities, taking into consider-
22 ation existing requirements related to Federal buildings.

23 (b) FEDERAL COMPLIANCE.—The Administrator, in
24 coordination with the Secretary, shall adopt procedures
25 necessary to ensure that existing Federal buildings meet

1 or exceed the building performance standards required
2 pursuant to subsection (a).

3 (c) LABOR STANDARDS.—

4 (1) DAVIS-BACON.—The Administrator, in co-
5 ordination with the Secretary of Labor and the Gen-
6 eral Services Administration, shall ensure that all la-
7 borers and mechanics employed by a covered con-
8 tractor or subcontractor are paid wages at rates not
9 less than those prevailing on projects of a similar
10 character in the locality, as determined by the Sec-
11 retary of Labor in accordance with subchapter IV of
12 chapter 31 of title 40, United States Code (com-
13 monly referred to as “Davis-Bacon Act”). With re-
14 spect to the labor standards specified in this para-
15 graph, the Secretary of Labor shall have the author-
16 ity and functions set forth in Reorganization Plan
17 Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C.
18 App.) and section 3145 of title 40, United States
19 Code.

20 (2) NEUTRALITY TOWARD ORGANIZED
21 LABOR.—The Administrator, in coordination with
22 the Secretary of Labor and the General Services Ad-
23 ministration, shall ensure that all covered contrac-
24 tors and subcontractors have—

1 (A) an explicit policy of neutrality with re-
2 gard to—

3 (i) labor organizing for the employees;

4 and

5 (ii) such employees' choice to form
6 and join labor organizations; and

7 (B) policies that require—

8 (i) the posting and maintenance of no-
9 tices in the workplace to such employees of
10 their rights under the National Labor Re-
11 lations Act (29 U.S.C. 151 et seq.); and

12 (ii) that such employees are, at the
13 beginning of their employment, provided
14 notice and information regarding the em-
15 ployees' rights under such Act.

16 (3) PREFERENCE FOR LOCAL HIRING.—The
17 Administrator, in coordination with the Secretary of
18 Labor and the General Services Administration,
19 shall ensure that all covered contractors and sub-
20 contractors have explicit policies that provide a pref-
21 erence for local hiring, consistent with applicable
22 Federal law and subject to rules issues by the Sec-
23 retary of Labor.

24 (4) EMPLOYEE CLASSIFICATION.—The Admin-
25 istrator, in coordination with the Secretary of Labor

1 and the General Services Administration, shall en-
2 sure that a covered contractor or subcontractor con-
3 siders an individual performing any service as an
4 employee (and not an independent contractor) of the
5 covered contractor or subcontractor, unless—

6 (A) the individual is free from control and
7 direction in connection with the performance of
8 the service, both under the contract for the per-
9 formance of the service and in fact;

10 (B) the service is performed outside the
11 usual course of the business of the covered con-
12 tractor or subcontractor; and

13 (C) the individual is customarily engaged
14 in an independently established trade, occupa-
15 tion, profession, or business of the same nature
16 as that involved in such service.

17 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

18 (a) INITIAL DEVELOPMENT AND ADMINISTRATION.—
19 For each of fiscal years 2023 through 2027, there is au-
20 thorized to be appropriated \$11,000,000 to carry out sec-
21 tions 2 and 3.

22 (b) IMPLEMENTATION.—For each of fiscal years
23 2023 through 2032, there are authorized to be appro-
24 priated—

1 (1) \$5,000,000 to carry out section 4(a), to re-
2 main available until expended;

3 (2) \$50,000,000 to carry out section 4(b); and

4 (3) \$5,000,000 to carry out section 6.

5 **SEC. 8. DEFINITIONS.**

6 In this Act:

7 (1) ADMINISTRATOR.—The term “Adminis-
8 trator” means the Administrator of the Environ-
9 mental Protection Agency.

10 (2) ANONYMIZED DATA.—The term
11 “anonymized data” means data that does not reveal
12 names, addresses, or any other information that
13 would identify an individual or business.

14 (3) BUILDING PERFORMANCE STANDARD.—The
15 term “building performance standard” means a per-
16 formance standard applicable to aggregated energy
17 or water usage for an entire building (including as
18 measured by any separate meters for the building).

19 (4) COVERED CONTRACTOR OR SUBCON-
20 TRACTOR.—The term “covered contractor or subcon-
21 tractor” means a contractor or subcontractor on a
22 project for the construction, alteration, or repair of
23 a Federal building to comply with the national build-
24 ing performance standards as required under section
25 6.

1 (5) ENERGY STAR PORTFOLIO MANAGER.—The
2 term “Energy Star Portfolio Manager” means the
3 tool developed and maintained by the Administrator
4 to track and assess the relative energy performance
5 of buildings.

6 (6) GREENHOUSE GAS.—The term “greenhouse
7 gas” means—

8 (A) carbon dioxide;

9 (B) methane;

10 (C) nitrous oxide;

11 (D) perfluorocarbons;

12 (E) sulfur hexafluoride;

13 (F) nitrogen trifluoride;

14 (G) chlorofluorocarbons; and

15 (H) any other anthropogenically emitted
16 gas or particulate that the Administrator deter-
17 mines, after notice and comment, to contribute
18 to climate change.

19 (7) GREENHOUSE GAS EMISSIONS.—The term
20 “greenhouse gas emissions” means emissions of
21 greenhouse gas, expressed in terms of metric tons of
22 carbon dioxide equivalent.

23 (8) SECRETARY.—The term “Secretary” means
24 the Secretary of Energy.

25 (9) STATE.—The term “State” means—

- 1 (A) a State;
- 2 (B) the District of Columbia;
- 3 (C) each territory and possession of the
- 4 United States; and
- 5 (D) the governing body of each federally
- 6 recognized Indian Tribe, band, nation, pueblo,
- 7 or other organized group or community that is
- 8 recognized as eligible for special programs and
- 9 services provided by the United States to Indi-
- 10 ans because of their status as Indians.

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