

**AMENDMENT TO THE RULES COMMITTEE PRINT
FOR H.R. 8
OFFERED BY MR. WELCH OF VERMONT**

Strike chapter 5 of subtitle A of title IV and insert the following:

1 CHAPTER 5—BUILDING ENERGY CODES

2 SEC. 4151. GREATER ENERGY EFFICIENCY IN BUILDING
3 CODES.

4 (a) DEFINITIONS.—Section 303 of the Energy Con-
5 servation and Production Act (42 U.S.C. 6832) is amend-
6 ed—

7 (1) by striking paragraph (14) and inserting
8 the following:

9 “(14) MODEL BUILDING ENERGY CODE.—The
10 term ‘model building energy code’ means a voluntary
11 building energy code and standards developed and
12 updated through a consensus process among inter-
13 ested persons, such as the IECC or the code used
14 by—

15 “(A) the Council of American Building Of-
16 ficials, or its legal successor, International Code
17 Council, Inc.;

1 “(B) the American Society of Heating, Re-
2 frigerating, and Air-Conditioning Engineers; or

3 “(C) other appropriate organizations.”;

4 and

5 (2) by adding at the end the following:

6 “(17) IECC.—The term ‘IECC’ means the
7 International Energy Conservation Code.

8 “(18) INDIAN TRIBE.—The term ‘Indian tribe’
9 has the meaning given the term in section 4 of the
10 Native American Housing Assistance and Self-De-
11 termination Act of 1996 (25 U.S.C. 4103).”.

12 (b) STATE BUILDING ENERGY EFFICIENCY
13 CODES.—Section 304 of the Energy Conservation and
14 Production Act (42 U.S.C. 6833) is amended to read as
15 follows:

16 **“SEC. 304. UPDATING STATE BUILDING ENERGY EFFI-
17 CIENCY CODES.**

18 “(a) IN GENERAL.—The Secretary shall—

19 “(1) encourage and support the adoption of
20 building energy codes by States, Indian tribes, and,
21 as appropriate, by local governments that meet or
22 exceed the model building energy codes, or achieve
23 equivalent or greater energy savings; and

24 “(2) support full compliance with the State and
25 local codes.

1 “(b) STATE AND INDIAN TRIBE CERTIFICATION OF
2 BUILDING ENERGY CODE UPDATES.—

3 “(1) REVIEW AND UPDATING OF CODES BY
4 EACH STATE AND INDIAN TRIBE.—

5 “(A) IN GENERAL.—Not later than 2 years
6 after the date on which a model building energy
7 code is updated, each State or Indian tribe shall
8 certify whether or not the State or Indian tribe,
9 respectively, has reviewed and updated the en-
10 ergy provisions of the building code of the State
11 or Indian tribe, respectively.

12 “(B) DEMONSTRATION.—The certification
13 shall include a demonstration of whether or not
14 the energy savings for the code provisions that
15 are in effect throughout the State or Indian
16 tribal territory meet or exceed—

17 “(i) the energy savings of the updated
18 model building energy code; or

19 “(ii) the targets established under sec-
20 tion 307(b)(2).

21 “(C) NO MODEL BUILDING ENERGY CODE
22 UPDATE.—If a model building energy code is
23 not updated by a target date established under
24 section 307(b)(2)(D), each State or Indian tribe
25 shall, not later than 2 years after the specified

1 date, certify whether or not the State or Indian
2 tribe, respectively, has reviewed and updated
3 the energy provisions of the building code of the
4 State or Indian tribe, respectively, to meet or
5 exceed the target in section 307(b)(2).

6 “(2) VALIDATION BY SECRETARY.—Not later
7 than 90 days after a State or Indian tribe certifi-
8 cation under paragraph (1), the Secretary shall—

9 “(A) determine whether the code provi-
10 sions of the State or Indian tribe, respectively,
11 meet the criteria specified in paragraph (1);
12 and

13 “(B) if the determination is positive, vali-
14 date the certification.

15 “(c) IMPROVEMENTS IN COMPLIANCE WITH BUILD-
16 ING ENERGY CODES.—

17 “(1) REQUIREMENT.—

18 “(A) IN GENERAL.—Not later than 3 years
19 after the date of a certification under sub-
20 section (b), each State and Indian tribe shall
21 certify whether or not the State and Indian
22 tribe, respectively, has—

23 “(i) achieved full compliance under
24 paragraph (3) with the applicable certified
25 State and Indian tribe building energy

1 code or with the associated model building
2 energy code; or

3 “(ii) made significant progress under
4 paragraph (4) toward achieving compliance
5 with the applicable certified State and In-
6 dian tribe building energy code or with the
7 associated model building energy code.

8 “(B) REPEAT CERTIFICATIONS.—If the
9 State or Indian tribe certifies progress toward
10 achieving compliance, the State or Indian tribe
11 shall repeat the certification until the State or
12 Indian tribe certifies that the State or Indian
13 tribe has achieved full compliance, respectively.

14 “(2) MEASUREMENT OF COMPLIANCE.—A cer-
15 tification under paragraph (1) shall include docu-
16 mentation of the rate of compliance based on—

17 “(A) independent inspections of a random
18 sample of the buildings covered by the code in
19 the preceding year; or

20 “(B) an alternative method that yields an
21 accurate measure of compliance.

22 “(3) ACHIEVEMENT OF COMPLIANCE.—A State
23 or Indian tribe shall be considered to achieve full
24 compliance under paragraph (1) if—

1 “(A) at least 90 percent of building space
2 covered by the code in the preceding year sub-
3 stantially meets all the requirements of the ap-
4 plicable code specified in paragraph (1), or
5 achieves equivalent or greater energy savings
6 level; or

7 “(B) the estimated excess energy use of
8 buildings that did not meet the applicable code
9 specified in paragraph (1) in the preceding
10 year, compared to a baseline of comparable
11 buildings that meet this code, is not more than
12 5 percent of the estimated energy use of all
13 buildings covered by this code during the pre-
14 ceding year.

15 “(4) SIGNIFICANT PROGRESS TOWARD
16 ACHIEVEMENT OF COMPLIANCE.—A State or Indian
17 tribe shall be considered to have made significant
18 progress toward achieving compliance for purposes
19 of paragraph (1) if the State or Indian tribe—

20 “(A) has developed and is implementing a
21 plan for achieving compliance during the 8-
22 year-period beginning on the date of enactment
23 of this paragraph, including annual targets for
24 compliance and active training and enforcement
25 programs; and

1 “(B) has met the most recent target under
2 subparagraph (A).

3 “(5) VALIDATION BY SECRETARY.—Not later
4 than 90 days after a State or Indian tribe certifi-
5 cation under paragraph (1), the Secretary shall—

6 “(A) determine whether the State or In-
7 dian tribe has demonstrated meeting the cri-
8 teria of this subsection, including accurate
9 measurement of compliance; and

10 “(B) if the determination is positive, vali-
11 date the certification.

12 “(d) STATES OR INDIAN TRIBES THAT DO NOT
13 ACHIEVE COMPLIANCE.—

14 “(1) REPORTING.—A State or Indian tribe that
15 has not made a certification required under sub-
16 section (b) or (c) by the applicable deadline shall
17 submit to the Secretary a report on—

18 “(A) the status of the State or Indian tribe
19 with respect to meeting the requirements and
20 submitting the certification; and

21 “(B) a plan for meeting the requirements
22 and submitting the certification.

23 “(2) FEDERAL SUPPORT.—For any State or In-
24 dian tribe for which the Secretary has not validated
25 a certification by a deadline under subsection (b) or

1 (c), the lack of the certification may be a consider-
2 ation for Federal support authorized under this sec-
3 tion for code adoption and compliance activities.

4 “(3) LOCAL GOVERNMENT.—In any State or
5 Indian tribe for which the Secretary has not vali-
6 dated a certification under subsection (b) or (c), a
7 local government may be eligible for Federal support
8 by meeting the certification requirements of sub-
9 sections (b) and (c).

10 “(4) ANNUAL REPORTS BY SECRETARY.—

11 “(A) IN GENERAL.—The Secretary shall
12 annually submit to Congress, and publish in the
13 Federal Register, a report on—

14 “(i) the status of model building en-
15 ergy codes;

16 “(ii) the status of code adoption and
17 compliance in the States and Indian tribes;

18 “(iii) implementation of this section;

19 and

20 “(iv) improvements in energy savings
21 over time as result of the targets estab-
22 lished under section 307(b)(2).

23 “(B) IMPACTS.—The report shall include
24 estimates of impacts of past action under this

1 section, and potential impacts of further action,
2 on—

3 “(i) upfront financial and construction
4 costs, cost benefits and returns (using in-
5 vestment analysis), and lifetime energy use
6 for buildings;

7 “(ii) resulting energy costs to individ-
8 uals and businesses; and

9 “(iii) resulting overall annual building
10 ownership and operating costs.

11 “(e) TECHNICAL ASSISTANCE TO STATES AND IN-
12 DIAN TRIBES.—The Secretary shall provide technical as-
13 sistance to States and Indian tribes to implement the goals
14 and requirements of this section, including procedures and
15 technical analysis for States and Indian tribes—

16 “(1) to improve and implement State residential
17 and commercial building energy codes;

18 “(2) to demonstrate that the code provisions of
19 the States and Indian tribes achieve equivalent or
20 greater energy savings than the model building en-
21 ergy codes and targets;

22 “(3) to document the rate of compliance with a
23 building energy code; and

24 “(4) to otherwise promote the design and con-
25 struction of energy efficient buildings.

1 “(f) AVAILABILITY OF INCENTIVE FUNDING.—

2 “(1) IN GENERAL.—The Secretary shall provide
3 incentive funding to States and Indian tribes—

4 “(A) to implement the requirements of this
5 section;

6 “(B) to improve and implement residential
7 and commercial building energy codes, including
8 increasing and verifying compliance with the
9 codes and training of State, tribal, and local
10 building code officials to implement and enforce
11 the codes; and

12 “(C) to promote building energy efficiency
13 through the use of the codes.

14 “(2) ADDITIONAL FUNDING.—Additional fund-
15 ing shall be provided under this subsection for im-
16 plementation of a plan to achieve and document full
17 compliance with residential and commercial building
18 energy codes under subsection (c)—

19 “(A) to a State or Indian tribe for which
20 the Secretary has validated a certification under
21 subsection (b) or (c); and

22 “(B) in a State or Indian tribe that is not
23 eligible under subparagraph (A), to a local gov-
24 ernment that is eligible under this section.

1 “(3) TRAINING.—Of the amounts made avail-
2 able under this subsection, the State or Indian tribe
3 may use amounts required, but not to exceed
4 \$750,000 for a State, to train State and local build-
5 ing code officials to implement and enforce codes de-
6 scribed in paragraph (2).

7 “(4) LOCAL GOVERNMENTS.—States may share
8 grants under this subsection with local governments
9 that implement and enforce the codes.

10 “(g) STRETCH CODES AND ADVANCED STAND-
11 ARDS.—

12 “(1) IN GENERAL.—The Secretary shall provide
13 technical and financial support for the development
14 of stretch codes and advanced standards for residen-
15 tial and commercial buildings for use as—

16 “(A) an option for adoption as a building
17 energy code by local, tribal, or State govern-
18 ments; and

19 “(B) guidelines for energy-efficient build-
20 ing design.

21 “(2) TARGETS.—The stretch codes and ad-
22 vanced standards shall be designed—

23 “(A) to achieve substantial energy savings
24 compared to the model building energy codes;
25 and

1 “(B) to meet targets under section 307(b),
2 if available, at least 3 to 6 years in advance of
3 the target years.

4 “(h) STUDIES.—The Secretary, in consultation with
5 building science experts from the National Laboratories
6 and institutions of higher education, designers and build-
7 ers of energy-efficient residential and commercial build-
8 ings, code officials, and other stakeholders, shall under-
9 take a study of the feasibility, impact, economics, and
10 merit of—

11 “(1) code improvements that would require that
12 buildings be designed, sited, and constructed in a
13 manner that makes the buildings more adaptable in
14 the future to become zero-net-energy after initial
15 construction, as advances are achieved in energy-sav-
16 ing technologies;

17 “(2) code procedures to incorporate measured
18 lifetimes, not just first-year energy use, in trade-offs
19 and performance calculations; and

20 “(3) legislative options for increasing energy
21 savings from building energy codes, including addi-
22 tional incentives for effective State and local action,
23 and verification of compliance with and enforcement
24 of a code other than by a State or local government.

1 to enable the achievement of aggregate energy sav-
2 ings targets established under paragraph (2).

3 “(2) TARGETS.—

4 “(A) IN GENERAL.—The Secretary shall
5 work with State, Indian tribes, local govern-
6 ments, nationally recognized code and stand-
7 ards developers, and other interested parties to
8 support the updating of model building energy
9 codes by establishing one or more aggregate en-
10 ergy savings targets to achieve the purposes of
11 this section.

12 “(B) SEPARATE TARGETS.—The Secretary
13 may establish separate targets for commercial
14 and residential buildings.

15 “(C) BASELINES.—The baseline for updat-
16 ing model building energy codes shall be the
17 2009 IECC for residential buildings and
18 ASHRAE Standard 90.1–2010 for commercial
19 buildings.

20 “(D) SPECIFIC YEARS.—

21 “(i) IN GENERAL.—Targets for spe-
22 cific years shall be established and revised
23 by the Secretary through rulemaking and
24 coordinated with nationally recognized code
25 and standards developers at a level that—

1 “(I) is at the maximum level of
2 energy efficiency that is techno-
3 logically feasible and life-cycle cost ef-
4 fective, while accounting for the eco-
5 nomic considerations under paragraph
6 (4);

7 “(II) is higher than the preceding
8 target; and

9 “(III) promotes the achievement
10 of commercial and residential high-
11 performance buildings through high
12 performance energy efficiency (within
13 the meaning of section 401 of the En-
14 ergy Independence and Security Act
15 of 2007 (42 U.S.C. 17061)).

16 “(ii) INITIAL TARGETS.—Not later
17 than 1 year after the date of enactment of
18 this clause, the Secretary shall establish
19 initial targets under this subparagraph.

20 “(iii) DIFFERENT TARGET YEARS.—
21 Subject to clause (i), prior to the applica-
22 ble year, the Secretary may set a later tar-
23 get year for any of the model building en-
24 ergy codes described in subparagraph (A)

1 if the Secretary determines that a target
2 cannot be met.

3 “(iv) SMALL BUSINESS.—When estab-
4 lishing targets under this paragraph
5 through rulemaking, the Secretary shall
6 ensure compliance with the Small Business
7 Regulatory Enforcement Fairness Act of
8 1996 (5 U.S.C. 601 note; Public Law 104–
9 121).

10 “(3) APPLIANCE STANDARDS AND OTHER FAC-
11 TORS AFFECTING BUILDING ENERGY USE.—In es-
12 tablishing building code targets under paragraph
13 (2), the Secretary shall develop and adjust the tar-
14 gets in recognition of potential savings and costs re-
15 lating to—

16 “(A) efficiency gains made in appliances,
17 lighting, windows, insulation, and building enve-
18 lope sealing;

19 “(B) advancement of distributed genera-
20 tion and on-site renewable power generation
21 technologies;

22 “(C) equipment improvements for heating,
23 cooling, and ventilation systems;

1 “(D) building management systems and
2 SmartGrid technologies to reduce energy use;
3 and

4 “(E) other technologies, practices, and
5 building systems that the Secretary considers
6 appropriate regarding building plug load and
7 other energy uses.

8 “(4) ECONOMIC CONSIDERATIONS.—In estab-
9 lishing and revising building code targets under
10 paragraph (2), the Secretary shall consider the eco-
11 nomic feasibility of achieving the proposed targets
12 established under this section and the potential costs
13 and savings for consumers and building owners, in-
14 cluding a return on investment analysis.

15 “(c) TECHNICAL ASSISTANCE TO MODEL BUILDING
16 ENERGY CODE-SETTING AND STANDARD DEVELOPMENT
17 ORGANIZATIONS.—

18 “(1) IN GENERAL.—The Secretary shall, on a
19 timely basis, provide technical assistance to model
20 building energy code-setting and standard develop-
21 ment organizations consistent with the goals of this
22 section.

23 “(2) ASSISTANCE.—The assistance shall in-
24 clude, as requested by the organizations, technical
25 assistance in—

1 “(A) evaluating code or standards pro-
2 posals or revisions;

3 “(B) building energy analysis and design
4 tools;

5 “(C) building demonstrations;

6 “(D) developing definitions of energy use
7 intensity and building types for use in model
8 building energy codes to evaluate the efficiency
9 impacts of the model building energy codes;

10 “(E) performance-based standards;

11 “(F) evaluating economic considerations
12 under subsection (b)(4); and

13 “(G) developing model building energy
14 codes by Indian tribes in accordance with tribal
15 law.

16 “(3) AMENDMENT PROPOSALS.—The Secretary
17 may submit timely model building energy code
18 amendment proposals to the model building energy
19 code-setting and standard development organiza-
20 tions, with supporting evidence, sufficient to enable
21 the model building energy codes to meet the targets
22 established under subsection (b)(2).

23 “(4) ANALYSIS METHODOLOGY.—The Secretary
24 shall make publicly available the entire calculation
25 methodology (including input assumptions and data)

1 used by the Secretary to estimate the energy savings
2 of code or standard proposals and revisions.

3 “(d) DETERMINATION.—

4 “(1) REVISION OF MODEL BUILDING ENERGY
5 CODES.—If the provisions of the IECC or ASHRAE
6 Standard 90.1 regarding building energy use are re-
7 vised, the Secretary shall make a preliminary deter-
8 mination not later than 90 days after the date of the
9 revision, and a final determination not later than 15
10 months after the date of the revision, on whether or
11 not the revision will—

12 “(A) improve energy efficiency in buildings
13 compared to the existing model building energy
14 code; and

15 “(B) meet the applicable targets under
16 subsection (b)(2).

17 “(2) CODES OR STANDARDS NOT MEETING TAR-
18 GETS.—

19 “(A) IN GENERAL.—If the Secretary
20 makes a preliminary determination under para-
21 graph (1)(B) that a code or standard does not
22 meet the targets established under subsection
23 (b)(2), the Secretary may at the same time pro-
24 vide the model building energy code or standard
25 developer with proposed changes that would re-

1 sult in a model building energy code that meets
2 the targets and with supporting evidence, tak-
3 ing into consideration—

4 “(i) whether the modified code is tech-
5 nically feasible and life-cycle cost effective;

6 “(ii) available appliances, technologies,
7 materials, and construction practices; and

8 “(iii) the economic considerations
9 under subsection (b)(4).

10 “(B) INCORPORATION OF CHANGES.—

11 “(i) IN GENERAL.—On receipt of the
12 proposed changes, the model building en-
13 ergy code or standard developer shall have
14 an additional 270 days to accept or reject
15 the proposed changes of the Secretary to
16 the model building energy code or standard
17 for the Secretary to make a final deter-
18 mination.

19 “(ii) FINAL DETERMINATION.—A
20 final determination under paragraph (1)
21 shall be on the modified model building en-
22 ergy code or standard.

23 “(e) ADMINISTRATION.—In carrying out this section,
24 the Secretary shall—

1 “(1) publish notice of targets and supporting
2 analysis and determinations under this section in the
3 Federal Register to provide an explanation of and
4 the basis for such actions, including any supporting
5 modeling, data, assumptions, protocols, and cost-
6 benefit analysis, including return on investment; and

7 “(2) provide an opportunity for public comment
8 on targets and supporting analysis and determina-
9 tions under this section.

10 “(f) VOLUNTARY CODES AND STANDARDS.—Not-
11 withstanding any other provision of this section, any
12 model building code or standard established under section
13 304 shall not be binding on a State, local government, or
14 Indian tribe as a matter of Federal law.”.

