

ENHANCING STATE ENERGY SECURITY PLANNING AND
EMERGENCY PREPAREDNESS ACT OF 2017

JULY 17, 2017.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. WALDEN, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

[To accompany H.R. 3050]

The Committee on Energy and Commerce, to whom was referred
the bill (H.R. 3050) to amend the Energy Policy and Conservation
Act to provide Federal financial assistance to States to implement,
review, and revise State energy security plans, and for other pur-
poses, having considered the same, report favorably thereon with
an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Enhancing State Energy Security Planning and Emergency Preparedness Act of 2017”.

SEC. 2. STATE ENERGY SECURITY PLANS.

(a) **IN GENERAL.**—Part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.) is amended by adding at the end the following:

“SEC. 367. STATE ENERGY SECURITY PLANS.

“(a) **IN GENERAL.**—Federal financial assistance made available to a State under this part may be used for the implementation, review, and revision of a State energy security plan that assesses the State’s existing circumstances and proposes methods to strengthen the ability of the State, in consultation with owners and operators of energy infrastructure in such State, to—

“(1) secure the energy infrastructure of the State against all physical and cybersecurity threats;

“(2) mitigate the risk of energy supply disruptions to the State and enhance the response to, and recovery from, energy disruptions; and

“(3) ensure the State has a reliable, secure, and resilient energy infrastructure.

“(b) **CONTENTS OF PLAN.**—A State energy security plan described in subsection (a) shall—

“(1) address all fuels, including petroleum products, other liquid fuels, coal, electricity, and natural gas, as well as regulated and unregulated energy providers;

“(2) provide a State energy profile, including an assessment of energy production, distribution, and end-use;

“(3) address potential hazards to each energy sector or system, including physical threats and cybersecurity threats and vulnerabilities;

“(4) provide a risk assessment of energy infrastructure and cross-sector interdependencies;

“(5) provide a risk mitigation approach to enhance reliability and end-use resilience; and

“(6) address multi-State, Indian Tribe, and regional coordination planning and response, and to the extent practicable, encourage mutual assistance in cyber and physical response plans.

“(c) **COORDINATION.**—In developing a State energy security plan under this section, the energy office of the State shall, to the extent practicable, coordinate with—

“(1) the public utility or service commission of the State;

“(2) energy providers from the private sector; and

“(3) other entities responsible for maintaining fuel or electric reliability.

“(d) **FINANCIAL ASSISTANCE.**—A State is not eligible to receive Federal financial assistance under this part, for any purpose, for a fiscal year unless the Governor of such State submits to the Secretary, with respect to such fiscal year—

“(1) a State energy security plan described in subsection (a) that meets the requirements of subsection (b); or

“(2) after an annual review of the State energy security plan by the Governor—

“(A) any necessary revisions to such plan; or

“(B) a certification that no revisions to such plan are necessary.

“(e) **TECHNICAL ASSISTANCE.**—Upon request of the Governor of a State, the Secretary may provide information and technical assistance, and other assistance, in the development, implementation, or revision of a State energy security plan.

“(f) **SUNSET.**—This section shall expire on October 31, 2022.”.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended—

(1) by striking “\$125,000,000” and inserting “\$90,000,000”; and

(2) by striking “2007 through 2012” and inserting “2018 through 2022”.

(c) **TECHNICAL AND CONFORMING AMENDMENTS.**—

(1) **CONFORMING AMENDMENTS.**—Section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323) is amended—

(A) by redesignating subsection (f) as subsection (e); and

(B) by striking subsection (e).

(2) **TECHNICAL AMENDMENT.**—Section 366(3)(B)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6326(3)(B)(i)) is amended by striking “approved under section 367”.

(3) **REFERENCE.**—The item relating to “Department of Energy—Energy Conservation” in title II of the Department of the Interior and Related Agencies Appropriations Act, 1985 (42 U.S.C. 6323a) is amended by striking “sections 361 through 366” and inserting “sections 361 through 367”.

(4) TABLE OF SECTIONS.—The table of sections for part D of title III of the Energy Policy and Conservation Act is amended by adding at the end the following:

“Sec. 367. State energy security plans.”.

PURPOSE AND SUMMARY

H.R. 3050, Enhancing State Energy Security Planning and Emergency Preparedness Act, was introduced by Rep. Fred Upton (R–MI) and Rep. Bobby Rush (D–IL) on June 23, 2017. H.R. 3050 would provide federal financial assistance to States to implement, review, and revise State energy security plans. The legislation would replace the existing energy emergency planning requirements under section 363 of the Energy and Policy Conservation Act with provisions that strengthen the ability of States to secure the energy infrastructure of the United States against physical and cybersecurity threats and to mitigate against energy supply disruptions. In addition, the legislation establishes the elements a State must include when developing a State energy security plan. A State’s energy security plan must address physical and cybersecurity threats and vulnerabilities across the energy sector and systems; include a State energy profile; identify risks to energy infrastructure; including cross-sector interdependencies; specify risk mitigation approaches to enhance reliability and end-use resilience; and address multi-state and regional coordination and planning.

BACKGROUND AND NEED FOR LEGISLATION

The United States’ energy infrastructure is comprised of a vast network of energy and electricity delivery systems. These intricate and highly interdependent systems enable almost every aspect of our daily lives. The nation’s economy, security, and the health and safety of its citizens depend upon the reliable and uninterrupted delivery of fuels and electricity. Since the inception of the Department of Energy’s State Energy Program in 1975, the manner in which energy and power is generated, transmitted, and delivered continues to rapidly change and evolve. Recent cyber-related events have raised concerns about the security and resiliency of the nation’s energy and electricity systems.¹ States and Congress recognize the need to prioritize energy security, emergency planning, and energy infrastructure protection.

On June 14, 2017, the Energy and Commerce Committee scheduled a hearing titled “States’ Perspectives on Energy Security Planning, Emergency Preparedness, and State Energy Programs” and received testimony from the National Association of State Energy Officials, the National Association of Regulatory Utility Commissioners, along with representatives of several state governments including Texas, Washington, Georgia, and Michigan. Although the hearing was ultimately cancelled due to extraordinary circumstances, the written testimony of the witnesses was posted publicly and the witnesses made themselves available for questions from Committee and Members’ staff.

¹See *Analysis of the Cyber Attack on the Ukrainian Power Grid* by SANS ICS and E-ISAC, March 18, 2016.

The Department of Energy's State Energy Program

The Department of Energy's (DOE) State Energy Program provides federal financial and technical assistance to help States with energy security planning efforts. DOE's State Energy Program originated as the State Energy Conservation Program and was first authorized under part D of title III of the Energy Policy and Conservation Act (EPCA) of 1975.² The purpose of the program was to promote the conservation of energy and reduce the rate of growth of energy demand.³ EPCA directed the DOE's Secretary to establish procedures and guidelines for the development and implementation of specific State energy conservation programs and to provide financial and technical assistance to States for these programs.⁴ Section 362 of part D of title III of EPCA invites the Governors of each State to submit a report to the Secretary of Energy that includes a plan that outlines a State's energy conservation goals, including cost of implementation and estimated energy savings. States are eligible for federal financial assistance for State Energy Conservation plans if they meet the mandatory requirements under section 362(c)(1–6) of part D of title III of EPCA.⁵

Throughout the 1980s and early 1990s, several statutes, including the Energy Policy Act of 1992, amended the State Energy Conservation Program. In 1996, the DOE's State Energy Program was established by consolidating the State Energy Conservation Program and the Institutional Conservation Program.⁶ The State Energy Conservation Program provided State funding for energy efficiency and renewable energy activities.⁷ The Institutional Conservation Program provided schools and hospitals with technical analysis of their buildings and installed conservation retrofits based on those analyses.⁸

The State Energy Program is administered by DOE's Office of Energy Efficiency and Renewable Energy and is funded through several sources, including congressional appropriations, State matching funds, and income generated by State Energy Program activities.⁹ Congress appropriates funds annually to support program activities, which includes funding for formula grants, competitive awards, and technical assistance.¹⁰

Since the Energy Policy and Conservation Act of 1975, several subsequent statutes have reauthorized the State Energy Program, including the Energy Conservation and Production Act of 1976, the Energy Efficiency Programs Improvement Act of 1990, the Energy Policy Act of 1992, Energy Independence and Security Act of 2007, and the American Reinvestment and Recovery Act.

²Energy Policy Conservation Act of 1975, 42 U.S.C. §§ 6321–6326.

³Energy Policy Conservation Act of 1975, 42 U.S.C. §§ 6321(b).

⁴*Id.*

⁵Energy Policy Conservation Act of 1975, 42 U.S.C. §§ 6321–6326.

⁶*For more information see* U.S. Department of Energy, *State Energy Program: Operations Manual* (2014).

⁷*Id.*

⁸*Id.*

⁹*Id.*

¹⁰*Id.*

State energy security and emergency preparedness

Since the 1970s, State energy emergency planning, often called energy assurance, has evolved significantly.¹¹ Initially focused on petroleum shortages, these initial planning efforts were aimed at mitigating the rising cost of energy and reducing energy demand.¹² The electricity and natural gas sectors have addressed shortages and response planning typically as part of the regulation of electric and gas utilities.¹³

The State Energy Efficiency Programs Improvement Act of 1990¹⁴ amended the Energy Policy Conservation Act (EPCA) of 1975 by including energy emergency planning requirements as a supplement to State energy conservation plans. Under this provision, federal financial assistance for the entire section was contingent upon a State designing an energy emergency planning program for an energy supply disruption.¹⁵ The energy emergency plan must include an implementation strategy that included regional coordination.¹⁶ The submission of these plans has been for informational purposes and has not required approval of the Secretary of Energy.¹⁷

COMMITTEE ACTION

The Committee on Energy and Commerce has not held hearings on the legislation.

On June 21, 2017, the Subcommittee on Energy met in open markup session and forwarded a discussion draft similar to H.R. 3050, without amendment, to the full Committee by a voice vote.

On June 28, 2017, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 3050, as amended, favorably reported to the House by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 3050 reported.

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee has not held hearings on this legislation.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 3050 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

¹¹ For more information see National Association of State Energy Officials, *State Energy Assurance Guidelines* (Version 3.1 2009).

¹² *Id.*

¹³ *Id.*

¹⁴ State Energy Efficiency Programs Improvement Act of 1990, 42 U.S.C. §§ 6323(e).

¹⁵ Energy Policy Conservation Act of 1975, 42 U.S.C. §§ 6323(e)(2).

¹⁶ *Id.*

¹⁷ *Id.*

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, at the time this report was filed, the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to increase energy emergency planning requirements under the Energy and Policy Conservation Act to strengthen the ability of States to secure the energy infrastructure of the United States against physical and cybersecurity threats and vulnerabilities. The legislation also aims to mitigate the risk of fuel and electric supply disruptions.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 3050 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 3050 contains no earmarks, limited tax benefits, or limited tariff benefits.

DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, the Committee finds that H.R. 3050 contains no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or

accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides the short title of “Enhancing State Energy Security Planning and Emergency Preparedness Act of 2017.”

Section 2(a). State Energy Security Plans

This section amends Part D of title III of the Energy Policy and Conservation Act (EPCA) by adding at the end a new “Section 367. State Energy Security Plans.”

EPCA Section 367(a) states that federal financial assistance made available to a State under this part may be used for the implementation, review, and revision of a State energy security plan that assesses the State’s existing circumstances and proposes methods to strengthen the ability of a State, in consultation with owners and operators of energy infrastructure in such State to (1) secure the energy infrastructure of the State against all physical and cybersecurity threats; (2) mitigate the risk of energy supply disruptions to the State and enhance response to, and recovery from energy disruptions; and (3) ensures the State has a reliable, secure, and resilient energy infrastructure.

EPCA section 367(b) specifies the requirements of a State energy security plan. The plan shall (1) address all fuels, including but not limited to petroleum products, other liquid fuels, coal, electricity, and natural gas, as well as regulated and unregulated energy providers; (2) provide a State energy profile, including energy production, distribution, and end-use; (3) address potential hazards to each energy sector or system, including physical and cybersecurity threats and vulnerabilities; (4) provide a risk assessment of energy infrastructure and cross-sector interdependencies; (5) provide a risk mitigation approach to enhance reliability and end-use resilience; and (6) address multi-State, Indian Tribe, and regional coordination planning and response, and to the extent practicable, encourage mutual assistance in cyber and physical response plans.

EPCA section 367(c) requires that State energy offices shall, to the extent practicable, coordinate with (1) the public utility or service commission of the State; (2) energy providers from the private sector; and (3) other entities responsible for maintaining fuel or electric reliability.

EPCA section 367(d) instructs that a State is not eligible to receive financial assistance available under this part for any purpose, for a fiscal year unless the Governor of a State submits to the Secretary of the Department of Energy with regards to a certain fiscal year a State energy security plan described in subsection (a) that meets the requirements of subsection (b); or after an annual review of the State energy security plan by the Governor, any necessary revisions to such plan; or a certification that no revisions to such plan are necessary.

EPCA section 367(e) states that the Secretary of Energy may provide information and technical assistance, and other assistance, in the development, implementation, or revision of a State energy security plan, upon request of the Governor of a State.

EPCA section 367(f) specifies that the Energy Secretary's authority to carry out this section shall expire on October 31, 2022.

Section 2(b). Authorization of appropriations

This section amends section 365(f) of the Energy Policy and Conservation Act by striking “\$125,000,000” and inserting “\$90,000,000” and by striking “2007 through 2012” and inserting “2018 through 2022”.

Section 2(c). Technical and conforming amendments

This section provides technical and conforming amendments for the Energy Policy and Conservation Act and for the Department of the Interior and Related Agencies Appropriations Act of 1985.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

ENERGY POLICY AND CONSERVATION ACT

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Energy Policy and Conservation Act”.

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FEDERAL ASSISTANCE TO STATES

SEC. 363. (a) Upon request of the Governor of any State, the Secretary shall provide, subject to the availability of personnel and funds, information and technical assistance, including model State laws and proposed regulations relating to energy conservation, and other assistance in—

- (1) the preparation of the reports described in section 362, and

(2) the development, implementation, or modification of an energy conservation plan of such State submitted under section 362 (b) or (e).

(b)(1) The Secretary may grant Federal financial assistance pursuant to this section for the purpose of assisting such State in the development of any such energy conservation plan or in the implementation or modification of a State energy conservation plan or part thereof which has been submitted to and approved by the Secretary pursuant to this part.

(2) In determining whether to approve a State energy conservation plan submitted under section 362 (b) or (e), the Secretary—

(A) shall take into account the impact of local economic, climatic, geographic, and other unique conditions and requirements of such State on the opportunity to conserve and to improve efficiency in the use of energy in such State; and

(B) may extend the period of time during which a State energy conservation feasibility report or State energy conservation plan may be submitted if the Secretary determines that participation by the State submitting such report or plan is likely to result in significant progress toward achieving the purposes of this Act.

No such plan shall be disapproved without notice and an opportunity to present views.

(3) In determining the amount of Federal financial assistance to be provided to any State under this subsection, the Secretary shall consider—

(A) the contribution to energy conservation which can reasonably be expected,

(B) the number of people affected by such plan, and

(C) the consistency of such plan with the purposes of this Act, and such other factors as the Secretary deems appropriate.

(c) Each recipient of Federal financial assistance under subsection (b) shall keep such records as the Secretary shall require, including records which fully disclose the amount and disposition by each recipient of the proceeds of such assistance, the total cost of the plan, program, projects, measures, or systems for which such assistance was given or used, the source and amount of funds for such plan, program, projects, measures, or systems not supplied by the Secretary, and such other records as the Secretary determines necessary to facilitate an effective audit and performance evaluation. The Secretary and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination, at reasonable times and under reasonable conditions to any pertinent books, documents, papers, and records of any recipient of Federal assistance under this part.

(d) Each State receiving Federal financial assistance pursuant to this section shall provide reasonable assurance to the Secretary that it has established policies and procedures designed to assure that Federal financial assistance under this part and under part G of this title will be used to supplement, and not to supplant, State and local funds, and to the extent practicable, to increase the amount of such funds that otherwise would be available, in the absence of such Federal financial assistance, for those programs set

forth in the State energy conservation plan approved pursuant to subsection (b).

[(e)(1) Effective October 1, 1991, to be eligible for Federal financial assistance pursuant to this section, a State shall submit to the Secretary, as a supplement to its energy conservation plan, an energy emergency planning program for an energy supply disruption, as designed by the State consistent with applicable Federal and State law. The contingency plan provided for by the program shall include an implementation strategy or strategies (including regional coordination) for dealing with energy emergencies. The submission of such plan shall be for informational purposes only and without any requirement of approval by the Secretary.

[(2) Federal financial assistance made available under this part to a State may be used to develop and conduct the energy emergency planning program requirement referred to in paragraph (1).]

[(f)] (e) If the Secretary determines that a State has demonstrated a commitment to improving the energy efficiency of buildings within such State, the Secretary may, beginning in fiscal year 1994, provide up to \$1,000,000 to such State for deposit into a revolving fund established by such State for the purpose of financing energy efficiency improvements in State and local government buildings. In making such determination the Secretary shall consider whether—

(1) such State, or a majority of the units of local government with jurisdiction over building energy codes within such State, has adopted codes for energy efficiency in new buildings that are at least as stringent as American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1-1989 (with respect to commercial buildings) and Council of American Building Officials Model Energy Code, 1992 (with respect to residential buildings);

(2) such State has established a program, including a revolving fund, to finance energy efficiency improvement projects in State and local government facilities and buildings; and

(3) such State has obtained funding from non-Federal sources, including but not limited to, oil overcharge funds, State or local government appropriations, or utility contributions (including rebates) equal to or greater than three times the amount provided by the Secretary under this subsection for deposit into such revolving fund.

* * * * *

GENERAL PROVISIONS

SEC. 365. (a) The Secretary may prescribe such rules as may be necessary or appropriate to carry out his authority under this part.

(b) In carrying out the provisions of sections 362 and 364 and subsection (a) of section 363, the Secretary shall consult with appropriate departments and Federal agencies.

(c) The Secretary shall, as part of the report required under section 657 of the Department of Energy Organization Act, report to the President and the Congress, and shall furnish copies of such report to the Governor of each State, on the operation of the program under this part. Such report shall include an estimate of the energy conservation achieved, the degree of State participation and

achievement, a description of innovative conservation programs undertaken by individual States, and the recommendations of the Secretary, if any, for additional legislation.

(d) The Federal Trade Commission shall (1) cooperate with and assist State agencies which have primary responsibilities for the protection of consumers in activities aimed at preventing unfair and deceptive acts or practices affecting commerce which relate to the implementation of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable resource energy measures, and (2) undertake its own program, pursuant to the Federal Trade Commission Act to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of any such measures.

(e) Within 90 days after the date of enactment of this subsection, the Secretary shall—

(1) develop, by rule after consultation with the Secretary of Housing and Urban Development, and publish a list of energy conservation measures and renewable-resource energy measures which are eligible (on a national or regional basis for financial assistance pursuant to section 509 of the Housing and Urban Development Act of 1970 or section 451 of the Energy Conservation and Production Act;

(2) designate, by rule, the types of, and requirements for energy audits.

(f) For the purpose of carrying out this part, there are authorized to be appropriated ~~【\$125,000,000】~~ *\$90,000,000* for each of fiscal years ~~【2007 through 2012】~~ *2018 through 2022*.

(g)(1)(A) There is hereby established within the Department of Energy a State Energy Advisory Board (hereafter in this subsection referred to as the “Board”) which shall consist of at least 18 and not more than 21 members appointed by the Secretary as soon as practicable but no later than September 30, 1991. At least eight of the members of the Board shall be persons who serve as directors of the State agency, or a division of such agency, responsible for developing State energy conservation plans pursuant to section 362. At least four members shall be directors of State or local low income weatherization assistance programs. Other members shall be appointed from persons who have experience in energy efficiency or renewable energy programs from the private sector, consumer interest groups, utilities, public utility commissions, educational institutions, financial institutions, local government energy programs, or research institutions. A majority of the members of the Board shall be State employees.

(B)(i) Except as provided in clause (ii), the members of the Board shall serve a term of three years.

(ii) Of the members first appointed to the Board, one-third shall serve a term of one year, one-third shall serve a term of two years, and the remainder shall serve a term of three years, as specified by the Secretary.

(2) The Board shall—

(A) make recommendations to the Assistant Secretary for Conservation and Renewable Energy within the Department of Energy with respect to—

(i) the energy efficiency goals and objectives of the programs carried out under this part, part G of this title, and

under part A of title IV of the Energy Conservation and Production Act; and

(ii) programmatic and administrative policies designed to strengthen and improve the programs referred to in clause (i), including actions that should be considered to encourage non-Federal resources (including private resources) to supplement Federal financial assistance;

(B) serve as a liaison between the States and such Department on energy efficiency and renewable energy resource programs; and

(C) encourage transfer of the results of research and development activities carried out by the Federal Government with respect to energy efficiency and renewable energy resource technologies.

(3) The Secretary shall designate one of the members of the Board to serve as its chairman and one to serve as its vice-chairman. The chairman and vice-chairman shall serve in those offices no longer than two years.

(4) The Secretary shall provide the Board with such reasonable services and facilities as may be necessary for the performance of its functions.

(5) The Board shall be nonpartisan.

(6) The Board may adopt administrative rules and procedures and may elect one of its members secretary of the Board.

(7) Consistent with Federal regulations, the Secretary shall reimburse members of the Board for expenses (including travel expenses) necessarily incurred by them in the performance of their duties.

(8) The Board shall meet at least twice a year and shall submit an annual report to the Secretary and the Congress on the activities carried out by the Board in the previous fiscal year, including an accounting of the expenses reimbursed under paragraph (7) with respect to the year for which the report is made and any recommendations it may have for administrative or legislative changes concerning the matters referred to in subparagraphs (A), (B), and (C) of paragraph (2).

(9) The Board shall continue until terminated by law.

DEFINITIONS

SEC. 366. As used in this part—

(1) The term “appliance” means any article, such as a room air-conditioner, refrigerator-freezer, or dishwasher, which the Secretary classifies as an appliance for purposes of this part.

(2) The term “building” means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

(3) The term “energy audit” means any process which identifies and specifies the energy and cost savings which are likely to be realized through the purchase and installation of particular energy conservation measures or renewable-resource energy measures and which—

(A) is carried out in accordance with rules of the Secretary; and

(B) imposes—

(i) no direct costs, with respect to individuals who are occupants of dwelling units in any State having a supplemental State energy conservation plan [approved under section 367], and

(ii) only reasonable costs, as determined by the Secretary, with respect to any person not described in clause (i).

Rules referred to in subparagraph (A) may include minimum qualifications for, and provisions with respect to conflicts of interest of, persons carrying out such energy audits.

(4) The term “energy conservation measure” means a measure which modifies any building, building system, energy consuming device associated with the building, or industrial plant, the construction of which has been completed prior to May 1, 1989, if such measure has been determined by means of an energy audit or by the Secretary, by rule under section 365(e)(1), to be likely to maintain or improve the efficiency of energy use and to reduce energy costs (as calculated on the basis of energy cost reasonably projected over time, as determined by the Secretary) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

(A) the useful life of the modification involved, as determined by the Secretary, or

(B) 15 years after the purchase and installation of such measure,

whichever is less. Such term does not include (i) the purchase or installation of any appliance, (ii) any conversion from one fuel or source of energy to another which is of a type which the Secretary, by rule, determines is ineligible on the basis that such type of conversion is inconsistent with national policy with respect to energy conservation or reduction of imports of fuels, or (iii) any measure, or type of measure, which the Secretary determines does not have as its primary purpose an improvement in efficiency of energy use.

(5) The term “industrial plant,” means any fixed equipment or facility which is used in connection with, or as part of, any process or system for industrial production or output.

(6) The term “renewable resource energy measure” means a measure which modifies any building or industrial plant, the construction of which has been completed prior to the date of enactment of the Energy Conservation and Production Act, if such measure has been determined by means of an energy audit or by the Secretary by rule under section 365(e)(1), to—

(A) involve changing, in whole or in part, the fuel or source of the energy used to meet the requirements of such building or plant from a depletable source of energy to a nondepletable source of energy; and

(B) be likely to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Secretary) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit

or Federal financial assistance applicable thereto) within the period of—

(i) the useful life of the modification involved, as determined by the Secretary, or

(ii) 25 years after the purchase and installation of such measure,

whichever is less.

such term does not include the purchase or installation of any appliance.

(7) The term “public building” means any building which is open to the public during normal business hours.

(8) The term “transportation controls” means any plan, procedure, method, or arrangement, or any system of incentives, disincentives, restrictions, and requirements, which is designed to reduce the amount of energy consumed in transportation, except that the term does not include rationing of gasoline or diesel fuel.

SEC. 367. STATE ENERGY SECURITY PLANS.

(a) *IN GENERAL.*—Federal financial assistance made available to a State under this part may be used for the implementation, review, and revision of a State energy security plan that assesses the State’s existing circumstances and proposes methods to strengthen the ability of the State, in consultation with owners and operators of energy infrastructure in such State, to—

(1) secure the energy infrastructure of the State against all physical and cybersecurity threats;

(2) mitigate the risk of energy supply disruptions to the State and enhance the response to, and recovery from, energy disruptions; and

(3) ensure the State has a reliable, secure, and resilient energy infrastructure.

(b) *CONTENTS OF PLAN.*—A State energy security plan described in subsection (a) shall—

(1) address all fuels, including petroleum products, other liquid fuels, coal, electricity, and natural gas, as well as regulated and unregulated energy providers;

(2) provide a State energy profile, including an assessment of energy production, distribution, and end-use;

(3) address potential hazards to each energy sector or system, including physical threats and cybersecurity threats and vulnerabilities;

(4) provide a risk assessment of energy infrastructure and cross-sector interdependencies;

(5) provide a risk mitigation approach to enhance reliability and end-use resilience; and

(6) address multi-State, Indian Tribe, and regional coordination planning and response, and to the extent practicable, encourage mutual assistance in cyber and physical response plans.

(c) *COORDINATION.*—In developing a State energy security plan under this section, the energy office of the State shall, to the extent practicable, coordinate with—

(1) the public utility or service commission of the State;

(2) energy providers from the private sector; and

(3) other entities responsible for maintaining fuel or electric reliability.

(d) FINANCIAL ASSISTANCE.—A State is not eligible to receive Federal financial assistance under this part, for any purpose, for a fiscal year unless the Governor of such State submits to the Secretary, with respect to such fiscal year—

(1) a State energy security plan described in subsection (a) that meets the requirements of subsection (b); or

(2) after an annual review of the State energy security plan by the Governor—

(A) any necessary revisions to such plan; or

(B) a certification that no revisions to such plan are necessary.

(e) TECHNICAL ASSISTANCE.—Upon request of the Governor of a State, the Secretary may provide information and technical assistance, and other assistance, in the development, implementation, or revision of a State energy security plan.

(f) SUNSET.—This section shall expire on October 31, 2022.

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DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1985

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DEPARTMENT OF ENERGY

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ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, \$467,969,000 to remain available until expended: *Provided*, That for the base State Energy Conservation Program (part D of the Energy Policy and Conservation Act, [sections 361 through 366] *sections 361 through 367*, each State will hereafter match in cash or in kind not less than 20 percent of the Federal contribution: *Provided further*, That these funds may be used for grants to the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau under part D of title III of the Energy Policy and Conservation Act (relating to primary and supplemental State energy conservation programs, 42 U.S.C. 6321–6327) and under the National Energy Extension Service Act (42 U.S.C. 7001–7011): *Provided further*, That pursuant to section 111(b)(1)(B) of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5821(b)(1)(B), of the amount appropriated under this head, \$16,000,000 shall be available for a grant for basic industry research facilities located at Northwestern University without section 111(b)(2) of such Act being applicable.

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