

Calendar No. 256116TH CONGRESS
1ST SESSION**S. 2094****[Report No. 116–136]**

To amend the Energy Policy and Conservation Act to provide Federal financial assistance to States to implement State energy security plans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 11, 2019

Mr. GARDNER (for himself and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

OCTOBER 22, 2019

Reported by Ms. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Energy Policy and Conservation Act to provide Federal financial assistance to States to implement State energy security plans, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Enhancing State En-
3 ergy Security Planning and Emergency Preparedness Act
4 of 2019”.

5 **SEC. 2. STATE ENERGY SECURITY PLANS.**

6 (a) IN GENERAL.—Part D of title III of the Energy
7 Policy and Conservation Act (42 U.S.C. 6321 et seq.) is
8 amended—

9 (1) by redesignating section 366 (42 U.S.C.
10 6326) as section 367; and

11 (2) by inserting after section 365 (42 U.S.C.
12 6325) the following:

13 **“SEC. 366. STATE ENERGY SECURITY PLANS.**

14 “(a) IN GENERAL.—The Secretary may provide fi-
15 nancial assistance to a State for—

16 “(1) the development and implementation of a
17 State energy security plan; or

18 “(2) the review, revision, and implementation of
19 an existing State energy security plan.

20 “(b) PURPOSE.—A State energy security plan devel-
21 oped or revised under subsection (a) shall—

22 “(1) assess the existing circumstances of the
23 State; and

24 “(2) propose methods to strengthen the ability
25 of the State and of owners and operators of energy
26 infrastructure in the State—

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

4 “(B) to mitigate the risk of energy supply
5 disruptions to the State and enhance the re-
6 sponse to, and recovery from, energy supply dis-
7 ruptions; and

8 “(C) to ensure that the State has a reli-
9 able, secure, and resilient energy infrastructure.

10 “(c) CONTENTS OF PLAN.—A State energy security
11 plan developed or revised under subsection (a) shall—

12 “(1) address all fuels and regulated and un-
13 regulated energy providers;

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

17 “(3) address potential hazards to each energy
18 sector or system, including physical threats and cy-
19 bersecurity threats and vulnerabilities;

20 “(4) provide a risk assessment of energy infra-
21 structure and crosssector interdependencies;

22 “(5) provide a risk mitigation approach to en-
23 hance reliability and end-use resilience, including for
24 issues associated with energy emergencies;

1 “(6) address coordination, planning, and re-
 2 sponse, including cyber information sharing mecha-
 3 nisms such as the Multi-State Information and
 4 Analysis Center, across States, Indian Tribes, and
 5 regions; and

6 “(7) to the maximum extent practicable, en-
 7 courage mutual assistance regarding the cyber and
 8 physical response plans of States, Indian Tribes, and
 9 regions.

10 “(d) COORDINATION.—In developing or revising a
 11 State energy security plan under subsection (a), the State
 12 energy office shall, to the maximum extent practicable, co-
 13 ordinate with and participate in cyber and physical secu-
 14 rity incident exercises with—

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

17 “(2) public and private sector energy and elec-
 18 tric providers; and

19 “(3) other entities responsible for maintaining
 20 fuel or electric reliability and securing energy infra-
 21 structure.

22 “(e) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—
 23 The Governor of a State desiring financial assistance
 24 under this section for a fiscal year shall submit to the Sec-
 25 retary, with respect to that fiscal year—

1 “(1) a State energy security plan developed in
2 accordance with the requirements of this section; or

3 “(2) after an annual review of the existing
4 State energy security plan of the State by the Gov-
5 ernor—

6 “(A) a revised State energy security plan
7 that meets the requirements of this section; or

8 “(B) a certification that no revisions to the
9 State energy security plan are necessary.

10 “(f) TECHNICAL ASSISTANCE.—On request of the
11 Governor of a State, the Secretary may provide to the
12 State information, technical assistance, and other assist-
13 ance for the development or revision of, and implementa-
14 tion of, a State energy security plan under this section.

15 “(g) REQUIREMENT.—Each State receiving financial
16 assistance under this section shall provide reasonable as-
17 surance to the Secretary that the State has established
18 policies and procedures designed to assure that the finan-
19 cial assistance will be used—

20 “(1) to supplement, and not to supplant, State
21 and local funds; and

22 “(2) to the maximum extent practicable, to in-
23 crease the amount of State and local funds that oth-
24 erwise would be available, in the absence of the fi-

1 nancial assistance, for the implementation of the
2 State energy security plan under this section.

3 ~~“(h) PROTECTION OF INFORMATION.—Information~~
4 ~~provided to, or collected by, the Federal Government~~
5 ~~under this section—~~

6 ~~“(1) shall be exempt from disclosure under sec-~~
7 ~~tion 552(b)(3) of title 5, United States Code; and~~

8 ~~“(2) shall not be made available by any Federal~~
9 ~~agency, State, political subdivision of a State, or~~
10 ~~Tribal authority pursuant to any Federal, State, or~~
11 ~~Tribal law, as applicable, requiring public disclosure~~
12 ~~of information or records.~~

13 ~~“(i) AUTHORIZATION OF APPROPRIATIONS.—There is~~
14 ~~authorized to be appropriated to carry out this section~~
15 ~~\$90,000,000 for each of fiscal years 2019 through 2022.~~

16 ~~“(j) SUNSET.—This authority to carry out this sec-~~
17 ~~tion shall expire on October 31, 2022.”.~~

18 ~~(b) TECHNICAL AND CONFORMING AMENDMENTS.—~~

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

22 ~~(A) by striking subsection (e); and~~

23 ~~(B) by redesignating subsection (f) as sub-~~
24 ~~section (e).~~

25 ~~(2) TECHNICAL AMENDMENTS.—~~

1 (A) Section 509(i)(3) of the Housing and
 2 Urban Development Act of 1970 (42 U.S.C.
 3 1701z-8(i)(3)) is amended by striking “section
 4 366” and inserting “section 367”.

5 (B) The matter under the heading “EN-
 6 ERGY CONSERVATION” under the heading “DE-
 7 PARTMENT OF ENERGY” in title H of the
 8 Department of the Interior and Related Agen-
 9 cies Appropriations Act, 1985 (42 U.S.C.
 10 6323a) is amended by striking “sections 361
 11 through 366” and inserting “sections 361
 12 through 367”.

13 (C) Section 367(3)(B)(i) of the Energy
 14 Policy and Conservation Act (42 U.S.C.
 15 6326(3)(B)(i)) (as redesignated by subsection
 16 (a)(1)) is amended by striking “approved under
 17 section 367”.

18 (D) Section 451(i)(3) of the Energy Con-
 19 servation and Production Act (42 U.S.C.
 20 6881(i)(3)) is amended by striking “section
 21 366” and all that follows through the period at
 22 the end and inserting “section 367 of the En-
 23 ergy Policy and Conservation Act.”.

24 (3) TABLE OF CONTENTS.—The table of con-
 25 tents for part D of title III of the Energy Policy and

1 Conservation Act (Public Law 94–163, 89 Stat. 872;
 2 92 Stat. 3272; 104 Stat. 1006) is amended by strik-
 3 ing the item relating to section 366 and inserting
 4 the following:

“Sec. 366. State energy security plans.
 “Sec. 367. Definitions.”.

5 **SECTION 1. SHORT TITLE.**

6 *This Act may be cited as the “Enhancing State Energy*
 7 *Security Planning and Emergency Preparedness Act of*
 8 *2019”.*

9 **SEC. 2. STATE ENERGY SECURITY PLANS.**

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

13 **“SEC. 367. STATE ENERGY SECURITY PLANS.**

14 “(a) *IN GENERAL.*—Federal financial assistance made
 15 available to a State under this part may be used for the
 16 implementation, review, and revision of a State energy se-
 17 curity plan that assesses the State’s existing circumstances
 18 and proposes methods to strengthen the ability of the State,
 19 in consultation with owners and operators of energy infra-
 20 structure in such State, to—

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

1 “(2) *mitigate the risk of energy supply disrup-*
 2 *tions to the State and enhance the response to, and*
 3 *recovery from, energy disruptions; and*

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

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

8 “(1) *address all energy sources and regulated*
 9 *and unregulated energy providers;*

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

13 “(3) *address potential hazards to each energy*
 14 *sector or system, including physical threats and cy-*
 15 *bersecurity threats and vulnerabilities;*

16 “(4) *provide a risk assessment of energy infra-*
 17 *structure and cross-sector interdependencies;*

18 “(5) *provide a risk mitigation approach to en-*
 19 *hance reliability and end-use resilience; and*

20 “(6) *address multi-State, Indian Tribe, and re-*
 21 *gional coordination planning and response, and to*
 22 *the extent practicable, encourage mutual assistance in*
 23 *cyber and physical response plans.*

1 “(c) *COORDINATION.*—*In developing a State energy se-*
 2 *curity plan under this section, the energy office of the State*
 3 *shall, to the extent practicable, coordinate with—*

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

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

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

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

15 “(1) *a State energy security plan described in*
 16 *subsection (a) that meets the requirements of sub-*
 17 *section (b); or*

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

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

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

24 “(e) *TECHNICAL ASSISTANCE.*—*Upon request of the*
 25 *Governor of a State, the Secretary may provide information*

1 *and technical assistance, and other assistance, in the devel-*
 2 *opment, implementation, or revision of a State energy secu-*
 3 *rity plan.*

4 “(f) *REQUIREMENT.—Each State receiving Federal fi-*
 5 *nancial assistance under this part shall provide reasonable*
 6 *assurance to the Secretary that the State has established*
 7 *policies and procedures designed to assure that the financial*
 8 *assistance will be used—*

9 “(1) *to supplement, and not to supplant, State*
 10 *and local funds; and*

11 “(2) *to the maximum extent practicable, to in-*
 12 *crease the amount of State and local funds that other-*
 13 *wise would be available, in the absence of the finan-*
 14 *cial assistance, for the implementation of the State*
 15 *energy security plan under this section.*

16 “(g) *PROTECTION OF INFORMATION.—Information*
 17 *provided to, or collected by, the Federal Government under*
 18 *this section—*

19 “(1) *shall be exempt from disclosure under sec-*
 20 *tion 552(b)(3) of title 5, United States Code; and*

21 “(2) *shall not be made available by any Federal*
 22 *agency, State, political subdivision of a State, or*
 23 *Tribal authority pursuant to any Federal, State, or*
 24 *Tribal law, as applicable, requiring public disclosure*
 25 *of information or records.*

1 “(h) *SUNSET*.—*This section shall expire on October 31,*
2 *2024.*”.

3 (b) *AUTHORIZATION OF APPROPRIATIONS*.—*Section*
4 *365(f) of the Energy Policy and Conservation Act (42*
5 *U.S.C. 6325(f)) is amended—*

6 (1) *by striking “\$125,000,000” and inserting*
7 *“\$90,000,000”; and*

8 (2) *by striking “2007 through 2012” and insert-*
9 *ing “2021 through 2025”.*

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

11 (1) *CONFORMING AMENDMENTS*.—*Section 363 of*
12 *the Energy Policy and Conservation Act (42 U.S.C.*
13 *6323) is amended—*

14 (A) *by striking subsection (e); and*

15 (B) *by redesignating subsection (f) as sub-*
16 *section (e).*

17 (2) *TECHNICAL AMENDMENT*.—*Section*
18 *366(3)(B)(i) of the Energy Policy and Conservation*
19 *Act (42 U.S.C. 6326(3)(B)(i)) is amended by striking*
20 *“approved under section 367”.*

21 (3) *REFERENCE*.—*The matter under the heading*
22 *“ENERGY CONSERVATION” under the heading “DE-*
23 *PARTMENT OF ENERGY” in title II of the Depart-*
24 *ment of the Interior and Related Agencies Appropria-*
25 *tions Act, 1985 (42 U.S.C. 6323a) is amended by*

1 *striking “sections 361 through 366” and inserting*
2 *“sections 361 through 367”.*

3 (4) *TABLE OF CONTENTS.—The table of contents*
4 *for part D of title III of the Energy Policy and Con-*
5 *servation Act (Public Law 94–163; 89 Stat. 872; 92*
6 *Stat. 3272; 104 Stat. 1006) is amended by adding at*
7 *the end the following:*

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

Calendar No. 256

116TH CONGRESS
1ST Session

S. 2094

[Report No. 116–136]

A BILL

To amend the Energy Policy and Conservation Act to provide Federal financial assistance to States to implement State energy security plans, and for other purposes.

OCTOBER 22, 2019

Reported with an amendment