

[DISCUSSION DRAFT]

1 **TITLE IV—ENERGY EFFICIENCY**
2 **AND ACCOUNTABILITY**

3 **Subtitle A—Energy Efficiency**

4 **CHAPTER 1—FEDERAL AGENCY ENERGY**
5 **EFFICIENCY**

6 **SEC. 4111. ENERGY-EFFICIENT AND ENERGY-SAVING IN-**
7 **FORMATION TECHNOLOGIES.**

8 (a) AMENDMENT.—Subtitle C of title V of the En-
9 ergy Independence and Security Act of 2007 (Public Law
10 110–140; 121 Stat. 1661) is amended by adding at the
11 end the following:

12 **“SEC. 530. ENERGY-EFFICIENT AND ENERGY-SAVING INFOR-**
13 **MATION TECHNOLOGIES.**

14 “(a) DEFINITIONS.—In this section:

15 “(1) DIRECTOR.—The term ‘Director’ means
16 the Director of the Office of Management and Budg-
17 et.

18 “(2) INFORMATION TECHNOLOGY.—The term
19 ‘information technology’ has the meaning given that
20 term in section 11101 of title 40, United States
21 Code.

1 “(b) DEVELOPMENT OF IMPLEMENTATION STRAT-
2 EGY.—Not later than 1 year after the date of enactment
3 of this section, each Federal agency shall coordinate with
4 the Director, the Secretary, and the Administrator of the
5 Environmental Protection Agency to develop an implemen-
6 tation strategy (that includes best practices and measure-
7 ment and verification techniques) for the maintenance,
8 purchase, and use by the Federal agency of energy-effi-
9 cient and energy-saving information technologies, taking
10 into consideration the performance goals established under
11 subsection (d).

12 “(c) ADMINISTRATION.—In developing an implemen-
13 tation strategy under subsection (b), each Federal agency
14 shall consider—

15 “(1) advanced metering infrastructure;

16 “(2) energy-efficient data center strategies and
17 methods of increasing asset and infrastructure utili-
18 zation;

19 “(3) advanced power management tools;

20 “(4) building information modeling, including
21 building energy management;

22 “(5) secure telework and travel substitution
23 tools; and

1 “(6) mechanisms to ensure that the agency re-
2 alizes the energy cost savings brought about through
3 increased efficiency and utilization.

4 “(d) PERFORMANCE GOALS.—

5 “(1) IN GENERAL.—Not later than 180 days
6 after the date of enactment of this section, the Di-
7 rector, in consultation with the Secretary, shall es-
8 tablish performance goals for evaluating the efforts
9 of Federal agencies in improving the maintenance,
10 purchase, and use of energy-efficient and energy-sav-
11 ing information technology.

12 “(2) BEST PRACTICES.—The Chief Information
13 Officers Council established under section 3603 of
14 title 44, United States Code, shall recommend best
15 practices for the attainment of the performance
16 goals, which shall include Federal agency consider-
17 ation of the use of—

18 “(A) energy savings performance con-
19 tracting; and

20 “(B) utility energy services contracting.

21 “(e) REPORTS.—

22 “(1) AGENCY REPORTS.—Each Federal agency
23 shall include in the report of the agency under sec-
24 tion 527 a description of the efforts and results of
25 the agency under this section.

1 “(2) OMB GOVERNMENT EFFICIENCY REPORTS
2 AND SCORECARDS.—Effective beginning not later
3 than October 1, 2017, the Director shall include in
4 the annual report and scorecard of the Director re-
5 quired under section 528 a description of the efforts
6 and results of Federal agencies under this section.”.

7 (b) CONFORMING AMENDMENT.—The table of con-
8 tents for the Energy Independence and Security Act of
9 2007 is amended by adding after the item relating to sec-
10 tion 529 the following:

 “Sec. 530. Energy-efficient and energy-saving information technologies.”.

11 **SEC. 4112. ENERGY EFFICIENT DATA CENTERS.**

12 Section 453 of the Energy Independence and Security
13 Act of 2007 (42 U.S.C. 17112) is amended—

14 (1) in subsection (b)(2)(D)(iv), by striking “de-
15 termined by the organization” and inserting “pro-
16 posed by the stakeholders”;

17 (2) by striking subsection (b)(3); and

18 (3) by striking subsections (e) through (g) and
19 inserting the following:

20 “(c) STAKEHOLDER INVOLVEMENT.—The Secretary
21 and the Administrator shall carry out subsection (b) in
22 collaboration with information technology industry and
23 other key stakeholders, with the goal of producing results
24 that accurately reflect the most relevant and useful infor-
25 mation available. In such collaboration, the Secretary and

1 the Administrator shall pay particular attention to organi-
2 zations that—

3 “(1) have members with expertise in energy ef-
4 ficiency and in the development, operation, and
5 functionality of data centers, information technology
6 equipment, and software, such as representatives of
7 hardware manufacturers, data center operators, and
8 facility managers;

9 “(2) obtain and address input from Department
10 of Energy National Laboratories or any college, uni-
11 versity, research institution, industry association,
12 company, or public interest group with applicable ex-
13 pertise;

14 “(3) follow—

15 “(A) commonly accepted procedures for
16 the development of specifications; and

17 “(B) accredited standards development
18 processes; and

19 “(4) have a mission to promote energy effi-
20 ciency for data centers and information technology.

21 “(d) MEASUREMENTS AND SPECIFICATIONS.—The
22 Secretary and the Administrator shall consider and assess
23 the adequacy of the specifications, measurements, best
24 practices, and benchmarks described in subsection (b) for
25 use by the Federal Energy Management Program, the En-

1 ergy Star Program, and other efficiency programs of the
2 Department of Energy or the Environmental Protection
3 Agency.

4 “(e) STUDY.—The Secretary, in collaboration with
5 the Administrator, shall, not later than 18 months after
6 the date of enactment of the [_____ Act of
7 2015], make available to the public an update to the Re-
8 port to Congress on Server and Data Center Energy Effi-
9 ciency published on August 2, 2007, under section 1 of
10 Public Law 109–431 (120 Stat. 2920), that provides—

11 “(1) a comparison and gap analysis of the esti-
12 mates and projections contained in the original re-
13 port with new data regarding the period from 2008
14 through 2015;

15 “(2) an analysis considering the impact of in-
16 formation technologies, including virtualization and
17 cloud computing, in the public and private sectors;

18 “(3) an evaluation of the impact of the com-
19 bination of cloud platforms, mobile devices, social
20 media, and big data on data center energy usage;

21 “(4) an evaluation of water usage in data cen-
22 ters and recommendations for reductions in such
23 water usage; and

24 “(5) updated projections and recommendations
25 for best practices through fiscal year 2020.

1 “(f) DATA CENTER ENERGY PRACTITIONER PRO-
2 GRAM.—The Secretary, in collaboration with key stake-
3 holders and the Director of the Office of Management and
4 Budget, shall maintain a data center energy practitioner
5 program that leads to the certification of energy practi-
6 tioners qualified to evaluate the energy usage and effi-
7 ciency opportunities in Federal data centers. Each Federal
8 agency shall consider having the data centers of the agen-
9 cy evaluated every 4 years by energy practitioners certified
10 pursuant to such program, whenever practicable using cer-
11 tified practitioners employed by the agency.

12 “(g) OPEN DATA INITIATIVE.—The Secretary, in col-
13 laboration with key stakeholders and the Director of the
14 Office of Management and Budget, shall establish an open
15 data initiative for Federal data center energy usage data,
16 with the purpose of making such data available and acces-
17 sible in a manner that encourages further data center in-
18 novation, optimization, and consolidation. In establishing
19 the initiative, the Secretary shall consider the use of the
20 online Data Center Maturity Model.

21 “(h) INTERNATIONAL SPECIFICATIONS AND
22 METRICS.—The Secretary, in collaboration with key
23 stakeholders, shall actively participate in efforts to har-
24 monize global specifications and metrics for data center
25 energy and water efficiency.

1 “(i) DATA CENTER UTILIZATION METRIC.—The Sec-
2 retary, in collaboration with key stakeholders, shall facili-
3 tate the development of an efficiency metric that measures
4 the energy efficiency of a data center (including equipment
5 and facilities).

6 “(j) PROTECTION OF PROPRIETARY INFORMATION.—
7 The Secretary and the Administrator shall not disclose
8 any proprietary information or trade secrets provided by
9 any individual or company for the purposes of carrying
10 out this section or the programs and initiatives established
11 under this section.”.

12 **SEC. 4113. REPORT ON ENERGY AND WATER SAVINGS PO-**
13 **TENTIAL FROM THERMAL INSULATION.**

14 (a) REPORT.—Not later than 1 year after the date
15 of enactment of this Act, the Secretary of Energy, in con-
16 sultation with appropriate Federal agencies and relevant
17 stakeholders, shall submit to the Committee on Energy
18 and Natural Resources of the Senate and the Committee
19 on Energy and Commerce of the House of Representatives
20 a report on the impact of thermal insulation on both en-
21 ergy and water use systems for potable hot and chilled
22 water in Federal buildings, and the return on investment
23 of installing such insulation.

24 (b) CONTENTS.—The report shall include—

1 (1) an analysis based on the cost of municipal
2 or regional water for delivered water and the avoided
3 cost of new water; and

4 (2) a summary of energy and water savings, in-
5 cluding short-term and long-term (20 years) projec-
6 tions of such savings.

7 **SEC. 4114. FEDERAL PURCHASE REQUIREMENT.**

8 Section 203(b) of the Energy Policy Act of 2005 (42
9 U.S.C. 15852(b)) is amended by striking paragraph (2)
10 and inserting the following:

11 “(2) RENEWABLE ENERGY.—The term ‘renew-
12 able energy’ means electric energy, or thermal en-
13 ergy if resulting from a thermal energy project
14 placed in service after December 31, 2014, gen-
15 erated from, or avoided by, solar, wind, biomass,
16 landfill gas, ocean (including tidal, wave, current,
17 and thermal), geothermal, municipal solid waste
18 (other than commonly recycled paper that is seg-
19 regated from solid waste or commonly recycled paper
20 that is collected as part of a collection system that
21 commingles such paper with other solid waste at any
22 point from the time of collection through the mate-
23 rials recovery for electric energy generation), quali-
24 fied waste heat resource, or new hydroelectric gen-
25 eration capacity achieved from increased efficiency

1 or additions of new capacity at an existing hydro-
2 electric project.

3 “(3) QUALIFIED WASTE HEAT RESOURCE.—The
4 term ‘qualified waste heat resource’ means—

5 “(A) exhaust heat or flared gas from any
6 industrial process;

7 “(B) waste gas or industrial tail gas that
8 would otherwise be flared, incinerated, or vent-
9 ed;

10 “(C) a pressure drop in any gas for an in-
11 dustrial or commercial process; or

12 “(D) such other forms of waste heat as the
13 Secretary determines appropriate.”.

14 **SEC. 4115. REPEAL OF FOSSIL FUEL CONSUMPTION PER-**
15 **CENTAGE REDUCTION REQUIREMENTS FOR**
16 **FEDERAL BUILDINGS.**

17 (a) REPEAL.—Subclauses (I) and (II) of section
18 305(a)(3)(D)(i) of the Energy Conservation and Produc-
19 tion Act (42 U.S.C. 6834(a)(3)(D)(i)) are repealed.

20 (b) CONFORMING AMENDMENT.—Section
21 305(a)(3)(D)(vi) of the Energy Conservation and Produc-
22 tion Act is amended by striking “subclauses (I) and (III)
23 of clause (i)” and inserting “clause (i)”.

1 **CHAPTER 2—ENERGY EFFICIENT**
2 **TECHNOLOGY**

3 **SEC. 4121. NO WARRANTY FOR CERTAIN CERTIFIED EN-**
4 **ERGY STAR PRODUCTS.**

5 Section 324A of the Energy Policy and Conservation
6 Act (42 U.S.C. 6294a) is amended by adding at the end
7 the following new subsection:

8 “(e) NO WARRANTY.—

9 “(1) IN GENERAL.—Any disclosure relating to
10 participation of a product in the Energy Star pro-
11 gram shall not create an express or implied warranty
12 or give rise to any private claims or rights of action
13 under State or Federal law relating to the disquali-
14 fication of that product from Energy Star if—

15 “(A) the product has been certified by a
16 certification body recognized by the Energy
17 Star program;

18 “(B) the Administrator has approved cor-
19 rective measures, including a determination of
20 whether or not consumer compensation is ap-
21 propriate; and

22 “(C) the responsible party has fully com-
23 plied with all approved corrective measures.

1 “(2) CONSTRUAL.—Nothing in this subsection
2 shall be construed to require the Administrator to
3 modify any procedure or take any other action.”.

4 **SEC. 4122. INCLUSION OF SMART GRID CAPABILITY ON EN-**
5 **ERGY GUIDE LABELS.**

6 Section 324(a)(2) of the Energy Policy and Conserva-
7 tion Act (42 U.S.C. 6294(a)(2)) is amended by adding the
8 following at the end:

9 “(J)(i) Not later than 1 year after the date
10 of enactment of this subparagraph, the Com-
11 mission shall initiate a rulemaking to consider
12 making a special note in a prominent manner
13 on any Energy Guide label for any product that
14 includes Smart Grid capability that—

15 “(I) Smart Grid capability is a fea-
16 ture of that product;

17 “(II) the use and value of that feature
18 depend on the Smart Grid capability of the
19 utility system in which the product is in-
20 stalled and the active utilization of that
21 feature by the customer; and

22 “(III) on a utility system with Smart
23 Grid capability, the use of the product’s
24 Smart Grid capability could reduce the
25 customer’s cost of the product’s annual op-

1 eration as a result of the incremental en-
2 ergy and electricity cost savings that would
3 result from the customer taking full advan-
4 tage of such Smart Grid capability.

5 “(ii) Not later than 3 years after the date
6 of enactment of this subparagraph, the Com-
7 mission shall complete the rulemaking initiated
8 under clause (i).”.

9 **SEC. 4123. VOLUNTARY VERIFICATION PROGRAMS FOR AIR**
10 **CONDITIONING, FURNACE, BOILER, HEAT**
11 **PUMP, AND WATER HEATER PRODUCTS.**

12 Section 326(b) of the Energy Policy and Conserva-
13 tion Act (42 U.S.C. 6296(b)) is amended by adding at
14 the end the following:

15 “(6) VOLUNTARY VERIFICATION PROGRAMS FOR AIR
16 CONDITIONING, FURNACE, BOILER, HEAT PUMP, AND
17 WATER HEATER PRODUCTS.—

18 “(A) RELIANCE ON VOLUNTARY VERIFICATION
19 PROGRAMS.—For the purpose of verifying compli-
20 ance with energy conservation standards and Energy
21 Star specifications established under sections 324A,
22 325, and 342 for covered products described in
23 paragraphs (3), (4), (5), (9), and (11) of section
24 322(a) and covered equipment described in subpara-
25 graphs (B), (C), (D), (F), (I), (J), and (K) of sec-

1 tion 340(1), the Secretary and the Administrator of
2 the Environmental Protection Agency (in this para-
3 graph referred to as the ‘Administrator’) shall—

4 “(i) rely on voluntary verification programs
5 that are recognized by the Secretary or the Ad-
6 ministrator according to criteria that have con-
7 sensus support established through a negotiated
8 rulemaking in accordance with subchapter III
9 of chapter 5 of part I of title 5, United States
10 Code; and

11 “(ii) not later than 180 days after the date
12 of enactment of the [_____ Act of
13 2015], initiate a negotiated rulemaking de-
14 scribed in clause (i) to establish criteria for
15 achieving recognition by the Secretary or the
16 Administrator as an approved voluntary
17 verification program, which at a minimum shall
18 ensure that voluntary verification programs—

19 “(I) are nationally recognized;

20 “(II) maintain a publicly available list
21 of all verified products and equipment;

22 “(III) require the changing of the per-
23 formance rating or removal of the product
24 or equipment from the program if testing
25 determines that the performance rating

1 does not meet the levels the manufacturer
2 has verified to the Secretary or the Admin-
3 istrator;

4 “(IV) require the qualification of new
5 participants in the program through test-
6 ing and production of test reports;

7 “(V) allow for challenge testing of
8 products and equipment within the scope
9 of the program;

10 “(VI) require program participants to
11 verify the performance rating of all covered
12 products and equipment within the scope
13 of the voluntary verification program;

14 “(VII) provide to the Secretary or the
15 Administrator—

16 “(aa) prompt notification when
17 program testing results in—

18 “(AA) the rerating of the
19 performance rating of a product
20 or equipment; or

21 “(BB) the delisting of a
22 product or equipment; and

23 “(bb) test reports, on the request
24 of the Secretary or the Administrator,
25 for Energy Star compliant products,

1 which shall be treated as confidential
2 business information as provided for
3 under section 552(b)(4) of title 5,
4 United States Code (commonly known
5 as the ‘Freedom of Information Act’);
6 and

7 “(VIII) meet any additional require-
8 ments or standards that the Secretary or
9 the Administrator shall establish consistent
10 with this clause.

11 “(B) ADMINISTRATION.—

12 “(i) IN GENERAL.—Neither the Secretary
13 nor the Administrator shall require—

14 “(I) manufacturers to participate in a
15 voluntary verification program described in
16 subparagraph (A); or

17 “(II) participating manufacturers to
18 provide information that can be obtained
19 through a voluntary verification program
20 described in subparagraph (A).

21 “(ii) LIST OF COVERED PRODUCTS.—The
22 Secretary or the Administrator may maintain a
23 publicly available list of covered products and
24 equipment verified under subparagraph (A)
25 that distinguishes between—

1 “(I) covered products and equipment
2 verified by a program described in sub-
3 paragraph (A); and

4 “(II) products not verified by a pro-
5 gram described in subparagraph (A).

6 “(iii) PERIODIC VERIFICATION TESTING.—
7 The Secretary and the Administrator shall not
8 subject a manufacturer that participates in a
9 voluntary verification program described in sub-
10 paragraph (A), and that is in compliance with
11 subparagraph (A)(ii)(I) through (VIII), to addi-
12 tional periodic verification testing to verify the
13 accuracy of the performance rating of the prod-
14 uct or equipment, if the voluntary verification
15 program subjects covered products and equip-
16 ment to periodic verification testing and pro-
17 vides test results to the Secretary or the Ad-
18 ministrator on request.

19 “(iv) EFFECT ON OTHER AUTHORITY.—
20 Nothing in this paragraph limits the authority
21 of the Secretary or the Administrator to enforce
22 compliance with any law.”.

1 **SEC. 4124. RESIDENTIAL NON-WEATHERIZED GAS FUR-**
2 **NACES AND MOBILE HOME FURNACES.**

3 Section 325(f)(4) of the Energy Policy and Conserva-
4 tion Act (42 U.S.C. 6295(f)(4)) is amended by adding
5 after subparagraph (D) the following:

6 “(E)(i) Notwithstanding any other provision of this
7 Act, the Secretary may not promulgate a final rule amend-
8 ing the standard established under this subsection for nat-
9 ural gas furnaces that are not weatherized or mobile home
10 furnaces until after the date on which a report is published
11 in the Federal Register under clause (ii).

12 “(ii) Not later than 30 days after the date of enact-
13 ment of this subparagraph, the Secretary shall convene an
14 advisory group of representative stakeholders, including
15 manufacturers and distributors of, and contractors that
16 work with, natural gas furnaces that are not weatherized
17 and mobile home furnaces, home builders, building own-
18 ers, energy efficiency advocates, natural gas utilities, elec-
19 tric utilities, and consumer groups to prepare and publish
20 in the Federal Register a report regarding a potential na-
21 tionwide standard to be established under this subsection
22 that would effectively require such furnaces to be con-
23 densing furnaces. Such report shall include—

24 “(I) an analysis of—

1 “(aa) current market trends regarding the
2 transition of sales from non-condensing fur-
3 naces to condensing furnaces;

4 “(bb) the projected industry-wide loss in
5 net present value to original equipment manu-
6 facturers that would result from adoption of
7 such a nationwide standard;

8 “(cc) the projected consumer payback pe-
9 riod and life-cycle cost savings that would result
10 from adoption of such a nationwide standard;
11 and

12 “(dd) the economic justification for such a
13 nationwide standard, based on the consumption
14 of natural gas or electricity, as applicable, of
15 natural gas furnaces that are not weatherized
16 and mobile home furnaces; and

17 “(II) a determination, based on such analysis,
18 regarding whether such a nationwide standard would
19 be technically feasible and economically justified.

20 “(iii) If the advisory group determines under clause
21 (ii) that a nationwide standard described in such clause
22 would not be technically feasible and economically justi-
23 fied, not later than 180 days after the date on which such
24 determination is published in the Federal Register, the
25 Secretary shall, notwithstanding sections 563 and

1 565(a)(2) of title 5, United States Code, develop a pro-
2 posed rule establishing amended standards under this sub-
3 section for natural gas furnaces that are not weatherized
4 and mobile home furnaces through a negotiated rule-
5 making in accordance with subchapter III of chapter 5
6 of part I of title 5, United States Code.”.

7 **CHAPTER 3—BUILDING ENERGY CODES**

8 **SEC. 4131. GREATER ENERGY EFFICIENCY IN BUILDING** 9 **CODES.**

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

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

15 “(14) MODEL BUILDING ENERGY CODE.—The
16 term ‘model building energy code’ means a voluntary
17 building energy code or standard developed and up-
18 dated through a consensus process among interested
19 persons, such as the IECC or ASHRAE Standard
20 90.1 or a code used by other appropriate organiza-
21 tions.”; and

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

23 “(17) IECC.—The term ‘IECC’ means the
24 International Energy Conservation Code as pub-
25 lished by the International Code Council.

1 “(18) ASHRAE STANDARD 90.1.—The term
2 ‘ASHRAE Standard 90.1’ means the American So-
3 ciety of Heating, Refrigerating and Air-Conditioning
4 Engineers ANSI/ASHRAE/IESNA Standard 90/1
5 Energy Standard for Buildings Except Low-Rise
6 Residential Buildings.

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

11 “(20) SIMPLE PAYBACK.—The term ‘simple
12 payback’ means the time in years that is required
13 for energy savings to exceed the incremental first
14 cost of a new requirement or code.

15 “(21) TECHNICALLY FEASIBLE.—The term
16 ‘technically feasible’ means capable of being
17 achieved, based on widely available appliances,
18 equipment, technologies, materials, and construction
19 practices.”.

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

1 **“SEC. 304. UPDATING STATE BUILDING ENERGY EFFI-**
2 **CIENCY CODES.**

3 “(a) IN GENERAL.—The Secretary shall provide tech-
4 nical assistance, as described in subsection (e), for the
5 purposes of—

6 “(1) implementation of building energy codes
7 by States, Indian tribes, and, as appropriate, by
8 local governments, that are technically feasible and
9 cost-effective; and

10 “(2) supporting full compliance with the State,
11 tribal, and local codes.

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

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

16 “(A) IN GENERAL.—Not later than 3 years
17 after the date on which a model building energy
18 code is published, each State or Indian tribe
19 shall certify whether or not the State or Indian
20 tribe, respectively, has reviewed and updated
21 the energy provisions of the building code of the
22 State or Indian tribe, respectively.

23 “(B) DEMONSTRATION.—The certification
24 shall include a statement of whether or not the
25 energy savings for the code provisions that are

1 in effect throughout the State or Indian tribal
2 territory meet or exceed—

3 “(i) the energy savings of the most re-
4 cently published model building energy
5 code; or

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

8 “(C) NO MODEL BUILDING ENERGY CODE
9 UPDATE.—If a model building energy code is
10 not updated by a target date established under
11 section 307(b)(2)(D), each State or Indian tribe
12 shall, not later than 3 years after the specified
13 date, certify whether or not the State or Indian
14 tribe, respectively, has reviewed and updated
15 the energy provisions of the building code of the
16 State or Indian tribe, respectively, to meet or
17 exceed the target in section 307(b)(2).

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

21 “(A) determine whether the code provi-
22 sions of the State or Indian tribe, respectively,
23 meet the criteria specified in paragraph (1);

1 “(B) determine whether the certification
2 submitted by the State or Indian tribe, respec-
3 tively, is complete; and

4 “(C) if the requirements of subparagraph
5 (B) are satisfied, validate the certification.

6 “(3) LIMITATION.—Nothing in this section
7 shall be interpreted to require a State or Indian
8 tribe to adopt any building code or provision within
9 a code.

10 “(c) IMPROVEMENTS IN COMPLIANCE WITH BUILD-
11 ING ENERGY CODES.—

12 “(1) REQUIREMENT.—

13 “(A) IN GENERAL.—Not later than 3 years
14 after the date of a certification under sub-
15 section (b), each State and Indian tribe shall
16 certify whether or not the State or Indian tribe,
17 respectively, has—

18 “(i) achieved full compliance under
19 paragraph (3) with the applicable certified
20 State or Indian tribe building energy code
21 or with the associated model building en-
22 ergy code; or

23 “(ii) made significant progress under
24 paragraph (4) toward achieving compliance
25 with the applicable certified State or In-

1 dian tribe building energy code or with the
2 associated model building energy code.

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

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

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

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

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

20 “(A) at least 90 percent of building space
21 covered by the code in the preceding year sub-
22 stantially meets all the requirements of the ap-
23 plicable code specified in paragraph (1), or
24 achieves equivalent or greater energy savings
25 level; or

1 “(B) the estimated excess energy use of
2 buildings that did not meet the applicable code
3 specified in paragraph (1) in the preceding
4 year, compared to a baseline of comparable
5 buildings that meet this code, is not more than
6 5 percent of the estimated energy use of all
7 buildings covered by this code during the pre-
8 ceding year.

9 “(4) SIGNIFICANT PROGRESS TOWARD
10 ACHIEVEMENT OF COMPLIANCE.—A State or Indian
11 tribe shall be considered to have made significant
12 progress toward achieving compliance for purposes
13 of paragraph (1) if the State or Indian tribe—

14 “(A) has developed and is implementing a
15 plan for achieving compliance during the 8-year
16 period beginning on the date of enactment of
17 this paragraph, including annual targets for
18 compliance and active training and enforcement
19 programs; and

20 “(B) has met the most recent target under
21 subparagraph (A).

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

1 “(A) determine whether the State or In-
2 dian tribe has demonstrated meeting the cri-
3 teria of this subsection, including accurate
4 measurement of compliance;

5 “(B) determine whether the certification
6 submitted by the State or Indian tribe is com-
7 plete; and

8 “(C) if the requirements of subparagraph
9 (B) are satisfied, validate the certification.

10 “(6) LIMITATION.—Nothing in this section
11 shall be interpreted to require a State or Indian
12 tribe to adopt any building code or provision within
13 a code.

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

16 “(1) REPORTING.—A State or Indian tribe that
17 has not made a certification required under sub-
18 section (b) or (c) by the applicable deadline shall
19 submit to the Secretary a report on the status of the
20 State or Indian tribe with respect to meeting the re-
21 quirements and submitting the certification.

22 “(2) STATE SOVEREIGNTY.—Nothing in this
23 section shall be interpreted to require a State or In-
24 dian tribe to adopt any building code or provision
25 within a code.

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

7 “(4) ANNUAL REPORTS BY SECRETARY.—

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

11 “(i) the status of model building en-
12 ergy codes;

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

15 “(iii) implementation of this section;
16 and

17 “(iv) improvements in energy savings
18 over time as a result of the targets estab-
19 lished under section 307(b)(2).

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

24 “(i) upfront financial and construction
25 costs, cost benefits and returns (using a

1 return on investment analysis), and life-
2 time energy use for buildings;

3 “(ii) resulting energy costs to individ-
4 uals and businesses; and

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

7 “(e) TECHNICAL ASSISTANCE TO STATES AND IN-
8 DIAN TRIBES.—

9 “(1) IN GENERAL.—The Secretary shall, upon
10 request, provide technical assistance to States and
11 Indian tribes to implement the goals and require-
12 ments of this section—

13 “(A) to implement State residential and
14 commercial building energy codes; and

15 “(B) to document the rate of compliance
16 with a building energy code.

17 “(2) TECHNICAL ASSISTANCE.—The assistance
18 shall include, as requested by the State or Indian
19 tribe, technical assistance in—

20 “(A) evaluating the energy savings of
21 building energy codes;

22 “(B) assessing the economic consider-
23 ations, referenced in section 307(b)(4), of im-
24 plementing building energy codes;

1 “(C) building energy analysis and design
2 tools;

3 “(D) energy simulation models;

4 “(E) building demonstrations;

5 “(F) developing the definitions of energy
6 use intensity and building types for use in
7 model building energy codes to evaluate the effi-
8 ciency impacts of the model building energy
9 codes; and

10 “(G) complying with a performance-based
11 pathway referenced in the model code.

12 “(3) EXCLUSION.—For purposes of this section,
13 ‘technical assistance’ shall not include actions that
14 advocate, promote, or discourage the adoption of a
15 particular building energy code, code provision, or
16 energy savings target to a State or Indian tribe.

17 “(4) INFORMATION QUALITY AND TRANS-
18 PARENCY.—For purposes of this section, information
19 provided by the Secretary, attendant to any tech-
20 nical assistance provided to a State or Indian tribe,
21 is ‘influential information’ and shall satisfy the
22 guidelines established by the Office of Management
23 and Budget and published at 67 Federal Register
24 8,452 (Feb. 22, 2002).

25 “(f) FEDERAL SUPPORT.—

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

3 “(A) to implement the reporting require-
4 ments of this section; and

5 “(B) to implement residential and commer-
6 cial building energy codes, including increasing
7 and verifying compliance with the codes and
8 training of State, tribal, and local building code
9 officials to implement and enforce the codes.

10 “(2) EXCLUSION.—Support shall not be given
11 to support adoption and implementation of model
12 building energy codes for which the Secretary has
13 made a determination under section 307(g)(1)(C),
14 that the code is not cost-effective.

15 “(3) TRAINING.—Support shall be offered to
16 States to train State and local building code officials
17 to implement and enforce codes described in para-
18 graph (1)(B).

19 “(4) LOCAL GOVERNMENTS.—States may work
20 under this subsection with local governments that
21 implement and enforce codes described in paragraph
22 (1)(B).

23 “(g) VOLUNTARY PROGRAMS TO EXCEED MODEL
24 BUILDING ENERGY CODE.—

1 “(1) IN GENERAL.—The Secretary shall provide
2 technical assistance, as described in subsection (e),
3 for the development of voluntary programs that ex-
4 ceed the model building energy codes for residential
5 and commercial buildings for use as—

6 “(A) voluntary incentive programs adopted
7 by local, tribal, or State governments; and

8 “(B) non-binding guidelines for energy-ef-
9 ficient building design.

10 “(2) TARGETS.—The voluntary programs de-
11 scribed in paragraph (1) shall be designed—

12 “(A) to achieve substantial energy savings
13 compared to the model building energy codes;
14 and

15 “(B) to meet targets under section 307(b),
16 if available, up to 3 to 6 years in advance of the
17 target years.

18 “(h) STUDIES.—

19 “(1) GAO STUDY.—

20 “(A) The Comptroller General of the
21 United States shall conduct a study of the im-
22 pacts of updating the national model building
23 energy codes for residential and commercial
24 buildings. In conducting the study, the Comp-

1 troller General shall consider and report, at a
2 minimum—

3 “(i) the actual energy consumption
4 savings stemming from updated energy
5 codes compared to the energy consumption
6 savings predicted during code development;

7 “(ii) the actual consumer cost savings
8 stemming from updated energy codes com-
9 pared to predicted consumer cost savings;
10 and

11 “(iii) an accounting of expenditures of
12 the Federal funds under each program au-
13 thorized by this title.

14 “(B) REPORT TO CONGRESS.—Not later
15 than 3 years after the date of enactment of the
16 **【_____ Act of 2015】**, the Comp-
17 troller General of the United States shall sub-
18 mit a report to the Committee on Energy and
19 Natural Resources of the Senate and the Com-
20 mittee on Energy and Commerce of the House
21 of Representatives including the study findings
22 and conclusions.

23 “(2) FEASIBILITY STUDY.—The Secretary, in
24 consultation with building science experts from the
25 National Laboratories and institutions of higher

1 education, designers and builders of energy-efficient
2 residential and commercial buildings, code officials,
3 and other stakeholders, shall undertake a study of
4 the feasibility, impact, economics, and merit of—

5 “(A) code improvements that would require
6 that buildings be designed, sited, and con-
7 structed in a manner that makes the buildings
8 more adaptable in the future to become zero-
9 net-energy after initial construction, as ad-
10 vances are achieved in energy-saving tech-
11 nologies;

12 “(B) code procedures to incorporate a ten-
13 year payback, not just first-year energy use, in
14 trade-offs and performance calculations; and

15 “(C) legislative options for increasing en-
16 ergy savings from building energy codes, includ-
17 ing additional incentives for effective State and
18 local verification of compliance with and en-
19 forcement of a code.

20 “(3) ENERGY DATA IN MULTI-TENANT BUILD-
21 INGS.—The Secretary, in consultation with appro-
22 priate representatives of the utility, utility regu-
23 latory, building ownership, and other stakeholders,
24 shall—

1 “(A) undertake a study of best practices
2 regarding delivery of aggregated energy con-
3 sumption information to owners and managers
4 of residential and commercial buildings with
5 multiple tenants and uses; and

6 “(B) consider the development of a memo-
7 randum of understanding between and among
8 affected stakeholders to reduce barriers to the
9 delivery of aggregated energy consumption in-
10 formation to such owners and managers.

11 “(i) EFFECT ON OTHER LAWS.—Nothing in this sec-
12 tion or section 307 supersedes or modifies the application
13 of sections 321 through 346 of the Energy Policy and
14 Conservation Act (42 U.S.C. 6291 et seq.).

15 “(j) FUNDING LIMITATIONS.—No Federal funds
16 shall be—

17 “(1) used to support actions by the Secretary,
18 or States, to advocate, promote, or discourage the
19 adoption of a particular building energy code, code
20 provision, or energy saving target to a State or In-
21 dian tribe; or

22 “(2) provided to private third parties or non-
23 governmental organizations that engage in this type
24 of advocacy.”.

1 (c) FEDERAL BUILDING ENERGY EFFICIENCY
2 STANDARDS.—Section 305 of the Energy Conservation
3 and Production Act (42 U.S.C. 6834) is amended by strik-
4 ing “voluntary building energy code” each place it appears
5 in subsections (a)(2)(B) and (b) and inserting “model
6 building energy code”.

7 (d) MODEL BUILDING ENERGY CODES.—

8 (1) AMENDMENT.—Section 307 of the Energy
9 Conservation and Production Act (42 U.S.C. 6836)
10 is amended to read as follows:

11 **“SEC. 307. SUPPORT FOR MODEL BUILDING ENERGY**
12 **CODES.**

13 “(a) IN GENERAL.—The Secretary shall provide tech-
14 nical assistance, as described in subsection (c), for updat-
15 ing of model building energy codes.

16 “(b) TARGETS.—

17 “(1) IN GENERAL.—The Secretary shall provide
18 technical assistance, for updating the model building
19 energy codes.

20 “(2) TARGETS.—

21 “(A) IN GENERAL.—The Secretary shall
22 provide technical assistance to States, Indian
23 tribes, local governments, nationally recognized
24 code and standards developers, and other inter-
25 ested parties for updating of model building en-

1 ergy codes by establishing one or more aggre-
2 gate energy savings targets through rulemaking
3 in accordance with section 553 of title 5,
4 United States Code, to achieve the purposes of
5 this section.

6 “(B) SEPARATE TARGETS.—Separate tar-
7 gets may be established for commercial and res-
8 idential buildings.

9 “(C) BASELINES.—The baseline for updat-
10 ing model building energy codes shall be the
11 2009 IECC for residential buildings and
12 ASHRAE Standard 90.1–2010 for commercial
13 buildings.

14 “(D) SPECIFIC YEARS.—

15 “(i) IN GENERAL.—Targets for spe-
16 cific years shall be established and revised
17 by the Secretary through rulemaking in ac-
18 cordance with section 553 of title 5,
19 United States Code, and coordinated with
20 nationally recognized code and standards
21 developers at a level that—

22 “(I) is at the maximum level of
23 energy efficiency that is technically
24 feasible and cost effective, while ac-

1 counting for the economic consider-
2 ations under paragraph (4); and

3 “(II) promotes the achievement
4 of commercial and residential high
5 performance buildings through high
6 performance energy efficiency (within
7 the meaning of section 401 of the En-
8 ergy Independence and Security Act
9 of 2007 (42 U.S.C. 17061)).

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

14 “(iii) DIFFERENT TARGET YEARS.—
15 Subject to clause (i), prior to the applica-
16 ble year, the Secretary may set a later tar-
17 get year for any of the model building en-
18 ergy codes described in subparagraph (A)
19 if the Secretary determines that a target
20 cannot be met.

21 “(E) SMALL BUSINESS.—When estab-
22 lishing targets under this paragraph through
23 rulemaking, the Secretary shall ensure compli-
24 ance with the Small Business Regulatory En-
25 forcement Fairness Act of 1996 (5 U.S.C. 601

1 note; Public Law 104–121) for any indirect eco-
2 nomic effect on small entities that is reasonably
3 foreseeable and a result of such rule.

4 “(3) APPLIANCE STANDARDS AND OTHER FAC-
5 TORS AFFECTING BUILDING ENERGY USE.—In es-
6 tablishing energy savings targets under paragraph
7 (2), the Secretary shall develop and adjust the tar-
8 gets in recognition of potential savings and costs re-
9 lating to—

10 “(A) efficiency gains made in appliances,
11 lighting, windows, insulation, and building enve-
12 lope sealing;

13 “(B) advancement of distributed genera-
14 tion and on-site renewable power generation
15 technologies;

16 “(C) equipment improvements for heating,
17 cooling, ventilation systems and water heating
18 systems;

19 “(D) building management systems and
20 smart grid technologies to reduce energy use;
21 and

22 “(E) other technologies, practices, and
23 building systems regarding building plug load
24 and other energy uses.

1 In developing and adjusting the targets, the Sec-
2 retary shall use climate zone weighted averages for
3 equipment efficiency for heating, cooling, ventilation,
4 and water heating systems, using equipment that is
5 actually installed.

6 “(4) ECONOMIC CONSIDERATIONS.—In estab-
7 lishing and revising energy savings targets under
8 paragraph (2), the Secretary shall consider the eco-
9 nomic feasibility of achieving the proposed targets
10 established under this section and the potential costs
11 and savings for consumers and building owners, by
12 conducting a return on investment analysis, using a
13 simple payback methodology over a 3-, 5-, and 7-
14 year period. The Secretary shall not propose or pro-
15 vide technical or financial assistance for any code,
16 provision in the code, or energy target, or amend-
17 ment thereto, that has a payback greater than 10
18 years.

19 “(c) TECHNICAL ASSISTANCE TO MODEL BUILDING
20 ENERGY CODE-SETTING AND STANDARD DEVELOPMENT
21 ORGANIZATIONS.—

22 “(1) IN GENERAL.—The Secretary shall, on a
23 timely basis, provide technical assistance to model
24 building energy code-setting and standard develop-

1 ment organizations consistent with the goals of this
2 section.

3 “(2) TECHNICAL ASSISTANCE.—The assistance
4 shall include, as requested by the organizations,
5 technical assistance in—

6 “(A) evaluating the energy savings of
7 building energy codes;

8 “(B) assessing the economic consider-
9 ations, under subsection (b)(4), of code or
10 standards proposals or revisions;

11 “(C) building energy analysis and design
12 tools;

13 “(D) energy simulation models;

14 “(E) building demonstrations;

15 “(F) developing definitions of energy use
16 intensity and building types for use in model
17 building energy codes to evaluate the efficiency
18 impacts of the model building energy codes;

19 “(G) developing a performance-based path-
20 way for compliance; and

21 “(H) developing model building energy
22 codes by Indian tribes in accordance with tribal
23 law.

24 “(3) EXCLUSION.—For purposes of this section,
25 ‘technical assistance’ shall not include actions that

1 advocate, promote, or discourage the adoption of a
2 particular building energy code, code provision, or
3 energy savings target.

4 “(4) INFORMATION QUALITY AND TRANS-
5 PARENCY.—For purposes of this section, information
6 provided by the Secretary, attendant to development
7 of any energy savings targets, is influential informa-
8 tion and shall satisfy the guidelines established by
9 the Office of Management and Budget and published
10 at 67 Federal Register 8,452 (Feb. 22, 2002).

11 “(d) AMENDMENT PROPOSALS.—

12 “(1) IN GENERAL.—The Secretary may submit
13 timely model building energy code amendment pro-
14 posals to the model building energy code-setting and
15 standard development organizations, with supporting
16 evidence, sufficient to enable the model building en-
17 ergy codes to meet the targets established under
18 subsection (b)(2).

19 “(2) PROCESS AND FACTORS.—Amendment
20 proposals submitted by the Secretary shall follow
21 rulemaking in accordance with section 553 of title 5,
22 United States Code, and the factors and standards
23 set forth in subsections (b)(2)(E), (b)(3), and (b)(4).
24 Information provided by the Secretary, attendant to
25 submission of any amendment proposals, is influen-

1 tial information and shall satisfy the guidelines es-
2 tablished by the Office of Management and Budget
3 and published at 67 Federal Register 8,452 (Feb.
4 22, 2002). When calculating the costs and benefits
5 of an amendment, the Secretary shall use climate
6 zone weighted averages for equipment efficiency for
7 heating, cooling, ventilation, and water heating sys-
8 tems, using equipment that is actually installed.

9 “(e) ANALYSIS METHODOLOGY.—The Secretary shall
10 make publicly available the entire calculation methodology
11 (including input assumptions and data) used by the Sec-
12 retary to estimate the energy savings of code or standard
13 proposals and revisions.

14 “(f) METHODOLOGY DEVELOPMENT.—The Secretary
15 shall establish a methodology for evaluating cost-effective-
16 ness of energy code changes in multifamily buildings that
17 incorporates economic parameters representative of typical
18 multifamily buildings.

19 “(g) DETERMINATION.—

20 “(1) REVISION OF MODEL BUILDING ENERGY
21 CODES.—If the provisions of the IECC or ASHRAE
22 Standard 90.1 regarding building energy use are re-
23 vised, the Secretary shall make a preliminary deter-
24 mination not later than 90 days after the date of the
25 revision, and a final determination not later than 15

1 months after the date of the revision, on whether or
2 not the revision—

3 “(A) improves energy efficiency in build-
4 ings compared to the existing IECC or
5 ASHRAE Standard 90.1, as applicable;

6 “(B) meets the applicable targets under
7 subsection (b)(2); and

8 “(C) is technically feasible and cost-effec-
9 tive.

10 “(2) CODES OR STANDARDS NOT MEETING CRI-
11 TERIA.—

12 “(A) IN GENERAL.—If the Secretary
13 makes a preliminary determination under para-
14 graph (1)(B) that a revised IECC or ASHRAE
15 Standard 90.1 does not meet the targets estab-
16 lished under subsection (b)(2), is not technically
17 feasible, or is not cost-effective, the Secretary
18 may at the same time provide technical assist-
19 ance, as described in subsection (c), to the
20 International Code Council or ASHRAE, as ap-
21 plicable, with proposed changes that would re-
22 sult in a model building energy code or stand-
23 ard that meets the criteria, and with supporting
24 evidence. Proposed changes submitted by the
25 Secretary shall follow rulemaking in accordance

1 with section 553 of title 5, United States Code,
2 and the factors and standards set forth in sub-
3 sections (b)(2)(E), (b)(3), and (b)(4). Informa-
4 tion provided by the Secretary, attendant to
5 submission of any amendment proposals, is in-
6 fluential information and shall satisfy the
7 guidelines established by the Office of Manage-
8 ment and Budget and published at 67 Federal
9 Register 8,452 (Feb. 22, 2002).

10 “(B) INCORPORATION OF CHANGES.—

11 “(i) IN GENERAL.—On receipt of the
12 technical assistance, as described in sub-
13 section (c), the International Code Council
14 or ASHRAE, as applicable, shall, prior to
15 the Secretary making a final determination
16 under paragraph (1), have an additional
17 270 days to accept or reject the proposed
18 changes made by the Secretary to the
19 model building energy code or standard.

20 “(ii) FINAL DETERMINATION.—A
21 final determination under paragraph (1)
22 shall be on the final revised model building
23 energy code or standard.

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

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

8 “(2) provide an opportunity for public comment
9 on targets, amendment proposals, and supporting
10 analysis and determinations under this section, in
11 accordance with section 553 of title 5, United States
12 Code.

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

18 (2) CONFORMING AMENDMENT.—The item re-
19 lating to section 307 in the table of contents for the
20 Energy Conservation and Production Act is amend-
21 ed to read as follows:

 “Sec. 307. Support for model building energy codes.”.

22 **SEC. 4132. VOLUNTARY NATURE OF BUILDING ASSET RAT-**
23 **ING PROGRAM.**

24 (a) IN GENERAL.—Any program of the Secretary of
25 Energy that may enable the owner of a commercial build-

1 ing or a residential building to obtain a rating, score, or
2 label regarding the actual or anticipated energy usage or
3 performance of a building shall be made available on a
4 voluntary, optional, and market-driven basis.

5 (b) **DISCLAIMER AS TO REGULATORY INTENT.**—In-
6 formation disseminated by the Secretary of Energy re-
7 garding the program described in subsection (a), including
8 any information made available by the Secretary on a
9 website, shall include language plainly stating that such
10 program is not developed or intended to be the basis for
11 a regulatory program by a Federal, State, local, or munic-
12 ipal government body.

13 **CHAPTER 4—ENERGY PERFORMANCE**
14 **CONTRACTING**

15 **SEC. 4141. USE OF ENERGY AND WATER EFFICIENCY MEAS-**
16 **URES IN FEDERAL BUILDINGS.**

17 (a) **ENERGY MANAGEMENT REQUIREMENTS.**—Sec-
18 tion 543(f)(4) of the National Energy Conservation Policy
19 Act (42 U.S.C. 8253(f)(4)) is amended—

20 (1) by moving the margins of subparagraphs
21 (A) and (B) 2 ems to the right and redesignating
22 such subparagraphs as clauses (i) and (ii), respec-
23 tively;

24 (2) by striking “Not later than” and inserting
25 the following:

1 “(A) IN GENERAL.—Not later than”; and
2 (3) by adding at the end the following new sub-
3 paragraph:

4 “(B) MEASURES NOT IMPLEMENTED.—
5 Each energy manager, as part of the certifi-
6 cation system under paragraph (7) and using
7 guidelines developed by the Secretary, shall pro-
8 vide an explanation regarding any life-cycle
9 cost-effective measures described in subpara-
10 graph (A)(i) that have not been implemented.”.

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

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

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

18 (3) by adding at the end the following new
19 paragraph:

20 “(5) the status of each agency’s energy savings
21 performance contracts and utility energy service con-
22 tracts, the investment value of such contracts, the
23 guaranteed energy savings for the previous year as
24 compared to the actual energy savings for the pre-
25 vious year, the plan for entering into such contracts

1 in the coming year, and information explaining why
2 any previously submitted plans for such contracts
3 were not implemented.”.

4 (c) FEDERAL ENERGY MANAGEMENT DEFINI-
5 TIONS.—Section 551(4) of the National Energy Conserva-
6 tion Policy Act (42 U.S.C. 8259(4)) is amended by strik-
7 ing “or retrofit activities” and inserting “retrofit activi-
8 ties, or energy consuming devices and required support
9 structures”.

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

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

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

16 (3) by adding at the end the following new
17 clause:

18 “(iii) limit the recognition of oper-
19 ation and maintenance savings associated
20 with systems modernized or replaced with
21 the implementation of energy conservation
22 measures, water conservation measures, or
23 any series of energy conservation measures
24 and water conservation measures.”.

1 (e) MISCELLANEOUS AUTHORITY.—Section
2 801(a)(2) of the National Energy Conservation Policy Act
3 (42 U.S.C. 8287(a)) is amended by adding at the end the
4 following:

5 “(H) MISCELLANEOUS AUTHORITY.—Not-
6 withstanding any other provision of law, a Fed-
7 eral agency may sell or transfer energy savings
8 and apply the proceeds of such sale or transfer
9 to fund a contract under this title.”.

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

15 (g) ENERGY SAVINGS PERFORMANCE CONTRACTS
16 DEFINITIONS.—Section 804(2) of the National Energy
17 Conservation Policy Act (42 U.S.C. 8287c(2)) is amend-
18 ed—

19 (1) in subparagraph (A), by striking “federally
20 owned building or buildings or other federally owned
21 facilities” and inserting “Federal building (as de-
22 fined in section 551 (42 U.S.C. 8259))” each place
23 it appears;

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

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

3 (4) by adding at the end the following new sub-
4 paragraphs:

5 “(E) the use, sale, or transfer of energy in-
6 centives, rebates, or credits (including renew-
7 able energy credits) from Federal, State, or
8 local governments or utilities; and

9 “(F) any revenue generated from a reduc-
10 tion in energy or water use, more efficient
11 waste recycling, or additional energy generated
12 from more efficient equipment.”.

13 **SEC. 4142. UTILITY ENERGY SERVICE CONTRACTS.**

14 (a) AMENDMENT.—Part 3 of title V of the National
15 Energy Conservation Policy Act is amended by adding
16 after section 553 (42 U.S.C. 8259b) the following:

17 **“SEC. 554. UTILITY ENERGY SERVICE CONTRACTS.**

18 “(a) IN GENERAL.—Each Federal agency may use,
19 to the extent practicable, measures provided by law to
20 meet energy efficiency and conservation mandates and
21 laws, including through utility energy service contracts.

22 “(b) CONTRACT PERIOD.—A utility energy service
23 contract entered into by a Federal agency may have a con-
24 tract period that extends beyond 10 years, but not to ex-
25 ceed 25 years.

1 “(c) REQUIREMENTS.—The conditions of a utility en-
2 ergy service contract entered into by a Federal agency
3 shall include requirements for measurement, verification,
4 and performance assurances or guarantees of the sav-
5 ings.”.

6 (b) CONFORMING AMENDMENT.—The table of con-
7 tents for the National Energy Conservation Policy Act is
8 amended by adding after the item relating to section 553
9 the following:

 “Sec. 554. Utility energy service contracts.”.

10 **CHAPTER 5—SCHOOL BUILDINGS**

11 **SEC. 4151. COORDINATION OF ENERGY RETROFITTING AS-** 12 **SISTANCE FOR SCHOOLS.**

13 Section 392 of the Energy Policy and Conservation
14 Act (42 U.S.C. 6371a) is amended by adding at the end
15 the following:

16 “(e) COORDINATION OF ENERGY RETROFITTING AS-
17 SISTANCE FOR SCHOOLS.—

18 “(1) DEFINITION OF SCHOOL.—Notwith-
19 standing section 391(6), for the purposes of this
20 subsection, the term ‘school’ means—

21 “(A) an elementary school or secondary
22 school (as defined in section 9101 of the Ele-
23 mentary and Secondary Education Act of 1965
24 (20 U.S.C. 7801));

1 “(B) an institution of higher education (as
2 defined in section 102(a) of the Higher Edu-
3 cation Act of 1965 (20 U.S.C. 1002(a)));

4 “(C) a school of the defense dependents’
5 education system under the Defense Depend-
6 ents’ Education Act of 1978 (20 U.S.C. 921 et
7 seq.) or established under section 2164 of title
8 10, United States Code;

9 “(D) a school operated by the Bureau of
10 Indian Affairs;

11 “(E) a tribally controlled school (as de-
12 fined in section 5212 of the Tribally Controlled
13 Schools Act of 1988 (25 U.S.C. 2511)); and

14 “(F) a Tribal College or University (as de-
15 fined in section 316(b) of the Higher Education
16 Act of 1965 (20 U.S.C. 1059c(b))).

17 “(2) ESTABLISHMENT OF CLEARINGHOUSE.—
18 The Secretary, acting through the Office of Energy
19 Efficiency and Renewable Energy, shall establish a
20 clearinghouse to disseminate information regarding
21 available Federal programs and financing mecha-
22 nisms that may be used to help initiate, develop, and
23 finance energy efficiency, distributed generation, and
24 energy retrofitting projects for schools.

1 “(3) REQUIREMENTS.—In carrying out para-
2 graph (2), the Secretary shall—

3 “(A) consult with appropriate Federal
4 agencies to develop a list of Federal programs
5 and financing mechanisms that are, or may be,
6 used for the purposes described in paragraph
7 (2); and

8 “(B) coordinate with appropriate Federal
9 agencies to develop a collaborative education
10 and outreach effort to streamline communica-
11 tions and promote available Federal programs
12 and financing mechanisms described in sub-
13 paragraph (A), which may include the develop-
14 ment and maintenance of a single online re-
15 source that includes contact information for rel-
16 evant technical assistance in the Office of En-
17 ergy Efficiency and Renewable Energy that
18 States, local education agencies, and schools
19 may use to effectively access and use such Fed-
20 eral programs and financing mechanisms.”.