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**REPORT ON THE GEORGIAN LAW ABOUT
ENERGY EFFICIENCY**

**Georgia Power Sector Reform
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Final Report

Prepared for:

U.S Agency for International Development
Bureau for Europe and the NIS
Office of Environment, Energy and Urban Development
Energy and Infrastructure Division

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REPORT ON GEORGIAN LAW ABOUT ENERGY EFFICIENCY

Earlier in 1999, the Government of Georgia (through the Ministry of Fuel and Energy) released a draft Law about Energy Efficiency. GoG asked Hagler Bailly for comments on the draft law.

We attach for USAID's information a copy of Hagler Bailly's comments on the draft law, dated 23 August 1999. These comments will be delivered to relevant counterparts as soon as they can be translated.

Hagler Bailly recommends that this matter be followed up on by crafting an acceptable energy efficiency law for Georgia.

Attachments:

1. Hagler Bailly 23 August 1999 comments on the draft Law about Energy Efficiency (English version)
2. Draft Georgian Law about Energy Efficiency

ATTACHMENT 1

**HAGLER BAILLY 23 AUGUST 1999 COMMENTS
ON THE DRAFT LAW ABOUT ENERGY EFFICIENCY
(ENGLISH VERSION)**

MEMORANDUM

TO : Temur Tzabadze
Ministry of Fuel and Energy

CC : Irakli Shekriladze
Committee on Reform of the Economic Sector

FROM : Hagler Bailly

DATE : 23 August 1999

SUBJECT : Draft Georgian Law about Energy Efficiency

These are Hagler Bailly's comments on the undated "Law About Energy Efficiency" that you asked us to review.

We have seen other, similar draft laws on energy efficiency in the Newly Independent States, including Belarus and Armenia. Our comments conform to those that we offered respecting those laws.

Summary

The proposed law suffers from a number of defects:

- It would attempt to regulate energy use throughout all sectors of the economy on a broad, far-reaching, and possibly impractical basis;
- The proposed law suffers from numerous ambiguities. Although not uncommon for laws in this NIS, such ambiguities are troublesome here because they leave many of the most burdensome aspects of the legislation (the authority, for example, to impose economic sanctions) up for later interpretation;
- The Law imposes heavy-handed state control and regulation, without providing any recognition of the roles of market reform and market pricing in achieving energy efficiency;
- It specifically conflicts with the Law on Electricity and Natural Gas by giving the Ministry of Fuel and Energy limited authority in the area of tariff establishment;
- The Law in its present form enhances the environment for corruption. It places the Ministry of Fuel and Energy and the Department of Energy Supervision in critical functions, such as

Hagler Bailly

review of energy efficiency designs, licensing of energy audit professionals, development of standards, ability to impose sanctions, with no apparent limit or control on their activities;

- The Law would grant overly-generous tax breaks for promotion of energy efficiency. The tax breaks are in fact so excessive that implementation of the Law in its present form could be expected to have a significant fiscal impact on the Government of Georgia.

In its present form, we are concerned that the Law could hinder foreign (or domestic private) investment in the Georgian economy. The vagaries of the Law are too numerous and the powers given the state too great to provide investor assurance of fair and reasonable treatment by state authorities in the energy efficiency area.

Given the Law's serious shortcomings, we recommend that it be removed from further consideration. If this is not possible, then careful consideration should be given to major redesign of the Law to bring it more into compliance with market oriented principles. Also, it may be more worthwhile to encourage specific laws on specific energy or environmental matters rather than an omnibus Energy Efficiency Law. For instance, the Law refers to the use of environmental considerations in determining whether something is economically efficient; yet, other than in the definitions, environmental concerns are not addressed further.

Specific comments on each clause of the Law are as follows:

Clause 1 – Main Definitions

A primary concern with the Energy Efficiency Law's defined terms is their ambiguity. For example, the Law does not have a meaningful definition of "efficiency" itself. The closest approximation is to the "Efficient Use of Energy Resources." This definition implies that both existing technology and economic justification as well as environmental considerations should be taken into account in determining whether energy use is efficient. While this definition in an of itself may not be an unreasonable place from which to start, it is debatable whether this definition is truly applicable throughout the economy (as article 3 appears to suggest). This definition also fails to capture many of the other concepts and competing state priorities that are at issue in determining whether certain types of energy usage should be penalized or promoted. Given the very broad scope of the Law, it may not be appropriate to equate efficient utilization of energy resources with economically justified use.

In addition, the Law establishes an "Indicator of Energy Efficiency" which is to reflect the "absolute or relative value of use" for "all kinds of production (works, services)." This definition presumably signifies the development of a national efficiency rating system for "all" products – a task that is not only probably impossible to achieve, but is also unnecessary. In addition, the Law does not specify the indicia being measured, who will be responsible for determining the rating system, how and when products are to be rated, the rights of the entities or producers of the

products being regulated, what products are excluded, whether such standards may be changed over time and the consequences of a “low” rating.¹

The “Non-Industrial Expenditure of Energy Resources” [non-industrial appears to be a translation problem] is also confusing in that it appears to imply a deviation from one of several possible categories including either a deviation from state standards, or legal regulation, or technical data. This is quite vague and one can easily imagine a circumstance in which virtually any use of energy could be found to be in violation of one of these categories.

The “Energy Voluminous Production” definition is also vague. It refers to “significant share” with no indication of what a significant share would be. One could see 50% energy costs as being a significant share whereas to some as little as 5-10% may be considered significant.

The “Energy Audit” definition refers to examination of technical and organizational provision of efficient energy use. It is not clear what is intended by “organizational provision” and why an energy audit would focus on any aspect other than the technical use of energy. “Organizational provision” may be interpreted as providing the energy auditor with an opportunity to review an enterprise’s organization and perhaps to even impose sanctions and require remedies on that basis.

Clause 2 – Legislation about Energy Efficiency

This clause is satisfactory. It simply mentions that the legislation surrounding energy efficiency consists of this Law, international treaties and any other legal and sub-legal regulations.

Clause 3 – Areas of Application of the Law

The application of this law is defined very broadly, and covers “use of all kinds of energy resources” in all of the industrial and non-industrial (social) sectors. This appears intended to cover the entire economy. Additionally, the clause refers to the “implementation of state supervision and control over the use of energy resources.” This is unwise as it could be interpreted to give the state broad powers unrelated to the goals of assuring conservation and the efficient use of energy resources. In addition, the breadth of scope raises the question of the interplay of this Law with other laws and normative acts.²

¹ The comments on the first two definitions noted above are taken almost verbatim from Ms. Sosi Biricik’s (Latham & Watkins) critique of the draft Armenian Energy Efficiency Law (February 23, 1998). The two terms used and definitions are virtually identical in both the Georgian and Armenian drafts.

² This paragraph is also taken from Ms. Biricik’s critique of the draft Armenian Energy Efficiency Law.

For instance, under the Georgian Electricity Law, the GNERC is responsible for electricity tariffs. However, the provisions of this Law could interfere with the activities of the GNERC. For instance, clause 20d states that “setting daily and seasonal varied tariffs for the energy resources consumed” is one way to stimulate efficiency. Clause 20 does not mention the GNERC and given the dominance of the Ministry of Fuel and Energy throughout the Law, one could interpret the Law as giving the Ministry the right to require such daily and seasonal varied tariffs. In fact, clause 21 confirms this by specifically mentioning the Ministry designate’s ability to impose higher tariffs on consumers using energy inefficiently.

Clause 4 – Bases of the State Energy Efficiency Policy

This clause has a very disturbing subclause mentioning the “material responsibility of consumers of energy resources for irrational use of such energy resources.” Determining what is irrational versus rational use of energy appears left to the Ministry of Fuel and Energy and the “material responsibility” implies an ability to assess penalties. With no definition of irrational or material responsibility, this article opens the way for abuse. This is the kind of provision that could seriously impact Georgia’s ability to attract investment. In fact, this exemplifies a disturbing trend throughout the Law to rely on heavy handed state regulation and control, while ignoring the important effect market reforms (such as proper pricing) will have on encouraging the efficient use of energy.

Clause 5 – Main Principles of the State Policy of Energy Efficiency

Generally, this clause appears adequate and not excessively over-reaching when viewed on its own. However, when examined in light of clause 15c, the concept of “economic” conditions appears to be of greater concern; clause 15 refers to “economic sanctions for inefficient use and unjustified expenditure of energy resources.” The ability to assess economic sanctions of unspecified level or type if an enterprise or person is considered to have used energy inefficiently leaves the controlling party, the Ministry of Fuel and Energy, in a strong position to force its will, correctly or corruptly, on all enterprises in the Georgian economy. This is the kind of provision that could be used to single out specific enterprises (such as foreign owned) for harassment.

Clause 6 – Control over the Energy Saving

This clause simply asserts that the Ministry of Fuel and Energy is responsible for state control over the energy efficiency area. It is arguable whether this is in conflict with the Georgian Electricity Law which “relieves the Ministry of Fuel and Energy from regulatory, entrepreneurial, and operational responsibilities in the energy sector.” At the same time, the Electricity Law does permit the Ministry to “coordinate the elaboration and implementation of the state program on efficiency in generation, transmission, distribution and consumption.” The most disturbing subclause in clause 6 is that the Ministry has the responsibility to “organize state

control and supervision over application and promotion of state standards in the efficient use of energy resources.” Again, the use of terms such as “control” and “supervision” especially when combined with “application” of state standards provides the Ministry with excessive potential for interference in the commercial operation of Georgian enterprises.

Clause 7 – Implementation of State Control over the Efficient Use of Energy Resources

Clause 7 restates some of what was seen in earlier provisions that provide for broad application of the concept of state control to virtually all aspects of the economy. This clause also empowers the Department of Energy Supervision and Promotion of Quality to be responsible for state supervision in this area. This Department is most likely similar to the GosEnergNadzor organizations seen throughout the NIS. The history of these organizations in the energy efficiency arena is very poor and has been subject to widespread abuse. For instance, in Ukraine, after completing mandatory energy audits and threatening penalties, inspectors from the GosEnergNadzor organization would offer the services of their privately owned firms to implement the recommendations of the audits, thus allowing the enterprise to avoid penalties if they agreed to implementation.

It should also be noted that by empowering this department with these authorities, this may harm the ability of the private sector to provide energy audit and energy service company type of offerings. It puts the Department in a role, with legal backing, that can effectively restrict private companies from entering the marketplace.

Clause 8 – Conduction of State Energy Examination

This clause further expands the Ministry’s authority over any new or reconstructed “objects” that prior to construction must receive the approval of the Ministry of Fuel and Energy. This is far too broad, and creates an environment ripe for corruption. No limits are placed on the fees the Ministry may be able to charge, or how long the Ministry may take to consider such approvals, etc.

In some countries, it is common to have construction standards with baseline efficiency requirements included in those standards. This is a far preferable approach to requiring specific Ministry of Fuel and Energy review and approval of design documentation.

Clause 9 – Energy Audit of Organizations and Enterprises

This clause requires mandatory energy audits for those enterprises and organizations whose annual use of energy exceeds a Ministry-determined level. The last subclause appears to exempt state-controlled organizations from this requirement (although this subclause could use clarification). There is no indication as to what the threshold level may be and how the energy audits are to be funded and how often they are to occur. Again, this vagary does little to provide

comfort that the rights and responsibilities of the private organizations and enterprises will be balanced by the perceived regulatory and policy needs of the state (or the specific Ministry).

Clause 10 – Energy Resources Accounting

This clause introduces the requirement that enterprise management will be responsible for accounting for “the whole amount of energy resources produced, processed, transported, stored and consumed according to the established standards and regulations of accounting.” This, as is characteristic throughout the law, is very broad in its application and unwise. As written, this implies that that enterprises will have to report on all energy types including gasoline, propane, electricity, diesel, natural gas, coal, wood and at all levels including production, processing, transporting, storage and end-use. There is no recognition of the costs required for this kind of accounting and one senses no consideration of the tradeoffs between the usefulness of the information collected and the costs on the economy of its collection. It should also be noted that even if this information can be adequately collected, for some enterprises, it may be commercially sensitive and should warrant protection.

The clause also includes a cryptic subclause forbidding construction under some circumstances in which energy resources will be consumed above the established standards unless sufficient “metering, controlling and counting devices” are in place. It is not clear what is intended by this subclause.

Clause 11- State Statistical Observation over the Efficient Use of Energy Resources

This clause, although poorly worded, seems to give to the Ministry of Fuel and Energy the right to house the statistics on energy use and energy efficiency. This is a legitimate function of the state (similar to the role of the Energy Information Administration in the US) and does not present significant concerns.

Clause 12 – Standardization

This clause provides the Ministry of Fuel and Energy with the right to oversee the development of state standards in all aspects of energy production, processing, conversion, transportation, storage and consumption. Although development of state standards may be a legitimate policy role for the state, this clause is problematic when viewed in light of the fact that other clauses of the Law appear to use these standards as the basis for determining if sanctions should be assessed.

Clause 13 – Standards and Regulations of Losses of Energy Resources

This clause indicates that the standards shall be included in the technical documentation for equipment, devices, etc. There is reference to “regulations of losses” also being included, a vague term which is undefined and needs clarification.

Clause 14 – Certification

This clause requires something akin to mandatory labeling of equipment and facilities. Although not entirely unusual, it is too broad and needs limits. For instance, it is unrealistic to require a cord of wood or a box of candles to have such labeling, but the clause as written requires certification for all energy consuming production and resources.

Clause 15 – Economic Measures for Energy Saving

As mentioned earlier, of greatest concern in this clause is that a measure used to encourage energy saving shall be application of “economic sanctions for inefficient use and unjustified expenditure of energy resources.” This is broad, very subjective and open to abuse. It appears left to the discretion of the Ministry to determine how “inefficient” and “unjustified expenditure” will be defined. Would an energy intensive industry consider locating in Georgia with this kind of vague provision in the Law, left to the discretion of the Ministry of Fuel and Energy to define?

Again, the Law suffers from not providing any recognition of the role of proper pricing and a market economy in promoting economically rational energy use and encouraging energy efficiency.

Clause 16 – Financing of Energy Saving Measures

This clause identifies the sources for financing energy efficiency activities. It would be useful to clarify the regional and local budgets referenced as well as the energy saving state and regional funds. Are these already in place? Further, it refers to “the funds of enterprises and organizations.” It can be readily assumed that part of the funds of enterprises and organizations would be from the economic sanctions referred to in clause 15. This is confirmed by clause 17 which states that “sources of formation of energy saving funds may be... penalties for inefficient use of energy resources by enterprises and organizations.”

Clause 17 – Formation of Energy Saving State and Regional Funds

As just mentioned, this clause confirms that penalties imposed on enterprises and organizations can be used for promotion of energy efficiency. This clause goes further and mentions that the energy savings funds may receive an “allocation deriving from the revenues of those regional enterprises, whose consumption of energy resources exceeds established limits.” Thus, in

addition to the penalties for inefficient use, it is also possible that some part or all of the total revenues of an organization may be tapped for the energy saving funds. Clearly, this will be of concern for all private enterprises that could be faced with harassment and assessment of penalties well beyond what is commonplace in a market economy.

Clause 18 – Control over the Use of the State and Regional Energy Saving Funds

This clause provides the Ministry of Fuel and Energy with the control over the use of the regional and state energy saving funds. It is questionable whether the Ministry should oversee a regional fund in an area such as energy efficiency; usually, it is better handled locally with local control over the use of the funds.

Clause 19 – Taxation of Enterprises and Organizations Implementing Energy Saving Measures and Manufacturing Energy Saving Production

This clause is far too generous in promoting production and implementation of energy efficiency. For instance, subclause 5a-c provides a profit tax exemption at a level proportionate to the expenses incurred for manufacturing and implementing energy saving technologies and measures. Based on the language in the article, it appears that a manufacturer could receive a one-for-one tax credit for the expenses associated with R&D and manufacturing an energy efficient technology. Although tax credits are a useful tool of public policy for inciting certain behavior, this seems very excessive and would be subject to considerable abuse. Also, one can easily envision a large number of “free riders” – that is, those that would have undertaken the action in any case but now stand to gain a windfall as a result.

Similarly, subclause 6 exempts revenues from taxation for those enterprises manufacturing “advanced pilot” energy saving equipment. However, perhaps the most significant tax concession is found in subclause 7, which provides VAT exemption for producers and consumers whose efficient use of energy betters the existing standards.

If this article is seriously contemplated, some restrictions need to be placed on the level of tax concessions. As it is presently written, one can easily imagine a situation in which the tax relief offered by this Law (especially the VAT exemption) presents a serious fiscal problem for the Government of Georgia.

On a minor point, subclause 4 should require that the Ministry of Finance also be involved in determining the issue of long term bonuses.

Clause 20 – Stimulation of Energy Saving

Clause 20 provides a number of ways in which energy efficiency can be encouraged. The first subclause is confusing referring to the “difference deriving from refinancing interest and actual

interest paid shall be covered by the state and regional energy saving funds.” This subclause should be clarified; it is not clear what the refinancing interest and actual interest refers to.

This clause also mentions the use of daily and seasonal tariffs. As noted earlier, there is concern as to whom has authority to use these differentiated tariffs, given that it should fall within the jurisdiction of the GNERC but the GNERC is not mentioned anywhere in the Law. This is especially of concern in light of a similar provision in clause 21, which specifically provides the Ministry of Fuel and Energy with a role in setting tariffs.

Clause 21 – Economic Sanctions for Inefficient Use of Energy Resources

This is one of the most troublesome clauses in the entire law. In addition to specifying yet again the Ministry’s role in imposing economic sanctions, this clause also mentions that enterprises and organizations may be subject to higher tariffs if they use energy inefficiently and that these tariffs will be imposed by the designated subordinate of the Ministry of Fuel and Energy. *This is in clear conflict with the Electricity Law and directly challenges the GNERC’s role in the tariff-setting area.*

Clause 22 – International Cooperation in Energy Saving

This clause is straightforward, indicating the areas in which international cooperation will be sought.

Clause 23 – Informational Promotion of Activities in the Energy Efficiency Area

This clause merely describes the kind of promotional activities that will be used to support energy efficiency; it is non-controversial.

Clause 24 – Responsibilities for Violation of the Energy Efficiency Law

This clause states that persons violating the provisions of the Law shall be liable according to applicable legislation. It is straightforward; the only change may be to specify that persons refers to both natural and legal persons.

Clause 25 – Enactment of the Present Law

This clause simply states that the Law will be enacted upon its publication.

ATTACHMENT 2

DRAFT GEORGIAN LAW ABOUT ENERGY EFFICIENCY

GEORGIAN LAW

ABOUT ENERGY EFFICIENCY

Georgian law about Energy efficiency establishes legal framework for setting up state policy towards increase of efficient energy use, as well as for creation and functioning of institutional, economic and informational mechanisms of this policy.

Article 1. General Provisions

Clause 1. Main Definitions

1. Energy Resources – shall mean energy carrier currently used in country's economy, or could be used in future;
2. Efficient Use of Energy Resources – shall mean economically justified use of energy resources applying the existing level of development of technologies and techniques and taking into consideration environmental impact;
3. Energy Saving – shall mean implementation of legal, organizational, scientific, industrial, technical and economic measures towards efficient use of energy resources;
4. Energy Saving State Policy - shall mean regulation of legal, organizational and economic activity within the energy saving sphere;
5. Standards of Use of Energy Resources – shall mean designed capacity of use of energy resources for purposes of a specific industry, process, production, work or service;
6. Indicator of Energy Efficiency – shall mean absolute or relative value of use or loss of energy resources established for all kinds of production (works, services), set by the state standards, legal regulations, technical data for the operating facilities;

7. Non-Industrial Expenditure of Energy Resources – shall mean expenditure of energy resources caused by deviation from the state standards, legal regulations and technical data;
8. Renewable Energy Resources – shall mean energy potential of solar energy, wind energy, earth heat energy, bio-mass energy, energy of natural currents of waters, as well as the energy of environment with thermal gradient;
9. Secondary Energy Resources – shall mean energy potential of production, wastage, accompanying and interim products, which is produced in technological devices (such as equipment, processes, etc.) and is not used in this facilities, but may be, partly or in whole, used in other facilities;
10. Losses of Energy Resources – shall mean the difference between the amount of energy resources delivered and received, derived by non-economic use of these energy resources while transiting, transporting, converting and using on every stage;
11. Energy Capacity of Production – shall mean amount of energy resources used for a unit of a production, expressed either by volumes of this particular energy resource (for example, kilograms of provisional fuel), or by the share of the used energy resource in the cost of this production unit (for example, % of the cost).
12. Energy Voluminous Production – shall mean a production, cost of which contains significant share of the value of used energy resources;
13. Energy Audit – shall mean an examination of technical and organizational provision of efficient energy use by enterprises or individual technological processes. Such examination to aim at:
 - a. to determine compliance of the enterprise or individual process with the existing legislation and legal regulations and standards;
 - b. to determine a potential for increase of efficient energy use in enterprises and individual processes and recommendations towards realization of this potential.

Clause 2. Legislation about Energy Efficiency

1. Legislation about the Energy Efficiency consists of the present law, international agreement to which Georgia is a party, other legal and sub-legal regulations.

Clause 3. Areas of Application of the Law

1. Objects of legal interrelations within the area of energy efficiency are those, which occur in while implementing the state energy efficiency policy in all the industrial and non-industrial (social) sectors, including:
 - a. production, processing, transportation, storage and use of all kinds of energy resources;
 - b. scientific-research and pilot-design works towards increase of efficient use of energy resources;
 - c. implementation of state supervision and control over the use of energy resources;
 - d. maintenance of information about the control and regulation over energy saving, as well as over the application of new kinds of fuel and energy resources.
2. Subjects of regulation of legal relationships in the energy efficiency area are Natural and Legal Persons involved in the activity directed towards increase of efficient use of energy resources within the objects of legal regulation of energy saving.

Clause 4. Bases of the State Energy Efficiency Policy

1. The State Energy Efficiency Policy assumes:
 - a. formation of the state system governing all the activities directed towards increase of efficient use of energy resources in material production and non-industrial areas;
 - b. elaboration of state standards of efficient use of energy resources, such standards to contain data on use of provisional fuel and energy resources in all the energy voluminous industries and technological processes in the economy, as well as supervision over its maintenance;
 - c. economically justified prioritizing of energy saving before the import or increase of production of such resources;
 - d. use of economic methods of incentives for improvement of efficient energy use;
 - e. material responsibility of consumers of energy resources for irrational use of such energy resources;

Article 3. Bases of State Governing the Energy Efficiency

Clause 5. Main Principles of the State Policy of Energy Efficiency

1. The State policy of energy efficiency shall be enforced by:
 - a. creation of economic and legislative conditions promoting efficient use of energy resources by legal and natural persons on the basis of compatibility of the interests of energy producers, suppliers and consumers, including stimulation of technologies of energy production and use, which increase efficiency of use, control and metering of energy resources;
 - b. elaboration and implementation of state programs and projects on efficient use of renewable energy resources, alternative kinds of fuel and secondary energy resources;
 - c. implementation of pattern projects of significant energy efficiency;
 - d. financial support to the energy efficiency projects and programs by introduction of energy efficiency item in the state budget;
 - e. promotion of economic, informational, educational and other activities in the area of energy saving;
 - f. promotion of international cooperation towards efficient use of energy resources;

Clause 6. Control over the Energy Saving

1. The Ministry of Fuel and Energy of Georgia shall be responsible for state control over the energy saving within the area of energy efficiency. For this purpose the State:
 - a. shall coordinate and promote the state policy of energy saving, energy use and application of non-traditional energy resources;
 - b. finance energy saving projects and programs of social importance, as well as coordinate and control implementation of these projects and programs on intergovernmental and regional level;
 - c. organize state control and supervision over application and promotion of state standards in the efficient use of energy resources.

Clause 7. Implementation of State Control over the Efficient Use of Energy Resources

1. The State energy control shall be conducted for the purposes of promotion of the established standards, regulations and rules of efficient use of energy resources by all natural and legal persons while producing, transporting, processing, storing and consuming energy resources, such control to be subject of applying rules as set out by the existing legislation.
2. Control over the effectiveness of use of energy resources shall be conducted by designated state institution – Department of Energy Supervision and Promotion of Quality, subordinated to the Ministry of Fuel and Energy. The Department shall be responsible for the state supervision over the promotion of requirements of state standards of efficient energy use.

Clause 8. Conduction of State Energy Examination

1. The State energy examination of design documentation of the objects to be constructed, including applied technologies and techniques, shall be conducted by the Ministry of Fuel and Energy. Construction of new objects and reconstruction of the existing ones without approval from the Ministry of Fuel and Energy shall be forbidden.
2. The State energy examination shall be compulsory and shall be conducted in accordance to the existing legislation.
3. Resolution of the State energy examination about energy saving shall serve as a ground of bonuses in tax, credit and other matters, established by the existing legislation.

Clause 9. Energy Audit of Organizations and Enterprises

1. Rules of energy audit shall be determined by the Ministry of Fuel and Energy of Georgia. Such audit is subject to be conducted by duly authorized natural or legal person on the basis of a license issued by the Ministry of Fuel and Energy.
2. Subject to mandatory energy audit are enterprise and organizations, irrespective to their organizational-legislative form, whose annual use of energy resources exceeds the level established by the legal regulations of the Ministry of Fuel and Energy.

3. Among those enterprise and organizations whose annual use of energy resources does not exceed the established level, subject to mandatory energy audit shall be those, whose controlling stake belongs to the government.

Clause 10. Energy Resources Accounting

1. The whole amount of energy resources produced, processed, transported, stored and consumed shall be subject to accounting according to the established standards and regulations of accounting.
2. Accuracy of the information on production and use of energy resources shall be responsibility of management of the enterprises and organizations.
3. Approval of construction of storage facilities, public buildings and residential houses, which consume energy resources over the established standards, shall be forbidden, if such stores, buildings and houses do not assume installation of energy metering, controlling and counting devices.
4. Rules and schedules of equipping such stores, buildings and houses with the energy metering, controlling and counting devices introduced before enactment of the law about Energy Efficiency, shall be responsibility of the Ministry of Fuel and Energy.

Clause 11. State Statistical Observation over the Efficient Use of Energy Resources

1. Organization of statistical observation over the structure and volume, as well as over the efficiency of use of energy resources, shall be responsibility of the Ministry of Fuel and Energy.

Article 3. Standardization. Certification and Metrology in the Area of Energy Saving

Clause 12. Standardization

1. Normative-Technical documentation, including national standards shall be a mean of promotion of energy efficiency of energy production and consumption and energy – voluminous industries.
2. Relevant normative documentation, including state standards, shall contain indicators of efficiency of energy production, processing, conversion, transportation, storage and consumption. as well as indicators of average energy expenditure of processes of heating, illumination, conditioning, water supply, drying and others.

3. Standardization in the energy saving area shall be responsibility of the Ministry of Fuel and Energy.

Clause 13. Standards and Regulations of Losses of Energy Resources

1. Sectoral standards and regulations of losses of energy resources shall be included in the technical documentation of equipment, technical devices, machines and other means of facilities for energy consumption, transportation and distribution.

Clause 14. Certification

1. Energy consuming production of any purpose, as well as energy resources are subject to compulsory certification for relevant indicators of energy efficiency, according to the existing rules.
2. Upon the certification, the relevant technical documentation shall contain the information on compatibility of the energy efficiency of the production and of its standard.
3. Compatibility of the facilities with the state standards in the area of energy consumption shall be approved by mandatory labeling the facilities.

Article 4. Economic and Financial Mechanisms of Energy Efficiency

Clause 15. Economic Measures for Energy Saving

1. Economic measures of stimulation of energy saving shall be directed towards improvement of legislative and scientific-technical activity of efficient energy use by enterprises and organizations. Such measures shall contain:
 - a. determination of mechanisms and rules of financing energy efficiency programs and projects;
 - b. subsidies, loans, tax and charges exemptions and other bonuses to legal and natural persons for promotion of measures of increase energy efficiency;
 - c. application economic sanctions for inefficient use and unjustified expenditure of energy resources.

Clause 16. Financing of Energy Saving Measures

1. Energy saving programs, including scientific researches, pilot-design works, as well as projects developed and approved by the Ministry of Fuel and Energy, shall be financed through the state budget, regional and local budgets, energy saving state and regional funds, as well as through the funds of enterprises and organizations, including those attracted from other sources, within the legislative framework.
2. Rules of financial promotion of energy saving, shall be established by the existing legislation.

Clause 17. Formation of Energy Saving State and Regional Funds

1. Financing the activity towards increase of efficient use of energy resources through the State, regional and local energy saving funds, or through other structures, responsible for enforcement of the state energy efficiency policy, shall be expedient.
2. By-Laws of the State and regional energy saving funds shall be approved by the existing legislation.
3. Sources of formation of energy saving funds may be:
 - a. certain percentage allocated by enterprises and organizations consumers of energy resources, such as natural gas, mazout, diesel, electricity or heat energy, or other types of energy, except for budgetary, communal-residential, social and agricultural enterprises and organizations;
 - b. allocation deriving from the revenues of those regional enterprises, whose consumption of energy resources exceeds established limits;
 - c. State and regional budgetary resources;
 - d. penalties for inefficient use of energy resources by enterprises and organization, imposed by the applicable law;
 - e. purposeful allocations of enterprises and organizations for elaboration and manufacturing energy saving equipment;
 - f. voluntary contributions of natural and legal persons;
 - g. other legal sources.

4. Rules of formation and allocation of the State and regional energy saving funds shall be determined by the existing legislation.

Article 18. Control over the Use of the State and Regional Energy Saving Funds

1. Control over the Use of the State and Regional Energy Saving Funds shall be responsibility of the Ministry of Fuel and Energy of Georgia within the jurisdiction entitled by the government.

Clause 19. Taxation of Enterprises and Organizations Implementing Energy Saving Measures and Manufacturing Energy Saving Production

1. Certain bonuses shall be considered in taxation of enterprises and organizations implementing energy saving measures and manufacturing energy saving production.
2. Such bonuses and exemptions from taxation may be both short and long term.
3. Short term onuses shall only be granted for a period no longer than 1 year. Reasons of granting such bonuses shall be justified by the Ministry of Fuel and Energy in conjunction with the Ministry of Finance.
4. Long term bonuses shall be for indefinite period. Reasons of revocation of such bonuses shall be violation of the state standards and regulations.
5. Profit tax rate may be reduced for:
 - a. enterprises manufacturing energy saving equipment, technologies and technique, serving the purposes of increase of efficient use of energy, at a level proportionate to the expenses carried towards manufacturing, introduction and use of energy saving techniques, technologies and equipment;
 - b. enterprises using energy saving technique, technologies and equipment, serving the purposes of increase of efficient use of energy, at a level proportionate to the expenses carried towards purchase and introduction such technique, technologies and equipment;
 - c. enterprises, ordering works towards increase of energy saving compared to the existing standard (including general repair of buildings), at a level proportionate to the expenses towards energy saving measures;

- d. enterprises conducting scientific-research and pilot-design works towards efficient use of energy resources, at a level proportionate to the expenses towards conduction of such works, given that a relevant documentation, issued by duly authorized state officer, and justifying energy efficiency of the measures to be conducted, is available.
6. Revenues, directed to establishment the enterprises manufacturing advanced pilot energy saving equipment, shall not be liable to taxation.
7. VAT tax shall not be imposed to the producers and consumers whose level of efficient use of energy resources exceeds the established standards.

Clause 20. Stimulation of Energy Saving

1. Stimulation of increase of efficient use of energy resources shall be conducted according to the existing legislation, including;
 - a. allocation of short-term and long-term bonus credits. Difference deriving from refinancing interest and actual interest paid shall be covered by the state and regional energy saving funds;
 - b. grants from the funds for socially important projects. maximum level of such grants shall be determined by the existing legislation;
 - c. exemptions from construction and operation licensing for low-capacity energy-producing facilities, which use certified (energy efficiency-wise) energy installations, given that the capacity of such facilities is lower than the level established by the legislation;
 - d. setting daily and seasonal varied tariffs for the energy resources consumed;
 - e. consideration of portions of energy saving measures in the costs of energy resources, including capital expenses for energy equipment using renewable energy resources or secondary energy resources and installation/construction of which is conducted within the frameworks of the state policy of increase of efficient energy use;
 - f. exemptions to energy using legal persons from refunding of the expenses carried by energy suppliers because of reduction of energy use as a result of implementation of energy saving measures by consumers;

- g. establishing increase levels of depreciation for energy saving equipment, materials, devices for energy accounting ,metering, control and regulation, list of which is to be prepared and approved by the state body responsible for energy saving control;
- h. State support to implementation of energy saving projects and programs;
- i. central and local governmental guarantees to investors allocating funds for energy saving measures by enterprises and organizations, within the limits set by the state funds for energy saving measures;
- j. tax exempts for imported equipment and other devices which have no analogues in national manufacturing, to be used for purposes of realization of the state and regional programs.

Clause 21. Economic Sanctions for Inefficient Use of Energy Resources

- 1. Economic sanctions may be imposed to enterprises and organizations inefficiently using energy resources.
- 2. Ground for imposing economic sanctions may derive from non-industrial use of energy resources, manufacturing of economically inefficient equipment and materials.
- 3. Economic sanctions shall be imposed and controlled by the Ministry of Fuel and Energy through its subordinate –designated body and in accordance with the existing legislation.
- 4. Enterprises, institutions and organizations, irrespective to their organizational-legislative for, inefficiently using energy resources, may be liable to increased tariffs for energy consumption, imposed by duly authorized bodies through the designated subordinate of the Ministry of Fuel and Energy.

Article 5. International Cooperation in Energy Saving

Clause 22. International Cooperation in Energy Saving

- 1. The main directions of international cooperation in energy saving shall be:
 - a. mutually profitable exchange of energy efficient technologies with foreign and international organizations;
 - b. participation in international projects on energy saving;

- c. compliance of the state energy efficiency standards with international ones, as well as bi-lateral recognition of the results of certification.
2. If the rules set by international treaties to which Georgia is a party, differ than those set by the state legislation, the international rules shall apply.

Article 6. Informational Promotion of Activities in the Energy Efficiency Area

Clause 23. Informational Promotion of Activities in the Energy Efficiency Area

1. Propagation of efficient use of energy resources shall be conducted by means as follows:
 - a. processing and publication of statistical data on energy saving within the economic and non-industrial sectors;
 - b. delivery of information to energy consumers, including distribution of legislative-regulatory documentation on energy saving, e.g. by means of specialized publications devoted to energy saving;
 - c. organizing exhibitions of energy saving equipment and technologies;
 - d. realization of sample projects of energy efficiency with the purpose of introduction of world-wide achievements in energy saving matters;
 - e. educational campaigns towards the bases of energy efficiency, including renewable energy resources, alternative types of fuel, according to the existing legislation.

Article 7. Responsibilities for Violation of Energy Efficiency Law

Clause 24. Responsibilities for Violation of Energy Efficiency Law

1. Persons violating the provisions of the present law shall be liable according to the applicable legislation.

Article 8. Conclusive Provisions

Clause 25. Enactment of the Present Law

1. The present law shall be enacted upon the publication.