

115TH CONGRESS  
1ST SESSION

# S. 239

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

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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”.

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

8 (a) ENERGY MANAGEMENT REQUIREMENTS.—Sec-  
9 tion 543(f)(4) of the National Energy Conservation Policy

1 Act (42 U.S.C. 8253(f)(4)) is amended by striking “may”  
2 and inserting “shall”.

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

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

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

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

11 “(5)(A) the status of the energy savings per-  
12 formance contracts and utility energy service con-  
13 tracts of each agency;

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

15 “(C) the guaranteed energy savings for the pre-  
16 vious year as compared to the actual energy savings  
17 for the previous year;

18 “(D) the plan for entering into the contracts in  
19 the coming year; and

20 “(E) information explaining why any previously  
21 submitted plans for the contracts were not imple-  
22 mented.”.

23 (c) DEFINITION OF ENERGY CONSERVATION MEAS-  
24 URES.—Section 551(4) of the National Energy Conserva-  
25 tion Policy Act (42 U.S.C. 8259(4)) is amended by strik-

1 ing “or retrofit activities” and inserting “retrofit activi-  
2 ties, or energy consuming devices and required support  
3 structures”.

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

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

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

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

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

19 (e) MISCELLANEOUS AUTHORITY.—Section  
20 801(a)(2) of the National Energy Conservation Policy Act  
21 (42 U.S.C. 8287(a)(2)) is amended by adding at the end  
22 the following:

23 “(H) MISCELLANEOUS AUTHORITY.—Not-  
24 withstanding any other provision of law, a Fed-  
25 eral agency may sell or transfer energy savings

1           and apply the proceeds of the sale or transfer  
2           to fund a contract under this title.”.

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

8           (g) DEFINITION OF FEDERAL BUILDING.—Section  
9           551(6) of the National Energy Conservation Policy Act  
10          (42 U.S.C. 8259(6)) is amended by striking the semicolon  
11          at the end and inserting “the term does not include a dam,  
12          reservoir, or hydropower facility owned or operated by a  
13          Federal agency;”.

14          (h) DEFINITION OF ENERGY SAVINGS.—Section  
15          804(2) of the National Energy Conservation Policy Act  
16          (42 U.S.C. 8287c(2)) is amended—

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

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

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

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

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

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

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