

110TH CONGRESS
1ST SESSION

S. 2078

To require updating of State building energy efficiency codes and standards.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2007

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To require updating of State building energy efficiency codes and standards.

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. UPDATING STATE BUILDING ENERGY EFFI-**
4 **CIENCY CODES AND STANDARDS.**

5 (a) UPDATING NATIONAL MODEL BUILDING ENERGY
6 CODES AND STANDARDS.—

7 (1) UPDATING.—

8 (A) IN GENERAL.—The Secretary shall fa-
9 cilitate the updating of national model building
10 energy codes and standards at least every 3
11 years to achieve overall energy savings, com-

1 pared to the 2006 International Energy Con-
2 servation Code (referred to in this section as
3 the “IECC”) for residential buildings and
4 ASHRAE/IES Standard 90.1 (2004) for com-
5 mercial buildings, of at least—

6 (i) 30 percent by 2015; and

7 (ii) 50 percent by 2022.

8 (B) MODIFICATION OF GOAL.—If the Sec-
9 retary determines that the goal referred to in
10 subparagraph (A)(ii) cannot be achieved using
11 existing technology, or would not be lifecycle
12 cost effective, the Secretary shall establish,
13 after providing notice and an opportunity for
14 public comment, a revised goal that ensures the
15 maximum level of energy efficiency that is tech-
16 nologically feasible and lifecycle cost effective.

17 (2) REVISION OF CODES AND STANDARDS.—

18 (A) IN GENERAL.—If the IECC or
19 ASHRAE/IES Standard 90.1 regarding build-
20 ing energy use is revised, not later than 1 year
21 after the date of the revision, the Secretary
22 shall determine whether the revision will—

23 (i) improve energy efficiency in build-
24 ings; and

1 (ii) meets the targets established
2 under paragraph (1).

3 (B) REVISION BY SECRETARY.—

4 (i) IN GENERAL.—If the Secretary
5 makes a determination under subpara-
6 graph (A)(ii) that a code or standard does
7 not meet the targets established under
8 paragraph (1), or if a national model code
9 or standard is not updated for more than
10 3 years, not later than 2 years after the
11 determination or the expiration of the 3-
12 year period, the Secretary shall amend the
13 IECC or ASHRAE/IES Standard 90.1 (as
14 in effect on the date on which the deter-
15 mination is made) to establish a modified
16 code or standard that meets the targets es-
17 tablished under paragraph (1).

18 (ii) BASELINE.—The modified code or
19 standard shall serve as the baseline for the
20 next determination under subparagraph
21 (A)(i).

22 (C) NOTICE AND COMMENT.—The Sec-
23 retary shall—

24 (i) publish in the Federal Register no-
25 tice of targets, determinations, and modi-

1 fied codes and standards under this sub-
2 section; and

3 (ii) provide the opportunity for public
4 comment on targets, determinations, and
5 modified codes and standards under this
6 subsection.

7 (b) STATE CERTIFICATION OF BUILDING ENERGY
8 CODE UPDATES.—

9 (1) STATE CERTIFICATION.—

10 (A) IN GENERAL.—Not later than 2 years
11 after the date of enactment of this Act, each
12 State shall certify to the Secretary that the
13 State has reviewed and updated the residential
14 and commercial building code of the State re-
15 garding energy efficiency.

16 (B) ENERGY SAVINGS.—The certification
17 shall include a demonstration that the code of
18 the State—

19 (i) meets or exceeds the 2006 IECC
20 for residential buildings and the ASHRAE/
21 IES Standard 90.1–2004 for commercial
22 buildings; or

23 (ii) achieves equivalent or greater en-
24 ergy savings.

25 (2) REVISION OF CODES AND STANDARDS.—

1 (A) IN GENERAL.—If the Secretary makes
2 an affirmative determination under subsection
3 (a)(2)(A)(i) or establishes a modified code or
4 standard under subsection (a)(2)(B), not later
5 than 2 years after the determination or pro-
6 posal, each State shall certify that the State
7 has reviewed and updated the building code of
8 the State regarding energy efficiency.

9 (B) ENERGY SAVINGS.—The certification
10 shall include a demonstration that the code of
11 the State—

12 (i) meets or exceeds the revised code
13 or standard; or

14 (ii) achieves equivalent or greater en-
15 ergy savings.

16 (C) REVIEW AND UPDATING BY STATES.—
17 If the Secretary fails to make a determination
18 under subsection (a)(2)(A)(i) by the date speci-
19 fied in subsection (a)(2) or makes a negative
20 determination under subsection (a)(2)(A), not
21 later 3 years after the specified date or the date
22 of the determination, each State shall certify
23 that the State has—

24 (i) reviewed the revised code or stand-
25 ard; and

1 (ii) updated the building code of the
2 State regarding energy efficiency to—

3 (I) meet or exceed any provisions
4 found to improve energy efficiency in
5 buildings; or

6 (II) achieve equivalent or greater
7 energy savings in other ways.

8 (c) STATE CERTIFICATION OF COMPLIANCE WITH
9 BUILDING CODES.—

10 (1) IN GENERAL.—Not later than 3 years after
11 a certification of a State under subsection (b), the
12 State shall certify that the State has achieved com-
13 pliance with the certified building energy code.

14 (2) RATE OF COMPLIANCE.—The certification
15 shall include documentation of the rate of compli-
16 ance based on independent inspections of a random
17 sample of the new and renovated buildings covered
18 by the code during the preceding year.

19 (3) COMPLIANCE.—A State shall be considered
20 to achieve compliance with the certified building en-
21 ergy code under paragraph (1) if—

22 (A) at least 90 percent of new and ren-
23 ovated buildings covered by the code during the
24 preceding year substantially meet all the re-
25 quirements of the code; or

1 (B) the estimated excess energy use of new
2 and renovated buildings that did not meet the
3 code during the preceding year, compared to a
4 baseline of comparable buildings that meet the
5 code, is not more than 10 percent of the esti-
6 mated energy use of all new and renovated
7 buildings covered by the code during the pre-
8 ceding year.

9 (d) FAILURE TO MEET DEADLINES.—

10 (1) REPORTS.—A State that has not made a
11 certification required under subsection (b) or (c) by
12 the applicable deadline shall submit to the Secretary
13 a report on—

14 (A) the status of the State with respect to
15 completing and submitting the certification; and

16 (B) a plan of the State for completing and
17 submitting the certification.

18 (2) EXTENSIONS.—The Secretary shall permit
19 an extension of an applicable deadline for a certifi-
20 cation requirement under subsection (b) or (c) for
21 not more than 1 year if a State demonstrates in the
22 report of the State under paragraph (1) that the
23 State has made—

24 (A) a good faith effort to comply with the
25 requirements; and

1 (B) significant progress in complying with
2 the requirements, including by developing and
3 implementing a plan to achieve that compliance.

4 (3) NONCOMPLIANCE BY STATE.—Any State for
5 which the Secretary has not accepted a certification
6 by a deadline established under subsection (b) or (c),
7 with any extension granted under paragraph (2),
8 shall be considered not in compliance with this sec-
9 tion.

10 (4) COMPLIANCE BY LOCAL GOVERNMENTS.—
11 In any State that is not in compliance with this sec-
12 tion, a local government of the State may comply
13 with this section by meeting the certification require-
14 ments under subsections (b) and (c).

15 (5) ANNUAL COMPLIANCE REPORTS.—

16 (A) IN GENERAL.—The Secretary shall an-
17 nually submit to Congress a report that con-
18 tains, and publish in the Federal Register, a list
19 of—

20 (i) each State (including local govern-
21 ments in a State, as applicable) that is in
22 compliance with the requirements of this
23 section; and

24 (ii) each State that is not in compli-
25 ance with those requirements.

1 (B) INCLUSION.—For each State included
2 on a list described in subparagraph (A)(ii), the
3 Secretary shall include an estimate of—

4 (i) the increased energy use by build-
5 ings in that State due to the failure of the
6 State to comply with this section; and

7 (ii) the resulting increase in energy
8 costs to individuals and businesses.

9 (e) TECHNICAL ASSISTANCE.—

10 (1) IN GENERAL.—The Secretary shall provide
11 technical assistance (including building energy anal-
12 ysis and design tools, building demonstrations, and
13 design assistance and training) to enable the na-
14 tional model building energy codes and standards to
15 meet the targets established under subsection (a)(1).

16 (2) ASSISTANCE TO STATES.—The Secretary
17 shall provide technical assistance to States to—

18 (A) implement this section, including pro-
19 cedures for States to demonstrate that the
20 codes of the States achieve equivalent or great-
21 er energy savings than the national model codes
22 and standards;

23 (B) improve and implement State residen-
24 tial and commercial building energy efficiency
25 codes; and

1 (C) otherwise promote the design and con-
2 struction of energy efficient buildings.

3 (f) AVAILABILITY OF INCENTIVE FUNDING.—

4 (1) IN GENERAL.—The Secretary shall provide
5 incentive funding to States to—

6 (A) implement this section; and

7 (B) improve and implement State residen-
8 tial and commercial building energy efficiency
9 codes, including increasing and verifying com-
10 pliance with the codes.

11 (2) FACTORS.—In determining whether, and in
12 what amount, to provide incentive funding under
13 this subsection, the Secretary shall consider the ac-
14 tions proposed by the State to—

15 (A) implement this section;

16 (B) improve and implement residential and
17 commercial building energy efficiency codes;
18 and

19 (C) promote building energy efficiency
20 through the use of the codes.

21 (3) ADDITIONAL FUNDING.—The Secretary
22 shall provide additional funding under this sub-
23 section for implementation of a plan to achieve and
24 document at least a 90 percent rate of compliance

1 with residential and commercial building energy effi-
2 ciency codes, based on energy performance—

3 (A) to a State that has adopted and is im-
4 plementing, on a statewide basis—

5 (i) a residential building energy effi-
6 ciency code that meets or exceeds the re-
7 quirements of the 2006 IECC, or any suc-
8 ceeding version of that code that has re-
9 ceived an affirmative determination from
10 the Secretary under subsection
11 (a)(2)(A)(i); and

12 (ii) a commercial building energy effi-
13 ciency code that meets or exceeds the re-
14 quirements of the ASHRAE/IES Standard
15 90.1–2004, or any succeeding version of
16 that standard that has received an affirma-
17 tive determination from the Secretary
18 under subsection (a)(2)(A)(i); or

19 (B) in a State in which there is no state-
20 wide energy code either for residential buildings
21 or for commercial buildings, to a local govern-
22 ment that has adopted and is implementing res-
23 idential and commercial building energy effi-
24 ciency codes, as described in subparagraph (A).

1 (4) TRAINING.—Of the amounts made available
2 under this subsection, the Secretary may use to
3 train State and local officials to implement codes de-
4 scribed in paragraph (3) at least \$500,000 for each
5 fiscal year.

6 (5) AUTHORIZATION OF APPROPRIATIONS.—

7 (A) IN GENERAL.—There are authorized to
8 be appropriated to carry out this subsection—

9 (i) \$25,000,000 for each of fiscal
10 years 2006 through 2010; and

11 (ii) such sums as are necessary for
12 fiscal year 2011 and each fiscal year there-
13 after.

14 (B) LIMITATION.—Funding provided to
15 States under paragraph (3) for each fiscal year
16 shall not exceed $\frac{1}{2}$ of the excess of funding
17 under this subsection over \$5,000,000 for the
18 fiscal year.

19 (g) TECHNICAL CORRECTION.—Section 303 of the
20 Energy Conservation and Production Act (42 U.S.C.
21 6832) is amended by adding at the end the following:

22 “(17) IECC.—The term ‘IECC’ means the
23 International Energy Conservation Code.”.

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