

# Calendar No. 98

115TH CONGRESS  
1ST SESSION

# S. 239

[Report No. 115-79]

To amend the National Energy Conservation Policy Act to encourage the increased use of performance contracting in Federal facilities, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2017

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

MAY 24, 2017

Reported by Ms. MURKOWSKI, without amendment

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## 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.

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 2017”.

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

3 (a) ENERGY MANAGEMENT REQUIREMENTS.—Sec-  
4 tion 543(f)(4) of the National Energy Conservation Policy  
5 Act (42 U.S.C. 8253(f)(4)) is amended by striking “may”  
6 and inserting “shall”.

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

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

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

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

15 “(5)(A) the status of the energy savings per-  
16 formance contracts and utility energy service con-  
17 tracts of each agency;

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

19 “(C) the guaranteed energy savings for the pre-  
20 vious year as compared to the actual energy savings  
21 for the previous year;

22 “(D) the plan for entering into the contracts in  
23 the coming year; and

24 “(E) information explaining why any previously  
25 submitted plans for the contracts were not imple-  
26 mented.”.

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

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

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

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

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

14                   “(iii) limit the recognition of oper-  
15 ation and maintenance savings associated  
16 with systems modernized or replaced with  
17 the implementation of energy conservation  
18 measures, water conservation measures, or  
19 any combination of energy conservation  
20 measures and water conservation meas-  
21 ures.”.

22           (e) MISCELLANEOUS AUTHORITY.—Section  
23 801(a)(2) of the National Energy Conservation Policy Act  
24 (42 U.S.C. 8287(a)(2)) is amended by adding at the end  
25 the following:

1           “(H) MISCELLANEOUS AUTHORITY.—Not-  
2           withstanding any other provision of law, a Fed-  
3           eral agency may sell or transfer energy savings  
4           and apply the proceeds of the sale or transfer  
5           to fund a contract under this title.”.

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

11          (g) DEFINITION OF FEDERAL BUILDING.—Section  
12          551(6) of the National Energy Conservation Policy Act  
13          (42 U.S.C. 8259(6)) is amended by striking the semicolon  
14          at the end and inserting “the term does not include a dam,  
15          reservoir, or hydropower facility owned or operated by a  
16          Federal agency;”.

17          (h) DEFINITION OF ENERGY SAVINGS.—Section  
18          804(2) of the National Energy Conservation Policy Act  
19          (42 U.S.C. 8287c(2)) is amended—

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

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

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

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

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

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

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