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:

CHAPTER 5—BUILDING ENERGY CODES
SEC. 4151. GREATER ENERGY EFFICIENCY IN BUILDING CODES.
(a) DEFINITIONS.—Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832) is amended—

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

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

“(A) the Council of American Building Officials, or its legal successor, International Code Council, Inc.;
“(B) the American Society of Heating, Refrigerating, and Air-Conditioning Engineers; or
“(C) other appropriate organizations.”;
and
(2) by adding at the end the following:
“(17) IECC.—The term ‘IECC’ means the International Energy Conservation Code.
“(18) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103).”.

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

“SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.
“(a) IN GENERAL.—The Secretary shall—
“(1) encourage and support the adoption of building energy codes by States, Indian tribes, and, as appropriate, by local governments that meet or exceed the model building energy codes, or achieve equivalent or greater energy savings; and
“(2) support full compliance with the State and local codes.
“(b) STATE AND INDIAN TRIBE CERTIFICATION OF
BUILDING ENERGY CODE UPDATES.—

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

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

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

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

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

“(C) NO MODEL BUILDING ENERGY CODE
UPDATE.—If a model building energy code is
not updated by a target date established under
section 307(b)(2)(D), each State or Indian tribe
shall, not later than 2 years after the specified
date, certify whether or not the State or Indian tribe, respectively, has reviewed and updated the energy provisions of the building code of the State or Indian tribe, respectively, to meet or exceed the target in section 307(b)(2).

“(2) VALIDATION BY SECRETARY.—Not later than 90 days after a State or Indian tribe certification under paragraph (1), the Secretary shall—

“(A) determine whether the code provisions of the State or Indian tribe, respectively, meet the criteria specified in paragraph (1); and

“(B) if the determination is positive, validate the certification.

“(c) IMPROVEMENTS IN COMPLIANCE WITH BUILDING ENERGY CODES.—

“(1) REQUIREMENT.—

“(A) IN GENERAL.—Not later than 3 years after the date of a certification under subsection (b), each State and Indian tribe shall certify whether or not the State and Indian tribe, respectively, has—

“(i) achieved full compliance under paragraph (3) with the applicable certified State and Indian tribe building energy
code or with the associated model building energy code; or

“(ii) made significant progress under paragraph (4) toward achieving compliance with the applicable certified State and Indian tribe building energy code or with the associated model building energy code.

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

“(2) MEASUREMENT OF COMPLIANCE.—A certification under paragraph (1) shall include documentation of the rate of compliance based on—

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

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

“(3) ACHIEVEMENT OF COMPLIANCE.—A State or Indian tribe shall be considered to achieve full compliance under paragraph (1) if—
“(A) at least 90 percent of building space covered by the code in the preceding year substantially meets all the requirements of the applicable code specified in paragraph (1), or achieves equivalent or greater energy savings level; or

“(B) the estimated excess energy use of buildings that did not meet the applicable code specified in paragraph (1) in the preceding year, compared to a baseline of comparable buildings that meet this code, is not more than 5 percent of the estimated energy use of all buildings covered by this code during the preceding year.

“(4) Significant progress toward achievement of compliance.—A State or Indian tribe shall be considered to have made significant progress toward achieving compliance for purposes of paragraph (1) if the State or Indian tribe—

“(A) has developed and is implementing a plan for achieving compliance during the 8-year-period beginning on the date of enactment of this paragraph, including annual targets for compliance and active training and enforcement programs; and
“(B) has met the most recent target under subparagraph (A).

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

“(A) determine whether the State or Indian tribe has demonstrated meeting the criteria of this subsection, including accurate measurement of compliance; and

“(B) if the determination is positive, validate the certification.

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

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

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

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

“(2) FEDERAL SUPPORT.—For any State or Indian tribe for which the Secretary has not validated a certification by a deadline under subsection (b) or
(c), the lack of the certification may be a consideration for Federal support authorized under this section for code adoption and compliance activities.

“(3) LOCAL GOVERNMENT.—In any State or Indian tribe for which the Secretary has not validated a certification under subsection (b) or (c), a local government may be eligible for Federal support by meeting the certification requirements of subsections (b) and (c).

“(4) ANNUAL REPORTS BY SECRETARY.—

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

“(i) the status of model building energy codes;

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

“(iii) implementation of this section; and

“(iv) improvements in energy savings over time as result of the targets established under section 307(b)(2).

“(B) IMPACTS.—The report shall include estimates of impacts of past action under this
section, and potential impacts of further action, on—

“(i) upfront financial and construction costs, cost benefits and returns (using investment analysis), and lifetime energy use for buildings;

“(ii) resulting energy costs to individuals and businesses; and

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

“(e) Technical Assistance to States and Indian Tribes.—The Secretary shall provide technical assistance to States and Indian tribes to implement the goals and requirements of this section, including procedures and technical analysis for States and Indian tribes—

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

“(2) to demonstrate that the code provisions of the States and Indian tribes achieve equivalent or greater energy savings than the model building energy codes and targets;

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

“(4) to otherwise promote the design and construction of energy efficient buildings.
“(f) AVAILABILITY OF INCENTIVE FUNDING.—

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

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

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

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

“(2) ADDITIONAL FUNDING.—Additional funding shall be provided under this subsection for implementation of a plan to achieve and document full compliance with residential and commercial building energy codes under subsection (e)—

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

“(B) in a State or Indian tribe that is not eligible under subparagraph (A), to a local government that is eligible under this section.
“(3) TRAINING.—Of the amounts made available under this subsection, the State or Indian tribe may use amounts required, but not to exceed $750,000 for a State, to train State and local building code officials to implement and enforce codes described in paragraph (2).

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

“(g) STRETCH CODES AND ADVANCED STANDARDS.—

“(1) IN GENERAL.—The Secretary shall provide technical and financial support for the development of stretch codes and advanced standards for residential and commercial buildings for use as—

“(A) an option for adoption as a building energy code by local, tribal, or State governments; and

“(B) guidelines for energy-efficient building design.

“(2) TARGETS.—The stretch codes and advanced standards shall be designed—

“(A) to achieve substantial energy savings compared to the model building energy codes; and
“(B) to meet targets under section 307(b), if available, at least 3 to 6 years in advance of the target years.

“(h) STUDIES.—The Secretary, in consultation with building science experts from the National Laboratories and institutions of higher education, designers and builders of energy-efficient residential and commercial buildings, code officials, and other stakeholders, shall undertake a study of the feasibility, impact, economies, and merit of—

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

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

“(3) legislative options for increasing energy savings from building energy codes, including additional incentives for effective State and local action, and verification of compliance with and enforcement of a code other than by a State or local government.
“(i) Effect on Other Laws.—Nothing in this section or section 307 supersedes or modifies the application of sections 321 through 346 of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.).

“(j) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section and section 307 $200,000,000, to remain available until expended.”.

(e) Federal Building Energy Efficiency Standards.—Section 305 of the Energy Conservation and Production Act (42 U.S.C. 6834) is amended by striking “voluntary building energy code” each place it appears in subsections (a)(2)(B) and (b) and inserting “model building energy code”.

(d) Model Building Energy Codes.—Section 307 of the Energy Conservation and Production Act (42 U.S.C. 6836) is amended to read as follows:

“SEC. 307. SUPPORT FOR MODEL BUILDING ENERGY CODES.

“(a) In General.—The Secretary shall support the updating of model building energy codes.

“(b) Targets.—

“(1) In General.—The Secretary shall support the updating of the model building energy codes
to enable the achievement of aggregate energy savings targets established under paragraph (2).

“(2) TARGETS.—

“(A) IN GENERAL.—The Secretary shall work with State, Indian tribes, local governments, nationally recognized code and standards developers, and other interested parties to support the updating of model building energy codes by establishing one or more aggregate energy savings targets to achieve the purposes of this section.

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

“(C) BASELINES.—The baseline for updating model building energy codes shall be the 2009 IECC for residential buildings and ASHRAE Standard 90.1–2010 for commercial buildings.

“(D) SPECIFIC YEARS.—

“(i) IN GENERAL.—Targets for specific years shall be established and revised by the Secretary through rulemaking and coordinated with nationally recognized code and standards developers at a level that—
“(I) is at the maximum level of energy efficiency that is technologically feasible and life-cycle cost effective, while accounting for the economic considerations under paragraph (4);

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

“(III) promotes the achievement of commercial and residential high-performance buildings through high performance energy efficiency (within the meaning of section 401 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061)).

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

“(iii) DIFFERENT TARGET YEARS.—Subject to clause (i), prior to the applicable year, the Secretary may set a later target year for any of the model building energy codes described in subparagraph (A)
if the Secretary determines that a target cannot be met.

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

“(3) APPLIANCE STANDARDS AND OTHER FACTORS AFFECTING BUILDING ENERGY USE.—In establishing building code targets under paragraph (2), the Secretary shall develop and adjust the targets in recognition of potential savings and costs relating to—

“(A) efficiency gains made in appliances, lighting, windows, insulation, and building envelope sealing;

“(B) advancement of distributed generation and on-site renewable power generation technologies;

“(C) equipment improvements for heating, cooling, and ventilation systems;
“(D) building management systems and SmartGrid technologies to reduce energy use; and

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

“(4) Economic Considerations.—In establishing and revising building code targets under paragraph (2), the Secretary shall consider the economic feasibility of achieving the proposed targets established under this section and the potential costs and savings for consumers and building owners, including a return on investment analysis.

“(c) Technical Assistance to Model Building Energy Code-Setting and Standard Development Organizations.—

“(1) In General.—The Secretary shall, on a timely basis, provide technical assistance to model building energy code-setting and standard development organizations consistent with the goals of this section.

“(2) Assistance.—The assistance shall include, as requested by the organizations, technical assistance in—
“(A) evaluating code or standards proposals or revisions;

“(B) building energy analysis and design tools;

“(C) building demonstrations;

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

“(E) performance-based standards;

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

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

“(3) Amendment proposals.—The Secretary may submit timely model building energy code amendment proposals to the model building energy code-setting and standard development organizations, with supporting evidence, sufficient to enable the model building energy codes to meet the targets established under subsection (b)(2).

“(4) Analysis methodology.—The Secretary shall make publicly available the entire calculation methodology (including input assumptions and data)
used by the Secretary to estimate the energy savings
of code or standard proposals and revisions.

“(d) Determination.—

“(1) Revision of Model Building Energy
Codes.—If the provisions of the IECC or ASHRAE
Standard 90.1 regarding building energy use are re-
vised, the Secretary shall make a preliminary deter-
mination not later than 90 days after the date of the
revision, and a final determination not later than 15
months after the date of the revision, on whether or
not the revision will—

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

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

“(2) Codes or Standards Not Meeting Tar-
gets.—

“(A) In General.—If the Secretary
makes a preliminary determination under para-
graph (1)(B) that a code or standard does not
meet the targets established under subsection
(b)(2), the Secretary may at the same time pro-
vide the model building energy code or standard
developer with proposed changes that would re-
result in a model building energy code that meets
the targets and with supporting evidence, tak-
ing into consideration—

“(i) whether the modified code is tech-

nically feasible and life-cycle cost effective;

“(ii) available appliances, technologies,

materials, and construction practices; and

“(iii) the economic considerations

under subsection (b)(4).

“(B) INCORPORATION OF CHANGES.—

“(i) IN GENERAL.—On receipt of the

proposed changes, the model building en-

ergy code or standard developer shall have

an additional 270 days to accept or reject

the proposed changes of the Secretary to

the model building energy code or standard

for the Secretary to make a final deter-

mination.

“(ii) FINAL DETERMINATION.—A

final determination under paragraph (1)

shall be on the modified model building en-

ergy code or standard.

“(e) ADMINISTRATION.—In carrying out this section,

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

“(2) provide an opportunity for public comment on targets and supporting analysis and determinations under this section.

“(f) Voluntary Codes and Standards.—Notwithstanding any other provision of this section, any model building code or standard established under section 304 shall not be binding on a State, local government, or Indian tribe as a matter of Federal law.”.