

114TH CONGRESS
1ST SESSION

S. 1

AN ACT

To approve the Keystone XL Pipeline.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Keystone XL Pipeline
3 Approval Act”.

4 **SEC. 2. KEYSTONE XL APPROVAL.**

5 (a) **IN GENERAL.**—TransCanada Keystone Pipeline,
6 L.P. may construct, connect, operate, and maintain the
7 pipeline and cross-border facilities described in the appli-
8 cation filed on May 4, 2012, by TransCanada Corporation
9 to the Department of State (including any subsequent re-
10 vision to the pipeline route within the State of Nebraska
11 required or authorized by the State of Nebraska).

12 (b) **ENVIRONMENTAL IMPACT STATEMENT.**—The
13 Final Supplemental Environmental Impact Statement
14 issued by the Secretary of State in January 2014, regard-
15 ing the pipeline referred to in subsection (a), and the envi-
16 ronmental analysis, consultation, and review described in
17 that document (including appendices) shall be considered
18 to fully satisfy—

19 (1) all requirements of the National Environ-
20 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.);
21 and

22 (2) any other provision of law that requires
23 Federal agency consultation or review (including the
24 consultation or review required under section 7(a) of
25 the Endangered Species Act of 1973 (16 U.S.C.

1 1536(a))) with respect to the pipeline and facilities
2 referred to in subsection (a).

3 (c) PERMITS.—Any Federal permit or authorization
4 issued before the date of enactment of this Act for the
5 pipeline and cross-border facilities referred to in sub-
6 section (a) shall remain in effect.

7 (d) JUDICIAL REVIEW.—Except for review in the Su-
8 preme Court of the United States, the United States
9 Court of Appeals for the District of Columbia Circuit shall
10 have original and exclusive jurisdiction over any civil ac-
11 tion for the review of an order or action of a Federal agen-
12 cy regarding the pipeline and cross-border facilities de-
13 scribed in subsection (a), and the related facilities in the
14 United States, that are approved by this Act (including
15 any order granting a permit or right-of-way, or any other
16 agency action taken to construct or complete the project
17 pursuant to Federal law).

18 (e) PRIVATE PROPERTY SAVINGS CLAUSE.—Nothing
19 in this Act alters any Federal, State, or local process or
20 condition in effect on the date of enactment of this Act
21 that is necessary to secure access from an owner of private
22 property to construct the pipeline and cross-border facili-
23 ties described in subsection (a).

24 (f) PRIVATE PROPERTY PROTECTION.—Land or an
25 interest in land for the pipeline and cross-border facilities

1 described in subsection (a) may only be acquired consist-
2 ently with the Constitution.

3 **SEC. 3. COORDINATION OF ENERGY RETROFITTING ASSIST-**
4 **ANCE FOR SCHOOLS.**

5 (a) DEFINITIONS.—In this section:

6 (1) SCHOOL.—The term “school” means—

7 (A) an elementary school or secondary
8 school (as defined in section 9101 of the Ele-
9 mentary and Secondary Education Act of 1965
10 (20 U.S.C. 7801));

11 (B) an institution of higher education (as
12 defined in section 102(a) of the Higher Edu-
13 cation Act of 1965 (20 U.S.C. 1002(a));

14 (C) a school of the defense dependents’
15 education system under the Defense Depend-
16 ents’ Education Act of 1978 (20 U.S.C. 921 et
17 seq.) or established under section 2164 of title
18 10, United States Code;

19 (D) a school operated by the Bureau of In-
20 dian Affairs;

21 (E) a tribally controlled school (as defined
22 in section 5212 of the Tribally Controlled
23 Schools Act of 1988 (25 U.S.C. 2511)); and

1 (F) a Tribal College or University (as de-
2 fined in section 316(b) of the Higher Education
3 Act of 1965 (20 U.S.C. 1059e(b))).

4 (2) SECRETARY.—The term “Secretary” means
5 the Secretary of Energy.

6 (b) DESIGNATION OF LEAD AGENCY.—The Sec-
7 retary, acting through the Office of Energy Efficiency and
8 Renewable Energy, shall act as the lead Federal agency
9 for coordinating and disseminating information on exist-
10 ing Federal programs and assistance that may be used
11 to help initiate, develop, and finance energy efficiency, re-
12 newable energy, and energy retrofitting projects for
13 schools.

14 (c) REQUIREMENTS.—In carrying out coordination
15 and outreach under subsection (b), the Secretary shall—

16 (1) in consultation and coordination with the
17 appropriate Federal agencies, carry out a review of
18 existing programs and financing mechanisms (in-
19 cluding revolving loan funds and loan guarantees)
20 available in or from the Department of Agriculture,
21 the Department of Energy, the Department of Edu-
22 cation, the Department of the Treasury, the Internal
23 Revenue Service, the Environmental Protection
24 Agency, and other appropriate Federal agencies with
25 jurisdiction over energy financing and facilitation

1 that are currently used or may be used to help ini-
2 tiate, develop, and finance energy efficiency, renew-
3 able energy, and energy retrofitting projects for
4 schools;

5 (2) establish a Federal cross-departmental col-
6 laborative coordination, education, and outreach ef-
7 fort to streamline communication and promote avail-
8 able Federal opportunities and assistance described
9 in paragraph (1) for energy efficiency, renewable en-
10 ergy, and energy retrofitting projects that enables
11 States, local educational agencies, and schools—

12 (A) to use existing Federal opportunities
13 more effectively; and

14 (B) to form partnerships with Governors,
15 State energy programs, local educational, finan-
16 cial, and energy officials, State and local gov-
17 ernment officials, nonprofit organizations, and
18 other appropriate entities to support the initi-
19 ation of the projects;

20 (3) provide technical assistance for States, local
21 educational agencies, and schools to help develop
22 and finance energy efficiency, renewable energy, and
23 energy retrofitting projects—

24 (A) to increase the energy efficiency of
25 buildings or facilities;

1 (B) to install systems that individually
2 generate energy from renewable energy re-
3 sources;

4 (C) to establish partnerships to leverage
5 economies of scale and additional financing
6 mechanisms available to larger clean energy ini-
7 tiatives; or

8 (D) to promote—

9 (i) the maintenance of health, environ-
10 mental quality, and safety in schools, in-
11 cluding the ambient air quality, through
12 energy efficiency, renewable energy, and
13 energy retrofit projects; and

14 (ii) the achievement of expected en-
15 ergy savings and renewable energy produc-
16 tion through proper operations and main-
17 tenance practices;

18 (4) develop and maintain a single online re-
19 source website with contact information for relevant
20 technical assistance and support staff in the Office
21 of Energy Efficiency and Renewable Energy for
22 States, local educational agencies, and schools to ef-
23 fectively access and use Federal opportunities and
24 assistance described in paragraph (1) to develop en-

1 energy efficiency, renewable energy, and energy retro-
2 fitting projects; and

3 (5) establish a process for recognition of schools
4 that—

5 (A) have successfully implemented energy
6 efficiency, renewable energy, and energy retro-
7 fitting projects; and

8 (B) are willing to serve as resources for
9 other local educational agencies and schools to
10 assist initiation of similar efforts.

11 (d) REPORT.—Not later than 180 days after the date
12 of enactment of this Act, the Secretary shall submit to
13 Congress a report describing the implementation of this
14 section.

15 **SEC. 4. CONSULTATION WITH INDIAN TRIBES.**

16 Nothing in this Act relieves the United States of its
17 responsibility to consult with Indian nations as required
18 under executive order 13175 (67 Fed. Reg. 67249) (No-
19 vember 6, 2000).

20 **SEC. 5. SENSE OF THE SENATE REGARDING CLIMATE**
21 **CHANGE.**

22 It is the sense of the Senate that climate change is
23 real and not a hoax.

1 **SEC. 6. SENSE OF SENATE REGARDING THE OIL SPILL LI-**
2 **ABILITY TRUST FUND.**

3 It is the sense of the Senate that—

4 (1) Congress should approve a bill to ensure
5 that all forms of bitumen or synthetic crude oil de-
6 rived from bitumen are subject to the per-barrel ex-
7 cise tax associated with the Oil Spill Liability Trust
8 Fund established by section 9509 of the Internal
9 Revenue Code of 1986;

10 (2) it is necessary for Congress to approve a bill
11 described in paragraph (1) because the Internal Rev-
12 enue Service determined in 2011 that certain forms
13 of petroleum are not subject to the per-barrel excise
14 tax;

15 (3) under article I, section 7, clause 1 of the
16 Constitution, the Senate may not originate a bill to
17 raise new revenue, and thus may not originate a bill
18 to close the legitimate and unintended loophole de-
19 scribed in paragraph (2);

20 (4) if the Senate attempts to originate a bill de-
21 scribed in paragraph (1), it would provide a sub-
22 stantive basis for a “blue slip” from the House of
23 Representatives, which would prevent advancement
24 of the bill; and

25 (5) the House of Representatives, consistent
26 with article I, section 7, clause 1 of the Constitution,

1 should consider and refer to the Senate a bill to en-
 2 sure that all forms of bitumen or synthetic crude oil
 3 derived from bitumen are subject to the per-barrel
 4 excise tax associated with the Oil Spill Liability
 5 Trust Fund established by section 9509 of the Inter-
 6 nal Revenue Code of 1986.

7 **DIVISION B—ENERGY**
 8 **EFFICIENCY IMPROVEMENT**

9 **SECTION 1. SHORT TITLE.**

10 This division may be cited as the “Energy Efficiency
 11 Improvement Act of 2015”.

12 **TITLE I—BETTER BUILDINGS**

13 **SEC. 101. SHORT TITLE.**

14 This title may be cited as the “Better Buildings Act
 15 of 2015”.

16 **SEC. 102. ENERGY EFFICIENCY IN FEDERAL AND OTHER**
 17 **BUILDINGS.**

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

19 (1) **ADMINISTRATOR.**—The term “Adminis-
 20 trator” means the Administrator of General Serv-
 21 ices.

22 (2) **COST-EFFECTIVE ENERGY EFFICIENCY**
 23 **MEASURE.**—The term “cost-effective energy effi-
 24 ciency measure” means any building product, mate-
 25 rial, equipment, or service, and the installing, imple-

1 menting, or operating thereof, that provides energy
2 savings in an amount that is not less than the cost
3 of such installing, implementing, or operating.

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

11 (b) MODEL PROVISIONS, POLICIES, AND BEST PRAC-
12 TICES.—

13 (1) IN GENERAL.—Not later than 180 days
14 after the date of enactment of this Act, the Adminis-
15 trator, in consultation with the Secretary of Energy
16 and after providing the public with an opportunity
17 for notice and comment, shall develop model com-
18 mercial leasing provisions and best practices in ac-
19 cordance with this subsection.

20 (2) COMMERCIAL LEASING.—

21 (A) IN GENERAL.—The model commercial
22 leasing provisions developed under this sub-
23 section shall, at a minimum, align the interests
24 of building owners and tenants with regard to
25 investments in cost-effective energy efficiency

1 measures and cost-effective water efficiency
2 measures to encourage building owners and ten-
3 ants to collaborate to invest in such measures.

4 (B) USE OF MODEL PROVISIONS.—The
5 Administrator may use the model commercial
6 leasing provisions developed under this sub-
7 section in any standard leasing document that
8 designates a Federal agency (or other client of
9 the Administrator) as a landlord or tenant.

10 (C) PUBLICATION.—The Administrator
11 shall periodically publish the model commercial
12 leasing provisions developed under this sub-
13 section, along with explanatory materials, to en-
14 courage building owners and tenants in the pri-
15 vate sector to use such provisions and mate-
16 rials.

17 (3) REALTY SERVICES.—The Administrator
18 shall develop policies and practices to implement
19 cost-effective energy efficiency measures and cost-ef-
20 fective water efficiency measures for the realty serv-
21 ices provided by the Administrator to Federal agen-
22 cies (or other clients of the Administrator), including
23 periodic training of appropriate Federal employees
24 and contractors on how to identify and evaluate
25 those measures.

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

6 “(b) STUDY.—

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

12 “(A) significantly improving energy effi-
13 ciency in commercial buildings through the de-
14 sign and construction, by owners and tenants,
15 of separate spaces with high-performance en-
16 ergy efficiency measures; and

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

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

22 “(A) descriptions of—

23 “(i) high-performance energy effi-
24 ciency measures that should be considered

1 as part of the initial design and construc-
2 tion of separate spaces;

3 “(ii) processes that owners, tenants,
4 architects, and engineers may replicate
5 when designing and constructing separate
6 spaces with high-performance energy effi-
7 ciency measures;

8 “(iii) policies and best practices to
9 achieve reductions in energy intensities for
10 lighting, plug loads, heating, cooling, cook-
11 ing, laundry, and other systems to satisfy
12 the needs of the commercial building ten-
13 ant;

14 “(iv) return on investment and pay-
15 back analyses of the incremental cost and
16 projected energy savings of the proposed
17 set of high-performance energy efficiency
18 measures, including consideration of avail-
19 able incentives;

20 “(v) models and simulation methods
21 that predict the quantity of energy used by
22 separate spaces with high-performance en-
23 ergy efficiency measures and that compare
24 that predicted quantity to the quantity of
25 energy used by separate spaces without

1 high-performance energy efficiency meas-
2 ures but that otherwise comply with appli-
3 cable building code requirements;

4 “(vi) measurement and verification
5 platforms demonstrating actual energy use
6 of high-performance energy efficiency
7 measures installed in separate spaces, and
8 whether such measures generate the sav-
9 ings intended in the initial design and con-
10 struction of the separate spaces;

11 “(vii) best practices that encourage an
12 integrated approach to designing and con-
13 structing separate spaces to perform at op-
14 timum energy efficiency in conjunction
15 with the central systems of a commercial
16 building; and

17 “(viii) any impact on employment re-
18 sulting from the design and construction of
19 separate spaces with high-performance en-
20 ergy efficiency measures; and

21 “(B) case studies reporting economic and
22 energy savings returns in the design and con-
23 struction of separate spaces with high-perform-
24 ance energy efficiency measures.

1 “(3) PUBLIC PARTICIPATION.—Not later than
2 90 days after the date of the enactment of this sec-
3 tion, the Secretary shall publish a notice in the Fed-
4 eral Register requesting public comments regarding
5 effective methods, measures, and practices for the
6 design and construction of separate spaces with
7 high-performance energy efficiency measures.

8 “(4) PUBLICATION.—The Secretary shall pub-
9 lish the study on the website of the Department of
10 Energy.”.

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

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

15 **SEC. 104. TENANT STAR PROGRAM.**

16 (a) IN GENERAL.—Subtitle B of title IV of the En-
17 ergy Independence and Security Act of 2007 (42 U.S.C.
18 17081 et seq.) (as amended by section 103) is amended
19 by adding at the end the following:

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

21 “(a) DEFINITIONS.—In this section:

22 “(1) HIGH-PERFORMANCE ENERGY EFFICIENCY
23 MEASURE.—The term ‘high-performance energy effi-
24 ciency measure’ has the meaning given the term in
25 section 424.

1 “(2) SEPARATE SPACES.—The term ‘separate
2 spaces’ has the meaning given the term in section
3 424.

4 “(b) TENANT STAR.—The Administrator of the Envi-
5 ronmental Protection Agency, in consultation with the
6 Secretary of Energy, shall develop a voluntary program
7 within the Energy Star program established by section
8 324A of the Energy Policy and Conservation Act (42
9 U.S.C. 6294a), which may be known as ‘Tenant Star’, to
10 promote energy efficiency in separate spaces leased by ten-
11 ants or otherwise occupied within commercial buildings.

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

15 “(1) collect, through each Commercial Build-
16 ings Energy Consumption Survey of the Energy In-
17 formation Administration that is conducted after the
18 date of enactment of this section, data on—

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

23 “(B) other aspects of the property, build-
24 ing operation, or building occupancy determined
25 by the Administrator of the Energy Information

1 Administration, in consultation with the Admin-
2 istrator of the Environmental Protection Agen-
3 cy, to be relevant in lowering energy consump-
4 tion;

5 “(2) with respect to the first Commercial Build-
6 ings Energy Consumption Survey conducted after
7 the date of enactment of this section, to the extent
8 full compliance with the requirements of paragraph
9 (1) is not feasible, conduct activities to develop the
10 capability to collect such data and begin to collect
11 such data; and

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

17 “(d) RECOGNITION OF OWNERS AND TENANTS.—

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

24 “(A) in a manner similar to the Energy
25 Star rating system for commercial buildings,

1 develop policies and procedures to recognize
2 tenants in commercial buildings that voluntarily
3 achieve high levels of energy efficiency in sepa-
4 rate spaces;

5 “(B) establish building occupancy cat-
6 egories eligible for Tenant Star recognition
7 based on the data collected under subsection (c)
8 and any other appropriate data sources; and

9 “(C) consider other forms of recognition
10 for commercial building tenants or other occu-
11 pants that lower energy consumption in sepa-
12 rate spaces.

13 “(2) DESIGN- AND CONSTRUCTION-BASED REC-
14 OGNITION.—After the study required by section
15 424(b) is completed, the Administrator of the Envi-
16 ronmental Protection Agency, in consultation with
17 the Secretary and following an opportunity for pub-
18 lic notice and comment, may develop a voluntary
19 program to recognize commercial building owners
20 and tenants that use high-performance energy effi-
21 ciency measures in the design and construction of
22 separate spaces.”.

23 (b) CLERICAL AMENDMENT.—The table of contents
24 in section 1(b) of the Energy Independence and Security
25 Act of 2007 is amended by inserting after the item relat-

1 ing to section 424 (as added by section 103(b)) the fol-
 2 lowing new item:

“Sec. 425. Tenant Star program.”.

3 **TITLE II—GRID-ENABLED WATER**
 4 **HEATERS**

5 **SEC. 201. GRID-ENABLED WATER HEATERS.**

6 Part B of title III of the Energy Policy and Conserva-
 7 tion Act is amended—

8 (1) in section 325(e) (42 U.S.C. 6295(e)), by
 9 adding at the end the following:

10 “(6) **ADDITIONAL STANDARDS FOR GRID-EN-**
 11 **ABLED WATER HEATERS.—**

12 “(A) **DEFINITIONS.—**In this paragraph:

13 “(i) **ACTIVATION LOCK.—**The term
 14 ‘activation lock’ means a control mecha-
 15 nism (either a physical device directly on
 16 the water heater or a control system inte-
 17 grated into the water heater) that is locked
 18 by default and contains a physical, soft-
 19 ware, or digital communication that must
 20 be activated with an activation key to en-
 21 able the product to operate at its designed
 22 specifications and capabilities and without
 23 which activation the product will provide
 24 not greater than 50 percent of the rated

1 first hour delivery of hot water certified by
2 the manufacturer.

3 “(ii) GRID-ENABLED WATER HEAT-
4 ER.—The term ‘grid-enabled water heater’
5 means an electric resistance water heater
6 that—

7 “(I) has a rated storage tank vol-
8 ume of more than 75 gallons;

9 “(II) is manufactured on or after
10 April 16, 2015;

11 “(III) has—

12 “(aa) an energy factor of
13 not less than 1.061 minus the
14 product obtained by multi-
15 plying—

16 “(AA) the rated storage
17 volume of the tank, ex-
18 pressed in gallons; and

19 “(BB) 0.00168; or

20 “(bb) an equivalent alter-
21 native standard prescribed by the
22 Secretary and developed pursu-
23 ant to paragraph (5)(E);

1 “(IV) is equipped at the point of
2 manufacture with an activation lock;
3 and

4 “(V) bears a permanent label ap-
5 plied by the manufacturer that—

6 “(aa) is made of material
7 not adversely affected by water;

8 “(bb) is attached by means
9 of non-water-soluble adhesive;
10 and

11 “(cc) advises purchasers and
12 end-users of the intended and ap-
13 propriate use of the product with
14 the following notice printed in
15 16.5 point Arial Narrow Bold
16 font:

17 “‘IMPORTANT INFORMATION: This water heater is
18 intended only for use as part of an electric thermal storage
19 or demand response program. It will not provide adequate
20 hot water unless enrolled in such a program and activated
21 by your utility company or another program operator.
22 Confirm the availability of a program in your local area
23 before purchasing or installing this product.’.

24 “(B) REQUIREMENT.—The manufacturer
25 or private labeler shall provide the activation

1 key for a grid-enabled water heater only to a
2 utility or other company that operates an elec-
3 tric thermal storage or demand response pro-
4 gram that uses such a grid-enabled water heat-
5 er.

6 “(C) REPORTS.—

7 “(i) MANUFACTURERS.—The Sec-
8 retary shall require each manufacturer of
9 grid-enabled water heaters to report to the
10 Secretary annually the quantity of grid-en-
11 abled water heaters that the manufacturer
12 ships each year.

13 “(ii) OPERATORS.—The Secretary
14 shall require utilities and other demand re-
15 sponse and thermal storage program oper-
16 ators to report annually the quantity of
17 grid-enabled water heaters activated for
18 their programs using forms of the Energy
19 Information Agency or using such other
20 mechanism that the Secretary determines
21 appropriate after an opportunity for notice
22 and comment.

23 “(iii) CONFIDENTIALITY REQUIRE-
24 MENTS.—The Secretary shall treat ship-

1 ment data reported by manufacturers as
2 confidential business information.

3 “(D) PUBLICATION OF INFORMATION.—

4 “(i) IN GENERAL.—In 2017 and
5 2019, the Secretary shall publish an anal-
6 ysis of the data collected under subpara-
7 graph (C) to assess the extent to which
8 shipped products are put into use in de-
9 mand response and thermal storage pro-
10 grams.

11 “(ii) PREVENTION OF PRODUCT DI-
12 VERSION.—If the Secretary determines
13 that sales of grid-enabled water heaters ex-
14 ceed by 15 percent or greater the quantity
15 of such products activated for use in de-
16 mand response and thermal storage pro-
17 grams annually, the Secretary shall, after
18 opportunity for notice and comment, estab-
19 lish procedures to prevent product diver-
20 sion for non-program purposes.

21 “(E) COMPLIANCE.—

22 “(i) IN GENERAL.—Subparagraphs
23 (A) through (D) shall remain in effect
24 until the Secretary determines under this
25 section that—

1 “(I) grid-enabled water heaters
2 do not require a separate efficiency
3 requirement; or

4 “(II) sales of grid-enabled water
5 heaters exceed by 15 percent or great-
6 er the quantity of such products acti-
7 vated for use in demand response and
8 thermal storage programs annually
9 and procedures to prevent product di-
10 version for non-program purposes
11 would not be adequate to prevent such
12 product diversion.

13 “(ii) EFFECTIVE DATE.—If the Sec-
14 retary exercises the authority described in
15 clause (i) or amends the efficiency require-
16 ment for grid-enabled water heaters, that
17 action will take effect on the date de-
18 scribed in subsection (m)(4)(A)(ii).

19 “(iii) CONSIDERATION.—In carrying
20 out this section with respect to electric
21 water heaters, the Secretary shall consider
22 the impact on thermal storage and demand
23 response programs, including any impact
24 on energy savings, electric bills, peak load

1 reduction, electric reliability, integration of
2 renewable resources, and the environment.

3 “(iv) REQUIREMENTS.—In carrying
4 out this paragraph, the Secretary shall re-
5 quire that grid-enabled water heaters be
6 equipped with communication capability to
7 enable the grid-enabled water heaters to
8 participate in ancillary services programs if
9 the Secretary determines that the tech-
10 nology is available, practical, and cost-ef-
11 fective.”;

12 (2) in section 332(a) (42 U.S.C. 6302(a))—

13 (A) in paragraph (5), by striking “or” at
14 the end;

15 (B) in the first paragraph (6), by striking
16 the period at the end and inserting a semicolon;

17 (C) by redesignating the second paragraph
18 (6) as paragraph (7);

19 (D) in subparagraph (B) of paragraph (7)
20 (as so redesignated), by striking the period at
21 the end and inserting “; or”; and

22 (E) by adding at the end the following:

23 “(8) for any person—

24 “(A) to activate an activation lock for a
25 grid-enabled water heater with knowledge that

1 such water heater is not used as part of an
2 electric thermal storage or demand response
3 program;

4 “(B) to distribute an activation key for a
5 grid-enabled water heater with knowledge that
6 such activation key will be used to activate a
7 grid-enabled water heater that is not used as
8 part of an electric thermal storage or demand
9 response program;

10 “(C) to otherwise enable a grid-enabled
11 water heater to operate at its designed speci-
12 fication and capabilities with knowledge that
13 such water heater is not used as part of an
14 electric thermal storage or demand response
15 program; or

16 “(D) to knowingly remove or render illegi-
17 ble the label of a grid-enabled water heater de-
18 scribed in section 325(e)(6)(A)(ii)(V).”;

19 (3) in section 333(a) (42 U.S.C. 6303(a))—

20 (A) by striking “section 332(a)(5)” and in-
21 sserting “paragraph (5), (6), (7), or (8) of sec-
22 tion 332(a)”;

23 (B) by striking “paragraph (1), (2), or (5)
24 of section 332(a)” and inserting “paragraph

1 (1), (2), (5), (6), (7), or (8) of section 332(a)”;

2 and

3 (4) in section 334 (42 U.S.C. 6304)—

4 (A) by striking “section 332(a)(5)” and in-
5 serting “paragraph (5), (6), (7), or (8) of sec-
6 tion 332(a)”; and

7 (B) by striking “section 332(a)(6)” and in-
8 serting “section 332(a)(7)”.

9 **TITLE III—ENERGY INFORMA-**
10 **TION FOR COMMERCIAL**
11 **BUILDINGS**

12 **SEC. 301. ENERGY INFORMATION FOR COMMERCIAL BUILD-**
13 **INGS.**

14 (a) REQUIREMENT OF BENCHMARKING AND DISCLO-
15 SURE FOR LEASING BUILDINGS WITHOUT ENERGY STAR
16 LABELS.—Section 435(b)(2) of the Energy Independence
17 and Security Act of 2007 (42 U.S.C. 17091(b)(2)) is
18 amended—

19 (1) by striking “paragraph (2)” and inserting
20 “paragraph (1)”; and

21 (2) by striking “signing the contract,” and all
22 that follows through the period at the end and in-
23 serting the following:

24 “signing the contract, the following requirements are
25 met:

1 “(A) The space is renovated for all energy
2 efficiency and conservation improvements that
3 would be cost effective over the life of the lease,
4 including improvements in lighting, windows,
5 and heating, ventilation, and air conditioning
6 systems.

7 “(B)(i) Subject to clause (ii), the space is
8 benchmarked under a nationally recognized, on-
9 line, free benchmarking program, with public
10 disclosure, unless the space is a space for which
11 owners cannot access whole building utility con-
12 sumption data, including spaces—

13 “(I) that are located in States with
14 privacy laws that provide that utilities shall
15 not provide such aggregated information to
16 multitenant building owners; and

17 “(II) for which tenants do not provide
18 energy consumption information to the
19 commercial building owner in response to a
20 request from the building owner.

21 “(ii) A Federal agency that is a tenant of
22 the space shall provide to the building owner, or
23 authorize the owner to obtain from the utility,
24 the energy consumption information of the

1 space for the benchmarking and disclosure re-
2 quired by this subparagraph.”.

3 (b) STUDY.—

4 (1) IN GENERAL.—Not later than 2 years after
5 the date of enactment of this Act, the Secretary of
6 Energy, in collaboration with the Administrator of
7 the Environmental Protection Agency, shall complete
8 a study—

9 (A) on the impact of—

10 (i) State and local performance
11 benchmarking and disclosure policies, and
12 any associated building efficiency policies,
13 for commercial and multifamily buildings;
14 and

15 (ii) programs and systems in which
16 utilities provide aggregated information re-
17 garding whole building energy consumption
18 and usage information to owners of multi-
19 tenant commercial, residential, and mixed-
20 use buildings;

21 (B) that identifies best practice policy ap-
22 proaches studied under subparagraph (A) that
23 have resulted in the greatest improvements in
24 building energy efficiency; and

25 (C) that considers—

1 (i) compliance rates and the benefits
2 and costs of the policies and programs on
3 building owners, utilities, tenants, and
4 other parties;

5 (ii) utility practices, programs, and
6 systems that provide aggregated energy
7 consumption information to multitenant
8 building owners, and the impact of public
9 utility commissions and State privacy laws
10 on those practices, programs, and systems;

11 (iii) exceptions to compliance in exist-
12 ing laws where building owners are not
13 able to gather or access whole building en-
14 ergy information from tenants or utilities;

15 (iv) the treatment of buildings with—

16 (I) multiple uses;

17 (II) uses for which baseline infor-
18 mation is not available; and

19 (III) uses that require high levels
20 of energy intensities, such as data
21 centers, trading floors, and televisions
22 studios;

23 (v) implementation practices, includ-
24 ing disclosure methods and phase-in of
25 compliance;

1 (vi) the safety and security of
2 benchmarking tools offered by government
3 agencies, and the resiliency of those tools
4 against cyber attacks; and

5 (vii) international experiences with re-
6 gard to building benchmarking and diselo-
7 sure laws and data aggregation for multi-
8 tenant buildings.

9 (2) SUBMISSION TO CONGRESS.—At the conclu-
10 sion of the study, the Secretary shall submit to the
11 Committee on Energy and Commerce of the House
12 of Representatives and Committee on Energy and
13 Natural Resources of the Senate a report on the re-
14 sults of the study.

15 (c) CREATION AND MAINTENANCE OF DATABASE.—

16 (1) IN GENERAL.—Not later than 18 months
17 after the date of enactment of this Act and following
18 opportunity for public notice and comment, the Sec-
19 retary of Energy, in coordination with other relevant
20 agencies, shall maintain, and if necessary create, a
21 database for the purpose of storing and making
22 available public energy-related information on com-
23 mercial and multifamily buildings, including—

24 (A) data provided under Federal, State,
25 local, and other laws or programs regarding

1 building benchmarking and energy information
2 disclosure;

3 (B) information on buildings that have dis-
4 closed energy ratings and certifications; and

5 (C) energy-related information on buildings
6 provided voluntarily by the owners of the build-
7 ings, only in an anonymous form unless the
8 owner provides otherwise.

9 (2) COMPLEMENTARY PROGRAMS.—The data-
10 base maintained pursuant to paragraph (1) shall
11 complement and not duplicate the functions of the
12 Environmental Protection Agency’s Energy Star
13 Portfolio Manager tool.

14 (d) INPUT FROM STAKEHOLDERS.—The Secretary of
15 Energy shall seek input from stakeholders to maximize the
16 effectiveness of the actions taken under this section.

17 (e) REPORT.—Not later than 2 years after the date
18 of enactment of this Act, and every 2 years thereafter,
19 the Secretary of Energy shall submit to the Committee
20 on Energy and Commerce of the House of Representatives
21 and Committee on Energy and Natural Resources of the

- 1 Senate a report on the progress made in complying with
- 2 this section.

Passed the Senate January 29, 2015.

Attest:

Secretary.

14TH CONGRESS
1ST SESSION

S. 1

AN ACT

To approve the Keystone XL Pipeline.