

ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
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July 16, 2012

The Honorable Fred Upton  
Chairman  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Ed Whitfield  
Chairman  
Subcommittee on Energy and Power  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Upton and Chairman Whitfield:

We are writing to request that you work with us on a bipartisan basis to strengthen and improve the discussion draft of the Smart Energy Act before marking up the legislation in the Subcommittee on Energy and Power. Energy efficiency is an area where there is potential for meaningful bipartisan cooperation. We believe that we should take this opportunity to work together.

Energy efficiency is an essential part of our national energy policy. It is the low-hanging fruit that reduces pollution while saving consumers money, creating jobs, and boosting economic growth and competitiveness. Although energy efficiency delivers huge benefits, market failures can impede capitalizing on the full range of energy efficiency opportunities. Whether it is model building codes, consensus efficiency standards for appliances and equipment, incentives for home energy efficiency retrofits, or programs to support industrial efficiency improvements, government has an important role to play in realizing the full potential of energy efficiency.

The Senate is currently considering two modest but worthwhile energy efficiency bills. Both bills have significant bipartisan support. The first bill, S. 1000, is sponsored by Senators Shaheen and Portman. It would promote the use of energy efficiency technologies in the residential, commercial, and industrial sectors to save energy, save money, and spur job creation.

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The second bill, S.398, is a package of energy efficiency standards and test procedures for appliances and equipment. These proposed standards and test procedures were developed on a consensus basis with energy efficiency advocates and industry.

The American Council for an Energy-Efficient Economy (ACEEE) recently analyzed key provisions of the Senate bills. The analysis focuses on the provisions in S. 398 and the five sections of the Shaheen-Portman bill likely to produce significant, direct energy savings.<sup>1</sup> Other provisions of the Shaheen-Portman bill were not included in the estimate because they either would not save energy directly or would provide only minimal energy savings. According to ACEEE's analysis, the two bills combined would create 185,000 net jobs and result in net annual savings for consumers of \$23 billion by the year 2030. In addition, the energy and environmental benefits of the combined bills would include saving 2.3 quadrillion Btu of energy annually by 2030, which is about 2% of projected energy use in that year, and preventing 132 million metric tons of carbon dioxide emissions annually by 2030.<sup>2</sup>

The discussion draft of the Smart Energy Act is a watered down version of a portion of the Shaheen-Portman bill. In its current form, it does not provide meaningful progress on energy savings. The discussion draft does not contain any of the five most significant provisions from the Shaheen-Portman bill that were analyzed by ACEEE. The discussion draft also does not contain any of the energy-saving provisions from S.398 regarding consensus energy efficiency standards and test procedures for appliances and equipment. Moreover, the discussion draft does not include the building retrofit financing program contained in the originally-introduced Smart Energy Act (H.R. 4017) to provide financial support for energy efficiency upgrades to existing buildings.

The only provision in the discussion draft not contained in the Senate bills that has the potential to deliver actual energy savings relates to Energy Savings Performance Contracts (ESPCs).<sup>3</sup> The provision would amend the National Energy Conservation Policy Act to direct

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<sup>1</sup> American Council for an Energy-Efficient Economy, *Impacts of Energy Efficiency Provisions in Pending Senate Energy Efficiency Bills* (May 2012) (online at [www.aceee.org/files/pdf/white-paper/shaheen-portman.pdf](http://www.aceee.org/files/pdf/white-paper/shaheen-portman.pdf)). The five sections of the Shaheen-Portman bill included in the ACEEE's analysis are provisions on greater energy efficiency in building codes, building training and assessment centers to promote opportunities for enhancing building performance, a financing program for energy efficiency upgrades to existing buildings, a state partnership industrial energy efficiency revolving loan program, and an energy-efficient transformer rebate program.

<sup>2</sup> *Id.*

<sup>3</sup> ESPCs are a type of long-term contract (up to 25 years) authorized by law that enable federal agencies to acquire from an energy savings company energy-efficient equipment (e.g., new windows, lighting, heating, ventilation, and air conditioning systems) without an up-front cost or

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federal agencies to use private financing, including ESPCs , to implement federal energy management requirements under the Energy Independence and Security Act of 2007. While encouraging agencies to use ESPCs has the potential to substantially increase energy savings in federal buildings, as currently drafted, the provision may be unduly restrictive. The Department of Energy raised this concern at last week's legislative hearing.

We appreciate that the Committee is finally considering energy efficiency legislation in this Congress. But we believe the discussion draft is far too timid. We should be doing much more to drive substantial energy efficiency improvements in a range of sectors. The Senate bills are a good starting point. Instead of watering down those bills, we should be strengthening them. We hope we can work together on a bipartisan basis to do just that.

When we have worked together during this Congress to develop bipartisan energy legislation, as we did with the pipeline safety bill and the recent hydropower legislation, the resulting legislation has passed the House with overwhelming bipartisan support. Those successes depended on early cooperation on the drafting of legislation before bills were marked up. Energy efficiency legislation offers another opportunity for the Committee to work effectively. There is broad support among industry, efficiency advocates, and members of Congress for a strong energy efficiency bill that would spur substantial energy savings, job creation, and economic growth.

We stand ready to work with you to improve the draft energy efficiency legislation.

Sincerely,



Henry A. Waxman  
Ranking Member



Bobby L. Rush  
Ranking Member  
Subcommittee on Energy and Power

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discretionary appropriation to pay for that equipment. The government does not pay for the equipment when it is acquired but instead commits through an ESPC to make annual payments until the full costs of the equipment plus interest are paid over the life of the contract. All savings beyond that point from the resulting energy conservation accrue entirely to the government if the useful life of the equipment exceeds the payback period.