

96TH CONGRESS
2D SESSION

S. 2576

To establish programs of financial and other assistance to States and units of local government for energy conservation and renewable resource activities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 17 (legislative day, JANUARY 3), 1980

Mr. TSONGAS (for himself, Mr. WILLIAMS, Mr. PERCY, Mr. JACKSON, Mr. PELL, Mr. MAGNUSON, Mr. KENNEDY, Mr. HEINZ, and Mr. METZENBAUM) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To establish programs of financial and other assistance to States and units of local government for energy conservation and renewable resource activities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

TITLE I—GENERAL PROVISIONS

SHORT TITLE

5 SEC. 101. This Act may be cited as the “Community
6 Energy Act”.

FINDINGS

1 SEC. 102. (a) The Congress finds and declares that—

2 (1) the achievement of energy security for the
3 United States is vital to the national economy, vital to
4 the well being of its citizens, and vital to the mainte-
5 nance of national security; and

6 (2) the most rapid and economical method for re-
7 ducing domestic dependence on insecure supplies of
8 high cost foreign petroleum is to increase the efficiency
9 with which energy is used and increase the use of re-
10 newable resources.

11 (b) The Congress further finds and declares that the Na-
12 tion's States and units of local governments—

13 (1) face critical social, economic, environmental,
14 and development problems arising in significant meas-
15 ure from the increased cost of scarce, nonrenewable
16 energy resources and from inadequate public and pri-
17 vate investment and reinvestment in programs to pro-
18 mote the conservation of nonrenewable energy re-
19 sources, and enhance the use of renewable energy re-
20 sources;

21 (2) have unique opportunities to achieve energy
22 savings and to increase the use of renewable energy
23 resources, because of their ability to make effective use
24 of available human and economic resources, and their
25

1 capacity to accommodate a high degree of direct citi-
2 zen involvement in the planning, implementation, and
3 demonstration of new programs;

4 (3) should be provided with financial resources
5 and flexibility to develop their own program measures
6 and activities, especially conservation activities, renew-
7 able resources use, and emergency planning;

8 (4) need to address the special energy related
9 problems of low- and moderate-income families;

10 (5) require systematic and sustained continuity of
11 action by Federal, State, and units of local government
12 to support and coordinate policies and programs related
13 to energy conservation and renewable resources; and

14 (6) require the development of energy programs
15 designed to strengthen citizens awareness of, and in-
16 volvement in, the development of energy conservation
17 and renewable resources.

18 **PURPOSE**

19 **SEC. 103.** It is the purpose of this Act to further the
20 development of a national community energy policy by—

21 (1) providing States and units of local government
22 with greater resources and flexibility to plan and im-
23 plement energy conservation and renewable resource
24 programs and activities which respond to Federal,
25 State, and local energy needs and problems;

- 1 (2) developing programs to foster coordinated and
2 mutually supportive State, local, and areawide energy
3 strategies;
- 4 (3) encouraging community development activities
5 which promote comprehensive energy conservation and
6 renewable resource activities;
- 7 (4) ensuring that State and local energy programs
8 specifically address the needs of low- and moderate-
9 income families; and
- 10 (5) encouraging and facilitating the participation
11 of citizens, and community and neighborhood based or-
12 ganizations in the community energy effort.

13 DEFINITIONS

14 SEC. 104. As used in this Act—

- 15 (1) “energy conservation” means a capital invest-
16 ment or a practice which leads to a net saving in non-
17 renewable energy;
- 18 (2) “conservation program” means any program
19 or activity carried out by a State or unit of local gov-
20 ernment or community based organization intended to
21 reduce nonrenewable energy consumption, increase ef-
22 ficiency of energy use, or increase the use of renewable
23 resources;
- 24 (3) “renewable resource” means any source of
25 energy that is regenerative or essentially inexhaustible,

1 including solar, geothermal, wind, low-head hydroelec-
2 tric, biomass, and ocean systems energy, and excluding
3 nuclear fission and fusion materials;

4 (4) "Governor" means the chief executive officer,
5 elected or appointed, or his or her designee, of a State,
6 including the Mayor of the District of Columbia;

7 (5) "State energy plan" means a plan developed
8 by a State which complies with the requirements of
9 section 353 of the Energy Policy and Conservation
10 Act;

11 (6) "State energy program" means any program
12 of the Department of Energy which provides financial
13 assistance to States pursuant to an allocation formula
14 established by or pursuant to Federal law;

15 (7) "unit of local government" or "locality"
16 means any city, county, town, township, parish, vil-
17 lage, or other general purpose of political subdivision of
18 a State; Guam, the Virgin Islands, and American
19 Samoa, or a general purpose political subdivision
20 thereof; a combination of such political subdivisions
21 recognized by the Secretary; the District of Columbia;
22 the Northern Mariana Islands; and the Trust Territory
23 of the Pacific Islands. Such term also includes a State
24 or a local public body or agency (as defined in section
25 711 of the Housing and Urban Development Act of

1 1970), community association, or other entity, which is
2 approved by the Secretary for the purpose of providing
3 public facilities or services to a new community as part
4 of a program meeting the eligibility standards of sec-
5 tion 712 of the Housing and Urban Development Act
6 of 1970 or title IV of the Housing and Urban Devel-
7 opment Act of 1968;

8 (8) "State" means any State of the United States,
9 or any instrumentality thereof approved by the Gover-
10 nor; and the Commonwealth of Puerto Rico;

11 (9) "metropolitan area" means a standard metro-
12 politan statistical area as established by the Office of
13 Management and Budget;

14 (10) "areawide planning organization" means an
15 organization which is established by State law or au-
16 thorized by State law and established by local agree-
17 ment to undertake planning for a metropolitan or non-
18 metropolitan area and which—

19 (A) is the designated clearinghouse pursuant
20 to Office of Management and Budget Circular
21 A-95;

22 (B) contains two or more counties and is
23 open to membership by all units of general local
24 government contained within the jurisdiction of
25 the organization; and

1 (C) is a multijurisdictional unit established
2 under State law, interstate compact, or interlocal
3 agreement for the purpose of formulating policies
4 and plans for the orderly development of a sub-
5 state or interstate region, and which is formally
6 charged with carrying out the provisions of sec-
7 tion 401 of the Intergovernmental Cooperation
8 Act of 1968, except that any such areawide
9 agency, in the absence of State law to the con-
10 trary, shall have at least a majority of elected of-
11 ficials from local governments on its governing
12 body;

13 (11) "metropolitan city" means (A) a city within a
14 metropolitan area which is the central city of such
15 area, as defined and used by the Office of Management
16 and Budget, or (B) any other city, within a metropoli-
17 tan area, which has a population of fifty thousand or
18 more; except that any city which has been classified as
19 a metropolitan city under clause (B) of this paragraph
20 shall continue to be so classified until the decennial
21 census indicates that the population of such city is less
22 than fifty thousand;

23 (12) "city" means (A) any unit of general local
24 government which is classified as a municipality by the
25 United States Bureau of the Census, or (B) any other

1 unit of general local government which is a town or
2 township and which, in the determination of the Secre-
3 tary (i) possesses powers and performs functions com-
4 parable to those associated with municipalities, (ii) is
5 closely settled, and (iii) contains within its boundaries
6 no incorporated places as defined by the United States
7 Bureau of the Census which have not entered into co-
8 operation agreements with such town or township to
9 undertake or to assist in the undertaking of essential
10 community development and housing assistance
11 activities;

12 (13) "urban county" means any county within a
13 metropolitan area which—

14 (A) is authorized under State law to under-
15 take essential community development and hous-
16 ing assistance activities in its unincorporated
17 areas, if any, which are not units of general local
18 government; and

19 (B) either (i) has a combined population of
20 two hundred thousand or more (excluding the
21 population of metropolitan cities therein) in such
22 unincorporated areas and in its included units of
23 general local government (I) in which it has au-
24 thority to undertake essential community develop-
25 ment and housing assistance activities and which

1 “(b) No grant may be made pursuant to this section
2 unless the applicant is eligible for a grant under section 106
3 and has submitted an application which sets forth a summary
4 of a three year comprehensive community energy conserva-
5 tion strategy which describes energy needs and objectives
6 and which shall provide for, but not be limited to—

7 “(1) the demonstration of commitment to national,
8 State, regional, and local energy objectives, including a
9 commitment to maintain or to increase local energy
10 expenditures;

11 “(2) a detailed description of energy use by sector
12 and fuel type;

13 “(3) an inventory of existing Federal grants and
14 Federal, State, and local programs which can be used
15 in conjunction with this assistance, including a descrip-
16 tion of how energy conservation measures are being or
17 will be incorporated into these programs;

18 “(4) a plan for the enactment or modification and
19 enforcement of local ordinances to encourage or man-
20 date energy conservation or renewable energy re-
21 sources utilization;

22 “(5) specific proposals for the use of energy con-
23 servation improvements and renewable resources in
24 non-Federal public facilities;

1 “(6) specific proposals for financial or other assist-
2 ance for energy conservation with respect to residential
3 structures, primarily for the benefit of low- and moder-
4 ate-income tenants and homeowners;

5 “(7) appropriate provisions for energy emergen-
6 cies;

7 “(8) specific proposals to address the energy relat-
8 ed needs of the elderly and of persons of low income;

9 “(9) a description of such other energy conserva-
10 tion or renewable resource-related activities as de-
11 scribed by the Secretary after consultation with the
12 Secretary of Energy and the Secretary of Transporta-
13 tion;

14 “(10) a schedule for implementation of each ele-
15 ment provided for in the energy conservation strategy;

16 “(11) a projection of the timing and amount of
17 savings in nonrenewable energy consumption either
18 through the use of energy conservation measures or
19 the development of renewable energy resources which
20 will result from the implementation of the strategy de-
21 scribed in paragraph (1);

22 “(12) a description of how its energy conservation
23 strategy will be coordinated and administered;

24 “(13) a specification of the activities to be under-
25 taken with the energy conservation block grant funds

1 “(3) a description of ongoing or proposed local
2 government energy activities; and

3 “(4) a commitment to national, State, regional,
4 and local energy objectives, including a commitment to
5 maintain local energy expenditure.

6 If such waiver is requested in the first year, the Secretary is
7 authorized to make appropriate adjustments in the amount of
8 the grant.

9 “(e) An application subject to subsection (b), submitted
10 on or before the date established pursuant to section 106(k),
11 shall be deemed approved upon the expiration of seventy five
12 days after receipt unless, on the findings of the Secretary or
13 the Secretary of Energy, the Secretary informs the applicant
14 of specific reasons for disapproval. In taking any action under
15 this section, the Secretary shall consider such comments as
16 may be made by members of the respective Federal Regional
17 Councils. Subsequent to approval of the application, the
18 amount of the grant may be adjusted in accordance with the
19 provisions of this section.

20 “(f) Each grantee under this section shall submit annu-
21 ally a performance report on the activities carried out pursu-
22 ant to this section, together with an assessment by the
23 grantee of the relationship of those activities to the needs and
24 objectives identified in the grantee’s application submitted
25 pursuant to subsection (b). The performance report shall in-

1 clude any citizen's comments submitted pursuant to subsec-
2 tion (b).

3 “(g) The Secretary shall, at least on an annual basis,
4 make such reviews and audits as may be necessary or appro-
5 priate to determine whether the grantee has carried out a
6 program substantially as described in its application, in con-
7 formance with the requirements of this section and other ap-
8 plicable laws, and whether the applicant has a continuing
9 capacity to carry out in a timely manner the approved energy
10 conservation program.

11 “(h) The Secretary may make appropriate adjustments
12 in the amount of the annual grants in accordance with the
13 Secretary's findings pursuant to this subsection, based upon a
14 performance report submitted by a grantee, or in accordance
15 with any other reviews or audits made by the Secretary pur-
16 suant to this subsection. Such adjustments may be made,
17 except that funds already expended on eligible activities
18 under this title shall not be recaptured or deducted from
19 future grants made to the recipient.

20 “(i) Of the amount approved in an appropriation Act
21 under section 103(d) for grants in any year, 80 per centum
22 shall be allocated by the Secretary to metropolitan areas.
23 Except as otherwise provided, each metropolitan city and
24 urban county shall, subject to the provisions of subsection (b),
25 be entitled to annual grants from such allocation (which shall

1 be reduced by 10 per centum for the purpose of paragraph
2 (2)) in an aggregate amount not exceeding its basic amount
3 computed pursuant to this section in the following manner:

4 “(1) The Secretary shall determine the amount to
5 be allocated to each metropolitan city and urban
6 county by applying the formula contained in section
7 106(b) to the amount allocated by the first sentence of
8 this subsection, except that population shall be included
9 as a 50 per centum factor in determining such
10 amounts.

11 “(2) Ten per centum of the amount allocated to
12 metropolitan areas shall be utilized by the Secretary in
13 accordance with section 106(d)(2), except that popula-
14 tion shall be included as a 50 per centum factor.

15 In making grants under this paragraph, the Secretary shall
16 give priority—

17 “(A) to States who submit applications on behalf
18 of units of general local government (other than metro-
19 politan cities and urban counties)—

20 “(i) which comply with the requirements of
21 subsection (b);

22 “(ii) which represent at least 25 per centum
23 of the nonentitlement population within metropoli-
24 tan areas of such State;

1 “(iii) which represent no less than fifty thou-
2 sand persons; and

3 “(iv) which demonstrate that such units of
4 general local government as are represented by
5 such applications have given their full approval
6 and certification to the respective State applica-
7 tion; and

8 “(B) to States, units of general local government,
9 or areawide planning organizations which submit appli-
10 cations on behalf of units of general local government
11 (other than metropolitan cities and urban counties)—

12 “(i) which comply with the requirements of
13 subsection (b);

14 “(ii) which represent unified, integrated
15 plans, programs, and strategies as defined in sub-
16 section (b) for a consortium of nonmetropolitan
17 units of general local government whose aggre-
18 gate minimum population is at least fifty thousand
19 persons; and

20 “(ii) which demonstrate that such units of
21 general local government as are represented by
22 such applications have given their full approval
23 and certification to the respective application.

24 “(j) Of the amount approved in an appropriation Act
25 under section 103(d) for grants in any year, 20 per centum

11 of the nonentitlement population of such State as
12 determined pursuant to subsection (i)(1);

13 “(C) which represent no less than fifty thou-
14 sand persons; and

15 “(D) which demonstrate that such units of
16 general local government as are represented by
17 such applications have given their full approval
18 and certification to the respective State applica-
19 tion; and

20 “(2) to States, units of general local government,
21 or areawide planning organizations which submit appli-
22 cations on behalf of nonmetropolitan areas—

23 “(A) which comply with the requirements of
24 subsection (b);

12 SEC. 202. (a) The Secretary of Energy (hereinafter re-
13 ferred to as the "Secretary") is authorized to make grants to
14 units of local government and to States and areawide plan-
15 ning organizations in behalf of units of local government to
16 implement energy projects which the Secretary finds will
17 contribute to a significant reduction in the use of nonrenewa-
18 ble energy supplies and meet the other requirements of the
19 section. The Secretary shall promulgate regulations contain-
20 ing such application requirements and other rules as are ap-
21 propriate. Such regulations shall provide for referral of appli-
22 cations to the Secretary of Housing and Urban Development
23 for the purpose of subsection (d)(3).

24 (b) The Secretary shall allocate appropriations pursuant
25 to authorizations under this section to ensure that funds are

1 available for grants each quarter. The Secretary shall notify
2 each applicant of funding decisions within three months after
3 the deadline established for the submission of its application.

4 (c) In carrying out the provisions of this section, the
5 Secretary shall give priority to projects which maximize—

6 (1) the ratio of the expected savings of non-
7 renewable energy resources to project costs;

8 (2) the percentage of project costs supplied by pri-
9 vate or community funding;

10 (3) demonstration and market-stimulation value of
11 the project; and

12 (4) beneficial impacts on low-income and elderly
13 residents, long-term local employment opportunities,
14 and community economic development.

15 In addition, the Secretary shall give a priority to applicants
16 who have demonstrated exceptional capacity in carrying out
17 energy projects under the community energy block grant pro-
18 gram or other energy conservation or renewable resource
19 programs.

20 (d) No grant may be provided under this section unless
21 the Secretary finds that—

22 (1) the applicant has in place an energy strategy
23 which meets the requirements of section 121 (b) and (c)
24 of the Housing and Community Development Act of
25 1974;

- 1 (2) at least 20 per centum of project costs are
2 provided by community assistance as defined by the
3 Secretary of Energy or private funding;
 - 4 (3) the Secretary of Housing and Urban Develop-
5 ment has not, within sixty days of the receipt of the
6 application, determined that the project does not
7 comply with the community energy strategy;
 - 8 (4) the applicant has sufficient technical expertise
9 to successfully implement the project;
 - 10 (5) the project will significantly reduce local con-
11 sumption of nonrenewable energy supplies;
 - 12 (6) the project will not have significant adverse
13 environmental, social, or economic impacts on the com-
14 munity; and
 - 15 (7) the applicant has provided evidence of public
16 participation in project selection and design.
- 17 (e) No grant may be made under this section (1) if such
18 grant will not primarily benefit the public, (2) for projects
19 intended to facilitate the relocation of industrial or commer-
20 cial plants or facilities from one area to another, unless the
21 Secretary finds that such relocation does not significantly and
22 adversely affect the unemployment or economic base of the
23 area from which such industrial or commercial plant or
24 facility is to be relocated, or (3) for projects which the Secre-

1 tary determines could successfully be undertaken without
2 Federal financial assistance.

3 (f) The Secretary shall, at least on an annual basis and
4 in accordance with such regulations and procedures as he
5 may prescribe, evaluate and make reviews and audits of
6 projects assisted pursuant to this section as necessary to
7 determine the progress made in carrying out activities
8 substantially in accordance with approved plans and timeta-
9 bles. The Secretary may adjust, reduce, or withdraw grant
10 funds, or take other action as appropriate in accordance with
11 the findings of such reviews and audits, except that funds
12 already expended on eligible activities under this title shall
13 not be recaptured or deducted from future grants made to the
14 recipient. Not later than March 1 of each year, the Secretary
15 shall transmit to the Congress an annual report on the pro-
16 gram authorized by this section containing the results of the
17 evaluations, reviews, and audits required by this subsection.

18 (g) Not more than 80 per centum of the funds available
19 for grants under this section may be awarded to units of local
20 government located in metropolitan areas.

21 (h) For the purpose of grants under this section, the
22 Secretary is authorized to utilize not to exceed \$7,000,000
23 for fiscal year 1981, and such sums as may be hereafter pro-
24 vided for fiscal years 1982 and 1983, of the Solar and Con-
25 servation Reserve established by Public Law 96-126.

1 TECHNICAL ASSISTANCE

2 SEC. 203. (a) The Secretary, in cooperation with the
3 Secretary of Housing and Urban Development, is authorized
4 to establish and operate a National Community Energy Ref-
5 erence Center (hereinafter referred to as the "Center") for
6 the purpose of providing information and technical assistance
7 in planning and implementing local programs and activities in
8 conservation and renewable resources to units of local gov-
9 ernment, areawide planning organizations, and neighborhood
10 and community-based organizations.

11 (b) In carrying out the provisions of this section, the
12 Secretary shall not duplicate existing sources of technical as-
13 sistance and shall utilize, to the maximum extent feasible,
14 information, dissemination, and technical assistance capabili-
15 ties within existing organizations, including Federal, State,
16 regional, and community based organizations, and as appro-
17 priate, provide for—

18 (1) local conservation and renewable resource data
19 bank and information clearinghouse for local energy
20 managers;

21 (2) an institute to provide professional training
22 and onsite technical assistance to local energy
23 managers;

1 (3) development of new information materials for
2 local managers, including case studies and technical
3 manuals;

4 (4) technical assistance and other activities to en-
5 courage and facilitate community participation in pro-
6 grams authorized under sections 201 and 202; and

7 (5) development and implementation of compre-
8 hensive metropolitan energy conservation and renew-
9 able resource strategies.

10 For the purpose of this section, the Secretary may enter into
11 contracts and cooperative agreements with such
12 organizations.

13 (c) Information, outreach, and technical assistance activ-
14 ities carried out under this section shall involve coordination
15 with and, wherever possible, active participation by States
16 and by Federal regional and area offices.

17 (d) The Secretary shall, in accordance with such regula-
18 tions and procedures as he may prescribe, make reviews and
19 audits of organizations which furnish assistance pursuant to
20 this section as necessary. Not later than March 1 of each
21 year, the Secretary shall transmit to the Congress an annual
22 report on the program authorized by this section containing
23 the results of the reviews and audits required by this
24 subsection.

1 (e) For the purpose of this section, the Secretary is au-
2 thorized to utilize not to exceed \$5,000,000 for fiscal year
3 1981, and such sums as may be hereafter provided for fiscal
4 years 1982 and 1983, of the Solar and Conservation Reserve
5 established by Public Law 96-126.

6 TITLE III—STATE ENERGY MANAGEMENT

7 PARTNERSHIP

8 SEC. 301. Part D of title III of the Energy Policy and
9 Conservation Act (Public Law 94-163; 42 U.S.C. 6201) is
10 amended to read as follows:

11 “PART D—STATE BASIC ENERGY PROGRAM

12 “PROGRAM AUTHORIZATIONS

13 “SEC. 351. The Secretary is authorized, subject to the
14 availability of funds, to provide financial assistance to assist
15 States and Indian tribes in the development, implementation
16 or modification of a State energy plan, or portion thereof,
17 submitted pursuant to this part and to provide technical as-
18 sistance to States and Indian tribes for energy planning and
19 management.

20 “APPLICATION FOR FINANCIAL ASSISTANCE

21 “SEC. 352. (a) The Secretary shall, by rule, prescribe
22 guidelines for initial applications for financial assistance au-
23 thorized by section 351.

24 “(b) After publication of the guidelines prescribed pursu-
25 ant to subsection (a), the Secretary shall invite each Gover-

1 nor to submit an initial application for financial assistance for
2 the development of a State energy plan and for continuation
3 of programs developed pursuant to this Act, the Energy Con-
4 servation and Production Act (Public Law 94-385), and the
5 Energy Extension Service Act (Public Law 95-39), until
6 such time as the State energy plan is approved or for one
7 year, whichever period is shorter. The guidelines established
8 for such programs shall remain in effect until such time as
9 guidelines established pursuant to this Act take effect. Such
10 initial application shall include—

11 “(1) a designation by the Governor of the State
12 energy agency which will be responsible for the coordi-
13 nation of the development, management, and imple-
14 mentation of the State energy plan;

15 “(2) assurance that the State has obtained or will
16 seek within the next State legislative session such au-
17 thority as may be necessary to carry out the require-
18 ments of this part;

19 “(3) a description of which State energy programs
20 the Governor seeks to continue, pending approval of
21 the State energy plan; and

22 “(4) such other information as the Secretary may
23 reasonably require.

24 “(c) A State which receives financial assistance under
25 this part pursuant to such initial application shall, within nine

1 months after the date such assistance was provided or such
2 longer period as the Secretary for good cause may allow,
3 submit a State energy plan for approval of the Secretary
4 under this part.

5 “(d) Prior to the first fiscal year for which the State
6 seeks financial assistance to develop and implement a State
7 energy plan, or after the Secretary has approved a State
8 energy plan for which the State has sought financial assist-
9 ance pursuant to subsection (b), the Governor of a State may
10 make annual application for financial assistance under this
11 part. Such application shall include—

12 “(1) assurance that the State will use such finan-
13 cial assistance to implement the activities described in
14 a State energy plan which the Secretary has approved
15 under section 356, or which the State anticipates that
16 the Secretary will approve, for the fiscal year in which
17 assistance is sought;

18 “(2) a description of planning activities the State
19 will undertake to develop or modify a State energy
20 plan; and

21 “(3) such other information as the Secretary may
22 reasonably require.

23 “(e) Each application submitted in any fiscal year for
24 financial assistance under this part shall be reviewed and ap-

1 proved or disapproved by the Secretary. Such application
2 shall be approved if the Secretary determines that—

3 “(1) the application meets the requirements of
4 subsection (b) or (d), as appropriate; and

5 “(2) in the case of an application under subsection
6 (d), an approved State energy plan pursuant to this
7 part will be in effect during the fiscal year for which
8 such financial assistance is sought.

9 “(f) If the Secretary determines that the application fails
10 to comply with the provisions of subsections (b) and (c), or (c)
11 and (d), as appropriate, he shall disapprove the application in
12 whole or in part, and give the Governor of that State timely
13 written notice of such disapproval. Upon receiving notice of
14 disapproval, the Governor may submit a new or amended
15 application for such fiscal year within such period as may be
16 prescribed by the Secretary.

17 “REQUIREMENTS FOR STATE ENERGY PLANS

18 “SEC. 353. (a) The Secretary shall, by rule, prescribe
19 guidelines for State energy plans, which plans shall
20 contain—

21 “(1) a description of State energy supply and
22 demand and of its energy goals and policies which de-
23 scription shall include, to the extent such information is
24 available or practicably obtainable—

1 “(A) a forecast of the future energy con-
2 sumption patterns in the State disaggregated by
3 region and local political jurisdiction within the
4 State, by type of energy source (including petro-
5 leum products, natural gas, coal, electric power,
6 and renewable resources), and end-use (including
7 residential, commercial, industrial, government,
8 and transportation sectors);

9 “(B) a description of any data systems the
10 State will use in the development, modification or
11 implementation of a State energy plan;

12 “(C) a description of the likely sources, in-
13 cluding price assumptions, for energy supply, by
14 type of fuel, which the State anticipates will be
15 available to meet the future energy consumption
16 forecasted by the State pursuant to subsection
17 (a)(1)(A), including any alternatives to such
18 energy sources or conservation measures under
19 consideration by the State;

20 “(D) a projection of the sources and amounts
21 of renewable and nonrenewable energy supply, by
22 type of fuel, produced in the State;

23 “(E) a projection of the need for central sta-
24 tion and onsite electric power generation facilities
25 and a description of the major actions, together

1 with a schedule for such actions, which the State
2 anticipates will be required to make available such
3 facilities and assure timely selection of sites for
4 such facilities; and

5 “(F) a projection of the need for other major
6 energy supply facilities considered appropriate by
7 the State for consideration in the State energy
8 plan;

9 “(2) a management plan for, and a description of,
10 planned uses of funds provided pursuant to this part
11 and under any other Federal financial assistance pro-
12 gram that the State intends to use to implement the
13 State energy plan. Such management plan shall in-
14 clude—

15 “(A) an identification of those major energy
16 consumption sectors in which the State has the
17 greatest opportunity to affect significant additional
18 energy conservation, and to utilize renewable re-
19 sources, and a description of the State goals and
20 objectives for energy conservation and the utiliza-
21 tion of renewable resources in such sectors;

22 “(B) a description of the programs the State
23 will carry out to achieve its energy goals and ob-
24 jectives, and the relationship between such pro-
25 grams and—

1 “(i) the energy forecasts pursuant to
2 subsection (a)(1); and

3 “(ii) the State’s goals and objectives for
4 energy conservation and the utilization of re-
5 newable resources;

6 “(C) program objectives by which the State
7 will periodically monitor and assess its success in
8 implementing the State energy plan; and

9 “(D) a description of how the elements of the
10 State energy plan will be coordinated with man-
11 agement plans for other federally assisted or man-
12 dated State energy programs;

13 “(3) a description of how the State plans to imple-
14 ment the energy conservation and renewable resource
15 programs required by section 354, and the following:

16 “(A) a description of measures necessary to
17 remove technical, economic and institutional bar-
18 riers to the use of renewable resources and
19 energy conservation measures;

20 “(B) a description of actions the State will
21 take to increase participation by financial institu-
22 tions and public and private utilities in the financ-
23 ing of activities for renewable resource utilization
24 and energy conservation;

1 “(C) a description of renewable resource and
2 energy conservation measures which address the
3 following elements within an individual State—
4 “(i) low-income families;
5 “(ii) rural residents;
6 “(iii) urban residents; and
7 “(iv) agricultural uses; and
8 “(D) a program which provides for the inter-
9 vention in State electrical and gas utility regula-
10 tory proceedings, where appropriate, to ensure
11 that any proposed rate schedule, rule, regulation
12 or additions to generation capacity does not dis-
13 criminate unfairly against utilization of renewable
14 resources and energy conservation measures. As
15 used in this section, ‘rate schedule’ means the
16 designation of the rates which an electric or gas
17 utility charges for energy;
18 “(4) preparation of a State emergency conserva-
19 tion plan prepared pursuant to the Emergency Energy
20 Conservation Act (Public Law 96-102) and a descrip-
21 tion of the manner in which such emergency plan will
22 be coordinated with the balance of the State energy
23 plan;
24 “(5) a description of the provisions for participa-
25 tion—

1 “(A) by units of local government;
2 “(B) by Indian tribes; and
3 “(C) by the public,
4 which provisions shall include one or more public hear-
5 ings, regarding the development, modification, and im-
6 plementation of the State energy plan;
7 “(6) a program to grant appropriate units of local
8 government authority to enact energy related ordin-
9 ances which include mandatory measures. To the
10 degree prescribed by the Secretary such program shall
11 grant the authority to enact ordinances for—
12 “(A) weatherization requirements;
13 “(B) property tax incentives;
14 “(C) energy related zoning and land use
15 planning; and
16 “(D) other measures as the Secretary may
17 determine are necessary to allow and encourage
18 localities to implement a comprehensive com-
19 munity energy strategy; and
20 “(7) a description of the means by which the
21 preparation and implementation of the State energy
22 plan will be coordinated with plans and programs of
23 State agencies and units of local government for eco-
24 nomic development, transportation, environmental pro-
25 tection, coastal management, and other energy-related

1 purposes, and assurance that due regard will be given
2 to the needs of the poor, the handicapped, and the
3 elderly.

4 “(b) Upon written request by the Governor, the Secre-
5 tary may grant an extension of time for compliance with any
6 provision of this section.

7 “(c) If a State so requests, each department, agency, or
8 instrumentality of the executive branch of the Federal Gov-
9 ernment that either produces or consumes significant quanti-
10 ties of energy within that State shall, consistent with applica-
11 ble law, provide such available energy-related information as
12 necessary and practicable to assist the State in the prepara-
13 tion of the State energy plan under this section.

14 “(d) A State receiving financial assistance under this
15 part and which is participating in an energy impact assist-
16 ance program, or in a coastal zone management program es-
17 tablished pursuant to section 306 of the Coastal Zone Man-
18 agement Act of 1972 shall ensure that the State energy plan
19 established under this part is consistent with any plan pre-
20 pared or information provided pursuant to such energy
21 impact assistance program, or with such coastal zone man-
22 agement program.

23 “(e) A State receiving financial assistance under this
24 part and which is engaged in electric utility rate reform activ-
25 ities and the consideration of certain standards for natural

1 gas utilities pursuant to title I and title III of the Public
2 Utilities Regulatory Policies Act, shall ensure that these ac-
3 tivities are considered in the State energy plan.

4 “ENERGY CONSERVATION AND RENEWABLE RESOURCES

5 “SEC. 354. Each State receiving financial assistance
6 under this part in any fiscal year shall provide for—

7 “(1) implementation of the Building Energy Per-
8 formance Standards program pursuant to title III of
9 the Energy Conservation and Production Act (Public
10 Law 94-385);

11 “(2) a traffic law or regulation which permits the
12 operator of a motor vehicle to turn such vehicle right
13 at a red stop light after stopping;

14 “(3) a program to prevent any unfair or deceptive
15 acts or practices affecting commerce which relate to
16 the implementation of energy conservation and renew-
17 able resource measures;

18 “(4) a program to promote the availability and
19 use of carpools, vanpools, and public transportation;

20 “(5) a program to utilize energy conservation
21 measures and renewable resources in State facilities
22 that includes mandatory procurement standards and
23 policies to promote energy efficiency and renewable re-
24 sources; and

1 “(6) an energy extension program as described in
2 section 504(a) of the National Energy Extension Serv-
3 ice Act (42 U.S.C. 7003) which shall—

4 “(A) disseminate information and provide
5 advice and assistance to individuals, community
6 groups, and units of local governments regarding
7 energy conservation and renewable resources by
8 means of—

9 “(i) specific studies and recommenda-
10 tions applicable to individual residences,
11 small businesses, and agricultural and com-
12 mercial establishments,

13 “(ii) demonstration projects,

14 “(iii) distribution of studies and instruc-
15 tional materials,

16 “(iv) seminars and other training ses-
17 sions, and

18 “(v) other public outreach programs;

19 “(B) make optimum use of existing outreach
20 delivery mechanisms or programs such as State
21 universities, community colleges, cooperative ex-
22 tension services, units of local government, local
23 citizen groups and other public or private organi-
24 zations involved in active energy outreach pro-

1 grams and avoid duplication of existing services;
2 and

3 “(C) draw upon the informational resources
4 of the National Community Energy Reference
5 Center established in title II of this Act, the Na-
6 tional Solar Heating and Cooling Information
7 Center, the Regional Solar Energy Centers, the
8 Solar Energy Research Institute and other infor-
9 mation outlets.

10 “COORDINATION WITH LOCAL GOVERNMENTS

11 “SEC. 355. A State receiving assistance under this part
12 shall provide—

13 “(1) for a satisfactory process for consultation
14 with units of local government, Indian tribes, if appli-
15 cable, and the public—

16 “(A) in the development, modification and
17 implementation of the State energy plan;

18 “(B) in the establishment and implementation
19 of a technical assistance program carried out pur-
20 suant to section 203 of title II;

21 “(C) in granting authority to units of local
22 government to enact energy ordinances pursuant
23 to section 353(6); and

24 “(D) to provide information regarding the
25 State energy plan to units of local government for

1 consideration in developing a comprehensive com-
2 munity energy conservation strategy;

3 “(2) to units of local government appropriate fi-
4 nancial assistance in amounts commensurate with the
5 relative responsibilities shared between units of local
6 government and the State in the implementation of the
7 State energy plan; and

8 “(3) for the direct involvement of those units of
9 local government that own and operate a public utility
10 in the energy demand and supply forecasting activities
11 pursuant to section 353(a)(1).

12 “ADMINISTRATIVE PROVISIONS

13 “SEC. 356. (a)(1) A State or unit of local government
14 receiving financial assistance under this part in any fiscal
15 year shall provide that at least 70 per centum of such assist-
16 ance will be expended by the State or unit of local govern-
17 ment for the development and implementation of programs
18 for energy conservation and renewable resources.

19 “(2) A State may participate in interstate or multistate
20 regional organizations which provide for the coordination of
21 the State’s energy plan with the State energy plans of other
22 States participating in such interstate or multistate regional
23 organization. Each State may make available directly to such
24 interstate or multistate regional organization some portion of

1 the financial assistance provided under this subpart for any
2 use consistent with the purposes of this title.

3 “(3) A State may elect to participate with another State
4 or States to develop, modify or implement a State energy
5 plan which is consistent with the requirements of this part.

6 “(4) The Federal Trade Commission shall—

7 “(A) cooperate with and assist State agencies
8 which have primary responsibilities for the protection
9 of consumers in activities aimed at preventing unfair
10 and deceptive acts or practices affecting commerce
11 which relate to the implementation of measures likely to
12 conserve, or improve efficiency in the use of, energy,
13 including energy conservation measures and renewable
14 resource energy measures, and

15 “(B) undertake its own program, pursuant to the
16 Federal Trade Commission Act to prevent unfair or
17 deceptive acts or practices affecting commerce which
18 relate to the implementation of any such measures.

19 “(b)(1) Each State energy plan shall be submitted bi-
20 ennially to the Secretary. Each State may submit annually to
21 the Secretary a State energy plan. The Secretary shall ap-
22 prove a State energy plan or modifications thereto unless he
23 determines that such plan or modification fails to comply with
24 the provisions of section 353, 354, 355, or subsection (a).

1 “(2)(A) If the Secretary determines that a State energy
2 plan or modification thereto fails under paragraph (1) or oth-
3 erwise violates Federal law, the Secretary shall provide the
4 State written notice of intention to disapprove and a state-
5 ment of the reasons therefor.

6 “(B) If the Secretary, after affording the State notice
7 and opportunity to present views or take corrective action,
8 finds that the State energy plan or modification thereto is not
9 in compliance with the requirements of paragraph (1), the
10 Secretary shall notify the State that the State energy plan is
11 disapproved in whole or in part and that the State is no
12 longer eligible to receive all or a portion of the financial as-
13 sistance allocated to the State under this part, until the Sec-
14 retary is satisfied that there is no longer any such failure to
15 comply.

16 “(3) Approval of a State energy plan or modification
17 thereto pursuant to this subsection shall constitute approval
18 solely for the purpose of certifying the eligibility of a State
19 for financial assistance under this part.

20 “(c)(1) For the purpose of providing the financial assist-
21 ance authorized by section 351, the Secretary shall annually
22 allocate the sums available for financial assistance pursuant
23 to this title among the States in the following manner—

24 “(A) 75 per centum shall be allocated on the basis
25 of the resident population of the States, as reported in

1 the most current population reports prepared by the
2 Bureau of Census, Department of Commerce, for gen-
3 eral statistical purposes; and

4 “(B) 25 per centum shall be allocated equally
5 among the States.

6 “(2) A State receiving financial assistance under this
7 part shall be required to provide funds from non-Federal
8 sources for the development, modification, or implementation
9 of the State energy plan and other programs or measures
10 administered by the State under this part in an amount equal
11 to 20 per centum of the amount allocated to such State under
12 paragraph (1) during each year of such plan or program.

13 “(3) Funds allocated to any State for any of the first
14 four fiscal years under this part but not obligated by the Sec-
15 retary in such fiscal year may at the option of the Secretary
16 be reallocated among the States for the following fiscal year.

17 “(4) Notwithstanding the provisions of paragraph (1),
18 the Secretary may prescribe a maximum allocation for the
19 Virgin Islands, Guam, American Samoa, and the Common-
20 wealth of the Northern Mariana Islands.

21 “(5) Notwithstanding the provisions of paragraph (1),
22 the Secretary shall annually reserve for the benefit of Indian
23 tribes some portion of the sums available for financial assist-
24 ance pursuant to this subpart and shall, by rule, prescribe
25 guidelines for the allocation and use of such reserved portion

1 to carry out the provisions of this subsection. The Secretary
2 may, after affording reasonable opportunity for comment by
3 the State, provide financial assistance to an Indian tribe if he
4 finds that—

5 “(A) such Indian tribe has demonstrated the need
6 for direct Federal financial assistance for such uses as
7 are deemed consistent with the purposes of this title;

8 “(B) Federal assistance provided under this part
9 will not be used to duplicate or substitute for any
10 energy-related program or activity established by a
11 State or unit of local government for use or benefit of
12 Indian tribes; and

13 “(C) such Indian tribal government is capable of
14 performing all requirements of this part, including
15 matching requirements under paragraph (2).

16 The Secretary shall ensure that any Indian tribe which re-
17 ceives direct Federal financial assistance under this subsec-
18 tion shall consult with the State or States in which it is
19 located in the development, modification, or implementation
20 of any energy plan prepared for such Indian tribe. Funds
21 provided under this subsection which are not obligated by the
22 Secretary in any fiscal year shall be reallocated to the States
23 for the following fiscal year in accordance with provisions of
24 paragraph (1).

1 “(6) Financial assistance provided under this part shall
2 be expended for the development, modification or implemen-
3 tation of the State energy plan and development or imple-
4 mentation of the programs and activities required under this
5 part.

6 “(7) No funds provided to a State under this part shall
7 be expended—

8 “(A) to pay the costs of any construction or the
9 purchase of real property;

10 “(B) to pay all or any portion of the purchase
11 price of equipment, except office equipment; and

12 “(C) for such other purposes as the Secretary
13 may prescribe.

14 “(d)(1) After approval of a State energy plan pursuant
15 to subsection (b), the Secretary may amend any existing
16 agreement for financial assistance with a State pursuant to
17 the program for State energy conservation plans pursuant to
18 this part or the program for State energy extension service
19 plans pursuant to title V of the National Energy Extension
20 Service Act (42 U.S.C. 7001) to transfer any available bal-
21 ance of funds under any such financial assistance program or
22 other financial arrangement to develop or implement the
23 State energy plan.

24 “(2) Except as provided in paragraph (1), nothing in this
25 part shall be deemed to affect any program of Federal finan-

1 cial assistance or other financial arrangement made or en-
2 tered into by the Secretary prior to the enactment of this
3 part.

4 “(e)(1) Whenever the Secretary, after affording the
5 State reasonable notice and opportunity to present views,
6 finds that a State receiving financial assistance under this
7 part has failed to comply with the provisions thereof or with
8 any regulation issued pursuant thereto, the Secretary shall
9 notify the State that such State is no longer eligible to re-
10 ceive all or a portion of the financial assistance provided
11 under this part until the Secretary is satisfied that there is no
12 longer any such failure to comply. The Secretary may with-
13 hold all or part of further financial assistance under this part
14 for so long as such State is deemed by the Secretary not to
15 comply.

16 “(2) Whenever the Secretary, after affording the State
17 reasonable notice and opportunity to present views, finds that
18 a State receiving financial assistance under an approved con-
19 solidated application has failed to comply with an applicable
20 statute establishing a State energy program or with any reg-
21 ulation issued pursuant to any statute establishing a State
22 energy program, the Secretary shall notify the State that
23 such State is no longer eligible to receive all or a portion of
24 the financial assistance for such State energy program until
25 the Secretary is satisfied that there is no longer any such

1 failure to comply. The Secretary may withhold all or part of
2 further financial assistance to a State energy program for so
3 long as such program is deemed not to comply.

4 “(f) Each State, unit of local government, or Indian
5 tribe receiving financial assistance under this part or under a
6 State energy program shall keep records and shall make re-
7 ports to the Secretary, which shall include such information
8 as the Secretary may deem necessary to prepare the annual
9 report pursuant to subsection (g) and to facilitate an effective
10 audit and performance evaluation. The Secretary and the
11 Comptroller General of the United States, or any of their
12 duly authorized representatives, shall have access for the
13 purpose of audit and examination at reasonable times and
14 under reasonable conditions, to any pertinent books, docu-
15 ments, papers, records, and reports of any recipients of finan-
16 cial assistance under this part or under a State energy
17 program.

18 “(g) The Secretary shall include in the annual report
19 required by section 657 of the Department of Energy Organi-
20 zation Act, a report of the actions taken under this Act by
21 States in the preceding fiscal year and an evaluation of their
22 accomplishments and effectiveness.

23 “CONSOLIDATED APPLICATIONS AND ADMINISTRATION

24 “SEC. 357. (a) Notwithstanding any other provision of
25 law, a State may make an annual consolidated application for

1 financial assistance authorized under this title and under any
2 State energy program or programs. The portion of the con-
3 solidated application for each program shall be approved by
4 the State official or State agency specifically authorized to
5 implement such program under State law.

6 “(b) The Secretary is authorized to prescribe rules pro-
7 viding for the orderly transition from multiple applications for
8 financial assistance under State energy programs to the con-
9 solidated application described in subsection (a). To enable a
10 State to submit a consolidated application for a uniform pro-
11 gram period, the Secretary and the appropriate State official
12 or State agency may, by mutual agreement, amend the term
13 and any other administrative provision of any financial assist-
14 ance awarded prior to the approval of the consolidated appli-
15 cation, and may agree that the unexpended balance of any
16 funds made available under such program may continue to be
17 available for the purposes for which such funds were
18 appropriated.

19 “(c) Notwithstanding any other provision of law, a State
20 may elect, through its consolidated application under subsec-
21 tion (a), to use a portion of the financial assistance provided
22 by the Secretary for administrative costs for any other State
23 energy program for activities which the State is authorized to
24 undertake, pursuant to this part.

1 “(d) Financial assistance provided by the Secretary
2 under this title may be used by a State to administer other
3 State energy programs as defined by this title, and to admin-
4 ister the utility program established pursuant to title II, part
5 1, of the National Energy Conservation Policy Act.

6 “AUTHORIZATION OF APPROPRIATIONS

7 “SEC. 358. For the purpose of providing financial as-
8 sistance to the States pursuant to section 351, and for techni-
9 cal assistance and administration of this part, there is hereby
10 authorized to be appropriated to the Secretary for each of the
11 fiscal years ending September 30, 1981 to 1985,
12 \$75,000,000 which may remain available until expended.”.

13 AMENDMENT TO THE NATIONAL ENERGY EXTENSION

14 SERVICE ACT

15 SEC. 302. The National Energy Extension Service Act
16 (Public Law 95-39), is amended by striking out sections 503,
17 504(b) through 504(d), 505, 506, 507, 508, 509, 510, 511,
18 512, and 513.

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