

114TH CONGRESS  
1ST SESSION

# S. 765

To appropriately determine the budgetary effects of energy savings performance contracts and utility energy service contracts.

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IN THE SENATE OF THE UNITED STATES

MARCH 17, 2015

Mr. PORTMAN (for himself and Mr. GARDNER) introduced the following bill;  
which was read twice and referred to the Committee on the Budget

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## A BILL

To appropriately determine the budgetary effects of energy savings performance contracts and utility energy service contracts.

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. CERTAIN ENERGY CONTRACTS.**

4       (a) DEFINITION.—In this section, the term “covered  
5       energy savings contract” means—

6               (1) an energy savings performance contract au-  
7       thorized under section 801 of the National Energy  
8       Conservation Policy Act (42 U.S.C. 8287); and

9               (2) a utility energy service contract, as de-  
10      scribed in the Office of Management and Budget

1 Memorandum on Federal use of energy savings per-  
2 formance contracting, dated July 25, 1998 (M-98-  
3 13), and the Office of Management and Budget  
4 Memorandum on the Federal use of energy saving  
5 performance contracts and utility energy service con-  
6 tracts, dated September 28, 2012 (M-12-21), or  
7 any successor to either memorandum.

8 (b) ESTIMATES.—In the Senate, for purposes of en-  
9 forcing any point of order established under the Congres-  
10 sional Budget Act of 1974 (2 U.S.C. 621 et seq.) or any  
11 concurrent resolution on the budget, any estimate by the  
12 Congressional Budget Office of the changes in budget au-  
13 thority, outlays, and revenues of a provision in a bill, joint  
14 resolution, amendment, conference report, or amendment  
15 between the Houses modifying the authority to enter, the  
16 scope or terms of, or the use of covered energy savings  
17 contracts shall—

18 (1) record in the first year in which the author-  
19 ity would become effective, the changes in budget  
20 authority, outlays, and revenues (as estimated in ac-  
21 cordance with paragraph (2)) of any modifications to  
22 the authority to enter the covered energy savings  
23 contracts;

24 (2) in estimating the changes in budget author-  
25 ity, outlays, and revenues of the legislation, calculate

1 the costs and savings arising from covered contracts  
2 on a net present value basis by adding market risk  
3 over the useful life of the services or product to the  
4 discount rate in section 502(5)(E) of the Federal  
5 Credit Reform Act of 1990 (2 U.S.C. 661a(5)(E));  
6 and

7 (3) classify the effects of the provision to be  
8 changes in spending subject to the availability of ap-  
9 propriations.

10 (c) RULE OF CONSTRUCTION.—Nothing in sub-  
11 section (b) shall be construed to modify the methodology  
12 for estimating the changes in budget authority, outlays,  
13 and revenues of a provision that does not relate to covered  
14 energy savings contracts in a bill, joint resolution, amend-  
15 ment, conference report, or amendment between the  
16 Houses that contains a provision described in subsection  
17 (b).

18 (d) EXERCISE OF RULEMAKING POWERS.—Congress  
19 adopts the provisions of this section—

20 (1) as an exercise of the rulemaking power of  
21 the Senate, and as such they shall be considered as  
22 part of the rules of the Senate and such rules shall  
23 supersede other rules only to the extent that they  
24 are inconsistent with such other rules; and

1           (2) with full recognition of the constitutional  
2       right of the Senate to change those rules at any  
3       time, in the same manner, and to the same extent  
4       as is the case of any other rule of the Senate.

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