

Calendar No. 98

115TH CONGRESS
1ST SESSION**S. 239****[Report No. 115–79]**

To amend the National Energy Conservation Policy Act to encourage the increased use of performance contracting in Federal facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2017

Mr. GARDNER (for himself, Mr. COONS, Mr. PORTMAN, and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

MAY 24, 2017

Reported by Ms. MURKOWSKI, without amendment

A BILL

To amend the National Energy Conservation Policy Act to encourage the increased use of performance contracting in Federal facilities, 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 “Energy Savings
5 Through Public-Private Partnerships Act of 2017”.

1 **SEC. 2. USE OF ENERGY AND WATER EFFICIENCY MEAS-**
 2 **URES IN FEDERAL BUILDINGS.**

3 (a) ENERGY MANAGEMENT REQUIREMENTS.—Sec-
 4 tion 543(f)(4) of the National Energy Conservation Policy
 5 Act (42 U.S.C. 8253(f)(4)) is amended by striking “may”
 6 and inserting “shall”.

7 (b) REPORTS.—Section 548(b) of the National En-
 8 ergy Conservation Policy Act (42 U.S.C. 8258(b)) is
 9 amended—

10 (1) in paragraph (3), by striking “and” at the
 11 end;

12 (2) in paragraph (4), by striking the period at
 13 the end and inserting “; and”; and

14 (3) by adding at the end the following:

15 “(5)(A) the status of the energy savings per-
 16 formance contracts and utility energy service con-
 17 tracts of each agency;

18 “(B) the investment value of the contracts;

19 “(C) the guaranteed energy savings for the pre-
 20 vious year as compared to the actual energy savings
 21 for the previous year;

22 “(D) the plan for entering into the contracts in
 23 the coming year; and

24 “(E) information explaining why any previously
 25 submitted plans for the contracts were not imple-
 26 mented.”.

1 (c) DEFINITION OF ENERGY CONSERVATION MEAS-
 2 URES.—Section 551(4) of the National Energy Conserva-
 3 tion Policy Act (42 U.S.C. 8259(4)) is amended by strik-
 4 ing “or retrofit activities” and inserting “retrofit activi-
 5 ties, or energy consuming devices and required support
 6 structures”.

7 (d) AUTHORITY TO ENTER INTO CONTRACTS.—Sec-
 8 tion 801(a)(2)(F) of the National Energy Conservation
 9 Policy Act (42 U.S.C. 8287(a)(2)(F)) is amended—

10 (1) in clause (i), by striking “or” at the end;

11 (2) in clause (ii), by striking the period at the
 12 end and inserting “; or”; and

13 (3) by adding at the end the following:

14 “(iii) limit the recognition of oper-
 15 ation and maintenance savings associated
 16 with systems modernized or replaced with
 17 the implementation of energy conservation
 18 measures, water conservation measures, or
 19 any combination of energy conservation
 20 measures and water conservation meas-
 21 ures.”.

22 (e) MISCELLANEOUS AUTHORITY.—Section
 23 801(a)(2) of the National Energy Conservation Policy Act
 24 (42 U.S.C. 8287(a)(2)) is amended by adding at the end
 25 the following:

1 “(H) MISCELLANEOUS AUTHORITY.—Not-
 2 withstanding any other provision of law, a Fed-
 3 eral agency may sell or transfer energy savings
 4 and apply the proceeds of the sale or transfer
 5 to fund a contract under this title.”.

6 (f) PAYMENT OF COSTS.—Section 802 of the Na-
 7 tional Energy Conservation Policy Act (42 U.S.C. 8287a)
 8 is amended by striking “(and related operation and main-
 9 tenance expenses)” and inserting “, including related op-
 10 erations and maintenance expenses”.

11 (g) DEFINITION OF FEDERAL BUILDING.—Section
 12 551(6) of the National Energy Conservation Policy Act
 13 (42 U.S.C. 8259(6)) is amended by striking the semicolon
 14 at the end and inserting “the term does not include a dam,
 15 reservoir, or hydropower facility owned or operated by a
 16 Federal agency;”.

17 (h) DEFINITION OF ENERGY SAVINGS.—Section
 18 804(2) of the National Energy Conservation Policy Act
 19 (42 U.S.C. 8287c(2)) is amended—

20 (1) in subparagraph (A), by striking “federally
 21 owned building or buildings or other federally owned
 22 facilities” and inserting “Federal building (as de-
 23 fined in section 551)” each place it appears;

24 (2) in subparagraph (C), by striking “; and”
 25 and inserting a semicolon;

1 (3) in subparagraph (D), by striking the period
2 at the end and inserting a semicolon; and

3 (4) by adding at the end the following:

4 “(E) the use, sale, or transfer of energy in-
5 centives, rebates, or credits (including renew-
6 able energy credits) from Federal, State, or
7 local governments or utilities; and

8 “(F) any revenue generated from a reduc-
9 tion in energy or water use, more efficient
10 waste recycling, or additional energy generated
11 from more efficient equipment.”.

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