[5/1/78 – Energy Impact Assistance Policy]

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Department of Energy
Washington, D.C. 20585

March 23, 1978

MEMORANDUM FOR: Rick Hutcheson

FROM: Frank Pagnotta

SUBJECT: Energy Impact Assistance Policy

Attached is a Memorandum for the President (along with a briefing book) from Jim Schlesinger and Juanita Kreps regarding energy impact assistance policy.

This Memorandum was developed by a working group consisting of the Office of Management and Budget, Domestic Policy, Department of Interior, Department of Commerce and the Department of Energy.

This Memorandum and briefing book are forwarded to you for transmittal to the President.

Should you have any questions please contact me immediately.

Attachments

~~file~~
not submitted
(see memo went in instead)

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

MAR 24 1978

ACTION

MEMORANDUM FOR: THE PRESIDENT

FROM: James T. McIntyre, Jr. Jim

SUBJECT: Energy Development Impact Assistance

The review of this subject (with Federal, State, local, and tribal participants) has been completed. Secretaries Kreps and Schlesinger are sending you a memorandum transmitting the results of the review and describing options for your decision. Our analysis and recommendations on financing, coverage, and loan rate issues are presented below.

FINANCING ISSUE: The following is a summary of our analysis of the issue. Given the budget implications of the decision, I think that this analysis is important. Our conclusions are:

- The ability of State and local governments to impose severance and other taxes and the availability of existing Federal programs mean that the remaining impact problem is modest in the long run.

- In the short run, the problem is basically a problem of assuring front-end financing.

- A grant approach would meet the front-end financing problem only at very high cost.

- A loan or loan guarantee approach would both reduce the Federal cost and establish the principle that the State and local governments ultimately must impose the impact costs of energy developments on the industry and users by taxation.

Table 1 describes the options, and Table 2 compares them.

Although I would prefer option #4, Federal loan guarantees only, as the option which makes the most programmatic sense and costs the Federal Government the least, I do not believe that it would constitute a politically viable response to the concerns expressed by the Governors and others. Since some grants probably are essential for political reasons, I recommend option #3, minimal Federal grants with loan guarantees for public facilities and housing site development. This would keep the annual cost during the first five years at not more than

$100 million and provide loan guarantees and grants totalling $1,025 million.

In order to avoid Federal guarantees of municipal tax-free securities, the State securities to be guaranteed would be taxable. The Federal Government would pay, over the life of the loan, the interest difference between taxable and tax-free municipal securities. It would also pay any defaults.

Loan guarantees would reduce Federal budgetary costs substantially. Budget authority to provide reserves against potential defaults would be needed, but would not result in outlays unless such defaults actually occurred. The only other budget cost would be annual outlays for the interest differential payments.

Since, with guarantees, the loan capital is put up by the private market, the Federal costs are highly leveraged. Interest subsidies averaging $20 million annually over the life of the loan are enough to support $1.5 billion in 20 year loans. Guarantees, however, do lock the government into a long-term budget cost.

With grants, in contrast, the Federal Government provides the equivalent of the total loan capital at the beginning and makes no further payments or budget commitments.

COVERAGE ISSUE: A decision is needed on the energy development activities which should be recognized as creating program eligibility. The decision memorandum from Secretaries Kreps and Schlesinger does not address that issue. Three options are:

1. Eligibility only where anticipated energy developments are expected to cause excessive rates of population growth: above 10 percent annually or where the Secretary determines that population growth will result in a significant impact (seek modifications in the Coastal Energy impact program to make it consistent).

2. Eligibility limited to those energy development activities considered most likely to cause adverse impacts, such as energy extraction activities and facilities. Excluded would be:

   - processing and consuming facilities, such as refineries, power plants, and mills, unless they are mine-mouth facilities. They are frequently located in relatively urbanized areas near markets.

   - conversion facilities which are covered under the energy R&D authorization act impact assistance program.

3. Putting no limitations on eligibility and covering all energy development activities.

Option #1 would best limit assistance to situations of need but makes the estimation of impacts and their location critical. Such estimation is an imperfect art. Option #2 avoids the estimation problem but could miss some adverse impacts and needs for assistance. Option #3 would cover all situations which create needs for assistance. It would also cover other situations where real need is not present.

<u>I recommend Option #2</u>.

<u>Decision on coverage options</u>:

1. Limit eligibility to communities where energy development is expected to cause growth above 10 percent annually, except where the Secretary determines that population growth will result in a significant impact. (____)

2. Limit eligibility to energy extraction development and other mine-mouth facilities. (____)

3. Cover all energy development activities. (____)

<u>IMPACT ASSISTANCE LOAN RATE ISSUE</u>: This is the remaining issue in the memorandum by Secretaries Kreps and Schlesinger. The issue is whether the interest charged for Federal impact loans (both offshore and inland) under existing programs should be charged at the Treasury rate (current policy) or at a lower rate similar to rates paid on municipal securities.

Commerce, Energy, and the States argue that the coastal energy impact loan program (CEIP) is unworkable with Treasury rates because communities won't borrow at those rates, if they can get lower municipal rates. We conclude that the program should be a "last resort" source when private funds are not available. Treasury rates with special circumstance exceptions would provide such a last resort source where needed while minimizing costs to the Federal taxpayer and encouraging communities to limit Federally aided investments to essential facilities. I believe that the inland BLM 317 (c) program should be under the same policy.

<u>I recommend that both loan programs be at Treasury rates</u>.

<u>Decision on loan rate issue</u>

CEIP and BLM 317 (c) loans at Treasury rate (____)

CEIP and BLM 317 (c) loans at average municipal rate (____)

CEIP loans only at average municipal rate (____)

Table 1
Description of new inland financial assistance options

	#1 Federal grants and section 306 (DOE/DOC recommendation)	#2 Governors' proposal (Federal grants, loan guarantees and section 306)	#3 Federal 50% grants and loan guarantees	#4 Federal loan guarantees (OMB recommendation)
Planning assistance	Minimum of 10% of impact fund grants.	$30 M for planning and siting incentive grants.	$15 M from section 306 for State planning annually for 5 years.	Same as option #3.
Financing for State impact revolving funds	$125 M grants annually for 5 years added to EDA Title IX.	$200 M grants annually for 5 years. $750 M in loan guarantees with forgiveness. $15 M annually for defaults.	$75 M grants annually for 5 years. $115 M in loan guarantees annually for 5 years ($15 M for housing site development).	$1.5 B in loan guarantees or Federal payments. 1/
State matching requirements	% by year: 0, 12.5, 25, 37.5, 50.	None.	% by year: 0, 0, 50, 50, 50.	None
Eligibility requirements	State 5-year annual impact mitigation plan.	None.	Approved State/local/ industry impact mitigation, fiscal mismatch, and developer assistance processes.	Same as option #3.
Annual budget cost (M$)	$245	$350	$95	$35
Other	Section 306, $60 M in 1979, $120 M in 1980 for planning technical aid and housing site development.	$10 M in fiscal mismatch grants. Section 306 at $60 M in 1979, $120 M in 1980.	No aid for impacts from State lands, synthetics plants aided under other law, or where BLM 317(c) loans used.	Same as option #3.

1/ Where borrowing unconstitutional, Federal payments deducted from future categorical grants: Mineral Leasing Act sharing, highway funds, and EPA waste treatment grants.

Table 2
Comparison of new inland financial assistance options

	#1 Federal grants	#2 Governors' grants proposal	#3 Federal grants with loan guarantees	#4 Federal loan guarantees
Maximizes incentives for States and locals to tax industry to pay costs	No	No	No	Yes
Requires States to address fiscal mismatch problem	No	No	Yes	Yes
Requires State action to achieve industry participation in planning and implementation	No	No	Yes	Yes
Requires State action to achieve industry front-end assistance	No	No	Yes	Yes
Needed to meet front-end financing problem	No, grants not needed	No, grants not needed	No, grants not needed	Yes
Public facilities funding available to meet $3-3.5 billion in gross need (millions $)	625 (18%)	1,750 (50%)	875 (25%)	1,500 (43%)
Total Federal program costs 2/ (millions $)	1,165 1/	1,940 1/	692	643
Present value of costs at 10% (millions $)	880	1,360	422	210
Meets State desire for grants	Yes	Yes, probably more than they expect	Yes	No

1/ Assumes section 306 coal conversion bill is renewed and fully funded at $120 million per year.
2/ 5-year costs plus run-out of loan guarantee costs of up to additional 20 years.

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

April 3, 1978

MEMORANDUM FOR THE PRESIDENT

From: Charlie Schultze CLS

Subject: Energy Impact Assistance Program

I am concerned that the proposal to establish an Energy Impact Assistance Program comes at an inopportune time.

Each of the alternative energy impact assistance programs presented to you will have some effect on the 1979 fiscal year budget. The smallest of these proposals, the one recommended by OMB, will add about $100 million to FY 1979 budget expenditures according to OMB staff members.

One cornerstone of our anti-inflation program must be a resolute commitment to responsible management of the Federal budget. The perception that you have such a commitment can be undermined if proposals to amend the budget and increase expenditures are sent to the Congress throughout the year. We already have made proposals adding several billion dollars to the 1979 budget, and I believe that no more proposals affecting 1979 should be made without substantial justification.

I do not believe that the need for an energy impact assistance program is sufficiently urgent to merit consideration outside of the normal budget cycle. In terms of the priority needs of the country and priority programs of the Administration, this proposal ranks quite low. This is particularly true when contrasted with the need to stand firm on the question of inflation. Therefore, I recommend that you delay a decision on this program and give it full consideration during the preparation of your 1980 budget.

I recognize that there is some pressure to announce a program shortly. If you decide to go forward with an energy impact assistance program at this time, I recommend that you state clearly at the time you propose it that no appropriations will be sought prior to the 1980 budget.

THE WHITE HOUSE

WASHINGTON

March 23, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: Jack Watson Jack

SUBJECT: COMMENTS ON ENERGY IMPACT ASSISTANCE POLICY OPTIONS

I concur in the recommendation of the need for special federal energy impact assistance. Extraordinary front-end financing problems are resulting from rapid expansion of energy production. The impact assistance program should be clearly designed to be a "program of last resort" and/or a way to leverage all other funds. In order for that to be the case, and in keeping with the emphasis on improving existing programs in the urban policy, the new initiatives suggested here should be accompanied by a specific directive from you to the federal members of the Energy Impact Assistance Advisory Group to modify other existing programs in all relevant agencies, as necessary. An extensive analysis of the applicability of existing programs has already been completed as part of the study leading to the recommendation for this new program. That existing analysis would make rapid implementation of such a directive from you possible.

On the crucial questions of financial assistance, I concur with Commerce on the preferability of a grant program which would be based on a revolving fund and on the assurance that any interest rates be set below the Treasury rate. The Coastal Zone loan program has been barely utilized because the rates are set at two percent above commercial rates.

Department of Energy
Washington, D.C. 20585

March 23, 1978

MEMORANDUM FOR: THE PRESIDENT

FROM: JIM SCHLESINGER
JUANITA KREPS Juanita M. Kreps

SUBJECT: Energy Impact Assistance Policy

I. INTRODUCTION AND PURPOSE OF THIS MEMORANDUM

In the National Energy Plan, you called for a review of the existing Federal assistance programs to determine their adequacy to meet the needs of communities which will be impacted by rapid energy resource development. This memorandum transmits the report resulting from that review, which was conducted in consultation with a Steering Group composed of officials from thirteen Federal agencies and offices, Governors, and other representatives of State and local governments and Indian tribes. The review concluded that the existing Federal programs, under current levels of funding, will not adequately meet the needs of the communities and tribes.

The issue of Federal energy impact assistance is a matter of political concern to Governors in the energy producing States, particularly in the West. The Vice President, on his recent Western trip, was confronted with energy impact problems time and time again. With Administration urban policy about to be announced, providing benefits to larger cities, it may also be timely to announce assistance for smaller, mainly rural, communities experiencing adverse consequences from energy development.

We recommend that modest additional Federal financial assistance be targeted to impacts resulting from inland energy development through an existing program authority in a form which will gradually increase State and tribal responsibility for handling these problems. The funds would be used to improve State, local, and tribal planning capabilities and to leverage other public and private funds to meet the gaps in front-end financing for needed public facilities, services, and housing. In addition, we recommend a modification in the Coastal Energy Impact Program. There remain some disagreements among Federal agencies as to the appropriate financing mechanism and the level of funding.

The agencies are agreed that several low-cost initiatives can be implemented which will result in the benefits of impact avoidance or reduction. These are:

Information - Provide better and more timely information to States, tribes, and local governments likely to be impacted to improve their capability to plan and manage energy development related growth. This can be provided at low cost.

Participation in Decisionmaking - Establish procedures which assure that State, local, and tribal representatives are consulted on Federal energy development decisions which affect their jurisdictions. This can be provided at little or no cost.

Coordination - Assign Commerce the responsibility to assure coordination of existing Federal assistance programs and the proposed inland energy impact assistance program, working with the Federal Regional Councils where appropriate. DOE would retain oversight responsibility for energy development impacts recognizing relevant Interior authority.

II. JUSTIFICATION FOR FEDERAL ACTION

Much of the new energy development called for in the National Energy Plan is already occurring in rural or isolated areas of the West and of Appalachia. Over the longer term, this development may prove to be beneficial, providing new employment in the affected areas. However, in the initial phases of development, the planning, management and financing capabilities of small rural communities are being overwhelmed by the rapid influx of population. Efforts on the part of the States to provide assistance to their impacted communities vary significantly. Some provide planning, technical, and financial assistance to impacted communities; others have made little effort. Few have addressed the fiscal mismatches resulting from the uneven spread of impacts and revenues among localities. Industry contribution to impact mitigation has been sporadic.

Existing categorical Federal programs are not meeting the needs of energy impact communities. Designed and funded to meet other specific priorities, they have eligibility requirements (e.g., high unemployment, low income, historical population base) which often restrict participation by rapid growth communities. Nor do they have the flexibility to meet the wide range of problems faced by a community which requires simultaneously the full range of public facilities, services and housing.

There is a program to address the coastal impacts created by outer continental shelf energy developments. There also exist, or are proposed, "resource compensation" programs for areas where development will occur on Federal lands. These programs, and some of their shortcomings, are described in Attachment A.

There are several proposed programs designed to meet inland energy impact needs. None, however, is adequate in its present form. The proposals are:

- A request for appropriations to permit States to borrow against future mineral leasing revenues is projected in your Budget upon passage of an amendment to increase the interest rate from 3% to the average cost of Treasury borrowing. The requested amendment has not been introduced.

- An "inland" energy assistance program of grants, loans, and loan guarantees was proposed last year by Senator Hart. Hearings were held last year. The Senate subcommittee considering the bill, and Senator Hart, appear to be flexible with regard to the form and level of financial assistance, and are awaiting the Administration's position.

- The Coal Conversion Bill portion of the Administration's energy legislation was amended to include, as Section 306, a program of planning and land acquisition and development for housing in small communities impacted by coal or uranium development.

Many energy-induced boomtown situations are already occurring, particularly in the West, which are creating resistance to energy development. The resistance is likely to increase without some response. The resulting adverse living conditions result in high labor turnover and reduced productivity which in turn result in increased costs of energy development.

Governors from the energy producing States consider Federal energy impact assistance a matter of priority concern. The lack of consistent Federal policies to deal effectively with the existing and anticipated energy impact needs may preclude us from reaching our energy goals and may have significant political repercussions for the Administration.

III. FINANCIAL ASSISTANCE PROGRAM

Presented for your decision are:

- Treatment of the Section 306 program agreed to by the Energy Conferees;
- The type of financial assistance;
- The funding level;
- The State matching requirement;
- The CEIP interest rate.

A. Recommended Program

The Departments of Energy and Commerce recommend a program to provide annual grants to impacted States and Indian tribes over a five-year period to assist in the prevention or mitigation of adverse community impacts from energy resource development (including exploration, extraction, related on-site processing facilities, and major research or demonstration projects). This assistance would not substitute for other available programs.

The purpose of the program would be to provide a modest level of flexible financial assistance to the States and tribes for planning and capital requirements for assistance to impacted areas. Pursuant to an impact mitigation plan approved by Commerce, these funds would be used by States and tribes for the following purposes:

1. To finance State, local, and tribal planning, growth management, facility siting and other impact prevention and mitigation capacities;

2. To guarantee the financing of public facilities and services needed for orderly development. The Federal funds would provide necessary reserves to leverage other public and private funds;

3. To finance development activities directly through loans when capital markets or legal restrictions inhibit conventional or guaranteed financing; and

4. To complete necessary financing of projects with grants when the full costs cannot be amortized over the life of the project or to provide needed services.

The program administration would include the following features:

1. The States would be required to provide matching funds, increasing from zero in the first year to 50 percent in the fifth year, to encourage increased State and private efforts or requirements in providing impact assistance. (Appropriate matching requirements would be established for Indian tribes.)

2. The States and tribes would be required to submit an annual impact mitigation plan to Commerce as a prerequisite for each year's financing. The plan would include projections of energy development, costs of related impacts, and a strategy for mitigating impacts and for financing the impact costs, including intended use of State and local revenue, contributions from private industry, and these and other Federal funds.

3. The program would provide for better planning coordination and management of energy impact assistance through such measures as: better coordination of Federal programs, option for States to work together through Title V Regional Commissions to develop common solutions if they choose; greater participation by non-Federal officials in Federal energy decisionmaking and designation of joint Federal, State/tribal, local impact assessment teams.

4. Eligibility criteria (based on projections of the number of areas and the severity of their impacts) would be established for participation, in order to target the program to those States likely to experience the bulk of the development impacts.

5. Annual allocations would be based on the projected level of new energy production and related employment; the level of State, local, and private investment in impact mitigation; the per capita unit costs of public infrastructure by region; and the previous usage patterns of State, local, private and Federal funds. The permanent allocation formula will be based on projections received from the States in their initial and subsequent annual impact mitigation plans. If projections upon which the allocations are based are later shown to be in substantial error, subsequent allocations would be adjusted accordingly.

6. The Secretary of Commerce would set aside a portion of the funds for use by Indian tribes and would, in consultation with the Secretary of the Interior, establish guidelines for their allocation and use.

After the fifth year of the program, the States and tribes would be expected to have developed the institutional mechanisms and the funding sources to continue impact assistance without further Federal funds.

The program would provide maximum discretion to the Governors or tribal leaders to identify impacts, set priorities and manage the impacts funds. It would be administered under existing authorities in Title IX of the Public Works and Economic Development Act. Legislation would be required to increase the authorization of EDA Title IX earmarked for impact assistance.

B. <u>Alternatives</u>

Two basic alternatives to the grant approach are Federal loans and Federal loan guarantees. The Federal loan program alternative would significantly reduce the flexibility at the State and tribal level for use of the funds. While it would result in eventual payback of the funds to the Treasury, the near-term budget impacts would be comparable to those for a grant program. This alternative was given no further consideration because of the equal near-term budget impact and the substantial direct Federal program involvement which Federal loans would require.

The Federal loan guarantee approach would result in lower budget impacts, because the only budget items would be budget authority or authority to borrow from the Treasury for reserves against the guarantees (about 20 percent of face value) and for interest subsidy (about 2 percentage points).

The intent of Federal loan guarantees would be to facilitate the front-end financing required for the community infrastructure by reducing the financial risk associated with the inherent uncertainty in energy "boomtown" situations. Federal guarantees would also encourage maximum internalization of the costs of development, since there would be little direct Federal outlay for development costs. However, a loan guarantee approach would significantly reduce the flexibility of the program. In some cases, project costs would exceed the amount which could be amortized over the life of the project. Therefore, projects would not be aided by loan guarantees without a companion grant program. This approach could be expected to receive significant opposition from the Governors.

We recommend grants for state revolving funds because they would give flexibility and responsibility to the States. The substantial variations in the kinds of existing financing mechanisms already in place at the State, tribal and local levels will require maximum flexibility. Cost internalization would be partially achieved by the required matching funds, the encouraged additional State tax efforts and the full assumption by States and tribes of costs after five years.

C. Basic Cost Justification

Estimates of the potential costs of community infrastructure required to support future energy development vary significantly. OMB has estimated local government facility costs due to energy development to be about $3 to $3 1/2 billion through 1985.

These estimates do not include other public costs (e.g., debt service, State facilities, related services) or housing development costs. Federal agencies and others have developed estimates which are significantly higher. (An assessment of energy transportation needs has not been included in this analysis. DOT and DOE are presently engaged in a study to recommend policy options to ensure transportation capacity will be in place by 1985 to meet energy needs. This study will be completed by the end of this year and will recommend to you an energy transportation policy and program.)

Proposals made to date to address the inland impact problem, or portions of it, vary in their coverage and recommended funding levels.

- o The Hart bill proposes $1 billion over 10 years in grants, loans and loan guarantees;
- o Section 306 of the Coal Conversion Bill would authorize $60 million in the first year and $120 million in the second year in grants and loans for land acquisition and development of related infrastructure for housing and Federal planning and technical assistance;
- o The Governors have recommended a program of: $200 million annually to capitalize revolving funds; $60 million in the first year and $120 million the second as full funding of the housing-related portion of Section 306 with expanded coverage; $10 million annually for grants for jurisdictional mismatches; $15 million annually for loan guarantees ($630 million over two years). These funding levels would be subject to revision based on findings of detailed assessments of development needs to be done by Federal, State/ tribal and local teams.

IV. FUNDING ALTERNATIVES

Following are options for the type and level of financial assistance. Table 1 provides descriptions of the financial assistance programs recommended by different agencies. Table 2 shows estimates of the potential total program impacts and costs of each program to the Treasury.

1. Treatment of Section 306 of the Coal Conversion Bill

In making the decisions regarding the type and level of new financial assistance to be provided by the Administration's impact assistance program, a decision must be made on the treatment of the program authorized in Section 306 of the Coal Conversion Bill

Table 1

D[illegible]on of Financial Options
Propos[illegible]ergy Impact Assistance Programs

	#1 Federal Grants for State Revolving Funds and Section 306 (DOE Recommendation)	#2 Federal Grants for State Revolving Funds Including Purposes of Sec. 306 (DOC Recommendation)	#3 "Governors' Option" Grants, Revolving Funds, Loan Guarantees and Sec. 306	#4 Federal Loan Guarantees and Grants for State Revolving Funds (OMB Suggestion A)	#5 Federal Loan Guarantees (OMB Suggestion B)
State and local planning capacity-building and growth management	At least 10% of program funds in grants	Same as #1	$15 M in grants for planning and siting	$15 M for planning annually for 5 years	Same as #4
Financing for State/tribe impact revolving funds	$125 M in grants annually for 5 years through EDA Title IX	$200 M grants annually for 5 years through EDA Title IX to include purposes of Section 306	$200 M grants annually; $15 M annually (to guarantee $75 M in loans annually); $10 M annually for grants for fiscal mismatches. After 2 years, base annual funding on needs assessments	$75 M annually for 5 years through EDA Title IX; $5 M $12 M annually to finance $500 M total over 5 years in Federal loan guarantees for housing site development and related public facilities (instead of Sec. 306)	$1.5 B in Federal loan guarantees of State securities; if not possible, advance payments from future funds due from Mineral leasing highway funds and EPA waste treatment grants
Housing assistance	$60 M the first year and $120 M the second year for Sec. 306	Purposes included in above funding and program	Same as #1	$1.5 M annually to finance $15 M annually in Federal loan guarantees in Section 306	Included in above
State matching fund requirements	Percentage in each of the 5 years, respectively: 0, 12.5, 25, 37.5, 50	Same as #1	None	Percentage in each of the 5 years, respectively: 0, 0, 50, 50, 50	None
Eligibility requirements	Approved annual state 5 year impact prevention and mitigation plan to include energy production estimates; growth and impact needs and data; cost estimates; strategy and process for financing impact costs (including State and local taxes, industry participation, and other Federal funds)	Same as #1	State plan-details not developed	Approved State/local/industry impact mitigation fiscal, matching and developer participation processes	Same as #4
Other	Program coverage to be energy production and related activities in areas not assisted by other programs (e.g., coastal impacts, synthetic fuels development; use of funds from Mineral Leasing Section 317 loans)	Same as #1	Not specified	Same as #1	Same as #1

Table 2

Total Program Impacts and Costs
Proposed Energy Impact Assistance Programs
(Cumulative over five years in millions of dollars)

Recommended Program	#1 Federal Grants for State Revolving Funds and Section 306 (DOE Recommendation)	#2 Federal Grants for State Revolving Funds Including Purposes of Section 306 (DOC Recommendation)	#3 "Governors' Option" Grants, Revolving Funds, Loan Guarantees and Section 306	#4 Federal Loan Guarantees and Grants for State Revolving Funds (OMB Suggestion A)	#5 Federal Loan Guarantees (OMB Suggestion B)
Total Program Impact	$4123	$6305	$ 5488	$ 1211	$ 2044
Treasury Outlay	$ 805	$ 1000	$ 1127	$ 486	$ 169
Ratio of Program Impact to Treasury Outlay	5.12	6.31	4.87	2.49	12.09

Notes:

1. Programs #1, 2 and 3 assume much more liberal loan repayment assistance, as well as 20% of revolving funds held as reserve against guarantees. These assumptions reduce the amount of funds available for leveraging other public and private funds. Hence, estimates of total program impacts are relatively conservative for these three options.

2. It is assumed in Programs #1 and #2 that 30% of state revolving funds will be used for grants for planning, defaults and other necessary grants for services, operating expenses, to complete financing of projects, and other needs. These assumptions are based on the premise that states will use these funds in a flexible manner.

3. It is assumed in Program #5 that necessary grants to accompany a $1.5 billion Federal loan guarantee program would amount to a total of $375 million over five years. While these grant funds increase total program impact, they do not increase Treasury outlays because it is assumed that appropriate legislative changes will be made in order to allow impact assistance grants to be deducted from mineral leasing revenues, highway funds and EPA waste treatment grants.

4. The Governors' program is calculated on a five-year basis, however, the Governors' proposal actually assumed that the funding levels would be adjusted on the basis of the results of assessments by joint Federal, State/local, tribal teams.

agreed to by the Energy Conference Committee. The program would be administered by the Farmers Home Administration in the Department of Agriculture. It would address only one area of impact assistance -- housing -- and would not provide assistance to the tribes. While it would be desirable from an administrative standpoint to implement the purposes of this proposed program into a comprehensive program in Commerce, such action may be opposed by key members of the Energy Conference Committee.

a. _____ Fully fund Section 306 ($60 million the first year and $120 million the second) and administer as a separate program. Energy recommends this option because

- o The Conference Committee originally agreed to this provision in spite of Administration opposition. Further opposition to the program at this point could entail loss of support for the energy bill by key conference members;
- o Funding of Section 306 was recommended by the Governors, in addition to a grant program for revolving funds.

b. _____ Do not fund Section 306 separately. Commerce recommends this approach because

- o The purposes of the program should be met in the administration of the Title IX program, rather than administered separately in the Department of Agriculture. This would provide a single source of impact assistance that responds to concerns raised by the States about lack of Federal coordination.

c. _____ Partially fund Section 306: $15 million annually for planning and State technical assistance and $1.5 million annually to cover possible defaults on Federal loan guarantees of approximately $15 million annually for private housing site development loans.

- o OMB notes that the purposes of Section 306 authority for direct Federal land acquisition and housing site development could be addressed at significantly lower cost by use of Federal guarantees of housing site development loans.

- o Legislation would be required for loan guarantee authority.

2. <u>Basic Program Design</u>

Your decision is required on the basic design of an energy impact assistance program. The program recommended by Commerce and Energy would provide flexible financial assistance over five years to meet the planning, facility and service needs of impacted communities, pursuant to a plan developed and administered by the States and tribes. (Option 2a) If this option is chosen, further decision is required in items 3 and 4 below on the funding level and State matching requirement.

OMB has suggested an alternative which would provide Federal loan guarantees for financing $1.5 billion worth of taxable State securities, with a Federal subsidy of the interest rate, to permit financing of necessary public facilities through State revolving funds. (Option 2b)

OMB has also suggested a combination of $75 million annually in grants and $5-12 million annually for interest subsidy and defaults on Federal guarantees of up to $500 million total of taxable State securities to finance State revolving funds. (Option 2c) If this option is chosen, further decision is required in item 4 below on State matching requirements.

a. _____ Provide grants to finance flexible State and tribal revolving funds. Commerce and Energy recommend the grant approach because it would

- o Be easily implemented through existing Title IX authorities (which have been used in the past to establish State revolving funds as proposed here. However, pending your decision on an Administration impact assistance program, OMB has not permitted EDA to fund additional State impact assistance programs);

- o Meet the greatest variety of State and tribal financing needs;
- o Provide States and tribes with maximum flexibility to make grants, loans and loan guarantees to their impacted jurisdiction, with minimum Federal administrative burden or cost;
- o Require maximum State and tribal responsibility for planning and setting priorities;
- o Receive support from the Governors;
- o Be politically acceptable by Congressional interests.

b. _____ Provide Federal loan guarantees. This approach would

- o Minimize budget outlays since the recommended interest rate subsidy (of the difference between the rates on taxable and municipal bonds) and any defaults would be paid over the life of the loan (perhaps 15 to 20 years);
- o Establish the principle that the costs of energy impacts ought ultimately to be paid by the developers and the economic activities which they generate;
- o Assure that Federal assistance is used only as a last resort;
- o Provide no assistance for services or housing needs or for facilities the cost of which could not be amortized over the life of the project;
- o Be opposed by the Governors.

c. _____ Provide a combination of grants and Federal loan guarantees. This approach would

- o Significantly reduce the budgetary costs of assistance;
- o Combine a minimum level of grants for political reasons with a significant level of Federal loan guarantees;
- o Be opposed by the Governors.

3. <u>Grants for State and Tribal Revolving Funds</u>

These EDA Title IX funds would provide grants to States and tribes for capitalization of revolving funds and other financing for impact assistance as proposed in the recommended program discussed above.

a. ______ $125 million annually in grants. Energy recommends separate funding of $125 million for grants for revolving funds because the Governors are likely to consider this funding level a reasonable level for Federal financial assistance, taken in conjunction with full funding of Section 306.

b. ______ $200 million annually in grants. Commerce recommends a unified impact assistance program, including funds for the purposes of Section 306, in a single grant for revolving funds. (If, however, you chose to fund Section 306 separately, Commerce concurs in $125 million annually for Title IX impact grants to the States and tribes.) The Governors recommend this funding level for revolving funds, in addition to Section 306.

4. <u>Matching Grant Requirements</u>

There is agreement that matching funds should be required from the States (with appropriate arrangements for tribes).

a. ______ Require progressively increasing matching funds by the States, with annual percentages of 0, 12-1/2, 25, 37-1/2, and 50 over five years. Commerce and Energy agree that an increasing matching share would permit impacted States to enact required legislation, raise necessary funds to meet matching requirements, and assume full funding responsibility after five years.

b. _____ OMB has suggested requiring matching grants by the States with a two-year period without matching shares, and then requiring 50 percent State matching shares in the third year.

V. IMPACT ASSISTANCE FEDERAL INTEREST RATE POLICY

An issue which should be considered in conjunction with the decisions on inland impact assistance policy is the effectiveness of the credit assistance portion of the Coastal Energy Impact Program (CEIP). The issue would also arise with the BLM 317 loan program, were the program ever to be implemented.

1. CEIP Issue

Similar to the proposed new inland assistance program, the Commerce CEIP is specifically designed to mitigate the community impacts of energy development. The CEIP provides capital financing assistance in the form of direct Federal loans and planning grants to coastal areas impacted by coastal and OCS energy development.

The interest rate for CEIP loans has been set at the Treasury rate for issues of comparable maturity (approximately 8 percent). This rate has proven unacceptable to the communities and States eligible for assistance. Only one loan has been made, and it was made under a special exception clause allowing a lower interest rate. As provided for in the statute, Commerce has requested OMB agreement for a lower interest rate (Baa Moody's). In reviewing this issue in the context of a comprehensive energy impact assistance policy, we believe that the interest rate be set at the cost of average municipal borrowing.

<u>Proposal</u> - It is proposed that the interest rate for CEIP loans be set at the average municipal borrowing rate (currently about 2 percentage points below the Treasury rate).

The Departments of Commerce and Energy favor this change because

- It would result in a useable, effective loan program for the coastal States;

- It would reduce Congressional pressure for the amount of OCS revenue sharing in the pending conference action on the OCS Lands Act Amendment.

OMB points out that

- The program ought to provide capital only where private capital is unavailable at reasonable rates;

- Regardless of where the loan rate is set, there will always be pressure for more grants and for revenue sharing, which are both riskless and free.

The cost of the proposed change in the CEIP loan rate would be approximately $2 million for each $100 million in loans, thus ranging from $2 million the first year to about $10 million in the fifth year.

Yes ___________

No ___________

2. <u>BLM 317 Loan Issue</u>

The BLM 317 loans were authorized by a 1976 amendment to the Mineral Leasing Act of 1920 and would allow States to borrow at 3 percent against their future mineral leasing revenues. This was to permit participating States to fund "front-end" development costs. No budget requests for this program have been made at the 3 percent interest rate. The Administration has sought (unsuccessfully) legislation to increase the 3 percent loan rate to the Treasury rate. If the rate were set at the Treasury rate, it is probable that no loans would ever be made considering that even low-grade tax exempt bonds would receive more favorable rates.

The new inland energy impact program proposed by this memorandum would eliminate the need for the BLM 317 loan program.

<u>Proposal</u> - If Congress were to appropriate funds for this program, the Administration should propose legislation to increase the interest rate from the statutory 3 percent to the average municipal rate to make it comparable to that in the CEIP. Any loans made under the program should be deducted from allocations under the recommended inland assistance program.

The Departments of Commerce, Energy and Interior favor this approach.

The cost of the BLM loan program, were it to be activated, is unknown. As with CEIP, the cost to the Treasury would be approximately $2 million annually for each $100 million loaned, if the interest rate were set at the average municipal rate. However, these costs could be offset by comparable reductions in the funds available under the proposed new inland program.

Yes ___________

No ____________

ATTACHMENT A

Federal Obligation to Inland States vs Coastal States; Resource Compensation vs Energy Impact Assistance

At issue is, what constitutes "comparable" or "equitable" Federal treatment for States impacted by energy development -- for inland States facing energy resource development on the one hand, and for coastal States facing Outer Continental Shelf development on the other. This discussion arises now because a new Federal energy assistance program is proposed in the accompanying Presidential decision memorandum. The proposed program was designed to parallel closely the only existing Federal program targeted directly to energy impact assistance, the Coastal Energy Impact Assistance Program of the Department of Commerce.

Inland States have no comparable impact assistance program. They do, however, receive a share of revenues from mineral leasing on the public lands within their boundaries. Coastal States do not receive comparable revenues because the revenue-producing resource lies outside State boundaries.

Mineral Leasing Act provisions for resource compensation. Since the Mineral Leasing Act of 1920, States have recieved a share of the revenues from development of certain minerals on public lands within their boundaries. Unitl 1976, the percentage returned to the States was 37 1/2 percent. Although designated for schools and roads, the States' share was intended as compensation to them for resources from which, but for the Federal ownership, the State might have had a wider tax base. The return of the percentage of revenues, then, compensated the States for the foregone opportunity costs from lands excluded from State jurisdiction. At the time, sharing of mineral leasing revenues was also intended as an incentive to Western development. (Although some non-Western States have eligible lands, e.g. National Forests, the issue comes up associated with Western States because of the location of energy minerals there readily available for development). The mineral leasing revenues have never been viewed traditionally as what we now call impact aid. Rather, States view them as their due since the Federal government "owns" so large a portion of their State.

Coastal States comparability request. Over the past several years, Congress has repeatedly addressed measures that would divert to a coastal State a percentage of the Federal revenues from oil and gas leases on the Outer Continental Shelf. The argument is that OCS development offshore a State entitles that State to the same level of Federal compensation for development on public lands that the inland States receive under the Mineral Leasing Act. The counter to this argument is that the OCS is not now, nor was it ever in the past, considered as State land, or otherwise under State jurisdiction. It does not lie within State boundaries. No part of it was acquired or reserved from the States for Federal use, therefore no tax base has been excluded. Furthermore, the supreme court has ruled that the OCS is a Federal resource, belonging equally to all the Nation, with the benefits to be shared by all the States. (OCS revenues are earmarked to support the Land and Water Conservation Fund for both Federal and State acquisition of parks and recreation lands, and for other conservation and recreation purposes).

Energy Impact Assistance. For inland resource development, there is no single comprehensive program providing energy impact assistance, although there are several authorities and proposals aimed at portions of the problem. For Coastal States, the 1976 Coastal Energy Impact Program, the only Federal program designed for impact assistance, provides a single source for comprehensive funding of community needs in meeting impacts from a wide variety of energy development.

Discussion of current concern. Amendments to the Coastal Zone Management Act (affecting the CEIP) have been offered in both the House and Senate versions of S.9 (The OCS Lands Act Amendments of 1977) now pending in conference.

Both versions act to increase the level of funding available under the general CEIP "formula grants" and broaden the eligibility uses of these monies. CEIP formula grants are available only to States affected by OCS energy development. The House version provides for a fixed percentage of the OCS leasing revenues to be automatically credited to the Coastal Energy Impact Fund, limiting the applicability of the budget and appropriations process. The legislative history of S.9 clearly indicates considerable support for direct OCS revenue sharings, a measure which the Administration has consistently opposed. The relevant points of the Administration position on this legislation are:

- No additional authorizations are necessary above the current \$50 million annually, but the lowest option, e.g., the Senate figure of \$75 million, is viewed as "acceptable".

- Having opposed the provision of any OCS related financial assistance which would not be administered through the framework of the CEIP, the Administration views as acceptable the requirements passed by both houses that funds be administered through the CEIP.

- Assistance under S.9 must be fully subject to all normal budget and appropriations processes.

If the OCSLA passes, the Coastal Energy Impact Program is likely to become a significant increase in Federal funds to coastal States at a time when we are attempting to provide "comparable" assistance for communities facing inland development. It is worth noting that Appalachian States, potentially facing some considerable portion of new or increased energy development, are not recipients of benefits under either of the two authorities discussed here.

Summary. The discussion presents the problem of achieving equity or comparability between an inland program and a coastal program. For inland States, your advisors are proposing herewith an inland energy impact assistance program calling for modest amounts of money to be targeted to small communities' front-end financing problems, with maximum flexibility and incentive for leveraging of other funds, especially from private sources and from the States themselves. Public lands States will still be receiving their traditional shares of mineral leasing revenues.

The upland States view resource compensation (revenue shares under the Mineral Leasing Act) as their traditional right. In addition to this, they "need" assistance for impacts resulting in part from a national energy plan which initiates energy development which is both timed beyond their sphere of control, and scoped beyond their capacity to meet immediate development demands, even if in the long run they will receive net economic benefits from the energy development for their area or State.

The coastal States will respond, that if the Federal government is now going to give upland (e.g., Western) States a boon in the form of impact assistance in addition to their already large income from resource compensation, then they on the coast have a right to have even more resource compensation than is available under their CEIP program.

The key distinction is, of course, the long argued but often ignored principle that Outer Continental Shelf resources belong to the Federal government for all the States, not to the coastal states specially. They are not, in fact, comparable to minerals covered by the Mineral Leasing Act.

The Coastal Energy Impact Program was seen in 1976 as fair assistance to the States in coping with onshore and nearshore impacts of Federal resource production, with attention directed toward the early impact beyond the control and the capacity of the coastal states and communities, but in recognition of the eventual benefit to the States from the economic development entailed and attracted.

The inland assistance program is now proposed to recognize the same kinds of problems inland. The resource compensation is separate and apart from the impact assistance issue. The Congress has taken the former out of our hands; we are working to make impact assistance distribution as equitable as possible, targeted to needs, without regard to geography.

03/20/78: Hoffmann/Interior; Branscomb/Commerce

ATTACHMENT B

Relevant Facts on the Mineral Leasing Act of 1920, as amended 1976.

-- The function of the Department of the Interior in the distribution of these funds has been, since 1920, one of accounting and pass-through. The revenues from leasable minerals, including royalties, fees from rights-of-way etc., are computed every six months, and funds transferred to the States. There is no monitoring or control of uses.

-- In 1976 amendments to the Act made several changes which are significant in relation to impact assistance:

  -- The States' share of mineral leasing revenues was increased from 37½ percent to 50 percent;

  -- The list of allowable uses was expanded from schools and roads to include provision of public facilities and services, with no further limiting description;

  -- Mineral leasing revenues were directed to be targeted to the areas of impact;

  -- Provision was made (Section 317, BLM loan program) for States to borrow money, at a 3 percent interest rate, up to the amount of their mineral leasing revenues anticipated for ten years.

-- The 1976 increase amounting to 12½ percent was evidently directed at impact problems, although not spelled out in the language of the Act.

-- State and local abilities to meet minerals development problems were to be enhanced by the flexibility resulting from expanding the list of possible uses, and by front-end financing made possible by the loan provision.

-- Some significant shortcomings with these provisions as solution to impact problems are:

  -- The loan program has never been implemented, because of the OMB/Treasury position that the 3 percent interest rate was an unwarranted subsidy by taxpayers of communities which were eventually going to make money. Draft legislation proposed changing the rate to the Treasury rate, like the Coastal Energy impact program. (If the proposed inland assistance program is enacted, the Administration could request that the provisions of Section 317 of the BLM

Act, the loan program, be repealed. If it were not repealed, and any States in fact received monies under that authority, there is provision to subtract such amounts from their eligibility under the newly proposed program.)

- -- The 1920 Act covers only leasing on Federal lands, or lands otherwise reserved to the Federal Government, e.g., primarily public domain lands, and National Forests. Developments on private lands are not covered, nor are those on Indian lands.

- -- Only certain minerals are covered under the 1920 Act, so-called leasable minerals: coal is covered, but uranium is not. (Certain non-energy minerals are covered, e.g., phosphate, potassium.)

- -- The most significant single source of mineral leasing revenues is oil and gas. However, no new finds of these minerals are likely to cause large scale new impacts. Royalty rates on coal now and for the foreseeable future mean that sufficient revenues to pay back development costs will be returned only over a very long term, if at all.

-- Mineral Leasing Act revenues are traditionally used for schools and roads, on a statewide basis. These funds are by now a significant element of Western States' fiscal planning. The funds are committed for long range, such as five year plans for State University growth, for example. The implication of Federal intervention in traditional State funding patterns is obvious. Further, the States point out that money "taken away" from schools and roads to target impact areas, means funds have to come from some other (Federal) source to make up the difference.

-- As a practical matter, should the Federal Government begin to apply controls to the traditional revenue source, the States would almost certainly challenge. Conceivably, the Administration could propose recision of the 1976 amendments--the loan provision, the 12½ percent increase, etc.

Relevant Facts About the Coastal Energy Impact Program (1976 Amendments to the Coastal Zone Management Act.)

-- The CEIP is authorized to provide a total of $1.2 billion over eight years for planning for environmental loss and for capital needs through grants, loans, and loan guarantees.

-- Credit assistance could amount to $750 million over 10 years.

-- Loans are the major form of assistance. This form has not been used because of the OMB/Treasury policy of setting interest rates at the average cost of Treasury borrowing, which is approximately 2% above the average municipal borrowing rate.

Relevant Facts on Section 306

-- Section 306 of the Coal Utilization Act Amendments of 1977 acknowledges need for Federal assistance to states experiencing energy development other than OCS development.

-- The availability of Section 306 assistance is tied to the type of resource development, with no geographical distinctions.

-- Section 306 assistance would be available irrespective of the extent of Federal jurisdiction over the resource lands to be developed.

-- Current Section 306 provisions are for $60 the first year, and $120 million the second year in grants and loans for planning and housing development assistance.

-- The program is to be administered by the Farmers' Home Administration.

-- The limitations of Section 306 are:

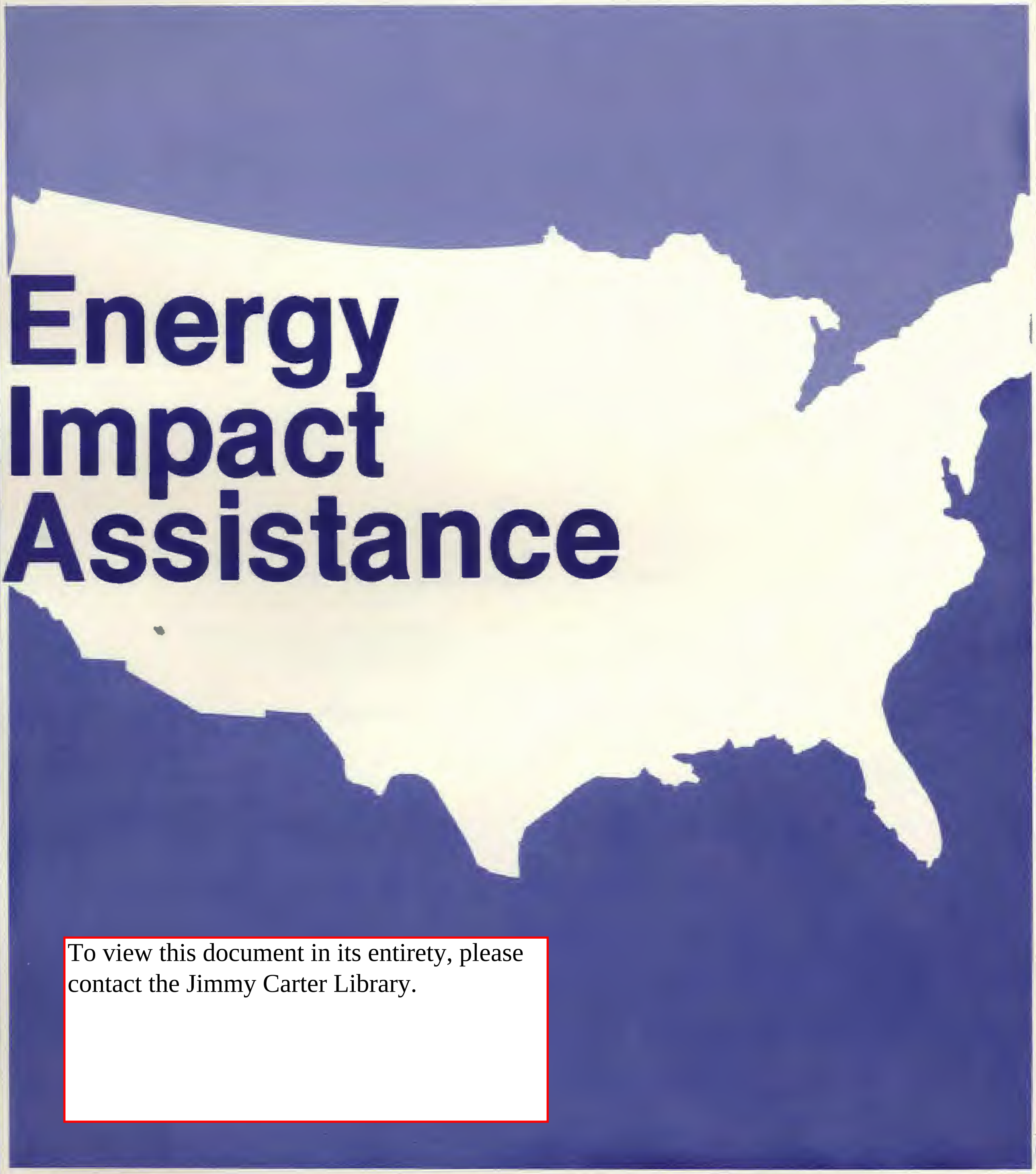
  -- It deals only with one impact problem, housing.

  -- It does not provide for assistance to Indian tribes.

  -- It is limited to areas impacted only by development of coal or uranium.

ATTACHMENT C

Report to the President



Energy Impact Assistance

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Energy Impact Assistance Steering Group

REPORT TO THE PRESIDENT

ENERGY IMPACT ASSISTANCE

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TABLE OF CONTENTS