

52:27F-1 et seq.

LEGISLATIVE HISTORY CHECKLIST

RISA 52:27-1 et seq. ("Dept. of Energy Act")

LAWS OF 1977 CHAPTER 146

Bill No. S3179

Sponsor(s) Dodd, McGahn & Russo

Date Introduced April 18, 1977

Committee: Assembly Energy & Natural Resources

Senate -----

Amended during passage Yes XX Amendments during passage denoted by asterisks

Date of Passage: Assembly June 27, 1977

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Following statements are attached if available:

Sponsor statement Yes XX

Committee Statement: Assembly Yes XX

Senate XXX No

Fiscal Note XXX No

Veto Message XXX No

Message on signing Yes XX

Following were printed:

Reports Yes XX

Hearings XXX No

974.90 New Jersey. Task Force on Energy.  
F953 Energy: a report to the  
1974d Governor of N.J. May, 1974.  
See Part IV - Conclusions and Recommendations.

974.90 Dodd, Frank J.  
F953 An energy policy white paper containing  
1975 positions on: ...the Governmental placement of  
the State Energy Office. Presented to the  
Legislature of the State of N.J. 1975.  
See pp. 41-52

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See also:

974.901 N.J. Governor (Byrne)  
G52 First annual message  
to the legislature. 1/14/75

974.901 N.J. Governor (Byrne)  
Fourth annual message  
to the legislature. 1/10/78 -  
(Brief mention of Energy Dept.)

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SENATE, No. 3179

STATE OF NEW JERSEY

INTRODUCED APRIL 18, 1977

By Senators DODD, McGAHN and RUSSO

(Without Reference)

AN ACT concerning the production, distribution, conservation, and consumption of energy, establishing a Department of Energy as a principal department in the Executive Branch of State Government *\*and repealing parts of the statutory law\**.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Department  
2 of Energy Act."

1 2. The Legislature hereby finds and determines that a secure,  
2 stable, and adequate supply of energy at reasonable prices is vital  
3 to the State's economy and to the public health, safety, and welfare;  
4 that this State is threatened by the prospect of both near- and  
5 long-term energy shortages; that the existing dispersion of re-  
6 sponsibilities with respect to energy and energy-related matters  
7 among various State departments, divisions, agencies, and com-  
8 missions inhibits comprehensive and effective planning for our  
9 future energy needs; and that the State government does not now  
10 possess either sufficient information or adequate authority to  
11 provide for and insure the wise and efficient production, distribu-  
12 tion, use, and conservation of energy.

13 The Legislature further finds and determines that only an agency  
14 with comprehensive powers can collect, collate, and analyze the  
15 information necessary to determine the amount of energy that is  
16 or may be available; develop mechanisms to insure a fair and  
17 equitable distribution of existing supplies; conduct the long-term  
18 planning and management needed to eliminate or alleviate the  
19 potential adverse effects of a supply of energy insufficient to meet

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

20 legitimate needs or from practices of production, distribution, and  
21 consumption detrimental to the quality of life or the environment;  
22 \*contribute to the proper siting of energy facilities necessary to  
23 serve the public interest;\* coordinate New Jersey's energy policies  
24 and actions with Federal energy policies; and secure for New Jer-  
25 sey the maximum amount of Federal funding available for energy  
25A related research, development, and demonstration projects.

26 The Legislature further finds and determines that shortages of  
27 energy have the potential at certain times and in certain places to  
28 so seriously affect the public interest that it is necessary for  
29 State government to possess emergency powers sufficient to prevent  
30 or minimize health disasters and grave economic disruptions which  
31 could occur during said times.

32 The Legislature, therefore, declares it to be in the best interest  
33 of the citizens of this State to establish a principal department  
34 in the Executive Branch of State Government to coordinate au-  
35 thority\*, *regulation\** and planning by the State in energy related  
36 matters.

1 3. As used in this act:

2 a. "Commissioner" means the Commissioner of the Department  
3 of Energy;

4 b. "Department" means the Department of Energy established  
5 by this act;

6 c. "Distributor" means and includes each person, wherever  
7 resident or located, who imports into this State fuels for use,  
8 distribution, storage, or sale in this State after the same shall  
9 reach this State; and also each person who produces, refines,  
10 manufactures, blends, or compounds fuels and sells, uses, stores,  
11 or distributes the same within this State. In no case, however,  
12 shall a retail dealer be construed to be a distributor;

13 d. "Energy" means all power derived from, or generated by,  
14 any natural or man-made agent, including, but not limited to,  
15 petroleum products, gases, solar radiation, atomic fission or fusion,  
16 mineral formations, thermal gradients, wind, or water.

17 e. "Energy facility" means any plant or operation which  
18 produces, converts, distributes or stores energy or converts one  
19 form of energy to another; in no case, however, shall an operation  
20 conducted by a person acting only as a retail dealer be construed  
21 as an energy facility;

22 f. "Energy information" means any statistic, datum, fact, or  
23 item of knowledge and all combinations thereof relating to energy;

24 g. "Energy information system" means the composite of energy  
25 information collected by the office;

26 h. \*["Energyy"]\* \*"*Energy*\* industry" means any person, com-  
27 pany, corporation, business, institution, establishment or other  
28 organization of any nature engaged in the exploration, extraction,  
29 transportation, transmission, refining, processing, generation, dis-  
30 tribution, sale or storage of energy;

31 i. "Fuel" means coal, petroleum products, gases and nuclear  
32 fuel, including enriched uranium, U235 and U238, and plutonium,  
33 U239;

34 j. "Gases" means natural gas, methane, liquefied natural gas,  
35 synthetic natural gas, coal gas and other manufactured gases;

36 k. "Person" means natural persons, partnerships, firms, asso-  
37 ciations, joint stock companies, syndicates and corporations, and  
38 any receiver, trustee, conservator or other officer appointed pur-  
39 suant to law or by any court, State or Federal; "person" also  
40 means the State of New Jersey, counties, municipalities, authori-  
41 ties, other political subdivisions, and all departments and agencies  
42 within the aforementioned governmental entities;

43 l. "Petroleum products" means and includes motor gasoline,  
44 middle distillate oils, residual fuel oils, aviation fuel, propane,  
45 butane, natural gasoline, naphtha, gas oils, lubricating oils and any  
46 other similar or dissimilar liquid hydrocarbons;

47 m. "Public building" means any building, structure, facility  
48 or complex used by the general public, including, but not limited  
49 to, theaters, concert halls, auditoriums, museums, schools, libraries,  
50 recreation facilities, public transportation terminals and stations,  
51 factories, office buildings, business establishments, passenger  
52 vehicle service stations, shopping centers, hotels or motels and  
53 public eating places, owned by any State, county or municipal  
54 government agency or instrumentality or any private individual,  
55 partnership, association or corporation;

56 n. "Purchase" means and includes, in addition to its ordinary  
57 meaning, any acquisition of ownership or possession, including,  
58 but not limited to, condemnation by eminent domain proceedings;

59 o. "Retail dealer" means any person who engages in the busi-  
60 ness of selling fuels from a fixed location such as a service station,  
61 filling station, store, or garage directly to the ultimate users of  
62 said fuel;

63 p. "Sale" means and includes, in addition to its ordinary mean-  
64 ing, any exchange, gift, theft, or other disposition. In such case  
65 where fuels are exchanged, given, stolen, or otherwise disposed of,  
66 they shall be deemed to have been sold;

67 q. "Supplier of fuel" means any refiner, importer, marketer,  
 68 jobber, distributor, terminal operator, firm, corporation, whole-  
 69 saler, broker, cooperative or other person who supplies, sells,  
 70 consigns, transfers, or otherwise furnishes fuel. In no case, how-  
 71 ever, shall a retail dealer be construed to be a supplier of fuel;

72 r. "Trade secret" means the whole or any portion or phase  
 73 of any scientific, technical or otherwise proprietary information,  
 74 design, process, procedure, formula or improvement which is used  
 75 in one's business and is secret and of value; and a trade secret  
 76 shall be presumed to be secret when the owner takes measures to  
 77 prevent it from becoming available to persons other than those  
 78 selected by the owner to have access thereto for limited purposes;

79 s. "Wholesale dealer" means any person who engages in the  
 80 business of selling fuels to other persons who resell the said fuel.  
 81 In no case shall a retail dealer be considered as a \***[wholesale]**\*  
 82 \**wholesale*\* dealer.

1 4. There is hereby established in the Executive Branch of the  
 2 State Government a principal department which shall be known  
 3 as the Department of Energy.

1 5. The administrator and chief executive officer of the depart-  
 2 ment shall be a commissioner who shall be a person qualified by  
 3 training and experience to perform the duties of his office. The  
 4 commissioner shall be appointed by the Governor with the advice  
 5 and consent of the Senate, and shall serve at the pleasure of the  
 6 Governor and until the appointment and qualification of the commis-  
 7 sioner's successor. He shall devote his entire time to the duties of  
 8 his office and shall receive such salary as shall be provided by law.  
 9 Any vacancy occurring in the office of the commissioner shall be  
 10 filled in the same manner as the original appointment.

11 *\*5.1.a. There is hereby established in the department the Board*  
 12 *of Public Utilities; provided, however, that such board shall be*  
 13 *independent of any supervision or control by the department or*  
 14 *by any officer or employee thereof, except as otherwise expressly*  
 15 *provided in this act.*

16 *b. The Department of Public Utilities is abolished and its func-*  
 17 *tions, powers and duties are hereby transferred to the Board of*  
 18 *Public Utilities, except as provided in section 25 of this act.*

19 *c. The Board of Public Utility Commissioners and the positions*  
 20 *of president and commissioners thereof shall be continued as the*  
 21 *Board of Public Utilities and the president and commissioners*  
 22 *thereof in the Board of Public Utilities. This act shall not affect*  
 23 *the terms of office of, nor the salaries received by, the present mem-*

24 *bers of the Board of Public Utility Commissioners, or of any*  
 25 *officers or employees thereof. The Department of Civil Service*  
 26 *shall not reclassify any title or position transferred from the De-*  
 27 *partment of Public Utilities pursuant to this act without the ap-*  
 28 *proval of the board. The President and Commissioners of the*  
 29 *Board of Public Utilities shall be appointed in the manner provided*  
 30 *by existing law for the appointment of the President and Commis-*  
 31 *sioners of the Board of Public Utility Commissioners, and shall*  
 32 *receive such salaries as shall be provided by law.*

33 *d. All functions, powers and duties now vested in the Board of*  
 34 *Public Utility Commissioners and in the positions of president and*  
 35 *commissioners thereof are hereby transferred to and assumed by*  
 36 *the Board of Public Utilities and the president and commissioners*  
 37 *thereof.*

38 *e. Whenever in any law, rule, regulation, order, contract, docu-*  
 39 *ment, judicial or administrative proceeding or otherwise, reference*  
 40 *is made to the Department of Public Utilities or the Board of Public*  
 41 *Utility Commissioners, the same shall mean and refer to the Board*  
 42 *of Public Utilities.*

43 *5.2.a. There is hereby established in the department the Division*  
 44 *of Energy Planning and Conservation.*

45 *b. The Division of Energy Planning and Conservation shall be*  
 46 *under the immediate supervision of a director who shall be ap-*  
 47 *pointed by the Governor, with the advice and consent of the Senate,*  
 48 *and who shall serve at the pleasure of the Governor during the*  
 49 *Governor's term of office and until the appointment and qualifica-*  
 50 *tion of his successor. The director shall receive such salary as*  
 51 *shall be provided by law.\**

1 6. The commissioner shall organize the work of the department  
 2 and establish therein such administrative subdivisions as he may  
 3 deem necessary, proper and expedient. He may formulate and  
 4 adopt rules and regulations and prescribe duties for the efficient  
 5 conduct of the business, work and general administration of the  
 6 department. He may delegate to subordinate officers or employees  
 7 in the department such of his powers as he may deem desirable  
 8 to be exercised under his supervision and control.

1 7. Subject to the provisions of Title 11 of the Revised Statutes,  
 2 and within the limits of funds appropriated or otherwise made  
 3 available, the commissioner may appoint such officers and em-  
 4 ployees of the department as he may deem necessary for the  
 5 performance of its duties, fix and determine their qualifications,  
 6 duties, and compensation and retain or employ engineers and

7 private consultants on a contract basis or otherwise for rendering  
8 professional or technical assistance.

1 8. \*a.\* The commissioner shall make an annual report to the  
2 Legislature and the Governor of the department's operations and  
3 render such other reports as they shall from time to time request  
4 or as may be required by law. These reports shall include, but not  
5 be limited to, an analysis of existing problems and guidelines re-  
6 lating to future energy use and availability.

7 \*b. Within 6 months of the effective date of this act, the com-  
8 missioner, after consultation with the Director of the Division of  
9 Energy Planning and Conservation, the Board of Public Utilities,  
10 the Attorney General, and the commissioners of appropriate execu-  
11 tive departments, including but not necessarily limited to the De-  
12 partments of Environmental Protection and Transportation, shall  
13 prepare and submit a report to the Legislature and the Governor  
14 identifying (1) those functions and duties currently exercised by  
15 other departments, divisions, agencies, commissions, councils,  
16 boards, or bureaus of State Government relating to energy that  
17 might be appropriately transferred to the department; and (2)  
18 those functions and duties transferred to the department pursuant  
19 to the provisions of this act that might be appropriately transferred  
20 to other departments. Such transfers may be effectuated by execu-  
21 tive order or law, as the case may be.\*

1 9. The commissioner shall, \***[by and]**\* on behalf of the depart-  
1A ment \*through the Division of Energy Planning and Conservation\*:

2 a. Manage the department as the central repository within the  
3 State Government for the collection of energy information;

4 b. Collect and analyze data relating to present and future  
5 demands and resources for all forms of energy;

6 c. Have authority to require all persons, firms, corporations or  
7 other entities engaged in the production, processing, distribution,  
8 transmission or storage of energy in any form to submit reports  
9 setting forth such information as shall be required to carry out the  
10 provisions of this act;

11 d. Have authority to require any person to submit information  
12 necessary for determining the impact of any construction or  
13 development project on the energy and fuel resources of this State;

14 e. Charge other State Government departments and agencies  
15 involved in energy-related activities\*, including the Board of  
16 Public Utilities,\* with specific information gathering goals and  
16A require that said goals be fulfilled;



17 f. Establish an energy information system which will provide  
18 all data necessary to insure a fair and equitable distribution of  
19 available energy, to permit a more efficient and effective use of  
20 available energy, and to provide the basis for long-term planning  
21 related to energy needs;

22 g. Design, implement, and enforce a program for the conservation  
23 of energy in commercial, industrial, and residential facilities, which  
24 program shall provide for the evaluation of energy systems as they  
25 relate to lighting, heating, refrigeration, air-conditioning, building  
26 design and operation, and appliance manufacturing and operation;  
27 and may include, but shall not be limited to, the requiring of an  
28 annual inspection and adjustment, if necessary, of oil-fired heating  
29 systems in residential, commercial and industrial buildings so as to  
30 bring such systems into conformity with efficiency standards  
31 therefor prescribed by the department; the setting of lighting  
32 efficiency standards for public buildings; the establishment of  
33 mandatory thermostat settings and the use of seven-day, day-night  
34 thermostats in public buildings; the development of standards for  
35 efficient boiler operation; and, the preparation of a plan to insure  
36 the phased retrofitting of existing gas furnaces with electric igni-  
37 tion systems and to require that new gas *\*[furnaces,]\* ranges\*[,]\**  
38 and dryers be equipped with electric ignition systems\*, *and new*  
38A *gas furnaces with electric ignition systems and automatic vent-*  
38B *dampers\**;

39 h. Conduct and supervise a State-wide program of education  
40 including the preparation and distribution of information relating  
41 to energy conservation;

42 i. Monitor prices charged for energy within the State, evaluate  
43 policies governing the establishment of rates and prices for energy,  
44 and make recommendations for necessary changes in such policies  
45 to other concerned Federal and State agencies\*, *including the Board*  
46 *of Public Utilities,\** and to the Legislature;

47 j. Have authority to conduct and supervise research projects  
48 and programs for the purpose of increasing the efficiency of energy  
49 use, developing new sources of energy, evaluating energy conserva-  
50 tion measures, and meeting other goals consistent with the intent  
51 of this act;

52 k. Have authority to distribute and expend funds made available  
53 for the purpose of research projects and programs;

54 l. Have authority to enter into interstate compacts in order to  
55 carry out energy research and planning with other states or the  
56 Federal Government where appropriate;

- 57 m. Have authority to apply for, accept, and expend grants-in-aid  
58 and assistance from private and public sources for energy pro-  
59 grams; notwithstanding any other law to the contrary, the com-  
60 missioner is designated as the State official to apply for, receive,  
61 and expend Federal and other funding made available to the State  
62 for the purposes of this act;
- 63 n. Require the annual submission of energy utilization reports  
64 and conservation plans by State Government departments and  
65 agencies, *\*including the Board of Public Utilities,\** evaluate said  
66 plans and the progress of the departments and agencies in meeting  
67 these plans, and order changes in the plans or improvement in  
67A meeting the goals of the plans;
- 68 o. Carry out all duties given him under other sections of this act  
69 or any other acts;
- 70 p. Have authority to conduct hearings and investigations in  
71 order to carry out the purposes of this act and to issue subpoenas in  
72 furtherance of such power. Said power to conduct investigations  
73 shall include, but not be limited to, the authority to enter without  
74 delay and at reasonable times the premises of any energy industry  
75 in order to obtain or verify any information necessary for carrying  
76 out the purposes of this act;
- 77 q. Have authority to adopt, amend or repeal, pursuant to the  
78 "Administrative Procedure Act" (C. 52:14B-1 et seq.) such rules  
79 and regulations necessary and proper to carry out the purposes of  
80 this act;
- 81 r. Administer such Federal energy regulations as are applicable  
82 to the states, including, but not limited to, the mandatory petroleum  
83 allocation regulations and State energy conservation plans.
- 84 s. Have authority to sue and be sued;
- 85 t. Have authority to acquire by purchase, grant, contract or  
86 eminent domain title to real property for the purpose of demon-  
87 strating facilities which improve the efficiency of energy use,  
88 conserve energy or generate energy in new and efficient ways;
- 89 u. Have authority to construct and operate, on an experimental  
90 or demonstration basis, facilities which improve the efficiency of  
91 energy use, conserve energy or generate power in new and efficient  
92 ways;
- 93 v. Have authority to contract with any other public agency or  
94 corporation incorporated under the laws of this or any other state  
95 for the performance of any function under this act;
- 96 w. Determine the effect of energy and fuel shortages upon con-  
97 sumers, and formulate proposals designed to encourage the lowest

98 possible cost of energy and fuels consumed in the State consistent  
99 with the conservation and efficient use of energy;

100 x. Keep complete and accurate minutes of all hearings held  
101 before the commissioner or any member of the **\*[department]\***  
102 *\*Division of Energy Planning and Conservation\** pursuant to the  
103 provisions of this act. All such minutes shall be retained in a  
104 permanent record and shall be available for public inspection at  
105 all times during the office hours of the department.

1 10. There is created in the **\*[department]\*** *\*Division of Energy*  
2 *Planning and Conservation\** an Advisory Council on Energy *\*Plan-*  
3 *ning and Conservation\** which shall consist of **\*[10]\*** *\*15\** mem-  
4 bers representing the following: the natural gas industry, the  
5 bottle gas industry, the home heating oil and coal industry, terminal  
6 operators, oil refiners, gasoline retailers, electrical utilities, nuclear  
7 fuel suppliers, **\*[the Department of Public Utilities and the con-**  
8 **suming public]\*** *\*environmental organizations, the solar energy*  
8A *industry, manufacturing industrial consumers, commercial con-*  
9 *sumers, residential consumers, the transportation industry and the*  
9A *academic community\**. Members shall be appointed by the Gov-  
9B ernor, with the advice and consent of the Senate, and as practicably  
9C as possible represent the several geographical areas of the State.

10 The council shall elect a chairman, vice chairman and secretary  
11 from its membership. Of the members first appointed, **\*\*[three]\*\***  
12 **\*\*five\*\*** shall serve for terms of 2 years, **\*\*[three]\*\*** **\*\*five\*\*** for  
13 terms of 3 years and **\*\*[four]\*\*** **\*\*five\*\*** for terms of 4 years.  
14 Thereafter all appointments shall be made for terms of 4 years.  
15 Members shall serve after the expiration of their terms until their  
16 respective successors are appointed and shall qualify, and any  
17 vacancy occurring in the membership of the council by expiration  
18 of term or otherwise, shall be filled in the same manner as the  
18A original appointment for the unexpired term only.

19 Members of the council shall serve without compensation but  
20 shall be reimbursed for expenses actually incurred in attending  
21 meetings of the council and in performance of their duties as  
22 members thereof. The council shall meet at least four times each  
23 year, at the call of its chairman, and at such other times, at the call  
24 of the commissioner, as he deems necessary.

1 11. The Advisory Council on Energy *\*Planning and Conserva-*  
1A *tion\** is empowered to:

2 a. Request from the commissioner *\*and from the Director of the*  
3 *Division of Energy Planning and Conservation\** such energy in-  
3A formation as it may deem necessary;

4     b. Consider any matter relating to the production, distribution,  
5 consumption or conservation of energy;

6     c. From time to time submit to the commissioner any recom-  
7 mendations which it deems necessary for the long-term planning  
8 and management of energy;

9     d. Study energy programs and make its recommendations  
10 thereon to the commissioner;

11     e. Review, prior to their promulgation, proposed rules and regu-  
12 lations, of the department, and make its recommendations there-  
13 upon, except such rules and regulations determined by the commis-  
14 sioner to be emergency measures essential to preserve the public  
15 health, safety, or welfare.

16     f. Hold public hearings in regard to existing statutes and regu-  
17 lations governing the production, distribution, consumption or con-  
18 servation of energy.

1     12. a. The department, *\*through the Division of Energy Plan-*  
1A *ning and Conservation,\** within 1 year of the effective date of this  
2 act, shall prepare or cause to be prepared, and, after public hear-  
3 ings as hereinafter provided, adopt a master plan for a period of  
4 10 years on the production, distribution, consumption and conserva-  
5 tion of energy in this State. Such plan shall be revised and updated  
6 at least once every 3 years. The plan shall include long-term  
7 objectives but shall provide for the interim implementation of  
8 measures consistent with said objectives. The department may  
9 from time to time and after public hearings amend the master plan.  
10 In preparing the master plan or any portion thereof or amendment  
11 thereto the department shall give due consideration to the energy  
12 needs and supplies in the several geographic areas of the State, and  
13 shall consult and cooperate with any Federal or State agency hav-  
14 ing an interest in the production, distribution, consumption or con-  
15 servation of energy.

16     b. Upon preparation of such master plan, and each revision  
17 thereof, the department shall cause copies thereof to be printed,  
18 shall transmit sufficient copies thereof to the Governor and the  
19 Legislature, for the use of the members thereof, and shall advertise,  
20 in such newspapers as the commissioner determines appropriate to  
21 reach the greatest possible number of citizens of New Jersey, the  
22 existence and availability of such draft plan from the offices of the  
23 department for the use of such citizens as may request same. In  
24 addition, the department shall:

25         (1) Fix dates for the commencement of a series of public hear-  
26 ings, at least one of which shall be held in each geographical area

27 delineated in the master plan. Each such public hearing shall con-  
28 cern the overall content of the plan and those aspects thereof that  
29 have relevance to the specific geographical area in which each such  
30 public hearing is being held;

31 (2) At least 60 days prior to each public hearing held pursuant  
32 to this section, notify each energy industry and each State depart-  
33 ment, commission, authority, council, agency, or board charged  
34 with the regulation, supervision or control of any business, in-  
35 dustry or utility engaged in the production, processing, distribu-  
36 tion, transmission, or storage of energy in any form of the time  
37 and place for the hearing and shall publish such notice in a news-  
38 paper of general circulation in the region where the hearing is to  
39 be held, and in such newspapers of general circulation in the State  
40 as the commissioner determines appropriate to reach the greatest  
41 possible number of citizens of New Jersey.

42 c. Upon the completion of the requirements of subsection b. of  
43 this section, the department shall consider the testimony presented  
44 at all such public hearings and adopt the energy master plan,  
45 together with any additions, deletions, or revisions it shall deem  
46 appropriate.

47 d. Upon the adoption of the energy master plan, and upon each  
48 revision thereof, the department shall cause copies thereof to be  
49 printed and shall transmit sufficient copies thereof to the Governor  
50 and the Legislature, for the use of the members thereof, and to  
51 each State department, commission, authority, council, agency, or  
52 board charged with the regulation, supervision or control of any  
53 business, industry or utility engaged in the production, processing,  
54 distribution, transmission, or storage of energy in any form. In  
55 addition, the department shall advertise in the manner provided in  
56 subsection b. of this section the existence and availability of the  
57 energy master plan from the offices of the department for the use  
58 of such citizens of New Jersey as may request same; provided,  
59 however, that the department may charge a fee for such copies of  
60 the energy master plan sufficient to cover the costs of printing and  
61 distributing same.

1 13. a. The \***[department]**\* *Division of Energy Planning and*  
2 *Conservation*\* is \***[further]**\* empowered and directed to intervene  
3 in any proceedings before, and appeals from, any State depart-  
4 ment, *division*,\* commission, authority, council, agency or board  
5 (hereinafter referred to as "State instrumentalities") *including*  
6 *the Board of Public Utilities*\* charged with the regulation, super-  
7 vision or control of any business, industry or utility engaged in the

8 production, processing, distribution, transmission or storage of  
9 energy in any form, when, in the discretion of the commissioner,  
10 such intervention is necessary to insure the proper consideration  
11 by such State instrumentalities of the State energy master plan,  
12 or any part or aspect thereof, adopted by the department pursuant  
13 to section 12 of this act, or any rule or regulation promulgated by  
14 the department pursuant to the provisions of this act. To facilitate  
15 the intervention provisions of this section, each such State instru-  
16 mentality shall consider the department a party of interest in any  
17 proceedings before such instrumentality with respect to energy and  
18 shall give the same notice to the department as is given to every  
19 other party of interest in such proceedings of any meeting, public  
20 hearing or other proceeding of such instrumentality in implement-  
21 ing its regulatory, supervisory or control powers, responsibilities  
21A and duties with respect to such businesses, industries or utilities.

22 b. It being the intention of the Legislature that the actions,  
23 decisions, determinations and rulings of the State Government with  
24 respect to energy shall to the maximum extent practicable and  
25 feasible conform with the energy master plan adopted by the de-  
26 partment pursuant to section 12 of this act, the department shall  
27 prepare, periodically revise and distribute to each State instru-  
28 mentality charged with the regulation, supervision or control of any  
29 business, industry or utility engaged in the production, processing,  
30 distribution, transmission or storage of energy in any form, such  
31 guidelines as the department determines to be relevant to assist  
32 each such instrumentality in conforming with said energy master  
33 plan in implementing its regulatory, supervisory or control powers,  
34 responsibilities and duties with respect to such businesses, in-  
35 dustries or utilities.

36 *\*c. With respect to the siting of any energy facility in any part*  
37 *of New Jersey, the department shall, the provisions of any law*  
38 *to the contrary notwithstanding, have jurisdiction coextensive with*  
39 *that of any other State instrumentality, and to that end, no State*  
40 *instrumentality with the power to grant or deny any permit for the*  
41 *construction or location of any energy facility shall exercise its*  
42 *powers without referring to the Division of Energy Planning and*  
43 *Conservation, for its review and comments, a copy of such appli-*  
44 *cation and all papers, documents and materials appurtenant thereto*  
45 *filed by the applicant with such State instrumentality. Prior to*  
46 *making a final decision with respect to any such application, the*  
47 *State instrumentality with power of approval over such application*  
48 *shall solicit the views of the department thereupon. Such views*

49 shall be communicated to the State instrumentality with the power  
50 of approval over such application in the form of a report describing  
51 the findings of the department with respect to such application.  
52 Such report shall be prepared by the Director of the Division of  
53 Energy Planning and Conservation and shall be signed by said  
54 director and by the commissioner. In the event that such report  
55 is not prepared and transmitted to the State instrumentality with  
56 power of approval over such application within 90 days after the  
57 department's receipt of such application, such State instrumen-  
58 tality shall act upon such application pursuant to the law providing  
59 its power of approval thereof. In the event that the views of the  
60 department, as contained in its report, with respect to any such  
61 application differ from the views of the State instrumentality with  
62 the power of approval over such application, there shall be estab-  
63 lished an Energy Facility Review Board which shall consist of the  
64 Director of the Division of Energy Planning and Conservation, the  
65 director or chief executive officer of the State instrumentality with  
66 the power of approval over such application, and a designee of the  
67 Governor. The decision of the Energy Facility Review Board cre-  
68 ated with respect to a specific energy facility application shall be  
69 binding with respect to such facility and shall be implemented forth-  
70 with by the State instrumentality with the power of approval over  
71 such application.

72 In implementing its responsibilities pursuant to this subsection,  
73 the department shall have the power to adopt, by regulation, a fee  
74 schedule for reviewing applications for the construction or location  
75 of energy facilities; provided, however, that fees shall be charged  
76 to applicants for permits to construct or locate energy facilities  
77 only in those instances where the nature and extent of the proposed  
78 energy facility are such as to necessitate the employment of con-  
79 sultants or other expert personnel from without the department  
80 before the department can make its determination with respect to  
81 any such application, and that such fees shall in any event be the  
82 minimum amount necessary to permit the department to fulfill its  
83 responsibilities under this section.

84 The provisions of this section shall not be regarded as to be in  
85 derogation of any powers now existing and shall be regarded as  
86 supplemental and in addition to powers conferred by other laws,  
87 including municipal zoning authority.\*

1 14. The commissioner shall prepare and adopt an emergency  
2 allocation plan specifying actions to be taken in the event of an  
3 impending serious shortage of energy which poses grave threats

4 to the public health, safety, or welfare. The commissioner shall  
5 direct all State Government departments and agencies\*, *including*  
6 *the Board of Public Utilities*\*, to develop, subject to his approval,  
7 contingency plans for dealing with said emergencies.

1 15. a. Upon a finding by the commissioner that there exists or  
2 impends an energy supply shortage of a dimension which endan-  
3 gers the public health, safety, or welfare in all or any part of the  
4 State, the Governor is authorized to proclaim by executive order  
5 a state of energy emergency for a period of up to 6 months. The  
6 Governor may limit the applicability of any such state of emergency  
7 to specific kinds of energy forms or to specific areas of the State  
8 in which such a shortage exists or impends.

9 b. During the duration of a state of energy emergency the com-  
10 missioner to the extent not in conflict with applicable Federal  
11 law or regulation but notwithstanding any State or local law or  
12 contractual agreement, shall be empowered to:

13 (1) Order any person to reduce by a specified amount the use  
14 of any energy form; to make use of an alternate energy form,  
15 where possible; or to cease the use of any energy form;

16 (2) Order any person engaged in the distribution of any energy  
17 form to reduce or increase by a specified amount or to cease the  
18 distribution of such energy form; to distribute a specified amount  
19 and type of energy form to certain users as specified by the  
20 \***[administrator]**\* \*commissioner\*; or to share supplies of any  
21 energy form with other distributors thereof;

22 (3) Establish priorities for the distribution of any energy form;

23 (4) Regulate and control the distribution and sale of any energy  
24 form by:

25 (a) Establishing such limitations, priorities, or rationing  
26 procedures as shall be necessary to insure a fair and equitable  
27 distribution of available supplies;

28 (b) Establishing minimum and maximum quantities to be  
29 sold to any purchaser;

30 (c) Fixing the days and hours of access to retail dealers;

31 (d) Compelling sales to members of the general public dur-  
32 ing times when a retail dealer is open for the sale of an energy  
33 form;

34 (e) Establishing methods for notifying the public by flags,  
35 symbols, or other appropriate means whether such retail  
36 dealers are open and selling the subject energy form;

37 (5) Direct the heads of those departments and agencies within  
38 State Government that were ordered to develop contingency plans  
39 pursuant to section 14 of this act to implement said plans;



40 (6) Adopt and promulgate such rules and regulations as are  
41 necessary and proper to carry out the purposes of this section.

42 c. During the existence of a state of energy emergency, the Gov-  
43 ernor may order the suspension of any laws, rules, regulations, or  
44 orders of any department or agency in State Government or within  
45 any political subdivision which deal with or affect energy and  
46 which impede his ability to alleviate or terminate a state of energy  
47 emergency.

48 d. Any aggrieved person, upon application to the commissioner  
49 shall be granted a review of whether the continuance of any order  
50 issued by the commissioner pursuant to this section is unreason-  
51 able in light of then prevailing conditions of emergency.

52 e. During a state of energy emergency the commissioner may  
53 require any other department or other agency within State Gov-  
54 ernment to provide such information, assistance, resources, and  
55 personnel as shall be necessary to discharge his functions and  
56 responsibilities under this act, rules and regulations adopted here-  
57 under, or applicable Federal law and regulations.

58 f. The powers granted to the Governor and the commissioner  
59 under this section shall be in addition to and not in limitation of  
60 any emergency powers now or hereafter vested in the Governor, the  
61 commissioner, or any other State Government department or  
62 agency pursuant to any other laws, including but not limited to  
63 any power \***[now]**\* vested in the Board of Public \***[Utility Com-**  
64 **missioners]**\* \*Utilities\* to require utility companies to allocate  
65 available supplies of energy; provided, however, that upon declar-  
66 ing a state of energy emergency, the Governor may supersede any  
67 other such emergency powers.

68 g. The state of energy emergency declared by the Governor pur-  
69 suant to this section shall remain in effect until the Governor  
70 declares by a subsequent executive order that the state of energy  
71 emergency has terminated.

1 16. a. The commissioner shall adopt rules and regulations  
2 requiring the periodic reporting by energy industries of energy  
3 information which shall include but not be limited to the following:

4 (1) Electrical generating capacity in the State; long-range plans  
5 for additions to said capacity; efficiency of electrical generation;  
6 price and cost factors in electrical generation; types and quantities  
7 of fuels used; projections of future demand, consumption of elec-  
8 tricity by sectors; times, duration, and levels of peak demand;

9 (2) Petroleum refining capacity; amount and type of fuel pro-  
10 duced; amount and type of fuel sold; interstate transfers of fuel;

11 price and cost factors in refining, production, and sale; long-term  
12 plans for alterations or additions to refining capacity; location,  
13 amount, and type of fuel storage;

14 (3) Storage capacity for gases; amount and end uses of gases  
15 sold; price and cost factors in the sale and use of gases; and

16 (4) Such other information as the commissioner may determine  
17 necessary for carrying out the purposes of this act.

18 b. The commissioner shall at least annually publish a report  
19 analyzing all energy information collected.

20 c. The commissioner shall have the discretion to obtain energy  
21 information from an affiliate of any energy industry or from an  
22 association or organization of industries of which any such energy  
23 industry is a member. Whenever energy information supplied by  
24 an energy industry is so obtained by the commissioner, the energy  
25 industry to which such information pertains shall be promptly  
26 notified of the energy information so obtained and shall be given  
27 an opportunity to correct or amplify such information.

28 d. Trade secrets collected under this section shall be exempt  
29 from the requirements of P. L. 1963, c. 73 (C. 47:1A-1 et seq.).  
30 The commissioner shall promulgate rules and regulations for the  
31 conduct of administrative hearings on the issue of whether certain  
32 energy information should not be disclosed to the public.

1 17. No person who is an official or employee of the department  
2 shall participate in any manner in any decision or action of the  
3 department wherein he has a direct or indirect financial interest.

1 18. The commissioner may issue subpoenas requiring the at-  
2 tendance and testimony of witnesses and the production of books,  
3 documents, papers, statistics, data, information, and records for  
4 the purpose of carrying out any of his responsibilities under this  
5 act. Whenever there arises a refusal to honor his subpoena, the  
6 commissioner may petition a court of competent jurisdiction for  
7 an order requiring the attendance and testimony of a witness or  
8 the production of the requested books, documents, papers, statistics,  
9 data, information, and records. Any failure to obey such an order  
10 issued by a court shall be punished by the court as a contempt  
11 thereof.

1 19. Upon a violation of this act or of any rules, regulations, or  
2 orders promulgated hereunder, the commissioner, the county prose-  
3 cutor of the county in which the violation occurs if he has the  
4 approval of the commissioner, or any aggrieved person shall be  
5 entitled to institute a civil action in a court of competent juris-  
6 diction for injunctive relief to restrain such violation and for such

7 other relief as the court shall deem proper. The court may proceed  
8 in a summary manner. Neither the institution of such action, nor  
9 any of the proceedings therein shall relieve any party to such  
10 proceedings from other fines or penalties prescribed for such a  
11 violation by this act or by any rule, regulation or order adopted  
12 hereunder.

1 20. Any person who fails to provide energy information in his  
2 official custody when so required by the commissioner shall be liable  
3 for a penalty of not more than \$3,000.00 for each offense. If the  
4 violation is of a continuing nature, each day during which it con-  
5 tinues shall constitute an additional and separate offense. Penalties  
6 shall be collected in a civil action by a summary proceeding under  
7 the Penalty Enforcement Law (N. J. S. 2A :58-1 et seq.).

1 21. Any officer or employee of the State who, having obtained by  
2 reason of his employment and for official use, any confidential  
3 energy information, publishes or communicates such information  
4 for reasons not authorized by this or any other act shall be fined  
5 not more than \$2,000.00 or imprisoned not more than 2 years or  
6 both.

1 22. a. Any person purchasing or attempting to purchase energy  
2 in violation of section 15 of this act or any rules, regulations, or  
3 orders promulgated thereunder, shall be subject to a penalty of  
4 not more than \$25.00 for the first offense, not more than \$100.00  
5 for the second offense, and not more than \$200.00 for the third  
6 offense or subsequent offenses.

7 b. Any retail dealer who violates section 15 of this act or any  
8 rules, regulations, or orders promulgated thereunder, shall be  
9 subject to a penalty of not more than \$25.00 for the first offense,  
10 not more than \$200.00 for the second offense, and not more than  
11 \$400.00 for the third offense or subsequent offenses.

12 c. Any distributor or any other supplier of energy who violates  
13 any of the provisions of section 15 of this act or of any rules,  
14 regulations, or orders promulgated thereunder, shall be subject to  
15 a penalty of not more than \$1,000.00 for the first offense, not more  
16 than \$5,000.00 for the second offense, and not more than \$10,000.00  
17 for the third offense or subsequent offenses.

18 d. In addition to any other penalties provided under this or any  
19 other act, the commissioner may recommend to the appropriate  
20 agency the suspension or revocation of the license of any retail  
21 dealer, gasoline jobber, wholesale dealer, distributor, or supplier  
22 of fuel, who has violated this act or any rules, regulations, or orders  
23 promulgated hereunder.

24 e. All penalties imposed pursuant to this section shall be collected  
 25 in a civil action by a summary proceeding under the Penalty  
 26 Enforcement Law (N. J. S. 2A:58-1 et seq.). If the violation is  
 27 of a continuing nature, each day during which it continues shall  
 28 constitute an additional and separate offense.

29 *\*22.1 The department shall transmit copies of all rules and*  
 30 *regulations proposed pursuant to this act \*\*by or on behalf of the*  
 31 *Division of Energy Planning and Conservation\*\* to the Senate and*  
 32 *General Assembly on a day on which both Houses shall be meeting*  
 33 *in the course of a regular or special session. The provisions of the*  
 33A *“Administrative Procedure Act” or any other law to the contrary*  
 34 *notwithstanding, no such rule or regulation, except a rule or regu-*  
 35 *lation adopted pursuant to an energy emergency declared by the*  
 36 *Governor, shall take effect if, within 60 days of the date of its*  
 37 *transmittal to the Senate and General Assembly, the Legislature*  
 38 *shall pass a concurrent resolution stating in substance that the*  
 39 *Legislature does not favor such proposed rule or regulation.\**

1 23. a. All appropriations, grants, and other moneys available to  
 2 the State Energy Office are hereby transferred to the department  
 3 created hereunder and shall remain available for the objects and  
 4 purposes for which appropriated, subject to any terms, restrictions,  
 5 limitations or other requirements imposed by Federal or State law.

6 b. The employees of the State Energy Office are hereby trans-  
 7 ferred to the department created hereunder. Nothing in this act  
 8 shall be construed to deprive said employees of any rights or protec-  
 9 tions provided them by the civil service, pension, or retirement  
 10 laws of this State.

11 c. All files, books, paper, records, equipment, and other property  
 12 of the State Energy Office are hereby transferred to the depart-  
 13 ment created hereunder.

14 d. The rules, regulations, and orders of the State Energy Office  
 15 shall continue with full force and effect as the rules, regulations,  
 16 and orders of the department created hereunder until further  
 17 amended or repealed.

18 e. Except as otherwise provided by this act, all the functions,  
 19 powers, and duties of the existing State Energy Office and its  
 20 administrator are hereby continued in the department and the  
 21 *\*[commissioner thereof]\* \*Director of the Division of Energy*  
 21A *Planning and Conservation\** created hereunder.

22 f. This act shall not affect actions or proceedings, civil or crim-  
 23 inal, brought by or against the State Energy Office and pending  
 24 on the effective date of this act, but such actions or proceedings

25 may be further prosecuted or defended in the same manner and  
26 to the same effect by the department created hereunder.

27 g. Whenever in any law, rule, regulation, order, contract, docu-  
28 ment, judicial or administrative proceedings, or otherwise, refer-  
29 ence is made to the State Energy Office or the administrator  
30 thereof, the same shall be considered to mean and refer to the  
31 State Department of Energy and the \***【commissioner thereof】**\*  
32 \*Director of the Division of Energy Planning and Conservation\*  
33 created hereunder.

1 24. All the functions, powers and duties heretofore exercised  
2 by the Department of Community Affairs and the Commissioner  
3 thereof relating to the adoption, amendment and repeal of the  
4 energy subcode of the State Uniform Construction Code pursuant  
5 to P. L. 1975, c. 217 (C. 52:27D-119 et seq.) are hereby transferred  
6 to, and vested in the Department of Energy and the Commissioner  
7 of the Department of Energy; provided, however, that nothing in  
8 this section shall be construed so as to interfere with the enforce-  
9 ment of such energy subcode by the Commissioner of the Depart-  
10 ment of Community Affairs pursuant to the aforecited P. L. 1975,  
11 c. 217\*; *provided further, however, that this section shall not take*  
12 *effect until 90 days after the effective date of this act, and any*  
13 *energy subcode adopted by the Department of Community Affairs*  
14 *within said 90 days shall continue in force and effect until amended*  
15 *or repealed by the department as herein provided\*.*

1 25. The Bureau of Energy Resources in the Department of  
2 Public Utilities, together with all of its functions, powers and  
3 duties, is hereby transferred to the \*Division of Energy Planning  
4 and Conservation in the\* Department of Energy established pur-  
5 suant to this act.

1 26. The transfer of responsibilities directed by this act, except  
2 as otherwise provided herein, shall be made in accordance with the  
3 "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D-1  
4 et seq.).

1 27. All acts and parts of acts inconsistent with any of the provi-  
2 sions of this act are, to the extent of such inconsistency, superseded  
3 and repealed.

1 28. If any section, part, phrase, or provision of this act or the  
2 application thereof to any person be adjudged invalid by any court  
3 of competent jurisdiction, such judgment shall be confined in its  
4 operation to the section, part, phrase, provision, or application  
5 directly involved in the controversy in which such judgment shall  
6 have been rendered and it shall not affect or impair the validity

7 of the remainder of this act or the application thereof to other  
8 persons.

1 29. The object and design of this act being the protection of the  
2 public health, safety and welfare by means of the coordination of  
3 State planning\*, *regulation\** and authority in energy related mat-  
4 ters, this act shall be liberally construed.

1 30. This act shall take effect immediately.

SENATE, No. 3179

STATE OF NEW JERSEY

INTRODUCED APRIL 18, 1977

By Senators DODD, McGAHN and RUSSO

(Without Reference)

AN ACT concerning the production, distribution, conservation, and consumption of energy, establishing a Department of Energy as a principal department in the Executive Branch of State Government.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Department  
2 of Energy Act."

1 2. The Legislature hereby finds and determines that a secure,  
2 stable, and adequate supply of energy at reasonable prices is vital  
3 to the State's economy and to the public health, safety, and welfare;  
4 that this State is threatened by the prospect of both near- and  
5 long-term energy shortages; that the existing dispersion of re-  
6 sponsibilities with respect to energy and energy-related matters  
7 among various State departments, divisions, agencies, and com-  
8 missions inhibits comprehensive and effective planning for our  
9 future energy needs; and that the State government does not now  
10 possess either sufficient information or adequate authority to  
11 provide for and insure the wise and efficient production, distribu-  
12 tion, use, and conservation of energy.

13 The Legislature further finds and determines that only an agency  
14 with comprehensive powers can collect, collate, and analyze the  
15 information necessary to determine the amount of energy that is  
16 or may be available; develop mechanisms to insure a fair and  
17 equitable distribution of existing supplies; conduct the long-term  
18 planning and management needed to eliminate or alleviate the  
19 potential adverse effects of a supply of energy insufficient to meet  
20 legitimate needs or from practices of production, distribution, and  
21 consumption detrimental to the quality of life or the environment;  
22 coordinate New Jersey's energy policies and actions with federal  
23 energy policies; and secure for New Jersey the maximum amount  
24 of federal funding available for energy related research, develop-  
25 ment, and demonstration projects.

26 The Legislature further finds and determines that shortages of  
27 energy have the potential at certain times and in certain places to  
28 so seriously affect the public interest that it is necessary for  
29 State government to possess emergency powers sufficient to prevent  
30 or minimize health disasters and grave economic disruptions which  
31 could occur during said times.

32 The Legislature, therefore, declares it to be in the best interest  
33 of the citizens of this State to establish a principal department  
34 in the Executive Branch of State Government to coordinate au-  
35 thority and planning by the State in energy related matters.

1 3. As used in this act:

2 a. "Commissioner" means the Commissioner of the Department  
3 of Energy;

4 b. "Department" means the Department of Energy established  
5 by this act;

6 c. "Distributor" means and includes each person, wherever  
7 resident or located, who imports into this State fuels for use,  
8 distribution, storage, or sale in this State after the same shall  
9 reach this State; and also each person who produces, refines,  
10 manufactures, blends, or compounds fuels and sells, uses, stores,  
11 or distributes the same within this State. In no case, however,  
12 shall a retail dealer be construed to be a distributor;

13 d. "Energy" means all power derived from, or generated by,  
14 any natural or man-made agent, including, but not limited to,  
15 petroleum products, gases, solar radiation, atomic fission or fusion,  
16 mineral formations, thermal gradients, wind, or water.

17 e. "Energy facility" means any plant or operation which  
18 produces, converts, distributes or stores energy or converts one  
19 form of energy to another; in no case, however, shall an operation  
20 conducted by a person acting only as a retail dealer be construed  
21 as an energy facility;

22 f. "Energy information" means any statistic, datum, fact, or  
23 item of knowledge and all combinations thereof relating to energy;

24 g. "Energy information system" means the composite of energy  
25 information collected by the office;

26 h. "Energy industry" means any person, company, corporation,  
27 business, institution, establishment or other organization of any  
28 nature engaged in the exploration, extraction, transportation,  
29 transmission, refining, processing, generation, distribution, sale  
30 or storage of energy;

31 i. "Fuel" means coal, petroleum products, gases and nuclear  
32 fuel, including enriched uranium, U235 and U238, and plutonium,  
33 U239;



34 j. "Gases" means natural gas, methane, liquefied natural gas,  
35 synthetic natural gas, coal gas and other manufactured gases;

36 k. "Person" means natural persons, partnerships, firms, asso-  
37 ciations, joint stock companies, syndicates and corporations, and  
38 any receiver, trustee, conservator or other officer appointed pur-  
39 suant to law or by any court, State or Federal; "person" also  
40 means the State of New Jersey, counties, municipalities, authori-  
41 ties, other political subdivisions, and all departments and agencies  
42 within the aforementioned governmental entities;

43 l. "Petroleum products" means and includes motor gasoline,  
44 middle distillate oils, residual fuel oils, aviation fuel, propane,  
45 butane, natural gasoline, naphtha, gas oils, lubricating oils and any  
46 other similar or dissimilar liquid hydrocarbons;

47 m. "Public building" means any building, structure, facility  
48 or complex used by the general public, including, but not limited  
49 to, theaters, concert halls, auditoriums, museums, schools, libraries,  
50 recreation facilities, public transportation terminals and stations,  
51 factories, office buildings, business establishments, passenger  
52 vehicle service stations, shopping centers, hotels or motels and  
53 public eating places, owned by any State, county or municipal  
54 government agency or instrumentality or any private individual,  
55 partnership, association or corporation;

56 n. "Purchase" means and includes, in addition to its ordinary  
57 meaning, any acquisition of ownership or possession, including,  
58 but not limited to, condemnation by eminent domain proceedings;

59 o. "Retail dealer" means any person who engages in the busi-  
60 ness of selling fuels from a fixed location such as a service station,  
61 filling station, store, or garage directly to the ultimate users of  
62 said fuel;

63 p. "Sale" means and includes, in addition to its ordinary mean-  
64 ing, any exchange, gift, theft, or other disposition. In such case  
65 where fuels are exchanged, given, stolen, or otherwise disposed of,  
66 they shall be deemed to have been sold;

67 q. "Supplier of fuel" means any refiner, importer, marketer,  
68 jobber, distributor, terminal operator, firm, corporation, whole-  
69 saler, broker, cooperative or other person who supplies, sells,  
70 consigns, transfers, or otherwise furnishes fuel. In no case, how-  
71 ever, shall a retail dealer be construed to be a supplier of fuel;

72 r. "Trade secret" means the whole or any portion or phase  
73 of any scientific, technical or otherwise proprietary information,  
74 design, process, procedure, formula or improvement which is used  
75 in one's business and is secret and of value; and a trade secret  
76 shall be presumed to be secret when the owner takes measures to

77 prevent it from becoming available to persons other than those  
78 selected by the owner to have access thereto for limited purposes;

79 s. "Wholesale dealer" means any person who engages in the  
80 business of selling fuels to other persons who resell the said fuel.

81 In no case shall a retail dealer be considered as a wholesale dealer.

1 4. There is hereby established in the Executive Branch of the  
2 State Government a principal department which shall be known  
3 as the Department of Energy.

1 5. The administrator and chief executive officer of the depart-  
2 ment shall be a commissioner who shall be a person qualified by  
3 training and experience to perform the duties of his office. The  
4 commissioner shall be appointed by the Governor with the advice  
5 and consent of the Senate, and shall serve at the pleasure of the  
6 Governor and until the appointment and qualification of the commis-  
7 sioner's successor. He shall devote his entire time to the duties of  
8 his office and shall receive such salary as shall be provided by law.  
9 Any vacancy occurring in the office of the commissioner shall be  
10 filled in the same manner as the original appointment.

1 6. The commissioner shall organize the work of the department  
2 and establish therein such administrative subdivisions as he may  
3 deem necessary, proper and expedient. He may formulate and  
4 adopt rules and regulations and prescribe duties for the efficient  
5 conduct of the business, work and general administration of the  
6 department. He may delegate to subordinate officers or employees  
7 in the department such of his powers as he may deem desirable  
8 to be exercised under his supervision and control.

1 7. Subject to the provisions of Title 11 of the Revised Statutes,  
2 and within the limits of funds appropriated or otherwise made  
3 available, the commissioner may appoint such officers and em-  
4 ployees of the department as he may deem necessary for the  
5 performance of its duties, fix and determine their qualifications,  
6 duties, and compensation and retain or employ engineers and  
7 private consultants on a contract basis or otherwise for rendering  
8 professional or technical assistance.

1 8. The commissioner shall make an annual report to the Legis-  
2 lature and the Governor of the department's operations and render  
3 such other reports as they shall from time to time request or as  
4 may be required by law. These reports shall include, but not be  
5 limited to, an analysis of existing problems and guidelines relating  
6 to future energy use and availability.

1 9. The commissioner shall, by and on behalf of the department:

2 a. Manage the department as the central repository within the  
3 State Government for the collection of energy information;

4 b. Collect and analyze data relating to present and future  
5 demands and resources for all forms of energy;

6 c. Have authority to require all persons, firms, corporations or  
7 other entities engaged in the production, processing, distribution,  
8 transmission or storage of energy in any form to submit reports  
9 setting forth such information as shall be required to carry out the  
10 provisions of this act;

11 d. Have authority to require any person to submit information  
12 necessary for determining the impact of any construction or  
13 development project on the energy and fuel resources of this State;

14 e. Charge other State Government departments and agencies  
15 involved in energy-related activities with specific information  
16 gathering goals and require that said goals be fulfilled;

17 f. Establish an energy information system which will provide  
18 all data necessary to insure a fair and equitable distribution of  
19 available energy, to permit a more efficient and effective use of  
20 available energy, and to provide the basis for long-term planning  
21 related to energy needs;

22 g. Design, implement, and enforce a program for the conservation  
23 of energy in commercial, industrial, and residential facilities, which  
24 program shall provide for the evaluation of energy systems as they  
25 relate to lighting, heating, refrigeration, air-conditioning, building  
26 design and operation, and appliance manufacturing and operation;  
27 and may include, but shall not be limited to, the requiring of an  
28 annual inspection and adjustment, if necessary, of oil-fired heating  
29 systems in residential, commercial and industrial buildings so as to  
30 bring such systems into conformity with efficiency standards  
31 therefor prescribed by the department; the setting of lighting  
32 efficiency standards for public buildings; the establishment of  
33 mandatory thermostat settings and the use of seven-day, day-night  
34 thermostats in public buildings; the development of standards for  
35 efficient boiler operation; and, the preparation of a plan to insure  
36 the phased retrofitting of existing gas furnaces with electric igni-  
37 tion systems and to require that new gas furnaces, ranges, and  
38 dryers be equipped with electric ignition systems;

39 h. Conduct and supervise a State-wide program of education  
40 including the preparation and distribution of information relating  
41 to energy conservation;

42 i. Monitor prices charged for energy within the State, evaluate  
43 policies governing the establishment of rates and prices for energy,  
44 and make recommendations for necessary changes in such policies  
45 to other concerned Federal and State agencies and to the  
46 Legislature;

47 j. Have authority to conduct and supervise research projects  
48 and programs for the purpose of increasing the efficiency of energy  
49 use, developing new sources of energy, evaluating energy conserva-  
50 tion measures, and meeting other goals consistent with the intent  
51 of this act;

52 k. Have authority to distribute and expend funds made available  
53 for the purpose of research projects and programs;

54 l. Have authority to enter into interstate compacts in order to  
55 carry out energy research and planning with other states or the  
56 Federal Government where appropriate;

57 m. Have authority to apply for, accept, and expend grants-in-aid  
58 and assistance from private and public sources for energy pro-  
59 grams; notwithstanding any other law to the contrary, the com-  
60 missioner is designated as the State official to apply for, receive,  
61 and expend Federal and other funding made available to the State  
62 for the purposes of this act;

63 n. Require the annual submission of energy utilization reports  
64 and conservation plans by State Government departments and  
65 agencies, evaluate said plans and the progress of the departments  
66 and agencies in meeting these plans, and order changes in the plans  
67 or improvement in meeting the goals of the plans;

68 o. Carry out all duties given him under other sections of this act  
69 or any other acts;

70 p. Have authority to conduct hearings and investigations in  
71 order to carry out the purposes of this act and to issue subpoenas in  
72 furtherance of such power. Said power to conduct investigations  
73 shall include, but not be limited to, the authority to enter without  
74 delay and at reasonable times the premises of any energy industry  
75 in order to obtain or verify any information necessary for carrying  
76 out the purposes of this act;

77 q. Have authority to adopt, amend or repeal, pursuant to the  
78 "Administrative Procedure Act" (C. 52:14B-1 et seq.) such rules  
79 and regulations necessary and proper to carry out the purposes of  
80 this act;

81 r. Administer such Federal energy regulations as are applicable  
82 to the states, including, but not limited to, the mandatory petroleum  
83 allocation regulations and State energy conservation plans.

84 s. Have authority to sue and be sued;

85 t. Have authority to acquire by purchase, grant, contract or  
86 eminent domain title to real property for the purpose of demon-  
87 strating facilities which improve the efficiency of energy use,  
88 conserve energy or generate energy in new and efficient ways;

89 u. Have authority to construct and operate, on an experimental  
90 or demonstration basis, facilities which improve the efficiency of  
91 energy use, conserve energy or generate power in new and efficient  
92 ways;

93 v. Have authority to contract with any other public agency or  
94 corporation incorporated under the laws of this or any other state  
95 for the performance of any function under this act;

96 w. Determine the effect of energy and fuel shortages upon con-  
97 sumers, and formulate proposals designed to encourage the lowest  
98 possible cost of energy and fuels consumed in the State consistent  
99 with the conservation and efficient use of energy;

100 x. Keep complete and accurate minutes of all hearings held  
101 before the commissioner or any member of the department pursuant  
102 to the provisions of this act. All such minutes shall be retained in  
103 a permanent record and shall be available for public inspection at  
104 all times during the office hours of the department.

1 10. There is created in the department an Advisory Council  
2 on Energy which shall consist of 10 members representing the  
3 following: the natural gas industry, the bottle gas industry, the  
4 home heating oil and coal industry, terminal operators, oil refiners,  
5 gasoline retailers, electrical utilities, nuclear fuel suppliers, the  
6 Department of Public Utilities and the consuming public. Members  
7 shall be appointed by the Governor, with the advice and consent  
8 of the Senate, and as practicably as possible represent the several  
9 geographical areas of the State.

10 The council shall elect a chairman, vice chairman and secretary  
11 from its membership. Of the members first appointed, three shall  
12 serve for terms of 2 years, three for terms of 3 years and four for  
13 terms of 4 years. Thereafter all appointments shall be made for  
14 terms of 4 years. Members shall serve after the expiration of  
15 their terms until their respective successors are appointed and shall  
16 qualify, and any vacancy occurring in the membership of the coun-  
17 cil by expiration of term or otherwise, shall be filled in the same  
18 manner as the original appointment for the unexpired term only.

19 Members of the council shall serve without compensation but  
20 shall be reimbursed for expenses actually incurred in attending  
21 meetings of the council and in performance of their duties as  
22 members thereof. The council shall meet at least four times each  
23 year, at the call of its chairman, and at such other times, at the call  
24 of the commissioner, as he deems necessary.

1 11. The Advisory Council on Energy is empowered to:

2 a. Request from the commissioner such energy information as  
3 it may deem necessary;

4 b. Consider any matter relating to the production, distribution,  
5 consumption or conservation of energy;

6 c. From time to time submit to the commissioner any recom-  
7 mendations which it deems necessary for the long-term planning  
8 and management of energy;

9 d. Study energy programs and make its recommendations  
10 thereon to the commissioner;

11 e. Review, prior to their promulgation, proposed rules and regu-  
12 lations, of the department, and make its recommendations there-  
13 upon, except such rules and regulations determined by the commis-  
14 sioner to be emergency measures essential to preserve the public  
15 health, safety, or welfare.

16 f. Hold public hearings in regard to existing statutes and regu-  
17 lations governing the production, distribution, consumption or con-  
18 servation of energy.

1 12. a. The department, within 1 year of the effective date of this  
2 act, shall prepare or cause to be prepared, and, after public hear-  
3 ings as hereinafter provided, adopt a master plan for a period of  
4 10 years on the production, distribution, consumption and conserva-  
5 tion of energy in this State. Such plan shall be revised and updated  
6 at least once every 3 years. The plan shall include long-term  
7 objectives but shall provide for the interim implementation of  
8 measures consistent with said objectives. The department may  
9 from time to time and after public hearings amend the master plan.  
10 In preparing the master plan or any portion thereof or amendment  
11 thereto the department shall give due consideration to the energy  
12 needs and supplies in the several geographic areas of the State, and  
13 shall consult and cooperate with any Federal or State agency hav-  
14 ing an interest in the production, distribution, consumption or con-  
15 servation of energy.

16 b. Upon preparation of such master plan, and each revision  
17 thereof, the department shall cause copies thereof to be printed,  
18 shall transmit sufficient copies thereof to the Governor and the  
19 Legislature, for the use of the members thereof, and shall advertise,  
20 in such newspapers as the commissioner determines appropriate to  
21 reach the greatest possible number of citizens of New Jersey, the  
22 existence and availability of such draft plan from the offices of the  
23 department for the use of such citizens as may request same. In  
24 addition, the department shall:

25 (1) Fix dates for the commencement of a series of public hear-  
26 ings, at least one of which shall be held in each geographical area  
27 delineated in the master plan. Each such public hearing shall con-  
28 cern the overall content of the plan and those aspects thereof that

29 have relevance to the specific geographical area in which each such  
30 public hearing is being held;

31 (2) At least 60 days prior to each public hearing held pursuant  
32 to this section, notify each energy industry and each State depart-  
33 ment, commission, authority, council, agency, or board charged  
34 with the regulation, supervision or control of any business, in-  
35 dustry or utility engaged in the production, processing, distribu-  
36 tion, transmission, or storage of energy in any form of the time  
37 and place for the hearing and shall publish such notice in a news-  
38 paper of general circulation in the region where the hearing is to  
39 be held, and in such newspapers of general circulation in the State  
40 as the commissioner determines appropriate to reach the greatest  
41 possible number of citizens of New Jersey.

42 c. Upon the completion of the requirements of subsection b. of  
43 this section, the department shall consider the testimony presented  
44 at all such public hearings and adopt the energy master plan,  
45 together with any additions, deletions, or revisions it shall deem  
46 appropriate.

47 d. Upon the adoption of the energy master plan, and upon each  
48 revision thereof, the department shall cause copies thereof to be  
49 printed and shall transmit sufficient copies thereof to the Governor  
50 and the Legislature, for the use of the members thereof, and to  
51 each State department, commission, authority, council, agency, or  
52 board charged with the regulation, supervision or control of any  
53 business, industry or utility engaged in the production, processing,  
54 distribution, transmission, or storage of energy in any form. In  
55 addition, the department shall advertise in the manner provided in  
56 subsection b. of this section the existence and availability of the  
57 energy master plan from the offices of the department for the use  
58 of such citizens of New Jersey as may request same; provided,  
59 however, that the department may charge a fee for such copies of  
60 the energy master plan sufficient to cover the costs of printing and  
61 distributing same.

1 13. a. The department is further empowered and directed to  
2 intervene in any proceedings before, and appeals from, any State  
3 department, commission, authority, council, agency or board (here-  
4 inafter referred to as "State instrumentalities") charged with the  
5 regulation, supervision or control of any business, industry or  
6 utility engaged in the production, processing, distribution, trans-  
7 mission or storage of energy in any form, when, in the discretion  
8 of the commissioner, such intervention is necessary to insure the  
9 proper consideration by such State instrumentalities of the State  
10 energy master plan, or any part or aspect thereof, adopted by the

11 department pursuant to section 12 of this act, or any rule or regula-  
12 tion promulgated by the department pursuant to the provisions of  
13 this act. To facilitate the intervention provisions of this section,  
14 each such State instrumentality shall consider the department a  
15 party of interest in any proceedings before such instrumentality  
16 with respect to energy and shall give the same notice to the depart-  
17 ment as is given to every other party of interest in such proceedings  
18 of any meeting, public hearing or other proceeding of such instru-  
19 mentality in implementing its regulatory, supervisory or control  
20 powers, responsibilities and duties with respect to such businesses,  
21 industries or utilities.

22 b. It being the intention of the Legislature that the actions,  
23 decisions, determinations and rulings of the State Government with  
24 respect to energy shall to the maximum extent practicable and  
25 feasible conform with the energy master plan adopted by the de-  
26 partment pursuant to section 12 of this act, the department shall  
27 prepare, periodically revise and distribute to each State instru-  
28 mentality charged with the regulation, supervision or control of any  
29 business, industry or utility engaged in the production, processing,  
30 distribution, transmission or storage of energy in any form, such  
31 guidelines as the department determines to be relevant to assist  
32 each such instrumentality in conforming with said energy master  
33 plan in implementing its regulatory, supervisory or control powers,  
34 responsibilities and duties with respect to such businesses, in-  
35 dustries or utilities.

1 14. The commissioner shall prepare and adopt an emergency  
2 allocation plan specifying actions to be taken in the event of an  
3 impending serious shortage of energy which poses grave threats  
4 to the public health, safety, or welfare. The commissioner shall  
5 direct all State Government departments and agencies to develop,  
6 subject to his approval, contingency plans for dealing with said  
7 emergencies.

1 15. a. Upon a finding by the commissioner that there exists or  
2 impends an energy supply shortage of a dimension which endan-  
3 gers the public health, safety, or welfare in all or any part of the  
4 State, the Governor is authorized to proclaim by executive order  
5 a state of energy emergency for a period of up to 6 months. The  
6 Governor may limit the applicability of any such state of emergency  
7 to specific kinds of energy forms or to specific areas of the State  
8 in which such a shortage exists or impends.

9 b. During the duration of a state of energy emergency the com-  
10 missioner to the extent not in conflict with applicable Federal



11 law or regulation but notwithstanding any State or local law or  
12 contractual agreement, shall be empowered to:

13 (1) Order any person to reduce by a specified amount the use  
14 of any energy form; to make use of an alternate energy form,  
15 where possible; or to cease the use of any energy form;

16 (2) Order any person engaged in the distribution of any energy  
17 form to reduce or increase by a specified amount or to cease the  
18 distribution of such energy form; to distribute a specified amount  
19 and type of energy form to certain users as specified by the  
20 administrator; or to share supplies of any energy form with other  
21 distributors thereof;

22 (3) Establish priorities for the distribution of any energy form;

23 (4) Regulate and control the distribution and sale of any energy  
24 form by:

25 (a) Establishing such limitations, priorities, or rationing  
26 procedures as shall be necessary to insure a fair and equitable  
27 distribution of available supplies;

28 (b) Establishing minimum and maximum quantities to be  
29 sold to any purchaser;

30 (c) Fixing the days and hours of access to retail dealers;

31 (d) Compelling sales to members of the general public dur-  
32 ing times when a retail dealer is open for the sale of an energy  
33 form;

34 (e) Establishing methods for notifying the public by flags,  
35 symbols, or other appropriate means whether such retail  
36 dealers are open and selling the subject energy form;

37 (5) Direct the heads of those departments and agencies within  
38 State Government that were ordered to develop contingency plans  
39 pursuant to section 14 of this act to implement said plans;

40 (6) Adopt and promulgate such rules and regulations as are  
41 necessary and proper to carry out the purposes of this section.

42 c. During the existence of a state of energy emergency, the Gov-  
43 ernor may order the suspension of any laws, rules, regulations, or  
44 orders of any department or agency in State Government or within  
45 any political subdivision which deal with or affect energy and  
46 which impede his ability to alleviate or terminate a state of energy  
47 emergency.

48 d. Any aggrieved person, upon application to the commissioner  
49 shall be granted a review of whether the continuance of any order  
50 issued by the commissioner pursuant to this section is unreason-  
51 able in light of then prevailing conditions of emergency.

52 e. During a state of energy emergency the commissioner may  
53 require any other department or other agency within State Gov-

54 ernment to provide such information, assistance, resources, and  
55 personnel as shall be necessary to discharge his functions and  
56 responsibilities under this act, rules and regulations adopted here-  
57 under, or applicable Federal law and regulations.

58 f. The powers granted to the Governor and the commissioner  
59 under this section shall be in addition to and not in limitation of  
60 any emergency powers now or hereafter vested in the Governor, the  
61 commissioner, or any other State Government department or  
62 agency pursuant to any other laws, including but not limited to  
63 any power now vested in the Board of Public Utility Commissioners  
64 to require utility companies to allocate available supplies of energy;  
65 provided, however, that upon declaring a state of energy emer-  
66 gency, the Governor may supersede any other such emergency  
67 powers.

68 g. The state of energy emergency declared by the Governor pur-  
69 suant to this section shall remain in effect until the Governor  
70 declares by a subsequent executive order that the state of energy  
71 emergency has terminated.

1 16. a. The commissioner shall adopt rules and regulations  
2 requiring the periodic reporting by energy industries of energy  
3 information which shall include but not be limited to the following:

4 (1) Electrical generating capacity in the State; long-range plans  
5 for additions to said capacity; efficiency of electrical generation;  
6 price and cost factors in electrical generation; types and quantities  
7 of fuels used; projections of future demand, consumption of elec-  
8 tricity by sectors; times, duration, and levels of peak demand;

9 (2) Petroleum refining capacity; amount and type of fuel pro-  
10 duced; amount and type of fuel sold; interstate transfers of fuel;  
11 price and cost factors in refining, production, and sale; long-term  
12 plans for alterations or additions to refining capacity; location,  
13 amount, and type of fuel storage;

14 (3) Storage capacity for gases; amount and end uses of gases  
15 sold; price and cost factors in the sale and use of gases; and

16 (4) Such other information as the commissioner may determine  
17 necessary for carrying out the purposes of this act.

18 b. The commissioner shall at least annually publish a report  
19 analyzing all energy information collected.

20 c. The commissioner shall have the discretion to obtain energy  
21 information from an affiliate of any energy industry or from an  
22 association or organization of industries of which any such energy  
23 industry is a member. Whenever energy information supplied by  
24 an energy industry is so obtained by the commissioner, the energy  
25 industry to which such information pertains shall be promptly

26 notified of the energy information so obtained and shall be given  
27 an opportunity to correct or amplify such information.

28 d. Trade secrets collected under this section shall be exempt  
29 from the requirements of P. L. 1963, c. 73 (C. 47:1A-1 et seq.).  
30 The commissioner shall promulgate rules and regulations for the  
31 conduct of administrative hearings on the issue of whether certain  
32 energy information should not be disclosed to the public.

1 17. No person who is an official or employee of the department  
2 shall participate in any manner in any decision or action of the  
3 department wherein he has a direct or indirect financial interest.

1 18. The commissioner may issue subpoenas requiring the at-  
2 tendance and testimony of witnesses and the production of books,  
3 documents, papers, statistics, data, information, and records for  
4 the purpose of carrying out any of his responsibilities under this  
5 act. Whenever there arises a refusal to honor his subpoena, the  
6 commissioner may petition a court of competent jurisdiction for  
7 an order requiring the attendance and testimony of a witness or  
8 the production of the requested books, documents, papers, statistics,  
9 data, information, and records. Any failure to obey such an order  
10 issued by a court shall be punished by the court as a contempt  
11 thereof.

1 19. Upon a violation of this act or of any rules, regulations, or  
2 orders promulgated hereunder, the commissioner, the county prose-  
3 cutor of the county in which the violation occurs if he has the  
4 approval of the commissioner, or any aggrieved person shall be  
5 entitled to institute a civil action in a court of competent juris-  
6 diction for injunctive relief to restrain such violation and for such  
7 other relief as the court shall deem proper. The court may proceed  
8 in a summary manner. Neither the institution of such action, nor  
9 any of the proceedings therein shall relieve any party to such  
10 proceedings from other fines or penalties prescribed for such a  
11 violation by this act or by any rule, regulation or order adopted  
12 hereunder.

1 20. Any person who fails to provide energy information in his  
2 official custody when so required by the commissioner shall be liable  
3 for a penalty of not more than \$3,000.00 for each offense. If the  
4 violation is of a continuing nature, each day during which it con-  
5 tinues shall constitute an additional and separate offense. Penalties  
6 shall be collected in a civil action by a summary proceeding under  
7 the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.).

1 21. Any officer or employee of the State who, having obtained by  
2 reason of his employment and for official use, any confidential

3 energy information, publishes or communicates such information  
4 for reasons not authorized by this or any other act shall be fined  
5 not more than \$2,000.00 or imprisoned not more than 2 years or  
6 both.

1 22. a. Any person purchasing or attempting to purchase energy  
2 in violation of section 15 of this act or any rules, regulations, or  
3 orders promulgated thereunder, shall be subject to a penalty of  
4 not more than \$25.00 for the first offense, not more than \$100.00  
5 for the second offense, and not more than \$200.00 for the third  
6 offense or subsequent offenses.

7 b. Any retail dealer who violates section 15 of this act or any  
8 rules, regulations, or orders promulgated thereunder, shall be  
9 subject to a penalty of not more than \$25.00 for the first offense,  
10 not more than \$200.00 for the second offense, and not more than  
11 \$400.00 for the third offense or subsequent offenses.

12 c. Any distributor or any other supplier of energy who violates  
13 any of the provisions of section 15 of this act or of any rules,  
14 regulations, or orders promulgated thereunder, shall be subject to  
15 a penalty of not more than \$1,000.00 for the first offense, not more  
16 than \$5,000.00 for the second offense, and not more than \$10,000.00  
17 for the third offense or subsequent offenses.

18 d. In addition to any other penalties provided under this or any  
19 other act, the commissioner may recommend to the appropriate  
20 agency the suspension or revocation of the license of any retail  
21 dealer, gasoline jobber, wholesale dealer, distributor, or supplier  
22 of fuel, who has violated this act or any rules, regulations, or orders  
23 promulgated hereunder.

24 e. All penalties imposed pursuant to this section shall be collected  
25 in a civil action by a summary proceeding under the Penalty  
26 Enforcement Law (N. J. S. 2A:58-1 et seq.). If the violation is  
27 of a continuing nature, each day during which it continues shall  
28 constitute an additional and separate offense.

1 23. a. All appropriations, grants, and other moneys available to  
2 the State Energy Office are hereby transferred to the department  
3 created hereunder and shall remain available for the objects and  
4 purposes for which appropriated, subject to any terms, restrictions,  
5 limitations or other requirements imposed by Federal or State law.

6 b. The employees of the State Energy Office are hereby trans-  
7 ferred to the department created hereunder. Nothing in this act  
8 shall be construed to deprive said employees of any rights or protec-  
9 tions provided them by the civil service, pension, or retirement  
10 laws of this State.

11 c. All files, books, paper, records, equipment, and other property  
12 of the State Energy Office are hereby transferred to the depart-  
13 ment created hereunder.

14 d. The rules, regulations, and orders of the State Energy Office  
15 shall continue with full force and effect as the rules, regulations,  
16 and orders of the department created hereunder until further  
17 amended or repealed.

18 e. Except as otherwise provided by this act, all the functions,  
19 powers, and duties of the existing State Energy Office and its  
20 administrator are hereby continued in the department and the  
21 commissioner thereof created hereunder.

22 f. This act shall not affect actions or proceedings, civil or crim-  
23 inal, brought by or against the State Energy Office and pending  
24 on the effective date of this act, but such actions or proceedings  
25 may be further prosecuted or defended in the same manner and  
26 to the same effect by the department created hereunder.

27 g. Whenever in any law, rule, regulation, order, contract, docu-  
28 ment, judicial or administrative proceedings, or otherwise, refer-  
29 ence is made to the State Energy Office or the administrator  
30 thereof, the same shall be considered to mean and refer to the  
31 State Department of Energy and the commissioner thereof created  
32 hereunder.

1 24. All the functions, powers and duties heretofore exercised  
2 by the Department of Community Affairs and the Commissioner  
3 thereof relating to the adoption, amendment and repeal of the  
4 energy subcode of the State Uniform Construction Code pursuant  
5 to P. L. 1975, c. 217 (C. 52:27D-119 et seq.) are hereby transferred  
6 to, and vested in the Department of Energy and the Commissioner  
7 of the Department of Energy; provided, however, that nothing in  
8 this section shall be construed so as to interfere with the enforce-  
9 ment of such energy subcode by the Commissioner of the Depart-  
10 ment of Community Affairs pursuant to the aforesaid P. L. 1975,  
11 c. 217.

1 25. The Bureau of Energy Resources in the Department of  
2 Public Utilities, together with all of its functions, powers and  
3 duties, is hereby transferred to the Department of Energy estab-  
4 lished pursuant to this act.

1 26. The transfer of responsibilities directed by this act, except  
2 as otherwise provided herein, shall be made in accordance with the  
3 "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D-1  
4 et seq.).

1 27. All acts and parts of acts inconsistent with any of the provi-  
2 sions of this act are, to the extent of such inconsistency, superseded  
3 and repealed.

1 28. If any section, part, phrase, or provision of this act or the  
2 application thereof to any person be adjudged invalid by any court  
3 of competent jurisdiction, such judgment shall be confined in its  
4 operation to the section, part, phrase, provision, or application  
5 directly involved in the controversy in which such judgment shall  
6 have been rendered and it shall not affect or impair the validity  
7 of the remainder of this act or the application thereof to other  
8 persons.

1 29. The object and design of this act being the protection of the  
2 public health, safety and welfare by means of the coordination of  
3 State planning and authority in energy related matters, this act  
4 shall be liberally construed.

1 30. This act shall take effect immediately.

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### SPONSORS' STATEMENT

The purpose of this bill is to create a Department of Energy as one of the principal departments in the Executive Branch of the State Government.

This legislation is motivated by the belief, expressed in section 2 of this bill, "that only an agency with comprehensive powers can collect, collate, and analyze the information necessary to determine the amount of energy that is or may be available; develop mechanisms to insure a fair and equitable distribution of existing supplies, conduct the long-term planning and management needed to eliminate or alleviate the potential adverse effects of a supply of energy insufficient to meet legitimate needs or from practices of production, distribution, and consumption detrimental to the quality of life or the environment; coordinate New Jersey's energy policies and actions with Federal energy policies; and secure for New Jersey the maximum amount of Federal funding available for energy related research, development, and demonstration projects."

In addition to the 10-year energy master plan powers provided by section 12 of this bill, the new State Department of Energy, through its commissioner, is charged with the responsibility to "design, implement, and enforce" a program for the conservation of energy in commercial, industrial, and residential facilities, which program shall provide for the evaluation of energy systems as they relate to lighting, heating, refrigeration, air-conditioning, building design and operation, and appliance manufacturing and operation (section 9).

In section 13 of the bill, the department is granted an "intervenor" role in the proceedings before, and appeals from, any State

department, commission, authority, council, agency or board charged with the regulation, supervision or control of any business, industry or utility engaged in the production, processing, distribution, transmission or storage of energy in any form. The purpose of such intervention is to insure "the proper consideration by such State instrumentalities of the State energy master plan . . . or any rule or regulation promulgated by the department pursuant to the provisions of this act." The department is also required to prepare and distribute to these State instrumentalities a set of individual "guidelines as the department determines to be relevant to assist each such instrumentality in conforming with said energy master plan in implementing its regulatory, supervisory or control powers. . . ."

Section 15 of the bill provides for the declaration, by the Governor, of "a state of energy emergency" upon a finding by the commissioner "that there exists or impends an energy supply shortage of a dimension which endangers the public health, safety, or welfare in all or any part of the State." Upon the declaration of such an "emergency" the commissioner will possess all the powers previously provided to the Administrator of the State Energy Office under the now expired (as of June 30, 1975) "Emergency Energy Fair Practices Act of 1974," P. L. 1974, c. 2. It may be recalled that the rules and regulations promulgated pursuant to those 1974 powers not only significantly alleviated the hardships being experienced by the citizens of New Jersey as a result of the Arab Oil Embargo of the Winter of 1973-74, but gave this State a national reputation for the efficiency and efficacy of its response to those "energy crisis" conditions. Section 15 of this bill, and, indeed, all the powers, duties and responsibilities imposed upon the Department of Energy and its commissioner pursuant to the other sections of this bill, are intended to regain for New Jersey the reputation it once so justly deserved, and to insure on behalf of the citizens of this State that long-term energy planning will be immediately undertaken by a State instrumentality of cabinet rank and power. It is only through such long-term planning that near-term "crisis" conditions can be prevented or, at least, alleviated.

7

*Assembly  
Committee*

STATEMENT TO  
**ASSEMBLY, No. 3179**

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**STATE OF NEW JERSEY**

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DATED: APRIL 28, 1977

The purpose of this bill is to create a cabinet level Department of Energy as one of the principal departments in the Executive Branch of the State Government.

Pursuant to the provisions of this bill the new department would have the power (in section 12) to "prepare . . . a master plan for a period of 10 years on the production, distribution, consumption and conservation of energy in this State. Such plan shall be revised and updated at least once every 3 years." In section 9 of the bill the department is charged with the responsibility to "design, implement, and enforce" a program for the conservation of energy in commercial, industrial and residential facilities, which program shall provide for the evaluation of energy systems as they relate to lighting, heating, refrigeration, air-conditioning, building design and operation, and appliance manufacturing and operation.

In section 13 of the bill, the department is granted an "intervenor" role in the proceedings before, and appeals from, any State department, commission, authority, council, agency or board charged with the regulation, supervision or control of any business, industry or utility engaged in the production, processing, distribution, transmission or storage of energy in any form. The purpose of such intervention is to insure "the proper consideration by such State instrumentalities of the State energy master plan . . . or any rule or regulation promulgated by the department pursuant to the provisions of this act." The department is also required to prepare and distribute to these State instrumentalities a set of individual "guidelines as the department determines to be relevant to assist each such instrumentality in conforming with said energy master plan in implementing its regulatory, supervisory or control powers. . . ."

Section 15 of the bill provides for the declaration, by the Governor, of "a state of energy emergency" upon a finding by the commissioner "that there exists or impends an energy supply shortage of a dimension which endangers the public health, safety, or welfare in all or any part of the State." Upon the declaration of such an "emergency" the



commissioner will possess all the powers previously provided to the Administrator of the State Energy Office under the now expired (as of June 30, 1975) "Emergency Energy Fair Practices Act of 1974," P. L. 1974, c. 2.

The Assembly Energy and Natural Resources Committee amended this bill to abolish the present Department of Public Utilities but to continue its present statutory functions (pursuant to the provisions of Title 48 of the Revised Statutes), as well as the positions of its present President and Commissioners, and all officers and employees, as the Board of Public Utilities. To insure the integrity of the rate making process, the committee required the Board of Public Utilities, although "in" the new Department of Energy, shall be "independent of any supervision or control by the department or by any officer or employee thereof. . . ."

Because there are several functions now performed by the Department of Public Utilities which are not, properly, energy or energy related, the committee included a section requiring the new Department of Energy to report to the Legislature and the Governor within 6 months of the effective date of this act as to: (1) which of the present functions of the transferred P.U.C. should be transferred to other State departments (e.g. autobusses, solid waste management, water); and (2) which functions now performed by other State departments in the energy or energy related area ought to be transferred to the new Department of Energy. The Legislature and the Governor will act on this report as they deem most appropriate.

The committee amended section 10 of the bill to increase the size of the Advisory Council on Energy Planning and Conservation from 10 to 15 members. The additional members will represent "environmental organizations, the solar energy industry, manufacturing industrial consumers, industrial consumers, commercial consumers, residential consumers, the transportation industry and the academic community."

With respect to energy facility siting, the committee added language to section 13 which would give the new Department of Energy "jurisdiction coextensive" with that of any other State department or instrumentality with powers in this respect. In the event that the views of the department with respect to the siting of any individual energy facility should differ with those of the instrumentality with statutory jurisdiction in this area, there is language which requires the formation of an Energy Facility Review Board, to consist of the Director of the Division of Energy Planning and Conservation (in the Department of Energy), the chief executive officer of the State instrumentality with which the difference of opinion has arisen, and a designee of the Gover-

nor. The decision of this Energy Facility Review Board will be binding upon the State instrumentality with the statutory power over the siting of that specific energy facility.

The final major amendment made by the committee concerns "legislative oversight." In this context, the committee required that proposed rules and regulations, except those necessary to deal with "emergency" situations, shall be presented to the Senate and General Assembly on a day when both Houses of the Legislature are in meeting in regular or special session. Any such proposed rules or regulation may take effect 60 days after such presentation to the Legislature unless within that time the Legislature passes a concurrent resolution stating in substance that the Legislature does not approve the proposed rule or regulation.

The committee believes that with these amendments the State will possess a Department of Energy with powers, duties and responsibilities commensurate with the legitimate needs of the citizens of New Jersey for stable, secure supplies of all forms of energy at reasonable prices; for programs of energy conservation which can be expected to increase energy supplies and reduce energy costs; and for long-term energy planning so that future needs can be anticipated and planned for in the present, and so that "crisis" conditions can, to the maximum extent, be avoided.

ASSEMBLY COMMITTEE AMENDMENTS TO

**SENATE, No. 3179**

**STATE OF NEW JERSEY**

ADOPTED APRIL 28, 1977

Amend page 1, title, line 4, after "Government", insert "and repealing parts of the statutory law".

Amend page 1, section 2, line 21, after " ;", insert "contribute to the proper siting of energy facilities necessary to serve the public interest;"

Amend page 2, section 2, line 35, after "authority", insert ", regulation".

Amend page 2, section 3, line 26, omit "Energyy", insert "Energy".

Amend page 4, section 3, line 81, omit "whoesale", insert "wholesale".

Amend page 4, section 5, after line 10, insert:

"5.1.a. There is hereby established in the department, the Board of Public Utilities; provided, however, that such board shall be independent of any supervision or control by the department or by any officer or employee thereof, except as otherwise expressly provided in this act.

b. The Department of Public Utilities is abolished and its functions, powers and duties are hereby transferred to the Board of Public Utilities, except as provided in section 25 of this act.

c. The Board of Public Utility Commissioners and the positions of president and commissioners thereof shall be continued as the Board of Public Utilities and the president and commissioners thereof in the Board of Public Utilities. This act shall not affect the terms of office of, nor the salaries received by, the present members of the Board of Public Utility Commissioners, or of any officers or employees thereof. The Department of Civil Service shall not reclassify any title or position transferred from the Department of Public Utilities pursuant to this act without the approval of the board. The President and Commissioners of the Board of Public Utilities shall be appointed in the manner provided by existing law for the appointment of the President and Commissioners of the Board of Public Utility Commissioners, and shall receive such salaries as shall be provided by law.

d. All functions, powers and duties now vested in the Board of Public Utility Commissioners and in the positions of president and commissioners thereof are hereby transferred to and assumed by the Board of Public Utilities and the president and commissioners thereof.

e. Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Department of Public Utilities or the Board of Public Utility Commissioners, the same shall mean and refer to the Board of Public Utilities.

5.2.a. There is hereby established in the department the Division of Energy Planning and Conservation.

b. The Division of Energy Planning and Conservation shall be under the immediate supervision of a director who shall be appointed by the Governor, with the advice and consent of the Senate, and who shall serve at the pleasure of the Governor during the Governor's term of office and until the appointment and qualification of his successor. The director shall receive such salary as shall be provided by law."

Amend page 4, section 8, line 1, after "8.", insert "a."

Amend page 4, section 8, after line 6, insert new subsection as follows:

"b. Within 6 months of the effective date of this act, the commissioner, after consultation with the Director of the Division of Energy Planning and Conservation, the Board of Public Utilities, the Attorney General, and the commissioners of appropriate executive departments, including but not necessarily limited to the Departments of Environmental Protection and Transportation, shall prepare and submit a report to the Legislature and the Governor identifying (1) those functions and duties currently exercised by other departments, divisions, agencies, commissions, councils, boards, or bureaus of State Government relating to energy that might be appropriately transferred to the department; and (2) those functions and duties transferred to the department pursuant to the provisions of this act that might be appropriately transferred to other departments. Such transfers may be effectuated by executive order or law, as the case may be."

Amend page 4, section 9, line 1, after "shall", omit "by and"; after "department", insert "through the Division of Energy Planning and Conservation".

Amend page 5, section 9, line 15, after "activities", insert ", including the Board of Public Utilities,".

Amend page 5, section 9, line 37, after "gas", omit "furnaces,"; after "ranges", omit ",".

Amend page 5, section 9, line 38, after "systems", insert ", and new gas furnaces with electric ignition systems and automatic vent-dampers".

Amend page 5, section 9, line 45, after "agencies", insert ", including the Board of Public Utilities,".

Amend page 6, section 9, line 65, after "agencies," insert "including the Board of Public Utilities,".

Amend page 7, section 9, line 101, omit "department", insert "Division of Energy Planning and Conservation".

Amend page 7, section 10, line 1, omit "department", insert "Division of Energy Planning and Conservation".

Amend page 7, section 10, line 2, after "Energy", insert "Planning and Conservation"; omit "10", insert "15".

Amend page 7, section 10, line 5, omit "the".

Amend page 7, section 10, line 6, omit "Department of Public Utilities and the consuming public", insert "environmental organizations, the solar energy industry, manufacturing, industrial consumers, commercial consumers, residential consumers, the transportation industry and the academic community".

Amend page 7, section 11, line 1, after "Energy", insert "Planning and Conservation".

Amend page 7, section 11, line 2, after "commissioner", insert "and from the Director of the Division of Energy Planning and Conservation".

Amend page 8, section 12, line 1, after "department," insert "through the Division of Energy Planning and Conservation,".

Amend page 9, section 13, line 1, omit "department", insert "Division of Energy Planning and Conservation"; omit "further".

Amend page 9, section 13, line 3, after "department," insert "division,".

Amend page 9, section 13, line 4, after "instrumentalities")", insert ", including the Board of Public Utilities,".

Amend page 10, section 13, after line 35, insert new subsection c. as follows:

"c. With respect to the siting of any energy facility in any part of New Jersey, the department shall, the provisions of any law to the contrary notwithstanding, have jurisdiction coextensive with that of any other State instrumentality, and to that end, no State instrumentality with the power to grant or deny any permit for the construction or location of any energy facility shall exercise its powers without referring to the Division of Energy Planning and Conservation, for its review and comments, a copy of such application and all papers, documents and materials appurtenant thereto filed by the applicant with such State instrumentality. Prior to making a final decision with respect to any such application, the State instrumentality with power

of approval over such application shall solicit the views of the department thereupon. Such views shall be communicated to the State instrumentality with the power of approval over such application in the form of a report describing the findings of the department with respect to such application. Such report shall be prepared by the Director of the Division of Energy Planning and Conservation and shall be signed by said director and by the commissioner. In the event that such report is not prepared and transmitted to the State instrumentality with power of approval over such application within 90 days after the department's receipt of such application, such State instrumentality shall act upon such application pursuant to the law providing its power of approval thereof. In the event that the views of the department, as contained in its report, with respect to any such application differ from the views of the State instrumentality with the power of approval over such application, there shall be established an Energy Facility Review Board which shall consist of the Director of the Division of Energy Planning and Conservation, the director or chief executive officer of the State instrumentality with the power of approval over such application, and a designee of the Governor. The decision of the Energy Facility Review Board created with respect to a specific energy facility application shall be binding with respect to such facility and shall be implemented forthwith by the State instrumentality with the power of approval over such application.

In implementing its responsibilities pursuant to this subsection, the department shall have the power to adopt, by regulation, a fee schedule for reviewing applications for the construction or location of energy facilities; provided, however, that fees shall be charged to applicants for permits to construct or locate energy facilities only in those instances where the nature and extent of the proposed energy facility are such as to necessitate the employment of consultants or other expert personnel from without the department before the department can make its determination with respect to any such application, and that such fees shall in any event be the minimum amount necessary to permit the department to fulfill its responsibilities under this section.

The provisions of this section shall not be regarded as to be in derogation of any powers now existing and shall be regarded as supplemental and in addition to powers conferred by other laws, including municipal zoning authority."

Amend page 10, section 14, line 5, after "agencies", insert ", including the Board of Public Utilities,".

Amend page 11, section 15, line 20, omit "administrator", insert "commissioner".

Amend page 12, section 15, line 63, omit "now"; omit "Utility Commissioners", insert "Utilities".

Amend page 14, section 22, after line 28, insert new section 22.1 as follows:

"22.1 The department shall transmit copies of all rules and regulations proposed pursuant to this act to the Senate and General Assembly on a day on which both Houses shall be meeting in the course of a regular or special session. The provisions of the 'Administrative Procedure Act' or any other law to the contrary notwithstanding, no such rule or regulation, except a rule or regulation adopted pursuant to an energy emergency declared by the Governor, shall take effect if, within 60 days of the date of its transmittal to the Senate and General Assembly, the Legislature shall pass a concurrent resolution stating in substance that the Legislature does not favor such proposed rule or regulation."

Amend page 15, section 23, line 21, omit "commissioner thereof", insert "Director of the Division of Energy Planning and Conservation".

Amend page 15, section 23, line 31, omit "commissioner thereof", insert "Director of the Division of Energy Planning and Conservation".

Amend page 15, section 24, line 11, after "217", insert "; provided further, however, that this section shall not take effect until 90 days after the effective date of this act, and any energy subcode adopted by the Department of Community Affairs within said 90 days shall continue in force and effect until amended or repealed by the department as herein provided".

Amend page 15, section 25, line 3, after "the", insert "Division of Energy Planning and Conservation in the".

Amend page 16, section 29, line 3, after "planning", insert ", regulation".

[ASSEMBLY REPRINT]

**SENATE, No. 3179**

with Assembly committee amendments adopted April 28, 1977

**STATE OF NEW JERSEY**

INTRODUCED APRIL 18, 1977

By Senators DODD, McGAHN and RUSSO

(Without Reference)

AN ACT concerning the production, distribution, conservation, and consumption of energy, establishing a Department of Energy as a principal department in the Executive Branch of State Government *\*and repealing parts of the statutory law\**.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Department  
2 of Energy Act."

1 2. The Legislature hereby finds and determines that a secure,  
2 stable, and adequate supply of energy at reasonable prices is vital  
3 to the State's economy and to the public health, safety, and welfare;  
4 that this State is threatened by the prospect of both near- and  
5 long-term energy shortages; that the existing dispersion of re-  
6 sponsibilities with respect to energy and energy-related matters  
7 among various State departments, divisions, agencies, and com-  
8 missions inhibits comprehensive and effective planning for our  
9 future energy needs; and that the State government does not now  
10 possess either sufficient information or adequate authority to  
11 provide for and insure the wise and efficient production, distribu-  
12 tion, use, and conservation of energy.

13 The Legislature further finds and determines that only an agency  
14 with comprehensive powers can collect, collate, and analyze the  
15 information necessary to determine the amount of energy that is  
16 or may be available; develop mechanisms to insure a fair and  
17 equitable distribution of existing supplies; conduct the long-term  
18 planning and management needed to eliminate or alleviate the  
19 potential adverse effects of a supply of energy insufficient to meet

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.



20 legitimate needs or from practices of production, distribution, and  
21 consumption detrimental to the quality of life or the environment;  
22 *\*contribute to the proper siting of energy facilities necessary to*  
23 *serve the public interest;\** coordinate New Jersey's energy policies  
24 and actions with Federal energy policies; and secure for New Jer-  
25 sey the maximum amount of Federal funding available for energy  
25A related research, development, and demonstration projects.

26 The Legislature further finds and determines that shortages of  
27 energy have the potential at certain times and in certain places to  
28 so seriously affect the public interest that it is necessary for  
29 State government to possess emergency powers sufficient to prevent  
30 or minimize health disasters and grave economic disruptions which  
31 could occur during said times.

32 The Legislature, therefore, declares it to be in the best interest  
33 of the citizens of this State to establish a principal department  
34 in the Executive Branch of State Government to coordinate au-  
35 thority\*, *regulation\** and planning by the State in energy related  
36 matters.

1 3. As used in this act:

2 a. "Commissioner" means the Commissioner of the Department  
3 of Energy;

4 b. "Department" means the Department of Energy established  
5 by this act;

6 c. "Distributor" means and includes each person, wherever  
7 resident or located, who imports into this State fuels for use,  
8 distribution, storage, or sale in this State after the same shall  
9 reach this State; and also each person who produces, refines,  
10 manufactures, blends, or compounds fuels and sells, uses, stores,  
11 or distributes the same within this State. In no case, however,  
12 shall a retail dealer be construed to be a distributor;

13 d. "Energy" means all power derived from, or generated by,  
14 any natural or man-made agent, including, but not limited to,  
15 petroleum products, gases, solar radiation, atomic fission or fusion,  
16 mineral formations, thermal gradients, wind, or water.

17 e. "Energy facility" means any plant or operation which  
18 produces, converts, distributes or stores energy or converts one  
19 form of energy to another; in no case, however, shall an operation  
20 conducted by a person acting only as a retail dealer be construed  
21 as an energy facility;

22 f. "Energy information" means any statistic, datum, fact, or  
23 item of knowledge and all combinations thereof relating to energy;

24 g. "Energy information system" means the composite of energy  
25 information collected by the office;

- 26 h. \*["Energyy]\* \**Energy*\* industry" means any person, com-  
27 pany, corporation, business, institution, establishment or other  
28 organization of any nature engaged in the exploration, extraction,  
29 transportation, transmission, refining, processing, generation, dis-  
30 tribution, sale or storage of energy;
- 31 i. "Fuel" means coal, petroleum products, gases and nuclear  
32 fuel, including enriched uranium, U235 and U238, and plutonium,  
33 U239;
- 34 j. "Gases" means natural gas, methane, liquefied natural gas,  
35 synthetic natural gas, coal gas and other manufactured gases;
- 36 k. "Person" means natural persons, partnerships, firms, asso-  
37 ciations, joint stock companies, syndicates and corporations, and  
38 any receiver, trustee, conservator or other officer appointed pur-  
39 suant to law or by any court, State or Federal; "person" also  
40 means the State of New Jersey, counties, municipalities, authori-  
41 ties, other political subdivisions, and all departments and agencies  
42 within the aforementioned governmental entities;
- 43 l. "Petroleum products" means and includes motor gasoline,  
44 middle distillate oils, residual fuel oils, aviation fuel, propane,  
45 butane, natural gasoline, naphtha, gas oils, lubricating oils and any  
46 other similar or dissimilar liquid hydrocarbons;
- 47 m. "Public building" means any building, structure, facility  
48 or complex used by the general public, including, but not limited  
49 to, theaters, concert halls, auditoriums, museums, schools, libraries,  
50 recreation facilities, public transportation terminals and stations,  
51 factories, office buildings, business establishments, passenger  
52 vehicle service stations, shopping centers, hotels or motels and  
53 public eating places, owned by any State, county or municipal  
54 government agency or instrumentality or any private individual,  
55 partnership, association or corporation;
- 56 n. "Purchase" means and includes, in addition to its ordinary  
57 meaning, any acquisition of ownership or possession, including,  
58 but not limited to, condemnation by eminent domain proceedings;
- 59 o. "Retail dealer" means any person who engages in the busi-  
60 ness of selling fuels from a fixed location such as a service station,  
61 filling station, store, or garage directly to the ultimate users of  
62 said fuel;
- 63 p. "Sale" means and includes, in addition to its ordinary mean-  
64 ing, any exchange, gift, theft, or other disposition. In such case  
65 where fuels are exchanged, given, stolen, or otherwise disposed of,  
66 they shall be deemed to have been sold;

67 q. "Supplier of fuel" means any refiner, importer, marketer,  
68 jobber, distributor, terminal operator, firm, corporation, whole-  
69 saler, broker, cooperative or other person who supplies, sells,  
70 consigns, transfers, or otherwise furnishes fuel. In no case, how-  
71 ever, shall a retail dealer be construed to be a supplier of fuel;

72 r. "Trade secret" means the whole or any portion or phase  
73 of any scientific, technical or otherwise proprietary information,  
74 design, process, procedure, formula or improvement which is used  
75 in one's business and is secret and of value; and a trade secret  
76 shall be presumed to be secret when the owner takes measures to  
77 prevent it from becoming available to persons other than those  
78 selected by the owner to have access thereto for limited purposes;

79 s. "Wholesale dealer" means any person who engages in the  
80 business of selling fuels to other persons who resell the said fuel.  
81 In no case shall a retail dealer be considered as a \***[wholesale]**\*  
82 \**wholesale*\* dealer.

1 4. There is hereby established in the Executive Branch of the  
2 State Government a principal department which shall be known  
3 as the Department of Energy.

1 5. The administrator and chief executive officer of the depart-  
2 ment shall be a commissioner who shall be a person qualified by  
3 training and experience to perform the duties of his office. The  
4 commissioner shall be appointed by the Governor with the advice  
5 and consent of the Senate, and shall serve at the pleasure of the  
6 Governor and until the appointment and qualification of the commis-  
7 sioner's successor. He shall devote his entire time to the duties of  
8 his office and shall receive such salary as shall be provided by law.  
9 Any vacancy occurring in the office of the commissioner shall be  
10 filled in the same manner as the original appointment.

11 \*5.1.a. *There is hereby established in the department the Board*  
12 *of Public Utilities; provided, however, that such board shall be*  
13 *independent of any supervision or control by the department or*  
14 *by any officer or employee thereof, except as otherwise expressly*  
15 *provided in this act.*

16 *b. The Department of Public Utilities is abolished and its func-*  
17 *tions, powers and duties are hereby transferred to the Board of*  
18 *Public Utilities, except as provided in section 25 of this act.*

19 *c. The Board of Public Utility Commissioners and the positions*  
20 *of president and commissioners thereof shall be continued as the*  
21 *Board of Public Utilities and the president and commissioners*  
22 *thereof in the Board of Public Utilities. This act shall not affect*  
23 *the terms of office of, nor the salaries received by, the present mem-*

24 *bers of the Board of Public Utility Commissioners, or of any*  
25 *officers or employees thereof. The Department of Civil Service*  
26 *shall not reclassify any title or position transferred from the De-*  
27 *partment of Public Utilities pursuant to this act without the ap-*  
28 *proval of the board. The President and Commissioners of the*  
29 *Board of Public Utilities shall be appointed in the manner provided*  
30 *by existing law for the appointment of the President and Commis-*  
31 *sioners of the Board of Public Utility Commissioners, and shall*  
32 *receive such salaries as shall be provided by law.*

33 *d. All functions, powers and duties now vested in the Board of*  
34 *Public Utility Commissioners and in the positions of president and*  
35 *commissioners thereof are hereby transferred to and assumed by*  
36 *the Board of Public Utilities and the president and commissioners*  
37 *thereof.*

38 *e. Whenever in any law, rule, regulation, order, contract, docu-*  
39 *ment, judicial or administrative proceeding or otherwise, reference*  
40 *is made to the Department of Public Utilities or the Board of Public*  
41 *Utility Commissioners, the same shall mean and refer to the Board*  
42 *of Public Utilities.*

43 *5.2.a. There is hereby established in the department the Division*  
44 *of Energy Planning and Conservation.*

45 *b. The Division of Energy Planning and Conservation shall be*  
46 *under the immediate supervision of a director who shall be ap-*  
47 *pointed by the Governor, with the advice and consent of the Senate,*  
48 *and who shall serve at the pleasure of the Governor during the*  
49 *Governor's term of office and until the appointment and qualifica-*  
50 *tion of his successor. The director shall receive such salary as*  
51 *shall be provided by law.\**

1 6. The commissioner shall organize the work of the department  
2 and establish therein such administrative subdivisions as he may  
3 deem necessary, proper and expedient. He may formulate and  
4 adopt rules and regulations and prescribe duties for the efficient  
5 conduct of the business, work and general administration of the  
6 department. He may delegate to subordinate officers or employees  
7 in the department such of his powers as he may deem desirable  
8 to be exercised under his supervision and control.

1 7. Subject to the provisions of Title 11 of the Revised Statutes,  
2 and within the limits of funds appropriated or otherwise made  
3 available, the commissioner may appoint such officers and em-  
4 ployees of the department as he may deem necessary for the  
5 performance of its duties, fix and determine their qualifications,  
6 duties, and compensation and retain or employ engineers and

7 private consultants on a contract basis or otherwise for rendering  
8 professional or technical assistance.

1 8. *\*a.\** The commissioner shall make an annual report to the  
2 Legislature and the Governor of the department's operations and  
3 render such other reports as they shall from time to time request  
4 or as may be required by law. These reports shall include, but not  
5 be limited to, an analysis of existing problems and guidelines re-  
6 lating to future energy use and availability.

7 *\*b. Within 6 months of the effective date of this act, the com-  
8 missioner, after consultation with the Director of the Division of  
9 Energy Planning and Conservation, the Board of Public Utilities,  
10 the Attorney General, and the commissioners of appropriate execu-  
11 tive departments, including but not necessarily limited to the De-  
12 partments of Environmental Protection and Transportation, shall  
13 prepare and submit a report to the Legislature and the Governor  
14 identifying (1) those functions and duties currently exercised by  
15 other departments, divisions, agencies, commissoins, councils,  
16 boards, or bureaus of State Government relating to energy that  
17 might be appropriately transferred to the department; and (2)  
18 those functions and duties transferred to the department pursuant  
19 to the provisions of this act that might be appropriately transferred  
20 to other departments. Such transfers may be effectuated by execu-  
21 tive order or law, as the case may be.\**

1 9. The commissioner shall, *\*[by and]\** on behalf of the depart-  
1A ment *\*through the Division of Energy Planning and Conservation\*:*

2 a. Manage the department as the central repository within the  
3 State Government for the collection of energy information;

4 b. Collect and analyze data relating to present and future  
5 demands and resources for all forms of energy;

6 c. Have authority to require all persons, firms, corporations or  
7 other entities engaged in the production, processing, distribution,  
8 transmission or storage of energy in any form to submit reports  
9 setting forth such information as shall be required to carry out the  
10 provisions of this act;

11 d. Have authority to require any person to submit information  
12 necessary for determining the impact of any construction or  
13 development project on the energy and fuel resources of this State;

14 e. Charge other State Government departments and agencies  
15 involved in energy-related activities\*, *including the Board of  
16 Public Utilities,\** with specific information gathering goals and  
16A require that said goals be fulfilled;

17 f. Establish an energy information system which will provide  
18 all data necessary to insure a fair and equitable distribution of  
19 available energy, to permit a more efficient and effective use of  
20 available energy, and to provide the basis for long-term planning  
21 related to energy needs;

22 g. Design, implement, and enforce a program for the conservation  
23 of energy in commercial, industrial, and residential facilities, which  
24 program shall provide for the evaluation of energy systems as they  
25 relate to lighting, heating, refrigeration, air-conditioning, building  
26 design and operation, and appliance manufacturing and operation;  
27 and may include, but shall not be limited to, the requiring of an  
28 annual inspection and adjustment, if necessary, of oil-fired heating  
29 systems in residential, commercial and industrial buildings so as to  
30 bring such systems into conformity with efficiency standards  
31 therefor prescribed by the department; the setting of lighting  
32 efficiency standards for public buildings; the establishment of  
33 mandatory thermostat settings and the use of seven-day, day-night  
34 thermostats in public buildings; the development of standards for  
35 efficient boiler operation; and, the preparation of a plan to insure  
36 the phased retrofitting of existing gas furnaces with electric igni-  
37 tion systems and to require that new gas \***[furnaces,]**\* ranges\***[,]**\*  
38 and dryers be equipped with electric ignition systems\*, and new  
38A *gas furnaces with electric ignition systems and automatic vent-*  
38B *dampers\**;

39 h. Conduct and supervise a State-wide program of education  
40 including the preparation and distribution of information relating  
41 to energy conservation;

42 i. Monitor prices charged for energy within the State, evaluate  
43 policies governing the establishment of rates and prices for energy,  
44 and make recommendations for necessary changes in such policies  
45 to other concerned Federal and State agencies\*, *including the Board*  
46 *of Public Utilities\**, and to the Legislature;

47 j. Have authority to conduct and supervise research projects  
48 and programs for the purpose of increasing the efficiency of energy  
49 use, developing new sources of energy, evaluating energy conserva-  
50 tion measures, and meeting other goals consistent with the intent  
51 of this act;

52 k. Have authority to distribute and expend funds made available  
53 for the purpose of research projects and programs;

54 l. Have authority to enter into interstate compacts in order to  
55 carry out energy research and planning with other states or the  
56 Federal Government where appropriate;

57 m. Have authority to apply for, accept, and expend grants-in-aid  
58 and assistance from private and public sources for energy pro-  
59 grams; notwithstanding any other law to the contrary, the com-  
60 missioner is designated as the State official to apply for, receive,  
61 and expend Federal and other funding made available to the State  
62 for the purposes of this act;

63 n. Require the annual submission of energy utilization reports  
64 and conservation plans by State Government departments and  
65 agencies, *\*including the Board of Public Utilities,\** evaluate said  
66 plans and the progress of the departments and agencies in meeting  
67 these plans, and order changes in the plans or improvement in  
67A meeting the goals of the plans;

68 o. Carry out all duties given him under other sections of this act  
69 or any other acts;

70 p. Have authority to conduct hearings and investigations in  
71 order to carry out the purposes of this act and to issue subpoenas in  
72 furtherance of such power. Said power to conduct investigations  
73 shall include, but not be limited to, the authority to enter without  
74 delay and at reasonable times the premises of any energy industry  
75 in order to obtain or verify any information necessary for carrying  
76 out the purposes of this act;

77 q. Have authority to adopt, amend or repeal, pursuant to the  
78 "Administrative Procedure Act" (C. 52:14B-1 et seq.) such rules  
79 and regulations necessary and proper to carry out the purposes of  
80 this act;

81 r. Administer such Federal energy regulations as are applicable  
82 to the states, including, but not limited to, the mandatory petroleum  
83 allocation regulations and State energy conservation plans.

84 s. Have authority to sue and be sued;

85 t. Have authority to acquire by purchase, grant, contract or  
86 eminent domain title to real property for the purpose of demon-  
87 strating facilities which improve the efficiency of energy use,  
88 conserve energy or generate energy in new and efficient ways;

89 u. Have authority to construct and operate, on an experimental  
90 or demonstration basis, facilities which improve the efficiency of  
91 energy use, conserve energy or generate power in new and efficient  
92 ways;

93 v. Have authority to contract with any other public agency or  
94 corporation incorporated under the laws of this or any other state  
95 for the performance of any function under this act;

96 w. Determine the effect of energy and fuel shortages upon con-  
97 sumers, and formulate proposals designed to encourage the lowest

98 possible cost of energy and fuels consumed in the State consistent  
99 with the conservation and efficient use of energy;

100 x. Keep complete and accurate minutes of all hearings held  
101 before the commissioner or any member of the \*~~department~~\*  
102 \*Division of Energy Planning and Conservation\* pursuant to the  
103 provisions of this act. All such minutes shall be retained in a  
104 permanent record and shall be available for public inspection at  
105 all times during the office hours of the department.

1 10. There is created in the \*~~department~~\* \*Division of Energy  
2 Planning and Conservation\* an Advisory Council on Energy \*Plan-  
3 ning and Conservation\* which shall consist of \*~~10~~\* \*15\* mem-  
4 bers representing the following: the natural gas industry, the  
5 bottle gas industry, the home heating oil and coal industry, terminal  
6 operators, oil refiners, gasoline retailers, electrical utilities, nuclear  
7 fuel suppliers, \*~~the Department of Public Utilities and the con-~~  
8 suming public\* \*environmental organizations, the solar energy  
8A industry, manufacturing industrial consumers, commercial con-  
9 sumers, residential consumers, the transportation industry and the  
9A academic community\*. Members shall be appointed by the Gov-  
9B ernor, with the advice and consent of the Senate, and as practicably  
9C as possible represent the several geographical areas of the State.

10 The council shall elect a chairman, vice chairman and secretary  
11 from its membership. Of the members first appointed, three shall  
12 serve for terms of 2 years, three for terms of 3 years and four for  
13 terms of 4 years. Thereafter all appointments shall be made for  
14 terms of 4 years. Members shall serve after the expiration of  
15 their terms until their respective successors are appointed and shall  
16 qualify, and any vacancy occurring in the membership of the coun-  
17 cil by expiration of term or otherwise, shall be filled in the same  
18 manner as the original appointment for the unexpired term only.

19 Members of the council shall serve without compensation but  
20 shall be reimbursed for expenses actually incurred in attending  
21 meetings of the council and in performance of their duties as  
22 members thereof. The council shall meet at least four times each  
23 year, at the call of its chairman, and at such other times, at the call  
24 of the commissioner, as he deems necessary.

1 11. The Advisory Council on Energy \*Planning and Conserva-  
1A tion\* is empowered to:

2 a. Request from the commissioner \*and from the Director of the  
3 Division of Energy Planning and Conservation\* such energy in-  
3A formation as it may deem necessary;



4 b. Consider any matter relating to the production, distribution,  
5 consumption or conservation of energy;

6 c. From time to time submit to the commissioner any recom-  
7 mendations which it deems necessary for the long-term planning  
8 and management of energy;

9 d. Study energy programs and make its recommendations  
10 thereon to the commissioner;

11 e. Review, prior to their promulgation, proposed rules and regu-  
12 lations, of the department, and make its recommendations there-  
13 upon, except such rules and regulations determined by the commis-  
14 sioner to be emergency measures essential to preserve the public  
15 health, safety, or welfare.

16 f. Hold public hearings in regard to existing statutes and regu-  
17 lations governing the production, distribution, consumption or con-  
18 servation of energy.

1 12. a. The department, *\*through the Division of Energy Plan-*  
1A *ning and Conservation,\** within 1 year of the effective date of this  
2 act, shall prepare or cause to be prepared, and, after public hear-  
3 ings as hereinafter provided, adopt a master plan for a period of  
4 10 years on the production, distribution, consumption and conserva-  
5 tion of energy in this State. Such plan shall be revised and updated  
6 at least once every 3 years. The plan shall include long-term  
7 objectives but shall provide for the interim implementation of  
8 measures consistent with said objectives. The department may  
9 from time to time and after public hearings amend the master plan.  
10 In preparing the master plan or any portion thereof or amendment  
11 thereto the department shall give due consideration to the energy  
12 needs and supplies in the several geographic areas of the State, and  
13 shall consult and cooperate with any Federal or State agency hav-  
14 ing an interest in the production, distribution, consumption or con-  
15 servation of energy.

16 b. Upon preparation of such master plan, and each revision  
17 thereof, the department shall cause copies thereof to be printed,  
18 shall transmit sufficient copies thereof to the Governor and the  
19 Legislature, for the use of the members thereof, and shall advertise,  
20 in such newspapers as the commissioner determines appropriate to  
21 reach the greatest possible number of citizens of New Jersey, the  
22 existence and availability of such draft plan from the offices of the  
23 department for the use of such citizens as may request same. In  
24 addition, the department shall:

25 (1) Fix dates for the commencement of a series of public hear-  
26 ings, at least one of which shall be held in each geographical area

27 delineated in the master plan. Each such public hearing shall con-  
28 cern the overall content of the plan and those aspects thereof that  
29 have relevance to the specific geographical area in which each such  
30 public hearing is being held;

31 (2) At least 60 days prior to each public hearing held pursuant  
32 to this section, notify each energy industry and each State depart-  
33 ment, commission, authority, council, agency, or board charged  
34 with the regulation, supervision or control of any business, in-  
35 dustry or utility engaged in the production, processing, distribu-  
36 tion, transmission, or storage of energy in any form of the time  
37 and place for the hearing and shall publish such notice in a news-  
38 paper of general circulation in the region where the hearing is to  
39 be held, and in such newspapers of general circulation in the State  
40 as the commissioner determines appropriate to reach the greatest  
41 possible number of citizens of New Jersey.

42 c. Upon the completion of the requirements of subsection b. of  
43 this section, the department shall consider the testimony presented  
44 at all such public hearings and adopt the energy master plan,  
45 together with any additions, deletions, or revisions it shall deem  
46 appropriate.

47 d. Upon the adoption of the energy master plan, and upon each  
48 revision thereof, the department shall cause copies thereof to be  
49 printed and shall transmit sufficient copies thereof to the Governor  
50 and the Legislature, for the use of the members thereof, and to  
51 each State department, commission, authority, council, agency, or  
52 board charged with the regulation, supervision or control of any  
53 business, industry or utility engaged in the production, processing,  
54 distribution, transmission, or storage of energy in any form. In  
55 addition, the department shall advertise in the manner provided in  
56 subsection b. of this section the existence and availability of the  
57 energy master plan from the offices of the department for the use  
58 of such citizens of New Jersey as may request same; provided,  
59 however, that the department may charge a fee for such copies of  
60 the energy master plan sufficient to cover the costs of printing and  
61 distributing same.

1 13. a. The \***[department]**\* *\*Division of Energy Planning and*  
2 *Conservation\** is \***[further]**\* empowered and directed to intervene  
3 in any proceedings before, and appeals from, any State depart-  
4 ment, *\*division,\** commission, authority, council, agency or board  
5 (hereinafter referred to as "State instrumentalities") *\*including*  
6 *the Board of Public Utilities\** charged with the regulation, super-  
7 vision or control of any business, industry or utility engaged in the

8 production, processing, distribution, transmission or storage of  
9 energy in any form, when, in the discretion of the commissioner,  
10 such intervention is necessary to insure the proper consideration  
11 by such State instrumentalities of the State energy master plan,  
12 or any part or aspect thereof, adopted by the department pursuant  
13 to section 12 of this act, or any rule or regulation promulgated by  
14 the department pursuant to the provisions of this act. To facilitate  
15 the intervention provisions of this section, each such State instru-  
16 mentality shall consider the department a party of interest in any  
17 proceedings before such instrumentality with respect to energy and  
18 shall give the same notice to the department as is given to every  
19 other party of interest in such proceedings of any meeting, public  
20 hearing or other proceeding of such instrumentality in implement-  
21 ing its regulatory, supervisory or control powers, responsibilities  
21A and duties with respect to such businesses, industries or utilities.

22 b. It being the intention of the Legislature that the actions,  
23 decisions, determinations and rulings of the State Government with  
24 respect to energy shall to the maximum extent practicable and  
25 feasible conform with the energy master plan adopted by the de-  
26 partment pursuant to section 12 of this act, the department shall  
27 prepare, periodically revise and distribute to each State instru-  
28 mentality charged with the regulation, supervision or control of any  
29 business, industry or utility engaged in the production, processing,  
30 distribution, transmission or storage of energy in any form, such  
31 guidelines as the department determines to be relevant to assist  
32 each such instrumentality in conforming with said energy master  
33 plan in implementing its regulatory, supervisory or control powers,  
34 responsibilities and duties with respect to such businesses, in-  
35 dustries or utilities.

36 *\*c. With respect to the siting of any energy facility in any part*  
37 *of New Jersey, the department shall, the provisions of any law*  
38 *to the contrary notwithstanding, have jurisdiction coextensive with*  
39 *that of any other State instrumentality, and to that end, no State*  
40 *instrumentality with the power to grant or deny any permit for the*  
41 *construction or location of any energy facility shall exercise its*  
42 *powers without referring to the Division of Energy Planning and*  
43 *Conservation, for its review and comments, a copy of such appli-*  
44 *cation and all papers, documents and materials appurtenant thereto*  
45 *filed by the applicant with such State instrumentality. Prior to*  
46 *making a final decision with respect to any such application, the*  
47 *State instrumentality with power of approval over such application*  
48 *shall solicit the views of the department thereupon. Such views*

49 shall be communicated to the State instrumentality with the power  
50 of approval over such application in the form of a report describing  
51 the findings of the department with respect to such application.  
52 Such report shall be prepared by the Director of the Division of  
53 Energy Planning and Conservation and shall be signed by said  
54 director and by the commissioner. In the event that such report  
55 is not prepared and transmitted to the State instrumentality with  
56 power of approval over such application within 90 days after the  
57 department's receipt of such application, such State instrumen-  
58 tality shall act upon such application pursuant to the law providing  
59 its power of approval thereof. In the event that the views of the  
60 department, as contained in its report, with respect to any such  
61 application differ from the views of the State instrumentality with  
62 the power of approval over such application, there shall be estab-  
63 lished an Energy Facility Review Board which shall consist of the  
64 Director of the Division of Energy Planning and Conservation, the  
65 director or chief executive officer of the State instrumentality with  
66 the power of approval over such application, and a designee of the  
67 Governor. The decision of the Energy Facility Review Board cre-  
68 ated with respect to a specific energy facility application shall be  
69 binding with respect to such facility and shall be implemented forth-  
70 with by the State instrumentality with the power of approval over  
71 such application.

72 In implementing its responsibilities pursuant to this subsection,  
73 the department shall have the power to adopt, by regulation, a fee  
74 schedule for reviewing applications for the construction or location  
75 of energy facilities; provided, however, that fees shall be charged  
76 to applicants for permits to construct or locate energy facilities  
77 only in those instances where the nature and extent of the proposed  
78 energy facility are such as to necessitate the employment of con-  
79 sultants or other expert personnel from without the department  
80 before the department can make its determination with respect to  
81 any such application, and that such fees shall in any event be the  
82 minimum amount necessary to permit the department to fulfill its  
83 responsibilities under this section.

84 The provisions of this section shall not be regarded as to be in  
85 derogation of any powers now existing and shall be regarded as  
86 supplemental and in addition to powers conferred by other laws,  
87 including municipal zoning authority.\*

1 14. The commissioner shall prepare and adopt an emergency  
2 allocation plan specifying actions to be taken in the event of an  
3 impending serious shortage of energy which poses grave threats

4 to the public health, safety, or welfare. The commissioner shall  
5 direct all State Government departments and agencies\*, *including*  
6 *the Board of Public Utilities,\** to develop, subject to his approval,  
7 contingency plans for dealing with said emergencies.

1 15. a. Upon a finding by the commissioner that there exists or  
2 impends an energy supply shortage of a dimension which endan-  
3 gers the public health, safety, or welfare in all or any part of the  
4 State, the Governor is authorized to proclaim by executive order  
5 a state of energy emergency for a period of up to 6 months. The  
6 Governor may limit the applicability of any such state of emergency  
7 to specific kinds of energy forms or to specific areas of the State  
8 in which such a shortage exists or impends.

9 b. During the duration of a state of energy emergency the com-  
10 missioner to the extent not in conflict with applicable Federal  
11 law or regulation but notwithstanding any State or local law or  
12 contractual agreement, shall be empowered to:

13 (1) Order any person to reduce by a specified amount the use  
14 of any energy form; to make use of an alternate energy form,  
15 where possible; or to cease the use of any energy form;

16 (2) Order any person engaged in the distribution of any energy  
17 form to reduce or increase by a specified amount or to cease the  
18 distribution of such energy form; to distribute a specified amount  
19 and type of energy form to certain users as specified by the  
20 \***[administrator]**\* *commissioner*\*; or to share supplies of any  
21 energy form with other distributors thereof;

22 (3) Establish priorities for the distribution of any energy form;

23 (4) Regulate and control the distribution and sale of any energy  
24 form by:

25 (a) Establishing such limitations, priorities, or rationing  
26 procedures as shall be necessary to insure a fair and equitable  
27 distribution of available supplies;

28 (b) Establishing minimum and maximum quantities to be  
29 sold to any purchaser;

30 (c) Fixing the days and hours of access to retail dealers;

31 (d) Compelling sales to members of the general public dur-  
32 ing times when a retail dealer is open for the sale of an energy  
33 form;

34 (e) Establishing methods for notifying the public by flags,  
35 symbols, or other appropriate means whether such retail  
36 dealers are open and selling the subject energy form;

37 (5) Direct the heads of those departments and agencies within  
38 State Government that were ordered to develop contingency plans  
39 pursuant to section 14 of this act to implement said plans;

40 (6) Adopt and promulgate such rules and regulations as are  
41 necessary and proper to carry out the purposes of this section.

42 c. During the existence of a state of energy emergency, the Gov-  
43 ernor may order the suspension of any laws, rules, regulations, or  
44 orders of any department or agency in State Government or within  
45 any political subdivision which deal with or affect energy and  
46 which impede his ability to alleviate or terminate a state of energy  
47 emergency.

48 d. Any aggrieved person, upon application to the commissioner  
49 shall be granted a review of whether the continuance of any order  
50 issued by the commissioner pursuant to this section is unreason-  
51 able in light of then prevailing conditions of emergency.

52 e. During a state of energy emergency the commissioner may  
53 require any other department or other agency within State Gov-  
54 ernment to provide such information, assistance, resources, and  
55 personnel as shall be necessary to discharge his functions and  
56 responsibilities under this act, rules and regulations adopted here-  
57 under, or applicable Federal law and regulations.

58 f. The powers granted to the Governor and the commissioner  
59 under this section shall be in addition to and not in limitation of  
60 any emergency powers now or hereafter vested in the Governor, the  
61 commissioner, or any other State Government department or  
62 agency pursuant to any other laws, including but not limited to  
63 any power \***[now]**\* vested in the Board of Public \***[Utility Com-**  
64 **missioners]**\* \*Utilities\* to require utility companies to allocate  
65 available supplies of energy; provided, however, that upon declar-  
66 ing a state of energy emergency, the Governor may supersede any  
67 other such emergency powers.

68 g. The state of energy emergency declared by the Governor pur-  
69 suant to this section shall remain in effect until the Governor  
70 declares by a subsequent executive order that the state of energy  
71 emergency has terminated.

1 16. a. The commissioner shall adopt rules and regulations  
2 requiring the periodic reporting by energy industries of energy  
3 information which shall include but not be limited to the following:

4 (1) Electrical generating capacity in the State; long-range plans  
5 for additions to said capacity; efficiency of electrical generation;  
6 price and cost factors in electrical generation; types and quantities  
7 of fuels used; projections of future demand, consumption of elec-  
8 tricity by sectors; times, duration, and levels of peak demand;

9 (2) Petroleum refining capacity; amount and type of fuel pro-  
10 duced; amount and type of fuel sold; interstate transfers of fuel;

11 price and cost factors in refining, production, and sale; long-term  
12 plans for alterations or additions to refining capacity; location,  
13 amount, and type of fuel storage;

14 (3) Storage capacity for gases; amount and end uses of gases  
15 sold; price and cost factors in the sale and use of gases; and

16 (4) Such other information as the commissioner may determine  
17 necessary for carrying out the purposes of this act.

18 b. The commissioner shall at least annually publish a report  
19 analyzing all energy information collected.

20 c. The commissioner shall have the discretion to obtain energy  
21 information from an affiliate of any energy industry or from an  
22 association or organization of industries of which any such energy  
23 industry is a member. Whenever energy information supplied by  
24 an energy industry is so obtained by the commissioner, the energy  
25 industry to which such information pertains shall be promptly  
26 notified of the energy information so obtained and shall be given  
27 an opportunity to correct or amplify such information.

28 d. Trade secrets collected under this section shall be exempt  
29 from the requirements of P. L. 1963, c. 73 (C. 47:1A-1 et seq.).  
30 The commissioner shall promulgate rules and regulations for the  
31 conduct of administrative hearings on the issue of whether certain  
32 energy information should not be disclosed to the public.

1 17. No person who is an official or employee of the department  
2 shall participate in any manner in any decision or action of the  
3 department wherein he has a direct or indirect financial interest.

1 18. The commissioner may issue subpoenas requiring the at-  
2 tendance and testimony of witnesses and the production of books,  
3 documents, papers, statistics, data, information, and records for  
4 the purpose of carrying out any of his responsibilities under this  
5 act. Whenever there arises a refusal to honor his subpoena, the  
6 commissioner may petition a court of competent jurisdiction for  
7 an order requiring the attendance and testimony of a witness or  
8 the production of the requested books, documents, papers, statistics,  
9 data, information, and records. Any failure to obey such an order  
10 issued by a court shall be punished by the court as a contempt  
11 thereof.

1 19. Upon a violation of this act or of any rules, regulations, or  
2 orders promulgated hereunder, the commissioner, the county prose-  
3 cutor of the county in which the violation occurs if he has the  
4 approval of the commissioner, or any aggrieved person shall be  
5 entitled to institute a civil action in a court of competent juris-  
6 diction for injunctive relief to restrain such violation and for such

7 other relief as the court shall deem proper. The court may proceed  
8 in a summary manner. Neither the institution of such action, nor  
9 any of the proceedings therein shall relieve any party to such  
10 proceedings from other fines or penalties prescribed for such a  
11 violation by this act or by any rule, regulation or order adopted  
12 hereunder.

1 20. Any person who fails to provide energy information in his  
2 official custody when so required by the commissioner shall be liable  
3 for a penalty of not more than \$3,000.00 for each offense. If the  
4 violation is of a continuing nature, each day during which it con-  
5 tinues shall constitute an additional and separate offense. Penalties  
6 shall be collected in a civil action by a summary proceeding under  
7 the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.).

1 21. Any officer or employee of the State who, having obtained by  
2 reason of his employment and for official use, any confidential  
3 energy information, publishes or communicates such information  
4 for reasons not authorized by this or any other act shall be fined  
5 not more than \$2,000.00 or imprisoned not more than 2 years or  
6 both.

1 22. a. Any person purchasing or attempting to purchase energy  
2 in violation of section 15 of this act or any rules, regulations, or  
3 orders promulgated thereunder, shall be subject to a penalty of  
4 not more than \$25.00 for the first offense, not more than \$100.00  
5 for the second offense, and not more than \$200.00 for the third  
6 offense or subsequent offenses.

7 b. Any retail dealer who violates section 15 of this act or any  
8 rules, regulations, or orders promulgated thereunder, shall be  
9 subject to a penalty of not more than \$25.00 for the first offense,  
10 not more than \$200.00 for the second offense, and not more than  
11 \$400.00 for the third offense or subsequent offenses.

12 c. Any distributor or any other supplier of energy who violates  
13 any of the provisions of section 15 of this act or of any rules,  
14 regulations, or orders promulgated thereunder, shall be subject to  
15 a penalty of not more than \$1,000.00 for the first offense, not more  
16 than \$5,000.00 for the second offense, and not more than \$10,000.00  
17 for the third offense or subsequent offenses.

18 d. In addition to any other penalties provided under this or any  
19 other act, the commissioner may recommend to the appropriate  
20 agency the suspension or revocation of the license of any retail  
21 dealer, gasoline jobber, wholesale dealer, distributor, or supplier  
22 of fuel, who has violated this act or any rules, regulations, or orders  
23 promulgated hereunder.



24 e. All penalties imposed pursuant to this section shall be collected  
25 in a civil action by a summary proceeding under the Penalty  
26 Enforcement Law (N. J. S. 2A:58-1 et seq.). If the violation is  
27 of a continuing nature, each day during which it continues shall  
28 constitute an additional and separate offense.

29 *\*22.1 The department shall transmit copies of all rules and*  
30 *regulations proposed pursuant to this act to the Senate and General*  
31 *Assembly on a day on which both Houses shall be meeting in the*  
32 *course of a regular or special session. The provisions of the "Ad-*  
33 *ministrative Procedure Act" or any other law to the contrary*  
34 *notwithstanding, no such rule or regulation, except a rule or regu-*  
35 *lation adopted pursuant to an energy emergency declared by the*  
36 *Governor, shall take effect if, within 60 days of the date of its*  
37 *transmittal to the Senate and General Assembly, the Legislature*  
38 *shall pass a concurrent resolution stating in substance that the*  
39 *Legislature does not favor such proposed rule or regulation.\**

1 23. a. All appropriations, grants, and other moneys available to  
2 the State Energy Office are hereby transferred to the department  
3 created hereunder and shall remain available for the objects and  
4 purposes for which appropriated, subject to any terms, restrictions,  
5 limitations or other requirements imposed by Federal or State law.

6 b. The employees of the State Energy Office are hereby trans-  
7 ferred to the department created hereunder. Nothing in this act  
8 shall be construed to deprive said employees of any rights or protec-  
9 tions provided them by the civil service, pension, or retirement  
10 laws of this State.

11 c. All files, books, paper, records, equipment, and other property  
12 of the State Energy Office are hereby transferred to the depart-  
13 ment created hereunder.

14 d. The rules, regulations, and orders of the State Energy Office  
15 shall continue with full force and effect as the rules, regulations,  
16 and orders of the department created hereunder until further  
17 amended or repealed.

18 e. Except as otherwise provided by this act, all the functions,  
19 powers, and duties of the existing State Energy Office and its  
20 administrator are hereby continued in the department and the  
21 *\*[commissioner thereof]\* \*Director of the Division of Energy*  
21A *Planning and Conservation\** created hereunder.

22 f. This act shall not affect actions or proceedings, civil or crim-  
23 inal, brought by or against the State Energy Office and pending  
24 on the effective date of this act, but such actions or proceedings

25 may be further prosecuted or defended in the same manner and  
26 to the same effect by the department created hereunder.

27 g. Whenever in any law, rule, regulation, order, contract, docu-  
28 ment, judicial or administrative proceedings, or otherwise, refer-  
29 ence is made to the State Energy Office or the administrator  
30 thereof, the same shall be considered to mean and refer to the  
31 State Department of Energy and the \***[commissioner thereof]**\*  
32 \**Director of the Division of Energy Planning and Conservation*\*  
33 created hereunder.

1 24. All the functions, powers and duties heretofore exercised  
2 by the Department of Community Affairs and the Commissioner  
3 thereof relating to the adoption, amendment and repeal of the  
4 energy subcode of the State Uniform Construction Code pursuant  
5 to P. L. 1975, c. 217 (C. 52:27D-119 et seq.) are hereby transferred  
6 to, and vested in the Department of Energy and the Commissioner  
7 of the Department of Energy; provided, however, that nothing in  
8 this section shall be construed so as to interfere with the enforce-  
9 ment of such energy subcode by the Commissioner of the Depart-  
10 ment of Community Affairs pursuant to the aforesaid P. L. 1975,  
11 c. 217\*; *provided further, however, that this section shall not take*  
12 *effect until 90 days after the effective date of this act, and any*  
13 *energy subcode adopted by the Department of Community Affairs*  
14 *within said 90 days shall continue in force and effect until amended*  
15 *or repealed by the department as herein provided\*.*

1 25. The Bureau of Energy Resources in the Department of  
2 Public Utilities, together with all of its functions, powers and  
3 duties, is hereby transferred to the \**Division of Energy Planning*  
4 *and Conservation in the*\* Department of Energy established pur-  
5 suant to this act.

1 26. The transfer of responsibilities directed by this act, except  
2 as otherwise provided herein, shall be made in accordance with the  
3 "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D-1  
4 et seq.).

1 27. All acts and parts of acts inconsistent with any of the provi-  
2 sions of this act are, to the extent of such inconsistency, superseded  
3 and repealed.

1 28. If any section, part, phrase, or provision of this act or the  
2 application thereof to any person be adjudged invalid by any court  
3 of competent jurisdiction, such judgment shall be confined in its  
4 operation to the section, part, phrase, provision, or application  
5 directly involved in the controversy in which such judgment shall  
6 have been rendered and it shall not affect or impair the validity

7 of the remainder of this act or the application thereof to other  
8 persons.

1 29. The object and design of this act being the protection of the  
2 public health, safety and welfare by means of the coordination of  
3 State planning\*, *regulation\** and authority in energy related mat-  
4 ters, this act shall be liberally construed.

1 30. This act shall take effect immediately.

ASSEMBLY AMENDMENTS TO

**SENATE No. 3179**

[ASSEMBLY REPRINT]

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**STATE OF NEW JERSEY**

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ADOPTED MAY 9, 1977

Amend page 9, section 10, line 11, omit "three", insert "five".

Amend page 9, section 10, line 12, omit "three", insert "five".

Amend page 9, section 10, line 12, omit "four", insert "five".

Amend page 18, section 22.1, line 30, after "act", insert "by or on behalf of the Division of Energy Planning and Conservation".

[SECOND ASSEMBLY REPRINT]

## SENATE, No. 3179

with Assembly committee amendments adopted April 28, 1977  
and Assembly ~~committee~~ amendments adopted May 9, 1977

# STATE OF NEW JERSEY

INTRODUCED APRIL 18, 1977

By Senators DODD, McGAHN and RUSSO

(Without Reference)

AN ACT concerning the production, distribution, conservation, and consumption of energy, establishing a Department of Energy as a principal department in the Executive Branch of State Government *\*and repealing parts of the statutory law\**.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Department  
2 of Energy Act."

1 2. The Legislature hereby finds and determines that a secure,  
2 stable, and adequate supply of energy at reasonable prices is vital  
3 to the State's economy and to the public health, safety, and welfare;  
4 that this State is threatened by the prospect of both near- and  
5 long-term energy shortages; that the existing dispersion of re-  
6 sponsibilities with respect to energy and energy-related matters  
7 among various State departments, divisions, agencies, and com-  
8 missions inhibits comprehensive and effective planning for our  
9 future energy needs; and that the State government does not now  
10 possess either sufficient information or adequate authority to  
11 provide for and insure the wise and efficient production, distribu-  
12 tion, use, and conservation of energy.

13 The Legislature further finds and determines that only an agency  
14 with comprehensive powers can collect, collate, and analyze the  
15 information necessary to determine the amount of energy that is  
16 or may be available; develop mechanisms to insure a fair and  
17 equitable distribution of existing supplies; conduct the long-term  
18 planning and management needed to eliminate or alleviate the  
19 potential adverse effects of a supply of energy insufficient to meet

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

20 legitimate needs or from practices of production, distribution, and  
21 consumption detrimental to the quality of life or the environment;  
22 \*contribute to the proper siting of energy facilities necessary to  
23 serve the public interest;\* coordinate New Jersey's energy policies  
24 and actions with Federal energy policies; and secure for New Jer-  
25 sey the maximum amount of Federal funding available for energy  
25A related research, development, and demonstration projects.

26 The Legislature further finds and determines that shortages of  
27 energy have the potential at certain times and in certain places to  
28 so seriously affect the public interest that it is necessary for  
29 State government to possess emergency powers sufficient to prevent  
30 or minimize health disasters and grave economic disruptions which  
31 could occur during said times.

32 The Legislature, therefore, declares it to be in the best interest  
33 of the citizens of this State to establish a principal department  
34 in the Executive Branch of State Government to coordinate au-  
35 thority\*, *regulation\** and planning by the State in energy related  
36 matters.

1 3. As used in this act:

2 a. "Commissioner" means the Commissioner of the Department  
3 of Energy;

4 b. "Department" means the Department of Energy established  
5 by this act;

6 c. "Distributor" means and includes each person, wherever  
7 resident or located, who imports into this State fuels for use,  
8 distribution, storage, or sale in this State after the same shall  
9 reach this State; and also each person who produces, refines,  
10 manufactures, blends, or compounds fuels and sells, uses, stores,  
11 or distributes the same within this State. In no case, however,  
12 shall a retail dealer be construed to be a distributor;

13 d. "Energy" means all power derived from, or generated by,  
14 any natural or man-made agent, including, but not limited to,  
15 petroleum products, gases, solar radiation, atomic fission or fusion,  
16 mineral formations, thermal gradients, wind, or water.

17 e. "Energy facility" means any plant or operation which  
18 produces, converts, distributes or stores energy or converts one  
19 form of energy to another; in no case, however, shall an operation  
20 conducted by a person acting only as a retail dealer be construed  
21 as an energy facility;

22 f. "Energy information" means any statistic, datum, fact, or  
23 item of knowledge and all combinations thereof relating to energy;

24 g. "Energy information system" means the composite of energy  
25 information collected by the office;

26 h. \*["Energyy]\* \*\*"Energy\* industry" means any person, com-  
27 pany, corporation, business, institution, establishment or other  
28 organization of any nature engaged in the exploration, extraction,  
29 transportation, transmission, refining, processing, generation, dis-  
30 tribution, sale or storage of energy;

31 i. "Fuel" means coal, petroleum products, gases and nuclear  
32 fuel, including enriched uranium, U235 and U238, and plutonium,  
33 U239;

34 j. "Gases" means natural gas, methane, liquefied natural gas,  
35 synthetic natural gas, coal gas and other manufactured gases;

36 k. "Person" means natural persons, partnerships, firms, asso-  
37 ciations, joint stock companies, syndicates and corporations, and  
38 any receiver, trustee, conservator or other officer appointed pur-  
39 suant to law or by any court, State or Federal; "person" also  
40 means the State of New Jersey, counties, municipalities, authori-  
41 ties, other political subdivisions, and all departments and agencies  
42 within the aforementioned governmental entities;

43 l. "Petroleum products" means and includes motor gasoline,  
44 middle distillate oils, residual fuel oils, aviation fuel, propane,  
45 butane, natural gasoline, naphtha, gas oils, lubricating oils and any  
46 other similar or dissimilar liquid hydrocarbons;

47 m. "Public building" means any building, structure, facility  
48 or complex used by the general public, including, but not limited  
49 to, theaters, concert halls, auditoriums, museums, schools, libraries,  
50 recreation facilities, public transportation terminals and stations,  
51 factories, office buildings, business establishments, passenger  
52 vehicle service stations, shopping centers, hotels or motels and  
53 public eating places, owned by any State, county or municipal  
54 government agency or instrumentality or any private individual,  
55 partnership, association or corporation;

56 n. "Purchase" means and includes, in addition to its ordinary  
57 meaning, any acquisition of ownership or possession, including,  
58 but not limited to, condemnation by eminent domain proceedings;

59 o. "Retail dealer" means any person who engages in the busi-  
60 ness of selling fuels from a fixed location such as a service station,  
61 filling station, store, or garage directly to the ultimate users of  
62 said fuel;

63 p. "Sale" means and includes, in addition to its ordinary mean-  
64 ing, any exchange, gift, theft, or other disposition. In such case  
65 where fuels are exchanged, given, stolen, or otherwise disposed of,  
66 they shall be deemed to have been sold;

67 q. "Supplier of fuel" means any refiner, importer, marketer,  
68 jobber, distributor, terminal operator, firm, corporation, whole-  
69 saler, broker, cooperative or other person who supplies, sells,  
70 consigns, transfers, or otherwise furnishes fuel. In no case, how-  
71 ever, shall a retail dealer be construed to be a supplier of fuel;

72 r. "Trade secret" means the whole or any portion or phase  
73 of any scientific, technical or otherwise proprietary information,  
74 design, process, procedure, formula or improvement which is used  
75 in one's business and is secret and of value; and a trade secret  
76 shall be presumed to be secret when the owner takes measures to  
77 prevent it from becoming available to persons other than those  
78 selected by the owner to have access thereto for limited purposes;

79 s. "Wholesale dealer" means any person who engages in the  
80 business of selling fuels to other persons who resell the said fuel.  
81 In no case shall a retail dealer be considered as a \***[wholesale]**\*  
82 \**wholesale*\* dealer.

1 4. There is hereby established in the Executive Branch of the  
2 State Government a principal department which shall be known  
3 as the Department of Energy.

1 5. The administrator and chief executive officer of the depart-  
2 ment shall be a commissioner who shall be a person qualified by  
3 training and experience to perform the duties of his office. The  
4 commissioner shall be appointed by the Governor with the advice  
5 and consent of the Senate, and shall serve at the pleasure of the  
6 Governor and until the appointment and qualification of the commis-  
7 sioner's successor. He shall devote his entire time to the duties of  
8 his office and shall receive such salary as shall be provided by law.  
9 Any vacancy occurring in the office of the commissioner shall be  
10 filled in the same manner as the original appointment.

11 \*5.1.a. *There is hereby established in the department the Board*  
12 *of Public Utilities; provided, however, that such board shall be*  
13 *independent of any supervision or control by the department or*  
14 *by any officer or employee thereof, except as otherwise expressly*  
15 *provided in this act.*

16 *b. The Department of Public Utilities is abolished and its func-*  
17 *tions, powers and duties are hereby transferred to the Board of*  
18 *Public Utilities, except as provided in section 25 of this act.*

19 *c. The Board of Public Utility Commissioners and the positions*  
20 *of president and commissioners thereof shall be continued as the*  
21 *Board of Public Utilities and the president and commissioners*  
22 *thereof in the Board of Public Utilities. This act shall not affect*  
23 *the terms of office of, nor the salaries received by, the present mem-*



24 *bers of the Board of Public Utility Commissioners, or of any*  
25 *officers or employees thereof. The Department of Civil Service*  
26 *shall not reclassify any title or position transferred from the De-*  
27 *partment of Public Utilities pursuant to this act without the ap-*  
28 *proval of the board. The President and Commissioners of the*  
29 *Board of Public Utilities shall be appointed in the manner provided*  
30 *by existing law for the appointment of the President and Commis-*  
31 *sioners of the Board of Public Utility Commissioners, and shall*  
32 *receive such salaries as shall be provided by law.*

33 *d. All functions, powers and duties now vested in the Board of*  
34 *Public Utility Commissioners and in the positions of president and*  
35 *commissioners thereof are hereby transferred to and assumed by*  
36 *the Board of Public Utilities and the president and commissioners*  
37 *thereof.*

38 *e. Whenever in any law, rule, regulation, order, contract, docu-*  
39 *ment, judicial or administrative proceeding or otherwise, reference*  
40 *is made to the Department of Public Utilities or the Board of Public*  
41 *Utility Commissioners, the same shall mean and refer to the Board*  
42 *of Public Utilities.*

43 *5.2.a. There is hereby established in the department the Division*  
44 *of Energy Planning and Conservation.*

45 *b. The Division of Energy Planning and Conservation shall be*  
46 *under the immediate supervision of a director who shall be ap-*  
47 *pointed by the Governor, with the advice and consent of the Senate,*  
48 *and who shall serve at the pleasure of the Governor during the*  
49 *Governor's term of office and until the appointment and qualifica-*  
50 *tion of his successor. The director shall receive such salary as*  
51 *shall be provided by law.\**

1 6. The commissioner shall organize the work of the department  
2 and establish therein such administrative subdivisions as he may  
3 deem necessary, proper and expedient. He may formulate and  
4 adopt rules and regulations and prescribe duties for the efficient  
5 conduct of the business, work and general administration of the  
6 department. He may delegate to subordinate officers or employees  
7 in the department such of his powers as he may deem desirable  
8 to be exercised under his supervision and control.

1 7. Subject to the provisions of Title 11 of the Revised Statutes,  
2 and within the limits of funds appropriated or otherwise made  
3 available, the commissioner may appoint such officers and em-  
4 ployees of the department as he may deem necessary for the  
5 performance of its duties, fix and determine their qualifications,  
6 duties, and compensation and retain or employ engineers and

7 private consultants on a contract basis or otherwise for rendering  
8 professional or technical assistance.

1 8. *\*a.\** The commissioner shall make an annual report to the  
2 Legislature and the Governor of the department's operations and  
3 render such other reports as they shall from time to time request  
4 or as may be required by law. These reports shall include, but not  
5 be limited to, an analysis of existing problems and guidelines re-  
6 lating to future energy use and availability.

7 *\*b. Within 6 months of the effective date of this act, the com-  
8 missioner, after consultation with the Director of the Division of  
9 Energy Planning and Conservation, the Board of Public Utilities,  
10 the Attorney General, and the commissioners of appropriate execu-  
11 tive departments, including but not necessarily limited to the De-  
12 partments of Environmental Protection and Transportation, shall  
13 prepare and submit a report to the Legislature and the Governor  
14 identifying (1) those functions and duties currently exercised by  
15 other departments, divisions, agencies, commissions, councils,  
16 boards, or bureaus of State Government relating to energy that  
17 might be appropriately transferred to the department; and (2)  
18 those functions and duties transferred to the department pursuant  
19 to the provisions of this act that might be appropriately transferred  
20 to other departments. Such transfers may be effectuated by execu-  
21 tive order or law, as the case may be.\**

1 9. The commissioner shall, **\*[by and]\*** on behalf of the depart-  
1A ment *\*through the Division of Energy Planning and Conservation\** :

2 a. Manage the department as the central repository within the  
3 State Government for the collection of energy information;

4 b. Collect and analyze data relating to present and future  
5 demands and resources for all forms of energy;

6 c. Have authority to require all persons, firms, corporations or  
7 other entities engaged in the production, processing, distribution,  
8 transmission or storage of energy in any form to submit reports  
9 setting forth such information as shall be required to carry out the  
10 provisions of this act;

11 d. Have authority to require any person to submit information  
12 necessary for determining the impact of any construction or  
13 development project on the energy and fuel resources of this State;

14 e. Charge other State Government departments and agencies  
15 involved in energy-related activities\*, *including the Board of  
16 Public Utilities,\** with specific information gathering goals and  
16A require that said goals be fulfilled;

17 f. Establish an energy information system which will provide  
18 all data necessary to insure a fair and equitable distribution of  
19 available energy, to permit a more efficient and effective use of  
20 available energy, and to provide the basis for long-term planning  
21 related to energy needs;

22 g. Design, implement, and enforce a program for the conservation  
23 of energy in commercial, industrial, and residential facilities, which  
24 program shall provide for the evaluation of energy systems as they  
25 relate to lighting, heating, refrigeration, air-conditioning, building  
26 design and operation, and appliance manufacturing and operation;  
27 and may include, but shall not be limited to, the requiring of an  
28 annual inspection and adjustment, if necessary, of oil-fired heating  
29 systems in residential, commercial and industrial buildings so as to  
30 bring such systems into conformity with efficiency standards  
31 therefor prescribed by the department; the setting of lighting  
32 efficiency standards for public buildings; the establishment of  
33 mandatory thermostat settings and the use of seven-day, day-night  
34 thermostats in public buildings; the development of standards for  
35 efficient boiler operation; and, the preparation of a plan to insure  
36 the phased retrofitting of existing gas furnaces with electric igni-  
37 tion systems and to require that new gas \***[furnaces,]**\* ranges\***[,]**\*  
38 and dryers be equipped with electric ignition systems\*, *and new*  
38A *gas furnaces with electric ignition systems and automatic vent-*  
38B *dampers\**;

39 h. Conduct and supervise a State-wide program of education  
40 including the preparation and distribution of information relating  
41 to energy conservation;

42 i. Monitor prices charged for energy within the State, evaluate  
43 policies governing the establishment of rates and prices for energy,  
44 and make recommendations for necessary changes in such policies  
45 to other concerned Federal and State agencies\*, *including the Board*  
46 *of Public Utilities,\** and to the Legislature;

47 j. Have authority to conduct and supervise research projects  
48 and programs for the purpose of increasing the efficiency of energy  
49 use, developing new sources of energy, evaluating energy conserva-  
50 tion measures, and meeting other goals consistent with the intent  
51 of this act;

52 k. Have authority to distribute and expend funds made available  
53 for the purpose of research projects and programs;

54 l. Have authority to enter into interstate compacts in order to  
55 carry out energy research and planning with other states or the  
56 Federal Government where appropriate;

57 m. Have authority to apply for, accept, and expend grants-in-aid  
58 and assistance from private and public sources for energy pro-  
59 grams; notwithstanding any other law to the contrary, the com-  
60 missioner is designated as the State official to apply for, receive,  
61 and expend Federal and other funding made available to the State  
62 for the purposes of this act;

63 n. Require the annual submission of energy utilization reports  
64 and conservation plans by State Government departments and  
65 agencies, *\*including the Board of Public Utilities,\** evaluate said  
66 plans and the progress of the departments and agencies in meeting  
67 these plans, and order changes in the plans or improvement in  
67A meeting the goals of the plans;

68 o. Carry out all duties given him under other sections of this act  
69 or any other acts;

70 p. Have authority to conduct hearings and investigations in  
71 order to carry out the purposes of this act and to issue subpoenas in  
72 furtherance of such power. Said power to conduct investigations  
73 shall include, but not be limited to, the authority to enter without  
74 delay and at reasonable times the premises of any energy industry  
75 in order to obtain or verify any information necessary for carrying  
76 out the purposes of this act;

77 q. Have authority to adopt, amend or repeal, pursuant to the  
78 "Administrative Procedure Act" (C. 52:14B-1 et seq.) such rules  
79 and regulations necessary and proper to carry out the purposes of  
80 this act;

81 r. Administer such Federal energy regulations as are applicable  
82 to the states, including, but not limited to, the mandatory petroleum  
83 allocation regulations and State energy conservation plans.

84 s. Have authority to sue and be sued;

85 t. Have authority to acquire by purchase, grant, contract or  
86 eminent domain title to real property for the purpose of demon-  
87 strating facilities which improve the efficiency of energy use,  
88 conserve energy or generate energy in new and efficient ways;

89 u. Have authority to construct and operate, on an experimental  
90 or demonstration basis, facilities which improve the efficiency of  
91 energy use, conserve energy or generate power in new and efficient  
92 ways;

93 v. Have authority to contract with any other public agency or  
94 corporation incorporated under the laws of this or any other state  
95 for the performance of any function under this act;

96 w. Determine the effect of energy and fuel shortages upon con-  
97 sumers, and formulate proposals designed to encourage the lowest

98 possible cost of energy and fuels consumed in the State consistent  
99 with the conservation and efficient use of energy;

100 x. Keep complete and accurate minutes of all hearings held  
101 before the commissioner or any member of the **\*[department]\***  
102 *\*Division of Energy Planning and Conservation\** pursuant to the  
103 provisions of this act. All such minutes shall be retained in a  
104 permanent record and shall be available for public inspection at  
105 all times during the office hours of the department.

1 10. There is created in the **\*[department]\*** *\*Division of Energy*  
2 *Planning and Conservation\** an Advisory Council on Energy *\*Plan-*  
3 *ning and Conservation\** which shall consist of **\*[10]\*** *\*15\** mem-  
4 bers representing the following: the natural gas industry, the  
5 bottle gas industry, the home heating oil and coal industry, terminal  
6 operators, oil refiners, gasoline retailers, electrical utilities, nuclear  
7 fuel suppliers, **\*[the Department of Public Utilities and the con-**  
8 **suming public]\*** *\*environmental organizations, the solar energy*  
8A *industry, manufacturing industrial consumers, commercial con-*  
9 *sumers, residential consumers, the transportation industry and the*  
9A *academic community\**. Members shall be appointed by the Gov-  
9B ernor, with the advice and consent of the Senate, and as practicably  
9C as possible represent the several geographical areas of the State.

10 The council shall elect a chairman, vice chairman and secretary  
11 from its membership. Of the members first appointed, **\*\*[three]\*\***  
12 **\*\*five\*\*** shall serve for terms of 2 years, **\*\*[three]\*\*** **\*\*five\*\*** for  
13 terms of 3 years and **\*\*[four]\*\*** **\*\*five\*\*** for terms of 4 years.  
14 Thereafter all appointments shall be made for terms of 4 years.  
15 Members shall serve after the expiration of their terms until their  
16 respective successors are appointed and shall qualify, and any  
17 vacancy occurring in the membership of the council by expiration  
18 of term or otherwise, shall be filled in the same manner as the  
18A original appointment for the unexpired term only.

19 Members of the council shall serve without compensation but  
20 shall be reimbursed for expenses actually incurred in attending  
21 meetings of the council and in performance of their duties as  
22 members thereof. The council shall meet at least four times each  
23 year, at the call of its chairman, and at such other times, at the call  
24 of the commissioner, as he deems necessary.

1 11. The Advisory Council on Energy *\*Planning and Conserva-*  
1A *tion\** is empowered to:

2 a. Request from the commissioner *\*and from the Director of the*  
3 *Division of Energy Planning and Conservation\** such energy in-  
3A formation as it may deem necessary;

4 b. Consider any matter relating to the production, distribution,  
5 consumption or conservation of energy;

6 c. From time to time submit to the commissioner any recom-  
7 mendations which it deems necessary for the long-term planning  
8 and management of energy;

9 d. Study energy programs and make its recommendations  
10 thereon to the commissioner;

11 e. Review, prior to their promulgation, proposed rules and regu-  
12 lations, of the department, and make its recommendations there-  
13 upon, except such rules and regulations determined by the commis-  
14 sioner to be emergency measures essential to preserve the public  
15 health, safety, or welfare.

16 f. Hold public hearings in regard to existing statutes and regu-  
17 lations governing the production, distribution, consumption or con-  
18 servation of energy.

1 12. a. The department, *\*through the Division of Energy Plan-*  
1A *ning and Conservation,\** within 1 year of the effective date of this  
2 act, shall prepare or cause to be prepared, and, after public hear-  
3 ings as hereinafter provided, adopt a master plan for a period of  
4 10 years on the production, distribution, consumption and conserva-  
5 tion of energy in this State. Such plan shall be revised and updated  
6 at least once every 3 years. The plan shall include long-term  
7 objectives but shall provide for the interim implementation of  
8 measures consistent with said objectives. The department may  
9 from time to time and after public hearings amend the master plan.  
10 In preparing the master plan or any portion thereof or amendment  
11 thereto the department shall give due consideration to the energy  
12 needs and supplies in the several geographic areas of the State, and  
13 shall consult and cooperate with any Federal or State agency hav-  
14 ing an interest in the production, distribution, consumption or con-  
15 servation of energy.

16 b. Upon preparation of such master plan, and each revision  
17 thereof, the department shall cause copies thereof to be printed,  
18 shall transmit sufficient copies thereof to the Governor and the  
19 Legislature, for the use of the members thereof, and shall advertise,  
20 in such newspapers as the commissioner determines appropriate to  
21 reach the greatest possible number of citizens of New Jersey, the  
22 existence and availability of such draft plan from the offices of the  
23 department for the use of such citizens as may request same. In  
24 addition, the department shall:

25 (1) Fix dates for the commencement of a series of public hear-  
26 ings, at least one of which shall be held in each geographical area

27 delineated in the master plan. Each such public hearing shall con-  
28 cern the overall content of the plan and those aspects thereof that  
29 have relevance to the specific geographical area in which each such  
30 public hearing is being held;

31 (2) At least 60 days prior to each public hearing held pursuant  
32 to this section, notify each energy industry and each State depart-  
33 ment, commission, authority, council, agency, or board charged  
34 with the regulation, supervision or control of any business, in-  
35 dustry or utility engaged in the production, processing, distribu-  
36 tion, transmission, or storage of energy in any form of the time  
37 and place for the hearing and shall publish such notice in a news-  
38 paper of general circulation in the region where the hearing is to  
39 be held, and in such newspapers of general circulation in the State  
40 as the commissioner determines appropriate to reach the greatest  
41 possible number of citizens of New Jersey.

42 c. Upon the completion of the requirements of subsection b. of  
43 this section, the department shall consider the testimony presented  
44 at all such public hearings and adopt the energy master plan,  
45 together with any additions, deletions, or revisions it shall deem  
46 appropriate.

47 d. Upon the adoption of the energy master plan, and upon each  
48 revision thereof, the department shall cause copies thereof to be  
49 printed and shall transmit sufficient copies thereof to the Governor  
50 and the Legislature, for the use of the members thereof, and to  
51 each State department, commission, authority, council, agency, or  
52 board charged with the regulation, supervision or control of any  
53 business, industry or utility engaged in the production, processing,  
54 distribution, transmission, or storage of energy in any form. In  
55 addition, the department shall advertise in the manner provided in  
56 subsection b. of this section the existence and availability of the  
57 energy master plan from the offices of the department for the use  
58 of such citizens of New Jersey as may request same; provided,  
59 however, that the department may charge a fee for such copies of  
60 the energy master plan sufficient to cover the costs of printing and  
61 distributing same.

1 13. a. The \***[department]**\* *\*Division of Energy Planning and*  
2 *Conservation\** is \***[further]**\* empowered and directed to intervene  
3 in any proceedings before, and appeals from, any State depart-  
4 ment, *\*division,\** commission, authority, council, agency or board  
5 (hereinafter referred to as "State instrumentalities") *\*including*  
6 *the Board of Public Utilities\** charged with the regulation, super-  
7 vision or control of any business, industry or utility engaged in the

8 production, processing, distribution, transmission or storage of  
9 energy in any form, when, in the discretion of the commissioner,  
10 such intervention is necessary to insure the proper consideration  
11 by such State instrumentalities of the State energy master plan,  
12 or any part or aspect thereof, adopted by the department pursuant  
13 to section 12 of this act, or any rule or regulation promulgated by  
14 the department pursuant to the provisions of this act. To facilitate  
15 the intervention provisions of this section, each such State instru-  
16 mentality shall consider the department a party of interest in any  
17 proceedings before such instrumentality with respect to energy and  
18 shall give the same notice to the department as is given to every  
19 other party of interest in such proceedings of any meeting, public  
20 hearing or other proceeding of such instrumentality in implement-  
21 ing its regulatory, supervisory or control powers, responsibilities  
21A and duties with respect to such businesses, industries or utilities.

22 b. It being the intention of the Legislature that the actions,  
23 decisions, determinations and rulings of the State Government with  
24 respect to energy shall to the maximum extent practicable and  
25 feasible conform with the energy master plan adopted by the de-  
26 partment pursuant to section 12 of this act, the department shall  
27 prepare, periodically revise and distribute to each State instru-  
28 mentality charged with the regulation, supervision or control of any  
29 business, industry or utility engaged in the production, processing,  
30 distribution, transmission or storage of energy in any form, such  
31 guidelines as the department determines to be relevant to assist  
32 each such instrumentality in conforming with said energy master  
33 plan in implementing its regulatory, supervisory or control powers,  
34 responsibilities and duties with respect to such businesses, in-  
35 dustries or utilities.

36 *\*c. With respect to the siting of any energy facility in any part*  
37 *of New Jersey, the department shall, the provisions of any law*  
38 *to the contrary notwithstanding, have jurisdiction coextensive with*  
39 *that of any other State instrumentality, and to that end, no State*  
40 *instrumentality with the power to grant or deny any permit for the*  
41 *construction or location of any energy facility shall exercise its*  
42 *powers without referring to the Division of Energy Planning and*  
43 *Conservation, for its review and comments, a copy of such appli-*  
44 *cation and all papers, documents and materials appurtenant thereto*  
45 *filed by the applicant with such State instrumentality. Prior to*  
46 *making a final decision with respect to any such application, the*  
47 *State instrumentality with power of approval over such application*  
48 *shall solicit the views of the department thereupon. Such views*



49 shall be communicated to the State instrumentality with the power  
50 of approval over such application in the form of a report describing  
51 the findings of the department with respect to such application.  
52 Such report shall be prepared by the Director of the Division of  
53 Energy Planning and Conservation and shall be signed by said  
54 director and by the commissioner. In the event that such report  
55 is not prepared and transmitted to the State instrumentality with  
56 power of approval over such application within 90 days after the  
57 department's receipt of such application, such State instrumen-  
58 tality shall act upon such application pursuant to the law providing  
59 its power of approval thereof. In the event that the views of the  
60 department, as contained in its report, with respect to any such  
61 application differ from the views of the State instrumentality with  
62 the power of approval over such application, there shall be estab-  
63 lished an Energy Facility Review Board which shall consist of the  
64 Director of the Division of Energy Planning and Conservation, the  
65 director or chief executive officer of the State instrumentality with  
66 the power of approval over such application, and a designee of the  
67 Governor. The decision of the Energy Facility Review Board cre-  
68 ated with respect to a specific energy facility application shall be  
69 binding with respect to such facility and shall be implemented forth-  
70 with by the State instrumentality with the power of approval over  
71 such application.

72 In implementing its responsibilities pursuant to this subsection,  
73 the department shall have the power to adopt, by regulation, a fee  
74 schedule for reviewing applications for the construction or location  
75 of energy facilities; provided, however, that fees shall be charged  
76 to applicants for permits to construct or locate energy facilities  
77 only in those instances where the nature and extent of the proposed  
78 energy facility are such as to necessitate the employment of con-  
79 sultants or other expert personnel from without the department  
80 before the department can make its determination with respect to  
81 any such application, and that such fees shall in any event be the  
82 minimum amount necessary to permit the department to fulfill its  
83 responsibilities under this section.

84 The provisions of this section shall not be regarded as to be in  
85 derogation of any powers now existing and shall be regarded as  
86 supplemental and in addition to powers conferred by other laws,  
87 including municipal zoning authority.\*

1 14. The commissioner shall prepare and adopt an emergency  
2 allocation plan specifying actions to be taken in the event of an  
3 impending serious shortage of energy which poses grave threats

4 to the public health, safety, or welfare. The commissioner shall  
5 direct all State Government departments and agencies\*, *including*  
6 *the Board of Public Utilities*,\* to develop, subject to his approval,  
7 contingency plans for dealing with said emergencies.

1 15. a. Upon a finding by the commissioner that there exists or  
2 impends an energy supply shortage of a dimension which endan-  
3 gers the public health, safety, or welfare in all or any part of the  
4 State, the Governor is authorized to proclaim by executive order  
5 a state of energy emergency for a period of up to 6 months. The  
6 Governor may limit the applicability of any such state of emergency  
7 to specific kinds of energy forms or to specific areas of the State  
8 in which such a shortage exists or impends.

9 b. During the duration of a state of energy emergency the com-  
10 missioner to the extent not in conflict with applicable Federal  
11 law or regulation but notwithstanding any State or local law or  
12 contractual agreement, shall be empowered to:

13 (1) Order any person to reduce by a specified amount the use  
14 of any energy form; to make use of an alternate energy form,  
15 where possible; or to cease the use of any energy form;

16 (2) Order any person engaged in the distribution of any energy  
17 form to reduce or increase by a specified amount or to cease the  
18 distribution of such energy form; to distribute a specified amount  
19 and type of energy form to certain users as specified by the  
20 \***[administrator]**\* *commissioner*\*; or to share supplies of any  
21 energy form with other distributors thereof;

22 (3) Establish priorities for the distribution of any energy form;

23 (4) Regulate and control the distribution and sale of any energy  
24 form by:

25 (a) Establishing such limitations, priorities, or rationing  
26 procedures as shall be necessary to insure a fair and equitable  
27 distribution of available supplies;

28 (b) Establishing minimum and maximum quantities to be  
29 sold to any purchaser;

30 (c) Fixing the days and hours of access to retail dealers;

31 (d) Compelling sales to members of the general public dur-  
32 ing times when a retail dealer is open for the sale of an energy  
33 form;

34 (e) Establishing methods for notifying the public by flags,  
35 symbols, or other appropriate means whether such retail  
36 dealers are open and selling the subject energy form;

37 (5) Direct the heads of those departments and agencies within  
38 State Government that were ordered to develop contingency plans  
39 pursuant to section 14 of this act to implement said plans;

40 (6) Adopt and promulgate such rules and regulations as are  
41 necessary and proper to carry out the purposes of this section.

42 c. During the existence of a state of energy emergency, the Gov-  
43 ernor may order the suspension of any laws, rules, regulations, or  
44 orders of any department or agency in State Government or within  
45 any political subdivision which deal with or affect energy and  
46 which impede his ability to alleviate or terminate a state of energy  
47 emergency.

48 d. Any aggrieved person, upon application to the commissioner  
49 shall be granted a review of whether the continuance of any order  
50 issued by the commissioner pursuant to this section is unreason-  
51 able in light of then prevailing conditions of emergency.

52 e. During a state of energy emergency the commissioner may  
53 require any other department or other agency within State Gov-  
54 ernment to provide such information, assistance, resources, and  
55 personnel as shall be necessary to discharge his functions and  
56 responsibilities under this act, rules and regulations adopted here-  
57 under, or applicable Federal law and regulations.

58 f. The powers granted to the Governor and the commissioner  
59 under this section shall be in addition to and not in limitation of  
60 any emergency powers now or hereafter vested in the Governor, the  
61 commissioner, or any other State Government department or  
62 agency pursuant to any other laws, including but not limited to  
63 any power \***[now]**\* vested in the Board of Public \***[Utility Com-**  
64 **missioners]**\* \*Utilities\* to require utility companies to allocate  
65 available supplies of energy; provided, however, that upon declar-  
66 ing a state of energy emergency, the Governor may supersede any  
67 other such emergency powers.

68 g. The state of energy emergency declared by the Governor pur-  
69 suant to this section shall remain in effect until the Governor  
70 declares by a subsequent executive order that the state of energy  
71 emergency has terminated.

1 16. a. The commissioner shall adopt rules and regulations  
2 requiring the periodic reporting by energy industries of energy  
3 information which shall include but not be limited to the following:

4 (1) Electrical generating capacity in the State; long-range plans  
5 for additions to said capacity; efficiency of electrical generation;  
6 price and cost factors in electrical generation; types and quantities  
7 of fuels used; projections of future demand, consumption of elec-  
8 tricity by sectors; times, duration, and levels of peak demand;

9 (2) Petroleum refining capacity; amount and type of fuel pro-  
10 duced; amount and type of fuel sold; interstate transfers of fuel;

11 price and cost factors in refining, production, and sale; long-term  
12 plans for alterations or additions to refining capacity; location,  
13 amount, and type of fuel storage;

14 (3) Storage capacity for gases; amount and end uses of gases  
15 sold; price and cost factors in the sale and use of gases; and

16 (4) Such other information as the commissioner may determine  
17 necessary for carrying out the purposes of this act.

18 b. The commissioner shall at least annually publish a report  
19 analyzing all energy information collected.

20 c. The commissioner shall have the discretion to obtain energy  
21 information from an affiliate of any energy industry or from an  
22 association or organization of industries of which any such energy  
23 industry is a member. Whenever energy information supplied by  
24 an energy industry is so obtained by the commissioner, the energy  
25 industry to which such information pertains shall be promptly  
26 notified of the energy information so obtained and shall be given  
27 an opportunity to correct or amplify such information.

28 d. Trade secrets collected under this section shall be exempt  
29 from the requirements of P. L. 1963, c. 73 (C. 47:1A-1 et seq.).  
30 The commissioner shall promulgate rules and regulations for the  
31 conduct of administrative hearings on the issue of whether certain  
32 energy information should not be disclosed to the public.

1 17. No person who is an official or employee of the department  
2 shall participate in any manner in any decision or action of the  
3 department wherein he has a direct or indirect financial interest.

1 18. The commissioner may issue subpoenas requiring the at-  
2 tendance and testimony of witnesses and the production of books,  
3 documents, papers, statistics, data, information, and records for  
4 the purpose of carrying out any of his responsibilities under this  
5 act. Whenever there arises a refusal to honor his subpoena, the  
6 commissioner may petition a court of competent jurisdiction for  
7 an order requiring the attendance and testimony of a witness or  
8 the production of the requested books, documents, papers, statistics,  
9 data, information, and records. Any failure to obey such an order  
10 issued by a court shall be punished by the court as a contempt  
11 thereof.

1 19. Upon a violation of this act or of any rules, regulations, or  
2 orders promulgated hereunder, the commissioner, the county prose-  
3 cutor of the county in which the violation occurs if he has the  
4 approval of the commissioner, or any aggrieved person shall be  
5 entitled to institute a civil action in a court of competent juris-  
6 diction for injunctive relief to restrain such violation and for such

7 other relief as the court shall deem proper. The court may proceed  
8 in a summary manner. Neither the institution of such action, nor  
9 any of the proceedings therein shall relieve any party to such  
10 proceedings from other fines or penalties prescribed for such a  
11 violation by this act or by any rule, regulation or order adopted  
12 hereunder.

1 20. Any person who fails to provide energy information in his  
2 official custody when so required by the commissioner shall be liable  
3 for a penalty of not more than \$3,000.00 for each offense. If the  
4 violation is of a continuing nature, each day during which it con-  
5 tinues shall constitute an additional and separate offense. Penalties  
6 shall be collected in a civil action by a summary proceeding under  
7 the Penalty Enforcement Law (N. J. S. 2A :58-1 et seq.).

1 21. Any officer or employee of the State who, having obtained by  
2 reason of his employment and for official use, any confidential  
3 energy information, publishes or communicates such information  
4 for reasons not authorized by this or any other act shall be fined  
5 not more than \$2,000.00 or imprisoned not more than 2 years or  
6 both.

1 22. a. Any person purchasing or attempting to purchase energy  
2 in violation of section 15 of this act or any rules, regulations, or  
3 orders promulgated thereunder, shall be subject to a penalty of  
4 not more than \$25.00 for the first offense, not more than \$100.00  
5 for the second offense, and not more than \$200.00 for the third  
6 offense or subsequent offenses.

7 b. Any retail dealer who violates section 15 of this act or any  
8 rules, regulations, or orders promulgated thereunder, shall be  
9 subject to a penalty of not more than \$25.00 for the first offense,  
10 not more than \$200.00 for the second offense, and not more than  
11 \$400.00 for the third offense or subsequent offenses.

12 c. Any distributor or any other supplier of energy who violates  
13 any of the provisions of section 15 of this act or of any rules,  
14 regulations, or orders promulgated thereunder, shall be subject to  
15 a penalty of not more than \$1,000.00 for the first offense, not more  
16 than \$5,000.00 for the second offense, and not more than \$10,000.00  
17 for the third offense or subsequent offenses.

18 d. In addition to any other penalties provided under this or any  
19 other act, the commissioner may recommend to the appropriate  
20 agency the suspension or revocation of the license of any retail  
21 dealer, gasoline jobber, wholesale dealer, distributor, or supplier  
22 of fuel, who has violated this act or any rules, regulations, or orders  
23 promulgated hereunder.

24 e. All penalties imposed pursuant to this section shall be collected  
25 in a civil action by a summary proceeding under the Penalty  
26 Enforcement Law (N. J. S. 2A:58-1 et seq.). If the violation is  
27 of a continuing nature, each day during which it continues shall  
28 constitute an additional and separate offense.

29 *\*22.1 The department shall transmit copies of all rules and*  
30 *regulations proposed pursuant to this act \*\*by or on behalf of the*  
31 *Division of Energy Planning and Conservation\*\* to the Senate and*  
32 *General Assembly on a day on which both Houses shall be meeting*  
33 *in the course of a regular or special session. The provisions of the*  
33A *“Administrative Procedure Act” or any other law to the contrary*  
34 *notwithstanding, no such rule or regulation, except a rule or regu-*  
35 *lation adopted pursuant to an energy emergency declared by the*  
36 *Governor, shall take effect if, within 60 days of the date of its*  
37 *transmittal to the Senate and General Assembly, the Legislature*  
38 *shall pass a concurrent resolution stating in substance that the*  
39 *Legislature does not favor such proposed rule or regulation.\**

1 23. a. All appropriations, grants, and other moneys available to  
2 the State Energy Office are hereby transferred to the department  
3 created hereunder and shall remain available for the objects and  
4 purposes for which appropriated, subject to any terms, restrictions,  
5 limitations or other requirements imposed by Federal or State law.

6 b. The employees of the State Energy Office are hereby trans-  
7 ferred to the department created hereunder. Nothing in this act  
8 shall be construed to deprive said employees of any rights or protec-  
9 tions provided them by the civil service, pension, or retirement  
10 laws of this State.

11 c. All files, books, paper, records, equipment, and other property  
12 of the State Energy Office are hereby transferred to the depart-  
13 ment created hereunder.

14 d. The rules, regulations, and orders of the State Energy Office  
15 shall continue with full force and effect as the rules, regulations,  
16 and orders of the department created hereunder until further  
17 amended or repealed.

18 e. Except as otherwise provided by this act, all the functions,  
19 powers, and duties of the existing State Energy Office and its  
20 administrator are hereby continued in the department and the  
21 *\*[commissioner thereof]\* \*Director of the Division of Energy*  
21A *Planning and Conservation\* created hereunder.*

22 f. This act shall not affect actions or proceedings, civil or crim-  
23 inal, brought by or against the State Energy Office and pending  
24 on the effective date of this act, but such actions or proceedings

25 may be further prosecuted or defended in the same manner and  
26 to the same effect by the department created hereunder.

27 g. Whenever in any law, rule, regulation, order, contract, docu-  
28 ment, judicial or administrative proceedings, or otherwise, refer-  
29 ence is made to the State Energy Office or the administrator  
30 thereof, the same shall be considered to mean and refer to the  
31 State Department of Energy and the \***[commissioner thereof]**\*  
32 \*Director of the Division of Energy Planning and Conservation\*  
33 created hereunder.

1 24. All the functions, powers and duties heretofore exercised  
2 by the Department of Community Affairs and the Commissioner  
3 thereof relating to the adoption, amendment and repeal of the  
4 energy subcode of the State Uniform Construction Code pursuant  
5 to P. L. 1975, c. 217 (C. 52:27D-119 et seq.) are hereby transferred  
6 to, and vested in the Department of Energy and the Commissioner  
7 of the Department of Energy; provided, however, that nothing in  
8 this section shall be construed so as to interfere with the enforce-  
9 ment of such energy subcode by the Commissioner of the Depart-  
10 ment of Community Affairs pursuant to the aforecited P. L. 1975,  
11 c. 217\*; *provided further, however, that this section shall not take*  
12 *effect until 90 days after the effective date of this act, and any*  
13 *energy subcode adopted by the Department of Community Affairs*  
14 *within said 90 days shall continue in force and effect until amended*  
15 *or repealed by the department as herein provided\*.*

1 25. The Bureau of Energy Resources in the Department of  
2 Public Utilities, together with all of its functions, powers and  
3 duties, is hereby transferred to the \*Division of Energy Planning  
4 and Conservation in the\* Department of Energy established pur-  
5 suant to this act.

1 26. The transfer of responsibilities directed by this act, except  
2 as otherwise provided herein, shall be made in accordance with the  
3 "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D-1  
4 et seq.).

1 27. All acts and parts of acts inconsistent with any of the provi-  
2 sions of this act are, to the extent of such inconsistency, superseded  
3 and repealed.

1 28. If any section, part, phrase, or provision of this act or the  
2 application thereof to any person be adjudged invalid by any court  
3 of competent jurisdiction, such judgment shall be confined in its  
4 operation to the section, part, phrase, provision, or application  
5 directly involved in the controversy in which such judgment shall  
6 have been rendered and it shall not affect or impair the validity

7 of the remainder of this act or the application thereof to other  
8 persons.

1 29. The object and design of this act being the protection of the  
2 public health, safety and welfare by means of the coordination of  
3 State planning\*, *regulation\** and authority in energy related mat-  
4 ters, this act shall be liberally construed.

1 30. This act shall take effect immediately.



FROM THE OFFICE OF THE GOVERNOR

JULY 11, 1977

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

ANNE BURNS

Governor Brendan Byrne Monday signed into law S-3179 (OCR) sponsored by Senator Frank J. Dodd, D-Essex, which establishes the Department of Energy.

"New Jersey is the first state to establish a cabinet level Energy Department since President Carter announced his national energy policy plans," Byrne said.

"I thank members of the Assembly and the Senate, especially Senator Dodd, for their cooperation in creating this Department.

"Energy conservation will be given the highest priority by the new Department," Byrne said. "This bill gives the Commissioner the power to design, implement and enforce energy conservation programs in commercial, industrial and residential buildings."

These programs may include: requiring annual inspection and adjustment of oil-fired heating systems; setting lighting efficiency standards for public buildings; establishing mandatory thermostat settings and using seven-day, day-night thermostats in public buildings; and developing standards for efficient boiler operation. Another energy conservation measure to be considered is preparing a plan to insure the phased retrofitting of existing gas furnaces with electric ignition systems.

This plan would also require that new gas ranges and dryers be equipped with electric ignition systems, and that new gas furnaces are equipped with electric ignition systems and automatic vent-dampers.

Additional functions of the Commissioner under this legislation include: conducting a state-wide program of energy conservation education; monitoring energy rates and prices; conducting hearings and investigations, and supervising research projects and distributing funds for those projects.

(more)

The bill abolishes the Department of Public Utilities and transfers its functions, power and duties to the Board of Public Utilities which will be contained within the Energy Department. The position of president and commissioners will continue without change as the Board of Public Utilities.

The bill also establishes a Division of Energy Planning and Conservation. An Advisory Council on Energy Planning and Conservation will be created within this Division. The Council will be empowered to study energy matters, make recommendations, review proposed rules and regulations, and hold public hearings regarding existing statutes and regulations.

The bill requires the Energy Department to prepare and adopt a 10-year master plan on the production, distribution, consumption and conservation of energy in New Jersey. The plan will be revised every three years. The Division of Energy Planning and Conservation is empowered to intervene in any proceeding before any state agency when the Commissioner believes intervention is necessary to insure proper consideration of the state energy master plan.

The Department will have concurrent power with any other state agency to review applications for permits for potential energy facilities.

The bill also requires the Commissioner to prepare an energy allocation plan specifying actions to be taken in the event of an impending serious energy shortage.

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