

J O I N T P U B L I C H E A R I N G

before

ASSEMBLY STATE GOVERNMENT COMMITTEE

and

ASSEMBLY ENERGY AND NATURAL RESOURCES COMMITTEE

on

ASSEMBLY BILL NO. 2019

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY BILL NO. 2019

**(Abolishes the Department of Energy and transfers certain
of its powers to the Department of Commerce & Economic Development)**

and

ASSEMBLY BILL NO. 2080

**(Abolishes the Department of Energy and transfers certain
of its components and necessary functions to the
Departments of Environmental Protection and State, as appropriate)**

**April 17, 1986
Room 403
State House Annex
Trenton, New Jersey**

MEMBERS OF COMMITTEES PRESENT:

Assembly State Government Committee:

**Assemblyman Richard A. Zimmer, Chairperson
Assemblyman Joseph Charles, Jr.
Assemblyman Joseph L. Bocchini, Jr.**

Assembly Energy and Natural Resources Committee:

**Assemblywoman Maureen B. Ogden, Chairperson
Assemblyman Robert G. Smith**

ALSO PRESENT:

**Donald S. Margeson
Office of Legislative Services
Aide, Assembly State Government Committee**

**Denise Drace
Office of Legislative Services
Aide, Assembly Energy and
Natural Resources Committee**

New Jersey State Library

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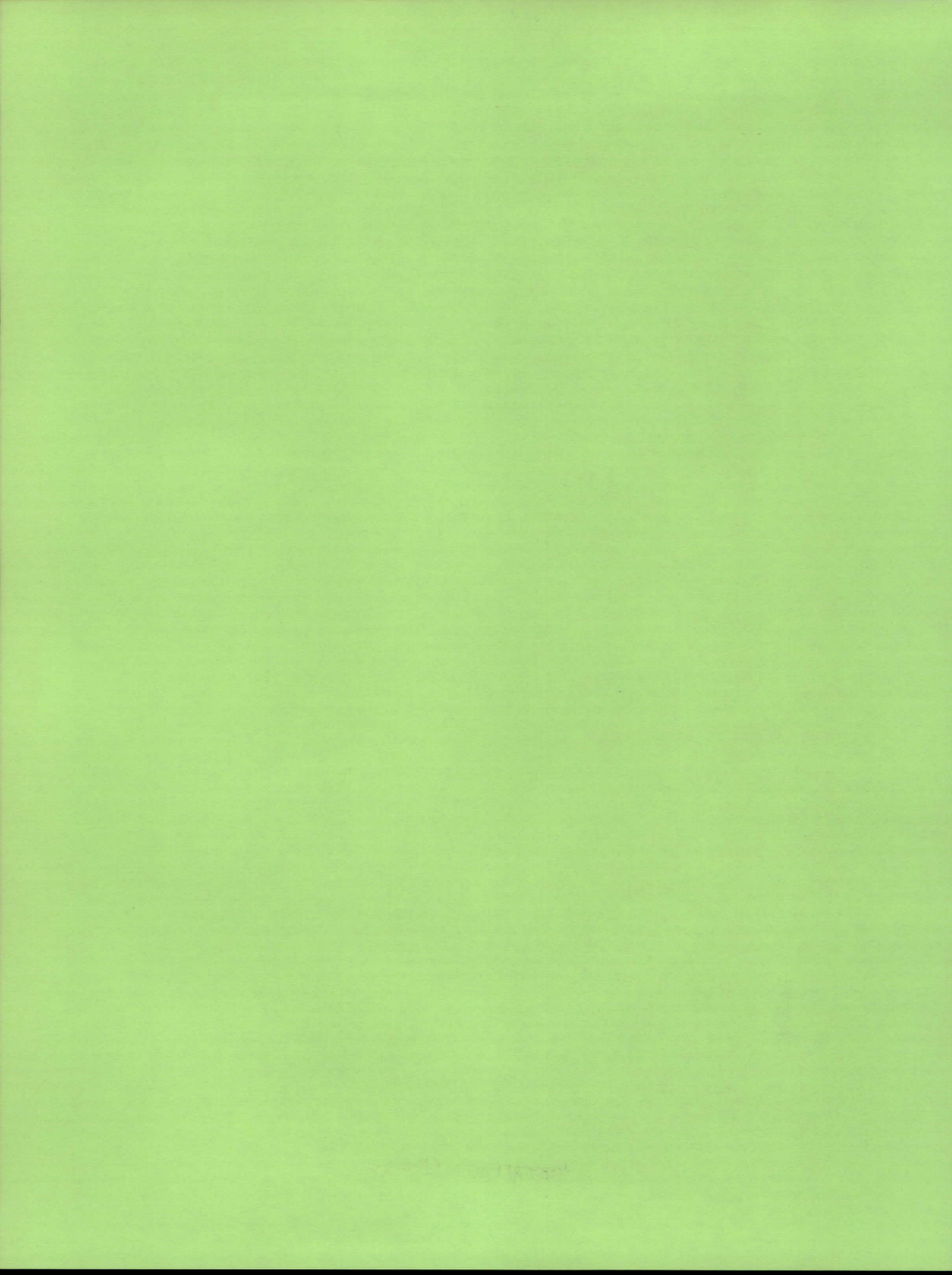


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ASSEMBLY, No. 2019
STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1986

By Assemblymen HAYTAIAN, LITTELL, FELICE, Assemblywoman
RANDALL, Assemblymen KAVANAUGH, PENN, RAFFERTY,
Assemblywoman SMITH and Assemblyman FRANKS

AN ACT abolishing the Department of Energy as a principal
department in the Executive Branch of State Government,
providing for the transfer of certain of its functions, powers
and duties and repealing sundry parts of P. L. 1977, c. 146.

1 *Be it enacted by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. The Department of Energy is abolished as a principal depart-
2 ment in the Executive Branch of State Government and all its
3 functions, powers and duties, except as herein otherwise provided,
4 are terminated.

1 2. The offices and terms of the Commissioner of Energy, the
2 assistant commissioners of energy, the members of the Advisory
3 Council on Energy Planning and Conservation, and the directors
4 of the several offices of the Department of Energy, except as herein
5 otherwise provided, shall, upon the effective date of this act,
6 terminate.

1 3. a. The Division of Energy Planning and Conservation in the
2 Department of Energy, together with all its functions, powers and
3 duties, is continued, and this division is transferred to and con-
4 stituted the Division of Energy Planning and Conservation in the
5 Department of Commerce and Economic Development.

6 b. The Division of Energy Planning and Conservation shall be
7 under the immediate supervision of a director who shall be
8 appointed by the Governor, with the advice and consent of the

9 Senate, and who shall serve at the pleasure of the Governor during
10 the Governor's term of office and until the appointment and quali-
11 fication of his successor. The director shall receive a salary which
12 shall be within a salary range as established by the Department of
13 Civil Service with the approval of the Director of the Division of
14 Budget and Accounting.

15 The director shall administer the work of the division under the
16 direction and supervision of the Commissioner of Commerce and
17 Economic Development and shall perform any other functions of
18 the department as the commissioner may prescribe.

19 c. The person in office as the Director of the Division of Energy
20 Planning and Conservation in the Department of Energy on the
21 effective date of this act shall hold the office of Director of the
22 Division of Energy Planning and Conservation established here-
23 under in the Department of Commerce and Economic Development
24 for the period of his term as Director of the Division of Energy
25 Planning and Conservation in the Department of Energy which
26 remains unexpired on the effective date of this act, and until his
27 successor is appointed and qualified.

28 d. Whenever in any law, rule, regulation, order, contract, docu-
29 ment, judicial or administrative proceeding or otherwise, reference
30 is made to the Division of Energy Planning and Conservation in
31 the Department of Energy, the same shall mean and refer to the
32 Division of Energy Planning and Conservation in the Department
33 of Commerce and Economic Development.

1 4. a. The Board of Public Utilities and the positions of president
2 and commissioners thereof, designated as such pursuant to the pro-
3 visions of P. L. 1977, c. 146 (C. 52:27F-1 et seq.), are continued and
4 designated as the Board of Public Utilities and the president and
5 commissioners thereof in the Department of Commerce and
6 Economic Development. This act shall not affect the terms of office
7 of, nor the salaries received by, the present members of the Board
8 of Public Utilities, or of any officers or employees thereof. The
9 Department of Civil Service shall not reclassify any title or posi-
10 tion transferred from the Board of Public Utilities pursuant to
11 this act without the approval of the board. The President and
12 Commissioners of the Board of Public Utilities shall be appointed
13 in the manner provided by existing law, and shall receive such
14 salaries as shall be provided by law.

15 b. All functions, powers and duties now vested in the Board of
16 Public Utilities in the Department of Energy and in the positions
17 of president and commissioners thereof are transferred to and

18 assumed by the Board of Public Utilities in the Department of
19 Commerce and Economic Development and the president and com-
20 missioners thereof.

21 c. Whenever in any law, rule, regulation, order, contract, docu-
22 ment, judicial or administrative proceeding or otherwise, reference
23 is made to the Board of Public Utilities in the Department of
24 Energy, the same shall mean and refer to the Board of Public
25 Utilities in the Department of Commerce and Economic Develop-
26 ment.

1 5. a. The New Jersey Public Broadcasting Authority, allocated
2 within the Department of Energy pursuant to P. L. 1977, c. 146 (C.
3 52:27F-1 et seq.), together with all its functions, powers and duties
4 pursuant to P. L. 1908, c. 405 (C. 48:23-1 et seq.) is continued, and
5 the authority is transferred to and constituted the New Jersey
6 Public Broadcasting Authority in the Department of Commerce
7 and Economic Development. Notwithstanding this allocation, the
8 authority shall be independent of any supervision or control by the
9 department or by an officer or employee thereof.

10 b. Whenever in any law, rule, regulation, order, contract, docu-
11 ment, judicial or administrative proceeding or otherwise, reference
12 is made to the New Jersey Public Broadcasting Authority in the
13 Department of Energy, the same shall mean and refer to the New
14 Jersey Public Broadcasting Authority in the Department of Com-
15 merce and Economic Development.

1 6. All of the functions, powers and duties heretofore exercised
2 by the Department of Energy and the commissioner thereof pur-
3 suant to P. L. 1977, c. 256 (C. 54:4-3.113 et seq.), P. L. 1980, c. 68,
4 P. L. 1981, c. 278 (C. 13:1E-32 et seq.), and P. L. 1981, c. 302 (C.
5 26:2D-37 et al.) are transferred to and vested in the Division of
6 Energy Planning and Conservation in the Department of Com-
7 merce and Economic Development and the director thereof.

1 7. a. All appropriations, grants and other moneys available to
2 the Department of Energy, the Division of Energy Planning and
3 Conservation and the Board of Public Utilities are transferred to
4 the Department of Commerce and Economic Development and shall
5 remain available for the objects and purposes for which appro-
6 priated, subject to any terms, restrictions, limitations or other
7 requirements imposed by federal or State law.

8 b. All files, books, paper, records, equipment, and other property
9 of the Department of Energy, the Division of Energy Planning and
10 Conservation and the Board of Public Utilities are transferred to
11 the Department of Commerce and Economic Development.

c. The rules, regulations, and orders of the Department of Energy, the Division of Energy Planning and Conservation and the Board of Public Utilities shall continue with full force as the rules, regulations and orders of the Department of Commerce and Economic Development, the Division of Energy Planning and Conservation in the Department of Commerce and Economic Development and the Board of Public Utilities in the Department of Commerce and Economic Development, respectively, until further amended or repealed. Any rule or regulation which has been proposed by the Department of Energy, the Division of Energy Planning and Conservation, or the Board of Public Utilities pursuant to the provisions of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), prior to the effective date of this act, shall be considered as a proposed rule of the Department of Commerce and Economic Development, the Division of Energy Planning and Conservation in the Department of Commerce and Economic Development, or of the Board of Public Utilities in the Department of Commerce and Economic Development, as the case may be.

d. This act shall not affect actions or proceedings, civil or criminal, brought by or against the Department of Energy or the Board of Public Utilities and pending on the effective date of this act, and these actions or proceedings may be further prosecuted or defended in the same manner and to the same effect by the Department of Commerce and Economic Development.

8. All transfers directed by this act shall be made in accordance with the "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D-1 et seq.).

9. All acts and parts of acts inconsistent with any of the provisions of this act are, to the extent of the inconsistency, superseded.

10. The following are repealed:

P. L. 1977, c. 146, §§ 1 and 2 (C. 52:27F-1 and 52:27F-2 inclusive);

P. L. 1977, c. 146, §§ 4 and 5 (C. 52:27F-4 and 52:27F-5);

P. L. 1977, c. 146, § 5.2 (C. 52:27F-7);

P. L. 1977, c. 146, §§ 6 through 8 (C. 52:27F-8 through 52:27F-10 inclusive);

P. L. 1977, c. 146, §§ 10 and 11 (C. 52:27F-12 and 52:27F-13 inclusive);

P. L. 1977, c. 146, §§ 17 and 18 (C. 52:27F-19 and 52:27F-20 inclusive);

- 12 P. L. 1977, c. 146, § 22.1 (C. 52:27F-25);
13 P. L. 1977, c. 146, §§ 26 through 29 (C. 52:27F-29 through
14 52:27F-32 inclusive).
- 1 11. This act shall take effect 90 days next following its enactment,
2 but any action necessary to effectuate the provisions of this act
3 upon the effective date may be taken prior thereto.

STATEMENT

This bill would abolish the Department of Energy. The bill further provides for the transfer of the Division of Energy Planning and Conservation and the Board of Public Utilities, respectively, to the newly created Department of Commerce and Economic Development. The New Jersey Public Broadcasting Authority, now allocated within the Department of Energy, would also be re-allocated within the Department of Commerce and Economic Development.

This bill would eliminate any excess bureaucracy in the form of dual personnel, administrative and secretarial support staffs operating within the Department of Energy and its autonomous unit, the Board of Public Utilities. More importantly, this bill would significantly streamline the operations of the Executive Branch of the State government by totally eliminating one State department and transferring certain of its necessary functions to the Department of Commerce and Economic Development wherein they more properly belong.

ENERGY

Abolishes the Department of Energy and transfers certain of its powers to the Department of Commerce and Economic Development.

AN ACT abolishing the Department of Energy as a principal department in the Executive Branch of State Government, providing for the transfer of certain of its functions, powers and duties, amending various sections of P.L. 1981, c.122 (C. 52:27H-1 et seq.) and amending and repealing various sections of P.L. 1977, c.146 (C. 52:27F-1 et seq.).

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

1. Section 2 of P.L. 1981, c.122 (C.52:27H-2) is amended to read as follows:

The Legislature finds and determines that the well-being of the people of New Jersey, and of their institutions, including government, is directly related to the well-being of New Jersey's business and industrial enterprises, including the housing industry and small business enterprises, which provide the economic base of employment and taxes upon which all other institutions of society depend.

The Legislature further finds and determines that a secure, stable and adequate supply of energy at reasonable prices is vital to the State's economy and for the promotion of economic opportunity in the State, as well as for ensuring the public health, safety and welfare. The Legislature further finds that reducing energy costs is essential to reducing the costs of doing business in this State, which in turn will promote and maximize economic growth, speed business development, promote employment and ensure general prosperity in the State.

The Legislature further finds that the original mission of a separate Department of Energy -- to address and solve the problems caused by threatened catastrophic loss of near-and-long-term energy sources -- no longer justifies retaining a separate Department of Energy as a principal department within the Executive Branch. The Legislature further finds that it is in the best interests of the citizens of this State that a single principal department within the Executive Branch of this State coordinate the promotion of the State's economy and serve as a focus for business and industrial concerns, promote the availability of energy at reasonable prices and integrate the State's economic, business and energy policies and programs to retain this State's economic health and to ensure that the State's economy remains competitive.

The Legislature further finds and determines that New Jersey's economy has deteriorated in recent years from its once-time position of national prominence and leadership in many fields of business and industry, a trend particularly evident in the almost continuous decline of manufacturing employment over a span of a decade or more, a fact which has had significant and deleterious effects upon the economy of the State, impacting adversely upon a broad cross-section of New Jersey's citizenry.

The Legislature further finds and determines that the variety and magnitude of New Jersey's economic development programs have now reached a level that warrants their consolidation into a separate cabinet-level administrative department devoted exclusively to monitoring the interests and concerns of business and industry, maintaining continuous liaison with the business community and its leadership for the purpose of assisting in the formulation and direction of economic policy so as to provide business and industry the optimum climate within which enterprises may grow and prosper to the benefit of society as a whole. The Legislature also finds that the variety and complexity of programs which serve to protect the occupational health and safety of workers at the work place, to provide skill development and training programs, to provide employability development and employment placement programs, to administer the programs designed to protect the income security of our workers, to assist in the development and preservation of sound labor management relations and to maintain continuing liaison with organized labor and its leadership for the purpose of assisting in the formulation and direction of policy so as to provide the optimum climate within which organized labor can serve the needs of New Jersey's working men and women, warrants a cabinet level department devoted exclusively to this purpose which shall be known as the Department of Labor.

The Legislature, therefore, declares it to be in the best interest of the citizens of this State to establish a principal department within the Executive Branch to serve as a focus for business and industrial problems and concerns; as a center for gathering and disseminating appropriate data and information of significance to the business community; to continually analyze such data and to help formulate economic policies of the State on the basis thereof, to serve as a major focal point for economic development activities in cooperation with other entities, public and private, active in this field; to serve as a voice for and advocate of the interests of the business sector, not only within the highest councils of the Executive Branch but also before the Legislature and the general public; to assist in translating input it receives into programs and policies of the State itself to the end that New Jersey citizens shall enjoy optimum economic security and the highest possible standard of living; to assist in coordinating authority, regulation and planning by the State in matters related to the economy.

2. Section 3 of P.L. 1982, c.122 (C:52:27H-3) is amended to read as follows:

3. As used in this act:

a. "Commissioner" means the Commissioner of the Department of Commerce, Energy and Economic Development established by this act.

b. "Department" means the Department of Commerce, Energy and Economic Development established by this act.

3. Section 4 of P.L. 1981, c.122 (C. 52:27H-4) is amended to read as follows:

4. There is established in the Executive Branch of the State Government a principal department which shall be known as the Department of Commerce, Energy and Economic Development.

4. Section 5 of P.L. 1981, C.122 (C. 52:27H-5) is amended to read as follows:

The administrator and chief executive officer of the department shall be a commissioner, who shall be known as the Commissioner of Commerce and Economic Development, and who shall be a person qualified by training and experience to perform the duties of his office. The commissioner shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor during the Governor's term of office and until the appointment and qualification of the commissioner's successor. He shall devote his entire time to the duties of the office and shall receive such salary as shall be provided by law. Any vacancy occurring in the office of the commissioner shall be filled in the same manner as the original appointment.

→ Energy

5. (New Section) The Department of Energy is abolished as a principal department in the Executive Branch of State Government and all of its functions, powers and duties, except as herein otherwise provided, are terminated.

6. (New Section) The offices and terms of the Commissioner of Energy, the assistant commissioner and the directors of the various divisions and offices of the Department of Energy, except as herein otherwise provided, shall terminate upon the effective date of this act.

7. (New section) a. The Division of Energy Planning and Conservation in the Department of Energy, together with all its functions, powers and duties, except as herein otherwise provided, is continued and this division is transferred to and constituted the Division of Energy Planning and Conservation in the Department of Commerce, Energy and Economic Development.

b. The Division of Energy Planning and Conservation shall be under the immediate supervision of a director who shall be appointed by the Commissioner of Commerce, Energy and Economic Development and shall serve at the pleasure of the commissioner.

The director shall administer the work of the division under the direction and supervision of the commissioner and shall perform such other functions of the department as the commissioner may prescribe.

c. The commissioner shall organize the work of the Division of Energy Planning and Conservation and establish therein such administrative subdivisions as he may deem necessary, proper and expedient.

d. Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Division of Energy Planning and Conservation in the Department of Energy, the same shall mean and refer to the Division of Energy Planning and Conservation in the Department of Commerce, Energy and Economic Development.

8. (New Section) a. The Advisory Council on Energy Planning and Conservation in the Division of Energy Planning and Conservation in the Department of Energy, together with all its functions, powers and duties, is continued and transferred to and constituted the Advisory Council on Energy Planning and Conservation in the Division of Energy Planning and Conservation in the Department of Commerce, Energy and Economic Development.

b. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Advisory Council on Energy Planning and Conservation in the Department of Energy, the same shall mean and refer to the Advisory Council on Energy Planning and Conservation in the Department of Commerce, Energy and Economic Development.

9. (New Section) a. The Board of Public Utilities and the positions of president and commissioners thereof, designated as such pursuant to the provisions of P.L. 1977, c.146 (C. 52:27F-1 et seq.), are continued and designated as the Board of Public Utilities and the president and commissioners thereof in but not of the Department of the Treasury. Notwithstanding this allocation, the board shall be independent of any supervision or control by the Department of Treasury or by any officer thereof, and, unless otherwise expressly provided by law, the board shall be independent of any supervision or control by the Division of Energy Planning and Conservation in the Department of Commerce, Energy and Economic Development or by any officer thereof. The Department of Civil Service shall not reclassify any title or position transferred from the Board 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, and shall receive such salaries, as provided by law.

b. All functions, powers and duties now vested in the Board of Public Utilities in the Department of Energy and in the positions of president and commissioners thereof are transferred to and assumed by the Board of Public Utilities in the Department of the Treasury and the president and commissioners thereof.

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

10. (New Section) a. The New Jersey Public Broadcasting Authority, allocated within the Department of Energy pursuant to P.L. 1977, c.146 (C. 52:27F-1 et seq.), together with all its functions, powers and duties is continued and is transferred to and constituted the New Jersey Public Broadcasting Authority in but not of the Department of Commerce, Energy and Economic Development. Notwithstanding this allocation, the authority shall be independent of any supervision or control by the Department of Commerce, Energy and Economic Development or by any officer or employee thereof. This act shall not affect the terms of office of, nor the salaries received by, the present members of the New Jersey Public Broadcasting Authority, or of any officers or employees thereof.

b. Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the New Jersey Public Broadcasting Authority in the Department of Energy, the same shall mean and refer to the New Jersey Public Broadcasting Authority in the Department of Commerce, Energy and Economic Development.

11. (New Section) a. All of the functions, powers and duties heretofore exercised by the Department of Energy and the commissioner thereof pursuant to P.L. 1981, c. 278 (C. 13:1E-92 et seq.) are continued and transferred to and vested in the Department of Environmental Protection and the commissioner thereof.

b. Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Office of Recycling in the Department of Energy, the same shall mean and refer to the Office of Recycling in the Department of Environmental Protection or its successor.

12. (New Section) All of the functions, powers and duties heretofore exercised by the Department of Energy and the Commissioner thereof pursuant to P.L. 1977, c.146 relating to the adoption, amendment and repeal of the energy subcode of the State Uniform Construction Code pursuant to P.L. 1975, c.217 (C. 52:27D-119 et seq.) and P.L. 1977, c.256 (C. 54:4-3.113) are hereby transferred to and vested in the Department of Community Affairs and the Commissioner thereof.

13. (New Section) All of the functions, powers and duties heretofore exercised by the Department of Energy and the Commissioner thereof pursuant to P.L. 1980, c.68; P.L. 1981, c.302 (C. 26:2D-37 et seq.); P.L. 1981, c.551, (C.52:27F-16.1 et seq.); P.L. 1983, c.115 (C. 48:7-16 et seq.); P.L. 1983, c.559 (C. 52:27F-16.1 et seq.); and P.L. 1984, c.49 are transferred to and vested in the Department of Commerce, Energy and Economic Development and the commissioner thereof.

14. Section 12 of P.L. 1977, c.146 (C. 52:27F-14) is amended to read as follows:

12.a. There is established an Energy Master Plan Committee (hereinafter "Committee") which shall be composed of the heads of the following principal departments or their designees: Commerce, Energy and Economic Development; Community Affairs; Environmental Protection; Health; Human Services; Transportation; and Treasury. The Commissioner of Commerce, Energy and Economic Development or his designee shall be the chairperson of the Committee. The Committee shall be responsible for the preparation, adoption and revision of master plans regarding the production, distribution, and conservation of energy in this State.

[a. The department, through the Division of Energy Planning and Conservation, within 1 year of the effective date of this act, shall prepare or cause to be prepared, and, after public hearings as hereinafter provided, adopt 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 5 years. The plan shall include long-term objectives but shall provide for the interim implementation of measures consistent with said objectives. The department may from time to time and after public hearings amend the master plan. In preparing the master plan or any portion thereof or amendment thereto the department shall give due consideration to the energy needs and supplies in the several geographic areas of the State, and shall consult and cooperate with any Federal or State agency having an interest in the production, distribution, consumption or conservation of energy.]

... → b. The Comm-

→ Committee

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

... → Committee

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(1) Fix dates for the commencement of a series of public hearings, at least one of which shall be held in each geographical area delineated in the master plan. Each such public hearing shall concern the overall content of the plan and those aspects thereof that have relevance to the specific geographical area in which each such public hearing is being held;

(2) At least 60 days prior to each public hearing held pursuant to this section, notify each energy industry and each 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 of the time and place for the hearing and shall publish such notice in a newspaper of general circulation in the region where the hearing is to be held, and in such newspapers of general circulation in the State as the commissioner determines appropriate to reach the greatest possible number of citizens of New Jersey.

d. ← - - -

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

... → Committee

e. ← - - -

[d.] Upon the adoption of the energy master plan, and upon each revision thereof, the department shall cause copies thereof to be printed and shall transmit sufficient copies thereof to the Governor and the Legislature, for the use of the members thereof, and to each 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. In addition, the department shall advertise in the manner provided in subsection b. of this section the existence and availability of the energy master plan from the office of the department for the use of such citizens of New Jersey as may request same; provided, however, that the department may

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charge a fee for such copies of the energy master plan sufficient to cover the costs of printing and distributing same.

Committee ← - - -

15. (New Section) All transfers directed by this act shall be made in accordance with the "State Agency Transfer Act," P.L. 1971, c.375 (C. 52:14D-1 et seq.).

16. (New Section) All acts and parts of acts inconsistent with any of the provisions of this act are, to the extent of the inconsistency, superseded.

17. The following are repealed:

P.L. 1977, c.146, §1 (C. 52:27F-1);

P.L. 1977, c.146, §§4 and 5 (C. 52:27F-4 and 52:27F-5);

P.L. 1977, c.146, §5.2 through 8 (C. 52:27F-7 through 52:27F-10 inclusive);

P.L. 1977, c.146, § 22.1 (C. 52:27F-25);

P.L. 1977, c.146, §24 (C. 52:27F-27);

P.L. 1977, c.146, §26 through 27 (C. 52:27F-29 through 52:27F-30 inclusive).

18. This act shall take effect 90 days next following its enactment, but any action necessary to effectuate the provisions of this act upon the effective date may be taken prior thereto.

ASSEMBLY, No. 2080
STATE OF NEW JERSEY

INTRODUCED FEBRUARY 20, 1986

By Assemblyman BROWN

AN Act abolishing the Department of Energy as a principal department in the Executive Branch of State Government, providing for the transfer of certain of its functions, powers and duties, and repealing various sections of P. L. 1977, c. 146.

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

1 1. The Department of Energy is abolished as a principal department in the Executive Branch of State Government and all its
2 functions, powers and duties, except as otherwise provided in this
3 act, are terminated.

1 2. The offices and terms of the Commissioner of Energy, the
2 assistant commissioners of energy and the directors of the several
3 offices of the Department of Energy, except as provided in this act,
4 shall terminate.

1 3. a. The Division of Energy Planning and Conservation in the
2 Department of Energy, together with all its functions, powers and
3 duties, is continued, and transferred to and constituted the Division of Energy Planning and Conservation in the Department of
4 Environmental Protection.

6 b. The Division of Energy Planning and Conservation shall be
7 under the immediate supervision of a director who shall be appointed by the Governor, with the advice and consent of the Senate,
8 and who shall serve at the pleasure of the Governor during the
9 Governor's term of office and until a successor is appointed and
10 qualified. The director shall receive a salary which shall be within
11 a salary range as established by the Department of Civil Service
12

13 with the approval of the Director of the Division of Budget and
14 Accounting.

15 The director shall administer the work of the division under the
16 direction and supervision of the Commissioner of Environmental
17 Protection and shall perform any other functions of the depart-
18 ment as the commissioner may prescribe.

19 c. The person in office as the Director of the Division of Energy
20 Planning and Conservation in the Department of Energy on the
21 effective date of this act shall hold the office of Director of the
22 Division of Energy Planning and Conservation established in the
23 Department of Environmental Protection pursuant to this act for
24 the unexpired portion of the director's term as Director of the
25 Division of Energy Planning and Conservation in the Department
26 of Energy, and until a successor is appointed and qualified.

27 d. Whenever in any law, rule, regulation, order, contract, docu-
28 ment, judicial or administrative proceeding or otherwise, reference
29 is made to the Division of Energy Planning and Conservation in
30 the Department of Energy, the same shall mean and refer to the
31 Division of Energy Planning and Conservation in the Department
32 of Environmental Protection.

1 4. a. The Advisory Council on Energy Planning and Conserva-
2 tion, allocated within the Department of Energy pursuant to P. L.
3 1977, c. 146 (C. 52:27F-1 et seq.), together with all its functions,
4 powers and duties, is continued, and is transferred to and con-
5 stituted the Advisory Council on Energy Planning and Conserva-
6 tion in the Department of Environmental Protection.

7 b. Whenever, in any law, rule, regulation, order, contract, docu-
8 ment, judicial or administrative proceeding or otherwise, reference
9 is made to the Advisory Council on Energy Planning and Con-
10 servation in the Department of Energy, the same shall mean and
11 refer to the Advisory Council on Energy Planning and Conserva-
12 tion in the Department of Environmental Protection.

1 5. a. The Board of Public Utilities and the positions of president
2 and commissioners thereof, designated as such pursuant to the pro-
3 visions of P. L. 1977, c. 146 (C. 52:27F-1 et seq.), are continued
4 and designated as the Board of Public Utilities and the president
5 and commissioners thereof in the Department of Environmental
6 Protection. This act shall not affect the terms of office of, nor the
7 salaries received by, the present members of the Board of Public
8 Utilities, or of any officers or employees thereof. The Department
9 of Civil Service shall not reclassify any title or position trans-
10 ferred from the Board of Public Utilities pursuant to this act with-
11 out the approval of the board. The President and Commissioners

12 of the Board of Public Utilities shall be appointed in the manner,
13 and shall receive such salaries, as provided by law.

14 b. All functions, powers and duties now vested in the Board of
15 Public Utilities in the Department of Energy and in the positions
16 of president and commissioners thereof are transferred to and
17 assumed by the Board of Public Utilities in the Department of
18 Environmental Protection and the president and commissioners
19 thereof.

20 c. Whenever in any law, rule, regulation, order, contract, docu-
21 ment, judicial or administrative proceeding or otherwise, reference
22 is made to the Board of Public Utilities in the Department of
23 Energy, the same shall mean and refer to the Board of Public
24 Utilities in the Department of Environmental Protection.

1 6. a. The New Jersey Public Broadcasting Authority, allocated
2 within the Department of Energy pursuant to P. L. 1977, c. 146
3 (C. 52:27F-1 et seq.), together with all its functions, powers and
4 duties, is continued and is transferred to and constituted the New
5 Jersey Public Broadcasting Authority in the Department of State.
6 Notwithstanding this allocation, the authority shall be independent
7 of any supervision or control by the department or by an officer
8 or employee thereof. This act shall not affect the terms of office
9 of, nor the salaries received by, the present members of the New
10 Jersey Public Broadcasting Authority, or of any officers or em-
11 ployees thereof.

12 b. Whenever in any law, rule, regulation, order, contract, docu-
13 ment, judicial or administrative proceeding or otherwise, reference
14 is made to the New Jersey Public Broadcasting Authority in the
15 Department of Energy, the same shall mean and refer to the New
16 Jersey Public Broadcasting Authority in the Department of State.

1 7. All the functions, powers and duties heretofore exercised by
2 the Department of Energy and the Commissioner thereof pursuant
3 to P. L. 1977, c. 256 (C. 54:4-2.113 et seq.), P. L. 1980, c. 68, P. L.
4 1981, c. 278 (C. 13:1E-1.2 et seq.), P. L. 1981, c. 302 (C. 26:2D-37
5 et seq.), P. L. 1982, c. 115 (C. 48:7-16 et seq.), P. L. 1981, c. 551,
6 P. L. 1983, c. 559 (C. 52:27F-16.1 et seq.), and P. L. 1984, c. 49
7 are transferred to and vested in the Division of Energy Planning
8 and Conservation in the Department of Environmental Protection
9 and the director thereof.

1 8. a. All appropriations, grants and other moneys available to
2 the Department of Energy, the Division of Energy Planning and
3 Conservation, or the Board of Public Utilities are transferred to
4 the Department of Environmental Protection and shall remain

5 available for the object and purposes for which appropriated, sub-
 6 ject to any terms, restrictions, limitations, or other requirements
 7 imposed by federal or State law.

8 b. All files, books, papers, records, equipment, and other property
 9 of the Department of Energy, the Division of Energy Planning
 10 and Conservation, or the Board of Public Utilities are transferred
 11 to the Department of Environmental Protection.

12 c. The rules, regulations, and orders of the Department of
 13 Energy, the Division of Energy Planning and Conservation, and
 14 the Board of Public Utilities shall continue with full force as the
 15 rules, regulations and orders of the Department of Environmental
 16 Protection, the Division of Energy Planning and Conservation in
 17 the Department of Environmental Protection, and the Board of
 18 Public Utilities in the Department of Environmental Protection,
 19 respectively, until further amended or repealed. Any rule or regu-
 20 lation which has been proposed by the Department of Energy, the
 21 Division of Energy Planning and Conservation, or the Board of
 22 Public Utilities pursuant to the provisions of the "Administrative
 23 Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), prior to
 24 the effective date of this act, shall be considered as a proposed
 25 rule of the Department of Environmental Protection, the Division
 26 of Energy Planning and Conservation in the Department of En-
 27 vironmental Protection, or of the Board of Public Utilities in the
 28 Department of Environmental Protection, as the case may be.

29 d. This act shall not affect actions or proceedings, civil or crimi-
 30 nal, brought by or against the Department of Energy or the Board
 31 of Public Utilities and pending on the effective date of this act,
 32 and these actions or proceedings may be further prosecuted or
 33 defended in the same manner and to the same effect by the De-
 34 partment of Environmental Protection.

1 9. All transfers directed by this act shall be made in accordance
 2 with the "State Agency Transfer Act," P. L. 1971, c. 375 (C.
 3 52:14D-1 et seq.).

1 10. All acts and parts of acts inconsistent with any of the pro-
 2 visions of this act are, to the extent of the inconsistency, superseded.

1 11. The following are repealed:

2 P. L. 1977, c. 146, ss. 1 and 2 (C. 52:27F-1 and 52:27F-2 in-
 3 clusive);

4 P. L. 1977, c. 146 ss. 4 and 5 (C. 52:27F-4 and 52:27F-5 in-
 5 clusive);

6 P. L. 1977, c. 146, ss. 5.2 through 8 (C. 52:27F-7 through
 7 52:27F-10 inclusive);

8 P. L. 1977, c. 146, ss. 17 and 18 (C. 52:27F-19 and 52:27F-20
9 inclusive);

10 P. L. 1977, c. 146, s. 21 (C. 52:27F-23);

11 P. L. 1977, c. 146, s. 22.1 (C. 52:27F-25);

12 P. L. 1977, c. 146, ss. 26 through 29 (C. 52:27F-29 through
13 52:27F-32 inclusive).

1 12. This act shall take effect 90 days following enactment, but
2 any action necessary to implement the provisions of this act upon
3 the effective date thereof shall be taken prior thereto.

STATEMENT

This bill abolishes the Department of Energy. The bill further provides for the transfer of the Division of Energy Planning and Conservation, the Advisory Council on Energy Planning and Conservation, and the Board of Public Utilities, respectively, to the Department of Environmental Protection. The New Jersey Public Broadcasting Authority, now allocated within the Department of Energy, would be reallocated within the Department of State.

This bill eliminates the excess bureaucracy in the form of dual administrative and secretarial support staffs operating within the Department of Energy and its autonomous unit, the Board of Public Utilities. More importantly, this bill streamlines the operations of the Executive Branch of the State Government by totally eliminating one State department and transferring certain of its necessary functions to the Departments of Environmental Protection and State wherein these functions more properly belong.

ENERGY

Abolishes the Department of Energy and transfers of its components and necessary functions to the Departments of Environmental Protection and State, as appropriate.

ASSEMBLYMAN RICHARD A. ZIMMER (Chairperson, Assembly State Government Committee): Can we call the meeting to order now? This is a joint meeting of the Committees on State Government and Energy and Natural Resources to consider the legislation to abolish the Department of Energy. I'm Richard Zimmer, Chairman of the State Government Committee, and the Cochair will be Assemblywoman Maureen Ogden from the Energy and Natural Resources Committee.

The sponsor, Chuck Haytaian, is detained, but he told me last night that we should start without him if we had to. We do expect him soon.

I would like to call first Charles Richman, Assistant Commissioner of the Department of Energy.

A S S T. C O M M. C H A R L E S A. R I C H M A N: Good morning, and thank you, Mr. Chairman, for the opportunity to testify on this legislation which would merge the authority and powers of the Department of Energy with the Department of Commerce and Economic Development.

In choosing to move forward with this legislation, we examined three key questions: The first, whether the powers and authorities of the Department of Energy, as presently constituted, continue to be relevant and necessary in the public interest; second, whether within the present organizational structure of the State government there is another agency that could assume the responsibilities; and third, would the general administration of government be made better by such a merger.

The basic responsibilities of the Department can be divided into five broad categories. They are: The collection and evaluation of data, and the dissemination of that data; the issuance and prosecution of a State Energy Master Plan; the responsibility for the design, implementation, and enforcement of comprehensive energy conservation programs; the

administration of emergency planning; and, the determination of need for the siting and need for new power facilities.

The legislation does not abolish the Department of Energy in the sense that it in any way reduces the authority vested in State government to perform the functions that I have just enunciated. The legislation, and the Governor's ~~statement~~ in his budget message, were only to abolish, or remove, the Department as a separate agency of State government. What the legislation does is preserve intact the authority vested in that Department, and combines it with the Department of Commerce and Economic Development in order to establish a strong and viable process to assure the continued growth of New Jersey's economy.

Obviously, the question in the debate so far is, why the Department of Commerce? Why not some other agency? I have been involved in energy planning in State government now for over 10 years, and found repeatedly, while at the Department of Energy, its predecessor, the State Energy Office, and, for a period of time at the Board of Public Utilities, that when you deal with energy issues, you deal with issues that go beyond that one agency, and probably touch on almost every other agency of State government.

Environmental quality and energy issues often ~~move~~ forward together, and then, maybe more often, are at loggerheads. Health issues associated with the risk of indoor air pollution and contamination are raised. Energy policy obviously involves transportation and the need for more efficient and effective alternate means to move people other than the automobile. Energy policy involves labor and job creation. Energy policy involves capital improvements and capital investments involved in the basis of running our State government; of course, there is Treasury involvement there. Energy policy involves community programs, housing codes, and low income-related weatherization programs. It involves

agriculture and the finding of ways that that sector of our economy can become more efficient.

Energy planning involves law and public safety, not solely as our legal representative, but also involved in the prosecution of economic cases, both before the Board of Public Utilities and before Federal regulatory authorities.

Yet, if there is a single theme that runs through the Department that involves all aspects of energy planning, it is strong and sound economic planning. This very fact was recognized by this Legislature in the legislation creating the Department in 1977. The first finding by the Legislature -- and I quote -- was: "A secure, stable, and adequate supply of energy at reasonable prices is vital to our State's economy."

As you are aware, the Department of Energy recently adopted a Revised Energy Master Plan. The Plan is designed to promote economic growth through a strong coordinated policy of energy conservation and free market initiatives.

I am aware that there are those who say the promotion of economic development and the promotion of commerce are inconsistent with the conservation of energy and good energy planning. That may have been an argument -- and, in fact, was an argument -- that surfaced a decade ago, when the first clarion calls came for conservation. We heard that you could not have economic growth and energy conservation at the same time. I think the facts of the economic growth that we have seen over the last five years, at the same time that the unit costs of production continued to drop, should indicate to you, in fact should clearly show, that indeed sound economic policy and the conservation of energy are strong allies, that you can have both at the same time. In states such as New Jersey, it is absolutely vital that we have both at the same time.

I point to the fact that approximately three out of every four dollars spent in our State on energy leave our economy. This money goes overseas, it goes to the producing

states, it goes to nonproductive sources. Yet, as we conserve energy, those dollars are spent here, they repeat within our economies, they are used in creating more jobs, and they are used in creating a much better foundation for our economic viability.

A study done about four years ago by the Conference Board found that for every \$100,000 spent in the production of energy -- whether that be in the development of power plants or in the finding of oil gas -- one job is created, and that job generally is created outside of New Jersey. For every \$25,000 spent in conservation, a job is created in a local economy. So, we create four jobs for every one when we look at the production versus conservation ratio, and we create four jobs, or at least three jobs locally -- one in some manufacturing which may be outside the State, but at least three locally -- for every one on the production side.

Commissioner Borden Putnam, testifying before the Assembly Appropriations Committee last week, was asked a question about, what now is the single greatest obstacle to bringing business into New Jersey? His answer was, "Electric costs." Well, if we take the Master Plan, the Master Plan is designed to promote these cost strategies to see to it that utilities are, indeed, serving the public at the least cost possible to create a mix of conservation -- cost-effective conservation -- and that is the measure. And, when you look at cogeneration, and the self-help that it can bring to business, and couple that with the Master Plan provisions which call for greater competition of fuels, allowing businesses in our State not only to be tied up to a utility, but to go down to Texas and buy gas directly and have it transported to become a competitor, through cogeneration to become a competitor, through sound conservation programs to become a competitor-- In that way, I think we link that strong economic development

with a very strong conservation ethic, and with good policies for promoting energy efficiency in our State.

I think it can be done wisely through the Department of Commerce, Energy, and Economic Development. They are not inconsistent. They can work well to promote what we found after two years of study in developing an Energy Master Plan to be the largest problems facing our State. I don't want to dwell on it too much, but also if you just look at the Alexander Grant Study, New Jersey has made spectacular strides in becoming a more productive State for the promotion of business, yet in the energy component of that Study, we remain one of the worst states. And, compared to our neighboring states, we remain one of the worst states as energy costs are made part of our economy. That is something that can be well-attacked when you attack it from the perspective of new job creation.

Now, I've dwelled on that, but please don't for a moment think that in any way this merger is going to denigrate the responsibilities of the agency in the residential sector. The Department recently finalized regulations which require the State's utilities to offer a wide assortment of cost-effective energy conservation programs to their customers. And, while we are being challenged in court by the utilities, I believe we are going to succeed in that suit and continue to prosecute those regulations.

That authority is not being removed from the Department. That authority -- we in the administration pledge -- will continue to move forward and will in no way be reduced under this merger legislation.

In addition, when we look at the residential sector, the State received, last month, \$75 million as part of a court settlement involving the Exxon Oil overcharge case. Most of those moneys are to be spent in the residential sector, giving us a strong cushion of funds when coupled with what the

utilities must do to have a strong integrated energy conservation program in the residential sector, which is up and running, and moving forward. It's in place, and we believe it will accomplish much for the public.

The last issue deals with the question of the efficient operation of government. There are not substantial cost savings from this merger, and I would be foolish to come before you and suggest there were. Indeed, it may very well be that we would ask that there be no reduction of either Department's budget in allowing this merger to go forward because of the moneys the State is going to receive from that Exxon settlement.

Presently, you are not allowed to expend any funds for administering the \$75 million under that settlement. We believe there is going to be an additional court settlement sometime this year which would make available to the State another \$50 million. Again, there will be restrictions on administrative costs in that settlement.

The Department of Energy, as presently constituted in the size of its administrative staff, cannot adequately handle those funds. We do believe that the administrative staff of the combined Department of Commerce and Department of Energy would be adequate in protecting the public and in handling their fiduciary responsibilities in assuring that the funds are well-spent, and spent properly. Indeed, had there not been a merger proposed, we would probably be back before the Legislature to ask for additional staff in order to try to properly administer these fundings.

It is important, I believe, and I would ask this Joint Committee to move forward as quickly as it felt possible in dealing with this issue. Obviously, there is a certain degree of turmoil when such a proposal is made, and the healthy prosecution of the Master Plan, I believe, requires that we -- as quickly as possible -- put into place the mechanism to move

forward. It's clear by how the legislation has been drafted -- and I've spoken to Assemblyman Haytaian about broadening the base upon which the Master Plan is adopted, and participation in adopting the Master Plan -- that we see to it that there is strong Cabinet support for moving forward in the dictates of the Master Plan. We fully believe that three years from now, when this Plan comes up for renewal when the new Commissioner is responsible to adopt a new plan, we will be in a position to look back and be able to say that, indeed, we have accomplished much of what we set out to do, and that we have created an environment in this State which provides, for the least cost, the most efficient energy policy in the running of our State government.

Mr. Chairman, I would be delighted to answer your questions and those of the members of your Committee.

ASSEMBLYMAN ZIMMER: Thank you very much for your testimony. I have a couple of brief questions -- preliminary questions -- and then I would like to ask Maureen and the other members of the Joint Committee whether they have some questions, too.

My concern -- and you have dwelled on this quite a bit, I think rightfully so -- is, what happens to the Master Plan? Part of the mandate of the Department of Commerce and Economic Development is to work closely with all elements of business, including the utilities, who have challenged the Master Plan -- the authority for the Master Plan, and the substance of the Master Plan.

Do you anticipate that between the merger of the two Departments and the adoption of the new Master Plan by the new group that is supposed to develop it in three years, that there will be the same vigorous support and promotion of the Master Plan by the Department of Commerce and Economic Development?

ASST. COMM. RICHMAN: I see nothing inconsistent with promoting economic growth and promoting least-cost strategies

and a more energy-efficient economy, and programs and State policies to require that. I think the very fact that Commissioner Putnam reported to an Assembly Committee that electric costs are his biggest deterrent to attracting new business is a recognition that when we talk about promoting commerce, there are a lot of people out there in business, and it doesn't necessarily mean representing all of business in the same way. We recognize that where the obstacle is electric rates, or where the obstacle may be the direct purchase of natural gas, or where the obstacle may be the utilities' failure to move forward in cogeneration or put obstacles in the way of allowing people to hook up to cogeneration, that the broader economic base of New Jersey requires that we do something about that.

I think that within recognizing that that is our biggest problem, recognizing that the Master Plan sets in motion a whole series of policies that will do that, that it can be well-accomplished within the Department of Commerce. It is my understanding that we're seeing a change in the relationship in the business community between businesses and the utilities. If you look at the past, you saw utility domination on many business groups' energy committees. Business groups are moving away from having the utilities even participate today in their energy committees because they recognize that they may not be moving down the same path together, and that there is good reason for industry to look at alternatives to traditionally being hooked up to a utility. I think the Department of Commerce, and certainly our Energy Master Plan, have begun to recognize that.

I think you can, very easily within this merger, prosecute the Master Plan to show that it can work, and not be absorbed in a concern that there is utility domination in the business community.

ASSEMBLYMAN ZIMMER: In the legislation, is there any attempt to safeguard the Master Plan, both in its substance and in the vigor of its prosecution within the new Department?

ASST. COMM. RICHMAN: The legislation is primarily written as a transfer of powers, and within those particular sections, there is no added language which addresses the issue you've raised.

The sponsor, in the legislative findings, has suggested that there is an important role for economic development in the requirements that take place, but to answer your question directly, no. Within the draft, there is no specific mandate segregating those responsibilities.

ASSEMBLYMAN ZIMMER: It seems that even with the Department of Energy as an independent Department, there is a conflict within the Executive Branch as to the authority -- the extent of the authority -- of the Department in this area and the desirability of the programs that are being proposed -- the thrust of the Master Plan. Perhaps this legislation is not the appropriate vehicle to use to deal with that conflict. But I imagine that the conflict will continue regardless of where the responsibility is put for prosecution of the Plan, and perhaps it is for us to look at this conflict as a problem to be resolved as a matter of legislative enactment, aside from the reorganization issue that we are dealing with now. What do you think about that?

ASST. COMM. RICHMAN: Assemblyman, I guess I can tell a little story here. Back in '77 when the bill was passed and created, there was a great deal of debate about how to have the functions relate to other agencies, and I am reminded of a story. God appointed a committee to design a horse, and that is how he got the camel. In some sense, the original legislation is a camel. There were a lot of compromises, and it lacks clarity in certain areas, particularly on the

prosecution of the Master Plan and how it is to relate to other agencies.

I would hope we could keep it out of the merger legislation, but I think it would be an important issue for the Legislature to look at, to examine the clarity of how the Master Plan is to be prosecuted, how agencies are to relate to it, and to the extent they are required to. Indeed, possibly even going beyond the relationship of the Master Plan to other agencies, but the Master Plan to a broader audience of the State.

ASSEMBLYMAN ZIMMER: My concern is that this State press as hard as it can for sensible measures to require greater conservation and cogeneration. I would appreciate it if you and the other people who have had an interest in energy over the years would work on legislation which would make sure that we can attain that goal, regardless of what the organization charts look like. I know Maureen is very concerned about that, and I'm sure the legislation would end up in her Committee. I think that regardless of where we go, we, as the Legislature, has to focus on the policy matters involved, and not just finesse the conflicts, and there are conflicts.

So, I would urge you, as a project which would take longer because it is more difficult, to try to grapple with that issue.

ASST. COMM. RICHMAN: I would be delighted to.

ASSEMBLYMAN ZIMMER: Thank you. Maureen?

ASSEMBLYWOMAN MAUREEN B. OGDEN (Chairperson, Assembly Energy and Natural Resources Committee): Chuck, I certainly appreciate the presentation you made, particularly in relation to the Department of Commerce and Economic Development really being the one where Energy now belongs in terms of least cost, and your discussion about how high energy costs are the major

thing holding back further development of business here in the State of New Jersey.

I wonder, however, do you think it is going to be possible for the Department of Commerce and Economic Development to be a real advocate -- as I actually think it should be -- for freer competition and, therefore, going further in the direction of cogeneration and conservation, while at the same time it is charged to cooperate with the utilities? Some utilities welcome cogeneration and conservation; others do not. This is liable to nix the charge that the Department of Commerce and Economic Development has. Do you think it is going to be possible for them to sort out these two potentially conflicting goals?

ASST. COMM. RICHMAN: I think they can. I think it's going to make the Commissioner much more aware of his regulatory role and the promotional role that he's had, and having to understand the distinctions and where they lie. But if you look, in practical terms, at what those two distinct activities have meant, the promotion of the utility programs has not been-- The activity of Commerce has not been to promote the use of energy or the buying of more electricity. It has been in terms of attracting business; for instance, the program of working with Public Service -- a wide range of identifying, in our urban areas, vacant pieces of land for factories, and then working with the utilities in rate structures that would help to promote and develop those areas. We have seen that type of activity, not the promotion of the utility as an entity where people should not go elsewhere, in terms of their energy supply.

I think the Commissioner, in handling his energy requirements, is going to have to regulate. He fully understands that. So long as the basis is the basis we have placed in the Master Plan of the least-cost strategy and the promotion of competition, and as long as the Commissioner

remains faithful to that -- faithful to that process -- I think he can accomplish both tasks.

ASSEMBLYWOMAN OGDEN: You said earlier that in connection with the \$75 million that is coming from Exxon, and the possibility of another \$50 million, that the Department of Energy, as it is now constituted, would not have the necessary administrative personnel to carry it out. Do you feel that the newly created, or proposed Department would?

ASST. COMM. RICHMAN: Yeah. I think you have a threshold in any agency of administrative staff that is necessary. You have two very small agencies here that, because you need a Personnel Director in both, and because you need a Fiscal Officer in both, and because you need a whole variety of positions that are absolutely necessary, may not-- You know, a Fiscal Officer in Energy with 100 people and a Fiscal Officer in DEP with 5,000 -- it's the same function, but the work isn't necessarily as difficult or as involved. Here, with this large influx of money, it would have been very difficult for Energy alone. I think the two agencies, being small, can absorb that money and handle it. Neither one, individually, would probably be able to.

ASSEMBLYWOMAN OGDEN: It seems to me that it would be more logical for this Exxon money, particularly since it is involved with residential conservation, to be in a Department like Community Affairs, which has already received grants and is involved, not only in terms of retrofitting buildings, but also -- I think properly -- in connection with proper siting as far as minimizing the energy impacted by where you put the building on the land. This, you feel, can also go to this newly proposed Commerce and Economic Development--

ASST. COMM. RICHMAN: The Governor--

ASSEMBLYWOMAN OGDEN: --without overlap with DCA?

ASST. COMM. RICHMAN: The Governor is presently reviewing a plan by which we would propose to distribute that

money. A portion of the money in the Exxon settlement would be transferred from Energy, or Energy and Commerce, whenever this takes place, to the Department of Community Affairs for the low-income weatherization programs. However, given that these funds were collected from people who used oil during the '70s and the court, while giving a degree of discretion, ~~wants~~ as much of that money as possible returned to people who used oil, we see Energy setting up programs that parallel the present utility programs, where a utility now offers, for instance, low-interest loans for people who have used natural gas or electricity. Those parallel programs would be established for oil-heated homes, and that would be done on a broader base through the Department of Energy.

So, yes, a portion of it will come to Community Affairs for the needy, for the low income. But I think that when you deal with the oil overcharges, not only in the residential areas, but also for business and industry, and the series of programs being designed to handle all of those areas, the bulk of the money should remain in that agency.

ASSEMBLYWOMAN OGDEN: Assemblyman Zimmer brought up the whole question of the Master Plan, which is something that I am concerned about. One other issue that I am also concerned about is, we have been talking -- and I think properly so -- about least cost in terms of energy. But another issue that is part of the total equation, is the environmental cost, which can possibly make energy higher initially, but in the long run, when you think of the broad implications of a decision that is basically against the environment, in terms of water supply, pollution, air pollution, health, etc.-- How do you see the environmental issue being brought into a decision-making process which is totally based on an economic outlook?

ASST. COMM. RICHMAN: We attempt to do that in two ways. Assemblyman Haytaian will -- and we chatted about it -- in his legislation, broaden the process by which the Master

Plan is adopted. He will be proposing to have a committee of members of the Cabinet involved in the process of adopting the Master Plan. A member of that committee will be the Commissioner of Environmental Protection. So, while the Commissioner of this new Department of Commerce, Energy, and Economic Development will be the chairman of that body, and the energy component of his agency will serve as the staff to draft the Master Plan, we are looking for a broader consensus of Cabinet members to actually participate in the adoption of the Plan for two reasons: One, obviously to broaden and get a greater involvement of these issues, as you have suggested; and two -- and this partially gets back to Assemblyman Zimmer's question about enforcing the Master Plan, or getting the State to actually do it -- it has been my experience that it has been very difficult for an Energy Commissioner to tell another Commissioner, "My plan is going to supersede what you're doing." In the real life world of Cabinet, it's hard.

Sure, the legislation says we can enforce it, and sure, the legislation says we can sue another agency, but I don't know any Governor who would really like the idea of having two of his Cabinet people fighting.

In this merger legislation, our attempt is to broaden the base upon which the Master Plan will be adopted and allow for greater input by those other groups, but then the converse of that is, once they participate, I think it is more likely that they will then enforce what the Master Plan calls for, and having other Cabinet members having participated with them, I think there is a strong influence in getting that done.

ASSEMBLYMAN ZIMMER: Any other questions? Joe?

ASSEMBLYMAN CHARLES: No.

ASSEMBLYMAN SMITH: Mr. Chairman, if I might.

ASSEMBLYMAN ZIMMER: Yes, Assemblyman Smith.

ASSEMBLYMAN SMITH: I think Mr. Richman hit on the key item in his last comment; that is, "No Governor wants to have

two Commissioners fighting with each other." I think that, in itself, tells the reason why the merger of the two Departments is a mistake. I think it is healthy for departments within State government with competing interests to present the alternatives to the Governor and to say that there are alternatives and that they may have different interests, and there may be other ways to go.

The problem with what is being proposed here is that by merger, even though earlier in your testimony you indicated that energy interests would receive attention within the Department of Commerce, there is no question that the Department of Commerce has a different charge. Its charge is not to encourage energy conservation; its charge is to encourage economic development, which, in itself, is a valid concern and a valid activity of State government. But it is also equally true that energy conservation and the promotion thereof is an equally valid concern. You hit the nail on the head. When there are two Commissioners, both of those points of view get to the Governor. When there is one Commissioner, they don't. That argument doesn't occur at the Cabinet level, and I think that is the basic error here.

Now, going further with that, one of the problems we see at the national level is the credibility problem that the Nuclear Regulatory Commission has. They have a credibility problem because they have competing charges. On one hand, their charge is to encourage the development of nuclear power, and on the other hand, their charge is to make sure that all of the environmental safeguards are provided, etc. Frequently, those two interests compete. The question here is, what will happen to the credibility of the Department of Commerce and Economic Development if the two interests are merged? Will the one interest really get its fair share of attention?

I think you really have to go back to the original enabling legislation set for the Department of Energy, which

was set up to address and solve the problems caused by threatened catastrophic loss of near and long-term energy sources. Is there any question in your mind, Commissioner, that the energy situation is extremely volatile, even at this moment? We may have \$11.00 a barrel crude oil, but who knows what it is going to be tomorrow.

ASST. COMM. RICHMAN: I think, Assemblyman, it's volatile. I don't think we are dealing today -- any longer -- with the question of near-catastrophic loss of supply.

ASSEMBLYMAN SMITH: Is there any question in your mind that fossil fuels are a finite resource, and that in the foreseeable future -- 20, 40, 60 years -- not only this country, but the entire world, will have to look to alternate energy sources, and that there should be some planning for that now?

ASST. COMM. RICHMAN: There certainly should be planning for that, but I don't see -- and obviously, we disagree on the point-- You suggest that there is a schism between energy planning and energy policy, and economic policy, that requires two different individuals to make that argument.

ASSEMBLYMAN SMITH: Sure. Of course there is.

ASST. COMM. RICHMAN: Well, I don't think there necessarily is. I think good economic policy is founded on the least-unit cost of production.

ASSEMBLYMAN SMITH: Which may not be in the best long-term interest of energy conservation.

ASST. COMM. RICHMAN: Sure it would. If energy conservation is based on the least cost-effective way of maintaining energy supply, then the two work hand in hand. You don't want to promote energy conservation that's not cost-effective. You don't want to go out there and require a utility to spend excess revenues to save energy -- at a cost of \$30.00 a barrel when we can buy oil at a cost of \$11.00 a barrel -- or promote alternative means of providing power

through solar, at a cost far in excess of the alternates which are available. You don't want to do that.

ASSEMBLYMAN SMITH: Well, that's not really true. I would respectfully differ. I would just bring this to your attention: The corporate directors of a-- The directors of a corporation -- the chairman, the chief executive officers of a corporation -- are responsible to the shareholders on an annual basis. And, what the shareholders want to know on an annual basis is, what's the bottom line? What's the dividend? All right? It's very hard for a president or a chief executive officer to say, "Well, this year it's going to be that much less because 20 years from now we anticipate a savings." That doesn't fly with shareholders. So, I would suggest to you that economic development and the business world do not necessarily-- There is not necessarily encouragement to industry to plan for 20 and 40 years of conservation practices which will pay off 20 or 40 years from now. Their encouragement is, what is that bottom line for the shareholders? It's a totally different perspective. And that's why there should be two departments.

ASST. COMM. RICHMAN: But that bottom-line responsibility, though, that -- is, yes, maybe it's the president and the corporate officers and their fiduciary responsibilities to their stockholders. That's not the responsibility of the Commerce Commissioner. He's not there to say, "We're going to promote economic development regardless of what it does to our State." He's not there to say, "I'm going to sue DEP to allow people to pollute today, because it's going to make more money for some company." He's there to promote policies that have the best, long-term investment for our State.

ASSEMBLYMAN SMITH: Right.

ASST. COMM. RICHMAN: I think he can do that, along with a sound energy policy.

ASSEMBLYMAN SMITH: And, I'm not suggesting that the Commissioner of the Department of Commerce and Economic Development is Dr. Fu Manchu, sitting in the background planning all these evil things for the State of New Jersey. But I've attended Assembly Appropriations Committee hearings, and when the Department of Commerce comes in, what they say is, "During 1985, we brought "X" number of businesses into the State." All right? "We put so much money into economic development." Their perspective is not necessarily one of conservation, all right? Their bottom line is how many companies they brought in, how many jobs they created. ~~That~~ That may mean the principles of the Department of Commerce and Economic Development may compromise with the principles that were originally set forth for the Department of Energy. I think that's what Chairman Zimmer and Chairman Ogden were alluding to in their questions. I mean, there is a basic, philosophical competing interest between the two Departments, and merging them doesn't help this State, in my opinion.

ASSEMBLYMAN ZIMMER: Any further comments? (negative response) Thank you very much.

I would like to ask Harry Blekicki to come up, please.

A S S T. C O M M. H E N R Y T. B L E K I C K I: Good morning. My name is Henry Blekicki.

ASSEMBLYMAN ZIMMER: Yes. I'm sorry; there was a typo, and I--

MR. BLEKICKI: Well, in England, Henry is also Harry, so I--

ASSEMBLYMAN SMITH: Mr. Chairman, if I may just point out-- Henry's mother lives in Piscataway Township, so please treat him with great respect. (laughter)

MR. BLEKICKI: Or I'll hear from my mother.

ASSEMBLYMAN ZIMMER: I knew Hank before he came to Trenton. I knew his name was Hank then, but I thought something might have happened.

MR. BLEKICKI: Well, at least you pronounced my last name properly. That is what I normally have problems with.

As you are aware, I am the Assistant Commissioner of the Department of Commerce and Economic Development. I wish to thank you for this opportunity to review the Department's position regarding the proposed merger of the Departments of Energy and Commerce.

We believe that there is a great deal of logic behind the proposed merger, recognizing that the crisis of energy supply in the 1970s, which spawned the Department of Energy, has abated, and the issues of price and efficiency of production, distribution, and use are of more paramount importance today. A merged Department would provide opportunities for even stronger State actions in the areas of cost-effective energy conservation and the enhancement of alternative energy technologies, such as cogeneration. The proposed merger, therefore, should result in increased efficiencies of operation, while also bringing about somewhat modest cost reductions through the elimination of duplicative positions.

It quickly became quite obvious to those of us who joined the newly formed Department of Commerce and Economic Development in 1982, that the cost of energy was a powerful determinant in the decision-making process of many businesses which are located in our State or considering moving into our State. During the 1970s, the State of New Jersey lost over 120,000 manufacturing jobs to other states or off-shore locations, and high energy costs in this State were a negative stimulus in those moves. Companies in the glass bottle and paper industries were especially hard hit.

While the world price of oil and gas has tumbled in recent months, there are many who believe that this is only a temporary respite. Therefore, the need to conserve energy in cost-effective ways continues to be of importance to New Jersey

industry, especially in the smaller and traditional manufacturing firms. What wasn't so obvious to us four years ago, was that the cost of energy to the homeowner, as part of the private citizen's cost of living here, was a factor in out-of-State firms deciding to set up shop here. The cost of purchasing and maintaining a home in New Jersey, vis-a-vis most other locations in the nation, deterred some firms from locating here. Therefore, the Department of Commerce and Economic Development is quite supportive of Energy's initiatives under the Energy Master Plan to aid residential, commercial, and industrial users of energy in conserving energy through new cost-effective means.

Further, we believe that this process could be enhanced by the merger through a much closer working relationship of our staffs that would result in significant benefits. I might add that one example of that which has recently occurred, is that now our two staffs are talking about energy conservation programs under the Urban Enterprise Program. We have 10 zones. We have businesses that are very mature that are using old technologies and, for the first time, we are talking about ways in which we can implement new energy conservation programs for businesses in those Urban Enterprise zones, and perhaps in other Urban Aid communities.

In addition, oil overcharge funds -- which Assistant Commissioner Richman referred to -- that currently total more than \$80 million for New Jersey and include some other awards made earlier, have been directed by the court toward energy conservation uses. This guarantees that there will be a significantly enhanced energy conservation program for residential, commercial, and industrial ratepayers in this State.

Hand in hand with conservation has been the effort to keep the cost of new energy-generating facilities as low as possible for the benefit of all energy users. Cogeneration is

one of those technologies which not only offers such cost-avoidance benefits, but also results in the lessening of our State's energy dependency on out-of-State sources. The Department of Commerce staff could be much more involved in the creation of small and large cogeneration businesses to the benefit of all residential, commercial, and industrial users. Therefore, this initiative is one which would continue to be a high priority in the merged Department.

The regulatory aspect of the Department of Energy has received a lot of attention in recent months, and even in this area there are potential gains with the merger. Our two Departments should be working closely together in implementing the 1983 Plant Siting law because both Departments have a genuine interest in ensuring the lowest possible long-term electricity rates. The proposed legislation would assure total transfer of all regulatory and other powers from the Department of Energy to the merged Department.

The one aspect negatively perceived by some is that for the first time, the Department of Commerce would be in a regulatory position as it dealt with the utilities. The Department of Commerce, however, has always had the well-being of all New Jersey industry, rather than a specific segment of it, as its basis of operation. This would not change with the merger.

In summary, we feel confident that if the proposed merger is allowed to occur, the benefits will significantly outweigh any perceived negatives, and the merged Departments will maintain, if not enhance, the State's resolve toward a more secure and lower cost of energy with no dilution of powers.

I thank you for this opportunity to make these remarks, and I would be pleased to answer any questions that you might have.

ASSEMBLYMAN ZIMMER: Thank you very much.

The discussion I had with Mr. Richman before was perhaps better directed to you, so I will ask some of the salient questions of you, and ask in behalf of your Department -- whether you will be vigorously promoting the aims set forth in the current Master Plan, and whether you intend to review and perhaps modify some of the recommendations.

ASST. COMM. BLEKICKI: I think I can confidently say that the Department has every intention, if the merger takes place, of enforcing the Master Plan. We feel that it is in the best interest of the State in the long run to encourage energy conservation, as well as to develop alternate sources of energy to, in fact, encourage increased competition.

A question was asked last week, during the budget hearing, of the Commissioner, Putnam, as to whether it would be appropriate for the State to sell off the South Jersey Port Corporation and let it be run as a private entity. And the Commissioner made the point that if, in fact, there were benefits to the public to do so, that this increased competition would be beneficial to the public and certainly the State should consider that.

So I think that Commissioner Putnam, and whatever other commissioners might hold that position in the future, would support the enhancement of competition in all areas of business activity, because it is through competition that the long-term stability and growth of those businesses and the economy in general is supported and guaranteed.

So I think that there is no proposed diminution of the enforcement of the rules and the regulations under the Master Plan, and were the Department of Commerce, Energy, and Economic Development to be created, the Commissioner would accept his new responsibilities as vigorously as he has accepted his present responsibilities.

ASSEMBLYMAN ZIMMER: Currently, as I understand it, there's legal challenge to the authority of the Department of Energy, which is supported by the Board of Public Utilities.

With reference to Mr. Richman's point that the Governor doesn't like to see his Cabinet officers fighting, would there not then be a continuation of the conflict within the Executive Branch if you continue to maintain a position that's been held by the Department of Energy?

ASST. COMM. BLEKICKI: Well, I think that before the Master Plan was promulgated, that there was review by the Attorney General's Office and that it was clearly determined that this was a proper course of action and proper set of regulations and policies being promulgated by the Department of Energy. So, I don't think there's any question in our mind that this is legal, this is proper, and that it should proceed. And, as Commissioner Richman indicated, the State government has every expectation that we will be upheld in this court case.

So I don't see any conflict between the Department of Commerce and the Department of Energy on this issue.

ASSEMBLYMAN ZIMMER: As to the substance of those regulations, they're pretty all-encompassing and they do tell the BPU what to do in pretty specific terms. They say that no rate increase shall be approved until a utility has successfully demonstrated that it promotes the least-cost mix of energy production techniques and saved energy investments, and it also calls on the BPU to impose sanctions and offer rewards to utilities based on the success in least-cost energy strategies. Those regulations you expect to be embraced and promoted by your Department?

ASST. COMM. BLEKICKI: The conflict -- or perceived conflict -- between the Department of Energy and the BPU would exist whether the Department of Energy were to remain a separate Department or were it to be merged with the Department of Commerce. I think that the -- it's very clear that the Department of Energy apparently has responsibilities in those areas, and that the Master Plan is a valid plan, and that the

Department of Commerce would continue to support and enforce the content of that plan.

ASSEMBLYMAN ZIMMER: Including the regulations that I alluded to?

ASST. COMM. BLEKICKI: Yes.

ASSEMBLYMAN ZIMMER: And, similarly, with the cogeneration regulations which are also quite detailed and--

ASST. COMM. BLEKICKI: Yes. I think there has been some discussion -- in fact, I was reading an article in The New Jersey Reporter which purported to have the Department of Commerce opposed to energy conservation -- at least in the Office of Business Advocacy within the Department of Commerce.

In fact, reading the letter in its entirety, that was not the case at all. What the Department of Commerce, through its Office of Business Advocacy, was bringing to the attention of the interested parties at the BPU hearing was the fact that energy conservation must deal with the issue of cost-effectiveness, and that is an integral part of the Master Plan. I don't think there has ever been any question that State government is attempting to impose unreasonable, costly methods of energy conservation.

So, I think that the Department of Commerce is supportive of energy conservation and cogeneration because we see this as in the best interest of all the ratepayers, including the commercial and industrial ratepayers.

ASSEMBLYMAN ZIMMER: Thank you very much. Maureen?

ASSEMBLYWOMAN OGDEN: Yes. I'd like to also go along the line of where we were before with Mr. Richman. He said that he does not anticipate any substantial dollar savings in the transfer -- or the merger issue, more properly called. Would this also be your reaction to the proposal?

ASST. COMM. BLEKICKI: Yes. I believe that while there are several positions within the Division of Administration -- and of course the Commissioner's position --

that are duplicative, that the need to administer somewhere between \$80 and \$130 million of new funds during the next several years for energy conservation and other purposes under the court decision -- the Federal court decision -- would require that additional individuals be committed to those functions. And so, therefore, what I see is that it is a cost-avoidance merger. That's one of the benefits, to avoid the cost of having to hire many additional -- more people, rather than seeing the net number change significantly.

In fact, from a very selfish perspective, within the Department of Commerce, we see some very significant benefits to the Department of Commerce, in that there are certain skills and abilities in the Department of Energy that we do not have in adequate quantity in the Department of Commerce. So, we see that -- you know, even ignoring the \$80 million of the oil overcharge funds -- that there would be efficiencies gained by the merger from Commerce's perspective alone, if not from Energy's. And I can't speak from Energy's perspective. Hopefully, the same thing would happen to them -- for them.

So, I think that Commissioner Richman is quite correct in saying that the savings as far as current dollars are concerned would be minimal, but what you would be avoiding is having to bring on many, many more people to deal with the expanded programs under the Oil Overcharge Program.

ASSEMBLYWOMAN OGDEN: Do you think, in connection with the Certificate of Need, that at this point it seems as though we probably won't need a new generating facility until after the year 2000?

ASST. COMM. BLEKICKI: Right.

ASSEMBLYWOMAN OGDEN: But, do you think that it will be possible for the Department of Commerce to evaluate the Certificate of Need for, say, a large new generating facility, assuming something happens that we can foresee at the moment? Certainly with the price of oil, no one ever foresaw,

six months ago, where we'd be today, so one never knows where we're going with energy. But if it should come sooner -- the need for it than we anticipate currently -- do you think it will be possible for the Commerce Department, which is charged with working in a cooperative fashion with utilities -- which of course, are going to say that they need this generating facility -- to impartially evaluate whether or not they actually do?

ASST. COMM. BLEKICKI: That responsibility would, of course, be carried out by the engineering and planning unit of the current Department of Energy, which would be a division within the proposed merged department. Certainly, I think -- from my understanding of the capabilities of the Department of Energy -- that they'd have the skills and the capabilities to accomplish that.

The question you raise, however, deals with whether we, the Department of Commerce, Energy, and Economic Development, would be even-handed in dealing with that issue. And I think that it's unequivocally, yes, that we would be even-handed. The reason that I don't think there's any question is that while we do cooperate, for example, with PSE&G on business site location promotion, that is only a very, very small element of our total program, and that that small element, while important -- there's no two ways about it, PSE&G has been a very significant contributor to economic development in the State of New Jersey -- that would not be the tail wagging the dog.

Now, I think the larger issue of the overall benefit to the economy of the State of New Jersey -- and I'm talking the residential ratepayers as well as industrial ratepayers -- I think would demand that this Department play a very even-handed role in that process. So, I have no reservations about answering, in the positive, that question.

ASSEMBLYMAN ZIMMER: Any further questions? (no response) I have one follow-up question. Assuming that it is acceptable to the sponsor, I'd like to know whether the Department would be amenable to expanding the legislative findings in the bill to state that as -- that the goal of reducing energy costs involves conservation, use of conservation, cogeneration, and market-oriented pricing policies.

ASST. COMM. BLEKICKI: I don't believe there would be any problem from our perspective on that. I think that that is inherent in the mandate of the DOE, and were the two to be merged together, that would be inherent in the merged Department's responsibilities. So, I don't see any problem in specifically stating that.

ASSEMBLYMAN ZIMMER: Thank you. Majority Leader, Chuck Haytaian has arrived. Would you tell us about your legislation, Chuck?

A S S E M B L Y M A N G A R A B E D H A Y T A I A N: Mr. Chairman and Madam Chairwoman, I have to apologize. As we all know, the weather is horrible and I had a business commitment this morning, and so I'm late -- and I'm sorry for that.

I'd like to, if I might, just talk about the bill in general and the concept that I had, and why it came about. An awful lot of people take their cues from the Governor and the State-of-the-State message on legislation, which is appropriate, and I guess I was quite surprised when the Governor indicated that we should possibly look at abolishing the Department of Energy because-- And I say surprised because four years ago, when I became an Assemblyman, one of the first bills that I put in was to abolish the Department. And I received a number of calls and visits from Administration people telling me, well we did not believe -- or they did not believe at that time that that should happen, and there would not be a whole lot of savings if it did occur. And I felt that

the Department should be abolished. We could merge different parts of the Department into other departments, and so, therefore, I kept my bill in both the first session of my tenure in the Assembly, and also the last session.,

I was a little reluctant to put it in this session because I wasn't quite sure and I didn't want to spend taxpayers' money by having a bill prepared. And then when the Governor indicated, "Now is the time," my bill went in, and you can see the date that it went in. I guess it was February 20th.

I truly believe the Department has -- in that, a separate Department of Energy in the State of New Jersey has outlived its usefulness. The genesis of the Department was when we had our oil shortages. I can remember that vividly when I was a Freeholder in Warren County with all the problems that we had. And the Governor, in fact, called Freeholder Boards together, indicating that he wanted to get a Department of Energy. An awful lot of our Freeholder Boards were complaining about the high cost of gasoline, and at that time it was, I guess, 65¢ a gallon. And, as it turned out, we know that one form of energy, oil and gasoline-- Eventually the gasoline, per gallon, went up to \$1.30 and \$1.40. And now we see a trend, and I hope -- I truly hope -- that that trend is downward, and continues downward, of gasoline prices.

There are other functions of the Department that I felt could be merged into other departments, and, in fact, my bill indicates that. We take different parts of the Department of Energy and incorporate it into the Department of Commerce and Economic Development, and I felt that we could save money.

I've heard, before I came in, that the savings may not be that great. My feelings have always been that there's too many departments in State government. Twenty departments are way too many. I've heard Senator Dumont, many times, in my home district, talk about State government operating very well with only 14 departments. My feelings are that there will be a

and 11 1/2 years ago

savings in the Department of Energy if it were abolished, and the savings would be to the State of New Jersey.

When I prepared my legislation-- And it is the same legislation, by the way, that was introduced four years ago. There have been some changes in departments and some of the responsibilities of those departments. And prior to coming to this hearing -- in the last two weeks -- the Administration has indicated that rather than trying to amend my bill, they would hope that I would agree to a Committee Substitute to A-2019, and I have agreed to that. And I have no problem with the Committee Substitute, as presented to me from the Administration.

Now, I don't know if all of you have received copies of that. I hope that you have. Has the Committee received copies? Okay.

Mr. Chairman, at this point, would you like me to go through and outline what the Committee Substitute does because I--

ASSEMBLYMAN ZIMMER: Yes, because that has not happened yet. We haven't been told.

ASSEMBLYMAN HAYTAIAN: Okay. I have agreed that we would go with this Committee Substitute if the Committee agrees.

The Committee Substitute will abolish the Department of Energy, and it's going to provide for the transfer of most of its functions to a renamed and reconstituted Department of Commerce, Energy, and Economic Development. The bill will eliminate excess bureaucracy, and significantly streamline the operations of the Executive Branch of State government by eliminating one State department and transferring most of its necessary functions to the Department of Commerce, Energy, and Economic Development, wherein such duties more properly belong, as well as to the Departments of Environmental Protection and Community Affairs, where appropriate.

Let me just give an outline of the major provisions of the proposed bill.

Section one, the preamble to the law creating the Department of Commerce and Economic Development, is amended to reflect the need to have a principal department in State government with the responsibility to coordinate and integrate the State's economic and energy policies and programs to ensure adequate supplies of energy at reasonable prices -- to promote the continued good health of the State's economy.

Sections two to four rename the Department of Commerce and Economic Development and Commissioner thereof as the Commissioner of the Department of Commerce, Energy, and Economic Development.

Sections five and six abolish the present Department of Energy and terminate the offices of Commissioner and other officials at the Department.

Section seven transfers the Division of Energy Planning and Conservation to the Department of Commerce, Energy, and Economic Development.

Section eight transfers the Advisory Council on Energy Planning and Conservation -- again to the Department of Commerce, Energy, and Economic Development.

Section nine transfers the Board of Public Utilities to the Department of the Treasury. The Board of Public Utilities would continue to be an in but not of agency, and, therefore, would not be subject to the control of the Department of Treasury, or by any officer thereof.

Section ten transfers the New Jersey Public Broadcasting Authority as an in but not of agency, from the Department of Energy to the Department of Commerce, Energy, and Economic Development.

Section eleven transfers the Office of Recycling from Energy to the Department of Environmental Protection. I truly believe it belongs there, and so I have no problems with that at all.

Section twelve, the Department of Energy Act, had transferred the duties exercised by the Department of Community Affairs with respect to the Energy Subcode of the State Uniform Construction Code to the Department of Energy. This substitute bill would return all building code-related functions to the Department of Community Affairs from the Department of Energy.

Section thirteen transfers all of the Department of Energy's statutory responsibilities not otherwise transferred to the Department of Commerce, Energy, and Economic Development, and to the Commissioner thereof.

Section fourteen transfers the responsibility for developing an Energy Master Plan from the Commissioner of the Department of Energy to an Energy Master Plan Committee, representing several departments with responsibility over, or an interest in, energy matters.

And, section fifteen -- all transfers are to be made in accordance with the State Agency Transfer Act.

So, what we're looking at, in essence, is not only abolishing the Department of Energy, but changing the Department of Commerce and Economic Development to a new Department, which will be called Commerce, Energy, and Economic Development, and by doing this we will, in essence, be sending out a message, I think, to the residents of the State of New Jersey that we too in State government believe that the bureaucracy is too great, it's too big, and we are looking at methods of cutting that bureaucracy down -- and this is the first step, I think, in doing it.

I guess I can safely say-- And maybe someone will correct me, but I believe this is the first time we will be, in effect, abolishing a Department in State government -- at least the first time in my four years and, I am sure, in the memory of a lot of other people, rather than adding a department to the bureaucracy and to the State government.

ASSEMBLYMAN ZIMMER: Thank you. I want to say, first of all, that I agree with your philosophy, that we can do with fewer than 20 cabinet-level agencies. Just because the Constitution says we may have a maximum of 20 doesn't mean that's the number we should have grown to. And as Chairman of the State Government Committee, I'd like it to be known that just because we will have 19 -- assuming this bill becomes law -- does not mean that we'll be looking out for another agency to create, to give the cabinet-level agency status so we can go back to the 20. I would like to see the number reduced well below 19.

I commend you on your initiative, Assemblyman Haytaian, and I think the bill makes a lot of sense, as an organizational matter.

I would just like to ask you the question that I asked Mr. Blekicki, as to whether you would object to having in the preamble, the legislative findings, a statement reconfirming the commitment of the Legislature to the goals that were set out in the Master Plan, specifically conservation, cogeneration, and market-oriented pricing policies.

ASSEMBLYMAN HAYTAIAN: Mr. Chairman, I have no problem at all. In fact, it may seem strange to some people who know me professionally. I'm an electrical engineer, and here I'm asking to abolish the Department of Energy. But I have no problems with that at all. If we could have that added to the Committee Substitute, I have no objection to that.

ASSEMBLYMAN ZIMMER: Maureen?

ASSEMBLYWOMAN OGDEN: No, I don't have any questions.

ASSEMBLYMAN ZIMMER: Joe?

ASSEMBLYMAN CHARLES: Yes. I have a couple of questions. Assemblyman, I was notified that we were having this hearing today, and I just had a small opportunity to go through the bills. I'm not sure that I understand them completely, yet I read them.

I'm trying to understand what the reason is for the merger of the two departments. I tried to arrive at that understanding because from the things that I see, the few notes that I have, and from the testimony that I've heard, and even some of the questions that have been posed this morning, there seems that there may be a -- some inherent conflict, or incompatibility, between energy, conservation considerations, and the charge of a Department of Commerce and Economic Development. On some levels, there may be some conflicts. So, I'm trying to understand what happens as a result of this bill that's good, and that goes in the direction of reducing bureaucracies, as has been indicated as one of the reasons that you've stated.

You know, when I think about it, I guess I think about it in terms of functions of a department, I think in terms of employees and personnel of a department, and I think in terms of dollars and costs of a department.

From what I've heard this morning, I don't see that we're going to have any change in functions. It seems that everything that's in Energy that's now there will be somewhere else, or will continue.

From what I've heard also, there's going to be no reduction in employees or personnel. Everything is being transferred so there's no cost savings there. And just on the general idea of cost savings, it seems to be everybody's testimony that there is no savings in dollars.

Now, if that is the case, you know, what is the message that's being sent out -- that we're just going from 21 to 20, or from 20 to 19, or are we really doing something by way of reducing the bureaucracy?

The second thing too, which goes to -- which is a substantive issue that concerns everybody, and that's the-- Chairman Zimmer has talked about the commitment of this new Department to the goals of the Master Plan, Energy Master

Plan. I just heard you say something that's included in the revised bill, the substitute bill, that says that the Energy Master Plan is going to be given to a Committee of several departments. Does that mean then that-- I haven't read that substitute bill. Does that mean that this Committee of several departments is going to be involved in relooking, redoing, rethinking, and maybe changing some of those goals, or is there some kind of affirmative statement in the bill that they will continue as the goals of the State of New Jersey?

ASSEMBLYMAN HAYTAIAN: Well, first of all, let me answer this. Commerce, economic development, and the growth of industry is directly related to energy matters. I mean, I think that can be proven. As I said as an electrical engineer, if we have cost savings in energy, we can use those cost savings to further economic growth. So, there is a direct correlation, and they are not at opposite ends of the spectrum. Energy, economic growth, and commerce are really related. So, I want that -- to answer part of that.

ASSEMBLYMAN CHARLES: That's agreed.

ASSEMBLYMAN HAYTAIAN: Okay.

ASSEMBLYMAN CHARLES: I think we agree to that. We think-- We have, I think, also agreed that there are times at which there is a conflict between those -- between economic development and energy. The question -- the critical question is, what happens in those instances where there is a conflict? Does commerce and economic development -- does that interest prevail always at the expense of energy, or is there some protection that we could -- that is built in?

ASSEMBLYMAN HAYTAIAN: I think--

ASSEMBLYMAN CHARLES: I think that we've agreed too that there may not be that -- energy and conservation may be sacrificed.

ASSEMBLYMAN HAYTAIAN: I think the fact that we would have one person in charge of those two possibly conflicting

areas would make it much easier to facilitate the type of planning that you would need to bring together those conflicting problems. So, I believe, one, that having one department is truly very beneficial in this area.

Second, I believe there will be more money saved than the experts are telling me, and possibly told you. I truly believe there will be more money saved. I can't give you a figure. At one point, four years ago, I thought it was well over a million and one-half, two million dollars, and some people said to me, "Well, that's not a whole lot of money when you take a look at our budget and take a look at the departments," and my feelings are a million or two million dollars saved today is going to help us tomorrow, and I think we know that.

We will save money in the fact that there will be some top echelon people becoming superfluous. We don't need two Commissioners. So, we'll have one. But there will be dollar savings, and I really believe the dollar savings will be much greater than I've been told at this point.

I found -- and I can only tell you this through my own experience both in business and in government, and that's on the county level -- that when we merged departments, we saw savings, and I can't go person-for-person today with you because that really would be up to the Commissioner and the department head to make those savings, where there may be jobs that are not necessary. And that can only be done when the departments are merged and the responsibilities are put in the hands of one Commissioner.

Now, your last question -- and you'll have to give me that last part of that question--

ASSEMBLYMAN CHARLES: Well, there was the--

ASSEMBLYMAN HAYTAIAN: The substantive part of the Energy Master Plan.

ASSEMBLYMAN CHARLES: Yeah, right. There's been a lot of-- There's concern expressed by most people up here about the commitment of this new Department to the goals and the requirements of the Energy Master Plan, and there's a question as to whether or not that Master Plan is going to be implemented and pushed with great support by the new Department.

ASSEMBLYMAN HAYTAIAN: Well, all I can say is I would hope so, Joe. Being the author of legislation, it becomes very difficult to impose my will on a department, as we all know.

ASSEMBLYMAN CHARLES: I don't mean to tie you down. I know it's a comprehensive piece of legislation, and I know what it is to introduce them, and to know what revisions are, and how they come about. But, just if you can, let us know what this committee of several departments consists of. That's supposed to be the committee that handles this Master Plan. Is it going to look again at, does it plan to revise, or does it intend to just accept? Since it's specifically provided for, I would assume without looking at the legislation that it intends to do something about it -- to look at it, to maybe issue its own.

ASSEMBLYMAN HAYTAIAN: Well, it indicates in the legislation, "The Committee shall be responsible for the preparation, adoption, and revision of Master Plans regarding the production, distribution, and conservation of energy in this State."

ASSEMBLYMAN CHARLES: Okay.

ASSEMBLYMAN HAYTAIAN: It so states it.

ASSEMBLYMAN CHARLES: Okay, so that the request that the Chairman made about the preamble of the legislation -- that's simply a--

ASSEMBLYMAN HAYTAIAN: I think that would be (indiscernible)

ASSEMBLYMAN CHARLES: That would be advisory and it would not limit at all what this committee could do by way of changing it.

ASSEMBLYMAN HAYTAIAN: No, I don't think so.

ASSEMBLYMAN CHARLES: --changing the Master Plan with respect to goals?

ASSEMBLYMAN HAYTAIAN: I think what the Chairman was saying was that he would like to see that highlighted, and I have no problem with that.

ASSEMBLYMAN ZIMMER: My concern is that as part of the mission of the Department, we make clear that the goals of the Plan are included -- the goals of the current Plan are included. I would be surprised if any interdepartmental group would abandon those goals, but I want to emphasize -- as much as we can in our branch of government -- our commitment to this.

I think you'd concede, Joe, that you can't have a plan of any sort without periodic updating. The question is, who is to do the updating? I think -- as Mr. Richman pointed out -- that in order to get the greatest constituency within the Executive Branch, and the greatest support for the Plan to make it effective, it makes a lot of sense to have those Departments which have the greatest stake in the outcome participate, rather than have a little Department, as we have had, as a David against a bunch of Goliaths, with different priorities and different interests. We may end up with a more realistic and more effective Plan.

ASSEMBLYMAN HAYTAIAN: And also, if I might, Assemblyman, the Departments -- their designees will be from Commerce, Energy, and Economic Development, Community Affairs, Environmental Protection, Health, Human Services, Transportation, and Treasury. And I think if you look at the heads of those Departments, and put them on a committee -- there would be a lot of clout on that committee. I really believe that.

ASSEMBLYMAN CHARLES: Well, I think that's true too. I would say -- from the composition and the personnel we are talking about as being a part of that committee -- that most

interests are protected, except maybe one interest, the interest of the group which you might call the "individual consumer." I mean, I see that as the group that stands most at risk in this combination of the two Departments.

I think the Department of Energy, when it stood alone, was so singularly involved with energy that it had the opportunity and maybe the lack of pressure to deal with the interests, not only of the giants, but of the individuals and the smaller groups also. We saw that when they were talking about gasoline prices last year, and home heating fuel costs. Last year, or the year before, we saw all the crazy things that were going on with the increased costs when we had an inadequate supply, and the activities of the Energy Commissioner at that time, making investigations, threatening suits, and things like that. And we saw that prices came down after a little while.

My concern now with this combination of Departments, with all the different things that come under this combined Department, is that maybe then you won't have the capacity in this entity to even hear or to press, as the single Department of Energy would press, the interests of the consumers.

ASSEMBLYMAN HAYTAIAN: I have had many concerns. This is not a reflection on the past Commissioners or the Department, but, let's face it, when you are ready to put in legislation to abolish a department, there must be a reason for it. My reason was that I did not feel that the Department acted in the best interests of the consumer. I felt that it was unnecessary. It was not doing its job in years past.

Now, I'm sure that would evoke a lot of criticism on my part, but as I said, I did not put this legislation in because the Governor indicated he was ready to abolish it. I put it in four years ago, and I say "amen" now that the Administration finally agrees with me.

ASSEMBLYMAN CHARLES: All right. One question, and I will let our next speaker come on. We're talking about a committee to look at the Master Plan. Is there a provision in the legislation-- I'm lazy now; I'm not going to read it. I'm going to let you tell me because you can go through it right away. Is there anything in there to allow the Public Advocate to be a part of that committee?

ASSEMBLYMAN HAYTAIAN: I'll have to -- if I may -- defer. Bill? (speaking to someone in the audience)

FROM AUDIENCE: No.

ASSEMBLYMAN HAYTAIAN: I did not see it, but I wanted to make sure that I didn't miss it.

ASSEMBLYMAN CHARLES: Okay, it's not in there?

ASSEMBLYMAN HAYTAIAN: No.

ASSEMBLYMAN CHARLES: Don't you think that maybe that would be a pretty good addition to this committee? That way everybody -- at least the people who believe in the Public Advocate -- would then believe that the interests which the Public Advocate's office represents would protect their interests. I know you probably have a bill in to abolish the Public Advocate too, but-- (laughter)

ASSEMBLYMAN HAYTAIAN: Wayne Dumont does, and I am going to be putting one in in the Assembly. So, you know, that is not the question, I guess, to ask of me.

ASSEMBLYMAN CHARLES: Well, we're going to fight you on that one. We'll let this one go, but--

ASSEMBLYMAN HAYTAIAN: I'm sure you will.

ASSEMBLYMAN ZIMMER: Joe, we can put the Public Advocate in with Commerce, Energy, and Economic Development. (laughter)

ASSEMBLYMAN CHARLES: No, no, we want that--

ASSEMBLYMAN HAYTAIAN: I knew it was not in there, but I wanted to make sure because of the very small type we have in the preparation of the Committee Substitute. I wanted to make sure that I was not incorrect.

ASSEMBLYMAN CHARLES: Do you think that's a good idea or a bad idea, to have the Public Advocate?

ASSEMBLYMAN HAYTAIAN: I don't think it is a good idea at this point.

ASSEMBLYMAN CHARLES: Why not?

ASSEMBLYMAN HAYTAIAN: Well, I have some questions about the Department. I have had questions about the Department for the last 10 years, during my Freeholder days. I just did not feel at that time, nor do I feel now, that it is appropriate in this context.

ASSEMBLYMAN ZIMMER: Joe, I might point out that the Public Advocate has a unique position to make its views known by having the Division of Rate Counsel and by having ex officio status before the BPU, in almost all determinations. So, I think that the Public Advocate would be a lot stronger than any of the other individual Cabinet offices that would comprise that working group.

ASSEMBLYMAN CHARLES: Well, I mean, to include-- I don't see that to include the Public Advocate on that committee would in any way restrict the Public Advocate in any of his other statutorily authorized powers. It would simply mean that he had a presence at another place where the position and the philosophies, I guess, of that Department could be heard and be made to affect, in whatever way it could, a decision at that level.

ASSEMBLYMAN ZIMMER: We've been talking about an institutional complex, but here you would want the Public Advocate to be a member of a group to try to reach a consensus, when he is charged with being an advocate and an adversary before another quorum. That might be difficult.

ASSEMBLYMAN CHARLES: I don't think that there is an improper conflict at that point.

ASSEMBLYWOMAN OGDEN: I have one question.

ASSEMBLYMAN ZIMMER: All right.

ASSEMBLYWOMAN OGDEN: Chuck, I just have a question, and maybe it is implied in here on Page 8 -- this is the Committee Substitute -- in connection with the Master Plan. It talks about this committee that is going to represent different agencies being responsible for the preparation, adoption, and revision of the Master Plan. It does not say specifically that this committee is charged with carrying out the current Master Plan. Is that--

ASSEMBLYMAN HAYTAIAN: I think that is what Dick had indicated, that he would like to see that in the preamble, and I believe-- Is that correct?

ASSEMBLYMAN ZIMMER: What I would like to see in the preamble is the Department charged with carrying out the goals of the current Master Plan specifically, without relating them to the Master Plan.

ASSEMBLYMAN HAYTAIAN: That's right.

ASSEMBLYMAN ZIMMER: And I would assume -- and maybe Mr. Richman or Mr. Bleicki can help us out on this -- that until the new Master Plan is devised by this new interdepartment group, that the committee will proceed to implement the existing Master Plan. Is that--

ASST. COMM. RICHMAN (speaking from audience): The way the statute presently works is, the Master Plan must be updated every three years. It could be updated in a shorter period of time, but this would be the Master Plan in force. The present Master Plan (Remainder of statement indiscernible, since Mr. Richman was not speaking near a microphone.)

ASSEMBLYMAN ZIMMER: Do you understand?

ASSEMBLYMAN HAYTAIAN: Yes, that is correct.

ASSEMBLYWOMAN OGDEN: One other question in the same area here, Chuck. Do you see, as a result of this group that is working in terms of the Master Plan committee, a commitment to the Master Plan? Currently, it is the Department of Energy that is to implement the Master Plan to the maximum extent

practicable and feasible, but some agencies have certain leeway. Do you think that by having all these agencies represented on this Master Plan committee that thereby they are committed to the goals and the implementation of the Master Plan?

ASSEMBLYMAN HAYTAIAN: Yes. I don't believe that they would want to be in conflict with that because of their departmental responsibilities. So the answer to the question is, yes, I believe they will be responsible to the Energy Master Plan.

ASSEMBLYWOMAN OGDEN: And, since Treasury is part of it, where does that leave the BPU? The BPU would be in, but not of?

ASSEMBLYMAN HAYTAIAN: That is correct, and it will act in the same capacity as it does now.

ASSEMBLYMAN ZIMMER: Any other questions? (negative response) Thank you very much.

ASSEMBLYMAN HAYTAIAN: Mr. Chairman, thank you very much. It has taken four years, and I guess I have to quote the senior representative from my district -- and that's Wayne Dumont -- "It may take 20 years, but you have to work at it." And, in some cases, I guess it has taken Wayne 32 years. But it does help to work at it.

I thank you very much for having me before your Committee.

ASSEMBLYMAN ZIMMER: You're welcome, and thank you.

I would like to call now Alan Siegel, Chief Fiscal Officer of the Department of Energy, who signed up to speak. Is he here? (no response) Murray Bevan, Assistant to the President, New Jersey Board of Public Utilities?

M U R R A Y B E V A N: Assemblywoman Ogden, Assemblyman Zimmer, Committee members: I welcome the opportunity today to testify, also, in support of the Committee Substitute. I guess the feeling of the Board of Public Utilities is that this is.

maybe, a smaller piece in this overall equation, and I had hoped, perhaps, a less controversial piece also.

As Assemblyman Haytaian indicated in Section 9 of the bill, the Board of Public Utilities will be transferred from its status in, but not of, the DOE, to in, but not of, the Department of the Treasury. Let me also say, as Commissioner Curran indicated in her testimony before the Appropriations Committee, we believe that this does not really -- in any way -- change the day-to-day kind of functions that occur at the Board of Public Utilities. It simply transfers them from one Department, in, but not of, to another Department, in, but not of. It does not change, in any way, the Board's commitment to conservation, cogeneration, and the existing programs that are at the Board.

We are very supportive of the move to Treasury and, indeed, we suggested this to the drafters in the initial phases of the drafting of that legislation in the Governor's office. We believe that placing the BPU in Commerce, or placing the BPU in DEP, which some have suggested, would create some problems of at least perception, which we think can be avoided by placing BPU in Treasury.

Lastly, when you look at some of the public administration academic literature and, in particular, we looked at the Ash Commission Report on Regulatory Reform -- Professor Gormley's writings at the University of Wisconsin -- both of these documents stress the importance of maintaining the independence of state public utility commissions. We believe that by placing the BPU in Treasury, this will ensure that independence.

I would be glad to answer any questions you may have.

ASSEMBLYMAN ZIMMER: Thank you very much. Because the posture of the BPU has been characterized here today, mostly by me, I think it is appropriate that you have the opportunity to explain, from the Board's point of view, its position on the

Master Plan and the regulations, both in substance and as far as the authority of the Department of Energy and its successor agency to promulgate those are concerned.

MR. BEVAN: I think there may have been some-- There were some, I think, inaccurate representations with respect to the New Jersey Utilities Association's current lawsuit against the DOE with respect to the conservation regs. We have not joined in that suit, and we have no interest in doing that. We have taken the position that with respect to the Master Plan, those portions of the Plan that direct the Board to mandatorily do things-- We think that we have some problems with that.

We look at the recommendations and suggestions in the Master Plan as just those, and that the implementation phase of it is the responsibility of the Board.

ASSEMBLYMAN ZIMMER: Now, from what I understand from Mr. Blekicki, the new Department of Commerce, Energy, and Economic Development would proceed to enforce the regulations promulgated by the Department of Energy, which purport to tell you what to do in considerable detail. Has the Board considered how it would proceed under those circumstances?

MR. BEVAN: Well, I think, again, that we are viewing them as recommendations and suggestions, which we, I think, would consider in any future plan, just as we are considering the current Master Plan.

ASSEMBLYMAN ZIMMER: So, they would be advisory only, rather than have any force of law?

MR. BEVAN: I would also indicate that I don't want to play up the sort of conflict that sort of has developed in some of this discussion. Many, many of the programs of conservation and cogeneration that are spoken about in the Master Plan, indeed, are being implemented or being worked on at the Board of Public Utilities. Today, the Board is looking at a \$21 million ordered conservation program with PSE&G. Many of those kinds of things that the Board is ordering to be done today are

the kinds of things that are in the Master Plan in the conservation regs.

ASSEMBLYMAN ZIMMER: Are there provisions of the Master Plan and the regulations that the Board is not embracing and does not intend to?

MR. BEVAN: Thus far, we haven't passed on some of those, and I certainly can't speak for the Commission and the Commissioners. But, so far, I haven't seen great conflicts. There was some dispute about scheduling hearings on cogeneration and, as I indicated to some of the members of the Committee, the Board of Public Utilities, in an order five years ago, indicated that we were going to have hearings on cogeneration. So, I see no conflict. The hearings will be held. The Master Plan ordered it and the Board, in an order five years ago or so, ordered it.

ASSEMBLYMAN ZIMMER: Well, hearings are only a preliminary step. Ultimately, they are designed to bring about regulations.

To get to the fundamental issue, I suppose, do you feel that we in the Legislature would be well-advised to sort out this issue as to where the authority on these matters lies, or do you think it can be worked out as an intramural accommodation somehow?

MR. BEVAN: Well, I certainly would hope that these kinds of things could be worked out, and I think, indeed, that they are being worked out.

ASSEMBLYMAN ZIMMER: Thank you. Anything?

ASSEMBLYMAN CHARLES: Yes, just one issue. Under the Substitute, the BPU will be under the Treasurer, is that correct?

MR. BEVAN: Yeah, that's correct.

ASSEMBLYMAN CHARLES: What are the reasons? I heard you mention the word "perception," but I am not clear on what you mean by that.

MR. BEVAN: I think the thinking was that a neutral agency, or an agency like Treasury, or perhaps the Secretary of State's office, or something like that, was the logical place to place the Board. Our mission is that of an economic regulator, regulating a large section of Commerce, i.e., the utility industry. The perceptual problem, I think, was the regulator being housed, perhaps, in the advocate of Commerce's Department. This created perceptual problems. That is why we felt that the move to Treasury seemed more logical.

ASSEMBLYMAN CHARLES: Where has it been? Forgive me, I don't know. BPU, has it-- Where has it been historically--

MR. BEVAN: Let me--

ASSEMBLYMAN CHARLES: --from the beginning until now?

MR. BEVAN: Unfortunately, I am going to have to correct Assemblyman Haytaian. Before 1977, the Board of Public Utilities was a Department. With the creation of the DOE in 1977, it then became in, but not of, the DOE. But, from 1948 until 1977 -- for almost 30 years -- it was a Department.

ASSEMBLYMAN SMITH: Just to follow up on the comment you made that the BPU would prefer to be in Treasury, as opposed to Commerce because of the perception of the regulator being in the same group that is promoting, perhaps, a different interest, doesn't that same argument apply to the Department of Energy being within Commerce? The Department of Energy is a regulator.

MR. BEVAN: Well, I think the two speakers before me have persuasively set out some of the reasons why much better than I.

ASSEMBLYMAN SMITH: In your opinion, doesn't that same perception apply? Doesn't that same analogy apply?

MR. BEVAN: In my opinion, no, I don't think it does.

ASSEMBLYMAN SMITH: Thank you.

MR. BEVAN: Okay.

ASSEMBLYMAN ZIMMER: Any other questions? (negative response) Thank you very much.

MR. BEVAN: Thank you.

ASSEMBLYMAN ZIMMER: Is George Tyler here? (no response) Anyone from DEP? (no response) Roger Schwarz?

R O G E R M. S C H W A R Z: Thank you, Chairman Zimmer, Chairwoman Ogden, and members of the Committee.

I am the Executive Director of the New Jersey Utilities Association, which represents the State's investor-owned electric, gas, telephone, and water utilities. All of our member companies are concerned with the future of the Board of Public Utilities as is proposed in the Committee Substitute for the bill before you, and, of course, the seven electric and gas utilities have a particular interest in any reorganization of the present Department of Energy. We have had an opportunity to review the proposed Substitute for only--

ASSEMBLYMAN SMITH: Excuse me, Mr. Chairman, can we ask the speaker to hit the button so everybody could hear what he's saying?

MR. SCHWARZ: We've had an opportunity to review the substitute for only two days, so my comments will be brief. Basically, we view the proposed Substitute as an administrative reorganization, and I'll just offer two suggestions.

First, as to the Board of Public Utilities, we note -- as has been repeated several times by now -- that it would be transferred to the Department of Treasury as a so-called "in-but-not-of" agency. While that manner of allocation would continue the BPU's autonomous status, NJUA recommends that the Assembly consider reestablishing the BPU as a separate department of the Executive Branch.

The previous speaker noted that for approximately 30 years, under our present constitution, the Board was -- the Board itself -- was the head of a separate department, the

Department of Public Utilities, and prior to that, from 1911 until 1948, the Board was an independent agency.

If you compare the BPU with the two other agencies that regulate a segment of the State's economy, the Department of Banking and the Department of Insurance, the BPU is clearly the largest. For this fiscal year, the Governor's Budget proposes an appropriation of a little over \$5 million for Banking, which is a Department with approximately 150 budgeted positions, which I think is Treasuryspeak for employees. Insurance has an appropriation of \$10.4 million, and 307 employees, and the Board has an appropriation of almost \$12 million, with more than 400 employees.

In addition to the traditional utilities which are represented by the New Jersey Utilities Association, the Board regulates the State's solid waste and cable television industries as well. And, although I do not have comparable figures for its other areas of regulation, the Board's task with regard to the NJUA companies is to regulate an industry that provides approximately \$10 billion in energy, water, and telecommunications services to our State's citizens and businesses.

Those numbers, whether on their own or in comparison with other departments, suggest the importance of the BPU's task and its appropriate status as an independent department.

With regard to the Department of Energy and the proposed Division of Energy Planning and Conservation within the Department of Commerce, we note that the Committee Substitute preserves all of the Departments existing powers and statutory authority. The Committee Substitute would thus continue what the electric and gas utilities view as an overlapping or conflicting jurisdiction between Energy and the BPU.

Clearly, the BPU can regulate all aspects of the electric and gas industry -- from revenues and rates structures

to conservation and customer service programs. The Legislature has intended the BPU to be the sole regulator of customers' rates, the quality of service and the financial integrity of the companies.

Also, clearly the Legislature, when it created the Department of Energy, perceived a need for an agency that would gather information about all energy supply and demand in the State, not just about the utilities' supply of energy, analyze that information, and advise other agencies as to how to plan for the wise use of energy. Parenthetically, I should note that almost all functions of the DOE, presently, are carried out by its Division of Energy Planning and Conservation, and the transfer of that Division in its entirety to Commerce should diminish neither its powers nor its status.

Problems occur, however, when DOE intrudes upon the BPU's jurisdiction. When the Department of Energy attempts to regulate directly the electric and gas industry, its regulations necessarily have an impact on the cost and quality of service, factors which are the sole responsibility of the BPU. The utilities get caught in the middle, attempting to serve two masters. The result, in the opinion of NJUA, is an inefficient allocation of State resources and, at best, frustration for the utilities.

The Association recommends, therefore, that the Assembly consider reemphasizing the role of the Division of Energy Planning and Conservation as that of a coordinator of State energy policy and not that of a direct regulator of industry.

Thank you.

ASSEMBLYMAN ZIMMER: Thank you. Could you-- The implication of your testimony is that you disagree with the entire concept of any energy master plan emanating from the Department of Energy or a successor division.

MR. SCHWARZ: No, I don't think that's true. First, and to correct some statements earlier, the Master Plan-- Neither the Master Plan nor any cogeneration policies of the Department are subject to any appeal. We have not appealed the Master Plan, and clearly in the Department of Energy Act, the Department, or under this Bill the successor committee, has the authority to adopt such plans. And also, clearly, there's a procedure spelled out in the statute for enforcement of that plan.

I think, to follow-up on someone's earlier question about enforcement of the existing Master Plan, the way I read the proposed Committee Substitute, since the enforcement section is not amended I think that would not change or deter the Division of Energy Planning, wherever it is, from continuing to enforce the existing Master Plan.

ASSEMBLYMAN ZIMMER: But you feel that's inappropriate that it do so.

MR. SCHWARZ: I don't question the Department's authority to do energy planning, no.

ASSEMBLYMAN ZIMMER: But when it chooses to plan in such a way -- to enforce its policies in such a way that it impinges on the authority of the BPU, that's when you object?

MR. SCHWARZ: Well, if-- Maybe we should look at the method of enforcement. The Master Plan is a document that the Department of Energy has -- well, first adopted several years ago -- and then has revised from time to time, and it is clearly a guide for other agencies. If you-- In the Department of Energy Act -- it's 52:27F-15 -- it's a guide for other agencies including the BPU. The BPU is not singled out in--

ASSEMBLYMAN ZIMMER: Perhaps my focus is misplaced, then. Rather than objecting to the Master Plan, you're objecting to the regulations?

MR. SCHWARZ: I think the regulations are attempting to do -- I think-- We will be taking the position before the appellate division -- why don't I correct myself -- that the -- and this is no surprise; this is the same position that we took in hearings of the Department of Energy a year ago -- that under its statute the Department of Energy may not directly regulate the utilities in the manner in which it proposes to do in these regulations. I think there's a good reason for that. And I think the reason for that is also the explanation for why the Department of Energy statute reads the way it does with regards to the Master Plan. The BPU, I don't think anyone questions, is clearly the economic regulator of the utilities. The BPU also has the authority on its own, under its own statutes, to do the things at least with regard to utilities, that the Department of Energy does under this statute.

The problem is twofold. One, the overlap in jurisdiction; and two, that when the Department of Energy proposes regulations which have a direct impact on the utilities' implementation of the programs that are set forth cost money; they aren't free.

When things cost money, that's the BPU's jurisdiction. That's why, if you look at the section regarding the Master Plan, it says to the Department of Energy, if you want to enforce your Master Plan with regard to any agency, including the BPU, appear before that agency in whatever hearing is appropriate, and advocate your position. It's the healthy conflict that was referred to earlier.

ASSEMBLYMAN ZIMMER: Healthy conflict-- Well, isn't it true that a lot of Executive Branch agencies impinge upon the utility industry and effect their cost? The Department of Environmental Protection imposes many expensive regulations, the Department of Labor requires a number as well, and you can go down the list--

MR. SCHWARZ: Right. That's true. The Department of Energy -- or Environmental Protection -- excuse me -- to use an example, has regulations concerning air quality. Certainly they effect the emissions from generating stations. They also effect emissions at a DuPont plant, for example. The difference here is that we have two agencies which are both set forth in some manner to oversee the same industry for the same issues.

In other words, Environmental Protection is concerned with environmental matters to the extent that it picks up the utility industry -- it does so because they're big business -- big industries -- and they have equipment which comes under the jurisdiction of Environmental protection. The statutory scheme set up here to have a DPU which, under Title 48, has the inherent authority to do all of the things I've ascribed, and also to have a Department of Energy which has some of those same authorities as well. And the distinction, I think, is in the method of enforcement.

ASSEMBLYMAN ZIMMER: As far as your desire that we move the BPU back into the 20th cabinet spot, other than the--

MR. SCHWARZ: I probably should have deleted that from my remarks, after--

ASSEMBLYMAN ZIMMER: Other than the size of its budget, are there any other reasons for wanting to do that?

MR. SCHWARZ: I guess it gets back to some of the other issues that are being discussed here, and maybe back to the historic split between insurance and banking.

ASSEMBLYMAN ZIMMER: By the way, Chuck Haytaian, Wayne Dumont, and I would like to merge them. (laughter) Go ahead.

MR. SCHWARZ: Okay. But I think, in part, some of these movements, at least on the industry side, come about from the idea of having a cabinet officer who is concerned with the issues of that industry. It's industrial ego, perhaps.

ASSEMBLYMAN ZIMMER: Maureen?

ASSEMBLYWOMAN OGDEN: No.

ASSEMBLYMAN ZIMMER: Bob?

ASSEMBLYMAN SMITH: Yes, if I might. The-- I'm not quite-- I've read your statement and listened to your testimony. Is it the New Jersey Utilities Association's position that they are in favor of 2019 -- the Committee Substitute?

MR. SCHWARZ: I said at the beginning that I think we look on this as basically an administrative reorganization, which is to me a decision for the Executive and the Legislature to decide, and I offered only suggestions on two portions of the Bill.

ASSEMBLYMAN SMITH: All right, so it's neutral as a matter of--

MR. SCHWARZ: As a-- Yeah.

ASSEMBLYMAN SMITH: Okay. There is a statement in here that the utilities-- "When DOT attempts to regulate directly the electric and gas industry, its regulations necessarily have an impact on cost and quality of service, factors which are the sole responsibility of the BPU. The utilities get caught in the middle, attempting to serve two masters." Is it the position of New Jersey Utilities Association that under this legislation that won't be the case?

MR. SCHWARZ: No, that was the reason for--

ASSEMBLYMAN SMITH: You'll still be serving two masters. You're just generally protesting the fact that you have to serve two masters.

MR. SCHWARZ: My point was that, as 29 here of the Committee Substitute reads, it's essentially taking the Division of Energy Planning and Conservation where it exists now in DOE, along with its statute, and moving it here.

ASSEMBLYMAN SMITH: Right. So that doesn't help your situation?

MR. SCHWARZ: No.

ASSEMBLYMAN SMITH: Okay. Well, speaking about your situation, is there more of a chance that the Department of Energy and the BPU will act in accord if they're together as opposed to if they're apart?

MR. SCHWARZ: That-- Well, we've had ten years of experience with that.

ASSEMBLYMAN SMITH: You're speechless, I can see it.

MR. SCHWARZ: Yes.

ASSEMBLYMAN SMITH: Okay, no further questions.

ASSEMBLYMAN ZIMMER: Thank you very much, Roger. Ed Lloyd?

E D W A R D L L O Y D: Chairman Zimmer, Chairwoman Ogden, members of the Committee, my name is Ed Lloyd, and I am General Counsel for the New Jersey Public Interest Research Group. Thank you for giving me the opportunity to present PIRG's views on the proposals to abolish the New Jersey Department of Energy.

Put very simply, NJPIRG supports the preservation of a strong, independent, cabinet level DOE. There is a need today, just as there was in 1977 when DOE was created, for statewide coordination of energy policy and planning. That need can only be met by a cabinet member whose single goal is energy policy. Energy policy should not be subordinated to the mission of any other State agency.

The State is currently experiencing widely fluctuating energy prices. Oil prices are dropping at the same time as the State faces the highest electricity prices in the nation, and the largest request for an increase in electric rates in the State's history. Energy consumption patterns are rapidly changing. Even utilities are diversifying into other energy fields. Witness the creation of the public service holding company and its new subsidiaries. These are precisely the circumstances under which the State should develop long-term energy policies and plans. It is not the time to subordinate those needs to the State's other missions.

Simply because fuel oil is currently abundant is not a reason to abandon long-term energy policy and planning at the Department level. A budget surplus did not lead for a call to abolish the Department of Treasury last year, because Treasury carries out important policy and planning functions in good times as well as bad. The end of one drought did not lead to the abolition of the Water Supply Authority, or the State's efforts to undertake long-term planning and policies for water conservation, because these functions are vitally important in times of calm as well as in times of crisis. And the end of inner city riots has not led to the abolition of the Department of Community Affairs, because it has important missions to fulfill in those cities.

This reasoning is no less applicable to DOE, which has a vital role in planning to meet the State's future energy needs at a reasonable cost for industry as well as residential consumers now, as it did in 1977.

The DOE has just begun to meet these challenges. It has just published its third and most comprehensive Energy Master Plan, it has just promulgated its long awaited Conservation Regulations, it has just proposed strong incentives for cogeneration, it has just intervened in the Public Service record breaking rate case. And yet the DOE has much left undone. It has yet to exercise its authority under the Needs Assessment Act to determine the need for new electric generating facilities, which may be one of the most important energy decisions facing the State in the next few years. And it is about to get \$80 million from the Exxon overcharge case for energy conservation programs.

In order to implement these newly promulgated policies and effectively execute these other powers, the Agency must maintain its independent cabinet status. Only a department can issue binding regulations and guidelines to other departments and ensure their compliance. This can not be done by an energy

division buried in some other department whose mission leads it to other priorities.

Just four years ago then Energy Commissioner Coleman told this Committee -- the Energy and Natural Resources Committee -- that it would be, quote, "...short-sighted to downgrade the Department to a Division in another department because energy policy could too easily be overlooked if combined with other government functions." What was short-sighted four years ago is just as myopic today. Moreover, no evidence has been offered, and indeed witnesses have testified to this this morning, that the closing of DOE will either save money or appreciably reduce staffing levels. Indeed, Commissioner Coleman denied that either would occur before a Senate Committee just last week.

If the purpose of these proposals is to consolidate State government functions, there are better roads to travel. Combining Banking and Insurance has been discussed this morning; adding the BRU to those two and creating a Department of Regulated Industries would further consolidate the functions of government, folding Defense into Law and Public Safety is yet another. I'm sure this Committee could come up with many more.

These, and other such proposals have the advantages of consolidation without the drawbacks of subsuming important functions in other equally important ones.

As stated earlier, PIRG is opposed to subordinating the important functions of DOE to the mission of any other agency, but if abolition is to prevail, the last place DOE function should end up is the Department of Commerce. The conflict in the goals of these two Departments is irreconcilable. The Department of Commerce was created to be, quote, "devoted exclusively to monitoring the interests and concerns of business and industry." Quote, "to provide business and industry the optimum climate with which

enterprises may grow," and quote, "as a voice for and an advocate of the interest of the business sector." These roles would more often than not be in conflict with sound energy policy and planning, which, among other things, must consider the interests of all consumers, including low-income consumers, the benefits of energy conservation, and the importance of alternative sources of energy, such as cogeneration and solar energy.

If there is any doubt remaining as to the departmental conflict, one need look no further than the DOC opposition to the DOE conservation regs. And I read that testimony, and I guess I would disagree with the representative from Commerce; I think that they were in opposition, or at least show an obvious conflict between the views of the two Departments.

The Department of Commerce itself was created just five years ago to eliminate the conflict between industry and labor, in the form of the Labor and Industry Department. To combine Commerce and Energy now would simply create a new conflict that would no doubt have to be undone at some future date. The State should not repeat the mistake of combining Commerce with another conflicting agency.

There is even further conflict between the roles of Energy and Commerce. The Department of Commerce is required under its statute to, quote, "Cooperate with utility companies to supplement and support their programs." End quote. Commerce cannot meet this obligation and establish objective energy policy as well.

The federal government learned the lesson that regulation and promotion cannot function effectively within the same agency. In 1974, Congress split the Atomic Energy Commission into the Nuclear Regulatory Commission, and the Energy Research and Development Agency to separate out the regulatory and promotional functions with respect to nuclear power. The State should take a lesson from Congress and not

combine Energy and Commerce. Those who ignore history are doomed to repeat it. The State should not ignore the AEC history.

Once again, PIRG does not support the subordination of DOE's functions to those of any other agencies, but if these functions must be transferred, DEP should become their new home. Like DOE, DEP has the duty to develop, quote, "...comprehensive policies for conservation of natural resources of the State." And quote, "provide for the distribution of information on conservation, and prepare, administer, and supervise and coordinate statewide, regional, and local programs of conservation."

DEP does statewide planning in water supply, water quality, air quality, solid waste management, and land use. It is a planning and regulatory agency, and is compatible with the functions of DOE. If DOE's duties must be transferred, DEP is the proper place for them.

The Energy Master Plan is the cornerstone of effective energy planning and policy. It must remain a strong, independent, and enforceable document. One cabinet level agency must be responsible for preparing, adopting, revising, and implementing this plan. The Administration proposes to transfer these functions to a committee of seven Cabinet members. This proposal is a prescription for paralysis. Leaving the development of this vital document to seven Cabinet members, or worse yet to their designees, each with their own special set of concerns other than energy policy, will commit the Energy Master Plan to a bureaucratic black hole from which it will never emerge. Gone will be the opportunity to produce, as the DOE has done in the past, an objective, independent, and enforceable document.

This proposal is reminiscent of the Cabinet Development Review Commission made up of Cabinet members or their designees. It was a -- The Commission was to review

major development projects throughout the State. It might have been an appropriate vehicle to address the questions of rapid development on Route 1. Unfortunately, all the Commission ever did was to meet and squabble. It never seriously affected a single project.

The Master Plan should not be relegated to a similar fate. I might also raise the question that if we have a seven member committee adopting the Master Plan, and we have a four to three vote, does that mean that the four departments that support it will follow its guidelines and the three that don't won't? I mean, I don't think that this solves the problems that we've had with the implementation of the Master Plan over the years. We still have the problem of whether the Master Plan is going to be the guiding document for energy policy in the State.

If the Master Plan is to be an effective planning and policy document, one person, one Cabinet member, without conflicting loyalties imposed by statute, must be given responsibility for the preparation and implementation of the Master Plan. If seven people had that responsibility, none of them is accountable for getting the job done, so that it will not get done, or at best, not get done well. I would agree with Commissioner Richmond's analogy to the committee trying to develop a horse and coming up with a camel, and I think that's what we have here. If we give the Master Plan to the committee, we're not going to get an Energy Master Plan.

No discussion of energy policy in the State would be complete without mentioning the BPU. The BPU is independent of any other State agency, and should remain so. It is of no particular consequence which State department houses the BPU, although DOE is the logical one. What is of consequence is that the BPU should be subject to the Energy Master Plan, and be bound to implement it as is every other State agency. This duty, in my view, is clear under existing law, but it is

equally clear that the BPU and the DOE have been feuding ever since the DOE was created, and neither of the sitting Governors nor this Legislature has stepped in to clarify the relationship between the two agencies.

While the Legislature is focusing on the States energy policy in these proposals, it should do two things: **First**, it should declare once and for all that the BPU is bound to implement the provisions of the Energy Master Plan and the conservation and cogeneration policies of DOE, as well as are all other State agencies. And second, the Legislature should restructure the BPU to give it broader representation and more accountability to the public. If these two tasks are ignored in the present review of the energy issue, this area will be revisited by all of us in the all too near future.

The BPU regulates total utility revenues which are nearly double the size of the State budget. Thus, three individuals have nearly twice as much say about where consumer dollars go as the entire Legislature does in passing the State budget. There are bills before the Legislature addressing the structure of the BPU; NJPIRG urges these Committees to consider them in conjunction with the DOE proposals.

Thank you again for giving NJPIRG the opportunity to present its views on these important concerns. Let me just-- One issue before I'd be happy to answer questions. I would appreciate it if they could keep the record open for ten days. I've been in touch with consumer groups who are interested in submitting comments, but couldn't be here today, and if that's possible, I would certainly appreciate it, and I'm sure they would too.

ASSEMBLYMAN ZIMMER: If it's possible, I would like to have a transcript available on May 5th. If it's possible-- We'll keep the record open as long as possible with that end in mind.

MR. LLOYD: I'll urge them to get the comments in as soon as they can.

ASSEMBLYMAN ZIMMER: Okay. I-- This is a little off the reservation -- I think it's probably the jurisdiction of Maureen's Committee -- but I would like to follow up on the points that you made towards the end. How would you propose requiring BPU to adhere to the requirements of the Energy Master Plan?

MR. LLOYD: In my view, the statute already does it. I think that the Master Plan and the due creation of the Department of Energy the Legislature recognized that there was a need for broad energy planning for all aspects of energy in the State, and that the Energy Master Plan was one vehicle by which the State would adopt a policy which was to be followed by all Departments. I don't think that there are any more conflicts in particular with the BPU in the Master Plan than there are in other Departments. Clearly, the establishment of an energy policy may change the directions of some Departments, but I think that that was exactly the purpose of the Legislature in creating the Department and in creating the mechanism of a master plan. I think that the Master Plan should be the guideline for other agencies, and I think the language in the statute is that to the extent practical and feasible, all Departments shall follow the guidelines in the Master Plan. I think that the Legislature needs to reconfirm that, and make it clear to all State agencies that the Master Plan is one to be adhered to by those agencies.

ASSEMBLYMAN ZIMMER: Okay. The only other question I have is, based upon your suggestion that we merge Defense and Law and Public Safety, do you really support giving Cary Edwards that kind of firepower? (laughter)

MR. LLOYD: I guess I'd be willing to reconsider that.

ASSEMBLYWOMAN OGDEN: I have a question here in terms of the DOE, and you're saying you feel as though it's coming to

the point where it's really becoming effective and just intervened in the Public Service record breaking rate case. Is it your feeling that either: one, that with this proposed merger that it would not continue to do something like this, or two, that it would continue to intervene in such cases, but that because it would become a Division or an office or whatever it's going to be that its voice would be one that's less strong?

MR. LLOYD: I clearly agree with the second one. I think it would be less -- its voice would be less strong; I think it would have less credibility were it not to be a Cabinet level Department. Whether it would continue to intervene, I think it might, but I think its point of view were it in Department of Commerce might be different, and I'm not sure-- I mean, the point I would make there is that I think it needs to be an independent agency with its own mission, and not subject to the mission of any other department, whether it be Commerce or DEP. I think that if it were in another department, its intervention would take on a different flavor and a different view, and one that I think would not be to the benefit of the State.

ASSEMBLYWOMAN OGDEN: Your proposal is that the current DOE go, in it's entirety, to the DEP. Is that correct?

MR. LLOYD: The functions that are now going to Commerce I would move to DEP. I think the recycling office now goes to DEP, there are portions of it that go to the Department of Community Affairs; I wouldn't change those. I think that what my point is is that the functions that are now being -- that under the Committee Substitute -- are being transferred to Commerce are more appropriately transferred to the Department of Environmental Protection.

ASSEMBLYWOMAN OGDEN: And that is the basic reasoning, because you don't feel, in this overall least-cost strategy, that we would be dealing with the environmental component as opposed to strictly an economic one?

MR. LLOYD: If I have to make a choice between the economic one and the environmental one, I'm going with the environmental one, simply because I think that the policies and the purposes of the Department of Energy are more consistent with those of DEP than they are with Commerce. I think Commerce has an important role to play. I think-- I don't want to downplay economic development, and I think that Commerce may well have a beneficial impact on cogeneration, for instance. But, I think that the broader planning aspects and the consideration of a broader array of interest would better be carried out in DEP than in Commerce.

ASSEMBLYMAN ZIMMER: Bob, do you have any questions?
(negative response) Thank you very much.

MR. LLOYD: Thank you.

ASSEMBLYMAN ZIMMER: Next we'll hear from Georgia Hartnett, Elizabethtown Gas Company. (Speaking from audience, Ms. Hartnett indicates that she will not testify at this time, but will submit a written statement.)

Naomi Yager, Energy Director of League of Women Voters.
N A O M I Y A G E R: Good afternoon. It's very kind of you to let me speak. I am Energy Director of the League of Women Voters of New Jersey, and we are opposed to these bills.

We believe that a rational energy policy can best be produced and served by separate and independent Department of Energy, and I believe somebody this morning used the word "singular" in describing the attention of the Department of Energy on the issues before us.

We believe that we do need such an energy policy, because we take a rather long range view of energy policy problems. The present glut of oil, and the resulting low prices should not lull us into thinking we no longer have an energy problem. The low prices we see now are the result of the very kind of political instability in the oil producing region of the world that can just as easily bring about short supplies and high prices again.

There are several reasons why we must have an energy policy. Within the State, we must consider the needs of New Jersey residents, and the economic climate for business and industry. In the long run, we must continue our efforts to decrease, if not eliminate, our dependence upon imported oil, and the national security problems inherent in this dependency. We must also be aware of the fact that we cannot rely indefinitely on nonrenewable energy sources.

I was very happy to see the attention that these Committees have given to the Energy Master Plan, with its emphasis on cogeneration and conservation. These strategies are designed to protect New Jersey from the kind of supply and price shocks that we have encountered in the past. And of course, any policy that results in conservation of energy is aiming toward our second objective of reduced dependence on imported oil.

Furthermore, we not only need a Department of Energy to develop an energy policy in this State, we need a Legislature committed to implementing such a policy. In the last several years, many bills have been -- I'm not sure if introduced is the right word -- maybe I should just say filed, which would encourage energy conservation, cogeneration, and the use of solar energy. But these bills have not passed. Even a watered-down version of an air conditioner efficiency bill has yet to reach the floor of the Assembly, and another air conditioning season is approaching.

Rather than disband the Department of Energy and scatter its resources and commitment, the Legislature should become a partner with the Department in taking the lead toward an energy policy that will benefit all of New Jersey.

Thank you very much. Do you have any questions, Mr. Zimmer?

ASSEMBLYMAN ZIMMER: I do. Your position is very clear and very emphatic, but let me ask you a hypothetical

question. If we were to merge the Department of Energy with another department, how would you like to see it done?

MS. YAGER: DEP.

ASSEMBLYMAN ZIMMER: Thank you. Maureen? Bob?
(negative responses) Thank you very much.

MS. YAGER: Thank you.

ASSEMBLYMAN ZIMMER: Sam Scozzaro, from the New Jersey Federation of Senior Citizens?

S A M S C O Z Z A R O: My name is Sam Scozzaro. I live at 2841 Nottingham Way, Trenton, New Jersey. I am Chairman of the Utility Task Force of the New Jersey Federation of Senior Citizens on whose behalf I appear here today.

The Federation does not agree with the proposed legislation to abolish the Department of Energy. Instead, we are of the opinion that legislation to strengthen the Department should be introduced in the Legislature so that the Department could adequately address the energy problems of the future that we face, and also to position it to meet the new utility organizational challenges that take leave of the traditional regulatory process that controls utility monopoly by resorting to the restructuring of utilities into holding companies.

We feel strongly about the proposed abolishment of the Department of Energy, because in our experience with the Department of Energy, the Federation, in coalition with the National Citizens/Labor Energy Coalition, worked closely with the first Commissioner of the Department of Energy, Joel Jacobson, and later with former Commissioner Leonard Coleman. Therefore we have a firsthand knowledge of the workings and accomplishments of the Department of Energy.

During the oil crisis of the '70s, the Federation worked shoulder to shoulder with Commissioner Joel Jacobson in fighting big oil nationally. As a result of that effort and a lengthy court battle that followed, New Jersey has received \$73

million in settlement for Exxon's excessive oil charges that consumers were charged during the oil crisis. That money will now be used to fund State energy related programs in New Jersey. By the way, that's by federal law.

Under Commissioner Coleman, the Department of Energy has saved millions of dollars for oil and gas and electric utility ratepayers, and reduced dependency on foreign oil by pursuing energy conservation programs. The Department was also instrumental in helping achieve a fairer distribution of oil for New Jersey consumers. Presently, the Department is focusing on cogeneration, a process that will produce an economical use of fuel, save fuel costs for consumers, and fuel for the nation. These are but a few of the Department of Energy's accomplishments.

There is another point to be considered. Over the years, the Department of Energy has developed a cadre of personnel who have acquired considerable expertise in all branches of the energy field that is of tremendous value to New Jersey's energy users. Is it wise to dismantle this group and cancel the investment New Jersey has made to produce an energy policy for the future? Should New Jersey's energy ratepayers be unmercifully thrown to the wolves? Isn't it wiser to keep this body of experts for the benefit of the future economic welfare of the State of New Jersey and its ratepayers? The Department of Energy is an asset and it should be continued and strengthened.

There is much work to be done in meeting the changes that are taking place in the ever changing energy climate. It requires vigilance and constant attention of experts in the field in order to protect ratepayers from utility management's shortcomings. We cannot depend solely on the overburdened Board of Public Utilities who is constantly involved with ever recurring requests for rate increases in the areas of gas, electric, garbage, sewer and water, etc. The Department is the

logical group who can plan, organize, and develop the energy policy of the future for the economic welfare of the State of New Jersey. For example:

The Department of Energy can research and develop low cost energy programs, such as the use of fluidized bed burners, wheeling from Canadian hydro generating plants, expanding cogeneration, etc.

They can develop data on how to upgrade existing energy supply capabilities.

They can develop data on value service pricing programs that would bring competitiveness between the fuels used for energy purposes.

They can develop management and utility plant performance standards tests that would be used to hold utilities accountable.

They can develop data showing the high cost of being wrong in utility planning, as for example the Atlantic Floating Nuclear Plant fiasco, and the Hope Creek II abandonment.

They can develop educational programs for consumer's efficient use of oil, gas, and electric power so that consumers could get more for their money and thereby save fuel that would lessen the need for the construction of large costly utility plants and dependency on foreign oil.

These are but a few examples of the work that the Department of Energy needs to be involved in to meet the demands of today's fast changing energy climate. With the pricing conditions that exist in today's energy market, with gas and electric utilities moving to establish holding companies that permits them to operate outside of the regulatory process and discriminates between the ratepayers, and with the ever present request for utility rate increases in spite of fuel cost savings in oil and gas, this is not time to be taking steps to abolish a department that is progressively becoming more effective. The Department should be given

encouragement in the form of qualified leadership with a background of experience in the field. We have qualified people in the State of New Jersey with experience in the energy field who could deliver and manage the Department effectively.

The policy of weak public controls over the private energy industry which prevailed from the late '60s, the '70s, and up to the present time in New Jersey has proven destructive. Witness the skyrocketing utility rates, the loss of industry and the loss of jobs, particularly in South Jersey in the glass industry, the nuclear utility plant construction and abandonments among the worst in the nation. With the economic turn around in New Jersey, for which the gas and electric industry can take no credit, we can ill afford the loss of a Department that was no small contributor to the economic turn around we enjoy today in our State.

The Federation recommends that these bills to abolish the Department of Energy be turned down and replaced with bills that would strengthen the Department for the economic good of the State of New Jersey.

Now, in drawing up this presentation here, I hadn't seen this new proposed Bill 2019. I saw it for the first time this morning about 20 minutes before I came into this room. And all I can say after reading this is it's nothing but a mishmash of legislation that is not going to accomplish all the claims that some of these people have made here today. Now, if the Legislature wants to do something, what they should be focusing on is not only the restructuring of the Board of Public Utilities, not only granting a citizen utility board, but, on the restructuring and amending the laws to Title 48, and update them, so that they can take care of the conditions that exist in today's economy, and that is one way we can accomplish what they're trying to accomplish here. And I think we would do far better by going that route than going this particular route. This is nothing but a waste of time, a waste of energy, going

to cost money, and as Ed Lloyd said earlier, we are going to be coming back to change that structure.

Now, in so far as changing Title 48, I've got here before me from New York State Assembly Chamber-- They've changed their public utility commission and private power service laws, and they not only changed the laws, but they also came up with a citizen utility board for New York. Besides them, Connecticut has done it in '75, Hawaii did it in '76, North Carolina did it in '77, Minnesota did it in 1980, Vermont did it in 1980, Iowa and Utah are on the list, and Kansas just came up with it. So, if you really want to do something that is going to take care of that bottom line -- and most of us, senior citizens, residential consumers, commercial and industrial consumers are interested in -- and that is low cost energy. If you want to do that, that is the route to go. It's going to take a little longer to get there, but we can accomplish that job by going that route.

Now, right now we're involved in a rate case with PSE&G, for example. The highest rate request in the history of Public Service, Gas, and Electric -- going to cost \$1 billion. You, Mr. ratepayer, are going to pay for it. Now, you talk about drawing industry into the State of New Jersey with your area development rates, that is discriminatory. I don't only say that, but New Jersey industry, utility, energy users says it. I have it in my portfolio over there. And, they object to the energy area development rate because it does discriminate. It is discriminatory. And, as a matter of fact, I've contended every time I've been before any committee here in this Legislature, before the administrative law judge, before the Board of Public Utilities, that the problem is that the utility ratepayers have been priced out of the market in New Jersey. And it's about time that the Legislature took cognizance of what's going on. I've heard over and over again that they were dissatisfied with what's going on, but I haven't seen any

action that I would call corrective. And this is what I'm talking about right now. I'd like to see some corrective action in the direction of bringing the cost of utilities down, of not down to the bottom nationally, but at least at the national level. We're nowhere near the national level. The last report I saw -- the DOE -- was we were amongst the highest ratepayers in the nation, and I think we were somewhere in the neighborhood of seven. Now, before that, they were three, and before that they were two. I've been following this thing way back since 1973, so I'm no novice, notwithstanding the fact that I am a senior citizen and don't have the ability to get around like a lot of you folks do. But I do get around. I am on the Advisory Board to the Board of Public Utilities. I'm on the Advisory to the Public Advocate. So, if I didn't have a background of experience in -- they wouldn't have me on that Board.

And, what I'm saying to this Legislative group is to look over this legislation, turn this legislation down, come up with legislation that is going to do the job that is a crying need in the State of New Jersey, and bring some low cost energy to this State.

Thank you. Thank you for giving me this opportunity to speak to you. This came the last minute. I was away on vacation in California, and I had no time to really do the kind of research that I like to do when I get before a committee like this and talk. However, I did bring back from California some very interesting information that I will be turning over to Senator Dalton with reference to holding companies and what they're doing out there, and the Public Utility Commission in California. They have allowed the San Diego Gas and Electric to change over to a holding company, but they have put 20 restrictions on them before they can change over.

Now, our Board of Public Utility has granted PSE&G, temporarily, to allow them to go into holding companies, but

they have some restriction. I didn't get a copy of that, so I can't talk about that until I get a copy, and when I do then perhaps I'll go to work on them when I get on the Advisory Board.

ASSEMBLYMAN ZIMMER: Thank you very much.

MR. SCOZZARO: Thank you.

ASSEMBLYMAN ZIMMER: Any questions, Maureen?

ASSEMBLYWOMAN OGDEN: Just the question along the line that Assemblyman Zimmer asked before. It seems as though there is a head of steam built up to abolish the Department of Energy and to put it into another Department. If you are opposed to it going into Commerce, and you can-- Actually, you're not in favor of abolishing it at all, but if we start with the assumption that this is going to happen, would you favor that it go to Commerce and Economic Development, or to the DEP, or to another place?

MR. SCOZZARO: To begin with, I don't like either or. Okay? Now, I'll say that that Department should be left alone to do the job that we want them to do. Don't touch that Department; strengthen that Department. Now, that's the way I see it, and that's the way our senior citizens it.

ASSEMBLYWOMAN OGDEN: I assume -- second and last question -- I assume that you feel that if it does, in fact, become a Division, regardless of which department it is, that then it will be a weaker advocate for a group such as you represent -- the Federation of Senior Citizens? Is this your feeling about it?

MR. SCOZZARO: Say that again, I didn't--

ASSEMBLYWOMAN OGDEN: Well, is your opposition based on the feeling that the group that you represent -- the Federation of Senior Citizens -- will not be well served by the Department of Energy becoming a Division?

MR. SCOZZARO: Yes, not only senior citizens, but I say the commercial interests and the industrial interests as

well. They will not be as well served. I feel if they're allowed to stay in the Department the way they are and strengthened, they will be focusing, not just on conservation and cogeneration, as has been stressed here, they've been underlying that. But there's more to it than that, it's the energy policy of the State of New Jersey that they should be talking about, and that encompasses many more things than just cogeneration and conservation.

And by the way, that brings me to another point. When I was before Gerry Stockman's Energy Committee, before the President -- at the President -- Wilson School -- I think it was back in 1981 -- I had all the utilities against me, because I was for conservation. Now, all of a sudden, they all jumped on the bandwagon. They're all for conservation. Why? Because they were pushed to the wall. And that should be a record, and I'm sure Gerry's got it.

ASSEMBLYMAN ZIMMER: Thank you very much. Thank you very much for coming here.

MR. SCOZZARO: Thank you.

ASSEMBLYMAN ZIMMER: That concludes the list of people who have signed up. Is there anyone else who would like to address this hearing? (no response) Then the hearing is adjourned. Thank you very much for coming.

(HEARING CONCLUDED)

JOINT PUBLIC HEARING

before

ASSEMBLY STATE GOVERNMENT

and

ASSEMBLY ENERGY AND NATURAL RESOURCES

on

ASSEMBLY BILL NO. 100

ASSEMBLY COMMITTEE SUBSTITUTE FOR

(Abolishes the Department of Environmental Protection
and transfers its powers to the Department of Natural Resources)

and

ASSEMBLY BILL NO. 100

(Abolishes the Department of Environmental Protection
of its components and transfers its powers to the
Department of Environmental Protection)

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