

October 26, 2016

The Honorable Lisa Murkowski
U.S. Senate Committee on Energy and
Natural Resources
Washington, DC 20510

The Honorable Maria Cantwell
U.S. Senate Committee on Energy and
Natural Resources
Washington, DC 20510

The Honorable Fred Upton
U.S. House of Representatives Committee
on Energy and Commerce
Washington, DC 20515

The Honorable Frank Pallone
U.S. House of Representatives Committee
on Energy and Commerce
Washington, DC 20515

Dear Chairwoman Murkowski, Ranking Member Cantwell, Chairman Upton, and Ranking
Member Pallone:

We write on behalf of a coalition of energy efficiency organizations, businesses, and trade associations to refute false claims that have been leveled against the bipartisan, compromise building energy code provisions in S. 2012, the Energy Policy Modernization Act of 2015, as passed by the Senate by an overwhelming bipartisan margin in April 2016. We urge you and your colleagues to support these provisions as you seek to craft final legislation that can be enacted into law.

The building energy code provisions approved by the Senate were developed over many years under the bipartisan and bicameral leadership of Senators Rob Portman (R-Ohio) and Jeanne Shaheen (D-N.H.) and Representatives David McKinley (R-W.V.) and Peter Welch (D-Vt.). **Key stakeholders—including energy efficiency advocates, businesses, and trade associations, along with representatives of the homebuilding industry—negotiated this language.** This stakeholder engagement process was robust, and many accommodations and concessions that endure today in the Senate provisions were made to address concerns of the homebuilding industry.

We are very concerned that weakening these provisions would unravel this hard-fought compromise and severely jeopardize the opportunity to enact meaningful energy legislation this year. Contrary to claims currently circulating:

- the benefits of building energy codes outweigh the costs;
- building energy codes are cost-effective and simple payback is not an accurate or reliable measure of cost-effectiveness;
- the U.S. Department of Energy (DOE) has a limited, but important and appropriate, role in the code development process; and
- states and local governments set building energy codes with assistance from code-setting organizations and U.S. DOE.

The benefits of building energy codes outweigh the costs.

The benefits of building energy codes accrue directly to homeowners or renters who pay their own utility bills. Savings vary by climate zone, but U.S. DOE estimates that, after fully recovering the incremental costs of energy efficiency improvements in two years or less, new homes built to the 2012 or 2015 International Energy Conservation Code (IECC) save between \$4,763 and \$33,105 over the life of the home when compared to houses that comply with the 2006 version. These savings are significant on their own but also are compounded by the non-financial benefits of energy-efficient homes such as improved comfort, avoided emissions, and cleaner air.

Building energy codes do not make homes unaffordable.

The same parties that claim that building energy codes put homeownership out of buyers' reach have cited similar statistics to oppose fire, electrical, structural, and plumbing codes. In all cases, the claims strain credibility. In fact, building energy codes make homeownership more affordable on a monthly basis. While there are incremental costs associated with building more efficient homes, these usually are financed over 30 years rather than paid at the time of purchase. U.S. DOE has found that homes built to the 2012 or 2015 IECC will recover these incremental costs in two years or less regardless of climate zone. These savings will continue to benefit everyone who lives in the code-compliant homes for decades. Furthermore, according to a National Association of Home Builders survey, nine out of 10 Americans are willing to pay between two and three percent more for an energy-efficient home. Homeowners increasingly value the role of efficiency in managing their monthly energy bills, which typically are the second highest cost of home ownership, after the mortgage.

Building energy codes should not be subject to a 10-year simple payback rule; it is an inappropriate and arbitrary government intervention.

Other parties allege a flaw in the use of life-cycle cost analysis and instead suggest that a simple payback analysis is more appropriate. Simple payback, which is an expression of how quickly savings equal or exceed costs, seems reasonable. But in reality it fails to account for a measure's useful life, actual preferences and behavior of homebuyers, changes in utility and fuel costs, discount rates, financing, and taxes. And, choosing a 10-year "simple payback" threshold is arbitrary. Congress should not dictate, in statute, what is cost-effective and what is not, especially without a thoughtful stakeholder-engagement process. Life-cycle cost analysis—not simple payback—is the preferred methodology of building experts and code officials because it has proven to be an accurate and reliable indicator of costs and benefits.

The Portman-Shaheen/McKinley-Welch building energy code provisions do not create a national building energy code.

The Senate-passed building energy code provisions would not change the process of, or responsibility for, developing model building energy codes. These provisions, which were fully informed by stakeholders at every step, would only improve and support the current model code development process and assist state consideration and adoption of the codes and help ensure compliance. Every three years, parallel processes led by the memberships of the International Codes Council (ICC) and ASHRAE—independent non-profit organizations, not government agencies—result in updated building energy codes for residential and commercial buildings. These building energy codes serve as models for state and local governments to adopt, at their

discretion, and in some cases with modifications, for the benefit of their residents and businesses. As with fire, electrical, structural, and plumbing codes, building energy codes are always state or local laws.

The U.S. Department of Energy plays an important consultative role helping states adopt and enforce building energy codes.

Other parties portray U.S. DOE as unfairly or inappropriately active in the building energy code development and adoption process. This is simply not the case. U.S. DOE has important roles in supporting the collaborative model code development and adoption processes to help ensure homeowners realize the benefits they expect when buying new homes. But its roles and responsibilities are limited: supplying technical analyses and proposals during the code development process, certifying the relative savings of new building energy codes put forward by ICC and ASHRAE, generating analyses to help state and local governments understand the relative costs and benefits of updated code proposals, and providing technical and financial assistance to state and local governments.

The alternative building energy code provisions adopted by the House of Representatives would amount to a rollback.

Other parties portray the House building energy code provisions as an improvement over current policy. All key stakeholders (with the exception of the homebuilding industry and some of their allies) oppose the House language because it would impede U.S. DOE from providing the key analytical and technical support that is critical to the model code development process and the adoption of codes by state and local governments. According to an independent analysis, the House language would increase costs for home and building owners by over \$23 billion through 2040.¹ These costs are a stark contrast to the savings worth over \$61 billion estimated for the Senate-approved provisions. We see no possibility of an acceptable middle ground between the House and Senate provisions. Indeed, as previously noted, the Senate-approved provisions already represent a hard-earned consensus.

Our goal, by way of this letter, is to set the record straight and provide information that will help you sort out misleading statements and falsehoods from facts. We respectfully request the retention of the Portman-Shaheen/McKinley-Welch compromise building energy code provisions, as passed by the Senate in April, with no further changes, in any final bill that emerges from your deliberations.

Thank you for your consideration.

Alliance to Save Energy
American Council for an Energy-Efficient Economy
ASHRAE
Danfoss
Energy Efficient Codes Coalition
Home Performance Coalition
Illuminating Engineering Society

¹ American Council for an Energy-Efficient Economy; “2015 Federal Energy Efficiency Legislation: Projected Impacts;” September 2015; <http://aceee.org/sites/default/files/ee-legislation-9-15-15.pdf>, pg. 5.

Institute for Market Transformation
Legrand
National Association for State Community Services Programs
National Association of State Energy Officials
North American Insulation Manufacturers Association
Polyisocyanurate Insulation Manufacturers Association
Vermont Energy Investment Corporation

cc: U.S. Senate Majority Leader and Democratic Leader
Speaker of the U.S. House of Representatives and Democratic Leader
Members of Congress Appointed to the Conference Committee