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 HOUSE OF REPRESENTATIVES

JUNE 4, 2019

Mr. WELCH (for himself and Mr. KINZINGER) introduced the following bill; which was referred to the Committee on Energy and Commerce

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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Energy Savings Through Public-Private Partnerships Act of 2019”.

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SEC. 2. USE OF ENERGY AND WATER EFFICIENCY MEASURES IN FEDERAL BUILDINGS.

(a) Energy Management Requirements.—Section 543(f)(4) of the National Energy Conservation Policy Act (42 U.S.C. 8253(f)(4)) is amended—

(1) by striking subparagraph (B);

(2) in the matter preceding subparagraph (A), by striking “may” and all that follows through “the Federal” in subparagraph (A) and inserting the following: “shall implement any energy- or water-saving measure that—

“(i) the Federal”;

(3) in the matter preceding clause (i) (as so designated), by striking “Not later” and inserting the following:

“(A) IN GENERAL.—Not later”;

(4) in subparagraph (A) (as so designated)—

(A) in clause (i), by striking “paragraph (3) that is” and inserting the following: “paragraph (3); and

“(ii) is”; and

(B) in clause (ii) (as so designated), by striking “; and” and inserting “, as determined by evaluating an individual measure or a bundle of measures with varying paybacks.”; and

(5) by adding at the end the following:
“(B) PERFORMANCE CONTRACTING.—Each Federal agency shall use performance contracting to address at least 1⁄2 of the measures identified under subparagraph (A)(i).”.

(b) REPORTS.—Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258(b)) is amended—

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

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

(3) by adding at the end the following:

“(5)(A) the status of the energy savings performance contracts and utility energy service contracts of each agency, to the extent that the information is not duplicative of information provided to the Secretary under a separate authority;

“(B) the quantity and investment value of the contracts for the previous year;

“(C) the guaranteed energy savings, or for contracts without a guarantee, the estimated energy savings, for the previous year, as compared to the measured energy savings for the previous year;
“(D) a forecast of the estimated quantity and investment value of contracts anticipated in the following year for each agency; and

“(E)(i) a comparison of the information described in subparagraph (B) and the forecast described in subparagraph (D) in the report of the previous year; and

“(ii) if applicable, the reasons for any differences in the data compared under clause (i).”.

(c) Definition of Energy Conservation Measures.—Section 551(4) of the National Energy Conservation Policy Act (42 U.S.C. 8259(4)) is amended by striking “or retrofit activities” and inserting “retrofit activities, or energy consuming devices and required support structures”.

(d) Authority To Enter Into Contracts.—Section 801(a)(2)(F) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(F)) is amended—

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

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

(3) by adding at the end the following:

“(iii) limit the recognition of operation and maintenance savings associated with systems modernized or replaced with
the implementation of energy conservation measures, water conservation measures, or any combination of energy conservation measures and water conservation measures.”.

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

“(H) MISCELLANEOUS AUTHORITY.—Notwithstanding subtitle I of title 40, United States Code, a Federal agency may accept, retain, sell, or transfer, and apply the proceeds of the sale or transfer of, any energy and water incentive, rebate, grid services revenue, or credit (including a renewable energy certificate) to fund a contract under this title.

“(I) EXCLUDED CONTRACTS.—A contract entered into under this title may not be for work performed—

“(i) at a Federal hydroelectric facility that provides power marketed by a Power Marketing Administration; or

“(ii) at a hydroelectric facility owned and operated by the Tennessee Valley Au-
authority established under the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.).”.

(f) Payment of Costs.—Section 802 of the National Energy Conservation Policy Act (42 U.S.C. 8287a) is amended by striking “(and related operation and maintenance expenses)” and inserting “, including related operations and maintenance expenses”.

(g) Definition of Energy Savings.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended—

(1) in subparagraph (A), by striking “federally owned building or buildings or other federally owned facilities” and inserting “Federal building (as defined in section 551)” each place it appears;

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

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

(4) by adding at the end the following:

“(E) the use, sale, or transfer of any energy and water incentive, rebate, grid services revenue, or credit (including a renewable energy certificate); and
“(F) any revenue generated from a reduction in energy or water use, more efficient waste recycling, or additional energy generated from more efficient equipment.”.