

# Union Calendar No. 467

113TH CONGRESS  
2D SESSION

# H. R. 2689

[Report No. 113-627]

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

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2013

Mr. GARDNER (for himself, Mr. WELCH, Mr. COFFMAN, Mrs. ROBY, Mr. KINZINGER of Illinois, Mr. MATHESON, Mr. GRIFFIN of Arkansas, Ms. KUSTER, Ms. BORDALLO, Mr. PETERS of California, Mr. HUFFMAN, Mr. BERA of California, Mr. NOLAN, Mr. LOWENTHAL, Mr. MCNERNEY, Mr. YOUNG of Indiana, Mr. MORAN, Mr. SCHRADER, Mr. BLUMENAUER, Mr. MAFFEI, Mr. LOEBSACK, Mr. COOPER, Mr. BISHOP of Georgia, Mr. CICILLINE, Mr. SEAN PATRICK MALONEY of New York, and Mr. OWENS) introduced the following bill; which was referred to the Committee on Energy and Commerce

NOVEMBER 19, 2014

Additional sponsors: Mr. WOLF, Mr. BARROW of Georgia, Mr. MULVANEY, Mr. RODNEY DAVIS of Illinois, Mr. REED, Ms. JENKINS, Mr. DENT, Ms. GABBARD, Mrs. BUSTOS, Ms. SINEMA, Mr. GIBSON, Mr. FATTAH, Mr. RUIZ, Ms. BROWNLEY of California, Mr. MURPHY of Florida, Mr. RIBBLE, Mr. RUNYAN, Mr. MCKINLEY, Mr. PAULSEN, Mr. HANNA, Ms. ESTY, Mr. GENE GREEN of Texas, Mr. HIMES, Mr. GUTHRIE, Mr. CARTWRIGHT, Mr. GARCIA, Mr. JOYCE, Mr. SCHNEIDER, Mr. DELANEY, and Mr. KILMER

NOVEMBER 19, 2014

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on July 16, 2013]

# **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 Through*  
5 *Public-Private Partnerships Act of 2014”.*

6 **SEC. 2. FINDINGS.**

7        *Congress finds the following:*

8            (1) *Private sector funding and expertise can help*  
9 *address the energy efficiency challenges facing the*  
10 *United States.*

11           (2) *The Federal Government spends more than*  
12 *\$6 billion annually in energy costs.*

13           (3) *Reducing Federal energy costs can help save*  
14 *money, create jobs, and reduce waste.*

15           (4) *Energy savings performance contracts and*  
16 *utility energy service contracts are tools for utilizing*  
17 *private sector investment to upgrade Federal facilities*  
18 *without any up-front cost to the taxpayer.*

19           (5) *Performance contracting is a way to retrofit*  
20 *Federal buildings using private sector investment in*  
21 *the absence of appropriated dollars.*

22           (6) *Retrofits that reduce energy use also improve*  
23 *infrastructure, protect national security, and cut fa-*  
24 *cility operations and maintenance costs.*

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

3 (a) *ENERGY MANAGEMENT REQUIREMENTS.*—Section  
4 543(f)(4) of the National Energy Conservation Policy Act  
5 (42 U.S.C. 8253(f)(4)) is amended—

6 (1) by redesignating subparagraphs (A) and (B)  
7 as clauses (i) and (ii), respectively and by moving the  
8 margins 2 ems to the right;

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

11 “(A) *IN GENERAL.*—Not later than”; and

12 (3) by adding at the end the following new sub-  
13 paragraph:

14 “(B) *MEASURES NOT IMPLEMENTED.*—Each  
15 energy manager, as part of the certification sys-  
16 tem under paragraph (7) and using guidelines  
17 developed by the Secretary, shall provide an ex-  
18 planation regarding any life-cycle cost-effective  
19 measures described in subparagraph (A)(i) that  
20 have not been implemented.”.

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

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

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

1           (3) by adding at the end the following new para-  
2 graph:

3           “(5) the status of each agency’s energy savings  
4 performance contracts and utility energy service con-  
5 tracts, the investment value of such contracts, the  
6 guaranteed energy savings for the previous year as  
7 compared to the actual energy savings for the pre-  
8 vious year, the plan for entering into such contracts  
9 in the coming year, and information explaining why  
10 any previously submitted plans for such contracts  
11 were not implemented.”.

12       (c) *FEDERAL ENERGY MANAGEMENT DEFINITIONS.*—  
13 Section 551(4) of the National Energy Conservation Policy  
14 Act (42 U.S.C. 8259(4)) is amended by striking “or retrofit  
15 activities” and inserting “retrofit activities, or energy con-  
16 suming devices and required support structures”.

17       (d) *AUTHORITY TO ENTER INTO CONTRACTS.*—Section  
18 801(a)(2)(F) of the National Energy Conservation Policy  
19 Act (42 U.S.C. 8287(a)(2)(F)) is amended—

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

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

23           (3) by adding at the end the following new  
24 clause:

1                   “(iii) limit the recognition of operation  
2                   and maintenance savings associated with  
3                   systems modernized or replaced with the  
4                   implementation of energy conservation  
5                   measures, water conservation measures, or  
6                   any series of energy conservation measures  
7                   and water conservation measures.”.

8           (e) *MISCELLANEOUS AUTHORITY.*—Section 801(a)(2)  
9 of the *National Energy Conservation Policy Act* (42 U.S.C.  
10 8287(a)) is amended by adding at the end the following:

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

16           (f) *PAYMENT OF COSTS.*—Section 802 of the *National*  
17 *Energy Conservation Policy Act* (42 U.S.C. 8287a) is  
18 amended by striking “(and related operation and mainte-  
19 nance expenses)” and inserting “, including related oper-  
20 ations and maintenance expenses”.

21           (g) *ENERGY SAVINGS PERFORMANCE CONTRACTS*  
22 *DEFINITIONS.*—Section 804(2) of the *National Energy Con-*  
23 *servation Policy Act* (42 U.S.C. 8287c(2)) is amended—

24                   (1) in subparagraph (A), by striking “federally  
25                   owned building or buildings or other federally owned

1       *facilities” and inserting “Federal building (as defined*  
2       *in section 551 (42 U.S.C. 8259))” each place it ap-*  
3       *pears;*

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

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

8               *(4) by adding at the end the following new sub-*  
9       *paragraphs:*

10                       *“(E) the use, sale, or transfer of energy in-*  
11                       *centives, rebates, or credits (including renewable*  
12                       *energy credits) from Federal, State, or local gov-*  
13                       *ernments or utilities; and*

14                       *“(F) any revenue generated from a reduc-*  
15                       *tion in energy or water use, more efficient waste*  
16                       *recycling, or additional energy generated from*  
17                       *more efficient equipment.”.*

Union Calendar No. 467

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 2689**

[Report No. 113-627]

---

---

## **A BILL**

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

---

---

NOVEMBER 19, 2014

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed