

114TH CONGRESS
1ST SESSION

S. 858

To amend the National Energy Conservation Policy Act to encourage the increased use of performance contracting in Federal facilities.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 2015

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

A BILL

To amend the National Energy Conservation Policy Act to encourage the increased use of performance contracting in Federal facilities.

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 2015”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) private sector funding and expertise can
2 help address the energy efficiency challenges facing
3 the United States;

4 (2) the Federal Government spends more than
5 \$6,000,000,000 annually in energy costs;

6 (3) reducing Federal energy costs can help save
7 money, create jobs, and reduce waste;

8 (4) energy savings performance contracts and
9 utility energy service contracts are tools for using
10 private sector investment to upgrade Federal facili-
11 ties without any up-front cost to the taxpayer;

12 (5) performance contracting is a way to retrofit
13 Federal buildings using private sector investment in
14 the absence of appropriated dollars; and

15 (6) retrofits that reduce energy use also im-
16 prove infrastructure, protect national security, and
17 cut facility operations and maintenance costs.

18 **SEC. 3. USE OF ENERGY AND WATER EFFICIENCY MEAS-**
19 **URES IN FEDERAL BUILDINGS.**

20 (a) **ENERGY MANAGEMENT REQUIREMENTS.**—Sec-
21 tion 543(f)(4) of the National Energy Conservation Policy
22 Act (42 U.S.C. 8253(f)(4)) is amended—

23 (1) by redesignating subparagraphs (A) and
24 (B) as clauses (i) and (ii), respectively, and indent-
25 ing appropriately;

1 (2) by striking “Not later than” and inserting
2 the following:

3 “(A) IN GENERAL.—Not later than”; and
4 (3) by adding at the end the following:

5 “(B) MEASURES NOT IMPLEMENTED.—
6 Each energy manager, as part of the certifi-
7 cation system under paragraph (7) and using
8 guidelines developed by the Secretary, shall pro-
9 vide an explanation regarding any life-cycle
10 cost-effective measures described in subpara-
11 graph (A)(i) that have not been implemented.”.

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

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

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

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

20 “(5)(A) the status of the energy savings per-
21 formance contracts and utility energy service con-
22 tracts of each agency;

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

1 “(C) the guaranteed energy savings for the pre-
 2 vious year as compared to the actual energy savings
 3 for the previous year;

4 “(D) the plan for entering into the contracts in
 5 the coming year; and

6 “(E) information explaining why any previously
 7 submitted plans for the contracts were not imple-
 8 mented.”.

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

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

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

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

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

22 “(iii) limit the recognition of oper-
 23 ation and maintenance savings associated
 24 with systems modernized or replaced with
 25 the implementation of energy conservation

1 measures, water conservation measures, or
2 any combination of energy conservation
3 measures and water conservation meas-
4 ures.”.

5 (e) MISCELLANEOUS AUTHORITY.—Section
6 801(a)(2) of the National Energy Conservation Policy Act
7 (42 U.S.C. 8287(a)(2)) is amended by adding at the end
8 the following:

9 “(H) MISCELLANEOUS AUTHORITY.—Not-
10 withstanding any other provision of law, a Fed-
11 eral agency may sell or transfer energy savings
12 and apply the proceeds of the sale or transfer
13 to fund a contract under this title.”.

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

19 (g) DEFINITION OF ENERGY SAVINGS.—Section
20 804(2) of the National Energy Conservation Policy Act
21 (42 U.S.C. 8287c(2)) is amended—

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

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

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

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

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

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

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