

117TH CONGRESS  
1ST SESSION

# H. R. 2267

To amend the Energy Policy and Conservation Act to provide Federal financial assistance to States to implement expanded energy savings performance contracting programs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2021

Mr. WELCH (for himself, Mr. MCKINLEY, and Ms. BLUNT ROCHESTER) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Energy Policy and Conservation Act to provide Federal financial assistance to States to implement expanded energy savings performance contracting programs, 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 “Improving State and  
5 Local Government Access to Performance Contracting  
6 Act”.

1 **SEC. 2. STATE ENERGY SAVINGS PERFORMANCE CON-**  
2 **TRACTING PROGRAM EXPANSION.**

3 (a) PROGRAM EXPANSION.—

4 (1) IN GENERAL.—Part D of title III of the  
5 Energy Policy and Conservation Act (42 U.S.C.  
6 6321 et seq.) is amended by adding at the end the  
7 following:

8 **“SEC. 367. STATE ENERGY SAVINGS PERFORMANCE CON-**  
9 **TRACTING PROGRAM EXPANSION.**

10 “(a) ASSISTANCE.—Upon request of the Governor of  
11 any State, the Secretary shall provide, subject to the avail-  
12 ability of funds, Federal financial assistance to such State  
13 to assist such State in the implementation, improvement,  
14 or expansion of a State energy savings performance con-  
15 tracting program.

16 “(b) FUNDING.—

17 “(1) SUPPLEMENT.—Federal financial assist-  
18 ance provided to a State pursuant to this section  
19 shall be used to supplement, not supplant, any Fed-  
20 eral, State, or other funds otherwise made available  
21 to such State under—

22 “(A) this part; or

23 “(B) the weatherization assistance pro-  
24 gram developed and conducted under part A of  
25 title IV of the Energy Conservation and Pro-  
26 duction Act.

1           “(2) AVAILABILITY.—A State may only receive  
2 Federal financial assistance under this section if the  
3 Governor of such State submits a request for such  
4 financial assistance not later than 1 year after the  
5 date of enactment of this section.

6           “(3) FINANCING.—To the extent practicable, a  
7 State shall implement a State energy savings per-  
8 formance contracting program primarily utilizing  
9 private financing, public financing, or any other  
10 sources of funds.

11           “(4) ALLOCATION.—In providing Federal finan-  
12 cial assistance to States under this section, the Sec-  
13 retary shall—

14           “(A) to the extent practicable allocate  
15 funds made available for such purpose—

16           “(i) in accordance with the formula  
17 for allocating funds described in section  
18 420.11 of title 10, Code of Federal Regula-  
19 tions, as in effect on January 1, 2021; and

20           “(ii) for a fiscal year during such fis-  
21 cal year; and

22           “(B) require any State that is provided fi-  
23 nancial assistance and that has not expended  
24 such funds within 5 years of receipt to return  
25 such funds for reallocation, to the extent prac-

1            ticable, in accordance with the formula de-  
2            scribed in subparagraph (A).

3            “(c) DEFINITIONS.—In this section:

4            “(1) ENERGY SAVINGS PERFORMANCE CON-  
5            TRACT.—The term ‘energy savings performance con-  
6            tract’ means a contract that provides for the per-  
7            formance of services for the design, acquisition, in-  
8            stallation, testing, and, where appropriate, operation,  
9            maintenance, and repair, of an energy conservation  
10           measure, water conservation measure, resiliency-re-  
11           lated measure, utility cost savings measure, or series  
12           of measures, at 1 or more locations.

13           “(2) STATE ENERGY SAVINGS PERFORMANCE  
14           CONTRACTING PROGRAM.—The term ‘State energy  
15           savings performance contracting program’—

16           “(A) means a State program to support  
17           the design and implementation of energy sav-  
18           ings performance contracts, including (to the  
19           extent authorized by law) energy savings per-  
20           formance contracts entered into by local govern-  
21           ments, public educational institutions, and  
22           other public, governmental, and quasi-govern-  
23           mental entities; and

24           “(B) may include—

1           “(i) the development and provision of  
2           model, template, or standardized contracts,  
3           guidelines, procedures, manuals, and other  
4           related documents;

5           “(ii) a State program for prequalifica-  
6           tion and certification of energy savings  
7           performance contractors;

8           “(iii) provision of technical and ad-  
9           ministrative assistance; and

10          “(iv) monitoring, tracking, and report-  
11          ing of energy savings performance con-  
12          tracts, including identifying the number  
13          and value of contracts, energy savings,  
14          water savings, and financial performance.

15          “(3) WATER CONSERVATION MEASURE.—The  
16          term ‘water conservation measure’ means a measure  
17          that improves the efficiency of water use, is life-cycle  
18          cost-effective, and involves water conservation, water  
19          recycling or reuse, more efficient treatment of waste-  
20          water or stormwater, improvements in operation or  
21          maintenance efficiencies, retrofit activities, or other  
22          related activities, not at a Federal hydroelectric fa-  
23          cility.”.

24          (2) CONFORMING AMENDMENTS.—

1 (A) STATE ENERGY CONSERVATION PLAN  
2 INCLUSION.—Section 362(d)(5)(A) of the En-  
3 ergy Policy and Conservation Act (42 U.S.C.  
4 6322(d)(5)(A)) is amended by inserting “(in-  
5 cluding State energy savings performance con-  
6 tracting programs, as provided in section 367)”  
7 after “performance contracting programs”.

8 (B) TABLE OF CONTENTS AMENDMENT.—  
9 The table of contents for the Energy Policy and  
10 Conservation Act is amended by adding after  
11 the item relating to section 366 the following:

“Sec. 367. State energy savings performance contracting program expansion.”.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
13 365(f) of the Energy Policy and Conservation Act (42  
14 U.S.C. 6325(f)) is amended—

15 (1) by striking “For the purpose of carrying  
16 out this part” and inserting “(1) For the purpose of  
17 carrying out this part”;

18 (2) by striking “\$125,000,000 for each of fiscal  
19 years 2007 through 2012” and inserting  
20 “\$100,000,000 for each of fiscal years 2022 through  
21 2026”; and

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

23 “(2) In addition to the authorization of appro-  
24 priations under paragraph (1), for the purposes of  
25 carrying out section 367, there are authorized to be

1       appropriated \$50,000,000 for each of fiscal years  
2       2022 through 2026.”.

3       **SEC. 3. OTHER ASSISTANCE.**

4       (a) **TECHNICAL ASSISTANCE.**—Upon request by a  
5       State energy agency, the Secretary shall provide informa-  
6       tion and technical assistance in the development and im-  
7       plementation of a State energy savings performance con-  
8       tracting program.

9       (b) **PROJECT FACILITATOR CERTIFICATION PRO-**  
10       **GRAM.**—

11               (1) **ESTABLISHMENT.**—The Secretary, in con-  
12       sultation with States and the private sector, shall es-  
13       tablish a national project facilitator certification pro-  
14       gram to expand the availability of individuals, in-  
15       cluding State and local government employees and  
16       independent private sector professionals, who are  
17       trained and certified to work on behalf of the State  
18       and local government as project facilitators who  
19       will—

20                       (A) ensure that a project carried out under  
21                       an energy savings performance contract under a  
22                       State energy savings performance contracting  
23                       program achieves the energy cost savings and  
24                       performance requirements set forth in the con-

1 tracts developed under such State energy sav-  
2 ings performance contracting program; and

3 (B) otherwise assist with the oversight of  
4 projects described in subparagraph (A).

5 (2) CONTENTS.—In carrying out the program  
6 established pursuant to paragraph (1), the Secretary  
7 may—

8 (A) train and certify individuals as project  
9 facilitators described in paragraph (1);

10 (B) develop model criteria for the certifi-  
11 cation and training of individuals to become  
12 project facilitators described in paragraph (1);  
13 and

14 (C) transition, over a four-year period, the  
15 training and certification activities of the Sec-  
16 retary with respect to a State to a non-profit  
17 entity managed by the applicable State energy  
18 agency, and funded with fees generated through  
19 the certification process.

20 (c) DEFINITIONS.—In this section:

21 (1) ENERGY SAVINGS PERFORMANCE CONTRACT  
22 AND STATE ENERGY SAVINGS PERFORMANCE CON-  
23 TRACTING PROGRAM.—The terms “energy savings  
24 performance contract” and “State energy savings  
25 performance contracting program” have the meaning



1 given such terms in section 367(c) of the Energy  
2 Policy and Conservation Act (as added by section 2  
3 of this Act)).

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

6 (3) STATE ENERGY AGENCY.—The term “State  
7 energy agency” has the meaning given such term in  
8 section 391(10) of the Energy Policy and Conserva-  
9 tion Act (42 U.S.C. 6371(10)).

10 (d) FUNDING.—The Secretary may use amounts  
11 made available to carry out the programs and activities  
12 of the Office of Strategic Programs within the Office of  
13 Energy Efficiency and Renewable Energy of the Depart-  
14 ment of Energy to carry out this section.

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