

111TH CONGRESS
1ST SESSION

S. 1830

To establish the Chief Conservation Officers Council to improve the energy efficiency of Federal agencies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 21, 2009

Ms. COLLINS (for herself, Mr. LIEBERMAN, and Mr. CARPER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish the Chief Conservation Officers Council to improve the energy efficiency of Federal agencies, 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.**

4 This Act may be cited as the “Federal Agency En-
5 ergy Efficiency Improvement Act of 2009”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) CHIEF CONSERVATION OFFICER.—The term
9 “Chief Conservation Officer” means an individual

1 designated as a Chief Conservation Officer under
2 section 3(a)(1).

3 (2) COUNCIL.—The term “Council” means the
4 Chief Conservation Officers Council established by
5 section 4(a).

6 (3) FEDERAL AGENCY.—The term “Federal
7 agency” means an agency of the Federal Govern-
8 ment described in section 901(b) of title 31, United
9 States Code.

10 **SEC. 3. CHIEF CONSERVATION OFFICERS.**

11 (a) DESIGNATION.—

12 (1) IN GENERAL.—As soon as practicable after
13 the date of enactment of this Act, each head of a
14 Federal agency shall designate a Chief Conservation
15 Officer.

16 (2) REQUIREMENTS.—

17 (A) EMPLOYMENT STATUS.—An individual
18 designated as a Chief Conservation Officer
19 under paragraph (1) shall serve in a Senior Ex-
20 ecutive Service position.

21 (B) PRIMARY RESPONSIBILITY.—

22 (i) IN GENERAL.—The primary re-
23 sponsibility of an individual designated as
24 a Chief Conservation Officer for a Federal
25 agency under paragraph (1) shall be to

1 serve as Chief Conservation Officer for the
2 Federal agency.

3 (ii) OTHER CAPACITIES.—Subject to
4 clause (i), an individual described in clause
5 (i) may serve in another capacity in the
6 Federal Government.

7 (3) AGENCY ENVIRONMENTAL EXECUTIVES.—If
8 the head of a Federal agency has designated an
9 Agency Environmental Executive in accordance with
10 Executive Order 13101 (63 Fed. Reg. 49643), the
11 head of the Federal agency may designate the Agen-
12 cy Environmental Executive as a Chief Conservation
13 Officer.

14 (b) GENERAL RESPONSIBILITIES.—A Chief Con-
15 servation Officer of a Federal agency shall—

16 (1) ensure that the Federal agency—

17 (A) complies with each energy policy of the
18 Federal Government; and

19 (B) takes steps to ensure the compliance of
20 the Federal agency with each energy policy of
21 the Federal Government;

22 (2) provide advice and other assistance to the
23 head of the Federal agency (including other applica-
24 ble senior executive management personnel of the
25 Federal agency) to enhance the conservation efforts

1 of the Federal agency (including the review of acqui-
2 sition plans and requirements developments at the
3 earliest practicable stage in a contracting process);

4 (3) collect data to determine—

5 (A) the energy consumption of each build-
6 ing owned or operated by the Federal agency;
7 and

8 (B) the energy consumption of major
9 equipment located within each building de-
10 scribed in subparagraph (A);

11 (4) provide to the Council the results of the
12 data collected under paragraph (3);

13 (5) develop and implement policies for the Fed-
14 eral agency to minimize the quantities of energy con-
15 sumed by the Federal agency;

16 (6) collect additional data as requested by the
17 Council;

18 (7) take actions—

19 (A) to increase the energy efficiency of the
20 Federal agency; and

21 (B) to maintain or increase the energy se-
22 curity and cost savings of the Federal agency;

23 (8) develop, facilitate, and maintain the imple-
24 mentation of a sound energy efficiency information
25 technology architecture for the Federal agency;

1 (9) promote the effective and efficient design
2 and operation of all major information resources
3 management processes of the Federal agency; and

4 (10) participate in each activity carried out by
5 the Council.

6 (c) DUTIES.—

7 (1) PRIMARY DUTY.—A Chief Conservation Of-
8 ficer shall be responsible for the management of the
9 energy efficiency of the Federal agency under the ju-
10 risdiction of the Chief Conservation Officer.

11 (2) GENERAL DUTIES.—In carrying out the pri-
12 mary duty of the Chief Conservation Officer under
13 paragraph (1), the Chief Conservation Officer
14 shall—

15 (A) monitor the performance of each en-
16 ergy efficiency program of the Federal agency;

17 (B) evaluate the performance of each pro-
18 gram described in subparagraph (A) on the
19 basis of applicable performance measurements,
20 as determined by the Chief Conservation Offi-
21 cer;

22 (C) advise the head of the Federal agency
23 regarding whether to continue, modify, or ter-
24 minate any program or project carried out by
25 the Federal agency; and

1 (D) in conjunction with the Chief Informa-
2 tion Officer of the Federal agency, prepare an
3 energy usage report, which shall—

4 (i) include data regarding the infor-
5 mation technology energy usage of the
6 Federal agency; and

7 (ii) be included in the first budget
8 submitted to Congress under section
9 1105(a) of title 31, United States Code,
10 after the report is prepared.

11 **SEC. 4. CHIEF CONSERVATION OFFICERS COUNCIL.**

12 (a) ESTABLISHMENT.—There is established in the ex-
13 ecutive branch a council to be known as the “Chief Con-
14 servation Officers Council”.

15 (b) COMPOSITION.—The Council shall be composed
16 of—

17 (1) the Secretary of Energy;

18 (2) the Administrator of the Environmental
19 Protection Agency;

20 (3) the Deputy Director for Management of the
21 Office of Management and Budget;

22 (4) the Program Manager for the Federal En-
23 ergy Management Program of the Department of
24 Energy;

1 (5) the Chief Information Officer of each Fed-
2 eral agency;

3 (6) each Chief Conservation Officer;

4 (7) the Federal Environmental Executive; and

5 (8) any other officer or employee of the Federal
6 Government, as designated by the Chairperson or
7 Vice Chairperson.

8 (c) CHAIRPERSON; VICE CHAIRPERSON.—

9 (1) CHAIRPERSON.—The Deputy Director for
10 Management of the Office of Management and
11 Budget shall serve as the Chairperson of the Coun-
12 cil.

13 (2) VICE CHAIRPERSON.—The Program Man-
14 ager for the Federal Energy Management Program
15 of the Department of Energy shall serve as the Vice
16 Chairperson of the Council.

17 (d) DUTIES OF CERTAIN HEADS OF FEDERAL AGEN-
18 CIES.—

19 (1) SECRETARY OF ENERGY.—The Secretary of
20 Energy shall carry out each activity of the Council
21 on behalf of the Chairperson of the Council.

22 (2) ADMINISTRATOR OF GENERAL SERVICES.—
23 The Administrator of General Services shall provide
24 administrative and other related support to the
25 Council.

1 (e) FUNCTION.—The Council shall function as the
2 principal interagency forum for improving the practices of
3 Federal agencies relating to the design, acquisition, devel-
4 opment, modernization, use, operation, sharing, and per-
5 formance of energy efficiency efforts of the Federal Gov-
6 ernment.

7 (f) DUTIES OF COUNCIL.—

8 (1) IN GENERAL.—The Council shall carry out
9 appropriate actions, including the collection of infor-
10 mation from each Chief Conservation Officer regard-
11 ing the energy usage of the Federal agency of the
12 Chief Conservation Officer, including the ratio
13 that—

14 (A) the equipment energy usage of the
15 Federal agency; bears to

16 (B) the building energy usage of the Fed-
17 eral agency.

18 (2) EFFICIENCY DUTIES.—The Council shall—

19 (A) require each Chief Conservation Offi-
20 cer to collect and report any necessary addi-
21 tional energy usage data of the Federal agency
22 of the Chief Conservation Officer;

23 (B) assist each Chief Conservation Officer
24 in developing energy baselines and goals;

1 (C) provide guidance and develop rec-
2 ommendations for each Chief Conservation Offi-
3 cer to assist each Chief Conservation Officer in
4 developing policies to enable the Federal agency
5 of the Chief Conservation Officer to meet the
6 energy efficiency goals of the Federal agency;

7 (D) provide guidance and develop rec-
8 ommendations for each Chief Conservation Offi-
9 cer to assist each Chief Conservation Officer in
10 implementing energy policies;

11 (E) share experiences, ideas, best prac-
12 tices, and innovative approaches relating to the
13 development of energy efficiencies;

14 (F) develop a universal metric to be used
15 by Federal agencies to measure the effective-
16 ness of the conservation efforts of the Federal
17 agencies; and

18 (G) provide reports (including rec-
19 ommendations) regarding energy efficiency poli-
20 cies of Federal agencies covered by the reports
21 to—

22 (i) the appropriate committees of Con-
23 gress; and

24 (ii) the Office of Management and
25 Budget.

1 (3) CONSULTATION REQUIREMENT.—In car-
 2 rying out each duty of the Council under this sub-
 3 section, the Council shall consult regularly with rep-
 4 resentatives of appropriate State, local, and tribal
 5 governments.

6 (g) OFFICE OF MANAGEMENT AND BUDGET GOV-
 7 ERNMENT EFFICIENCY REPORTS AND SCORECARDS.—
 8 Not later than 180 days after the date of enactment of
 9 this Act, the Director of the Office of Management and
 10 Budget shall—

11 (1) include in the annual report and scorecard
 12 of the Director under section 528 of the Energy
 13 Independence and Security Act of 2007 (42 U.S.C.
 14 17144) a description of the efforts of Federal agen-
 15 cies under this section; and

16 (2) make the description under paragraph (1)
 17 available on the website of the Office of Management
 18 and Budget.

19 **SEC. 5. AUTHORIZATION FOR ACQUISITIONS.**

20 (a) USE OF CERTAIN SUPPLY SCHEDULES.—Section
 21 502(e)(1) of title 40, United States Code, is amended by
 22 adding at the end the following:

23 “(C) Environmentally preferable ‘green’
 24 products and services (as contained in Federal
 25 supply classification code groups 03FAC, 51V,

1 56, 72IA, 73, 75, and 899, including any
2 amended or subsequent version of the Federal
3 supply classification code groups).”.

4 (b) DUTY OF NON-FEDERAL USERS REGARDING
5 USE OF SUPPLY SCHEDULES.—Section 502(e) of title 40,
6 United States Code, is amended—

7 (1) by redesignating paragraph (3) as para-
8 graph (4); and

9 (2) by inserting after paragraph (2) the fol-
10 lowing:

11 “(3) DUTY OF NON-FEDERAL USERS REGARD-
12 ING USE OF FEDERAL SUPPLY SCHEDULES.—During
13 the use of a Federal supply schedule, an authorized
14 non-Federal user shall act in accordance with the or-
15 dering guidance provided by the Administrator of
16 General Services.”.

17 **SEC. 6. POWER PURCHASE AGREEMENT PILOT PROGRAM.**

18 (a) DEFINITIONS.—In this section:

19 (1) COST-EFFECTIVE.—The term “cost-effec-
20 tive” means, with respect to a power purchase agree-
21 ment entered into by the head of an executive agen-
22 cy for a Federal facility that is owned or controlled
23 by the executive agency, that the 20-year average
24 cost for the purchase of electricity under the power
25 purchase agreement from 1 or more renewable en-

1 ergy generating systems is not greater than an
2 amount equal to 110 percent of the cost of an equal
3 quantity of electricity from the current electricity
4 supplier of the Federal facility, taking into consider-
5 ation each—

6 (A) applicable cost, including any cost re-
7 sulting from—

8 (i) a demand charge;

9 (ii) an applicable rider;

10 (iii) a fuel adjustment charge; or

11 (iv) any other surcharge; and

12 (B) reasonably anticipated increase in the
13 cost of the electricity resulting from—

14 (i) inflation;

15 (ii) increased regulatory requirements;

16 (iii) decreased availability of fossil

17 fuels; and

18 (iv) any other factor that may in-

19 crease the cost of electricity.

20 (2) EXECUTIVE AGENCY.—The term “executive
21 agency” has the meaning given the term in section
22 4 of the Office of Federal Procurement Policy Act
23 (41 U.S.C. 403).

24 (3) FEDERAL FACILITY.—The term “Federal
25 facility” means any building at which electricity is

1 used, owned, operated, obtained through a long-term
2 lease, or otherwise controlled by, or assigned to—

3 (A) an executive or military department of
4 the Federal Government;

5 (B) a Government corporation;

6 (C) an independent establishment;

7 (D) a Federal court;

8 (E) an executive agency;

9 (F) Congress;

10 (G) the United States Postal Service; or

11 (H) the Executive Office of the President.

12 (4) GOVERNMENT CORPORATION.—The term
13 “Government corporation” has the meaning given
14 the term in section 103 of title 5, United States
15 Code.

16 (5) LONG-TERM LEASE.—The term “long-term
17 lease” means a lease the duration of which is not
18 less than 20 years.

19 (6) RENEWABLE ENERGY SOURCE.—The term
20 “renewable energy source” includes—

21 (A) a solar photovoltaic system;

22 (B) a wind turbine; and

23 (C) any other renewable energy technology.

24 (b) PILOT PROJECTS.—

1 (1) AUTHORIZATION OF HEADS OF EXECUTIVE
2 AGENCIES.—In accordance with paragraphs (2) and
3 (3), the head of each executive agency may establish
4 1 or more pilot programs under which the head of
5 the executive agency may offer to enter into power
6 purchase agreements during the 5-year period begin-
7 ning on the date of enactment of this Act for the
8 purchase of electricity from 1 or more Federal facili-
9 ties that are owned or controlled by the executive
10 agency from renewable energy sources located at the
11 Federal facility.

12 (2) COST-EFFECTIVE REQUIREMENT.—A head
13 of an executive agency described in paragraph (1)
14 may offer to enter into a power purchase agreement
15 described in that paragraph only if the power pur-
16 chase agreement is cost-effective.

17 (3) TERM OF POWER PURCHASE AGREE-
18 MENT.—Notwithstanding any other provision of law
19 (including regulations), the term of a power pur-
20 chase agreement described in paragraph (1) may not
21 be longer than a period of 20 years.

22 (4) ALLOCATION OF INCREMENTAL COSTS.—
23 Each head of an executive agency (including the Ad-
24 ministrator of General Services) who enters into a
25 power purchase agreement under paragraph (1) for

1 the purchase of electricity at a Federal facility that
2 is owned or controlled by the executive agency for
3 distribution to 1 or more other executive agencies
4 shall allocate, on an annual basis for the period cov-
5 ered by the power purchase agreement, the incre-
6 mental cost or incremental savings of the power pur-
7 chase agreement for the purchase of electricity at a
8 Federal facility from renewable energy sources (as
9 compared to the cost of electricity from the elec-
10 tricity supplier of the Federal facility) among each
11 user of the Federal facility based on the proportion
12 that—

13 (A) the electricity usage of the user of the
14 Federal facility; bears to

15 (B) the aggregate electricity usage of all
16 users of the Federal facility.

17 (c) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated such sums as are nec-
19 essary to carry out this section for each of fiscal years
20 2009 through 2019, to remain available until expended.

21 **SEC. 7. CLARIFICATION OF RENEWABLE ENERGY.**

22 Section 203 of the Energy Policy Act of 2005 (42
23 U.S.C. 15852) is amended—

24 (1) in subsection (a), in the matter preceding
25 paragraph (1), by striking “electric”; and

1 (2) in subsection (b)—

2 (A) in paragraph (1)(D), by striking “for
3 the production of electricity”; and

4 (B) in paragraph (2), by striking “elec-
5 tric”.

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