

**ASSEMBLY BILL**

**No. 2561**

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**Introduced by Assembly Members Villines and Fuentes**

February 19, 2010

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An act to amend Section 1250.310 of the Code of Civil Procedure, to amend Section 14074 of the Corporations Code, to repeal Sections 17925 and 41304 of, and to repeal Part 10.7 (commencing with Section 17910) of Division 1 of Title 1 of, the Education Code, to amend Sections 32940 and 32942 of the Financial Code, to amend Sections 9100 and 9101 of the Fish and Game Code, to amend Sections 11041, 11550, 11553, 11553.5, 12802.5, 12805, 14450, 14684, 14684.1, 15814.22, 15814.23, 15814.30, 15814.34, 16366.2, 16366.35, 16366.6, 16366.7, 66645, and 66646 of, to amend and renumber Section 15814.25 of, to amend, repeal, and add Sections 12730, 16367.5, and 16367.6 of, to repeal Sections 16366.3, 16366.4, 16366.5, 16366.8, 16366.9, 16367.61, 16367.65, 16367.7, and 16367.8 of, and to repeal and add Section 16366.1 of, the Government Code, to amend Sections 3808, 3810, 3822, 3822.1, 3822.2, 4799.16, 6815.2, 14584, 25000.1, 25005.5, 25104, 25106, 25205, 25207, 25209, 25210, 25211, 25212, 25213, 25214, 25215, 25216, 25216.3, 25216.5, 25217.1, 25218, 25218.5, 25220, 25221, 25222, 25223, 25224, 25225, 25226, 25301, 25302, 25303, 25304, 25305, 25305.5, 25306, 25310, 25320, 25321, 25322, 25323, 25324, 25331, 25332, 25333, 25334, 25335, 25336, 25337, 25338, 25339, 25340, 25341, 25354, 25356, 25357, 25358, 25362, 25364, 25366, 25400, 25401, 25401.2, 25401.5, 25401.6, 25401.7, 25401.9, 25402, 25402.1, 25402.2, 25402.3, 25402.4, 25402.5, 25402.5.4, 25402.6, 25402.7, 25402.8, 25402.9, 25403, 25403.5, 25403.8, 25404, 25405.5, 25405.6, 25410.5, 25410.6, 25412, 25413, 25414, 25415, 25416, 25417, 25417.5, 25419, 25420, 25422, 25426, 25433, 25433.5, 25434, 25434.5, 25441, 25442, 25442.5, 25442.7,

25443, 25443.5, 25445, 25449, 25449.1, 25449.2, 25449.3, 25449.4, 25450, 25450.1, 25450.3, 25450.4, 25450.5, 25460, 25461, 25462, 25463, 25470, 25471, 25472, 25473, 25474, 25494, 25495, 25496, 25500, 25500.5, 25501, 25501.7, 25502, 25502.3, 25504, 25504.5, 25505, 25506, 25506.5, 25507, 25508, 25509, 25509.5, 25510, 25511, 25512, 25513, 25513.3, 25514, 25514.3, 25514.5, 25516, 25516.1, 25516.5, 25516.6, 25517, 25518, 25519, 25520, 25520.5, 25521, 25522, 25523, 25524.1, 25524.2, 25524.5, 25525, 25526, 25527, 25528, 25529, 25530, 25531, 25532, 25534, 25534.1, 25534.2, 25537, 25538, 25539, 25540, 25540.1, 25540.2, 25540.3, 25540.4, 25540.5, 25540.6, 25541, 25541.5, 25542, 25543, 25601, 25602, 25603, 25605, 25605.5, 25608, 25609, 25609.5, 25610, 25616, 25617, 25618, 25620, 25620.1, 25620.2, 25620.3, 25620.4, 25620.5, 25620.6, 25620.7, 25620.8, 25620.11, 25630, 25650, 25678, 25679, 25696, 25696.5, 25697, 25700, 25701, 25702, 25703, 25704, 25705, 25720, 25721, 25722, 25722.5, 25722.6, 25722.7, 25723, 25740.5, 25741, 25742, 25743, 25744, 25744.5, 25747, 25748, 25751, 25770, 25771, 25772, 25773, 25782, 25783, 25784, 25802, 25803, 25806, 25900, 25901, 25902, 25910, 25911, 25912, 25942, 25943, 25960, 25961, 25962, 25963, 25964, 25965, 25967, 25968, 26004, 26011.5, 26011.6, and 30404 of, to amend the heading of Chapter 3 (commencing with Section 25200) of Division 15 of, to amend and repeal Section 25449 of, to add Sections 3806.5, 25104.1, 25104.2, 25205.5, 25207.5, 25219, 25544, and 25545 to, to add Chapter 3.5 (commencing with Section 25227) to Division 15 of, to add Chapter 5.10 (commencing with Section 25499) to Division 15 of, to repeal Sections 3805.5, 25217, 25217.5, and 25603.5 of, to repeal Article 3 (commencing with Section 25435) of Chapter 5.3 of Division 15 of, and to repeal and add Sections 25200, 25201, 25202, 25203, 25204, and 25206 of, the Public Resources Code, to amend Sections 348, 352, 384, 398.3, 398.5, 399.2.5, 399.8, 399.11, 399.12, 399.12.5, 399.13, 399.15, 399.16, 399.17, 454.5, 464, 848.1, 1822, 2774.6, 2827, and 9502 of, to add Sections 322, 345.1, 345.2, and 411 to, to repeal Sections 346, 350, 360, and 365 of, to repeal Article 2 (commencing with Section 334) of Chapter 2.3 of Part 1 of Division 1 of, and to repeal Division 1.5 (commencing with Section 3300) of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2561, as introduced, Villines. Energy: commission and department.

(1) Existing law establishes the State Energy Resources Conservation and Development Commission and the Electricity Oversight Board with jurisdiction related to energy matters. Existing law also provides the Office of Planning and Research, the Department of General Services, and the Office of the State Architect with jurisdiction over certain energy-related matters.

This bill would abolish the State Energy Resources and Conservation Commission and the Electricity Oversight Board. The bill would create the Department of Energy, headed by a Secretary of Energy, and would create the California Energy Board and the Office of Energy Market Oversight within the department. The bill would provide for the creation of various divisions and subdivisions as deemed necessary by the secretary. The secretary would be appointed by, and hold office at the pleasure of, the Governor, subject to confirmation by the Senate. The bill would require the Governor to appoint the initial secretary by January 31, 2011. The bill would authorize the Governor to appoint an Assistant Secretary of Energy who would serve at the pleasure of the Governor. The bill would require the department to create a legal subcommittee comprised of specified members to develop a single statewide position on litigation concerning energy matters.

The bill would provide that the California Energy Board consists of the following members: the Secretary of Energy who would be the chair of the board, 4 members of the public with qualifications, as specified, appointed by the Governor and subject to confirmation by the Senate, the Secretary of the Natural Resources Agency, and the President of the California Public Utilities Commission. The Secretary of the Natural Resources Agency and the President of the California Public Utilities Commission would serve as ex officio, nonvoting members of the board. The bill would specify that the public members shall serve for a term of 4 years. The bill would require the board to nominate for appointment by the Governor a public adviser to the board who would serve for a 3-year term and may be removed upon the joint concurrence of 4 board members and the Governor.

The bill would vest the Office of Energy Market Oversight with the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Electricity Oversight Board and add to the functions of the office.

The bill would vest the new department and the California Energy Board with the powers, duties, responsibilities, obligations, liabilities, jurisdiction, and rights and privileges of the State Energy Resources Conservation and Development Commission, as specified.

The bill would also transfer jurisdiction of certain energy-related matters from the Office of Planning and Research, the Department of General Services, and the Office of the State Architect to the Department of Energy or the California Energy Commission, as specified.

(2) Existing law requires the Department of Community Services and Development to administer federal funds for programs to provide energy assistance to qualified low-income households and to administer the community services block grant program.

This bill would transfer the above-described duties and responsibilities of the Department of Community Services and Development, on and after January 1, 2013, to the Department of Energy.

(3) Existing law established the Katz Safe Schoolbus Clean Fuel Efficiency Demonstration Program to assist local educational agencies in replacing older schoolbuses with schoolbuses meeting federal safety standards that operate with greater efficiency and fewer adverse air emissions.

This bill would repeal this program.

(4) Existing law establishes the Small Business Energy Efficient Refrigeration Program and the State Solar Medallion Passive Design Competition.

This bill would repeal the program and competition.

(5) The California Consumer Power and Conservation Financing Authority Act establishes the California Consumer Power and Conservation Financing Authority and authorizes the authority to take various actions related to the generation and transmission of electricity and renewable energy, energy efficiency, and conservation programs.

This bill would repeal that act.

(6) The bill would make conforming changes in existing law.

(7) The bill would provide that the provisions of the bill are severable.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1250.310 of the Code of Civil Procedure  
2 is amended to read:

1 1250.310. The complaint shall contain all of the following:

2 (a) The names of all plaintiffs and defendants.

3 (b) A description of the property sought to be taken. The  
4 description may, but is not required to, indicate the nature or extent  
5 of the interest of the defendant in the property.

6 (c) If the plaintiff claims an interest in the property sought to  
7 be taken, the nature and extent of ~~such~~ *the* interest.

8 (d) A statement of the right of the plaintiff to take by eminent  
9 domain the property described in the complaint. The statement  
10 shall include:

11 (1) A general statement of the public use for which the property  
12 is to be taken.

13 (2) An allegation of the necessity for the taking as required by  
14 Section 1240.030; where the plaintiff is a public entity, a reference  
15 to its resolution of necessity; where the plaintiff is a quasi-public  
16 entity within the meaning of Section 1245.320, a reference to the  
17 resolution adopted pursuant to Article 3 (commencing with Section  
18 1245.310) of Chapter 4; where the plaintiff is a nonprofit hospital,  
19 a reference to the certificate required by Section 1260 of the Health  
20 and Safety Code; where the plaintiff is a public utility and relies  
21 on a certification of the ~~State California Energy Resources~~  
22 ~~Conservation and Development Commission Board~~ or a  
23 requirement of ~~that commission that~~ *the California Energy Board*  
24 *that* development rights be acquired, a reference to ~~such that~~  
25 certification or requirement.

26 (3) A reference to the statute that authorizes the plaintiff to  
27 acquire the property by eminent domain. Specification of the  
28 statutory authority may be in the alternative and may be  
29 inconsistent.

30 (e) A map or diagram portraying as far as practicable the  
31 property described in the complaint and showing its location in  
32 relation to the project for which it is to be taken.

33 SEC. 2. Section 14074 of the Corporations Code is amended  
34 to read:

35 14074. The agency shall enter into an agreement with the  
36 ~~California Energy Extension Service Department of the Office of~~  
37 ~~Planning and Research Energy~~ to assist small business owners in  
38 reducing their energy costs through low interest loans and by  
39 providing assistance and information.

1 SEC. 3. Part 10.7 (commencing with Section 17910) of  
2 Division 1 of Title 1 of the Education Code is repealed.

3 SEC. 4. Section 17925 of the Education Code is repealed.

4 ~~17925. Prior to distributing any state funds pursuant to this~~  
5 ~~part, the Superintendent of Public Instruction shall consult with~~  
6 ~~the State Energy Resources Conservation and Development~~  
7 ~~Commission to avoid duplication or overlap with appropriations~~  
8 ~~from the Katz Schoolbus Fund, created pursuant to Section 17911.~~

9 SEC. 5. Section 41304 of the Education Code is repealed.

10 ~~41304. (a) There is appropriated annually from the Driver~~  
11 ~~Training Penalty Assessment Fund to the General Fund in the State~~  
12 ~~Treasury and from the General Fund to the California Energy~~  
13 ~~Extension Service of the Office of Planning and Research a sum~~  
14 ~~as necessary to establish and maintain a unit for driver instruction~~  
15 ~~within the State Department of Education as set forth in Section~~  
16 ~~41904.~~

17 ~~(b) In addition, subject to Section 41305, there shall be~~  
18 ~~appropriated from the Driver Training Penalty Assessment Fund~~  
19 ~~to the General Fund, then to the State School Fund each fiscal~~  
20 ~~year, the sum the Superintendent of Public Instruction certifies as~~  
21 ~~necessary to reimburse on a quarterly basis for each current fiscal~~  
22 ~~year school districts, county superintendents of schools, the~~  
23 ~~Department of the Youth Authority, and the State Department of~~  
24 ~~Education for the actual cost of instructing pupils in the operation~~  
25 ~~of motor vehicles.~~

26 ~~The amount shall not exceed ninety-seven dollars (\$97) per pupil~~  
27 ~~instructed in the laboratory phase of driver education in accordance~~  
28 ~~with the rules and regulations of the State Board of Education.~~

29 ~~(c) Subject to Section 41305, there shall also be appropriated~~  
30 ~~from the Driver Training Penalty Assessment Fund the sum the~~  
31 ~~Superintendent of Public Instruction shall certify as necessary to~~  
32 ~~reimburse on a quarterly basis for each current fiscal year school~~  
33 ~~districts, county superintendents of schools, the Department of the~~  
34 ~~Youth Authority, and the State Department of Education for the~~  
35 ~~actual cost of replacing vehicles and simulators used exclusively~~  
36 ~~in the laboratory phase of driver education programs, but the~~  
37 ~~amount shall not exceed three-fourths of that part of the actual cost~~  
38 ~~of instructing pupils in the laboratory phase of driver education~~  
39 ~~which is: (1) in excess of ninety-seven dollars (\$97) per pupil~~  
40 ~~instructed, and (2) expended by the district, the county~~

1 superintendent of schools, the Department of the Youth Authority,  
2 and the State Department of Education in replacing the vehicles  
3 and simulators. Reimbursement for vehicles shall be computed for  
4 only that portion of the total mileage used exclusively in the  
5 laboratory phase of driver education programs.

6 ~~(d) In addition, subject to Section 41305, there shall be provided~~  
7 ~~from the Petroleum Violation Escrow Account to the General~~  
8 ~~Fund, then to the State School Fund each fiscal year the sum the~~  
9 ~~Superintendent of Public Instruction certifies as necessary to~~  
10 ~~reimburse on a quarterly basis for each current fiscal year school~~  
11 ~~districts, county superintendents of schools, the Department of the~~  
12 ~~Youth Authority, and the State Department of Education for the~~  
13 ~~costs of fitting automobile driver training vehicles with the~~  
14 ~~instrumentation required under Section 51854 and to reimburse~~  
15 ~~on a quarterly basis for each current fiscal year school districts for~~  
16 ~~the costs of transferring instrumentation providing instructional~~  
17 ~~information on fuel consumption and vehicle fuel efficiency from~~  
18 ~~one automobile driver training vehicle to another under Section~~  
19 ~~51854.~~

20 ~~(e) In addition, subject to Section 41305, there shall be~~  
21 ~~appropriated from the Petroleum Violation Escrow Account to the~~  
22 ~~Driver Training Penalty Assessment Fund and from the Driver~~  
23 ~~Training Penalty Assessment Fund to the General Fund, then to~~  
24 ~~the Superintendent of Public Instruction each fiscal year the sum~~  
25 ~~the Superintendent of Public Instruction certifies as necessary to~~  
26 ~~reimburse on a quarterly basis for each current fiscal year the State~~  
27 ~~Department of Education for the costs of workshops conducted~~  
28 ~~by the department under Section 51854.~~

29 ~~(f) For purposes of computing reimbursement, whenever a~~  
30 ~~school district, a county superintendent of schools, the Department~~  
31 ~~of the Youth Authority, or the State Department of Education~~  
32 ~~replaces a driver training vehicle or simulator purchased by the~~  
33 ~~district with a vehicle or simulator that is a gift or loan, the~~  
34 ~~purchase price of the new or acquired equipment shall be deemed~~  
35 ~~to be the market value of the vehicle or simulator acquired through~~  
36 ~~a gift or loan.~~

37 ~~A simulator is any device approved by the State Department of~~  
38 ~~Education to be used in classrooms for purposes of laboratory~~  
39 ~~instruction under simulated driving conditions.~~

1 SEC. 6. Section 32940 of the Financial Code is amended to  
 2 read:

3 32940. Guidelines for approving loan applications shall be  
 4 developed by the board on or before May 1, 1987. In developing  
 5 those guidelines, the board shall incorporate the recommendations  
 6 adopted by the ~~California Department of Energy Commission~~ with  
 7 respect to technical criteria ~~which~~ *that* are to be applied to projects  
 8 receiving loans from the corporation pursuant to this chapter. The  
 9 corporation may contract with the *Department of Energy*  
 10 ~~Commission~~ for the purpose of developing technical guidelines.

11 SEC. 7. Section 32942 of the Financial Code is amended to  
 12 read:

13 32942. Loans shall be approved according to criteria established  
 14 by a credit committee, chaired by the chief financial officer of the  
 15 corporation or that officer's designee. The other members of the  
 16 committee shall be the member of the board appointed by the  
 17 *Department of Energy Commission* and the corporate president.

18 SEC. 8. Section 9100 of the Fish and Game Code is amended  
 19 to read:

20 9100. ~~The California Energy Extension Service Department~~  
 21 ~~of the Office of Planning and Research Energy~~ shall implement a  
 22 revolving loan fund program to assist low-income fishing fleet  
 23 operators reduce their energy costs and conserve fuel by providing  
 24 low-interest loans to those operators.

25 SEC. 9. Section 9101 of the Fish and Game Code is amended  
 26 to read:

27 9101. Commencing January 1, 1994, and thereafter biennially,  
 28 ~~the California Energy Extension Service Department of the Office~~  
 29 ~~of Planning and Research Energy~~ shall report to the Legislature  
 30 on the status of the loan program, including the number and the  
 31 amounts of loans made, the amount of loans repaid, and a  
 32 comparison of the ethnic background of the loan recipients with  
 33 the ethnic background of the low-income fishing fleet operators.

34 SEC. 10. Section 11041 of the Government Code is amended  
 35 to read:

36 11041. (a) Sections 11042 and 11043 do not apply to the  
 37 Regents of the University of California, the Trustees of the  
 38 California State University, Legal Division of the Department of  
 39 Transportation, Division of Labor Standards Enforcement of the  
 40 Department of Industrial Relations, Workers' Compensation

1 Appeals Board, Public Utilities Commission, *Department of*  
2 *Energy*, State Compensation Insurance Fund, Legislative Counsel  
3 Bureau, Inheritance Tax Department, Secretary of State, State  
4 Lands Commission, Alcoholic Beverage Control Appeals Board  
5 (except when the board affirms the decision of the Department of  
6 Alcoholic Beverage Control), State Department of Education, and  
7 Treasurer with respect to bonds, nor to any other state agency  
8 which, by law enacted after Chapter 213 of the Statutes of 1933,  
9 is authorized to employ legal counsel.

10 (b) The Trustees of the California State University shall pay the  
11 cost of employing legal counsel from their existing resources.

12 SEC. 11. Section 11550 of the Government Code is amended  
13 to read:

14 11550. (a) Effective January 1, 1988, an annual salary of  
15 ninety-one thousand fifty-four dollars (\$91,054) shall be paid to  
16 each of the following:

- 17 (1) Director of Finance.
- 18 (2) Secretary of Business, Transportation and Housing.
- 19 (3) Secretary of the Resources Agency.
- 20 (4) Secretary of California Health and Human Services.
- 21 (5) Secretary of State and Consumer Services.
- 22 (6) Commissioner of the California Highway Patrol.
- 23 (7) Secretary of the Department of Corrections and  
24 Rehabilitation.
- 25 (8) Secretary of Food and Agriculture.
- 26 (9) Secretary of Veterans Affairs.
- 27 (10) Secretary of Labor and Workforce Development.
- 28 (11) State Chief Information Officer.
- 29 (12) Secretary for Environmental Protection.
- 30 (13) Secretary of California Emergency Management.
- 31 (14) *Secretary of Energy.*

32 (b) The annual compensation provided by this section shall be  
33 increased in any fiscal year in which a general salary increase is  
34 provided for state employees. The amount of the increase provided  
35 by this section shall be comparable to, but shall not exceed, the  
36 percentage of the general salary increases provided for state  
37 employees during that fiscal year.

38 SEC. 12. Section 11553 of the Government Code is amended  
39 to read:

1 11553. (a) Effective January 1, 1988, an annual salary of  
2 eighty-one thousand six hundred thirty-five dollars (\$81,635) shall  
3 be paid to each of the following:

- 4 (1) Chairperson of the Unemployment Insurance Appeals Board.
- 5 (2) Chairperson of the Agricultural Labor Relations Board.
- 6 (3) President of the Public Utilities Commission.
- 7 (4) Chairperson of the Fair Political Practices Commission.
- 8 (5) Chairperson of the ~~Energy Resources Conservation and~~  
9 ~~Development Commission.~~ *Public Employment Relations Board.*
- 10 ~~(6) Chairperson of the Public Employment Relations Board.~~
- 11 ~~(7)~~
- 12 (6) Chairperson of the Workers' Compensation Appeals Board.
- 13 ~~(8)~~
- 14 (7) Administrative Director of the Division of Industrial  
15 Accidents.

- 16 ~~(9)~~
- 17 (8) Chairperson of the State Water Resources Control Board.
- 18 (b) The annual compensation provided by this section shall be  
19 increased in any fiscal year in which a general salary increase is  
20 provided for state employees. The amount of the increase provided  
21 by this section shall be comparable to, but shall not exceed, the  
22 percentage of the general salary increases provided for state  
23 employees during that fiscal year.

24 (c) Notwithstanding subdivision (b), any salary increase is  
25 subject to Section 11565.5.

26 SEC. 13. Section 11553.5 of the Government Code is amended  
27 to read:

28 11553.5. (a) Effective January 1, 1988, an annual salary of  
29 seventy-nine thousand one hundred twenty-two dollars (\$79,122)  
30 shall be paid to the following:

- 31 (1) Member of the Agricultural Labor Relations Board.
- 32 (2) Member of the ~~State California Energy Resources~~  
33 ~~Conservation and Development Commission.~~ *Board.*
- 34 (3) Member of the Public Utilities Commission.
- 35 (4) Member of the Public Employment Relations Board.
- 36 (5) Member of the Unemployment Insurance Appeals Board.
- 37 (6) Member of the Workers' Compensation Appeals Board.
- 38 (7) Member of the State Water Resources Control Board.

39 (b) The annual compensation provided by this section shall be  
40 increased in any fiscal year in which a general salary increase is

1 provided for state employees. The amount of the increase provided  
2 by this section shall be comparable to, but shall not exceed, the  
3 percentage of the general cost-of-living salary increases provided  
4 for state employees during that fiscal year.

5 (c) Notwithstanding subdivision (b), any salary increase is  
6 subject to Section 11565.5.

7 SEC. 14. Section 12730 of the Government Code is amended  
8 to read:

9 12730. For the purposes of this chapter, the following  
10 definitions apply:

11 (a) “Community Services Block Grant” refers to the federal  
12 funds and program established by the federal Community Services  
13 Block Grant Program in the Omnibus Budget Reconciliation Act  
14 of 1981, as contained in Public Law 97-35, as that law has been  
15 amended from time to time and as currently codified as Section  
16 9901 et seq. of Title 42 of the United States Code.

17 (b) “Contract” means the written document incorporating the  
18 terms and conditions under which the department agrees to provide  
19 financial assistance to an eligible entity. Upon its cosigning by  
20 authorized agents of the department and the eligible entity, and  
21 subsequent approval by the Department of General Services  
22 pursuant to Section 10295 of the Public Contract Code, a contract  
23 shall be deemed to be valid and enforceable.

24 (c) “Director” means the Director of Community Services and  
25 Development.

26 (d) “Delegate agency” or “subcontractor” means a private  
27 nonprofit organization or public agency that operates one or more  
28 projects funded under this chapter pursuant to a contractual  
29 agreement with an eligible entity.

30 (e) “Department” means the Department of Community Services  
31 and Development established pursuant to Article 8 (commencing  
32 with Section 12085) of Chapter 1.

33 (f) “Designation” means the formal selection of a proposed  
34 community action agency by the director, as provided in Section  
35 12750.1.

36 (g) “Eligible entity” means an agency or organization, as defined  
37 in Section 9902 of Title 42 of the United States Code, as amended,  
38 and may include a private nonprofit organization or public agency  
39 that operates one or more projects funded under this chapter  
40 pursuant to a contract with the department.

1 (h) “Eligible beneficiaries” means all of the following:

2 (1) All individuals living in households with incomes not to  
3 exceed the official poverty line according to the poverty guidelines  
4 updated periodically in the Federal Register by the United States  
5 Department of Health and Human Services, as defined in Section  
6 9902 of Title 42 of the United States Code, as amended.

7 (2) All individuals eligible to receive Temporary Assistance for  
8 Needy Families under the state’s plan approved under Public Law  
9 104-193, the Personal Responsibility and Work Opportunity  
10 Reconciliation Act of 1996, and (Chapter 2 (commencing with  
11 Section 11200) of Part 3 of Division 9 of the Welfare and  
12 Institutions Code) or assistance under Part A of Title IV of the  
13 Social Security Act (42 U.S.C. Sec. 601 et seq.).

14 (3) Residents of a target area or members of a target group  
15 having a measurably high incidence of poverty and that is the  
16 specific focus of a project financed under this chapter.

17 (i) “Financial assistance” means money provided by the  
18 department to an eligible entity, pursuant to an approved contract,  
19 in order to enable the eligible entity to accomplish its planned and  
20 approved work program.

21 (j) “Political subdivision” shall generally be deemed to mean  
22 county government, with the following exceptions:

23 (1) In any county that, prior to October 1, 1981, had more than  
24 one designated community action agency, each unit of local  
25 government that contained a designated community action agency  
26 shall continue to operate as a “political subdivision” under this  
27 chapter.

28 (2) Any county having fewer than 50,000 population according  
29 to the most recent census available may be deemed by the  
30 department to be part of a larger “political subdivision” comprising  
31 two or more counties if the department determines that to do so  
32 would best serve the purposes of this chapter, and may participate  
33 in the designation process for a multicounty community action  
34 agency.

35 (k) “Secretary” means the Secretary of the United States  
36 Department of Health and Human Services.

37 (l) “Standards of effectiveness” are the general standards,  
38 derived from the purposes of this chapter and the assurances and  
39 certifications made by the state to the secretary in the state plan,  
40 as further stated in subdivision (g) of Section 12745, and as they

1 may be more specifically defined in regulation, toward which all  
2 programs and projects funded under this chapter shall be directed  
3 and against which they will be assessed.

4 (m) “State plan” means the plan required to be submitted to the  
5 secretary to secure California’s allotment of Community Services  
6 Block Grant funds, which shall be prepared and reviewed pursuant  
7 to the requirements of this chapter.

8 (n) “Uncapped area” means any county or portion of a county  
9 for which no community action agency has been designated and  
10 recognized.

11 (o) *This section shall remain in effect only until January 1,*  
12 *2013, and as of that date is repealed, unless a later enacted statute,*  
13 *that is enacted before January 1, 2013, deletes or extends that*  
14 *date.*

15 SEC. 15. Section 12730 is added to the Government Code, to  
16 read:

17 12730. For the purposes of this chapter, the following  
18 definitions apply:

19 (a) “Community Services Block Grant” refers to the federal  
20 funds and program established by the federal Community Services  
21 Block Grant Program in the Omnibus Budget Reconciliation Act  
22 of 1981, as contained in Public Law 97-35, as that law has been  
23 amended from time to time and as currently codified as Section  
24 9901 et seq. of Title 42 of the United States Code.

25 (b) “Contract” means the written document incorporating the  
26 terms and conditions under which the department agrees to provide  
27 financial assistance to an eligible entity. Upon its cosigning by  
28 authorized agents of the department and the eligible entity, and  
29 subsequent approval by the Department of General Services  
30 pursuant to Section 10295 of the Public Contract Code, a contract  
31 shall be deemed to be valid and enforceable.

32 (c) “Director” means the person who is delegated signatory  
33 authority for the Community Service Block Grant by the Governor  
34 as reflected in the California Community Services Block Grant  
35 State Plan.

36 (d) “Delegate agency” or “subcontractor” means a private  
37 nonprofit organization or public agency that operates one or more  
38 projects funded under this chapter pursuant to a contractual  
39 agreement with an eligible entity.

1 (e) “Department” means the Department of Energy established  
2 pursuant to Section 25200 of the Public Resources Code.

3 (f) “Designation” means the formal selection of a proposed  
4 community action agency by the director, as provided in Section  
5 12750.1.

6 (g) “Eligible entity” means an agency or organization, as defined  
7 in Section 9902 of Title 42 of the United States Code, as amended,  
8 and may include a private nonprofit organization or public agency  
9 that operates one or more projects funded under this chapter  
10 pursuant to a contract with the department.

11 (h) “Eligible beneficiaries” means all of the following:

12 (1) All individuals living in households with incomes not to  
13 exceed the official poverty line according to the poverty guidelines  
14 updated periodically in the Federal Register by the United States  
15 Department of Health and Human Services, as defined in Section  
16 9902 of Title 42 of the United States Code, as amended.

17 (2) All individuals eligible to receive Temporary Assistance for  
18 Needy Families under the state’s plan approved under Public Law  
19 104-193, the Personal Responsibility and Work Opportunity  
20 Reconciliation Act of 1996, and (Chapter 2 (commencing with  
21 Section 11200) of Part 3 of Division 9 of the Welfare and  
22 Institutions Code) or assistance under Part A of Title IV of the  
23 Social Security Act (42 U.S.C. Sec. 601 et seq.).

24 (3) Residents of a target area or members of a target group  
25 having a measurably high incidence of poverty and that is the  
26 specific focus of a project financed under this chapter.

27 (i) “Financial assistance” means money provided by the  
28 department to an eligible entity, pursuant to an approved contract,  
29 in order to enable the eligible entity to accomplish its planned and  
30 approved work program.

31 (j) “Political subdivision” shall generally be deemed to mean  
32 county government, with the following exceptions:

33 (1) In any county that, prior to October 1, 1981, had more than  
34 one designated community action agency, each unit of local  
35 government that contained a designated community action agency  
36 shall continue to operate as a “political subdivision” under this  
37 chapter.

38 (2) Any county having fewer than 50,000 population according  
39 to the most recent census available may be deemed by the  
40 department to be part of a larger “political subdivision” comprising

1 two or more counties if the department determines that to do so  
2 would best serve the purposes of this chapter, and may participate  
3 in the designation process for a multicounty community action  
4 agency.

5 (k) “Secretary” means the Secretary of the United States  
6 Department of Health and Human Services.

7 (l) “Standards of effectiveness” are the general standards,  
8 derived from the purposes of this chapter and the assurances and  
9 certifications made by the state to the secretary in the state plan,  
10 as further stated in subdivision (g) of Section 12745, and as they  
11 may be more specifically defined in regulation, toward which all  
12 programs and projects funded under this chapter shall be directed  
13 and against which they will be assessed.

14 (m) “State plan” means the plan required to be submitted to the  
15 secretary to secure California’s allotment of Community Services  
16 Block Grant funds, which shall be prepared and reviewed pursuant  
17 to the requirements of this chapter.

18 (n) “Uncapped area” means any county or portion of a county  
19 for which no community action agency has been designated and  
20 recognized.

21 (o) This section shall become operative on January 1, 2013.

22 SEC. 16. Section 12802.5 of the Government Code is amended  
23 to read:

24 12802.5. The Governor may, with respect to the Resources  
25 Agency, appoint ~~an Assistant~~ *a Deputy* Secretary for Energy  
26 Matters who may serve as Secretary ~~for~~ *of the Natural* Resources  
27 designee on the ~~California Energy Resources Conservation Board~~  
28 and ~~Development Commission~~ and an Assistant Secretary for  
29 Coastal Matters who may serve as Secretary ~~for~~ *of the Natural*  
30 Resources designee on the State Coastal Commission.

31 SEC. 17. Section 12805 of the Government Code is amended  
32 to read:

33 12805. (a) The Resources Agency is hereby renamed the  
34 Natural Resources Agency. The Natural Resources Agency consists  
35 of the departments of Forestry and Fire Protection, Conservation,  
36 Fish and Game, Boating and Waterways, Parks and Recreation,  
37 Resources Recycling and Recovery, and Water Resources; the  
38 State Lands Commission; the Colorado River Board; the San  
39 Francisco Bay Conservation and Development Commission; the  
40 Central Valley Flood Protection Board; the ~~Energy Resources~~

1 ~~Conservation and Development Commission; the Wildlife~~  
2 ~~Conservation Board; the Delta Protection Commission; the Native~~  
3 ~~American Heritage Commission; the California Conservation~~  
4 ~~Corps; the California Coastal Commission; the State Coastal~~  
5 ~~Conservancy; the California Tahoe Conservancy; the Santa Monica~~  
6 ~~Mountains Conservancy; the Coachella Valley Mountains~~  
7 ~~Conservancy; the San Joaquin River Conservancy; the San Gabriel~~  
8 ~~and Lower Los Angeles Rivers and Mountains Conservancy; the~~  
9 ~~Baldwin Hills Conservancy; the San Diego River Conservancy;~~  
10 ~~and the Sierra Nevada Conservancy.~~

11 (b) No existing supplies, forms, insignias, signs, or logos shall  
12 be destroyed or changed as a result of changing the name of the  
13 Resources Agency to the Natural Resources Agency, and those  
14 materials shall continue to be used until exhausted or unserviceable.

15 SEC. 18. Section 14450 of the Government Code is amended  
16 to read:

17 14450. The department, in preparing its research and  
18 development program, shall consult with other parts of the  
19 transportation industry, including the private and public sectors,  
20 in order to obtain maximum input designed to develop a balanced  
21 multimodal research and development program. The department  
22 shall also consult with affected state agencies, including the  
23 Department of Motor Vehicles, the State Air Resources Board,  
24 ~~the State Energy Resources Conservation and Development~~  
25 ~~Commission,~~ and the Department of the California Highway Patrol.

26 SEC. 19. Section 14684 of the Government Code is amended  
27 to read:

28 14684. (a) The department, in consultation with the ~~State~~  
29 ~~Energy Resources Conservation and Development Commission,~~  
30 *Department of Energy*, shall ensure that solar energy equipment  
31 is installed, no later than January 1, 2007, on all state buildings  
32 and state parking facilities, where feasible. The department shall  
33 establish a schedule designating when solar energy equipment will  
34 be installed on each building and facility, with priority given to  
35 buildings and facilities where installation is most feasible, both  
36 for state building and facility use and consumption and local  
37 publicly owned electric utility use, where feasible.

38 (b) Solar energy equipment shall be installed where feasible as  
39 part of the construction of all state buildings and state parking  
40 facilities that commences after December 31, 2002.

1 (c) For purposes of this section, it is feasible to install solar  
2 energy equipment if adequate space on a building is available, and  
3 if the solar energy equipment is ~~cost-effective~~ *cost effective*.

4 (d) ~~No part of this~~ *This section shall be construed to does not*  
5 exempt the state from any applicable fee or requirement imposed  
6 by the Public Utilities Commission.

7 (e) The department may adopt regulations for the purposes of  
8 this section as emergency regulations in accordance with Chapter  
9 3.5 (commencing with Section 11340) of Part 1. For purposes of  
10 Chapter 3.5 (commencing with Section 11340) of Part 1, including,  
11 but not limited to, Section 11349.6, the adoption of the regulations  
12 shall be considered by the Office of Administrative Law to be  
13 necessary for the immediate preservation of the public peace,  
14 health, safety, and general welfare. Notwithstanding the 120-day  
15 limit specified in subdivision (e) of Section 11346.1, the regulations  
16 shall be repealed 180 days after their effective date, unless the  
17 department complies with Chapter 3.5 (commencing with Section  
18 11340) of Part 1 as provided in subdivision (e) of Section 11346.1.

19 (f) For purposes of this section, the following terms have the  
20 following meanings:

21 (1) ~~“Cost-effective”~~ *“Cost effective”* means that the present  
22 value of the savings generated over the life of the solar energy  
23 system, including consideration of the value of the energy produced  
24 during peak and off-peak demand periods and the value of a reliable  
25 energy supply not subject to price volatility, shall exceed the  
26 present value cost of the solar energy equipment by not less than  
27 10 percent. The present value cost of the solar energy equipment  
28 does not include the cost of unrelated building components. The  
29 department, in making the present value assessment, shall obtain  
30 interest rates, discount rates, and consumer price index figures  
31 from the Treasurer, and shall take into consideration air emission  
32 reduction benefits.

33 (2) *“Local publicly owned electric utility”* means a local publicly  
34 owned electric utility as defined in Section 9604 of the Public  
35 Utilities Code.

36 (3) *“Solar energy equipment”* means equipment whose primary  
37 purpose is to provide for the collection, conversion, storage, or  
38 control of solar energy for electricity generation.

39 SEC. 20. Section 14684.1 of the Government Code is amended  
40 to read:

1 14684.1. (a) The department, in consultation with the ~~State~~  
2 ~~Energy Resources Conservation and Development Commission,~~  
3 ~~Department of Energy,~~ shall ensure that solar energy equipment  
4 is installed, no later than January 1, 2009, on all state buildings,  
5 state parking facilities, and state-owned swimming pools that are  
6 heated with fossil fuels or electricity, where feasible. The  
7 department shall establish a schedule designating when solar energy  
8 equipment will be installed on each building and facility, with  
9 priority given to buildings and facilities where installation is most  
10 feasible.

11 (b) Solar energy equipment shall be installed, where feasible,  
12 as part of the construction of all state buildings and state parking  
13 facilities for which construction commences on or after January  
14 1, 2008.

15 (c) For purposes of this section, it is feasible to install solar  
16 energy equipment if adequate space on or adjacent to a building  
17 is available, if the solar energy equipment is ~~cost-effective~~ *cost*  
18 *effective*, and if funding is available from the state or another  
19 source.

20 (d) Any solar energy equipment installed pursuant to this section  
21 shall meet applicable standards and requirements imposed by state  
22 and local permitting authorities, including, but not limited to, all  
23 of the following:

24 (1) Certification by the Solar Rating *and* Certification  
25 Corporation, which is a nonprofit third party supported by the  
26 *United States* Department of Energy, or any other nationally  
27 recognized certification agency.

28 (2) All applicable safety and performance standards established  
29 by the National Electrical Code, the Institute of Electrical and  
30 Electronics Engineers, and accredited testing laboratories, such as  
31 the Underwriters Laboratories.

32 (3) Where applicable, the regulations adopted by the Public  
33 Utilities Commission regarding safety and reliability.

34 (e) This section does not exempt the state from the payment of  
35 any applicable fee or requirement imposed by the Public Utilities  
36 Commission.

37 (f) The department may adopt regulations for the purposes of  
38 this section as emergency regulations in accordance with Chapter  
39 3.5 (commencing with Section 11340) of Part 1. For purposes of  
40 that chapter, including, but not limited to, Section 11349.6, the

1 adoption of the regulations shall be considered by the Office of  
2 Administrative Law to be necessary for the immediate preservation  
3 of the public peace, health, safety, and general welfare.  
4 Notwithstanding the 120-day limit specified in subdivision (e) of  
5 Section 11346.1, the regulations shall be repealed 180 days after  
6 their effective date, unless the department complies with Chapter  
7 3.5 (commencing with Section 11340) of Part 1 as provided in  
8 subdivision (e) of Section 11346.1.

9 (g) Any solar energy equipment installed pursuant to this section  
10 shall be subject to the provisions of the California Solar Rights  
11 Act of 1978 (Chapter 1154 of the Statutes of 1978), as amended.

12 (h) For purposes of this section, the following terms have the  
13 following meanings:

14 (1) ~~“Cost-effective”~~ “*Cost effective*” means that the present  
15 value of the savings generated over the life of the solar energy  
16 system, including consideration of the value of the energy produced  
17 during peak and off-peak demand periods and the value of a reliable  
18 energy supply not subject to price volatility, shall exceed the  
19 present value cost of the solar energy equipment by not less than  
20 10 percent. The present value cost of the solar energy equipment  
21 does not include the cost of unrelated building components. The  
22 department, in making the present value assessment, shall obtain  
23 interest rates, discount rates, and consumer price index figures  
24 from the Treasurer, and shall take into consideration air emission  
25 reduction benefits and the value of stable energy costs.

26 (2) “Local publicly owned electric utility” means a local publicly  
27 owned electric utility as defined in subdivision (d) of Section 9604  
28 of the Public Utilities Code.

29 (3) “Solar energy equipment” means equipment whose primary  
30 purpose is to provide for the collection, conversion, storage, or  
31 control of solar energy for the purpose of heat production,  
32 electricity production, or simultaneous heat and electricity  
33 production.

34 SEC. 21. Section 15814.22 of the Government Code is amended  
35 to read:

36 15814.22. The Department of General Services, in consultation  
37 with the ~~California Department of Energy Resources Conservation~~  
38 ~~and Development Commission~~ and other state agencies and  
39 departments, shall develop a multiyear plan, to be updated  
40 biennially, with the goal of exploiting all practicable and

1 cost-effective energy efficiency measures in state facilities. The  
2 department shall coordinate plan implementation efforts, and make  
3 recommendations to the Governor and the Legislature to achieve  
4 energy efficiency goals for state facilities.

5 SEC. 22. Section 15814.23 of the Government Code is amended  
6 to read:

7 15814.23. The Department of General Services or each state  
8 agency having jurisdiction shall ensure that all new state buildings  
9 are designed and constructed to meet at least the minimum energy  
10 efficiencies specified in standards adopted by the ~~State Department~~  
11 ~~of Energy Resources Conservation and Development Commission~~  
12 pursuant to Section 25402 of the Public Resources Code. In the  
13 design and construction of new state buildings, the department or  
14 other responsible state agency shall also consider additional  
15 state-of-the-art energy efficiency design measures and equipment,  
16 beyond those required by the standards, that are ~~cost-effective~~ *cost*  
17 *effective* and feasible.

18 SEC. 23. Section 15814.25 of the Government Code, as  
19 amended by Section 48 of Chapter 193 of the Statutes of 2004, is  
20 amended and renumbered to read:

21 ~~15814.25.~~

22 *15814.24.1.* Energy conservation measures eligible for  
23 financing by kindergarten through grade 12 schools shall be limited  
24 to those measures recommended pursuant to an energy audit  
25 provided by the ~~State Department of Energy Resources~~  
26 ~~Conservation and Development Commission~~ under its existing  
27 authority.

28 SEC. 24. Section 15814.30 of the Government Code is amended  
29 to read:

30 15814.30. (a) All new public buildings for which construction  
31 begins after January 1, 1993, shall be models of energy efficiency  
32 and shall be designed, constructed, and equipped with all energy  
33 efficiency measures, materials, and devices that are feasible and  
34 ~~cost-effective~~ *cost effective* over the life of the building or the life  
35 of the energy efficiency measure, whichever is less.

36 (b) In determining which energy efficiency measures, materials,  
37 and devices are feasible and ~~cost-effective~~ *cost effective* over the  
38 life of the building, the State Architect and the Department of  
39 General Services shall consult with the ~~State Energy Resources~~

1 ~~Conservation and Development Commission.~~ *Department of*  
2 *Energy.*

3 (c) For purposes of this section, ~~“cost-effective”~~ *“cost effective”*  
4 means that savings generated over the life of the building or the  
5 life of the energy efficiency measure, whichever is less, shall  
6 exceed the cost of purchasing and installing the energy efficiency  
7 measures, materials, or devices by not less than 10 percent.

8 SEC. 25. Section 15814.34 of the Government Code is amended  
9 to read:

10 15814.34. (a) The Legislature finds and declares all of the  
11 following:

12 (1) The state purchases a number of commodities, including,  
13 but not limited to, lighting fixtures, heating, ventilation and  
14 air-conditioning units, and copiers, that cumulatively account for  
15 a significant portion of the energy consumed by state operations.

16 (2) The state can realize significant energy savings and reduced  
17 energy costs by purchasing brands or models of commonly used  
18 commodities with low life cycle costs.

19 (3) Commodities necessary for state operations may be  
20 purchased directly by the state department or agency using the  
21 commodity, or may be purchased by the Department of General  
22 Services on behalf of other state departments or agencies.

23 (4) In order to increase energy efficiency and reduce costs to  
24 the taxpayers of the state, the state should make every reasonable  
25 effort to identify and purchase those commodities that have the  
26 lowest life cycle cost and meet the operational requirements of the  
27 state.

28 (b) The Department of General Services shall, on an ongoing  
29 basis, do all of the following:

30 (1) Identify commodities purchased by the department that,  
31 individually or on a statewide basis, consume a significant amount  
32 of energy.

33 (2) For each commodity identified pursuant to paragraph (1),  
34 determine the life cycle cost of the following:

35 (A) The brand or model of the commodity purchased by the  
36 department.

37 (B) The brand or model of the commodity that has the lowest  
38 life cycle cost, provided it is available for purchase by the state  
39 and meets all operational specifications of the state.

1 (3) Consult with the ~~Energy Resources Conservation and~~  
2 ~~Development Commission~~ *Department of Energy* in the  
3 development and revision of one or more methods of determining  
4 the life cycle costs of commodities.

5 (c) In order to assist other agencies and departments in  
6 identifying commodities with the lowest life cycle costs, the  
7 Department of General Services shall distribute the following to  
8 all state agencies and departments:

9 (1) A list of those commodities with the lowest life cycle costs,  
10 as determined pursuant to paragraph (2) of subdivision (b).

11 (2) The method or methods used by the Department of General  
12 Services to determine the life cycle costs of commodities.

13 (d) The method or methods used by the Department of General  
14 Services to calculate the life cycle costs of commodities shall be  
15 designed to be easily understood and used by purchasing agents  
16 and other personnel in making purchasing decisions.

17 (e) Notwithstanding any other provision of law, all state agencies  
18 and departments shall purchase those commodities identified  
19 pursuant to subdivision (b) that have the lowest life cycle costs  
20 and that meet the applicable specifications, and shall make every  
21 reasonable effort to identify and purchase other commodities with  
22 the lowest life cycle costs.

23 (f) "Life cycle cost" for the purposes of this section, means the  
24 total cost of purchasing, installing, maintaining, and operating a  
25 device or system during its reasonably expected life. It includes,  
26 but is not necessarily limited to, capital costs, labor costs, energy  
27 costs, and operating and maintenance costs.

28 SEC. 26. Section 16366.1 of the Government Code is repealed.

29 ~~16366.1. The Legislature hereby finds and declares all of the~~  
30 ~~following:~~

31 ~~(a) The federal government is proposing significant and~~  
32 ~~fundamental changes in the structure and funding of social services~~  
33 ~~by eliminating or greatly reducing many categorical grants and~~  
34 ~~consolidating them into block grants to be administered by the~~  
35 ~~state.~~

36 ~~(b) There has been little public debate or discussion on the~~  
37 ~~proposed funding cuts which will result in significant cuts in~~  
38 ~~programs which currently provide jobs, income, food, and medical~~  
39 ~~care to poor people.~~

1 ~~(e) There currently exist no state statutes, consistent with federal~~  
2 ~~statutes, for establishing need or directing the allocation of~~  
3 ~~resources to categories of client populations to be affected by block~~  
4 ~~grant efforts, and the state must act to so provide immediately.~~

5 ~~(d) The uncertainty surrounding the substance of the block grant~~  
6 ~~proposals and the proximity of the 1981–82 federal fiscal year~~  
7 ~~does not allow the state the time necessary to develop fair and~~  
8 ~~effective service alternatives without serious disruptions of vital~~  
9 ~~services currently being offered to our needy residents.~~

10 ~~(e) In order to serve the unique needs of California’s poor~~  
11 ~~people, the state should continue, for the current year, to offer the~~  
12 ~~services presently provided under federal categorical program~~  
13 ~~grants.~~

14 ~~(f) The Legislature must thoroughly review the use of federal~~  
15 ~~funds affecting special population “categorical” groups in the State~~  
16 ~~of California because of its commitment to maintain the efficient~~  
17 ~~delivery of vital services to the most needy persons in the state.~~

18 ~~(g) It is the intent of the Legislature that any provision of this~~  
19 ~~article which is inconsistent with federal law shall not be operative.~~

20 SEC. 27. Section 16366.1 is added to the Government Code,  
21 to read:

22 16366.1. The Legislature finds and declares all of the following:

23 (a) For over 30 years, the federal government has funded  
24 programs that help low-income households meet the rising costs  
25 of utilities, including electricity, gas, and other household fuels,  
26 through block grants and other targeted funding that lowers the  
27 energy burden and increases the energy-related health and safety  
28 of low-income housing.

29 (b) In California, it is calculated that low-income families spend  
30 up to 16 percent of their household income on utilities, as compared  
31 to 5 percent of the household income of median income families.

32 (c) The increased energy burden for low-income families often  
33 results in vulnerable populations making tough choices between  
34 essential costs, such as food, transportation, and heating or cooling  
35 their home in a safe manner.

36 (d) Since 1975, California has administered the state’s share of  
37 these federal programs, including the Low-Income Home Energy  
38 Assistance Program Block Grant (LIHEAP), provided for pursuant  
39 to the Low-Income Home Energy Assistance Act of 1981, as  
40 amended (42 U.S.C. Sec. 8621 et seq.), and the United States

1 Department of Energy Weatherization Assistance Program (DOE  
 2 WAP), provided for pursuant to Title IV of the Energy  
 3 Conservation and Production Act (Public Law 94-385, as amended)  
 4 and pursuant to the United States Housing and Urban Development  
 5 Residential Lead-Based Paint Hazard Reduction Act of 1992  
 6 (Public Law 102-550, as amended), in conjunction with other  
 7 federal and state antipoverty programs that assist low-income  
 8 families with achieving self-sufficiency.

9 (e) California has embarked on a new era of leadership to  
 10 achieve ambitious energy goals including energy conservation and  
 11 efficiency, alternative fuels, and reduce carbon emissions. A critical  
 12 pathway to achieving these goals is the strategic reorganization  
 13 and consolidation of various energy-related programs, to maximize  
 14 the outcomes of those individual programs in support of the state’s  
 15 energy plans.

16 (f) Consolidating the state’s federally funded low-income energy  
 17 programs in a new Department of Energy can assist the state with  
 18 achieving the objectives of the state’s energy plans through the  
 19 quantification of the energy conserved and carbon emissions  
 20 reduced as a result of the low-income weatherization activities.

21 (g) The funds from the federal American Recovery and  
 22 Reinvestment Act of 2009 (Public Law 111-5) are appropriated  
 23 to the Department of Community Services and Development to  
 24 implement the state’s federally funded low-income energy,  
 25 weatherization, and lead hazard reduction programs.

26 (h) By reorganizing the state’s low-income energy,  
 27 weatherization, and lead hazard reduction programs, including  
 28 LIHEAP and DOE WAP, into the new Department of Energy, it  
 29 is the intent of the Legislature to support the accomplishment of  
 30 the state’s energy plans, while not diminishing or sacrificing the  
 31 primary federal purposes of these programs that are all of the  
 32 following:

33 (1) Assist low-income households with reducing their energy  
 34 burden through cash assistance and weatherization.

35 (2) Prioritize the needs of vulnerable populations including the  
 36 elderly, families with young children, and people dependent on  
 37 electrical medical equipment.

38 (3) Help low-income families achieve self sufficiency.

39 (i) It is the intent of the Legislature to have the Department of  
 40 Community Services and Development administer the federal

1 low-income energy, weatherization, and lead hazard reduction  
2 programs through December 31, 2012, to ensure continuous  
3 allocation and distribution of funds from the federal American  
4 Recovery and Reinvestment Act of 2009. On and after January 1,  
5 2013, the federally funded low-income energy, weatherization,  
6 and lead hazard reduction programs should be administered by the  
7 Department of Energy.

8 SEC. 28. Section 16366.2 of the Government Code is amended  
9 to read:

10 16366.2. ~~As used in this article:~~

11 (a) ~~As—~~“Service used in this article, “local service provider”  
12 means ~~any a public or private nonprofit agency which entity, as~~  
13 ~~defined by federal law and regulation, that provides service directly~~  
14 ~~to categorical populations. eligible beneficiaries.~~

15 (b) ~~“Consolidated program” means any program which the state~~  
16 ~~has the option to fund with the block grant.~~

17 (c) ~~“Categorical populations” means those recipients of services~~  
18 ~~provided pursuant to a program listed in Section 16366.4.~~

19 (d) ~~“Block grant funds” shall have the same meaning as defined~~  
20 ~~in federal law in existence on January 1, 1982.~~

21 SEC. 29. Section 16366.3 of the Government Code is repealed.

22 ~~16366.3. Federal block grant legislation provides that, for the~~  
23 ~~first fiscal year, states have the option to accept or reject designated~~  
24 ~~block grants. Consistent with this federal policy, the state shall,~~  
25 ~~prior to July 1, 1982, accept only those block grants that meet all~~  
26 ~~of the following criteria:~~

27 (a) ~~The block grant includes programs and services that the state~~  
28 ~~has previously administered.~~

29 (b) ~~The block grant program, and funding, has been previously~~  
30 ~~integrated into state and local service systems.~~

31 (c) ~~The block grant program does not require increased state or~~  
32 ~~local matching funds.~~

33 (d) ~~There is a distinct advantage as a result of state assumption.~~

34 SEC. 30. Section 16366.35 of the Government Code is amended  
35 to read:

36 16366.35. ~~Counties~~ *Local service providers designated by the*  
37 *state shall be granted maximum flexibility in administering federal*  
38 *categorical and block grant programs to the extent permitted by*  
39 *state planning requirements. It is the intent of the Legislature in*  
40 *enacting this section to provide counties the local service providers*

1 maximum flexibility in setting priorities in these programs for any  
2 reduced funding: *funding consistent with federal and state law and*  
3 *policy.*

4 SEC. 31. Section 16366.4 of the Government Code is repealed.  
5 16366.4. ~~(a) Based on the criteria specified in Section 16366.3,~~  
6 ~~the Legislature directs the state to assume administrative~~  
7 ~~responsibility for the following federal block grants in the 1981-82~~  
8 ~~state fiscal year:~~

- 9 ~~(1) Low-income home energy assistance.~~
- 10 ~~(2) Social services (pursuant to Title XX of the Social Security~~
- 11 ~~Act).~~

12 ~~(b) Block grant programs not meeting the criteria specified in~~  
13 ~~Section 16366.3, which shall not be assumed by the state until July~~  
14 ~~1, 1982, include all of the following:~~

- 15 ~~(1) Preventive health and health services.~~
- 16 ~~(2) Maternal and child health services.~~
- 17 ~~(3) Primary care.~~
- 18 ~~(4) Alcohol, drug abuse, and mental health services.~~
- 19 ~~(5) Community services.~~
- 20 ~~(6) Community development.~~

21 SEC. 32. Section 16366.5 of the Government Code is repealed.  
22 16366.5. ~~For the 1981-82 state fiscal year, block grants which~~  
23 ~~the state chooses to accept and administer shall be disbursed in~~  
24 ~~grant form and shall be governed by the provisions of this section.~~  
25 ~~The provisions of this section, however, shall apply only to the~~  
26 ~~amount retained in the block and not to the amount transferred~~  
27 ~~into another block, as permitted by federal law. The Governor may~~  
28 ~~transfer funds between block grants only in an amount authorized~~  
29 ~~by the Legislature.~~

30 ~~(a) The Legislature, in cooperation with the appropriate state~~  
31 ~~departments and service providers, shall undertake a study to~~  
32 ~~evaluate the current levels of administrative costs incurred under~~  
33 ~~the Title XX block grant and designate methods for determining~~  
34 ~~and establishing acceptable ceilings for those costs.~~

35 ~~(b) For the Low-Income Energy Assistance Block Grant, the~~  
36 ~~amount spent during the 1981-82 state fiscal year by the state and~~  
37 ~~by service providers for program administration of all federal~~  
38 ~~categorical and block grant programs shall not exceed the~~  
39 ~~percentage levels of administrative costs incurred in the 1980-81~~  
40 ~~fiscal year which were approved by the Legislature and reflected~~

1 in each service provider grant in effect on July 1, 1981. In no event  
2 shall these administrative costs exceed 5 percent.

3 ~~(e) The state shall maintain its level of funding for categorical  
4 programs consolidated into federal block grants.~~

5 SEC. 33. Section 16366.6 of the Government Code is amended  
6 to read:

7 16366.6. (a) The funds shall be used to serve ~~the populations  
8 beneficiaries and households, as defined in the federal statutes  
9 laws and regulations which governed establishing the federal  
10 categorical block grant programs or as of January 30, 1981, and  
11 which are consolidated into the block grants: further defined in  
12 this chapter.~~

13 (b) Federal funds shall be received by the Controller and held  
14 in a separate account of the federal trust fund in accordance with  
15 state law governing the administration of federal funds.

16 (c) The funds shall be disbursed to 1980–81 fiscal year grantees  
17 of categorical grant programs consolidated into the federal block  
18 grants in an amount which reflects the overall change in federal  
19 categorical funds which were available in the 1980–81 federal  
20 fiscal year.

21 SEC. 34. Section 16366.7 of the Government Code is amended  
22 to read:

23 16366.7. ~~Since federal block grant funds were reduced by an  
24 average of 26 percent during the 1981–82 fiscal year and are  
25 proposed for further reductions during the 1982–83 fiscal year,  
26 the Legislature declares that the state’s administrative costs and  
27 processes must be reduced in order to ensure that maximum funds  
28 are available to continue essential direct human services.~~

29 ~~Therefore, notwithstanding~~ *Notwithstanding* any other provision  
30 of law, all of the following state procedures shall be implemented  
31 within 60 days after the effective date of this section: *law*:

32 (a) All state agencies, offices, or departments administering  
33 federal block grant funds shall have the authority, subject to the  
34 approval of the Department of Finance, to grant advance payments  
35 of federal funds to contractors or local governmental agencies in  
36 any amounts as the administering state department deems necessary  
37 for startup or continued provision of services or program operation.

38 (b) Departmental service contracts utilizing federal block grant  
39 funds shall be exempt from approval by the Department of Finance  
40 and the State Department of General Services prior to their

1 execution. Instead, the proper state fiscal controls over federal  
 2 block grant funds shall be insured by all of the following  
 3 provisions:

4 (1) State departments that award block grant funds to local  
 5 agencies shall permit, as appropriate, to the extent that federal  
 6 funds are available for this purpose, local agencies to provide for  
 7 federally mandated financial and compliance audits of block grant  
 8 awards in accordance with the federal audit provisions and  
 9 standards promulgated by the Comptroller General of the United  
 10 States, and consistent with the department's approved audit plan.

11 (2) The Department of Finance, in consultation with the  
 12 Controller, shall establish fiscal reporting requirements for the  
 13 departments to use on a quarterly basis with all providers.

14 (3) In the event a contractor has not engaged in a contract for  
 15 these program purposes before with the state, state administering  
 16 departments shall have the authority to conduct a preaudit or fund  
 17 a preaudit by the Controller in order to certify the ability of the  
 18 contractor to administer the funds.

19 (4) The State Auditor shall provide audit findings regarding  
 20 each block grant to the Legislature no later than May 1 of each  
 21 year.

22 (c) Each administering state department shall develop standard  
 23 definitions for units of service, costs per unit of service, citizen  
 24 participation processes, and due process notification for clients in  
 25 relation to diminishing federal funds ~~within 60 days after the~~  
 26 ~~effective date of this section~~ and shall incorporate all of these  
 27 elements into each agreement or contract.

28 (d) ~~To the extent possible, compliance~~ *Compliance* with this  
 29 section shall be consistent with federal policies and procedures.  
 30 Reports required under this section shall be combined, where  
 31 practical, with any other similar reports required by the Legislature  
 32 and by the federal government.

33 SEC. 35. Section 16366.8 of the Government Code is repealed.

34 ~~16366.8. For those programs for which the state does not~~  
 35 ~~assume full administrative responsibility under the block grant~~  
 36 ~~consolidations reflected in the federal Omnibus Budget~~  
 37 ~~Reconciliation Act of 1981, but for which state agencies have~~  
 38 ~~continued administrative and funding responsibility, as reflected~~  
 39 ~~in the Budget Act of 1981, the following criteria shall be used in~~  
 40 ~~allocating any reduced levels of federal funds:~~

1 ~~(a) The funds shall be utilized for the same purposes as~~  
2 ~~discontinued federal grants.~~

3 ~~(b) The funds shall serve the special populations which meet~~  
4 ~~the criteria of need required by federal categorical grant legislation~~  
5 ~~and regulation.~~

6 ~~(c) Funds shall be administered by those state agencies currently~~  
7 ~~administering the funds.~~

8 ~~(d) To the extent that federal funds are allocated to counties on~~  
9 ~~the basis of county plan submissions to appropriate state agencies,~~  
10 ~~the county plans shall be amended to reflect reduced federal~~  
11 ~~funding. The county shall hold at least one public hearing regarding~~  
12 ~~the proposed changes to the county plans affected. With respect~~  
13 ~~to any plans which are required to be approved by the state, the~~  
14 ~~amended plans shall be approved by the appropriate state agencies~~  
15 ~~and shall comply with the criteria set forth in this section. The~~  
16 ~~approval shall be conducted and completed within 30 days to~~  
17 ~~prevent interruptions in services.~~

18 ~~(e) The amount expended in the 1981-82 state fiscal year by~~  
19 ~~the state and by service providers for program administration of~~  
20 ~~all federal categorical and block grant programs shall not exceed~~  
21 ~~the percentage levels of administrative costs approved by the~~  
22 ~~Legislature for departments and providers as of July 1, 1981, and~~  
23 ~~reflected in each service provider grant in effect on that date.~~

24 ~~If a state department finds that compliance with the provisions~~  
25 ~~of this section disproportionately burdens certain programs or~~  
26 ~~categories of clients, the department may withhold up to 5 percent~~  
27 ~~of the total amount awarded to the department for each such~~  
28 ~~categorical grant in order to equalize service levels.~~

29 SEC. 36. Section 16366.9 of the Government Code is repealed.

30 ~~16366.9. (a) The 1981-82 state fiscal year shall be a transition~~  
31 ~~year during which the Legislature shall require certain critical~~  
32 ~~reviews and reports as it deems necessary to assist in developing~~  
33 ~~the policies to govern the state's assumption of both federal~~  
34 ~~categorical and block grants as contained in the federal Omnibus~~  
35 ~~Budget Reconciliation Act of 1981. The Governor shall instruct~~  
36 ~~state agencies to cooperate fully with the Legislature in complying~~  
37 ~~with this article.~~

38 ~~(b) All departments affected shall prepare a separate summary~~  
39 ~~of programs, funding levels, contracting progress, and clients~~  
40 ~~affected by funding reductions during the 1981-82 state fiscal year~~

1 and separately identify the transition programs for which they  
2 would have any policy or administrative responsibilities no later  
3 than October 15, 1981. The summary of the 1981-82 state fiscal  
4 year funding reductions shall be submitted to the Joint Legislative  
5 Budget Committee and to the fiscal committee of each house.

6 ~~(e) The Governor shall submit all relevant information,~~  
7 ~~including, but not limited to, program identification, estimates of~~  
8 ~~the types, levels, and distribution of clients affected, and estimates~~  
9 ~~of federal funding levels as part of the proposed budget for the~~  
10 ~~1982-83 state fiscal year, and shall separately highlight and~~  
11 ~~summarize this information in the proposed budget, incorporating~~  
12 ~~any policy recommendations for the review of the Legislature.~~

13 ~~(d) The Governor shall submit for the review of the Legislature~~  
14 ~~at the same time a proposal for the structural and administrative~~  
15 ~~organization of all federal programs to be administered by the state~~  
16 ~~as of July 1, 1982.~~

17 SEC. 37. Section 16367.5 of the Government Code is amended  
18 to read:

19 16367.5. The Department of Community Services and  
20 Development shall receive and administer the federal Low-Income  
21 Home Energy Assistance Program Block Grant, provided for  
22 pursuant to the Low-Income Home Energy Assistance Act of 1981,  
23 as amended (42 U.S.C. Sec. 8621 et seq.). The department shall  
24 afford local service providers maximum flexibility and control,  
25 within the parameters of federal and state law, in the planning,  
26 administration, and delivery of Low-Income Home Energy  
27 Assistance Program Block Grant services. Local service providers  
28 shall be defined as private, nonprofit, and public agencies  
29 designated in accordance with Public Law 97-35, as amended. The  
30 formation of service regions beyond those that were in place in  
31 1995, or those that were in place in Los Angeles County in January  
32 1997, shall occur only with the concurrence of service providers  
33 within the proposed regions. The department shall allocate funds  
34 received as follows:

35 ~~(a) For federal fiscal year 1998, up to 7.3 percent of the state's~~  
36 ~~total federal allocation for the Low-Income Home Energy~~  
37 ~~Assistance Program shall be retained by the Department of~~  
38 ~~Community Services and Development for purposes of overall~~  
39 ~~planning and administration. The department shall spend at least~~  
40 ~~2.3 percent of this 7.3 percent on activities to improve the~~

1 administrative efficiency of the program. At least 2.7 percent of  
2 the state's total federal allocation of the Low-Income Home Energy  
3 Assistance Program shall be allocated to local service providers  
4 for purposes of planning and administration.

5 For federal fiscal year 1999, up to 6 percent of the state's total  
6 federal allocation of the Low-Income Home Energy Assistance  
7 Program shall be retained by the Department of Community  
8 Services and Development for purposes of overall planning and  
9 administration. The department shall spend at least 1 percent of  
10 this 6 percent on activities to improve the administrative efficiency  
11 of the program. At least 4 percent of the state's total federal  
12 allocation for the Low-Income Home Energy Assistance Program  
13 shall be allocated to local service providers for purposes of  
14 planning and administration.

15 **Beginning**

16 (a) in federal fiscal year 2000, up *Up* to 5 percent of the state's  
17 total federal allocation for the Low-Income Home Energy  
18 Assistance Program shall be retained by the Department of  
19 Community Services and Development for purposes of overall  
20 planning and administration. At least 5 percent of the state's total  
21 federal allocation for the Low-Income Home Energy Assistance  
22 Program shall be allocated to local service providers for purposes  
23 of planning and administration.

24 Upon achievement of administrative efficiencies, or no later than  
25 June 30, 2001, the department and the local service providers  
26 committee established pursuant to subdivision (j) shall examine  
27 the appropriate split of administrative funding between the state  
28 and local services providers necessary to achieve the intent of  
29 federal law regarding the Low-Income Home Energy Assistance  
30 Program. The department shall not retain more than 5 percent of  
31 the state's total federal allocation for the Low-Income Home  
32 Energy Assistance Program.

33 (b) Services under this section shall be available to households  
34 in which one or more individuals are receiving:

35 (1) Temporary Assistance for Needy Families under the state's  
36 plan approved under Public Law 104-193, the Personal  
37 Responsibility and Work Opportunity Reconciliation Act of 1996,  
38 and Chapter 2 (commencing with Section 11200) of Part 3 of  
39 Division 9 of the Welfare and Institutions Code.

1 (2) Supplemental Security Income payments under Title XVI  
2 of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.)  
3 and Chapter 3 (commencing with Section 12000) of Part 3 of  
4 Division 9 of the Welfare and Institutions Code.

5 (3) County general assistance under Part 5 (commencing with  
6 Section 17000) of Division 9 of the Welfare and Institutions Code.

7 (4) Food stamps received under the Food Stamp Act of 1977  
8 and pursuant to Chapter 10 (commencing with Section 18900) of  
9 Part 6 of Division 9 of the Welfare and Institutions Code.

10 (5) Payments under Section 415, 521, 541, or 542 of Title 38  
11 of the United States Code, or under Section 306 of the Veterans'  
12 and Survivors' Pension Improvement Act of 1978.

13 ~~(6) Households with incomes that do not exceed the greater of:~~

14 ~~(A) An amount equal to 150 percent of the poverty level for~~  
15 ~~this state.~~

16 ~~(B) An amount equal to 60 percent of the state median income,~~  
17 ~~except that no household may be excluded from eligibility solely~~  
18 ~~on the basis of household income if that income is less than 110~~  
19 ~~percent of the poverty level for this state, but priority may be given~~  
20 ~~to those households with the highest home energy costs or needs~~  
21 ~~in relation to household income.~~

22 (c) An amount of not less than 15 percent and up to the  
23 maximum allowed by federal law of the total federal allocation  
24 shall be allocated for weatherization services for eligible  
25 individuals. For each program year, to the extent that the state is  
26 eligible, the Department of Community Services and Development  
27 shall apply to the appropriate federal agencies for any waivers that  
28 may be necessary to ensure that the amount available for the  
29 purposes of this subdivision will be the maximum amount  
30 allowable under federal law. For the purposes of this subdivision,  
31 weatherization shall include all energy conservation measures and  
32 energy efficient appliances that are cost-effective and improve  
33 energy efficiency. The department shall allocate 5 percent of the  
34 weatherization program allocation to local service providers for  
35 outreach and related activities.

36 (d) At the discretion of local service providers, the state shall  
37 allocate the maximum amount allowable under federal law to local  
38 service providers to provide services that encourage and enable  
39 households to reduce their home energy needs, thus reducing the  
40 need for energy assistance, including needs assessments,

1 counseling, and assistance with energy vendors, in accordance  
2 with Section 2605(b)(16) of Public Law 97-35, as amended.

3 (e) Based on data from prior years, a reasonable amount of  
4 available funds, as determined jointly by the department and the  
5 local service providers, shall be reserved until March 15 of each  
6 program year for the Energy Crisis Intervention Program. Local  
7 service providers shall submit proposed funding levels with  
8 supporting data to the department in a timely manner for inclusion  
9 in the state plan. The department shall approve local funding  
10 requests that are determined to be in compliance with federal law.  
11 These funds shall only be used for emergency assistance to eligible  
12 individuals for programs specified in this subdivision, who give  
13 evidence of one or more of the following conditions:

- 14 (1) Proof of utility shutoff notice.
- 15 (2) Proof of energy termination.
- 16 (3) Insufficient funds to establish a new energy account.
- 17 (4) Insufficient funds to pay a delinquent utility bill.
- 18 (5) Insufficient funds to pay the cost of space heating devices  
19 where no alternative source of space heating is reasonably  
20 available.
- 21 (6) Insufficient funds to pay for essential firewood, oil, or  
22 propane.
- 23 (7) Insufficient funds to pay for the cost of emergency repairs  
24 to heating and cooling units, the emergency replacement of heating  
25 and cooling units, or both.
- 26 (8) Insufficient funds to pay energy costs for a household where  
27 a household member's medical condition requires use of life  
28 support or climate and temperature control systems.
- 29 (9) Other conditions that may be included in the state plan.

30 ~~The energy crisis intervention program~~

31 (f) (1) *The Energy Crisis Intervention Program* shall not include  
32 advocacy, community mobilization, or community planning. After  
33 March 15 of each program year, local administrative agencies shall  
34 have the option of continuing to offer energy crisis intervention  
35 services or of reallocating a portion of or all unspent energy crisis  
36 intervention funds into direct assistance payment services.

37 ~~The~~

38 (2) ~~The~~ department shall allocate 5 percent of the ~~energy crisis~~  
39 ~~intervention program~~ *Energy Crisis Intervention Program*

1 allocation to the local service providers for outreach and related  
2 services.

3 ~~The Department of Community Services and Development~~

4 (3) *The department* shall retain all funds associated with Energy  
5 Crisis Intervention Program payments for gas and electric utility  
6 service, and shall make payments for eligible households' gas or  
7 electric service accounts directly to the utilities. The department  
8 may use alternative payment methods when direct payments to  
9 the utilities have not been arranged.

10 ~~(f)~~

11 (g) The remainder of the total federal allocation shall be utilized  
12 for aid for home energy costs for direct assistance payments. The  
13 department shall retain all funds associated with Home Energy  
14 Assistance Program direct assistance payments for gas and electric  
15 utility service, and shall make payments for eligible households'  
16 gas or electric service accounts directly to the utilities. The  
17 department may use alternative payment methods when direct  
18 payments to the utilities have not been arranged.

19 ~~(g)~~

20 (h) The Department of Community Services and Development  
21 shall contract with local public or private nonprofit agencies, or  
22 both, to provide outreach, intake, and other activities to enroll  
23 eligible individuals in the program components prescribed by this  
24 section.

25 ~~(h)~~

26 (i) The program components provided for in this section shall  
27 include activities to enroll households that have the highest home  
28 energy needs as determined by taking into account both the energy  
29 burden of these households, and the unique situation of these  
30 households that results from having members of vulnerable  
31 populations, including very young children, individuals with  
32 disabilities, and frail older individuals, as provided for by Section  
33 2603(3) of Public Law 97-35, as amended, and to educate recipients  
34 about general energy conservation practices and about the  
35 availability of state and *federal* utility programs for free  
36 weatherization of low-income homes.

37 ~~(i)~~

38 (j) The department shall allocate 5 percent of the direct  
39 assistance payment funds to the local service providers for outreach

1 and related services in operating the direct home energy assistance  
2 payment program.

3 (j)

4 (k) The department shall establish a local service providers  
5 committee to act in an advisory capacity in the development of  
6 the annual Low-Income Home Energy Assistance Program state  
7 plan. The membership of the committee shall include one voting  
8 representative chosen by each local service provider that has a  
9 Low-Income Home Energy Assistance Program contract with the  
10 state and one representative of each interested utility company.  
11 Each local service provider may, at its option, assign its vote in  
12 writing to another entity, such as a provider association, to  
13 represent its interests.

14 (k)

15 ~~(l) By June 30, 1998, the Department of Community Services~~  
16 ~~and Development This section shall submit a plan to the Health~~  
17 ~~and Welfare Agency to reduce state administrative costs by remain~~  
18 ~~in effect only until January 1, 2000, to no more than 5 percent 2013,~~  
19 ~~and as of the total federal allocation for the Low-Income Home~~  
20 ~~Energy Assistance Program. This plan shall be developed in~~  
21 ~~consultation with the local service providers committee and shall~~  
22 ~~include measurable objectives, milestones, and timelines. that date~~  
23 ~~is repealed, unless a later enacted statute, that is enacted before~~  
24 ~~January 1, 2013, deletes or extends that date.~~

25 It shall also include, among other strategies, a plan to automate  
26 a substantial portion of the Low-Income Home Energy Assistance  
27 Program by no later than January 1, 2001. The department shall  
28 consult with the Department of Finance and the Health and Welfare  
29 Data Center in developing this automation technology.

30 ~~The Department of Community Services and Development shall~~  
31 ~~provide quarterly status updates to the Health and Welfare Agency~~  
32 ~~and the local service providers committee established pursuant to~~  
33 ~~subdivision (j) on progress made in implementing the plans and~~  
34 ~~achieving the objectives and milestones specified in this~~  
35 ~~subdivision. On an annual basis, from the year 1999 to the year~~  
36 ~~2001, the department shall appear before the Legislature and~~  
37 ~~provide a status report on its efforts to achieve increased~~  
38 ~~administrative efficiency.~~

39 SEC. 38. Section 16367.5 is added to the Government Code,  
40 to read:

1 16367.5. (a) As used in this section, “department” means the  
2 Department of Energy established pursuant to Section 25200 of  
3 the Public Resources Code.

4 (b) The department shall receive and administer the federal  
5 Low-Income Home Energy Assistance Program Block Grant,  
6 provided for pursuant to the Low-Income Home Energy Assistance  
7 Act of 1981, as amended (42 U.S.C. Sec. 8621 et seq.). The  
8 department shall afford local service providers maximum flexibility  
9 and control, within the parameters of federal and state law, in the  
10 planning, administration, and delivery of Low-Income Home  
11 Energy Assistance Program Block Grant services. Local service  
12 providers shall be defined as private, nonprofit, and public agencies  
13 designated in accordance with Public Law 97-35, as amended. The  
14 formation of service regions beyond those that were in place in  
15 1995, or those that were in place in Los Angeles County in January  
16 1997, shall occur only with the concurrence of service providers  
17 within the proposed regions. The department shall allocate funds  
18 received as follows:

19 (1) Up to 5 percent of the state’s total federal allocation for the  
20 Low-Income Home Energy Assistance Program shall be retained  
21 by the department for purposes of overall planning and  
22 administration. Five percent of the state’s total federal allocation  
23 for the Low-Income Home Energy Assistance Program shall be  
24 allocated to local service providers for purposes of planning and  
25 administration.

26 (2) Services under this section shall be available to households  
27 in which one or more individuals are receiving:

28 (A) Temporary Assistance for Needy Families under the state’s  
29 plan approved under Public Law 104-193, the Personal  
30 Responsibility and Work Opportunity Reconciliation Act of 1996,  
31 and Chapter 2 (commencing with Section 11200) of Part 3 of  
32 Division 9 of the Welfare and Institutions Code.

33 (B) Supplemental Security Income payments under Title XVI  
34 of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.)  
35 and Chapter 3 (commencing with Section 12000) of Part 3 of  
36 Division 9 of the Welfare and Institutions Code.

37 (C) County general assistance under Part 5 (commencing with  
38 Section 17000) of Division 9 of the Welfare and Institutions Code.

1 (D) Food stamps received under the Food Stamp Act of 1977  
2 and pursuant to Chapter 10 (commencing with Section 18900) of  
3 Part 6 of Division 9 of the Welfare and Institutions Code.

4 (E) Payments under Section 415, 521, 541, or 542 of Title 38  
5 of the United States Code, or under Section 306 of the Veterans'  
6 and Survivors' Pension Improvement Act of 1978.

7 (F) Households with incomes that do not exceed the greater of  
8 an amount equal to the maximum percent of the federal poverty  
9 level or state median income, as permitted by the federal block  
10 grant, except that no household may be excluded from eligibility  
11 solely on the basis of household income if that income is less than  
12 110 percent of the poverty level for this state, but priority may be  
13 given to those households with the highest home energy costs or  
14 needs in relation to household income.

15 (3) An amount of not less than 15 percent and up to the  
16 maximum allowed by federal law of the total federal allocation  
17 shall be allocated for weatherization services for eligible  
18 individuals. For each program year, to the extent that the state is  
19 eligible, the department shall apply to the appropriate federal  
20 agencies for any waivers that may be necessary to ensure that the  
21 amount available for the purposes of this subdivision will be the  
22 maximum amount allowable under federal law. For the purposes  
23 of this subdivision, weatherization shall include all energy  
24 conservation measures and energy efficient appliances that are  
25 cost effective and improve energy efficiency. The department shall  
26 allocate 5 percent of the weatherization program allocation to local  
27 service providers for outreach and related activities.

28 (4) At the discretion of local service providers, the state shall  
29 allocate the maximum amount allowable under federal law to local  
30 service providers to provide services that encourage and enable  
31 households to reduce their home energy needs, thus reducing the  
32 need for energy assistance, including needs assessments,  
33 counseling, and assistance with energy vendors, in accordance  
34 with Section 2605(b)(16) of Public Law 97-35, as amended.

35 (5) Based on data from prior years, a reasonable amount of  
36 available funds, as determined jointly by the department and the  
37 local service providers, shall be reserved until March 15 of each  
38 program year for the Energy Crisis Intervention Program. Local  
39 service providers shall submit proposed funding levels with  
40 supporting data to the department in a timely manner for inclusion

1 in the state plan. The department shall approve local funding  
2 requests that are determined to be in compliance with federal law.  
3 These funds shall only be used for emergency assistance to eligible  
4 individuals for programs specified in this subdivision, who give  
5 evidence of one or more of the following conditions:

- 6 (A) Proof of utility shutoff notice.
- 7 (B) Proof of energy termination.
- 8 (C) Insufficient funds to establish a new energy account.
- 9 (D) Insufficient funds to pay a delinquent utility bill.
- 10 (E) Insufficient funds to pay the cost of space heating devices  
11 where no alternative source of space heating is reasonably  
12 available.
- 13 (F) Insufficient funds to pay for essential firewood, oil, or  
14 propane.
- 15 (G) Insufficient funds to pay for the cost of emergency repairs  
16 to heating and cooling units, the emergency replacement of heating  
17 and cooling units, or both.
- 18 (H) Insufficient funds to pay energy costs for a household where  
19 a household member's medical condition requires use of life  
20 support or climate and temperature control systems.
- 21 (I) Other conditions that may be included in the state plan.

22 (6) (A) The energy crisis intervention program shall not include  
23 advocacy, community mobilization, or community planning. After  
24 March 15 of each program year, local administrative agencies shall  
25 have the option of continuing to offer energy crisis intervention  
26 services or of reallocating a portion of or all unspent energy crisis  
27 intervention funds into direct assistance payment services.

28 (B) The department shall allocate 5 percent of the energy crisis  
29 intervention program allocation to the local service providers for  
30 outreach and related services.

31 (C) The department shall retain all funds associated with Energy  
32 Crisis Intervention Program payments for gas and electric utility  
33 service, and shall make payments for eligible households' gas or  
34 electric service accounts directly to the utilities. The department  
35 may use alternative payment methods when direct payments to  
36 the utilities have not been arranged.

37 (7) The remainder of the total federal allocation shall be utilized  
38 for aid for home energy costs for direct assistance payments. The  
39 department shall retain all funds associated with Home Energy  
40 Assistance Program direct assistance payments for gas and electric

1 utility service, and shall make payments for eligible households’  
2 gas or electric service accounts directly to the utilities. The  
3 department may use alternative payment methods when direct  
4 payments to the utilities have not been arranged.

5 (8) The department shall contract with local public or private  
6 nonprofit agencies, or both, to provide outreach, intake, and other  
7 activities to enroll eligible individuals in the program components  
8 prescribed by this section.

9 (9) The program components provided for in this section shall  
10 include activities to enroll households that have the highest home  
11 energy needs as determined by taking into account both the energy  
12 burden of these households, and the unique situation of these  
13 households that results from having members of vulnerable  
14 populations, including very young children, individuals with  
15 disabilities, and frail older individuals, as provided for by Section  
16 2603(3) of Public Law 97-35, as amended, and to educate recipients  
17 about general energy conservation practices and about the  
18 availability of state and federal utility programs for free  
19 weatherization of low-income homes.

20 (10) The department shall allocate 5 percent of the direct  
21 assistance payment funds to the local service providers for outreach  
22 and related services in operating the direct home energy assistance  
23 payment program.

24 (11) The department shall establish a local service providers  
25 committee to act in an advisory capacity in the development of  
26 the annual Low-Income Home Energy Assistance Program state  
27 plan. The membership of the committee shall include one voting  
28 representative chosen by each local service provider that has a  
29 Low-Income Home Energy Assistance Program contract with the  
30 state and one representative of each interested utility company.  
31 Each local service provider may, at its option, assign its vote in  
32 writing to another entity, such as a provider association, to  
33 represent its interests.

34 (c) This section shall become operative on January 1, 2013.

35 SEC. 39. Section 16367.6 of the Government Code is amended  
36 to read:

37 16367.6. (a) The Department of ~~Economic Opportunity~~  
38 *Community Services and Development* shall receive and administer  
39 all state and federal funds ~~which~~ *that* are allocated for programs  
40 to provide energy assistance, *weatherization, and lead hazard*

1 *reduction* to qualified low-income individuals only, except for  
2 those funds ~~which~~ *that* are allocated to, and distributed by, the  
3 California Energy Extension Service.

4 ~~(b) No later than November 1, 1984, the~~ *The* Department of  
5 ~~Economic Opportunity~~ *Community Services and Development*  
6 shall promulgate a comprehensive procedure to assure that those  
7 energy assistance funds are utilized in the most productive and  
8 efficient manner, including a distribution system whereby all funds  
9 allocated for direct assistance payments are distributed by state  
10 and local agencies directly to the electrical or gas corporations or  
11 other suppliers of energy on behalf of the qualified low-income  
12 individuals or by two-party checks made payable to both the energy  
13 supplier and the individual. In establishing this system, the  
14 Department of ~~Economic Opportunity~~ *Community Services and*  
15 *Development* shall consult with representatives of electrical or gas  
16 corporations or other suppliers of energy and with local agencies  
17 that participate in distributing assistance funds.

18 The Department of ~~Economic Opportunity~~ *Community Services*  
19 *and Development* shall have the discretion to adjust payments to  
20 the energy supplier or the individual or to make direct payments  
21 to the individual for payment to an energy supplier in special or  
22 unique circumstances not otherwise provided for in this section.

23 *(c) This section shall remain in effect only until January 1, 2013,*  
24 *and as of that date is repealed, unless a later enacted statute, that*  
25 *is enacted before January 1, 2013, deletes or extends that date.*

26 SEC. 40. Section 16367.6 is added to the Government Code,  
27 to read:

28 16367.6. (a) The Department of Energy shall receive and  
29 administer all state and federal funds that are allocated for programs  
30 to provide energy assistance, weatherization, and lead hazard  
31 reduction to qualified low-income individuals only, except for  
32 those funds that are allocated to, and distributed by, the California  
33 Energy Extension Service.

34 (b) The Department of Energy shall promulgate a  
35 comprehensive procedure to assure that those energy assistance  
36 funds are utilized in the most productive and efficient manner,  
37 including a distribution system whereby all funds allocated for  
38 direct assistance payments are distributed by state and local  
39 agencies directly to the electrical or gas corporations or other  
40 suppliers of energy on behalf of the qualified low-income

1 individuals or by two-party checks made payable to both the energy  
2 supplier and the individual. In establishing this system, the  
3 Department of Energy shall consult with representatives of  
4 electrical or gas corporations or other suppliers of energy and with  
5 local agencies that participate in distributing assistance funds.

6 (c) The Department of Energy shall have the discretion to adjust  
7 payments to the energy supplier or the individual or to make direct  
8 payments to the individual for payment to an energy supplier in  
9 special or unique circumstances not otherwise provided for in this  
10 section.

11 (d) This section shall become operative on January 1, 2013.

12 SEC. 41. Section 16367.61 of the Government Code is  
13 repealed.

14 ~~16367.61. In order to make administrative improvements in  
15 the Low-Income Home Energy Assistance Program components  
16 provided for in subdivisions (c), (d), and (e) of Section 16367.5,  
17 the Department of Economic Opportunity shall contract, during  
18 the 1986 program year, with nonprofit organizations to implement  
19 pilot programs and demonstration projects including, but not  
20 limited to, all of the following:~~

21 ~~(a) Decentralization of the Low-Income Home Energy  
22 Assistance Program providing benefits to eligible individuals.~~

23 ~~(b) A trust account system for the payment of utility companies  
24 by contractors on behalf of eligible individuals.~~

25 ~~(c) An electronic transfer payment system between the  
26 Department of Economic Opportunity, commercial banks, local  
27 administering agencies, and participating energy suppliers.~~

28 ~~(d) Analyze the Department of Economic Opportunity operated  
29 weatherization programs provided for under subdivision (c) of  
30 Section 16367.5, using utility-funded programs as models, and  
31 recommend techniques to increase efficiency and provide  
32 maximum energy savings for dollars spent.~~

33 SEC. 42. Section 16367.65 of the Government Code is  
34 repealed.

35 ~~16367.65. The Department of Economic Opportunity may enter  
36 into an agreement with the California Energy Extension Service  
37 to provide technical assistance and outreach programs to  
38 low-income individuals and the Department of Economic  
39 Opportunity energy agencies which shall include, but not be limited  
40 to, all of the following:~~

1 ~~(a) Energy education programs for recipients of low-income~~  
2 ~~energy assistance.~~

3 ~~(b) Energy education to senior citizens, disabled individuals,~~  
4 ~~Native Americans, seasonal migrant workers, and rural~~  
5 ~~communities.~~

6 ~~(c) Training programs and technical assistance for community~~  
7 ~~action agencies and community-based organizations and other~~  
8 ~~groups which administer the low-income home energy assistance~~  
9 ~~programs at the local level.~~

10 SEC. 43. Section 16367.7 of the Government Code is repealed.

11 ~~16367.7. Whenever the Department of Economic Opportunity~~  
12 ~~does not allocate Energy Crisis Intervention Program funds on~~  
13 ~~schedule to a community-based organization or community action~~  
14 ~~agency and the organization or agency finds it necessary to obtain~~  
15 ~~a loan in order to cover its program costs, the department shall pay~~  
16 ~~any interest charges on the loan out of the funds budgeted for the~~  
17 ~~administration of the department, unless the failure to allocate is~~  
18 ~~due to an incomplete application or report and the department~~  
19 ~~promptly gives notice of this fact to the organization or agency.~~

20 ~~Any interest payable by the department pursuant to this section~~  
21 ~~shall be paid by the Controller to the organization or agency from~~  
22 ~~available funds in the department's budget. If any interest charge~~  
23 ~~is paid by the department pursuant to this section, the department~~  
24 ~~shall report this fact to the Legislature and describe what actions~~  
25 ~~are being taken to prevent additional payments of interest charges.~~

26 SEC. 44. Section 16367.8 of the Government Code is repealed.

27 ~~16367.8. Any advisory agency, commission, or other entity~~  
28 ~~established by any city, county, or special district relative to the~~  
29 ~~application for or use of federal block grant funds shall include in~~  
30 ~~its membership older persons, as defined by Section 9103 of the~~  
31 ~~Welfare and Institutions Code, in such numbers as to~~  
32 ~~proportionately reflect in the membership of the agency,~~  
33 ~~commission, or other entity, as nearly as possible, the population~~  
34 ~~of persons 60 years of age or older residing within the jurisdiction~~  
35 ~~of the city, county, or special district as indicated in the most recent~~  
36 ~~national decennial census. The older persons appointed pursuant~~  
37 ~~to this section shall be drawn, where possible, from the membership~~  
38 ~~of existing agencies, commissions, or other entities established by~~  
39 ~~the city, county, or special district relative to the subject of aging.~~

1 SEC. 45. Section 66645 of the Government Code is amended  
2 to read:

3 66645. (a) In addition to the provisions of Sections 25302,  
4 25500, ~~25507, 25508, 25514, 25516.1, 25519, 25523, and 25526~~  
5 of the Public Resources Code, the provisions of this section shall  
6 apply to the commission and the ~~State Department of Energy~~  
7 ~~Resources Conservation and Development Commission~~ with  
8 respect to matters within the statutory responsibility of the latter.

9 (b) After one or more public hearings, and prior to January 1,  
10 1979, the commission shall designate those specific locations  
11 within the Suisun Marsh, as defined in Section 29101 of the Public  
12 Resources Code, or the area of jurisdiction of the commission,  
13 where the location of a facility, as defined in Section 25110 of the  
14 Public Resources Code, would be inconsistent with this title or  
15 Division 19 (commencing with Section 29000) of the Public  
16 Resources Code. The following locations, however, shall not be  
17 so designated: (1) any property of a utility that is used for such a  
18 facility or will be used for the reasonable expansion thereof; (2)  
19 any site for which a notice of intention to file an application for  
20 certification has been filed pursuant to Section 25502 of the Public  
21 Resources Code prior to January 1, 1978, and is subsequently  
22 approved pursuant to Section 22516 of the Public Resources Code;  
23 and (3) the area east of Collinsville Road that is designated for  
24 water-related industrial use on the Suisun Marsh Protection Plan  
25 Map. Each designation made pursuant to this section shall include  
26 a description of the boundaries of those locations, the provisions  
27 of this title or Division 19 (commencing with Section 29000) of  
28 the Public Resources Code with which they would be inconsistent,  
29 and detailed findings concerning the significant adverse impacts  
30 that would result from development of a facility in the designated  
31 area. The commission shall consider the conclusions, if any,  
32 reached by the ~~State Department of Energy Resources Conservation~~  
33 ~~and Development Commission~~ in its most recently promulgated  
34 comprehensive report issued pursuant to Section 25309 of the  
35 Public Resources Code. The commission also shall request the  
36 assistance of the ~~State Department of Energy Resources~~  
37 ~~Conservation and Development Commission~~ in carrying out the  
38 requirements of this section. The commission shall transmit a copy  
39 of its report prepared pursuant to this subdivision to the State  
40 Energy Resources Conservation and Development Commission.

1 (c) The commission shall revise and update the designations  
2 specified in subdivision (b) not less than once every five years.  
3 ~~The provisions of subdivision (b) shall not apply to any sites and~~  
4 ~~related facilities specified in any notice of intention to file an~~  
5 ~~application for certification filed pursuant to Section 25502 of the~~  
6 ~~Public Resources Code prior to designation of additional locations~~  
7 ~~made by the commission pursuant to this subdivision.~~

8 (d) Whenever the ~~State California Energy Resources~~  
9 ~~Conservation and Development Commission Board within the~~  
10 ~~Department of Energy~~ exercises its siting authority and undertakes  
11 proceedings pursuant to the provisions of Chapter 6 (commencing  
12 with Section 25500) of Division 15 of the Public Resources Code  
13 with respect to any thermal powerplant *of 50 megawatts or greater*  
14 *or* transmission line to be located, in whole or in part, within the  
15 Suisun Marsh or the area of jurisdiction of the commission, the  
16 commission shall participate in those proceedings and shall receive  
17 from the ~~State Department of Energy Resources Conservation and~~  
18 ~~Development Commission~~ any notice of intention to file an  
19 application for certification of a site and related facilities within  
20 the Suisun Marsh or the area of jurisdiction of the commission.  
21 The commission shall analyze ~~each notice of intention an~~  
22 ~~application for certification~~ and, prior to commencement of the  
23 hearings conducted pursuant to Section ~~25513~~ 25221 of the Public  
24 Resources Code, shall forward to the ~~State Department of Energy~~  
25 ~~Resources Conservation and Development Commission~~ a written  
26 report on the suitability of the proposed site and related facilities  
27 specified in that notice. The commission's report shall contain a  
28 consideration of, and findings regarding, the following:

29 (1) If it is to be located within the Suisun Marsh, the consistency  
30 of the proposed site and related facilities, ~~with the provisions of~~  
31 this title and Division 19 (commencing with Section 29000) of the  
32 Public Resources Code, the policies of the Suisun Marsh Protection  
33 Plan (as defined in Section 29113 of the Public Resources Code)  
34 and the certified local protection program (as defined in Section  
35 29111 of the Public Resources Code) if any.

36 (2) If it is to be located within the area of jurisdiction of the  
37 commission, the consistency of the proposed site and related  
38 facilities ~~with the provisions of this title and the San Francisco~~  
39 Bay Plan.

1 (3) The degree to which the proposed site and related facilities  
2 could reasonably be modified so as to be consistent with this title,  
3 Division 19 (commencing with Section 29000) of the Public  
4 Resources Code, the Suisun Marsh Protection Plan, or the San  
5 Francisco Bay Plan.

6 (4) ~~Such~~ Any other matters as the commission deems  
7 appropriate and necessary to carry out Division 19 (commencing  
8 with Section 29000) of the Public Resources Code.

9 SEC. 46. Section 66646 of the Government Code is amended  
10 to read:

11 66646. Notwithstanding any other provision of this title, except  
12 subdivisions (b) and (c) of Section 66645, and notwithstanding  
13 any provision of Division 19 (commencing with Section 29000)  
14 of the Public Resources Code, new or expanded ~~thermal~~ electric  
15 generating plants may be constructed within the Suisun Marsh, as  
16 defined in Section 29101 of the Public Resources Code, or the area  
17 of jurisdiction of the commission, if the proposed site has been  
18 determined, pursuant to ~~the provisions of Section 25516.1~~ 25523  
19 of the Public Resources Code, by the ~~State California Energy~~  
20 ~~Resources Conservation and Development Commission Board~~  
21 *within the Department of Energy* to have greater relative merit  
22 than available alternative sites and related ~~facilities for an~~  
23 ~~applicant's service area which have been determined to be~~  
24 ~~acceptable pursuant to the provisions of Section 25516 of the Public~~  
25 ~~Resources Code.~~ *facilities.*

26 SEC. 47. Section 3805.5 of the Public Resources Code is  
27 repealed.

28 3805.5. ~~“Commission” means the State Energy Resources~~  
29 ~~Conservation and Development Commission.~~

30 SEC. 48. Section 3806.5 is added to the Public Resources Code,  
31 to read:

32 3806.5. “Department” means the Department of Energy.

33 SEC. 49. Section 3808 of the Public Resources Code is  
34 amended to read:

35 3808. “Geothermal resources” means geothermal resources  
36 designated by the United States Geological Survey or the  
37 Department of Conservation, or by both.

38 ~~The department~~ *Department of Conservation* shall periodically  
39 review, and revise as necessary, its designation of geothermal  
40 resource areas and shall transmit any changes to the ~~State Energy~~

1 Resources—Conservation—and—Development—Commission.  
2 *department*.

3 SEC. 50. Section 3810 of the Public Resources Code is  
4 amended to read:

5 3810. (a) (1) “Award repayment or program reimbursement  
6 agreement,” including a “royalty agreement,” as specified in  
7 subdivision (b), means a method used at the discretion of the  
8 ~~commission~~ *department* to determine and establish the terms of  
9 replenishment of program funds, including, at a minimum,  
10 repayment of the award to provide for further awards under this  
11 chapter. The award repayment or program reimbursement  
12 agreement may provide that payments be made to the ~~commission~~  
13 *department* when the award recipient, affiliate of the award  
14 recipient, or third party receives, through any kind of transaction,  
15 an economic benefit from the project, invention, or product  
16 developed, made possible, or derived, in whole or in part, as a  
17 result of the award.

18 (2) An award repayment or program reimbursement agreement  
19 shall specify the method to be used by the ~~commission~~ *department*  
20 to determine and establish the terms of repayment and  
21 reimbursement of the award.

22 (3) The ~~commission~~ *department* may require due diligence of  
23 the award recipient and may take any action that is necessary to  
24 bring the project, invention, or product to market.

25 (4) Subject to the confidentiality requirements of Section 2505  
26 of Title 20 of the California Code of Regulations, the ~~commission~~  
27 *department* may require access to financial, sales, and production  
28 information, and to other agreements involving transactions of the  
29 award recipient, affiliates of the award recipient, and third parties,  
30 as necessary, to ascertain the royalties or other payments due the  
31 ~~commission~~ *department*.

32 (b) A “royalty agreement” is an award repayment or program  
33 reimbursement agreement and is subject to all of the following  
34 conditions:

35 (1) The royalty rate shall be determined by the ~~commission~~  
36 *department* and shall not exceed 5 percent of the gross revenue  
37 derived from the project, invention, or product.

38 (2) The royalty agreement shall specify the method to be used  
39 by the ~~commission~~ *department* to determine and establish the terms  
40 of payment of the royalty rate.

1 (3) The ~~commission~~ *department* shall determine the duration  
2 of the royalty agreement and may negotiate a collection schedule.

3 (4) The ~~commission~~, *department*, for separate consideration,  
4 may negotiate and receive payments to provide for an early  
5 termination of the royalty agreement.

6 (c) (1) The ~~commission~~ *department* may require that the  
7 intellectual property developed, made possible, or derived, in whole  
8 or in part, as a result of the award repayment or program  
9 reimbursement agreement, revert to the state upon a default in the  
10 terms of the award repayment or program reimbursement  
11 agreement or royalty agreement.

12 (2) The ~~commission~~ *department* may require advance notice of  
13 any transaction involving intellectual property rights.

14 SEC. 51. Section 3822 of the Public Resources Code is  
15 amended to read:

16 3822. (a) Thirty percent of the revenues received and deposited  
17 in the Geothermal Resources Development Account shall be  
18 available for expenditure by the ~~commission~~ *department* as grants  
19 or loans to local jurisdictions or private entities without regard to  
20 fiscal years. These revenues shall be held by the ~~commission~~  
21 *department* in the Local Government Geothermal Resources  
22 Revolving Subaccount, which is hereby created in the Geothermal  
23 Resources Development Account. Loan repayments shall be  
24 deposited in the subaccount and shall be used for making additional  
25 grants and loans pursuant to Section 3823.

26 (b) No local jurisdiction shall be eligible to apply for a grant or  
27 loan pursuant to this section unless its governing body approves  
28 the application by resolution.

29 (c) Each recipient of a grant or loan made pursuant to this section  
30 shall establish, for the deposit of the revenues, an account or fund  
31 that is separate from the other accounts and funds of the recipient,  
32 and may expend the revenues only for the purposes specified in  
33 this chapter.

34 (d) The ~~commission~~ *department* shall make grants and loans  
35 pursuant to this section irrespective of whether a local jurisdiction  
36 is a county of origin.

37 (e) Any of the revenues that are not disbursed as grants or loans  
38 pursuant to this section during the fiscal year received shall be  
39 retained in the subaccount and may be disbursed as grants or loans  
40 pursuant to this section in succeeding fiscal years.

1 (f) (1) Any loan made under this section shall:  
 2 (A) Not exceed 80 percent of the local jurisdiction’s costs.  
 3 (B) Be repaid together with interest within 20 years from receipt  
 4 of the loan funds.

5 (2) Notwithstanding any other provision of law, the ~~commission~~  
 6 *department* shall, unless it determines that the purposes of this  
 7 chapter would be better served by establishing an alternative  
 8 interest rate schedule, periodically set interest rates on the loans  
 9 based on surveys of existing financial markets and at rates not  
 10 lower than the Pooled Money Investment Account.

11 (g) Any loan or grant made to a private entity under this section  
 12 shall (1) be matched with at least an equal investment by the  
 13 recipient, (2) provide tangible benefits, as determined by the  
 14 ~~commission~~, *department*, to a local jurisdiction, and (3) be  
 15 approved by the city, county, or Indian reservation within which  
 16 the project is to be located.

17 (h) The ~~commission~~ *department* may require an award  
 18 repayment or program reimbursement agreement of any recipient  
 19 of a grant or loan made pursuant to this section.

20 SEC. 52. Section 3822.1 of the Public Resources Code is  
 21 amended to read:

22 3822.1. Notwithstanding any other provision of law,  
 23 commencing with the 1984–85 fiscal year and in each fiscal year  
 24 thereafter, any revenues not granted pursuant to Section 3822  
 25 remaining in the Geothermal Resources Development Account  
 26 and any revenues expected to be received and disbursed during  
 27 the 1984–85 fiscal year and in each fiscal year thereafter shall be  
 28 made a part of the Governor’s Budget. Projects approved by the  
 29 ~~State Energy Resources Conservation and Development~~  
 30 ~~Commission~~ *department* under this chapter shall be submitted for  
 31 review and comment to the Department of Finance, the Legislative  
 32 Analyst, and the Joint Legislative Budget Committee when the  
 33 Legislature is in session. After a 30-day period, the ~~commission~~  
 34 *department* shall execute the funding agreements. The ~~commission~~  
 35 *department* shall submit to the Legislature by April 1 of each year,  
 36 a list of projects, in priority order, selected and approved during  
 37 the previous year.

38 SEC. 53. Section 3822.2 of the Public Resources Code is  
 39 amended to read:

1 3822.2. (a) Notwithstanding any other provision of law, the  
2 ~~State Energy Resources Conservation and Development~~  
3 ~~Commission~~ *department* may expend funds, from that portion of  
4 the Geothermal Resources Development Account used by the  
5 ~~commission~~ *department* for grants and loans, to provide direct  
6 technical assistance to local jurisdictions which are eligible for  
7 grants and loans pursuant to Section 3822.

8 (b) The total of all amounts expended pursuant to this section  
9 shall not exceed 5 percent of all funds available under Section  
10 3822 or one hundred thousand dollars (\$100,000), whichever  
11 amount is less.

12 (c) In making expenditures under this section, the ~~commission~~  
13 *department* shall consider, but not be limited to a consideration  
14 of, all of the following:

15 (1) The availability of energy resource and technology  
16 opportunities.

17 (2) The project definition and likelihood of success.

18 (3) Local needs and potential project benefits.

19 SEC. 54. Section 4799.16 of the Public Resources Code is  
20 amended to read:

21 4799.16. The department shall coordinate its activities and  
22 cooperate with the ~~State Department of Energy Resources~~  
23 ~~Conservation and Development Commission~~ in the development  
24 of surveys, studies, and research concerning the utilization of wood  
25 waste and forest growth for energy. The department shall also  
26 coordinate its activities with other public and private agencies to  
27 ~~insure~~ *ensure* that the activities of the department and ~~such~~ *those*  
28 other agencies are not duplicative and the maximum benefit occurs  
29 from actions taken by the department to carry out its responsibilities  
30 pursuant to this chapter.

31 SEC. 55. Section 6815.2 of the Public Resources Code is  
32 amended to read:

33 6815.2. (a) Notwithstanding Section 6815.1, the commission  
34 may take any oil, gas, or other hydrocarbons taken in kind by it,  
35 pursuant to any lease or agreement, and exchange it, by competitive  
36 bidding, for refined products ~~which~~ *that* shall be allocated to state  
37 agencies and to other public agencies, if the ~~State California~~  
38 ~~Energy Resources Conservation and Development Commission,~~  
39 ~~established pursuant to Division 15 (commencing with Section~~  
40 ~~25000);~~ *Board*, after a public hearing, finds, in its judgment, that

1 ~~such~~ *the* retention and allocation is necessary to alleviate fuel  
2 shortage conditions or will effect a substantial cost saving to the  
3 state.

4 (b) The commission may make and enter into contracts or  
5 agreements for exchange of ~~such~~ oil, gas, and other hydrocarbons  
6 taken in kind for finished products required for use by state and  
7 other public agencies. ~~Such~~ *These* contracts or agreements shall  
8 be entered into by competitive bids. The commission may reject  
9 all bids, if it determines that they are not in the public interest.

10 (c) The commission shall charge the state or other public  
11 agencies allocated refined products the current market price of  
12 these products including all applicable taxes. This price shall not  
13 be less than the value of the oil, gas, or other hydrocarbons ~~which~~  
14 *that* would have been received by the state if not taken in kind.  
15 The revenue shall be subject to the terms and conditions  
16 enumerated in Section 6217. The taxes generated by these sales  
17 shall be distributed according to applicable provisions of the  
18 Revenue and Taxation Code.

19 (d) The refined products obtained from ~~such~~ exchange contracts  
20 or agreements *entered into pursuant to this section* shall be  
21 allocated to state agencies and to other public agencies in  
22 accordance with the regulations which shall be adopted, after a  
23 public hearing, by the ~~State Energy Resources Conservation and~~  
24 ~~Development Commission.~~ *Department of Energy.*

25 (e) (1) Notwithstanding Section 6815.1, if the commission  
26 determines that it is in the best interests of the state, it may allow  
27 another state or public agency to take in kind oil, gas, or other  
28 hydrocarbons acquired by the commission.

29 ~~The~~

30 (2) *The* commission shall charge the state or other public  
31 agencies allocated in kind oil, gas, or other hydrocarbons the  
32 current market price of these products, including all applicable  
33 taxes. This price shall not be less than the value of the oil, gas, or  
34 other hydrocarbons ~~which~~ *that* would have been received by the  
35 state if not taken in kind. The commission may also charge for any  
36 transportation, treatment, or other costs associated with taking the  
37 in kind royalty. The revenue shall be subject to the terms and  
38 conditions enumerated in Section 6217. The taxes generated by  
39 these sales shall be distributed according to applicable provisions  
40 of the Revenue and Taxation Code.

1 SEC. 56. Section 14584 of the Public Resources Code is  
2 amended to read:

3 14584. (a) Operators of reverse vending machines or  
4 processors may apply to the California Pollution Control Financing  
5 Authority for financing pursuant to Section 44526 of the Health  
6 and Safety Code, as a means of obtaining capital for establishment  
7 of a convenience network. For purposes of Section 44508 of the  
8 Health and Safety Code, “project” includes the establishing of a  
9 recycling location pursuant to the division.

10 (b) Corporations, companies, or individuals may apply for loan  
11 and grant funds from the Energy Technologies Research,  
12 Development, and Demonstration Account specified in Section  
13 25683 by applying to the ~~State Department of Energy Resources~~  
14 ~~Conservation and Development Commission~~ for the purpose of  
15 demonstrating equipment for enhancing recycling opportunities.

16 SEC. 57. Section 25000.1 of the Public Resources Code is  
17 amended to read:

18 25000.1. (a) The Legislature further finds and declares that,  
19 in addition to their other ratepayer protection objectives, a principal  
20 goal of electric and natural gas utilities’ resource planning and  
21 investment shall be to minimize the cost to society of the reliable  
22 energy services that are provided by natural gas and electricity,  
23 and to improve the environment and to encourage the diversity of  
24 energy sources through improvements in energy efficiency and  
25 development of renewable energy resources, such as wind, solar,  
26 and geothermal energy.

27 (b) The Legislature further finds and declares that, in addition  
28 to any appropriate investments in energy production, electrical  
29 and natural gas utilities should seek to exploit all practicable and  
30 cost-effective conservation and improvements in the efficiency of  
31 energy use and distribution that offer equivalent or better system  
32 reliability, and which are not being exploited by any other entity.

33 (c) In calculating the cost effectiveness of energy resources,  
34 including conservation and load management options, the  
35 ~~commission~~ *department* shall include a value for any costs and  
36 benefits to the environment, including air quality. The ~~commission~~  
37 *department* shall ensure that any values it develops pursuant to  
38 this section are consistent with values developed by the Public  
39 Utilities Commission pursuant to Section 701.1 of the Public  
40 Utilities Code. However, if the ~~commission~~ *department* determines

1 that a value developed pursuant to this subdivision is not consistent  
 2 with a value developed by the Public Utilities Commission pursuant  
 3 to subdivision (c) of Section 701.1 of the Public Utilities Code,  
 4 the ~~commission~~ department may nonetheless use this value if, in  
 5 the appropriate record of its proceedings, it states its reasons for  
 6 using the value it has selected.

7 SEC. 58. Section 25005.5 of the Public Resources Code is  
 8 amended to read:

9 25005.5. The Legislature further finds and declares that  
 10 information should be acquired and analyzed by the ~~State~~  
 11 *Department of Energy Resources Conservation and Development*  
 12 ~~Commission~~ in order to ascertain future energy problems and  
 13 uncertainties, including, but not limited to:

14 (a) The state’s role in production of oil from domestic reserves,  
 15 especially within Petroleum Administration for Defense District  
 16 V.

17 (b) The production of Alaskan North Slope oil and its projected  
 18 use in the state.

19 (c) Plans of the federal government for development of oil in  
 20 the Outer Continental Shelf adjacent to the state.

21 (d) Impacts of petroleum price increases and projected  
 22 conservation measures on the demand for energy and indirect  
 23 effects on the need for offshore oil development and Alaskan oil  
 24 delivery into the state.

25 (e) Potential shipment of Alaskan oil through the state.

26 (f) Proposals for processing petroleum outside the state to supply  
 27 the needs within the state.

28 (g) The impact on the state of national energy policies, including  
 29 Project Independence.

30 SEC. 59. Section 25104 of the Public Resources Code is  
 31 amended to read:

32 25104. “Commission” or “board” means the *California Energy*  
 33 *Board. References to the State Energy Resources Conservation*  
 34 *and Development* ~~Commission~~. *Commission or the California*  
 35 *Energy Commission in other laws shall be to the California Energy*  
 36 *Board.*

37 SEC. 60. Section 25104.1 is added to the Public Resources  
 38 Code, to read:

39 25104.1. (a) “Department” means the Department of Energy.

40 (b) “Office” means the Office of Energy Market Oversight.

1 SEC. 61. Section 25104.2 is added to the Public Resources  
2 Code, to read:

3 25104.2. “Secretary” means the Secretary of Energy.

4 SEC. 62. Section 25106 of the Public Resources Code is  
5 amended to read:

6 25106. “Adviser” means the ~~administrative public~~ *public* adviser  
7 employed by the ~~commission~~ *department* pursuant to Section  
8 ~~25217~~; *25217.1*.

9 SEC. 63. The heading of Chapter 3 (commencing with Section  
10 25200) of Division 15 of the Public Resources Code is amended  
11 to read:

12  
13 CHAPTER 3. ~~STATE ENERGY RESOURCES CONSERVATION AND~~  
14 ~~DEVELOPMENT COMMISSION~~ *DEPARTMENT OF ENERGY*

15  
16 SEC. 64. Section 25200 of the Public Resources Code is  
17 repealed.

18 ~~25200. There is in the Resources Agency the State Energy~~  
19 ~~Resources Conservation and Development Commission, consisting~~  
20 ~~of five members appointed by the Governor subject to Section~~  
21 ~~25204.~~

22 SEC. 65. Section 25200 is added to the Public Resources Code,  
23 to read:

24 25200. (a) The Department of Energy is hereby created in  
25 state government to be headed by the Secretary of Energy who  
26 shall be appointed by the Governor, subject to Senate confirmation,  
27 and who shall hold office at the pleasure of the Governor. The  
28 Governor shall appoint the initial secretary by January 31, 2011.

29 (b) The Secretary of Energy shall serve as the principal adviser  
30 to the Governor on, and shall assist the Governor in establishing,  
31 major policy and program matters on electric power and other  
32 sources of energy as related to renewable energy, energy  
33 conservation, environmental protection, and other goals and  
34 policies established by this division.

35 (c) The Secretary of Energy shall have the power of a head of  
36 a department pursuant to Chapter 2 (commencing with Section  
37 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

38 (d) The Governor may appoint an Assistant Secretary of Energy  
39 who shall serve at the pleasure of the Governor.

1 (e) Consistent with the powers set forth in Chapter 2  
 2 (commencing with Section 12850) of Part 2.5 of Division 3 of  
 3 Title 2 of the Government Code, the Secretary of Energy shall  
 4 organize the department, with the approval of the Governor, in the  
 5 manner he or she deems necessary to properly conduct the  
 6 operations of the department. Notwithstanding Sections 11042,  
 7 11043, and 11157 of the Government Code, the secretary may  
 8 employ legal counsel who shall represent the department and the  
 9 board in connection with legal matters and litigation before any  
 10 boards, agencies, or courts of the state or federal government.

11 (f) The department shall be responsible for the planning,  
 12 development, and implementation of all major aspects of the state  
 13 energy policy, including electricity.

14 (g) On or before April 1, 2011, the Secretary of Energy shall  
 15 submit to the Legislature a proposal to recodify statutory provisions  
 16 related to the department, and any other appropriate provisions,  
 17 into an Energy Code.

18 SEC. 66. Section 25201 of the Public Resources Code is  
 19 repealed.

20 ~~25201. One member of the commission shall have a background~~  
 21 ~~in the field of engineering or physical science and have knowledge~~  
 22 ~~of energy supply or conversion systems; one member shall be an~~  
 23 ~~attorney and a member of the State Bar of California with~~  
 24 ~~administrative law experience; one member shall have background~~  
 25 ~~and experience in the field of environmental protection or the study~~  
 26 ~~of ecosystems; one member shall be an economist with background~~  
 27 ~~and experience in the field of natural resource management; and~~  
 28 ~~one member shall be from the public at large.~~

29 SEC. 67. Section 25201 is added to the Public Resources Code,  
 30 to read:

31 25201. (a) The Department of Energy hereby succeeds to, and  
 32 is vested with, all the powers, duties, responsibilities, obligations,  
 33 liabilities, jurisdiction, and rights and privileges of the following  
 34 agencies, which shall no longer exist, and shall be known as  
 35 predecessor entities:

36 (1) The State Energy Resources Conservation and Development  
 37 Commission, some of whose former functions shall be  
 38 administrated by the California Energy Board within the  
 39 department as provided by law or directly by the Secretary of  
 40 Energy.

1 (2) Electricity Oversight Board.

2 (b) Any reference in any law, regulation, or guideline to any of  
3 the predecessor entities listed in subdivision (a) shall be deemed  
4 to refer to the Department of Energy or the California Energy  
5 Board, as appropriate, unless the context requires otherwise.

6 SEC. 68. Section 25202 of the Public Resources Code is  
7 repealed.

8 ~~25202. The Secretary of the Resources Agency and the~~  
9 ~~President of the Public Utilities Commission shall be ex officio,~~  
10 ~~nonvoting members of the commission, whose presence shall not~~  
11 ~~be counted for a quorum or for vote requirements.~~

12 SEC. 69. Section 25202 is added to the Public Resources Code,  
13 to read:

14 25202. In addition to the powers, duties, responsibilities,  
15 jurisdiction, and rights and privileges specified in Section 25201,  
16 the Department of Energy hereby succeeds to, and is vested with,  
17 all the powers, duties, responsibilities, obligations, liabilities,  
18 jurisdiction, and rights and privileges of all of the following:

19 (a) The California Energy Extension Service of the Office of  
20 Planning and Research.

21 (b) All functions of the Energy Assessment Program or its  
22 successor entity within the Department of General Services.

23 (c) All functions of the Energy Services Programs or their  
24 successor entities in the Office of the State Architect within the  
25 Department of General Services.

26 (d) On and after January 1, 2013, all functions of the Department  
27 of Community Services and Development related to the receipt  
28 and administration of federal energy-related programs including  
29 the Low-Income Home Energy Assistance Program Block Grant,  
30 provided for pursuant to the Low-Income Home Energy Assistance  
31 Act of 1981, as amended (42 U.S.C. Sec. 8621 et seq.), and the  
32 United States Department of Energy Weatherization Assistance  
33 Program, provided for pursuant to Title IV of the Energy  
34 Conservation and Production Act (Public Law 94-385, as amended)  
35 and pursuant to the United States Housing and Urban Development  
36 Residential Lead-Based Paint Hazard Reduction Act of 1992  
37 (Public Law 102-550, as amended), and the receipt and  
38 administration of the community service block grants provided  
39 pursuant to Subtitle B of Title VI of Public Law 97-35, as amended,

1 and administered pursuant to Chapter 9 (commencing with Section  
2 12725) of Part 2 of Division 3 of Title 2 of the Government Code.  
3 SEC. 70. Section 25203 of the Public Resources Code is  
4 repealed.

5 ~~25203. Each member of the commission shall represent the~~  
6 ~~state at large and not any particular area thereof, and shall serve~~  
7 ~~on a full-time basis.~~

8 SEC. 71. Section 25203 is added to the Public Resources Code,  
9 to read:

10 25203. (a) There is, in the state government, the California  
11 Energy Board, which is hereby created within the Department of  
12 Energy.

13 (b) The board shall consist of all of the following:

14 (1) The Secretary of Energy, who shall serve as the chair of the  
15 board.

16 (2) Four public members with one member meeting each of the  
17 following requirements:

18 (A) A person having a background in the field of engineering  
19 or physical science with knowledge in energy supply or conversion  
20 systems.

21 (B) A member of the State Bar of California with administrative  
22 law experience.

23 (C) A person having a background in environmental protection  
24 or the study of ecosystems.

25 (D) An economist with background and experience in the field  
26 of natural resource management.

27 (3) The President of the California Public Utilities Commission.

28 (4) The Secretary of the Natural Resources Agency.

29 (c) The President of the California Public Utilities Commission  
30 and the Secretary of the Natural Resources Agency shall serve as  
31 ex officio, nonvoting members of the board, whose presence shall  
32 not be counted for a quorum or for vote requirements.

33 (d) (1) The Governor shall appoint the public members of the  
34 board, subject to confirmation by the Senate, for a term of four  
35 years. The public members shall serve staggered terms.

36 (2) A vacancy shall be filled by the Governor within 30 days  
37 of the date on which a vacancy occurs for the unexpired portion  
38 of the term in which it occurs or for any new term of office. If the  
39 Governor fails to make an appointment for a vacancy within the  
40 30-day period, the Senate Committee on Rules may make the

1 appointment to fill the vacancy for the unexpired portion of the  
2 term in which the vacancy occurred or for any new term of office.

3 (3) Every appointment made by the Governor to the board shall  
4 be subject to the advice and consent of a majority of the members  
5 elected to the Senate.

6 (4) The terms of office of the public members of the board shall  
7 be for four years. Any vacancy shall be filled by the Governor  
8 within 30 days of the date on which a vacancy occurs for the  
9 unexpired portion of the term in which it occurs or for any new  
10 term of office.

11 (5) Members of the predecessor State Energy Resources  
12 Conservation and Development Commission having the  
13 qualification specified in paragraph (2) of subdivision (b) shall  
14 continue to serve as public members of the board for the remainder  
15 of the terms they were appointed to serve on the predecessor  
16 commission.

17 (e) Each member of the board shall represent the state at large  
18 and not any particular area thereof, and shall serve on a full-time  
19 basis.

20 (f) The secretary may name a designee who may act in the place  
21 of the secretary in hearing any matter before the board, except on  
22 any matter for which the secretary determines he or she may have  
23 a conflict of interest in hearing a case. The participation of the  
24 designee will count for quorum and voting purposes.

25 (g) The board hereby succeeds to, and is vested with, all powers,  
26 duties, obligations, liabilities, responsibilities, jurisdiction, and  
27 rights and privileges of the predecessor State Energy Resources  
28 Conservation and Development Commission set forth in Chapter  
29 6 (commencing with Section 25500).

30 (h) Meetings of the board shall be open to the public and shall  
31 be conducted in accordance with the Bagley-Keene Open Meeting  
32 Act (Article 9 (commencing with Section 11120) of Chapter 1 of  
33 Part 1 of Division 3 of Title 2 of the Government Code).

34 (i) The secretary may delegate to the board any duty of the  
35 secretary if the secretary determines that doing so would not  
36 conflict with other responsibilities of the board and that utilizing  
37 the procedures of the board would serve the public interest.

38 (j) For purposes of this chapter, "board" means the California  
39 Energy Board.

1 SEC. 72. Section 25204 of the Public Resources Code is  
2 repealed.

3 ~~25204. The Governor shall appoint the members of the~~  
4 ~~commission within 30 days after the effective date of this division.~~  
5 ~~Every appointment made by the Governor to the commission shall~~  
6 ~~be subject to the advice and consent of a majority of the members~~  
7 ~~elected to the Senate.~~

8 SEC. 73. Section 25204 is added to the Public Resources Code,  
9 to read:

10 25204. (a) All regulations, orders, and guidelines adopted by  
11 an entity listed in subdivision (a) of Section 25201 or an entity  
12 listed in Section 25202 with regard to functions of that entity  
13 described in that section, and any of their predecessors in effect  
14 on or before January 1, 2010, shall remain in effect with respect  
15 to the programs and functions for which they were adopted, and  
16 shall be fully enforceable unless and until readopted, amended, or  
17 repealed, or until they expire by their own terms. All proceedings  
18 pending before an entity listed in subdivision (a) of Section 25201  
19 or an entity listed in Section 25202 shall not abate but continue as  
20 proceedings before the department or commission, as appropriate.

21 (b) Except as otherwise specified, a statute, law, rule, or  
22 guideline now in force, or that may hereafter be enacted or adopted  
23 that references an entity listed in subdivision (a) of Section 25201,  
24 or an entity listed in Section 25202 with regard to functions of that  
25 entity described in that section, or any of their predecessors shall  
26 mean the Department of Energy.

27 (c) An action by or against the entities listed in subdivision (a)  
28 of Section 25201 or Section 25202, or any of their predecessors  
29 shall not abate but, except as provided in Section 25227.3, shall  
30 continue in the name of the Department of Energy and the  
31 department shall be substituted for the entities and any of their  
32 predecessors by the court where the action is pending. The  
33 substitution shall not in any way affect the rights of the parties to  
34 the action.

35 SEC. 74. Section 25205 of the Public Resources Code is  
36 amended to read:

37 25205. (a) ~~No~~ A person shall *not* be a member of the  
38 ~~commission board~~ who, during the two years prior to appointment  
39 on the ~~commission~~, *board*, received any substantial portion of his  
40 or her income directly or indirectly from any electric utility, or

1 who engages in sale or manufacture of any major component of  
2 any ~~facility~~. *facility subject to licensing by the board*. A member  
3 of the ~~commission~~ *board* shall not be employed by any electric  
4 utility, applicant, or, within two years after he or she ceases to be  
5 a member of the commission, by any person who engages in the  
6 sale or manufacture of any major component of any ~~facility~~. *facility*  
7 *subject to licensing by the board*.

8 (b) Except as provided in Section 25202, the members of the  
9 ~~commission~~ *board* shall not hold any other elected or appointed  
10 public office or position.

11 (c) The members of the ~~commission~~ *board* and all employees  
12 of the ~~commission~~ *department* shall comply with all applicable  
13 provisions of Section 19251 of the Government Code.

14 (d) A person who is a member of *the board* or employee of the  
15 ~~commission~~ *department* shall not participate personally and  
16 substantially as a member of *the board* or employee of the  
17 ~~commission~~, *department*, through decision, approval, disapproval,  
18 recommendation, the rendering of advice, investigation, or  
19 otherwise, in a judicial or other proceeding, hearing, application,  
20 request for a ruling, or other determination, contract, claim,  
21 controversy, study, plan, or other particular matter in which, to his  
22 or her knowledge, he or she, his or her spouse, minor child, or  
23 partner, or any organization, except a governmental agency or  
24 educational or research institution qualifying as a nonprofit  
25 organization under state or federal income tax law, in which he or  
26 she is serving, or has served as, officer, director, trustee, partner,  
27 or employee while serving as a member of *the board* or employee  
28 of the ~~commission~~ *department* or within two years prior to his or  
29 her appointment as a member of the ~~commission~~, *board*, has a  
30 direct or indirect financial interest.

31 (e) A person who is a partner, employer, or employee of a  
32 member of *the board* or employee of the ~~commission~~ *department*  
33 shall not act as an attorney, agent, or employee for any person  
34 other than the state in connection with any judicial or other  
35 proceeding, hearing, application, request for a ruling, or other  
36 determination, contract, claim, controversy, study, plan, or other  
37 particular matter in which the ~~commission~~ *board or department*  
38 is a party or has a direct and substantial interest.

39 (f) ~~The provisions of this~~ *This* section shall not apply if the  
40 Attorney General finds that the interest of the member of *the board*

1 or employee of the ~~commission~~ *department* is not so substantial  
2 as to be deemed likely to affect the integrity of the services which  
3 the state may expect from the member or employee.

4 (g) Any person who violates ~~any provision~~ of this section is  
5 guilty of a felony and shall be subject to a fine of not more than  
6 ten thousand dollars (\$10,000) or imprisonment in the state prison,  
7 or both.

8 (h) The amendment of subdivision (d) of this section enacted  
9 by the 1975–76 Regular Session of the Legislature does not  
10 constitute a change in, but is declaratory of, existing law.

11 SEC. 75. Section 25205.5 is added to the Public Resources  
12 Code, to read:

13 25205.5. A contract, grant, loan, lease, license, bond, or any  
14 other agreement to which an entity listed in subdivision (a) of  
15 Section 25201, or an entity listed in Section 25202 with regard to  
16 functions of that entity described in that section, or any of their  
17 predecessors are a party shall not be void or voidable by reason  
18 of this act, but shall continue in full force and effect, with the  
19 Department of Energy assuming all the rights, obligations,  
20 liabilities, and duties of the entity and any of its predecessors. That  
21 assumption by the department shall not in any way affect the rights  
22 of the parties to the contract, grant, loan, lease, license, or  
23 agreement. Bonds issued by or on behalf of the entity referred to  
24 in paragraph (1) of subdivision (a) of Section 25201 or the entities  
25 referred to in Section 25202 with regard to the functions transferred  
26 to the department, or issued by or on behalf of any of the  
27 predecessors, on or before January 1, 2011, shall become the  
28 indebtedness of the department. Any ongoing obligations or  
29 responsibilities of the entity or any of its predecessors for managing  
30 and maintaining bond issuances shall be transferred to the newly  
31 created entity without impairment to any security contained in the  
32 bond instrument.

33 SEC. 76. Section 25206 of the Public Resources Code is  
34 repealed.

35 ~~25206. The terms of office of the members of the commission~~  
36 ~~shall be for five years, except that the members first appointed to~~  
37 ~~the commission shall classify themselves by lot so that the term~~  
38 ~~of office of one member shall expire at the end of each one of the~~  
39 ~~five years following the effective date of this division. Any vacancy~~  
40 ~~shall be filled by the Governor within 30 days of the date on which~~

1 a vacancy occurs for the unexpired portion of the term in which it  
2 occurs or for any new term of office.

3 If the Governor fails to make an appointment for any vacancy  
4 within such 30-day period, the Senate Rules Committee may make  
5 the appointment to fill the vacancy for the unexpired portion of  
6 the term in which the vacancy occurred or for any new term of  
7 office, subject to the provisions of Section 25204.

8 SEC. 77. Section 25206 is added to the Public Resources Code,  
9 to read:

10 25206. On and after January 1, 2011, the unexpended balance  
11 of all funds available for use by the entities listed in subdivision  
12 (a) of Section 25201, or the entities listed in Section 25202 for the  
13 performance of functions of these entities described in that section,  
14 or any of their predecessors in carrying out a function transferred  
15 to the Department of Energy shall be available for use by the  
16 department. Unexpended balances shall be utilized consistent with  
17 the purposes for which they were appropriated. All books,  
18 documents, records, and property of the entities shall be transferred  
19 to the department.

20 SEC. 78. Section 25207 of the Public Resources Code is  
21 amended to read:

22 25207. The *secretary and the public* members of the  
23 ~~commission board~~ shall receive the salary provided for by Chapter  
24 6 (commencing with Section 11550) of Part 1 of Division 3 of  
25 Title 2 of the Government Code.

26 Each member of the ~~commission board~~ shall receive the  
27 necessary traveling and other expenses incurred in the performance  
28 of his *or her* official duties. When necessary, the members of the  
29 ~~commission board~~ and ~~its~~ *the* employees of the department may  
30 travel within or without the state.

31 SEC. 79. Section 25207.5 is added to the Public Resources  
32 Code, to read:

33 25207.5. (a) An officer or employee of the entities listed in  
34 subdivision (a) of Section 25201 or Section 25202 who is  
35 performing a function transferred to the Department of Energy  
36 and who is serving in the state civil service, other than as a  
37 temporary employee, shall be transferred to the department. The  
38 status, position, and rights of an officer or employee of the entities  
39 shall not be affected by the transfer and shall be retained by the  
40 person as an officer or employee of the department, as the case

1 may be, pursuant to the State Civil Service Act (Part 2  
2 (commencing with Section 18500) of Division 5 of Title 2 of the  
3 Government Code), except as to a position that is exempt from  
4 civil service.

5 (b) The Department of Energy shall have possession and control  
6 of all records, pages, offices, equipment, supplies, moneys, funds,  
7 appropriations, licenses, permits, agreements, contracts, claims,  
8 judgments, land, and other property, real or personal, connected  
9 with the administration of, or held for, the benefit or use of the  
10 entities listed in subdivision (a) of Section 25201 or for the  
11 performance of the functions listed in Section 25202.

12 SEC. 80. Section 25209 of the Public Resources Code is  
13 amended to read:

14 25209. Each member of the ~~commission~~ *board* shall have one  
15 vote. Except as provided in Section 25211, the affirmative votes  
16 of at least three members shall be required for the transaction of  
17 any business of the ~~commission~~ *board*.

18 SEC. 81. Section 25210 of the Public Resources Code is  
19 amended to read:

20 25210. The ~~commission~~ *board* may hold any hearings and  
21 conduct any investigations in any part of the state necessary to  
22 carry out its powers and duties prescribed by this division and, for  
23 those purposes, has the same powers as are conferred upon heads  
24 of departments of the state by Article 2 (commencing with Section  
25 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the  
26 Government Code.

27 SEC. 82. Section 25211 of the Public Resources Code is  
28 amended to read:

29 25211. The ~~commission~~ *board* may appoint a committee of  
30 not less than two members of the ~~commission~~ *board* to carry on  
31 investigations, inquiries, or hearings ~~which~~ *that* the ~~commission~~  
32 *board* has power to undertake or to hold. At least one member of  
33 the ~~committee~~ *board* shall attend all public hearings or other  
34 proceedings held pursuant to Chapter 6 (commencing with Section  
35 25500), and all public hearings in biennial report proceedings and  
36 rulemaking proceedings, except that, upon agreement of all parties  
37 to a proceeding who are present at the hearing or proceeding, the  
38 committee may authorize a hearing officer to continue to take  
39 evidence in the temporary absence of a ~~commission~~ *board* member.  
40 Every order made by the committee pursuant to the inquiry,

1 investigation, or hearing, when approved or confirmed by the  
2 ~~commission board~~ and ordered filed in its office, shall be the order  
3 of the ~~commission~~ board.

4 SEC. 83. Section 25212 of the Public Resources Code is  
5 amended to read:

6 25212. Every two years the Governor shall designate a  
7 ~~chairman and~~ vice chairman of the ~~commission board~~ from among  
8 its members.

9 SEC. 84. Section 25213 of the Public Resources Code is  
10 amended to read:

11 25213. The ~~commission department and board~~ shall adopt  
12 rules and regulations, as necessary, to carry out the provisions of  
13 this division in conformity with the provisions of Chapter 3.5  
14 (commencing with Section 11340) of Part 1 of Division 3 of Title  
15 2 of the Government Code. The ~~commission department and the~~  
16 ~~board~~ shall make available to any person upon request copies of  
17 proposed regulations, together with summaries of reasons  
18 supporting their adoption.

19 SEC. 85. Section 25214 of the Public Resources Code is  
20 amended to read:

21 25214. The ~~commission department and the board~~ shall  
22 maintain ~~its their~~ headquarters in the County of ~~Sacramento and~~  
23 ~~may establish branch offices in such parts of the state as the~~  
24 ~~commission deems necessary. Sacramento.~~ The ~~commission board~~  
25 shall hold meetings at ~~such times and at such~~ places as shall be  
26 determined by it. All meetings and hearings of the ~~commission~~  
27 ~~board~~ shall be open to the public, and opportunity to be heard with  
28 respect to the subject of the hearings shall be afforded to any  
29 person. Upon request, an interested party may be granted  
30 reasonable opportunity to examine any witness testifying at the  
31 hearing. ~~The first meeting of the commission shall be held within~~  
32 ~~30 days after the confirmation of the last member of the~~  
33 ~~commission pursuant to Section 25204. The Governor shall~~  
34 ~~designate the time and place for the first meeting of the~~  
35 ~~commission.~~

36 SEC. 86. Section 25215 of the Public Resources Code is  
37 amended to read:

38 25215. ~~Any~~ A member of the ~~commission board~~ may be  
39 removed from office by the Legislature, by concurrent resolution

1 adopted by a majority vote of all members elected to each house,  
2 for dereliction of duty or corruption or incompetency.

3 SEC. 87. Section 25216 of the Public Resources Code is  
4 amended to read:

5 25216. In addition to other duties specified in this division, the  
6 ~~commission~~ *department* shall do all of the following:

7 (a) Undertake a continuing assessment of trends in the  
8 consumption of electrical energy and other forms of energy and  
9 analyze the social, economic, and environmental consequences of  
10 these trends; carry out directly, or cause to be carried out, energy  
11 conservation measures specified in Chapter 5 (commencing with  
12 Section 25400) of this division; and recommend to the Governor  
13 and the Legislature new and expanded energy conservation  
14 measures as required to meet the objectives of this division.

15 (b) Collect from electric utilities, gas utilities, and fuel producers  
16 and wholesalers and other sources forecasts of future supplies and  
17 consumption of all forms of energy, including electricity, and of  
18 future energy or fuel production and transporting facilities to be  
19 constructed; independently analyze ~~such~~ *those* forecasts in relation  
20 to statewide estimates of population, economic, and other growth  
21 factors and in terms of the availability of energy resources, costs  
22 to consumers, and other factors; and formally specify statewide  
23 and service area electrical energy demands to be utilized as a basis  
24 for planning the siting and design of electric power generating and  
25 related facilities.

26 (c) Carry out, or cause to be carried out, under contract or other  
27 arrangements, research and development into alternative sources  
28 of energy, improvements in energy generation, transmission, and  
29 siting, fuel substitution, and other topics related to energy supply,  
30 demand, public safety, ecology, and conservation which are of  
31 particular statewide importance.

32 SEC. 88. Section 25216.3 of the Public Resources Code is  
33 amended to read:

34 25216.3. (a) The ~~commission~~ *department* shall compile  
35 relevant local, regional, state, and federal land use, public safety,  
36 environmental, and other standards to be met in designing, siting,  
37 and operating facilities in this state; except as provided in  
38 subdivision (d) of Section 25402, adopt standards, except for air  
39 and water quality, to be met in designing or operating facilities to  
40 safeguard public health and safety, which may be different from

1 or more stringent than those adopted by local, regional, or other  
2 state agencies, or by any federal agency if permitted by federal  
3 law; and monitor compliance and ensure that all facilities are  
4 operated in accordance with this division.

5 (b) The local, regional, and other state agencies shall advise the  
6 ~~commission~~ *department* as to any change in its standards,  
7 ordinances, or laws which are pertinent and relevant to the objective  
8 of carrying out the provisions of this division.

9 SEC. 89. Section 25216.5 of the Public Resources Code is  
10 amended to read:

11 25216.5. The ~~commission~~ *department* shall do all of the  
12 following:

13 (a) Prescribe the form and content of applications for facilities;  
14 conduct public hearings and take other actions to secure adequate  
15 evaluation of applications; and formally act to approve or  
16 disapprove applications, including specifying conditions under  
17 which approval and continuing operation of any facility shall be  
18 permitted.

19 (b) Prepare an integrated plan specifying actions to be taken in  
20 the event of an impending serious shortage of energy, or a clear  
21 threat to public health, safety, or welfare.

22 (c) Evaluate policies governing the establishment of rates for  
23 electric power and other sources of energy as related to energy  
24 conservation, environmental protection, and other goals and  
25 policies established in this division, and transmit recommendations  
26 for changes in power-pricing policies and rate schedules to the  
27 Governor, the Legislature, to the Public Utilities Commission, and  
28 to publicly owned electric utilities.

29 (d) Serve as a central repository within the state government  
30 for the collection, storage, retrieval, and dissemination of data and  
31 information on all forms of energy supply, demand, conservation,  
32 public safety, research, and related subjects. The data and  
33 information shall be derived from all sources, including, but not  
34 be limited to, electric and gas utilities, oil and other energy  
35 producing companies, institutions of higher education, private  
36 industry, public and private research laboratories, private  
37 individuals, and from any other source that the ~~commission~~  
38 *department* determines is necessary to carry out its objectives under  
39 this division. The ~~commission~~ *department* may charge and collect  
40 a reasonable fee for retrieving and disseminating any ~~such~~

1 information to cover the cost of ~~such a~~ *that* service. Any funds  
2 received by the ~~commission~~ *department* pursuant to this subdivision  
3 shall be deposited in the account and are continuously appropriated  
4 for expenditure, by the ~~commission~~, *department*, for purposes of  
5 retrieving and disseminating any such information pursuant to this  
6 section.

7 SEC. 90. Section 25217 of the Public Resources Code is  
8 repealed.

9 ~~25217. The commission shall do all of the following:~~

10 (a) ~~Appoint an executive director with administration and fiscal~~  
11 ~~experience, who shall serve at its pleasure and whose duties and~~  
12 ~~salary shall be prescribed by the commission.~~

13 (b) ~~Employ and prescribe the duties of other staff members as~~  
14 ~~necessary to carry out the provisions of this division. Staff members~~  
15 ~~of the commission may participate in all matters before the~~  
16 ~~commission to the limits prescribed by the commission.~~

17 (c) ~~Employ legal counsel who shall advise the commission and~~  
18 ~~represent it in connection with legal matters and litigation before~~  
19 ~~any boards and agencies of the state or federal government.~~

20 SEC. 91. Section 25217.1 of the Public Resources Code is  
21 amended to read:

22 25217.1. ~~The commission~~ *board* shall nominate and the  
23 Governor shall appoint for a term of three years a public adviser  
24 to the ~~commission~~ *board* who shall be an attorney admitted to the  
25 practice of law in this state and who shall carry out the provisions  
26 of Section 25222 as well as other duties prescribed by this division  
27 or by the ~~commission~~. *board*. The adviser may be removed from  
28 office only upon the joint concurrence of four ~~commissioners~~ *board*  
29 *members* and the Governor.

30 SEC. 92. Section 25217.5 of the Public Resources Code is  
31 repealed.

32 ~~25217.5. The chairman of the commission shall direct the~~  
33 ~~adviser, the executive director, and other staff in the performance~~  
34 ~~of their duties in conformance with the policies and guidelines~~  
35 ~~established by the commission.~~

36 SEC. 93. Section 25218 of the Public Resources Code is  
37 amended to read:

38 25218. In addition to other powers specified in this division,  
39 the ~~commission~~ *department* may do any of the following:

1 (a) Apply for and accept grants, contributions, and  
2 appropriations, and award grants consistent with the goals and  
3 objectives of a program or activity the commission is authorized  
4 to implement or administer.

5 (b) Contract for professional services if the work or services  
6 cannot be satisfactorily performed by its employees or by any other  
7 state agency.

8 (c) Be sued and sue.

9 (d) Request and utilize the advice and services of all federal,  
10 state, local, and regional agencies.

11 (e) Adopt any rule or regulation, or take any action, it deems  
12 reasonable and necessary to carry out this ~~division~~. *division except*  
13 *those responsibilities expressly vested in the board.*

14 (f) Adopt rules and regulations, or take any action, it deems  
15 reasonable and necessary to ensure the free and open participation  
16 of any member of the staff in proceedings before the ~~commission~~.  
17 *department.*

18 SEC. 94. Section 25218.5 of the Public Resources Code is  
19 amended to read:

20 25218.5. The provisions specifying any power or duty of the  
21 ~~commission~~ *department or the board* shall be liberally construed,  
22 in order to carry out the objectives of this division.

23 SEC. 95. Section 25219 is added to the Public Resources Code,  
24 to read:

25 25219. The department shall create a legal subcommittee in  
26 order to collaborate and cooperate in developing a single statewide  
27 position on litigation concerning energy matters within the state.  
28 The subcommittee shall be comprised of:

29 (a) The secretary, or the department's legal counsel if one has  
30 been employed pursuant to subdivision (e) of Section 25200.

31 (b) The Deputy Secretary of the Office of Energy Market  
32 Oversight pursuant to Section 25228.4.

33 (c) The Attorney General.

34 (d) The President of the California Public Utilities Commission.

35 SEC. 96. Section 25220 of the Public Resources Code is  
36 amended to read:

37 25220. (a) *As to any matter involving the federal government,*  
38 *or departments or agencies, that is within the scope of the power*  
39 *and duties of the department, the department may represent its*  
40 *interest or the interest of any county, city, state agency, or public*

1 *district upon its request, and to that end may correspond, confer,*  
2 *and cooperate with the federal government, or departments or*  
3 *agencies.*

4 (b) The ~~commission~~ *department* may participate as a party, to  
5 the extent that it shall determine, in any proceeding before any  
6 federal or state agency having authority whatsoever to approve or  
7 disapprove any aspect of a proposed facility, receive notice from  
8 any applicant of all applications and pleadings filed subsequently  
9 by ~~such~~ *those* applicants in any of ~~such~~ *those* proceedings, and,  
10 by its request, receive copies of any of ~~such~~ *the* subsequently filed  
11 applications and pleadings that it shall deem necessary.

12 SEC. 97. Section 25221 of the Public Resources Code is  
13 amended to read:

14 25221. Upon request of the ~~commission~~, *department*, the  
15 Attorney General shall represent the ~~commission~~ *department* and  
16 the state in litigation concerning affairs of the ~~commission~~,  
17 *department*, unless the Attorney General represents another state  
18 agency, in which case the ~~commission~~ *department* shall be  
19 authorized to employ other counsel.

20 SEC. 98. Section 25222 of the Public Resources Code is  
21 amended to read:

22 25222. The adviser shall ~~insure~~ *ensure* that full and adequate  
23 participation by all interested groups and the public at large is  
24 secured in the planning, site and facility certification, energy  
25 conservation, and emergency allocation procedures provided in  
26 this division. The adviser shall insure that timely and complete  
27 notice of ~~commission~~ *board* meetings and public hearings is  
28 disseminated to all interested groups and to the public at large.  
29 The adviser shall also advise ~~such~~ *those* groups and the public as  
30 to effective ways of participating in the ~~commission's~~ *board's*  
31 proceedings. The adviser shall recommend to the ~~commission~~  
32 *board* additional measures to ~~assure~~ *ensure* open consideration  
33 and public participation in energy planning, site and facility  
34 certification, energy conservation, and emergency allocation  
35 proceedings.

36 SEC. 99. Section 25223 of the Public Resources Code is  
37 amended to read:

38 25223. ~~The commission~~ (a) *Except as provided in subdivision*  
39 *(b), the department and the board* shall make available any  
40 information filed or submitted pursuant to this division under the

1 provisions of the California Public Records Act, Chapter 3.5  
2 (commencing with Section 6250) of Division 7, Title 1 of the  
3 Government Code; ~~provided, however, that the commission shall~~  
4 ~~keep confidential any information submitted to the Division of Oil~~  
5 ~~and Gas of the Department of Conservation that the division~~  
6 ~~determines, pursuant to Section 3752, to be proprietary.~~

7 *(b) The department and the board shall keep confidential any*  
8 *information submitted to the Division of Oil and Gas of the*  
9 *Department of Conservation that the division determines, pursuant*  
10 *to Section 3752, to be proprietary.*

11 SEC. 100. Section 25224 of the Public Resources Code is  
12 amended to read:

13 25224. ~~The commission~~ *department, the board,* and other state  
14 agencies shall, to the fullest extent possible, exchange records,  
15 reports, material, and other information relating to energy resources  
16 and conservation and power facilities siting, or any areas of mutual  
17 concern, to the end that unnecessary duplication of effort may be  
18 avoided.

19 SEC. 101. Section 25225 of the Public Resources Code is  
20 amended to read:

21 25225. (a) Prior to expending any funds for any research,  
22 development, or demonstration program or project relating to  
23 vehicles or vehicle fuels, ~~the commission~~ *department, by action*  
24 *of the board,* shall do both of the following, using existing  
25 resources:

26 (1) Adopt a plan describing any proposed expenditure that sets  
27 forth the expected costs and qualitative as well as quantitative  
28 benefits of the proposed program or project.

29 (2) Find that the proposed program or project will not duplicate  
30 any other past or present publicly funded California program or  
31 project. This paragraph is not intended to prevent funding for  
32 programs or projects jointly funded with another public agency  
33 where there is no duplication.

34 (b) Within 120 days from the date of the conclusion of a program  
35 or project subject to subdivision (a) that is funded by the  
36 ~~commission,~~ *department,* ~~the commission~~ *department* shall issue  
37 a public report that sets forth the actual costs of the program or  
38 project, the results achieved and how they compare with expected  
39 costs and benefits determined pursuant to paragraph (1) of

1 subdivision (a), and any problems that were encountered by the  
2 program or project.

3 (c) ~~(1)~~ This section does not apply to any funds appropriated  
4 for research, development, or demonstration pursuant to a statute  
5 that expressly specifies both of the following:

6 ~~(A)~~

7 (1) A vehicle technology or vehicle fuel which is the subject of  
8 the research, development, or demonstration.

9 ~~(B)~~

10 (2) The purpose of, or anticipated products of, the research,  
11 development, or demonstration.

12 ~~(2) This section does not apply to the Katz Safe Schoolbus Clean  
13 Fuel Efficiency Demonstration Program (Part 10.7 (commencing  
14 with Section 17910) of Division 1 of Title 1 of the Education  
15 Code).~~

16 SEC. 102. Section 25226 of the Public Resources Code is  
17 amended to read:

18 25226. (a) The Energy Technologies Research, Development,  
19 and Demonstration Account established under former Section  
20 25683 is hereby continued in existence, in the General Fund, to  
21 be administered by the ~~commission~~ *department* for the purpose of  
22 carrying out Chapter 7.3 (commencing with Section 25630) and  
23 Chapter 7.5 (commencing with Section 25650).

24 (b) The Controller shall deposit in the account all money  
25 appropriated to the account by the Legislature, plus accumulated  
26 interest on that money, and money from loan repayments, interest,  
27 and royalties pursuant to Sections 25630 and 25650, for use by  
28 the ~~commission~~, *department*, upon appropriation by the Legislature,  
29 for the purposes specified in Chapter 7.3 (commencing with Section  
30 25630) and Chapter 7.5 (commencing with Section 25650).

31 SEC. 103. Chapter 3.5 (commencing with Section 25227) is  
32 added to Division 15 of the Public Resources Code, to read:

33

34 CHAPTER 3.5. OFFICE OF ENERGY MARKET OVERSIGHT

35

36 25227. In order to ensure that the interests of the people of  
37 California are served, there is hereby created within the department,  
38 the Office of Energy Market Oversight. Under the direction of the  
39 Secretary of Energy, the office shall perform all of the following  
40 functions:

1 (a) Oversee the Independent System Operator.

2 (b) Hear and decide appeals of majority decisions of the  
3 Independent System Operator governing board, as they relate to  
4 matters subject to exclusive state jurisdiction, as specified in  
5 Section 25227.3.

6 (c) Investigate any matter related to the wholesale market for  
7 electricity to ensure that the interests of California’s citizens and  
8 consumers are served, protected, and represented in relation to the  
9 availability of electric transmission and generation and related  
10 costs.

11 (d) Appear in all relevant proceedings before the Federal Energy  
12 Regulatory Commission on behalf of California energy consumers  
13 and as the representative of the state’s energy policy.

14 25227.1. (a) Any reference in the law to the “Electricity  
15 Oversight Board” shall mean the Office of Energy Market  
16 Oversight in the Department of Energy, as successor to that board.

17 (b) The Office of Energy Market Oversight may exercise any  
18 right that exists in the name of the former Electricity Oversight  
19 Board and may pursue and continue to final resolution any claim  
20 or right that exists in the name of the Electricity Oversight Board.  
21 It may take an action in its own name, or may maintain it in the  
22 name of the former Electricity Oversight Board, as it determines  
23 will best preserve and protect the interests of the public in those  
24 rights or claims.

25 (c) An action initiated, joined, or pursued by the Office of  
26 Energy Market Oversight shall not be considered an action by any  
27 other office, division, or commission within the Department of  
28 Energy unless specifically stated in a pleading. The office shall  
29 maintain separation and procedures, as are necessary, to prevent  
30 any inappropriate sharing of personnel or flow of proprietary  
31 information between its market monitoring and investigation  
32 functions and any program or function within the department that  
33 has a market interest.

34 (d) Any pending litigation for which there could be a conflict  
35 if combined with another program reorganized under the  
36 Department of Energy, including, but not limited to, the Federal  
37 Energy Regulatory Commission dockets EL02-60 and EL02-62,  
38 and any related appeals or remands, shall be continued by the  
39 Office of Energy Market Oversight in the name of the Electricity  
40 Oversight Board and maintained separate from all other programs

1 of the department. The office shall report on the resolution of those  
2 cases directly to the legal affairs office of the Governor.

3 (e) Other agencies that are parties to, or commenting agencies  
4 in, matters before the Federal Energy Regulatory Commission, on  
5 and after January 1, 2010, shall cooperate with the office to  
6 promote coordination of the state's advocacy with respect to those  
7 matters.

8 25227.2. (a) The Office of Energy Market Oversight shall hear  
9 and decide appeals of majority decisions of the Independent System  
10 Operator governing board relating to matters that are identified in  
11 subdivision (b) as they pertain to the Independent System Operator.

12 (b) The following matters are subject to California's exclusive  
13 jurisdiction:

14 (1) Selections by California of governing board members, as  
15 described in Section 345.1 of the Public Utilities Code.

16 (2) Matters pertaining to retail electric service or retail sales of  
17 electric energy.

18 (3) Ensuring that the purposes and functions of the Independent  
19 System Operator are consistent with the purposes and functions  
20 of California nonprofit public benefit corporations, including duties  
21 of care and conflict-of-interest standards for directors of the  
22 corporations.

23 (4) State functions assigned to the Independent System Operator  
24 under state law.

25 (5) Open meeting standards and meeting notice requirements.

26 (6) Appointment of advisory representatives representing state  
27 interests.

28 (7) Public access to corporate records.

29 (8) The amendment of bylaws relevant to these matters.

30 (c) Only members of the Independent System Operator  
31 governing board may appeal a majority decision of the Independent  
32 System Operator related to any of the matters specified in  
33 subdivision (b) to the Office of Energy Market Oversight.

34 25227.3. The Office of Energy Market Oversight may do all  
35 of the following:

36 (a) Accept appropriations, grants, or contributions from any  
37 public source, private foundation, or individual.

38 (b) Sue and be sued.

39 (c) Contract with state, local, or federal agencies for services  
40 or work required by the office.

1 (d) Contract for or employ any services or work, including  
2 expert witness and attorney services required by the office that in  
3 its opinion cannot satisfactorily be performed by its staff, by other  
4 subdivisions of the department, or by other state agencies.

5 (e) Appoint advisory committees from members of other public  
6 agencies and private groups or individuals.

7 (f) Hold hearings at the times and places it may deem proper.

8 (g) Issue subpoenas to compel the production of books, records,  
9 papers, accounts, reports, and documents and the attendance of  
10 witnesses.

11 (h) Administer oaths.

12 (i) Adopt or amend rules and regulations to carry out the  
13 purposes and provisions of this chapter, and to govern the  
14 procedures of the office.

15 (j) Exercise any authority consistent with this chapter delegated  
16 to it by a federal agency or authorized to it by federal law.

17 (k) Under the direction of the secretary, make recommendations  
18 to the Governor and the Legislature.

19 (l) Participate in proceedings relevant to the purposes of this  
20 chapter or to the purposes of Division 4.9 (commencing with  
21 Section 9600) of the Public Utilities Code or consistent with the  
22 policies of the department, and participate in activities to promote  
23 the formation of interstate agreements to enhance the reliability  
24 and function of the electricity system and the electricity market.

25 (m) Do any and all other things necessary to carry out the  
26 purposes of this chapter.

27 25228. (a) The Office of Energy Market Oversight may adopt  
28 rules or protective orders to protect the confidential status of market  
29 sensitive information.

30 (b) Information made confidential pursuant to a federally  
31 approved tariff that is obtained by the department or the office is  
32 confidential and prohibited from disclosure without the consent  
33 of the source of information except as required by a court order  
34 or other legal process.

35 25228.2. (a) The Office of Energy Market Oversight in the  
36 department succeeds to and is vested with all duties,  
37 responsibilities, powers, jurisdiction, liabilities, and functions of  
38 the Electricity Oversight Board, which is hereby abolished. Any  
39 reference in any law to the duties, responsibilities, powers, and  
40 functions of the Electricity Oversight Board, which no longer

1 exists, shall be considered a reference to the Office of Energy  
 2 Market Oversight unless the context otherwise requires.

3 (b) All officers and employees of the Electricity Oversight Board  
 4 who, on January 1, 2011, are serving in the state civil service, other  
 5 than as temporary employees, shall be transferred to the  
 6 Department of Energy pursuant to Section 19050.9 of the  
 7 Government Code. The status, position, and rights of any officer  
 8 or employee of the board shall not be affected by the transfer and  
 9 shall be retained by the person as an officer or employee of the  
 10 department, as the case may be, pursuant to the State Civil Service  
 11 Act (Part 2 (commencing with Section 18500) of Division 5 of  
 12 Title 2 of the Government Code), except as to a position that is  
 13 exempt from civil service.

14 (c) As soon as practicable, the Secretary of Energy shall report  
 15 to the Department of Finance on whether the resources transferred  
 16 to the department are sufficient to ensure that all of the state’s  
 17 interests can be adequately represented under subdivision (d) of  
 18 Section 25227. The Department of Finance shall assess whether  
 19 the consolidation of this function under the department allows the  
 20 transfer of any resources previously used to support this function  
 21 within any other agency to the department.

22 25228.4. The Governor may appoint, and fix the salary of, a  
 23 deputy who shall have charge of administering the affairs of the  
 24 Office of Energy Market Oversight, including entering into  
 25 contracts, subject to policies of the department. Notwithstanding  
 26 Sections 11042 and 11043 of the Government Code, the secretary  
 27 shall appoint an attorney who shall advise and represent the office  
 28 and the People of the State of California as a party in any state or  
 29 federal action, proceeding, or litigation related to the purposes of  
 30 this chapter or to an action of the office and who shall perform  
 31 generally all the duties of attorney with respect to the office.

32 SEC. 104. Section 25301 of the Public Resources Code is  
 33 amended to read:

34 25301. (a) At least every two years, the ~~commission~~  
 35 *department* shall conduct assessments and forecasts of all aspects  
 36 of energy industry supply, production, transportation, delivery and  
 37 distribution, demand, and prices. The ~~commission~~ *department* shall  
 38 use these assessments and forecasts to develop energy policies that  
 39 conserve resources, protect the environment, ensure energy  
 40 reliability, enhance the state’s economy, and protect public health

1 and safety. To perform these assessments and forecasts, the  
2 ~~commission~~ *department* may require submission of demand  
3 forecasts, resource plans, market assessments, and related outlooks  
4 from electric and natural gas utilities, transportation fuel and  
5 technology suppliers, and other market participants. These  
6 assessments and forecasts shall be done in consultation with the  
7 *Independent System Operator and the* appropriate state and federal  
8 agencies, including, but not limited to, the Public Utilities  
9 Commission, the ~~Office~~ *Division* of Ratepayer Advocates, the  
10 *State Air Resources Board*, the ~~Electricity Oversight Board~~, the  
11 ~~Independent System Operator~~, the Department of Water Resources,  
12 the ~~California Consumer Power and Conservation Financing~~  
13 ~~Authority~~, the *State* Department of Transportation, and the  
14 Department of Motor Vehicles.

15 (b) In developing the assessments and forecasts prepared  
16 pursuant to subdivision (a), the ~~commission~~ *department* shall do  
17 all of the following:

18 (1) Provide information about the performance of energy  
19 industries.

20 (2) Develop and maintain the analytical capability sufficient to  
21 answer inquiries about energy issues from government, market  
22 participants, and the public.

23 (3) Analyze and develop energy policies.

24 (4) Provide an analytical foundation for regulatory and policy  
25 decisionmaking.

26 (5) Facilitate efficient and reliable energy markets.

27 SEC. 105. Section 25302 of the Public Resources Code is  
28 amended to read:

29 25302. (a) Beginning November 1, 2003, and every two years  
30 thereafter, the ~~commission~~ *board* shall adopt an integrated energy  
31 policy report. This integrated report shall contain an overview of  
32 major energy trends and issues facing the state, including, but not  
33 limited to, supply, demand, pricing, reliability, efficiency, and  
34 impacts on public health and safety, the economy, resources, and  
35 the environment. Energy markets and systems shall be grouped  
36 and assessed in three subsidiary volumes:

37 (1) Electricity and natural gas markets.

38 (2) Transportation fuels, technologies, and infrastructure.

39 (3) Public interest energy strategies.

1 (b) The ~~commission~~ *department* shall compile the integrated  
2 energy policy report prepared pursuant to subdivision (a) by  
3 consolidating the analyses and findings of the subsidiary volumes  
4 in paragraphs (1), (2), and (3) of subdivision (a). The integrated  
5 energy policy report shall present policy recommendations based  
6 on an indepth and integrated analysis of the most current and  
7 pressing energy issues facing the state. The analyses supporting  
8 this integrated energy policy report shall explicitly address interfuel  
9 and intermarket effects to provide a more informed evaluation of  
10 potential tradeoffs when developing energy policy across different  
11 markets and systems.

12 (c) The integrated energy policy report shall include an  
13 assessment and forecast of system reliability and the need for  
14 resource additions, efficiency, and conservation that considers all  
15 aspects of energy industries and markets that are essential for the  
16 state economy, general welfare, public health and safety, energy  
17 diversity, and protection of the environment. This assessment shall  
18 be based on determinations made pursuant to this chapter.

19 (d) Beginning November 1, 2004, and every two years thereafter,  
20 the ~~commission~~ *department* shall prepare an energy policy review  
21 to update analyses from the integrated energy policy report  
22 prepared pursuant to subdivisions (a), (b), and (c), or to raise energy  
23 issues that have emerged since the release of the integrated energy  
24 policy report. The ~~commission~~ *department* may also periodically  
25 prepare and release technical analyses and assessments of energy  
26 issues and concerns to provide timely and relevant information for  
27 the Governor, the Legislature, market participants, and the public.

28 (e) In preparation of the report, the ~~commission~~ *department*  
29 shall consult with the following entities: the Public Utilities  
30 Commission, the ~~Office~~ *Division* of Ratepayer Advocates, the  
31 State Air Resources Board, the ~~Electricity Oversight Board~~, the  
32 Independent System Operator, the Department of Water Resources,  
33 the ~~California Consumer Power and Conservation Financing~~  
34 ~~Authority~~, the *State* Department of Transportation, and the  
35 Department of Motor Vehicles, and any federal, state, and local  
36 agencies it deems necessary in preparation of the integrated energy  
37 policy report. To ~~assure~~ *ensure* collaborative development of state  
38 energy policies, these agencies shall make a good faith effort to  
39 provide data, assessment, and proposed recommendations for  
40 review by the ~~commission~~ *department*.

1 (f) The ~~commission~~ *department* shall provide the report to the  
2 Public Utilities Commission, the ~~Office~~ *Division* of Ratepayer  
3 Advocates, the State Air Resources Board, the ~~Electricity Oversight~~  
4 ~~Board~~, the Independent System Operator, the Department of Water  
5 Resources, the ~~California Consumer Power and Conservation~~  
6 ~~Financing Authority~~, and the Department of Transportation. For  
7 the purpose of ensuring consistency in the underlying information  
8 that forms the foundation of energy policies and decisions affecting  
9 the state, those entities shall carry out their energy-related duties  
10 and responsibilities based upon the information and analyses  
11 contained in the report. If an entity listed in this subdivision objects  
12 to information contained in the report, and has a reasonable basis  
13 for that objection, the entity shall not be required to consider that  
14 information in carrying out its energy-related duties.

15 (g) The ~~commission~~ *department* shall make the report accessible  
16 to state, local, and federal entities and to the general public.

17 SEC. 106. Section 25303 of the Public Resources Code is  
18 amended to read:

19 25303. (a) The ~~commission~~ *department* shall conduct  
20 electricity and natural gas forecasting and assessment activities to  
21 meet the requirements of paragraph (1) of subdivision (a) of Section  
22 25302, including, but not limited to, all of the following:

23 (1) Assessment of trends in electricity and natural gas supply  
24 and demand, and the outlook for wholesale and retail prices for  
25 commodity electricity and natural gas under current market  
26 structures and expected market conditions.

27 (2) Forecasts of statewide and regional electricity and natural  
28 gas demand including annual, seasonal, and peak demand, and the  
29 factors leading to projected demand growth, including, but not  
30 limited to, projected population growth, urban development,  
31 industrial expansion and energy intensity of industries, energy  
32 demand for different building types, energy efficiency, and other  
33 factors influencing demand for electricity. With respect to  
34 long-range forecasts of the demand for natural gas, the report shall  
35 include an evaluation of average conditions, as well as best and  
36 worst case scenarios, and an evaluation of the impact of the  
37 increasing use of renewable resources on natural gas demand.

38 (3) Evaluation of the adequacy of electricity and natural gas  
39 supplies to meet forecasted demand growth. Assessment of the  
40 availability, reliability, and efficiency of the electricity and natural

1 gas infrastructure and systems, including, but not limited to, natural  
2 gas production capability both in and out of state, natural gas  
3 interstate and intrastate pipeline capacity, storage and use, and  
4 western regional and California electricity and transmission system  
5 capacity and use.

6 (4) Evaluation of potential impacts of electricity and natural gas  
7 supply, demand, and infrastructure and resource additions on the  
8 electricity and natural gas systems, public health and safety, the  
9 economy, resources, and the environment.

10 (5) Evaluation of the potential impacts of electricity and natural  
11 gas load management efforts, including end-user response to  
12 market price signals, as a means to ensure reliable operation of  
13 electricity and natural gas systems.

14 (6) Evaluation of whether electricity and natural gas markets  
15 are adequately meeting public interest objectives including the  
16 provision of all of the following: economic benefits; competitive,  
17 low-cost reliable services; customer information and protection;  
18 and environmentally sensitive electricity and natural gas supplies.  
19 This evaluation may consider the extent to which California is an  
20 element within western energy markets, the existence of appropriate  
21 incentives for market participants to provide supplies and for  
22 consumers to respond to energy prices, appropriate identification  
23 of responsibilities of various market participants, and an assessment  
24 of long-term versus short-term market performance. To the extent  
25 this evaluation identifies market shortcomings, the ~~commission~~  
26 *department* shall propose market structure changes to improve  
27 performance.

28 (7) Identification of impending or potential problems or  
29 uncertainties in the electricity and natural gas markets, potential  
30 options and solutions, and recommendations.

31 (8) (A) Compilation and assessment of existing scientific studies  
32 that have been performed by persons or entities with expertise and  
33 qualifications in the subject of the studies to determine the potential  
34 vulnerability to a major disruption due to aging or a major seismic  
35 event of large baseload generation facilities, of 1,700 megawatts  
36 or greater.

37 (B) The assessment specified in subparagraph (A) shall include  
38 an analysis of the impact of a major disruption on system reliability,  
39 public safety, and the economy.

1 (C) The ~~commission~~ *department* may work with other public  
2 entities and public agencies, including, but not limited to, the  
3 ~~California Independent System Operator, the~~ Public Utilities  
4 Commission, the Department of Conservation, and the Seismic  
5 Safety Commission as necessary, *as well as the Independent System*  
6 *Operator*, to gather and analyze the information required by this  
7 paragraph.

8 (D) Upon completion and publication of the initial review of  
9 the information required pursuant to this paragraph, the ~~commission~~  
10 *department* shall perform subsequent updates as new data or new  
11 understanding of potential seismic hazards emerge.

12 (b) Commencing November 1, 2003, and every two years  
13 thereafter, to be included in the integrated energy policy report  
14 prepared pursuant to Section 25302, the ~~commission~~ *department*  
15 shall assess the current status of the following:

16 (1) The environmental performance of the electric generation  
17 facilities of the state, to include all of the following:

18 (A) Generation facility efficiency.

19 (B) Air emission control technologies in use in operating plants.

20 (C) The extent to which recent resource additions have, and  
21 expected resource additions are likely to, displace or reduce the  
22 operation of existing facilities, including the environmental  
23 consequences of these changes.

24 (2) The geographic distribution of statewide environmental,  
25 efficiency, and socioeconomic benefits and drawbacks of existing  
26 generation facilities, including, but not limited to, the impacts on  
27 natural resources including wildlife habitat, air quality, and water  
28 resources, and the relationship to demographic factors. The  
29 assessment shall describe the socioeconomic and demographic  
30 factors that existed when the facilities were constructed and the  
31 current status of these factors. In addition, the report shall include  
32 how expected or recent resource additions could change the  
33 assessment through displaced or reduced operation of existing  
34 facilities.

35 (c) In the absence of a long-term nuclear waste storage facility,  
36 the ~~commission~~ *department* shall assess the potential state and  
37 local costs and impacts associated with accumulating waste at  
38 California's nuclear powerplants. The ~~commission~~ *department*  
39 shall further assess other key policy and planning issues that will  
40 affect the future role of nuclear powerplants in the state. ~~The~~

1 commission's assessment shall be adopted on or before November  
 2 1, 2008, and included in the 2008 energy policy review adopted  
 3 pursuant to subdivision (d) of Section 25302.

4 SEC. 107. Section 25304 of the Public Resources Code is  
 5 amended to read:

6 25304. The ~~commission~~ *department* shall conduct  
 7 transportation forecasting and assessment activities to meet the  
 8 requirements of paragraph (2) of subdivision (a) of Section 25302,  
 9 including, but not limited to:

10 (a) Assessment of trends in transportation fuels, technologies,  
 11 and infrastructure supply and demand and the outlook for wholesale  
 12 and retail prices for petroleum, petroleum products, and alternative  
 13 transportation fuels under current market structures and expected  
 14 market conditions.

15 (b) Forecasts of statewide and regional transportation energy  
 16 demand, both annual and seasonal, and the factors leading to  
 17 projected demand growth, including, but not limited to, projected  
 18 population growth, urban development, vehicle miles traveled, the  
 19 type, class, and efficiency of personal vehicles and commercial  
 20 fleets, and shifts in transportation modes.

21 (c) Evaluation of the sufficiency of transportation fuel supplies,  
 22 technologies, and infrastructure to meet projected transportation  
 23 demand growth. Assessment of crude oil and other transportation  
 24 fuel feedstock supplies; in-state, national, and worldwide  
 25 production and refining capacity; product output storage  
 26 availability; and transportation and distribution systems capacity  
 27 and use.

28 (d) Assessments of the risks of supply disruptions, price shocks,  
 29 or other events and the consequences of these events on the  
 30 availability and price of transportation fuels and effects on the  
 31 state's economy.

32 (e) Evaluation of the potential for needed changes in the state's  
 33 energy shortage contingency plans to increase production and  
 34 productivity, improve efficiency of fuel use, increase conservation  
 35 of resources, and other actions to maintain sufficient, secure, and  
 36 affordable transportation fuel supplies for the state.

37 (f) Evaluation of alternative transportation energy scenarios, in  
 38 the context of least environmental and economic costs, to examine  
 39 potential effects of alternative fuels usage, vehicle efficiency  
 40 improvements, and shifts in transportation modes on public health

1 and safety, the economy, resources, the environment, and energy  
2 security.

3 (g) Examination of the success of introduction, prices, and  
4 availability of advanced transportation technologies, low- or  
5 zero-emission vehicles, and clean-burning transportation fuels,  
6 including their potential future contributions to air quality, energy  
7 security, and other public interest benefits.

8 (h) Recommendations to improve the efficiency of transportation  
9 energy use, reduce dependence on petroleum fuels, decrease  
10 environmental impacts from transportation energy use, and  
11 contribute to reducing congestion, promoting economic  
12 development, and enhancing energy diversity and security.

13 SEC. 108. Section 25305 of the Public Resources Code is  
14 amended to read:

15 25305. The ~~commission~~ *department* shall rely upon forecasting  
16 and assessments performed in accordance with Sections 25301 to  
17 25304, inclusive, as the basis for analyzing the success of and  
18 developing policy recommendations for public interest energy  
19 strategies. Public interest energy strategies include, but are not  
20 limited to, achieving energy efficiency and energy conservation;  
21 implementing load management; pursuing research, development,  
22 demonstration, and commercialization of new technologies;  
23 promoting renewable generation technologies; reducing statewide  
24 greenhouse gas emissions and addressing the impacts of climate  
25 change on California; stimulating California's energy-related  
26 business activities to contribute to the state's economy; and  
27 protecting and enhancing the environment. Additional assessments  
28 to address public interest energy strategies shall include, but are  
29 not limited to, all of the following:

30 (a) Identification of emerging trends in energy efficiency in the  
31 residential, commercial, industrial, agricultural, and transportation  
32 sectors of the state's economy, including, but not limited to,  
33 evaluation of additional achievable energy efficiency measures  
34 and technologies. Identification of policies that would permit fuller  
35 realization of the potential for energy efficiency, either through  
36 direct programmatic actions or facilitation of the market.

37 (b) Identification of emerging trends in the renewable energy  
38 industry. In addition, the ~~commission~~ *department* shall evaluate  
39 progress in ensuring the operation of existing facilities, and the  
40 development of new and emerging, in-state renewable resources.

1 (c) Identification of emerging trends in energy research,  
2 development, and demonstration activities that advance science  
3 or technology to produce public benefits.

4 (d) Identification of progress in reducing statewide greenhouse  
5 gas emissions and addressing the effects of climate change on  
6 California.

7 SEC. 109. Section 25305.5 of the Public Resources Code is  
8 amended to read:

9 25305.5. The ~~commission~~ *department* shall include in its report  
10 prepared pursuant to Sections 25301 to 25304, inclusive, a  
11 description of international energy market prospects and an  
12 evaluation of its export promotion activities, as well as an  
13 assessment of the state of the California energy technology and  
14 energy conservation industry's efforts to enter foreign markets.  
15 The report shall also include recommendations for state government  
16 initiatives to foster the California energy technology and energy  
17 conservation industry's competition in world markets.

18 SEC. 110. Section 25306 of the Public Resources Code is  
19 amended to read:

20 25306. The ~~commission~~ *department* shall conduct workshops,  
21 hearings, and other forums to gain the perspectives of the public  
22 and market participants for purposes of the integrated energy policy  
23 report prepared pursuant to Section 25302 and the forecasting and  
24 assessments prepared pursuant to Sections 25301, 25303, 25304,  
25 and 25305. The ~~commission~~ *department* shall include the  
26 comments, as well as responses to those comments, of  
27 governmental agencies, industry representatives, market  
28 participants, private groups, and any other person concerning the  
29 ~~commission's~~ *department's* proposals and recommendations in  
30 the docket for the integrated energy policy report.

31 SEC. 111. Section 25310 of the Public Resources Code is  
32 amended to read:

33 25310. On or before November 1, 2007, and by November 1  
34 of every third year thereafter, the ~~commission~~ *department* in  
35 consultation with the Public Utilities Commission and local  
36 publicly owned electric utilities, in a public process that allows  
37 input from other stakeholders, shall develop a statewide estimate  
38 of all potentially achievable cost-effective electricity and natural  
39 gas efficiency savings and establish targets for statewide annual  
40 energy efficiency savings and demand reduction for the next

1 10-year period. The ~~commission~~ *department* shall base its estimate  
2 at least in part on information developed pursuant to Sections  
3 454.55, 454.56, 715, 9615, and 9615.5 of the Public Utilities Code.  
4 The ~~commission~~ *department* shall, for each electrical corporation  
5 and each gas corporation, include in the integrated energy policy  
6 report, a comparison of the public utility's annual targets  
7 established pursuant to Sections 454.55 and 454.56, and the public  
8 utility's actual energy efficiency savings and demand reductions.

9 SEC. 112. Section 25320 of the Public Resources Code is  
10 amended to read:

11 25320. (a) The ~~commission~~ *department* shall manage a data  
12 collection system for obtaining information necessary to develop  
13 the policy reports and analyses required by Sections 25301 to  
14 25307, inclusive, the energy shortage contingency planning efforts  
15 in Chapter 8 (commencing with Section 25700), and to support  
16 other duties of the ~~commission~~ *department*.

17 (b) The data collection system, adopted by regulation under  
18 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
19 3 of Title 2 of the Government Code, and managed by the  
20 ~~commission~~ *department* shall:

21 (1) Include a timetable for the submission of this information,  
22 so that the integrated energy policy report required by Section  
23 25302 can be completed in an accurate and timely manner.

24 (2) Require a person to submit only information that is  
25 reasonably relevant, and that the person can either be expected to  
26 acquire through his or her market activities, or possesses or  
27 controls. Information collected pursuant to this section shall relate  
28 to the functional role of each category of market participant in that  
29 industry and the consumers within that industry.

30 (3) To the extent it satisfies the information needs of the  
31 ~~commission~~ *department*, rely on the use of estimates and proxies,  
32 to the maximum extent practicable, for some data elements using  
33 survey and research techniques, while for other information it shall  
34 obtain data from market participants using submissions consistent  
35 with their accounting records. In determining whether to rely upon  
36 estimates or participant provided data, the ~~commission~~ *department*  
37 shall weigh the burden of compliance upon industry participants  
38 and energy consumers against the benefit of ~~participant provided~~  
39 *participant-provided* data for the public interest.

1 (4) To the extent it satisfies the information needs of the  
2 ~~commission~~, *department*, rely on data, to the maximum extent  
3 practicable, that is reported to other government agencies or is  
4 otherwise available to the ~~commission~~. *department*.

5 (c) Pursuant to the requirements of subdivision (b), the data  
6 collection system for electricity and natural gas shall enumerate  
7 specific requirements for each category of market participants,  
8 including, but not limited to, private market participants, energy  
9 service providers, energy service companies, natural gas marketers,  
10 electric utility and natural gas utility companies, independent  
11 generators, electric transmission entities, natural gas producers,  
12 natural gas pipeline operators, importers and exporters of electricity  
13 and natural gas, and specialized electric or natural gas system  
14 operators. The ~~commission~~ *department* may also collect  
15 information about consumers' natural gas and electricity use from  
16 their voluntary participation in surveys and other research  
17 techniques.

18 (d) Pursuant to the requirements of subdivision (b), the data  
19 collection system for nonpetroleum fuels and transportation  
20 technologies shall enumerate specific requirements for each  
21 category of market participant, including, but not limited to, fuel  
22 importers and exporters, fuel distributors and retailers, fuel pipeline  
23 operators, natural gas liquid producers, and transportation  
24 technology providers. The ~~commission~~ *department* may also collect  
25 information about consumers' nonpetroleum fuel and transportation  
26 technology use from their voluntary participation in surveys and  
27 other research techniques.

28 (e) The ~~commission~~ *department* shall collect data for petroleum  
29 fuel pursuant to Chapter 4.5 (commencing with Section 25350).  
30 The ~~commission~~ *department* may also collect information about  
31 consumers' petroleum fuel use from consumers' participation in  
32 surveys and other research techniques.

33 SEC. 113. Section 25321 of the Public Resources Code is  
34 amended to read:

35 25321. In order to ensure timely and accurate compliance with  
36 the data collection system adopted under Section 25320, the  
37 ~~commission~~ *department* may use any of the following enforcement  
38 measures:

39 (a) If any person fails to comply with an applicable provision  
40 of the data collection system, the ~~commission~~ *department* shall

1 notify the person. If, after five working days from being notified  
2 of the violation, the person continues to fail to comply, the person  
3 shall be subject to a civil penalty, to be imposed by the ~~commission~~  
4 *department* after a hearing that complies with constitutional  
5 requirements.

6 (1) The civil penalty shall not be less than five hundred dollars  
7 (\$500) nor more than two thousand dollars (\$2,000) for each  
8 category of data the person did not provide and for each day the  
9 violation has existed and continues to exist.

10 (2) In the case of a person who willfully makes any false  
11 statement, representation, or certification in any record, report,  
12 plan, or other document filed with the ~~commission~~, *department*,  
13 the civil penalty shall not be less than five hundred dollars (\$500)  
14 nor more than two thousand dollars (\$2,000) per day applied to  
15 each day in the interval between the original due date and the date  
16 when corrected information is submitted.

17 (b) For the purposes of this section, “person” means, in addition  
18 to the definition contained in Section 25116, any responsible  
19 corporate officer.

20 (c) Enforcement measures for petroleum and other fuels shall  
21 be those contained in Section 25362.

22 SEC. 114. Section 25322 of the Public Resources Code is  
23 amended to read:

24 25322. (a) The data collection system managed pursuant to  
25 Section 25320 shall include the following requirements regarding  
26 the confidentiality of the information collected by the ~~commission~~:  
27 *department*:

28 (1) Any person required to present information to the  
29 ~~commission~~ *department* pursuant to this section may request that  
30 specific information be held in confidence. The ~~commission~~  
31 *department* shall grant the request in any of the following  
32 circumstances:

33 (A) The information is exempt from disclosure under the  
34 California Public Records Act, Chapter 3.5 (commencing with  
35 Section 6250) of Division 7 of Title 1 of the Government Code.

36 (B) The information satisfies the confidentiality requirements  
37 of Article 2 (commencing with Section 2501) of Chapter 7 of  
38 Division 2 of Title 20 of the California Code of Regulations, as  
39 those regulations existed on January 1, 2002.

1 (C) On the facts of the particular case, the public interest served  
2 by not disclosing the information clearly outweighs the public  
3 interest served by disclosure of the information.

4 (2) The ~~commission~~ *department* may, by regulation, designate  
5 certain categories of information as confidential, which removes  
6 the obligation to request confidentiality for that information.

7 (3) Any confidential information pertinent to the responsibilities  
8 of the ~~commission~~ *department* specified in this chapter that is  
9 obtained by another state agency, or the California Independent  
10 System Operator or its successor, shall be available to the  
11 ~~commission~~ *department* and shall be treated in a confidential  
12 manner.

13 (4) Information presented to or developed by the ~~commission~~  
14 *department* and deemed confidential pursuant to this section shall  
15 be held in confidence by the ~~commission~~ *department*. Confidential  
16 information shall be aggregated or masked to the extent necessary  
17 to ~~assure~~ *ensure* confidentiality if public disclosure of the specific  
18 information would result in an unfair competitive disadvantage to  
19 the person supplying the information.

20 (b) Requests for records of information shall be handled as  
21 follows:

22 (1) If the ~~commission~~ *department* receives a written request to  
23 publicly disclose information that is being held in confidence  
24 pursuant to paragraph (1) or (2) of subdivision (a), the ~~commission~~  
25 *department* shall provide the person making the request with  
26 written justification for the confidential designation and a  
27 description of the process to seek disclosure.

28 (2) If the ~~commission~~ *department* receives a written request to  
29 publicly disclose a disaggregated or unmasked record of  
30 information designated as confidential under paragraph (1) or (2)  
31 of subdivision (a), notice of the request shall be provided to the  
32 person that submitted the record. Upon receipt of the notice, the  
33 person that submitted the record may, within five working days  
34 of receipt of the notice, provide a written justification of the claim  
35 of confidentiality.

36 (3) The ~~commission~~ *department* or its designee shall rule on a  
37 request made pursuant to paragraph (2) on or before 20 working  
38 days after its receipt. The ~~commission~~ *department* shall deny the  
39 request if the disclosure will result in an unfair competitive  
40 disadvantage to the person that submitted the information.

1 (4) If the ~~commission~~ *department* grants the request pursuant  
2 to paragraph (3), it shall withhold disclosure for a reasonable  
3 amount of time, not to exceed 14 working days, to allow the  
4 submitter of the information to seek judicial review.

5 (c) ~~No information~~ *Information* submitted to the ~~commission~~  
6 *department* pursuant to this section is *not* confidential if the person  
7 submitting the information has made it public.

8 (d) The ~~commission~~ *department* shall establish, maintain, and  
9 use appropriate security practices and procedures to ensure that  
10 the information it has designated as confidential, or received with  
11 a confidential designation from another government agency, is  
12 protected against disclosure other than that authorized using the  
13 procedures in subdivision (b). The ~~commission~~ *department* shall  
14 incorporate the following elements into its security practices and  
15 procedures:

16 (1) ~~Commission~~ *Department* employees shall sign a confidential  
17 data disclosure agreement providing for various remedies,  
18 including, but not limited to, fines and termination for wrongful  
19 disclosure of confidential information.

20 (2) ~~Commission~~ *Department* employees, or contract employees  
21 of the ~~commission~~, *department*, shall only have access to  
22 confidential information when it is appropriate to their job  
23 assignments and if they have signed a nondisclosure agreement.

24 (3) Computer data systems that hold confidential information  
25 shall include sufficient security measures to protect the data from  
26 inadvertent or wrongful access by unauthorized ~~commission~~  
27 *department* employees and the public.

28 (e) Data collected by the ~~commission~~ *department* on petroleum  
29 fuels in Section 25320 shall be subject to the confidentiality  
30 provisions of Sections 25364 to 25366, inclusive.

31 SEC. 115. Section 25323 of the Public Resources Code is  
32 amended to read:

33 25323. ~~Nothing in this~~ *This division shall does not* authorize  
34 the ~~commission~~ *department* in the performance of its analytical,  
35 planning, siting, or certification responsibilities to mandate a  
36 specified supply plan for any utility.

37 SEC. 116. Section 25324 of the Public Resources Code is  
38 amended to read:

39 25324. The ~~commission~~, *department*, in consultation with the  
40 Public Utilities Commission, the California Independent System

1 Operator, transmission owners, users, and consumers, shall *develop*  
2 *and the board shall* adopt a strategic plan for the state’s electric  
3 transmission grid using existing resources. The strategic plan shall  
4 identify and recommend actions required to implement investments  
5 needed to ensure reliability, relieve congestion, and meet future  
6 growth in load and generation, including, but not limited to,  
7 renewable resources, energy efficiency, and other demand reduction  
8 measures. The plan shall be included in ~~the~~ *each* integrated energy  
9 policy report adopted ~~on November 1, 2005,~~ pursuant to  
10 subdivision (a) of Section 25302.

11 SEC. 117. Section 25331 of the Public Resources Code is  
12 amended to read:

13 25331. (a) ~~The~~ ~~commission~~ *board* may designate a  
14 transmission corridor zone on its own motion or by application of  
15 a person who plans to construct a high-voltage electric transmission  
16 line within the state. The designation of a transmission corridor  
17 zone shall serve to identify a feasible corridor where one or more  
18 future high-voltage electric transmission lines can be built that are  
19 consistent with the state’s needs and objectives as set forth in the  
20 strategic plan adopted pursuant to Section 25324.

21 (b) A person planning to construct a high-voltage electric  
22 transmission line may submit to ~~the~~ ~~commission~~ *board* an  
23 application to designate a proposed transmission corridor zone as  
24 being consistent with the strategic plan adopted pursuant to Section  
25 25324. The application shall be in the form prescribed by the  
26 ~~commission~~ *board* and shall be supported by any information that  
27 ~~the~~ ~~commission~~ *board* may require.

28 SEC. 118. Section 25332 of the Public Resources Code is  
29 amended to read:

30 25332. The designation of a transmission corridor zone is  
31 subject to the California Environmental Quality Act (Division 13  
32 (commencing with Section 21000)). ~~The~~ ~~commission~~ *department*  
33 shall be the lead agency, as provided in Section 21165, for all  
34 transmission corridor zones proposed for designation pursuant to  
35 this chapter.

36 SEC. 119. Section 25333 of the Public Resources Code is  
37 amended to read:

38 25333. (a) In developing a strategic plan pursuant to Section  
39 25324 or considering an application for designation pursuant to  
40 this chapter, ~~the~~ ~~commission~~ *department* shall confer with cities

1 and counties, federal agencies, and California Native American  
2 tribes to identify appropriate areas within their jurisdictions that  
3 may be suitable for a transmission corridor zone. The ~~commission~~  
4 *department* shall, to the extent feasible, coordinate efforts to  
5 identify long-term transmission needs of the state with the land  
6 use plans of cities, counties, federal agencies, and California Native  
7 American tribes.

8 (b) The ~~commission~~ *board* shall not designate a transmission  
9 corridor zone within the jurisdiction of a California Native  
10 American tribe without the approval of the California Native  
11 American tribe.

12 SEC. 120. Section 25334 of the Public Resources Code is  
13 amended to read:

14 25334. (a) Upon receipt of an application or upon its own  
15 motion for designation of a transmission corridor zone, the  
16 ~~commission~~ *board* shall arrange for the publication of a summary  
17 of the application in a newspaper of general circulation in each  
18 county where the proposed transmission corridor zone would be  
19 located, and shall notify all property owners within, or adjacent  
20 to, the transmission corridor zone. The ~~commission~~ *department*  
21 shall transmit a copy of the application for designation to all cities,  
22 counties, and state and federal agencies having an interest in the  
23 proposed transmission corridor zone. The ~~commission~~ *department*  
24 shall publish the application for designation on its Internet Web  
25 site, and notify members of the public that the application is  
26 available on the ~~commission's~~ *department's* Internet Web site.

27 (b) As soon as practicable after the receipt of an application or  
28 upon ~~its own~~ *the board's* motion for designation of a transmission  
29 corridor zone, the ~~commission~~ *department* shall notify cities,  
30 counties, state and federal agencies, and California Native  
31 American tribes in whose jurisdictions the proposed transmission  
32 corridor zone would be located regarding the proposed transmission  
33 corridor zone and the objectives of the most recent strategic plan  
34 for the state's electric transmission grid. The ~~commission's~~  
35 *department's* notice shall solicit information from, and the  
36 ~~commission~~ *department* shall confer with, all interested cities,  
37 counties, state and federal agencies, and California Native  
38 American tribes regarding their land use plans, existing land uses,  
39 and other factors in which they have expertise or interest with  
40 respect to the proposed transmission corridor zone. The

1 ~~commission~~ *department* shall provide any interested city, county,  
2 state or federal agency, California Native American tribe, or  
3 member of the public, including any property owner within the  
4 proposed transmission corridor zone, ample opportunity to  
5 participate in the ~~commission's board's~~ review of a proposed  
6 transmission corridor zone.

7 (c) The ~~commission~~ *department* shall request affected cities,  
8 counties, state and federal agencies, the Electricity Oversight  
9 Board, the Independent System Operator, interested California  
10 Native American tribes, and members of the public, including any  
11 property owner within the proposed transmission corridor zone,  
12 to provide comments on the suitability of the proposed transmission  
13 corridor zone with respect to environmental, public health and  
14 safety, land use, economic, and transmission-system impacts or  
15 other factors on which they may have expertise.

16 (d) The ~~commission~~ *department* shall require a person who files  
17 an application for the designation of a transmission corridor zone  
18 to pay a fee sufficient to reimburse the ~~commission~~ *department*  
19 for all costs associated with reviewing the application. If the  
20 ~~commission~~ *board* initiates the designation of a transmission  
21 corridor zone on its own motion, the ~~commission~~ *department* shall  
22 fix the surcharge imposed pursuant to subdivision (b) of Section  
23 40016 of the Revenue and Taxation Code, at a level sufficient to  
24 cover the ~~commission's department's~~ added costs.

25 (e) Upon receiving the ~~commission's department's~~ request for  
26 review of a proposed transmission corridor zone, a city or county  
27 may request a fee pursuant to Section 25538 to cover ~~for~~ the actual  
28 and added costs of this review and the ~~commission~~ *department*  
29 shall pay this amount to the city or county.

30 SEC. 121. Section 25335 of the Public Resources Code is  
31 amended to read:

32 25335. (a) Within 45 days of receipt of the application or  
33 motion for designation, the ~~commission~~ *board* shall commence  
34 public informational hearings in the county or counties where the  
35 proposed transmission corridor zone would be located.

36 (b) The purpose of the hearings shall be to do all of the  
37 following:

38 (1) Provide information about the proposed transmission corridor  
39 zone so that the public and interested agencies have a clear  
40 understanding of what is being proposed.

1 (2) Explain the relationship of the proposed transmission  
2 corridor zone to the ~~commission's~~ *board's* strategic plan for the  
3 state's electric transmission grid, as set forth in the most recent  
4 integrated energy policy report adopted pursuant to Chapter 4  
5 (commencing with Section 25300).

6 (3) Receive initial comments about the proposed transmission  
7 corridor zone from the public and interested agencies.

8 (4) Solicit information on reasonable alternatives to the proposed  
9 transmission corridor zone.

10 SEC. 122. Section 25336 of the Public Resources Code is  
11 amended to read:

12 25336. (a) Within 155 days of the final informational hearing,  
13 the ~~commission~~ *board* shall conduct a prehearing conference to  
14 determine the issues to be considered in hearings pursuant to this  
15 section, to identify the dates for the hearings, and to set forth filing  
16 dates for public comments and testimony from the parties and  
17 interested agencies. Within 15 days of the prehearing conference,  
18 the ~~commission~~ *board* shall issue a hearing order setting forth the  
19 issues to be heard, the dates of the hearings, and the filing dates  
20 for comments and testimony.

21 (b) The ~~commission~~ *board* shall conduct hearings pursuant to  
22 the hearing order. The purpose of the hearings shall be to receive  
23 information upon which the ~~commission~~ *board* can make findings  
24 and conclusions pursuant to Section 25337.

25 SEC. 123. Section 25337 of the Public Resources Code is  
26 amended to read:

27 25337. After the conclusion of hearings conducted pursuant  
28 to Section 25336, and no later than 180 days after the date of  
29 certification of the environmental impact report prepared pursuant  
30 to Section 25332, the ~~commission~~ *board* shall issue a proposed  
31 decision that contains its findings and conclusions regarding all  
32 of the following matters:

33 (a) Conformity of the proposed transmission corridor zone with  
34 the strategic plan adopted pursuant to Section 25324.

35 (b) Suitability of the proposed transmission corridor zone with  
36 respect to environmental, public health and safety, land use,  
37 economic, and transmission-system impacts.

38 (c) Mitigation measures and alternatives as may be needed to  
39 protect environmental quality, public health and safety, the state's  
40 electric transmission grid, or any other relevant matter.

1 (d) Other factors that the ~~commission~~ *board* considers relevant.

2 SEC. 124. Section 25338 of the Public Resources Code is  
3 amended to read:

4 25338. As soon as practicable after the ~~commission~~ *board*  
5 designates a transmission corridor zone, ~~it~~ *the department* shall  
6 post a copy of ~~its~~ *the board's* decision on ~~its~~ *the department's*  
7 Internet Web site, send a copy of ~~its~~ *the board's* decision, including  
8 a description of the transmission corridor zone, to each affected  
9 city, county, state agency, and federal agency, and notify property  
10 owners within or adjacent to the corridor of the availability of the  
11 decision on the ~~commission's~~ *department's* Internet Web site.

12 SEC. 125. Section 25339 of the Public Resources Code is  
13 amended to read:

14 25339. After the ~~commission~~ *board* designates a transmission  
15 corridor zone, ~~it~~ *the department* shall identify that transmission  
16 corridor zone in its subsequent strategic plans adopted *by the board*  
17 pursuant to Section 25324. The ~~commission~~ *board* shall regularly  
18 review and revise its designated transmission corridor zones as  
19 necessary, but not less than once every 10 years. In revising  
20 designations of transmission corridor zones, the ~~commission~~ *board*  
21 shall follow the procedures of this chapter. If, upon regular review  
22 or at any other time, the ~~commission~~ *board* finds that a transmission  
23 corridor zone is no longer needed, the ~~commission~~ *board* shall  
24 revise or repeal the designation and, as soon as practicable, notify  
25 the affected cities, counties, state and federal agencies, and property  
26 owners within, or adjacent to, the transmission corridor zone.

27 SEC. 126. Section 25340 of the Public Resources Code is  
28 amended to read:

29 25340. After receiving notice from the ~~commission~~ *department*  
30 regarding the designation or revision *by the board* of a transmission  
31 corridor zone within its jurisdiction, each city or county shall  
32 consider the designated transmission corridor zone when making  
33 a determination regarding a land use change within or adjacent to  
34 the transmission corridor zone that could affect its continuing  
35 viability to accommodate a transmission line planned within the  
36 transmission corridor zone. Nothing in this section shall preclude  
37 compatible uses within or adjacent to a designated transmission  
38 corridor zone.

39 SEC. 127. Section 25341 of the Public Resources Code is  
40 amended to read:

1 25341. (a) Within a designated transmission corridor zone,  
2 within 10 days of accepting as complete an application pursuant  
3 to Section 65943 of the Government Code for a development  
4 project that a city or county determines would threaten the potential  
5 to construct a high-voltage electric transmission line, the city or  
6 county shall notify the ~~commission~~ *board* of the proposed  
7 development project. The notice shall include a copy of the  
8 application, and set a deadline that is not less than 60 days from  
9 the date of the notice for the ~~commission~~ *board* to provide written  
10 comments to the city or county regarding the proposed  
11 development project.

12 (b) If the ~~commission~~ *board* finds that the proposed development  
13 project would threaten the potential to construct a high-voltage  
14 electric transmission line within the designated transmission  
15 corridor zone, the ~~commission~~ *board* shall provide written  
16 comments to the city or county. The ~~commission~~ *board* may  
17 recommend revisions to, redesign of, or mitigation measures for  
18 the proposed development project that would eliminate or reduce  
19 the threat.

20 (c) The city or county shall consider the ~~commission's~~ *board's*  
21 comments, if any, prior to acting on the proposed development  
22 project. If the ~~commission~~ *board* objects to the proposed  
23 development project, the city or county shall provide a written  
24 response that shall address in detail why it did not accept the  
25 ~~commission's~~ *board's* comments and recommendations.

26 SEC. 128. Section 25354 of the Public Resources Code is  
27 amended to read:

28 25354. (a) Each refiner and major marketer shall submit  
29 information each month to the ~~commission~~ *department* in ~~such the~~  
30 form and extent as the ~~commission~~ *department* prescribes pursuant  
31 to this section. The information shall be submitted within 30 days  
32 after the end of each monthly reporting period and shall include  
33 the following:

34 (1) Refiners shall report, for each of their refineries, feedstock  
35 inputs, origin of petroleum receipts, imports of finished petroleum  
36 products and blendstocks, by type, including the source of those  
37 imports, exports of finished petroleum products and blendstocks,  
38 by type, including the destination of those exports, refinery outputs,  
39 refinery stocks, and finished product supply and distribution,

1 including all gasoline sold unbranded by the refiner, blender, or  
 2 importer.

3 (2) Major marketers shall report on petroleum product receipts  
 4 and the sources of these receipts, inventories of finished petroleum  
 5 products and blendstocks, by type, distributions through branded  
 6 and unbranded distribution networks, and exports of finished  
 7 petroleum products and blendstocks, by type, from the state.

8 (b) Each major oil producer, refiner, marketer, oil transporter,  
 9 and oil storer shall annually submit information to the ~~commission~~  
 10 *department* in ~~such~~ *the* form and extent as the ~~commission~~  
 11 *department* prescribes pursuant to this section. The information  
 12 shall be submitted within 30 days after the end of each reporting  
 13 period, and shall include the following:

14 (1) Major oil transporters shall report on petroleum by reporting  
 15 the capacities of each major transportation system, the amount  
 16 transported by each system, and inventories thereof. The  
 17 ~~commission~~ *department* may prescribe rules and regulations that  
 18 exclude pipeline and transportation modes operated entirely on  
 19 property owned by major oil transporters from the reporting  
 20 requirements of this section if the data or information is not needed  
 21 to fulfill the purposes of this chapter. The provision of the  
 22 information shall not be construed to increase or decrease any  
 23 authority the Public Utilities Commission may otherwise have.

24 (2) Major oil storers shall report on storage capacity, inventories,  
 25 receipts and distributions, and methods of transportation of receipts  
 26 and distributions.

27 (3) Major oil producers shall, with respect to thermally enhanced  
 28 oil recovery operations, report annually by designated oil field,  
 29 the monthly use, as fuel, of crude oil and natural gas.

30 (4) Refiners shall report on facility capacity, and utilization and  
 31 method of transportation of refinery receipts and distributions.

32 (5) Major oil marketers shall report on facility capacity and  
 33 methods of transportation of receipts and distributions.

34 (c) Each person required to report pursuant to subdivision (a)  
 35 shall submit a projection each month of the information to be  
 36 submitted pursuant to subdivision (a) for the quarter following the  
 37 month in which the information is submitted to the ~~commission~~.  
 38 *department*.

39 (d) In addition to the data required under subdivision (a), each  
 40 integrated oil refiner (~~producer~~, *who produces*, refines, transports,

1 and markets in interstate commerce) who supplies more than 500  
2 branded retail outlets in California shall submit to the ~~commission~~  
3 *department* an annual industry forecast for Petroleum  
4 Administration for Defense, District V (covering *Alaska*, Arizona,  
5 *California*, *Hawaii*, Nevada, ~~Washington~~, Oregon, ~~California~~,  
6 ~~Alaska~~, and ~~Hawaii~~). *Washington*). The forecast shall include the  
7 information to be submitted under subdivision (a), and shall be  
8 submitted by March 15 of each year. The ~~commission~~ *department*  
9 may require California-specific forecasts. However, those forecasts  
10 shall be required only if the ~~commission~~ *department* finds them  
11 necessary to carry out its responsibilities.

12 (e) The ~~commission~~ *department* may by order or regulation  
13 modify the reporting period as to any individual item of information  
14 setting forth in the order or regulation its reason for so doing.

15 (f) The ~~commission~~ *department* may request additional  
16 information as necessary to perform its responsibilities under this  
17 chapter.

18 (g) Any person required to submit information or data under  
19 this chapter, in lieu thereof, may submit a report made to any other  
20 governmental agency, if:

21 (1) The alternate report or reports contain all of the information  
22 or data required by specific request under this chapter.

23 (2) The person clearly identifies the specific request to which  
24 the alternate report is responsive.

25 (h) Each refiner shall submit to the ~~commission~~, *department*,  
26 within 30 days after the end of each monthly reporting period, all  
27 of the following information in such form and extent as the  
28 ~~commission~~ *department* prescribes:

29 (1) Monthly California weighted average prices and sales  
30 volumes of finished leaded regular, unleaded regular, and premium  
31 motor gasoline sold through company-operated retail outlets, to  
32 other end-users, and to wholesale customers.

33 (2) Monthly California weighted average prices and sales  
34 volumes for residential sales, commercial and institutional sales,  
35 industrial sales, sales through company-operated retail outlets,  
36 sales to other end-users, and wholesale sales of No. 2 diesel fuel  
37 and No. 2 fuel oil.

38 (3) Monthly California weighted average prices and sales  
39 volumes for retail sales and wholesale sales of No. 1 distillate,  
40 kerosene, finished aviation gasoline, kerosene-type jet fuel, No. 4

1 fuel oil, residual fuel oil with 1 percent or less sulfur, residual fuel  
 2 oil with greater than 1 percent sulfur, and consumer grade propane.

3 (i) (1) Beginning the first week after the effective date of the  
 4 act that added this subdivision, and each week thereafter, an oil  
 5 refiner, oil producer, petroleum product transporter, petroleum  
 6 product marketer, petroleum product pipeline operator, and  
 7 terminal operator, as designated by the ~~commission~~, *department*,  
 8 shall submit a report in the form and extent as the ~~commission~~  
 9 *department* prescribes pursuant to this section. The ~~commission~~  
 10 *department* may determine the form and extent necessary by order  
 11 or by regulation.

12 (2) A report may include any of the following information:

13 (A) Receipts and inventory levels of crude oil and petroleum  
 14 products at each refinery and terminal location.

15 (B) Amount of gasoline, diesel, jet fuel, blending components,  
 16 and other petroleum products imported and exported.

17 (C) Amount of gasoline, diesel, jet fuel, blending components,  
 18 and other petroleum products transported intrastate by marine  
 19 vessel.

20 (D) Amount of crude oil imported, including information  
 21 identifying the source of the crude oil.

22 (E) The regional average of invoiced retailer buying price. This  
 23 subparagraph does not either preclude or augment the current  
 24 authority of the ~~commission~~ *department* to collect additional data  
 25 under subdivision (f).

26 (3) This subdivision is intended to clarify the ~~commission's~~  
 27 *department's* existing authority under subdivision (f) to collect  
 28 specific information. This subdivision does not either preclude or  
 29 augment the existing authority of the ~~commission~~ *department* to  
 30 collect information.

31 SEC. 129. Section 25356 of the Public Resources Code is  
 32 amended to read:

33 25356. (a) The ~~commission~~, *department*, utilizing its own staff  
 34 and other support staff having expertise and experience in, or with,  
 35 the petroleum industry, shall gather, analyze, and interpret the  
 36 information submitted to it pursuant to Section 25354 and other  
 37 information relating to the supply and price of petroleum products,  
 38 with particular emphasis on motor vehicle fuels, including, but not  
 39 limited to, all of the following:

1 (1) The nature, cause, and extent of any petroleum or petroleum  
2 products shortage or condition affecting supply.

3 (2) The economic and environmental impacts of any petroleum  
4 and petroleum product shortage or condition affecting supply.

5 (3) Petroleum or petroleum product demand and supply  
6 forecasting methodologies utilized by the petroleum industry in  
7 California.

8 (4) The prices, with particular emphasis on retail motor fuel  
9 prices, including sales to unbranded retail markets, and any  
10 significant changes in prices charged by the petroleum industry  
11 for petroleum or petroleum products sold in California and the  
12 reasons for those changes.

13 (5) The profits, both before and after taxes, of the industry as a  
14 whole and of major firms within it, including a comparison with  
15 other major industry groups and major firms within them as to  
16 profits, return on equity and capital, and price-earnings ratio.

17 (6) The emerging trends relating to supply, demand, and  
18 conservation of petroleum and petroleum products.

19 (7) The nature and extent of efforts of the petroleum industry  
20 to expand refinery capacity and to make acquisitions of additional  
21 supplies of petroleum and petroleum products, including activities  
22 relative to the exploration, development, and extraction of resources  
23 within the state.

24 (8) The development of a petroleum and petroleum products  
25 information system in a manner that will enable the state to take  
26 action to meet and mitigate any petroleum or petroleum products  
27 shortage or condition affecting supply.

28 (b) The ~~commission~~ *department* shall analyze the impacts of  
29 state and federal policies and regulations upon the supply and  
30 pricing of petroleum products.

31 SEC. 130. Section 25357 of the Public Resources Code is  
32 amended to read:

33 25357. The ~~commission~~ *department* shall obtain and analyze  
34 monthly production reports prepared by the State Oil and Gas  
35 Supervisor pursuant to Section 3227.

36 SEC. 131. Section 25358 of the Public Resources Code is  
37 amended to read:

38 25358. (a) Within 70 days after the end of each preceding  
39 quarter of each calendar year, the ~~commission~~ *department* shall  
40 publish and submit to the Governor and the Legislature a summary,

1 an analysis, and an interpretation of the information submitted to  
2 it pursuant to Section 25354 and information reviewed pursuant  
3 to Section 25357. This report shall be separate from the report  
4 submitted pursuant to Section ~~25322~~. 25302. Any person may  
5 submit comments in writing regarding the accuracy or sufficiency  
6 of the information submitted.

7 (b) The ~~commission~~ *department* shall prepare a biennial  
8 assessment of the information provided pursuant to this chapter  
9 and shall include its assessment in the biennial fuels report prepared  
10 pursuant to Section 25310.

11 (c) The ~~commission~~ *department* may use reasonable means  
12 necessary and available to it to seek and obtain any facts, figures,  
13 and other information from any source for the purpose of preparing  
14 and providing reports to the Governor and the Legislature. The  
15 ~~commission~~ *department* shall specifically include in the reports  
16 its analysis of any unsuccessful attempts in obtaining information  
17 from potential sources, including the lack of cooperation or refusal  
18 to provide information.

19 (d) Whenever the ~~commission~~ *department* fails to provide any  
20 report required pursuant to this section within the specified time,  
21 it shall provide to all members of the Legislature, within five days  
22 of the specified time, a detailed written explanation of the cause  
23 of any delay.

24 SEC. 132. Section 25362 of the Public Resources Code is  
25 amended to read:

26 25362. (a) The ~~commission~~ *department* shall notify those  
27 persons who have failed to timely provide the information specified  
28 in Section 25354. If, within five days after being notified of the  
29 failure to provide the specified information, the person fails to  
30 supply the specified information, the person shall be subject to a  
31 civil penalty of not less than five hundred dollars (\$500) nor more  
32 than two thousand dollars (\$2,000) per day for each day the  
33 submission of information is refused or delayed, unless the person  
34 has timely filed objections with the ~~commission~~ *department*  
35 regarding the information and the ~~commission~~ *department* has not  
36 yet held a hearing on the matter, or the ~~commission~~ *department*  
37 has held a hearing and the person has properly submitted the issue  
38 to a court of competent jurisdiction for review.

39 (b) Any person who willfully makes any false statement,  
40 representation, or certification in any record, report, plan, or other

1 document filed with the ~~commission~~ *department* shall be subject  
2 to a civil penalty not to exceed two thousand dollars (\$2,000).

3 (c) For the purposes of this section, the term “person” shall  
4 mean, in addition to the definition contained in Section 25116, any  
5 responsible corporate officer.

6 SEC. 133. Section 25364 of the Public Resources Code is  
7 amended to read:

8 25364. (a) ~~Any~~ A person required to present information to  
9 the ~~commission~~ *department* pursuant to Section 25354 may request  
10 that specific information be held in confidence. Information  
11 requested to be held in confidence shall be presumed to be  
12 confidential.

13 (b) Information presented to the ~~commission~~ *department*  
14 pursuant to Section 25354 shall be held in confidence by the  
15 ~~commission~~ *department* or aggregated to the extent necessary to  
16 ~~assure~~ *ensure* confidentiality if public disclosure of the specific  
17 information or data would result in unfair competitive disadvantage  
18 to the person supplying the information.

19 (c) (1) Whenever the ~~commission~~ *department* receives a request  
20 to publicly disclose unaggregated information, or otherwise  
21 proposes to publicly disclose information submitted pursuant to  
22 Section 25354, notice of the request or proposal shall be provided  
23 to the person submitting the information. The notice shall indicate  
24 the form in which the information is to be released. Upon receipt  
25 of notice, the person submitting the information shall have 10  
26 working days in which to respond to the notice to justify the claim  
27 of confidentiality on each specific item of information covered by  
28 the notice on the basis that public disclosure of the specific  
29 information would result in unfair competitive disadvantage to the  
30 person supplying the information.

31 (2) The ~~commission~~ *department* shall consider the respondent’s  
32 submittal in determining whether to publicly disclose the  
33 information submitted to it to which a claim of confidentiality is  
34 made. The ~~commission~~ *department* shall issue a written decision  
35 ~~which~~ *that* sets forth its reasons for making the determination  
36 whether each item of information for which a claim of  
37 confidentiality is made shall remain confidential or shall be  
38 publicly disclosed.

39 (d) The ~~commission~~ *department* shall not make public disclosure  
40 of information submitted to it pursuant to Section 25354 within

1 10 working days after the ~~commission~~ *department* has issued its  
2 written decision required in this section.

3 (e) ~~No information~~ *Information* submitted to the ~~commission~~  
4 *department* pursuant to Section 25354 shall *not* be deemed  
5 confidential if the person submitting the information or data has  
6 made it public.

7 (f) With respect to petroleum products and blendstocks reported  
8 by type pursuant to paragraph (1) or (2) of subdivision (a) of  
9 Section 25354 and information provided pursuant to subdivision  
10 (h) or (i) of Section 25354, neither the ~~commission~~ *board members*  
11 nor any employee of the ~~commission~~ *department* may do any of  
12 the following:

13 (1) Use the information furnished under paragraph (1) or (2) of  
14 subdivision (a) of Section 25354 or under subdivision (h) or (i) of  
15 Section 25354 for any purpose other than the statistical purposes  
16 for which it is supplied.

17 (2) Make any publication whereby the information furnished  
18 by any particular establishment or individual under paragraph (1)  
19 or (2) of subdivision (a) of Section 25354 or under subdivision (h)  
20 or (i) of Section 25354 can be identified.

21 (3) Permit anyone other than ~~commission~~ *board members* and  
22 employees of the ~~commission~~ *department* to examine the individual  
23 reports provided under paragraph (1) or (2) of subdivision (a) of  
24 Section 25354 or under subdivision (h) or (i) of Section 25354.

25 (g) Notwithstanding any other provision of law, the ~~commission~~  
26 *department* may disclose confidential information received  
27 pursuant to subdivision (a) of Section 25304 or Section 25354 to  
28 the State Air Resources Board if the state board agrees to keep the  
29 information confidential. With respect to the information it  
30 receives, the state board shall be subject to all pertinent provisions  
31 of this section.

32 SEC. 134. Section 25366 of the Public Resources Code is  
33 amended to read:

34 25366. Any confidential information pertinent to the  
35 responsibilities of the ~~commission~~ *department* specified in this  
36 division ~~which~~ *that* is obtained by another state agency shall be  
37 available to the ~~commission~~ *department* and shall be treated in a  
38 confidential manner.

39 SEC. 135. Section 25400 of the Public Resources Code is  
40 amended to read:

1 25400. The ~~commission~~ *department* shall conduct an ongoing  
2 assessment of the opportunities and constraints presented by all  
3 forms of energy. The ~~commission~~ *department* shall encourage the  
4 balanced use of all sources of energy to meet the state's needs and  
5 shall seek to avoid possible undesirable consequences of reliance  
6 on a single source of energy.

7 SEC. 136. Section 25401 of the Public Resources Code is  
8 amended to read:

9 25401. (a) The ~~commission~~ *department* shall continuously  
10 carry out studies, research projects, data collection, and other  
11 activities required to assess the nature, extent, and distribution of  
12 energy resources to meet the needs of the state, ~~including~~ *including*,  
13 but not limited to, fossil fuels and solar, nuclear, and geothermal  
14 energy resources. It shall also carry out studies, technical  
15 assessments, research projects, and data collection directed to  
16 reducing wasteful, inefficient, unnecessary, or uneconomic uses  
17 of energy, including, but not limited to, all of the following:

- 18 (a)
- 19 (1) Pricing of electricity and other forms of energy.
- 20 (b)
- 21 (2) Improved building design and insulation.
- 22 (c)
- 23 (3) Restriction of promotional activities designed to increase  
24 the use of electrical energy by consumers.
- 25 (d)
- 26 (4) Improved appliance efficiency.
- 27 (e)
- 28 (5) Advances in power generation and transmission technology.
- 29 (f)
- 30 (6) Comparisons in the efficiencies of alternative methods of  
31 energy utilization.

32 (b) The ~~commission~~ *department* shall survey pursuant to this  
33 section all forms of energy on which to base its recommendations  
34 to the Governor and Legislature for elimination of waste or  
35 increases in efficiency for sources or uses of energy. The  
36 ~~commission~~ *department* shall transmit to the Governor and the  
37 Legislature, as part of the biennial report specified in Section  
38 ~~25309~~, 25302, recommendations for state policy and actions for  
39 the orderly development of all potential sources of energy to meet  
40 the state's needs, including, but not limited to, fossil fuels and

1 solar, nuclear, and geothermal energy resources, and to reduce  
2 wasteful and inefficient uses of energy.

3 SEC. 137. Section 25401.2 of the Public Resources Code is  
4 amended to read:

5 25401.2. (a) As part of the report required by Section 25302,  
6 ~~the commission~~ *department* shall develop and update an inventory  
7 of current and potential cost-effective opportunities in each utility's  
8 service territory, to improve efficiencies and to help utilities  
9 manage loads in all sectors of natural gas and electricity use. The  
10 report shall include estimates of the overall magnitude of these  
11 resources, load shapes, and the projected costs associated with  
12 delivering the various types of energy savings that are identified  
13 in the inventory. The report shall also estimate the amount and  
14 incremental cost per unit of potential energy efficiency and load  
15 management activities. Where applicable, the inventory shall  
16 include data on variations in savings and costs associated with  
17 particular measures. The report shall take into consideration  
18 environmental benefits as developed in related ~~commission~~  
19 ~~department~~ and ~~public utilities commission~~ *Public Utilities*  
20 *Commission* proceedings.

21 (b) ~~The commission~~ *department* shall develop and maintain the  
22 inventory in consultation with electric and gas utilities, the Public  
23 Utilities Commission, academic institutions, and other interested  
24 parties.

25 (c) ~~The commission~~ *department* shall convene a technical  
26 advisory group to develop an ~~analytic~~ *analytical* framework for  
27 the inventory, to discuss the level of detail at which the inventory  
28 would operate, and to ensure that the inventory is consistent with  
29 other demand-side databases. Privately owned electric and gas  
30 utilities shall provide financial support, gather data, and provide  
31 analysis for activities that the technical advisory group  
32 recommends. The technical advisory group shall terminate on  
33 January 1, 1993.

34 SEC. 138. Section 25401.5 of the Public Resources Code is  
35 amended to read:

36 25401.5. For the purpose of reducing electrical and natural gas  
37 energy consumption, ~~the commission~~ *department* may develop  
38 and disseminate measures that would enhance energy efficiency  
39 for single-family residential dwellings that were built prior to the  
40 development of the current energy efficiency standards. The

1 measures, if developed and disseminated, shall provide a  
2 homeowner with information to improve the energy efficiency of  
3 a single-family residential dwelling. The ~~commission~~ *department*  
4 may comply with this section by posting the measures on the  
5 ~~commission's~~ *department's* Internet Web site or by making the  
6 measures available to the public, upon request.

7 SEC. 139. Section 25401.6 of the Public Resources Code is  
8 amended to read:

9 25401.6. (a) In its administration of Section 25744, the  
10 ~~commission~~ *department* shall establish a separate rebate for eligible  
11 distributed emerging technologies for affordable housing projects,  
12 including, but not limited to, projects undertaken pursuant to  
13 Section 50052.5, 50053, or 50199.4 of the Health and Safety Code.  
14 In establishing the rebate, where the ~~commission~~ *department*  
15 determines that the occupants of the housing shall have individual  
16 meters, the ~~commission~~ *department* may adjust the amount of the  
17 rebate based on the capacity of the system, provided that a system  
18 may receive a rebate only up to 75 percent of the total installed  
19 costs. The ~~commission~~ *department* may establish a reasonable  
20 limit on the total amount of funds dedicated for purposes of this  
21 section.

22 (b) It is the intent of the Legislature that this section fulfills the  
23 purpose of paragraph (5) of subdivision (b) of Section 25744.

24 SEC. 140. Section 25401.7 of the Public Resources Code is  
25 amended to read:

26 25401.7. At the time a single-family residential dwelling is  
27 sold, a buyer or seller may request a home inspection, as defined  
28 in subdivision (a) of Section 7195 of the Business and Professions  
29 Code, and a home inspector, as defined in subdivision (d) of  
30 Section 7195 of the Business and Professions Code, shall provide;  
31 contact information for one or more of the following entities that  
32 provide home energy information:

33 (a) A nonprofit organization.

34 (b) A provider to the residential dwelling of electrical service;  
35 or gas service, or both.

36 (c) A government agency, including, but not limited to, the  
37 ~~commission~~ *department*.

38 SEC. 141. Section 25401.9 of the Public Resources Code is  
39 amended to read:

1 25401.9. (a) To the extent that funds are available, the  
 2 ~~commission~~, *board*, in consultation with the Department of Water  
 3 Resources, shall adopt by regulation, after holding one or more  
 4 public hearings, performance standards and labeling requirements  
 5 for landscape irrigation equipment, including, but not limited to,  
 6 irrigation controllers, moisture sensors, emission devices, and  
 7 valves, for the purpose of reducing the wasteful, uneconomic,  
 8 inefficient, or unnecessary consumption of energy or water.

9 (b) For the purposes of complying with subdivision (a), the  
 10 ~~commission~~ *board* shall do all of the following:

11 (1) Adopt performance standards and labeling requirements for  
 12 landscape irrigation controllers and moisture sensors on or before  
 13 January 1, 2010.

14 (2) Consider the Irrigation Association’s Smart Water  
 15 Application Technology Program testing protocols when adopting  
 16 performance standards for landscape irrigation equipment,  
 17 including, but not limited to, irrigation controllers, moisture  
 18 sensors, emission devices, and valves.

19 (3) Prepare and submit a report to the Legislature, on or before  
 20 January 1, 2010, that sets forth ~~on~~ a proposed schedule for adopting  
 21 performance standards and labeling requirements for emission  
 22 devices and valves.

23 (c) On and after January 1, 2012, an irrigation controller or  
 24 moisture sensor for landscape irrigation uses may not be sold or  
 25 installed in the state unless the controller or sensor meets the  
 26 performance standards and labeling requirements established  
 27 pursuant to this section.

28 SEC. 142. Section 25402 of the Public Resources Code is  
 29 amended to read:

30 25402. The ~~commission~~ *board*, with the support of the  
 31 *department*, shall, after one or more public hearings, do all of the  
 32 following, in order to reduce the wasteful, uneconomic, inefficient,  
 33 or unnecessary consumption of energy, including the energy  
 34 associated with the use of water:

35 (a) (1) Prescribe, by regulation, lighting, insulation climate  
 36 control system, and other building design and construction  
 37 standards that increase the efficiency in the use of energy and water  
 38 for new residential and new nonresidential buildings. The  
 39 ~~commission~~ *board* shall periodically update the standards and  
 40 adopt any revision that, in its judgment, it deems necessary. Six

1 months after the ~~commission~~ *board* certifies an energy conservation  
2 manual pursuant to subdivision (c) of Section 25402.1, ~~no~~ a city,  
3 county, city and county, or state agency shall *not* issue a permit  
4 for any building unless the building satisfies the standards  
5 prescribed by the ~~commission~~ *board* pursuant to this subdivision  
6 or subdivision (b) that are in effect on the date an application for  
7 a building permit is filed. Water efficiency standards adopted  
8 pursuant to this subdivision shall be demonstrated by the  
9 ~~commission~~ *board* to be necessary to save energy.

10 (2) Prior to adopting a water efficiency standard for residential  
11 buildings, the Department of Housing and Community  
12 Development and the ~~commission~~ *board* shall issue a joint finding  
13 whether the standard (A) is equivalent or superior in performance,  
14 safety, and for the protection of life, health, and general welfare  
15 to standards in Title 24 of the California Code of Regulations and  
16 (B) does not unreasonably or unnecessarily impact the ability of  
17 Californians to purchase or rent affordable housing, as determined  
18 by taking account of the overall benefit derived from water  
19 efficiency standards. Nothing in this subdivision in any way  
20 reduces the authority of the Department of Housing and  
21 Community Development to adopt standards and regulations  
22 pursuant to Part 1.5 (commencing with Section 17910) of Division  
23 13 of the Health and Safety Code.

24 (3) Water efficiency standards and water conservation design  
25 standards adopted pursuant to this subdivision and subdivision (b)  
26 shall be consistent with the legislative findings of this division to  
27 ensure and maintain a reliable supply of electrical energy and be  
28 equivalent to or superior to the performance, safety, and protection  
29 of life, health, and general welfare standards contained in Title 24  
30 of the California Code of Regulations. The ~~commission~~ *board*  
31 shall consult with the members of the coordinating council as  
32 established in Section 18926 of the Health and Safety Code in the  
33 development of these standards.

34 (b) (1) Prescribe, by regulation, energy and water conservation  
35 design standards for new residential and new nonresidential  
36 buildings. The standards shall be performance standards and shall  
37 be promulgated in terms of energy consumption per gross square  
38 foot of floorspace, but may also include devices, systems, and  
39 techniques required to conserve energy and water. The ~~commission~~  
40 *board* shall periodically review the standards and adopt any

1 revision that, in its judgment, it deems necessary. A building that  
2 satisfies the standards prescribed pursuant to this subdivision need  
3 not comply with the standards prescribed pursuant to subdivision  
4 (a). Water conservation design standards adopted pursuant to this  
5 subdivision shall be demonstrated by the ~~commission~~ *board* to be  
6 necessary to save energy. Prior to adopting a water conservation  
7 design standard for residential buildings, the Department of  
8 Housing and Community Development and the ~~commission~~ *board*  
9 shall issue a joint finding whether the standard (A) is equivalent  
10 or superior in performance, safety, and for the protection of life,  
11 health, and general welfare to standards in the California Building  
12 Standards Code and (B) does not unreasonably or unnecessarily  
13 impact the ability of Californians to purchase or rent affordable  
14 housing, as determined by taking account of the overall benefit  
15 derived from the water conservation design standards. Nothing in  
16 this subdivision in any way reduces the authority of the Department  
17 of Housing and Community Development to adopt standards and  
18 regulations pursuant to Part 1.5 (commencing with Section 17910)  
19 of Division 13 of the Health and Safety Code.

20 (2) In order to increase public participation and improve the  
21 efficacy of the standards adopted pursuant to ~~subdivisions (a) this~~  
22 ~~subdivision and (b); subdivision (a)~~, the ~~commission~~ *board* shall,  
23 prior to publication of the notice of proposed action required by  
24 Section 18935 of the Health and Safety Code, involve parties who  
25 would be subject to the proposed regulations in public meetings  
26 regarding the proposed regulations. All potential affected parties  
27 shall be provided advance notice of these meetings and given an  
28 opportunity to provide written or oral comments. During these  
29 public meetings, the ~~commission~~ *board* shall receive and take into  
30 consideration input from all parties concerning the parties' design  
31 recommendations, cost considerations, and other factors that would  
32 affect consumers and California businesses of the proposed  
33 standard. The ~~commission~~ *board* shall take into consideration prior  
34 to the start of the notice of proposed action any input provided  
35 during these public meetings.

36 (3) The standards adopted or revised pursuant to ~~subdivisions~~  
37 ~~(a) this subdivision and (b) subdivision (a)~~ shall be cost-effective  
38 when taken in their entirety and when amortized over the economic  
39 life of the structure compared with historic practice. When  
40 determining cost-effectiveness, the ~~commission~~ *board* shall

1 consider the value of the water or energy saved, impact on product  
2 efficacy for the consumer, and the life cycle cost of complying  
3 with the standard. The ~~commission~~ *board* shall consider other  
4 relevant factors, as required by Sections 18930 and 18935 of the  
5 Health and Safety Code, including, but not limited to, the impact  
6 on housing costs, the total statewide costs and benefits of the  
7 standard over its lifetime, economic impact on California  
8 businesses, and alternative approaches and their associated costs.

9 (c) (1) Prescribe, by regulation, standards for minimum levels  
10 of operating efficiency, based on a reasonable use pattern, and  
11 may prescribe other cost-effective measures, including incentive  
12 programs, fleet averaging, energy and water consumption labeling  
13 not preempted by federal labeling law, and consumer education  
14 programs, to promote the use of energy and water efficient  
15 appliances whose use, as determined by the ~~commission~~, *board*,  
16 requires a significant amount of energy or water on a statewide  
17 basis. The minimum levels of operating efficiency shall be based  
18 on feasible and attainable efficiencies or feasible *and* improved  
19 efficiencies that will reduce the energy or water consumption  
20 growth rates. The standards shall become effective no sooner than  
21 one year after the date of adoption or revision. No new appliance  
22 manufactured on or after the effective date of the standards may  
23 be sold or offered for sale in the state, unless it is certified by the  
24 manufacturer thereof to be in compliance with the standards. The  
25 standards shall be drawn so that they do not result in any added  
26 total costs for consumers over the designed life of the appliances  
27 concerned.

28 In order to increase public participation and improve the efficacy  
29 of the standards adopted pursuant to this subdivision, the  
30 ~~commission~~ *board* shall, prior to publication of the notice of  
31 proposed action required by Section 18935 of the Health and Safety  
32 Code, involve parties who would be subject to the proposed  
33 regulations in public meetings regarding the proposed regulations.  
34 All potential affected parties shall be provided advance notice of  
35 these meetings and given an opportunity to provide written or oral  
36 comments. During these public meetings, the ~~commission~~ *board*  
37 shall receive and take into consideration input from all parties  
38 concerning the parties' design recommendations, cost  
39 considerations, and other factors that would affect consumers and  
40 California businesses of the proposed standard. The ~~commission~~

1 *board* shall take into consideration prior to the start of the notice  
2 of proposed action any input provided during these public meetings.

3 The standards adopted or revised pursuant to this subdivision  
4 shall not result in any added total costs for consumers over the  
5 designed life of the appliances concerned. When determining  
6 cost-effectiveness, the ~~commission~~ *board* shall consider the value  
7 of the water or energy saved, impact on product efficacy for the  
8 consumer, and the life cycle cost to the consumer of complying  
9 with the standard. The ~~commission~~ *board* shall consider other  
10 relevant factors, as required by Sections 11346.5 and 11357 of the  
11 Government Code, including, but not limited to, the impact on  
12 housing costs, the total statewide costs and benefits of the standard  
13 over its lifetime, economic impact on California businesses, and  
14 alternative approaches and their associated costs.

15 (2) ~~No~~ A new appliance, except for any plumbing fitting,  
16 regulated under paragraph (1), that is manufactured on or after  
17 July 1, 1984, ~~may~~ *shall not* be sold, or offered for sale, in the state,  
18 unless the date of the manufacture is permanently displayed in an  
19 accessible place on that appliance.

20 (3) During the period of five years after the ~~commission~~ *board*  
21 has adopted a standard for a particular appliance under paragraph  
22 (1), no increase or decrease in the minimum level of operating  
23 efficiency required by the standard for that appliance shall become  
24 effective, unless the ~~commission~~ *board* adopts other cost-effective  
25 measures for that appliance.

26 (4) Neither the ~~commission~~ *board* nor any other state agency  
27 shall take any action to decrease any standard adopted under this  
28 subdivision on or before June 30, 1985, prescribing minimum  
29 levels of operating efficiency or other energy conservation  
30 measures for any appliance, unless the ~~commission~~ *board* finds  
31 by a four-fifths vote that a decrease is of benefit to ratepayers, and  
32 that there is significant evidence of changed circumstances. Before  
33 January 1, 1986, the ~~commission~~ *board* shall not take any action  
34 to increase a standard prescribing minimum levels of operating  
35 efficiency for any appliance or adopt a new standard under  
36 paragraph (1). Before January 1, 1986, any appliance manufacturer  
37 doing business in this state shall provide directly, or through an  
38 appropriate trade or industry association, information, as specified  
39 by the ~~commission~~ *board* after consultation with manufacturers  
40 doing business in the state and appropriate trade or industry

1 associations on sales of appliances so that the ~~commission~~ *board*  
2 may study the effects of regulations on those sales. These  
3 informational requirements shall remain in effect until the  
4 information is received. The trade or industry association may  
5 submit sales information in an aggregated form in a manner that  
6 allows the ~~commission~~ *board* to carry out the purposes of the study.  
7 The ~~commission~~ *board and the department* shall treat any sales  
8 information of an individual manufacturer as confidential and that  
9 information shall not be a public record. The ~~commission~~ *board*  
10 shall not request any information that cannot be reasonably  
11 produced in the exercise of due diligence by the manufacturer. At  
12 least one year prior to the adoption or amendment of a standard  
13 for an appliance, the ~~commission~~ *board* shall notify the Legislature  
14 of its intent, and the justification to adopt or amend a standard for  
15 the appliance. Notwithstanding paragraph (3) and this paragraph,  
16 the ~~commission~~ *board* may do any of the following:

17 (A) Increase the minimum level of operating efficiency in an  
18 existing standard up to the level of the National Voluntary  
19 Consensus Standards 90, adopted by the American Society of  
20 Heating, Refrigeration, and Air Conditioning Engineers or, for  
21 appliances not covered by that standard, up to the level established  
22 in a similar nationwide consensus standard.

23 (B) Change the measure or rating of efficiency of any standard,  
24 if the minimum level of operating efficiency remains substantially  
25 the same.

26 (C) Adjust the minimum level of operating efficiency in an  
27 existing standard in order to reflect changes in test procedures that  
28 the standards require manufacturers to use in certifying compliance,  
29 if the minimum level of operating efficiency remains substantially  
30 the same.

31 (D) Readopt a standard preempted, enjoined, or otherwise found  
32 legally defective by an administrative agency or a lower court, if  
33 final legal action determines that the standard is valid and if the  
34 standard that is readopted is not more stringent than the standard  
35 that was found to be defective or preempted.

36 (E) Adopt or amend any existing or new standard at any level  
37 of operating efficiency, if the Governor has declared an energy  
38 emergency as described in Section 8558 of the Government Code.

39 (5) Notwithstanding paragraph (4), the ~~commission~~ *board* may  
40 adopt standards pursuant to *the former State Energy Resources*

1 *Conservation and Development* Commission Order No. 84-0111-1,  
2 on or before June 30, 1985.

3 (d) Recommend minimum standards of efficiency for the  
4 operation of any new facility at a particular site that are technically  
5 and economically feasible. No site and related facility shall be  
6 certified pursuant to Chapter 6 (commencing with Section 25500),  
7 unless the applicant certifies that standards recommended by the  
8 ~~commission~~ *board* have been considered, which certification shall  
9 include a statement specifying the extent to which conformance  
10 with the recommended standards will be achieved.

11 Whenever this section and Chapter 11.5 (commencing with  
12 Section 19878) of Part 3 of Division 13 of the Health and Safety  
13 Code are in conflict, the ~~commission~~ *board* shall be governed by  
14 that chapter of the Health and Safety Code to the extent of the  
15 conflict.

16 (e) The ~~commission~~ *board* shall do all of the following:

17 (1) Not later than January 1, 2004, amend any regulations in  
18 effect on January 1, 2003, pertaining to the energy efficiency  
19 standards for residential clothes washers to require that residential  
20 clothes washers manufactured on or after January 1, 2007, be at  
21 least as water efficient as commercial clothes washers.

22 (2) Not later than April 1, 2004, petition the federal Department  
23 of Energy for an exemption from any relevant federal regulations  
24 governing energy efficiency standards that are applicable to  
25 residential clothes washers.

26 (3) Not later than January 1, 2005, report to the Legislature on  
27 its progress with respect to the requirements of paragraphs (1) and  
28 (2).

29 SEC. 143. Section 25402.1 of the Public Resources Code is  
30 amended to read:

31 25402.1. In order to implement the requirements of subdivisions  
32 (a) and (b) of Section 25402, the ~~commission~~ *department* shall do  
33 all of the following:

34 (a) Develop a public domain computer program ~~which~~ *that* will  
35 enable contractors, builders, architects, engineers, and government  
36 officials to estimate the energy consumed by residential and  
37 nonresidential buildings. The ~~commission~~ *department* may charge  
38 a fee for the use of the program, which fee shall be based upon the  
39 actual cost of the program, including any computer costs.

1 (b) Establish a formal process for certification of compliance  
2 options for new products, materials, and calculation methods which  
3 provides for adequate technical and public review to ensure  
4 accurate, equitable, and timely evaluation of certification  
5 applications. Proponents filing applications for new products,  
6 materials, and calculation methods shall provide all information  
7 needed to evaluate the application that is required by the  
8 ~~commission~~ *department*. The ~~commission~~ *department* shall publish  
9 annually the results of its certification decisions and instructions  
10 to users and local building officials concerning requirements for  
11 showing compliance with the building standards for new products,  
12 materials, or calculation methods. The ~~commission~~ *department*  
13 may charge and collect a reasonable fee from applicants to cover  
14 the costs under this subdivision. Any funds received by the  
15 ~~commission~~ *department* for purposes of this subdivision shall be  
16 deposited in the Energy Resources Programs Account and,  
17 notwithstanding Section 13340 of the Government Code, are  
18 continuously appropriated to the ~~commission~~ *department* for the  
19 purposes of this subdivision. Any unencumbered portion of funds  
20 collected as a fee for an application remaining in the Energy  
21 Resources Programs Account after completion of the certification  
22 process for that application shall be returned to the applicant within  
23 a reasonable period of time.

24 (c) Include a prescriptive method of complying with the  
25 standards, including design aids such as a manual, sample  
26 calculations, and model structural designs.

27 (d) Conduct a pilot project of field testing of actual residential  
28 buildings to calibrate and identify potential needed changes in the  
29 modeling assumptions to increase the accuracy of the public  
30 domain computer program specified in subdivision (a) and to  
31 evaluate the impacts of the standards, including, but not limited  
32 to, the energy savings, cost effectiveness, and the effects on indoor  
33 air quality. The pilot project shall be conducted pursuant to a  
34 contract entered into by the ~~commission~~ *department*. The  
35 ~~commission~~ *department* shall consult with the participants  
36 designated pursuant to Section 9202 of the Public Utilities Code  
37 to seek funding and support for field monitoring in each public  
38 utility service territory, with the University of California to take  
39 advantage of its extensive building monitoring expertise, and with  
40 the California Building Industry Association to coordinate the

1 involvement of builders and developers throughout the state. The  
2 pilot project shall include periodic public workshops to develop  
3 plans and review progress. The ~~commission~~ *department* shall  
4 prepare and submit a report to the Legislature on progress and  
5 initial findings not later than December 31, 1988, and a final report  
6 on the results of the pilot project on residential buildings not later  
7 than June 30, 1990. The report shall include recommendations  
8 regarding the need and feasibility of conducting further monitoring  
9 of actual residential and nonresidential buildings. The report shall  
10 also identify any revisions to the public domain computer program  
11 and energy conservation standards if the pilot project determines  
12 that revisions are appropriate.

13 (e) Certify, not later than 180 days after approval of the  
14 standards by the ~~State~~ *California* Building Standards Commission,  
15 an energy conservation manual for use by designers, builders, and  
16 contractors of residential and nonresidential buildings. The manual  
17 shall be furnished upon request at a price sufficient to cover the  
18 costs of production and shall be distributed at no cost to all affected  
19 local agencies. The manual shall contain, but not be limited to, the  
20 following:

21 (1) The standards for energy conservation established by the  
22 ~~commission~~ *board*.

23 (2) Forms, charts, tables, and other data to assist designers and  
24 builders in meeting the standards.

25 (3) Design suggestions for meeting or exceeding the standards.

26 (4) Any other information ~~which~~ *that* the ~~commission~~  
27 *department* finds will assist persons in conforming to the standards.

28 (5) Instructions for use of the computer program for calculating  
29 energy consumption in residential and nonresidential buildings.

30 (6) The prescriptive method for use as an alternative to the  
31 computer program.

32 (f) The ~~commission~~ *department* shall establish a continuing  
33 program of technical assistance to local building departments in  
34 the enforcement of subdivisions (a) and (b) of Section 25402 and  
35 this section. The program shall include the training of local officials  
36 in building technology and enforcement procedures related to  
37 energy conservation, and the development of complementary  
38 training programs conducted by local governments, educational  
39 institutions, and other public or private entities. The technical  
40 assistance program shall include the preparation and publication

1 of forms and procedures for local building departments in  
2 performing the review of building plans and specifications. The  
3 ~~commission~~ *department* shall provide, on a contract basis, a review  
4 of building plans and specifications submitted by a local building  
5 department, and shall adopt a schedule of fees sufficient to repay  
6 the cost of those services.

7 (g) Subdivisions (a) and (b) of Section 25402 and this section,  
8 and the rules and regulations of the ~~commission~~ *board* adopted  
9 pursuant thereto, shall be enforced by the building department of  
10 every city, county, or city and county.

11 (1) No building permit for any residential or nonresidential  
12 building shall be issued by a local building department, unless a  
13 review by the building department of the plans for the proposed  
14 residential or nonresidential building contains detailed energy  
15 system specifications and confirms that the building satisfies the  
16 minimum standards established pursuant to subdivision (a) or (b)  
17 of Section 25402 and this section applicable to the building.

18 (2) Where there is no local building department, the ~~commission~~  
19 *department* shall enforce subdivisions (a) and (b) of Section 25402  
20 and this section.

21 (3) If a local building department fails to enforce subdivisions  
22 (a) and (b) of Section 25402 and this section or any other provision  
23 of this chapter or standard adopted pursuant thereto, the  
24 ~~commission~~ *department* may provide enforcement after furnishing  
25 10 days' written notice to the local building department.

26 (4) A city, county, or city and county may, by ordinance or  
27 resolution, prescribe a schedule of fees sufficient to pay the costs  
28 incurred in the enforcement of subdivisions (a) and (b) of Section  
29 25402 and this section. The ~~commission~~ *department* may establish  
30 a schedule of fees sufficient to pay the costs incurred by that  
31 enforcement.

32 (5) ~~No construction~~ *Construction of any* a state building shall  
33 *not* commence until the Department of General Services or the  
34 state agency that otherwise has jurisdiction over the property  
35 reviews the plans for the proposed building and certifies that the  
36 plans satisfy the minimum standards established pursuant to  
37 ~~subdivision (a) or (b)~~ of Chapter 2.8 (commencing with Section  
38 15814.30) of Part 10b of Division 3 of Title 2 of the Government  
39 Code, Section 25402, and this section which are applicable to the  
40 building.

1 (h) Subdivisions (a) and (b) of Section 25402 and this section  
2 shall apply only to new residential and nonresidential buildings  
3 on which actual site preparation and construction have not  
4 commenced prior to the effective date of rules and regulations  
5 adopted pursuant to those sections that are applicable to those  
6 buildings. Nothing in those sections shall prohibit either of the  
7 following:

8 (1) The enforcement of state or local energy conservation or  
9 energy insulation standards, adopted prior to the effective date of  
10 rules and regulations adopted pursuant to subdivisions (a) and (b)  
11 of Section 25402 and this section with regard to residential and  
12 nonresidential buildings on which actual site preparation and  
13 construction have commenced prior to that date.

14 (2) The enforcement of city or county energy conservation or  
15 energy insulation standards, whenever adopted, with regard to  
16 residential and nonresidential buildings on which actual site  
17 preparation and construction have not commenced prior to the  
18 effective date of rules and regulations adopted pursuant to  
19 subdivisions (a) and (b) of Section 25402 and this section, if the  
20 city or county files the basis of its determination that the standards  
21 are cost effective with the ~~commission~~ *department* and the  
22 ~~commission~~ *department* finds that the standards will require the  
23 diminution of energy consumption levels permitted by the rules  
24 and regulations adopted pursuant to those sections. If, after two  
25 or more years after the filing with the ~~commission~~ *department* of  
26 the determination that those standards are cost effective, there has  
27 been a substantial change in the factual circumstances affecting  
28 the determination, upon application by any interested party, the  
29 city or county shall update and file a new basis of its determination  
30 that the standards are cost effective. The determination that the  
31 standards are cost effective shall be adopted by the governing body  
32 of the city or county at a public meeting. If, at the meeting on the  
33 matter, the governing body determines that the standards are no  
34 longer cost effective, the standards shall, as of that date, be  
35 unenforceable and no building permit or other entitlement shall  
36 be denied based on the noncompliance with the standards.

37 (i) The ~~commission~~ *department* may exempt from the  
38 requirements of this section and of any regulations adopted  
39 pursuant thereto any proposed building for which compliance  
40 would be impossible without substantial delays and increases in

1 cost of construction, if the ~~commission~~ *department* finds that  
2 substantial funds have been expended in good faith on planning,  
3 designing, ~~architecture~~ *architecture*, or engineering prior to the  
4 date of adoption of the regulations.

5 (j) If a dispute arises between an applicant for a building permit,  
6 or the state pursuant to paragraph (5) of subdivision (g), and the  
7 building department regarding interpretation of Section 25402 or  
8 the regulations adopted pursuant thereto, either party may submit  
9 the dispute to the ~~commission~~ *board* for resolution. The  
10 ~~commission's board's~~ determination of the matter shall be binding  
11 on the parties.

12 (k) Nothing in Section 25130, 25131, or 25402, or in this section  
13 prevents enforcement of any regulation adopted pursuant to this  
14 chapter, or Chapter 11.5 (commencing with Section 19878) of Part  
15 3 of Division 13 of the Health and Safety Code as they existed  
16 prior to September 16, 1977.

17 SEC. 144. Section 25402.2 of the Public Resources Code is  
18 amended to read:

19 25402.2. Any standard adopted by the ~~commission~~ *board*  
20 pursuant to Sections 25402 and 25402.1, which is a building  
21 standard as defined in Section 25488.5, shall be submitted to the  
22 State Building Standards Commission for approval pursuant to,  
23 and is governed by, the State Building Standards Law (Part 2.5  
24 (commencing with Section 18901) of Division 13 of the Health  
25 and Safety Code). Building standards adopted by the ~~commission~~  
26 *board* and published in the State Building Standards Code shall  
27 be enforced as provided in Sections 25402 and 25402.1.

28 SEC. 145. Section 25402.3 of the Public Resources Code is  
29 amended to read:

30 25402.3. For purposes of subdivision (e) of Section 25402.1,  
31 the ~~commission~~ *department* shall contract with California building  
32 officials to establish two regional training centers to provide  
33 continuing education for local building officials and enforcement  
34 personnel as follows:

35 (a) One site shall be located in northern California and one site  
36 shall be located in southern California to serve the needs of the  
37 respective regions.

38 (b) The centers shall provide training on a monthly basis to  
39 ensure a uniform understanding and implementation of the ~~energy~~  
40 ~~efficient~~ *energy-efficient* building standards. Existing resources

1 shall be used as much as possible by utilizing members of the  
2 building official community in training activities.

3 (c) The centers shall provide similar training sessions, in the  
4 form of workshops given in designated rural areas, to ensure that  
5 adequate training is available throughout the state. *The workshops*  
6 *shall meet all of the following requirements:*

7 (1) A minimum of two workshops in northern California and  
8 two workshops in southern California shall be offered each year.

9 (2) The sites shall be selected to ensure the greatest number of  
10 participants will be served in areas of greatest need to decrease  
11 the financial burden on small rural or isolated local government  
12 agencies that would not be able to travel to the regional training  
13 centers for instruction.

14 SEC. 146. Section 25402.4 of the Public Resources Code is  
15 amended to read:

16 25402.4. The standards for nonresidential buildings prescribed  
17 by the ~~commission~~ *board* pursuant to subdivisions (a) and (b) of  
18 Section 25402 shall provide at least one option which uses passive  
19 or semipassive thermal systems, as defined in Section 25600, for  
20 meeting the prescribed energy use requirements. These systems  
21 may include, but are not limited to, the following construction  
22 techniques:

23 (a) Use of skylights or other daylighting techniques.

24 (b) Use of openable windows or other means of using outside  
25 air for space conditioning.

26 (c) Use of building orientation, to complement other passive or  
27 semipassive thermal systems.

28 (d) Use of thermal mass, of structural or nonstructural type, for  
29 storage of heat or cold, including, but not limited to, roof ponds  
30 and water walls.

31 SEC. 147. Section 25402.5 of the Public Resources Code is  
32 amended to read:

33 25402.5. (a) As used in this section, “lighting device” includes,  
34 but is not limited to, a lamp, luminaire, light fixture, lighting  
35 control, ballast, or any component of those devices.

36 (b) (1) The ~~commission~~ *board* shall consider both new and  
37 replacement, and both interior and exterior, lighting devices as  
38 lighting which is subject to subdivision (a) of Section 25402.

39 (2) The ~~commission~~ *board* shall include both indoor and outdoor  
40 lighting devices as appliances to be considered in prescribing

1 standards pursuant to paragraph (1) of subdivision (c) of Section  
2 25402.

3 (3) The Legislature hereby finds and declares that paragraphs  
4 (1) and (2) are declarative of existing law.

5 (c) The ~~commission~~ *board* shall adopt efficiency standards for  
6 outdoor lighting. The standards shall be technologically feasible  
7 and ~~cost-effective~~ *cost effective*. As used in this subdivision,  
8 “outdoor lighting” refers to all electrical lighting that is not subject  
9 to standards adopted pursuant to Section 25402, and includes, but  
10 is not limited to, street lights, traffic lights, parking lot lighting,  
11 and billboard lighting. The ~~commission~~ *department and the board*  
12 shall consult with the Department of Transportation (CALTRANS)  
13 to ensure that outdoor lighting standards that affect CALTRANS  
14 are compatible with that department’s policies and standards for  
15 safety and illumination levels on state highways.

16 SEC. 148. Section 25402.5.4 of the Public Resources Code is  
17 amended to read:

18 25402.5.4. (a) On or before December 31, 2008, the  
19 ~~commission~~ *board* shall adopt minimum energy efficiency  
20 standards for all general purpose lights on a schedule specified in  
21 the regulations. The regulations, in combination with other  
22 programs and activities affecting lighting use in the state, shall be  
23 structured to reduce average statewide electrical energy  
24 consumption by not less than 50 percent from the 2007 levels for  
25 indoor residential lighting and by not less than 25 percent from  
26 the 2007 levels for indoor commercial and outdoor lighting, by  
27 2018.

28 (b) The ~~commission~~ *board* shall make recommendations to the  
29 Governor and the Legislature regarding how to continue reductions  
30 in electrical consumption for lighting beyond 2018.

31 (c) The ~~commission~~ *board* may establish programs to encourage  
32 the sale in this state of general purpose lights that meet or exceed  
33 the standards set forth in subdivision (a).

34 (d) (1) Except as provided in paragraph (2), the Department of  
35 General Services, and all other state agencies, as defined in Section  
36 12200 of the Public Contract Code, in coordination with the  
37 ~~commission~~, *department*, shall cease purchasing general purpose  
38 lights that do not meet the standards adopted pursuant to  
39 subdivision (a), within two years of those standards being adopted.

1 (2) The Department of General Services, and all other state  
2 agencies, as defined in Section 12200 of the Public Contract Code,  
3 in coordination with the ~~commission~~ *department* shall cease  
4 purchasing general purpose lights with an appearance that is  
5 historically appropriate for the facilities in which the lights are  
6 being used, and that do not meet the standards adopted pursuant  
7 to subdivision (a) within four years of those standards being  
8 adopted.

9 (e) It is the intent of the Legislature to encourage the Regents  
10 of the University of California, in coordination with the  
11 ~~commission~~, *department*, to cease purchasing general purpose  
12 lights that do not meet the standards adopted pursuant to  
13 subdivision (a), within two years of those standards being adopted.

14 (f) (1) (A) For purposes of this section, “general purpose lights”  
15 means lamps, bulbs, tubes, or other electric devices that provide  
16 functional illumination for indoor residential, indoor commercial,  
17 and outdoor use.

18 (B) General purpose lights do not include any of the following  
19 types of specialty lighting: appliance, black light, bug, colored,  
20 infrared, left-hand thread, marine, marine signal service, mine  
21 service, plant light, reflector, rough service, shatter resistant, sign  
22 service, silver bowl, showcase, three-way, traffic signal, and  
23 vibration service or vibration resistant.

24 (2) The ~~commission~~ *board* may, after one or more public  
25 workshops, with public notice and an opportunity for all interested  
26 parties to comment, provide for inclusion of a particular type of  
27 specialty light in its energy efficiency standards applicable to  
28 general purpose lighting, if it finds that there has been a significant  
29 increase in sales of that particular type of particular specialty light  
30 due to the use of that specialty light in general purpose lighting  
31 applications.

32 (3) General purpose lights do not include lights needed to  
33 provide special-needs lighting for individuals with exceptional  
34 needs.

35 SEC. 149. Section 25402.6 of the Public Resources Code is  
36 amended to read:

37 25402.6. The ~~commission~~ *department* shall investigate options  
38 and develop a plan to decrease wasteful peakload energy  
39 consumption in existing residential and nonresidential buildings.  
40 On or before January 1, 2004, the ~~commission~~ *department* shall

1 report its findings to the Legislature, including, but not limited to,  
2 any changes in law necessary to implement the plan to decrease  
3 wasteful peakload energy consumption in existing residential and  
4 nonresidential buildings.

5 SEC. 150. Section 25402.7 of the Public Resources Code is  
6 amended to read:

7 25402.7. (a) In consultation with the ~~commission~~, *department*,  
8 electric and gas utilities shall provide support for building standards  
9 and other regulations pursuant to Section 25402 and subdivision  
10 (b) of Section 25553 including appropriate research, development,  
11 and training to implement those standards and other regulations.

12 (b) The electric and gas utilities shall provide support pursuant  
13 to subdivision (a) only to the extent that funds are made available  
14 to the utilities for that purpose.

15 SEC. 151. Section 25402.8 of the Public Resources Code is  
16 amended to read:

17 25402.8. When assessing new building standards for residential  
18 and nonresidential buildings relating to the conservation of energy,  
19 the ~~commission~~ *board* shall include in its deliberations the impact  
20 that those standards would have on indoor air pollution problems.

21 SEC. 152. Section 25402.9 of the Public Resources Code is  
22 amended to read:

23 25402.9. (a) On or before July 1, 1996, the ~~commission~~  
24 *department* shall develop, ~~adopt~~, and *by action of the board*,  
25 publish an informational booklet to educate and inform  
26 homeowners, rental property owners, renters, sellers, brokers, and  
27 the general public about the statewide home energy rating program  
28 adopted pursuant to Section 25942.

29 (b) In the development of the booklet, the ~~commission~~  
30 *department* shall consult with representatives of the Department  
31 of Real Estate, the Department of Housing and Community  
32 Development, the Public Utilities Commission, investor-owned  
33 and municipal utilities, cities and counties, real estate licensees,  
34 home builders, mortgage lenders, home appraisers and inspectors,  
35 home energy rating organizations, contractors who provide home  
36 energy services, consumer groups, and environmental groups.

37 (c) The ~~commission~~ *department* shall charge a fee for the  
38 informational booklet to recover its costs under subdivision (a).

39 SEC. 153. Section 25403 of the Public Resources Code is  
40 amended to read:

1 25403. The ~~commission~~ *department* shall submit to the Public  
2 Utilities Commission and to any publicly owned electric utility,  
3 recommendations designed to reduce wasteful, unnecessary, or  
4 uneconomic energy consumption resulting from ~~practices~~ *practices*,  
5 including, but not limited to, differential rate structures,  
6 cost-of-service allocations, the disallowance of a business expense  
7 of advertising or promotional activities ~~which~~ *that* encourage the  
8 use of electrical power, peakload pricing, and other pricing  
9 measures. The Public Utilities Commission or publicly owned  
10 electric utility shall review and consider ~~such~~ *the* recommendations  
11 and shall, within six months after the date it receives them, as  
12 prescribed by this section, report to the Governor and the  
13 Legislature its actions and reasons therefor with respect to ~~such~~  
14 *the* recommendations.

15 SEC. 154. Section 25403.5 of the Public Resources Code is  
16 amended to read:

17 25403.5. (a) The ~~commission~~ *board* shall, by July 1, 1978,  
18 adopt standards by regulation for a program of electrical load  
19 management for each utility service area. In adopting the standards,  
20 the ~~commission~~ *board* shall consider, but need not be limited to,  
21 the following load management techniques:

22 (1) Adjustments in rate structure to encourage use of electrical  
23 energy at off-peak hours or to encourage control of daily electrical  
24 load. Compliance with those adjustments in rate structure shall be  
25 subject to the approval of the Public Utilities Commission in a  
26 proceeding to change rates or service.

27 (2) End use storage systems which store energy during off-peak  
28 periods for use during peak periods.

29 (3) Mechanical and automatic devices and systems for the  
30 control of daily and seasonal peakloads.

31 (b) The standards shall be ~~cost-effective~~ *cost effective* when  
32 compared with the costs for new electrical capacity, and the  
33 ~~commission~~ *board* shall find them to be technologically feasible.  
34 Any expense or any capital investment required of a utility by the  
35 standards shall be an allowable expense or an allowable item in  
36 the utility rate base and shall be treated by the Public Utilities  
37 Commission as allowable in a rate proceeding.

38 The ~~commission~~ *board* may determine that one or more of the  
39 load management techniques are infeasible and may delay their  
40 adoption. If the ~~commission~~ *board* determines that any techniques

1 are infeasible to implement, it shall make a finding in each instance  
2 stating the grounds upon which the determination was made and  
3 the actions it intends to take to remove the impediments to  
4 implementation.

5 (c) The ~~commission~~ *board* may also grant, upon application by  
6 a utility, an exemption from the standards or a delay in  
7 implementation. The grant of an exemption or delay shall be  
8 accompanied by a statement of findings by the ~~commission~~ *board*  
9 indicating the grounds for the exemption or delay. Exemption or  
10 delay shall be granted only upon a showing of extreme hardship,  
11 technological infeasibility, lack of ~~cost-effectiveness~~ *cost*  
12 *effectiveness*, or reduced system reliability and efficiency.

13 (d) This section does not apply to proposed sites and related  
14 facilities for which a notice of intent or an application requesting  
15 certification has been filed with the ~~commission~~ *board* prior to the  
16 effective date of the standards.

17 SEC. 155. Section 25403.8 of the Public Resources Code is  
18 amended to read:

19 25403.8. (a) The ~~commission~~ *department* shall develop and  
20 implement a program to provide battery backup power for those  
21 official traffic control signals, operated by a city, county, or city  
22 and county, that the ~~commission~~ *department*, in consultation with  
23 cities, counties, or cities and counties, determines to be high  
24 priority traffic control signals.

25 (b) Based on traffic factors considered by cities, counties, or  
26 cities and counties, including, but not limited to, traffic volume,  
27 number of accidents, and presence of children, the ~~commission~~  
28 *department* shall determine a priority schedule for the installation  
29 of battery backup power for traffic control systems. The  
30 ~~commission~~ *department* shall give priority to a city, county, or  
31 city and county that did not receive a grant from the State of  
32 California for the installation of light-emitting diode traffic control  
33 signals.

34 (c) The ~~commission~~ *department* shall also develop or adopt the  
35 necessary technical criteria as to wiring, circuitry, and recharging  
36 units for traffic control signals. Only light-emitting diodes (LED)  
37 traffic control signals are eligible for battery backup power for the  
38 full operation of the traffic control signal or a flashing red mode.  
39 A city, county, or city and county may apply for a matching grant

1 for battery backup power for traffic control signals retrofitted with  
2 light-emitting diodes.

3 (d) Based on the criteria described in subdivision (c), the  
4 ~~commission~~ *board* shall provide matching grants to cities, counties,  
5 and cities and counties for backup battery systems described in  
6 this section in accordance with the priority schedule established  
7 by the ~~commission~~ *department* pursuant to subdivision (b). The  
8 ~~commission~~ *board* shall provide 70 percent of the funds for a  
9 battery backup system, and the city, county, or city and county  
10 shall provide 30 percent.

11 (e) If a city, county, or city and county has installed a backup  
12 battery system for LED traffic control signals between January 1,  
13 2001, and ~~the effective date of the act adding this section, the~~  
14 ~~commission~~ *October 1, 2001, the board* may reimburse the city,  
15 county, or city and county for up to 30 percent of the cost incurred  
16 for the backup battery system installation. However, the  
17 ~~commission~~ *board* may not spend more than one million five  
18 hundred thousand dollars (\$1,500,000) for reimbursements pursuant  
19 to this subdivision.

20 SEC. 156. Section 25404 of the Public Resources Code is  
21 amended to read:

22 25404. The ~~commission~~ *department* shall cooperate with the  
23 ~~Office of Planning and Research, the~~ *Natural Resources Agency*  
24 and other interested parties in developing procedures to ensure  
25 that mitigation measures to minimize wasteful, inefficient, and  
26 unnecessary consumption of energy are included in all  
27 environmental impact reports required on local projects as specified  
28 in Section 21151.

29 SEC. 157. Section 25405.5 of the Public Resources Code is  
30 amended to read:

31 25405.5. (a) As used in this section, the following terms have  
32 the following meanings:

33 (1) “kW” means kilowatts or 1,000 watts, as measured from the  
34 alternating current side of the solar energy system inverter  
35 consistent with Section 223 of Title 15 of the United States Code.

36 (2) “Production home” means a single-family residence  
37 constructed as part of a development of at least 50 homes per  
38 project that is intended or offered for sale.

39 (3) “Solar energy system” means a solar energy device that has  
40 the primary purpose of providing for the collection and distribution

1 of solar energy for the generation of electricity, that produces at  
2 least one kW, and not more than five megawatts, alternating current  
3 rated peak electricity, and that meets or exceeds the eligibility  
4 criteria established pursuant to Section 25782.

5 (b) A seller of production homes shall offer a solar energy  
6 system option to all customers that enter into negotiations to  
7 purchase a new production home constructed on land for which  
8 an application for a tentative subdivision map has been deemed  
9 complete on or after January 1, 2011, and disclose the following:

10 (1) The total installed cost of the solar energy system option.

11 (2) The estimated cost savings associated with the solar energy  
12 system option, as determined by the ~~commission~~ *board* pursuant  
13 to Chapter 8.8 (commencing with Section 25780) of Division 15.

14 (c) The ~~State Department of Energy Resources Conservation~~  
15 ~~and Development Commission~~ shall develop an offset program  
16 that allows a developer or seller of production homes to forgo the  
17 offer requirement of this section on a project, by installing solar  
18 energy systems generating specified amounts of electricity on other  
19 projects, including, but not limited to, low-income housing,  
20 multifamily, commercial, industrial, and institutional developments.  
21 The amount of electricity required to be generated from solar  
22 energy systems used as an offset pursuant to this subdivision shall  
23 be equal to the amount of electricity generated by solar energy  
24 systems installed on a similarly sized project within that climate  
25 zone, assuming 20 percent of the prospective buyers would have  
26 installed solar energy systems.

27 (d) The requirements of this section shall not operate as a  
28 substitute for the implementation of existing energy efficiency  
29 measures, and the requirements of this section shall not result in  
30 lower energy savings or lower energy efficiency levels than would  
31 otherwise be achieved by the full implementation of energy savings  
32 and energy efficiency standards established pursuant to Section  
33 25402.

34 SEC. 158. Section 25405.6 of the Public Resources Code is  
35 amended to read:

36 25405.6. Not later than July 1, 2007, the ~~commission~~  
37 *department and the board* shall initiate a public proceeding to  
38 study and make findings whether, and under what conditions, solar  
39 energy systems should be required on new residential and new  
40 nonresidential buildings, including the establishment of numerical

1 targets. As part of the study, the ~~commission~~ *board* may determine  
2 that a solar energy system should not be required for any building  
3 unless the ~~commission~~ *board* determines, based upon consideration  
4 of all costs associated with the system, that the system is cost  
5 effective when amortized over the economic life of the structure.  
6 When determining the cost-effectiveness of the solar energy  
7 system, the ~~commission~~ *board* shall consider the availability of  
8 governmental rebates, tax deductions, ~~net-metering~~ *net metering*,  
9 and other quantifiable factors, if the ~~commission~~ *board* can  
10 determine the availability of these financial incentives if a solar  
11 energy system is made mandatory and not elective. The  
12 ~~commission~~ *department* shall periodically update the study and  
13 incorporate any revision that the ~~commission~~ *department and the*  
14 *board* determines is necessary, including revisions that reflect  
15 changes in the financial incentives originally considered by the  
16 ~~commission~~ *board* when determining cost-effectiveness of the  
17 solar energy system. For purposes of this section, “solar energy  
18 system” means a photovoltaic solar collector or other photovoltaic  
19 solar energy device that has a primary purpose of providing for  
20 the collection and distribution of solar energy for the generation  
21 of electricity. This section is intended to be for study purposes  
22 only and does not authorize the ~~commission~~ *board* to develop and  
23 adopt any requirement for solar energy systems on either residential  
24 or nonresidential buildings.

25 SEC. 159. Section 25410.5 of the Public Resources Code is  
26 amended to read:

27 25410.5. The Legislature finds and declares all of the following:

28 (a) Energy costs are frequently the second largest discretionary  
29 expense in a local government’s budget. According to the  
30 ~~commission~~, *department*, most public institutions could reduce  
31 their energy costs by 20 to 30 percent.

32 (b) A variety of energy conservation measures are available to  
33 local governments. These measures are highly ~~cost-effective~~ *cost*  
34 *effective*, often providing a payback on the initial investment in  
35 three years or less.

36 (c) Many local governments lack energy management expertise  
37 and are often unaware of their high energy costs or the  
38 opportunities to reduce those costs.

1 (d) Local governments that desire to reduce their energy costs  
2 through energy conservation and efficiency measures often lack  
3 available funding.

4 (e) Since 1980, the Energy Conservation Assistance Account  
5 has provided \$110 million in loans, through a revolving loan  
6 account, to 600 schools, hospitals, and local governments. The  
7 energy conservation projects funded by the account save  
8 approximately \$35 million annually in energy costs.

9 (f) Local governments and public institutions need assistance  
10 in all aspects of energy efficiency improvements, including, but  
11 not limited to, project identification, project development and  
12 implementation, evaluation of project proposals and options,  
13 operations and maintenance, and troubleshooting of problem  
14 projects.

15 SEC. 160. Section 25410.6 of the Public Resources Code is  
16 amended to read:

17 25410.6. (a) It is the intent of the Legislature that the  
18 ~~commission~~ *department* shall administer the State Energy  
19 Conservation Assistance Account to provide grants and loans to  
20 local governments and public institutions to maximize energy use  
21 savings, including, but not limited to, technical assistance,  
22 demonstrations, and identification and implementation of  
23 cost-effective energy efficiency measures and programs in existing  
24 and planned buildings or facilities.

25 (b) It is further the intent of the Legislature that the ~~commission~~  
26 *department* seek the assistance of utility companies in providing  
27 energy audits for local governments and public institutions and in  
28 publicizing the availability of State Energy Conservation  
29 Assistance Account funds to qualified entities.

30 SEC. 161. Section 25412 of the Public Resources Code is  
31 amended to read:

32 25412. Any eligible institution may submit an application to  
33 the ~~commission~~ *department* for an allocation for the purpose of  
34 financing all or a portion of the costs incurred in implementing a  
35 project. The application shall be in ~~such~~ *the* form and contain ~~such~~  
36 *the information as incurred in implementing a project that the*  
37 ~~commission~~ *department* shall prescribe.

38 An application may be for the purpose of financing the eligible  
39 institution's share of ~~such~~ *the* costs ~~which~~ *that* are to be jointly  
40 funded through a state, local, or federal-local program.

1 SEC. 162. Section 25413 of the Public Resources Code is  
 2 amended to read:

3 25413. Applications may be approved by the ~~commission~~  
 4 *department* only in those instances where the eligible institution  
 5 has furnished information satisfactory to the ~~commission~~  
 6 *department* that the costs of the project, plus interest on state funds  
 7 loaned, calculated in accordance with Section 25415, will be  
 8 recovered through savings in the cost of energy to the institution  
 9 during the repayment period of the allocation.

10 The savings shall be calculated in a manner prescribed by the  
 11 ~~commission~~ *department*.

12 SEC. 163. Section 25414 of the Public Resources Code is  
 13 amended to read:

14 25414. Annually at the conclusion of each fiscal year, but not  
 15 later than October 31, each eligible institution that has received  
 16 an allocation pursuant to this chapter shall compute the cost of  
 17 energy saved as a result of implementing a project funded by the  
 18 allocation. The cost shall be calculated in a manner prescribed by  
 19 the ~~commission~~ *department*.

20 SEC. 164. Section 25415 of the Public Resources Code is  
 21 amended to read:

22 25415. (a) Each eligible institution to which an allocation has  
 23 been made under this chapter shall repay the principal amount of  
 24 the allocation, plus interest, in not more than 30 equal semiannual  
 25 payments, as determined by the ~~commission~~ *department*. The first  
 26 semiannual payment shall be made on or before December 22 of  
 27 the fiscal year following the year in which the project is completed.  
 28 The repayment period may not exceed the life of the equipment,  
 29 as determined by the ~~commission~~ *department* or the lease term of  
 30 the building in which the energy conservation measures will be  
 31 installed.

32 (b) Notwithstanding any other provision of law, the ~~commission~~  
 33 *department* shall, unless it determines that the purposes of this  
 34 chapter would be better served by establishing an alternative  
 35 interest rate schedule, periodically set interest rates on the loans  
 36 based on surveys of existing financial markets and at rates not less  
 37 than 1 percent per annum.

38 (c) The governing body of each eligible institution shall annually  
 39 budget an amount at least sufficient to make the semiannual  
 40 payments required in this section. The amount shall not be raised

1 by the levy of additional taxes but shall instead be obtained by a  
2 savings in energy costs or other sources.

3 SEC. 165. Section 25416 of the Public Resources Code is  
4 amended to read:

5 25416. (a) The State Energy Conservation Assistance Account  
6 is hereby created in the General Fund. Notwithstanding Section  
7 13340 of the Government Code, the account is continuously  
8 appropriated to the ~~commission~~ *department* without regard to fiscal  
9 year.

10 (b) The money in the account shall consist of all money  
11 authorized or required to be deposited in the account by the  
12 Legislature and all money received by the ~~commission~~ *department*  
13 pursuant to Sections 25414 and 25415.

14 (c) The money in the account shall be disbursed by the  
15 Controller for the purposes of this chapter as authorized by the  
16 ~~commission~~ *department*.

17 (d) The ~~commission~~ *department* may contract and provide grants  
18 for services to be performed for eligible institutions. Services may  
19 include, but are not limited to, feasibility analysis, project design,  
20 field assistance, and operation and training. The amount expended  
21 for those services may not exceed 10 percent of the unencumbered  
22 balance of the account as determined by the ~~commission~~  
23 *department* on July 1 of each year.

24 (e) The ~~commission~~ *department* may make grants to eligible  
25 institutions for innovative projects and programs. Except as  
26 provided in subdivision (d), the amount expended for grants may  
27 not exceed 5 percent of the annual unencumbered balance in the  
28 account as determined by the ~~commission~~ *department* on July 1  
29 of each fiscal year.

30 (f) The ~~commission~~ *department* may charge a fee for the services  
31 provided under subdivision (d).

32 (g) Notwithstanding any other provision of law, the Controller  
33 may use the State Energy Conservation Assistance Account for  
34 loans to the General Fund as provided in Sections 16310 and 16381  
35 of the Government Code.

36 SEC. 166. Section 25417 of the Public Resources Code is  
37 amended to read:

38 25417. (a) An allocation made pursuant to this chapter shall  
39 be used for the purposes specified in an approved application.

1 (b) In the event that the ~~commission~~ *department* determines that  
 2 an allocation has been expended for purposes other than those  
 3 specified in an approved application, it shall immediately request  
 4 the return of the full amount of the allocation. The eligible  
 5 institution shall immediately comply with ~~such~~ *this* request.

6 SEC. 167. Section 25417.5 of the Public Resources Code is  
 7 amended to read:

8 25417.5. (a) In furtherance of the purposes of the ~~commission~~  
 9 *department* as set forth in this chapter, the ~~commission~~ *department*  
 10 has the power and authority to do all of the following:

11 (1) Borrow money, for the purpose of obtaining funds to make  
 12 loans pursuant to this chapter, from the California Economic  
 13 Development Financing ~~Authority~~, *Authority* and the California  
 14 Infrastructure and Economic Development ~~Bank~~, and the California  
 15 Consumer Power and Conservation Financing ~~Authority~~ *Bank*  
 16 from the proceeds of revenue bonds issued by any of those  
 17 agencies.

18 (2) Pledge, to provide collateral in connection with the  
 19 borrowing of money pursuant to paragraph (1), loans made  
 20 pursuant to this chapter or Chapter 5.4 (commencing with Section  
 21 25440), or the principal and interest payments on loans made  
 22 pursuant to this chapter or Chapter 5.4 (commencing with Section  
 23 25440).

24 (3) Sell loans made pursuant to this chapter or Chapter 5.4  
 25 (commencing with Section 25440), at prices determined in the  
 26 sole discretion of the ~~commission~~, *department*, to the California  
 27 Economic Development Financing ~~Authority~~, *Authority* and the  
 28 California Infrastructure and Economic Development ~~Bank~~, and  
 29 the California Consumer Power and Conservation Financing  
 30 ~~Authority~~ *Bank* to raise funds to enable the ~~commission~~ *department*  
 31 to make loans to eligible institutions.

32 (4) Enter into loan agreements or other contracts necessary or  
 33 appropriate in connection with the pledge or sale of loans pursuant  
 34 to paragraph (2) or (3), or the borrowing of money as provided in  
 35 paragraph (1), containing any provisions that may be required by  
 36 the California Economic Development Financing Authority, the  
 37 California Infrastructure and Economic Development Bank, or the  
 38 California Consumer Power and Conservation Financing Authority  
 39 *department* as conditions of issuing bonds to fund loans to, or the  
 40 purchase of loans from, the ~~commission~~. *department*.

1 (b) In connection with the pledging of loans, or of the principal  
2 and interest payment on loans, pursuant to paragraph (2) of  
3 subdivision (a), the ~~commission~~ *department* may enter into pledge  
4 agreements setting forth the terms and conditions pursuant to which  
5 the ~~commission~~ *department* is pledging loans or the principal and  
6 interest payment on loans, and may also agree to have the loans  
7 held by bond trustees or by independent collateral or escrow agents  
8 and to direct that payments received on those loans be paid to those  
9 trustee, collateral, or escrow agents.

10 (c) The ~~commission~~ *department* may employ financial  
11 consultants, legal advisers, accountants, and other service  
12 providers, as may be necessary in its judgment, in connection with  
13 activities pursuant to this chapter.

14 (d) Notwithstanding any other provision of law, this chapter  
15 provides a complete, separate, additional, and alternative method  
16 for implementing the measures authorized by this chapter,  
17 including the authority of the eligible institutions or local  
18 jurisdictions to have borrowed and to borrow in the future pursuant  
19 to loans made pursuant to this chapter or Chapter 5.4 (commencing  
20 with Section 25440), and is supplemental and additional to powers  
21 conferred by other laws.

22 SEC. 168. Section 25419 of the Public Resources Code is  
23 amended to read:

24 25419. In addition to the powers specifically granted to the  
25 ~~commission~~ *department* by the other provisions of this chapter,  
26 the ~~commission~~ *department* shall have the following powers:

27 (a) To establish qualifications and priorities, consistent with the  
28 objectives of this chapter, for making allocations.

29 (b) To establish ~~such~~ procedures and policies as may be  
30 necessary for the administration of this chapter.

31 SEC. 169. Section 25420 of the Public Resources Code is  
32 amended to read:

33 25420. The ~~commission~~ *department* may expend from the State  
34 Energy Conservation Assistance Account an amount to pay for  
35 the actual administrative costs incurred by the ~~commission~~  
36 *department* pursuant to this chapter. The amount shall not exceed  
37 5 percent of the annual unencumbered balance in the account as  
38 determined by the ~~commission~~ *department* on July 1 of each fiscal  
39 year, to be used to defray costs incurred by the ~~commission~~

1 *department* for allocations made by the ~~commission~~ *department*  
2 pursuant to this chapter.

3 SEC. 170. Section 25422 of the Public Resources Code is  
4 amended to read:

5 25422. (a) Federal funds available to the ~~commission~~  
6 *department* pursuant to Chapter 5.6 (commencing with Section  
7 25460) may be used by the ~~commission~~ *department* to augment  
8 funding for grants and loans pursuant to this chapter. Any federal  
9 funds used for loans shall, when repaid, be deposited into the  
10 Energy Conservation Assistance Account and used to make  
11 additional loans pursuant to this chapter.

12 (b) A separate subaccount shall be established within the Energy  
13 Conservation Assistance Account to track the award and repayment  
14 of loans from federal funds, including any interest earnings, in  
15 accordance with the federal American Recovery and Reinvestment  
16 Act of 2009 (Public Law 111-5).

17 SEC. 171. Section 25426 of the Public Resources Code is  
18 amended to read:

19 25426. As used in this article, the following terms have the  
20 following meanings:

21 (a) “Commercial refrigeration” means a refrigerator that is not  
22 a federally regulated consumer product.

23 (b) “Energy-efficient model” means any appliance that meets  
24 the efficiency standards of the United States Department of Energy  
25 that are effective on and after July 1, 2001, and, if applicable,  
26 products certified as ~~energy efficient~~ *energy-efficient zone heating*  
27 products by the ~~State Energy Resources Conservation and~~  
28 ~~Development Commission~~ *board*.

29 (c) “Small business” means any small business as defined in  
30 paragraph (1) of subdivision (d) of Section 14837 of the  
31 Government Code.

32 SEC. 172. Section 25433 of the Public Resources Code is  
33 amended to read:

34 25433. It is the intent of the Legislature to establish incentives  
35 in the form of grants and loans to low-income residents, small  
36 businesses, and residential property owners for constructing and  
37 retrofitting buildings to be more energy efficient by using design  
38 elements, including, but not limited to, energy-efficient siding,  
39 insulation, products certified as energy efficient zone heating  
40 products by the ~~State Energy Resources Conservation and~~

1 ~~Development Commission~~ board within the department, and  
2 double-paned windows.

3 SEC. 173. Section 25433.5 of the Public Resources Code is  
4 amended to read:

5 25433.5. (a) ~~In~~ *The department*, in consultation with the Public  
6 Utilities Commission, ~~the commission~~ shall do both of the  
7 following for the purpose of full or partial funding of an eligible  
8 construction or retrofit project:

9 (1) Establish a grant program to provide financial assistance to  
10 eligible low-income individuals.

11 (2) Establish a 2-percent interest per annum loan program to  
12 provide financial assistance to a small business owner, residential  
13 property owner, or individual who is not eligible for a grant  
14 pursuant to paragraph (1). The loans shall be available to a small  
15 business owner who has a gross annual income that does not exceed  
16 one hundred thousand dollars (\$100,000) or to an individual or  
17 residential property owner who has a gross annual household  
18 income that does not exceed one hundred thousand dollars  
19 (\$100,000).

20 (b) (1) ~~The commission~~ *department* shall use the design  
21 guidelines adopted pursuant to paragraph (2) of subdivision (f) of  
22 Section 14 of *Chapter 8 of the act that added this section Statutes*  
23 *of the First Extraordinary Session of 2001* as standards to  
24 determine eligible energy-efficiency projects.

25 (2) The award of a grant pursuant to this section is subject to  
26 appeal to the ~~commission~~ *department* upon a showing that the  
27 ~~commission~~ *department* applied factors, other than those adopted  
28 by the ~~commission~~, *department*, in making the award.

29 (3) The grant or loan recipient shall commit to using the grant  
30 or loan for the purpose for which the grant or loan was awarded.

31 (4) Any action taken by an applicant to apply for, or to become  
32 or remain eligible to receive, a grant award, including satisfying  
33 conditions specified by the ~~commission~~, *department*, does not  
34 constitute the rendering of goods, services, or a direct benefit to  
35 the ~~commission~~. *department*.

36 (5) The amount of any grant awarded pursuant to this article to  
37 a low-income individual does not constitute income for purposes  
38 of calculating the recipient's gross income for the tax year during  
39 which the grant is received.

1 SEC. 174. Section 25434 of the Public Resources Code is  
2 amended to read:

3 25434. The ~~commission~~ *department* may contract with one or  
4 more business entities capable of supplying or providing goods or  
5 services necessary for the ~~commission~~ *department* to carry out the  
6 responsibilities for the programs conducted pursuant to this article,  
7 and shall contract with one or more business entities to evaluate  
8 the effectiveness of the programs implemented pursuant to  
9 subdivision (a) of Section 25433.5. The ~~commission~~ *department*  
10 may select an entity on a sole source basis for one or both of those  
11 purposes if the cost to the state will be reasonable and the  
12 ~~commission~~ *department* determines that it is in the best interest of  
13 the state.

14 SEC. 175. Section 25434.5 of the Public Resources Code is  
15 amended to read:

16 25434.5. As used in this article, the following terms have the  
17 following meanings:

18 (a) “Eligible construction or retrofit project” means a project  
19 for making improvements to a home or building in existence on  
20 ~~the effective date of the act adding this section, April 12, 2001,~~  
21 through an addition, alteration, or repair, which effectively  
22 increases the energy efficiency or reduces the energy consumption  
23 of the home or building as specified by the ~~commission’s~~  
24 *departmental* guidelines under paragraph (2) of subdivision (f) of  
25 Section 14 of *Chapter 8 of the act that added this section. Statutes*  
26 *of the First Extraordinary Session of 2001.* The improvements  
27 shall be deemed to be cost-effective.

28 (b) “Low income” means an individual with a gross annual  
29 income equal to or less than 200 percent of the federal poverty  
30 level.

31 (c) “Small business” means any small business as defined in  
32 paragraph (1) of subdivision (d) of Section 14837 of the  
33 Government Code.

34 SEC. 176. Article 3 (commencing with Section 25435) of  
35 Chapter 5.3 of Division 15 of the Public Resources Code is  
36 repealed.

37 SEC. 177. Section 25441 of the Public Resources Code is  
38 amended to read:

39 25441. The ~~commission~~ *department* shall provide financial  
40 assistance to local jurisdictions for the purpose of providing staff

1 training and support services, including, but not limited to, planning  
2 design, permitting, energy conservation, comprehensive energy  
3 management, project evaluation, and development of alternative  
4 energy resources.

5 SEC. 178. Section 25442 of the Public Resources Code is  
6 amended to read:

7 25442. The ~~commission~~ *department* shall provide loans to local  
8 jurisdictions for all of the following purposes:

9 (a) Purchase, maintenance, and evaluation of ~~energy-efficient~~  
10 *energy-efficient peak load reduction* equipment for existing ~~and~~  
11 *new or planned* facilities, including, but not limited to, equipment  
12 related to lights, motors, pumps, water and wastewater systems,  
13 boilers, heating, and air conditioning.

14 (b) Purchase, maintenance, and evaluation of small power  
15 production systems, including, but not limited to, wind,  
16 cogeneration, photovoltaics, geothermal, and hydroelectric systems.

17 (c) ~~Improve~~ *Improvement of* the operating efficiency of existing  
18 local transportation systems.

19 SEC. 179. Section 25442.5 of the Public Resources Code is  
20 amended to read:

21 25442.5. The ~~commission~~ *department* may award financial  
22 assistance for project audits, feasibility studies, engineering and  
23 design, and legal and financial analysis related to the purposes of  
24 Section 25442.

25 SEC. 180. Section 25442.7 of the Public Resources Code is  
26 amended to read:

27 25442.7. (a) Loans under this article may not exceed five  
28 million dollars (\$5,000,000) for any one local jurisdiction unless  
29 the ~~commission determines, by unanimous vote,~~ *department*  
30 *determines* that the public interest and objectives of this chapter  
31 would be better served at a higher loan amount.

32 (b) Loan repayments shall be made in accordance with a  
33 schedule established by the ~~commission.~~ *department.* Repayment  
34 of loans shall be made in full unless the ~~commission determines,~~  
35 ~~by unanimous vote,~~ *department determines* that the public interest  
36 and objectives of this chapter would be better served by negotiating  
37 a reduced loan repayment for a project that fails to meet the  
38 technical or financial performance criteria through no fault of the  
39 local jurisdiction.

1 SEC. 181. Section 25443 of the Public Resources Code is  
 2 amended to read:

3 25443. (a) Principal and interest payments on loans under this  
 4 article shall be returned to the ~~commission~~ *department* and shall  
 5 be used to make additional loans to local jurisdictions pursuant to  
 6 Section 25442 or to provide financial assistance to local  
 7 jurisdictions pursuant to Section 25441.

8 (b) Notwithstanding any other provision of law, the ~~commission~~  
 9 *department* shall, unless it determines that the purposes of this  
 10 chapter would be better served by establishing an alternative  
 11 interest rate schedule, periodically set interest rates on the loans  
 12 based on surveys of existing financial markets and at rates not less  
 13 than 3 percent per annum.

14 SEC. 182. Section 25443.5 of the Public Resources Code is  
 15 amended to read:

16 25443.5. (a) In furtherance of the purposes of the ~~commission~~  
 17 *department* as set forth in this chapter, the ~~commission~~ *department*  
 18 has the power and authority to do all of the following:

19 (1) Borrow money, for the purpose of obtaining funds to make  
 20 loans pursuant to this chapter, from the California Economic  
 21 Development Financing ~~Authority, Authority and~~ the California  
 22 Infrastructure and Economic Development ~~Bank, and the California~~  
 23 ~~Consumer Power and Conservation Financing Authority Bank~~  
 24 from the proceeds of revenue bonds issued by ~~any~~ *either* of those  
 25 agencies.

26 (2) Pledge, to provide collateral in connection with the  
 27 borrowing of money pursuant to paragraph (1), loans made  
 28 pursuant to this chapter or Chapter 5.2 (commencing with Section  
 29 25410), or the principal and interest payments on loans made  
 30 pursuant to this chapter or Chapter 5.2 (commencing with Section  
 31 25410).

32 (3) Sell loans made pursuant to this chapter or Chapter 5.2  
 33 (commencing with Section 25410), at prices determined in the  
 34 sole discretion of the ~~commission, department,~~ to the California  
 35 Economic Development Financing ~~Authority, Authority and~~ the  
 36 California Infrastructure and Economic Development ~~Bank, and~~  
 37 ~~the California Consumer Power and Conservation Financing~~  
 38 ~~Authority Bank~~ to raise funds to enable the ~~commission~~ *department*  
 39 to make loans to eligible institutions.

1 (4) Enter into loan agreements or other contracts necessary or  
2 appropriate in connection with the pledge or sale of loans pursuant  
3 to paragraph (2) or (3), or the borrowing of money as provided in  
4 paragraph (1), containing any provisions that may be required by  
5 the California Economic Development Financing Authority, the  
6 California Infrastructure and Economic Development Bank, or the  
7 ~~California Consumer Power and Conservation Financing Authority~~  
8 *department* as conditions of issuing bonds to fund loans to, or the  
9 purchase of loans from, the ~~commission~~ *department*.

10 (b) In connection with the pledging of loans, or of the principal  
11 and interest payment on loans, pursuant to paragraph (2) of  
12 subdivision (a), the ~~commission~~ *department* may enter into pledge  
13 agreements setting forth the terms and conditions pursuant to which  
14 the ~~commission~~ *department* is pledging loans or the principal and  
15 interest payment on loans, and may also agree to have the loans  
16 held by bond trustees or by independent collateral or escrow agents  
17 and to direct that payments received on those loans be paid to those  
18 trustee, collateral, or escrow agents.

19 (c) The ~~commission~~ *department* may employ financial  
20 consultants, legal advisers, accountants, and other service  
21 providers, as may be necessary in its judgment, in connection with  
22 activities pursuant to this chapter.

23 (d) Notwithstanding any other provision of law, this chapter  
24 provides a complete, separate, additional, and alternative method  
25 for implementing the measures authorized by this chapter,  
26 including the authority of the eligible institutions or local  
27 jurisdictions to have borrowed and to borrow in the future pursuant  
28 to loans made pursuant to this chapter or Chapter 5.2 (commencing  
29 with Section 25410), and is supplemental and additional to powers  
30 conferred by other laws.

31 SEC. 183. Section 25445 of the Public Resources Code is  
32 amended to read:

33 25445. The ~~commission~~ *department* shall design a local  
34 jurisdiction energy assistance program for the purpose of providing  
35 financial assistance under Article 2 (commencing with Section  
36 25441) and providing loans under Article 3 (commencing with  
37 Section 25442). A local jurisdiction's energy assistance program  
38 shall be funded through the ~~commission's~~ *department's* existing  
39 local government assistance programs, except that if a project is

1 not eligible for funding under an existing program, the ~~commission~~  
2 *department* may fund the project under this chapter.

3 SEC. 184. Section 25449 of the Public Resources Code is  
4 amended to read:

5 25449. (a) The ~~commission shall~~ *department shall* enter into  
6 an agreement with the Regents of the University of California, the  
7 Trustees of the California State University, and the Board of  
8 Governors of the California Community Colleges for the  
9 expenditure of petroleum violation escrow funds to supplement,  
10 and not supplant, other available funds to improve energy  
11 efficiency at state-supported universities and colleges under their  
12 respective jurisdictions by funding projects involving any of the  
13 following:

- 14 (a)
- 15 (1) Data collection.
- 16 (b)
- 17 (2) Establishment of operations and maintenance standards.
- 18 (c)
- 19 (3) Staff training.
- 20 (d)
- 21 (4) Ongoing energy equipment maintenance.
- 22 (e)
- 23 (5) Projects involving heating, ventilation, air conditioning, and  
24 lighting equipment.

25 (b) *This section shall remain in effect only until January 1,*  
26 *2014, and as of that date is repealed, unless a later enacted statute,*  
27 *that is enacted before January 1, 2014, deletes or extends that*  
28 *date.*

29 SEC. 185. Section 25449.1 of the Public Resources Code is  
30 amended to read:

31 25449.1. The ~~commission~~ *department* shall enter into an  
32 agreement with the State Department of Education to expend  
33 petroleum violation escrow funds to supplement, and not supplant,  
34 other available funds in order to provide loans to school districts  
35 to purchase, maintain, and evaluate ~~energy efficient~~ *energy-efficient*  
36 equipment and small power production systems.

37 SEC. 186. Section 25449.2 of the Public Resources Code is  
38 amended to read:

39 25449.2. Not later than three years after the imposition of any  
40 fees pursuant to this chapter, the ~~commission~~ *department* shall

1 report to the Legislature in the biennial energy conservation report  
2 required by Section 25401.1, on the effect of those fees on  
3 alternative public and private financing for public sector programs.

4 SEC. 187. Section 25449.3 of the Public Resources Code is  
5 amended to read:

6 25449.3. (a) The Local Jurisdiction Energy Assistance Account  
7 is hereby created in the General Fund. All money appropriated for  
8 purposes of this chapter and all money received from local  
9 jurisdictions from loan repayments shall be deposited in the account  
10 and disbursed by the Controller as authorized by the ~~commission~~  
11 *department*.

12 (b) The ~~commission~~ *department* may charge a fee for the  
13 services provided under this chapter.

14 (c) The ~~commission~~ *department* may contract for services to be  
15 performed by eligible institutions, as defined in subdivision (c) of  
16 Section 25411. Those services may include, but are not limited to,  
17 performance of a feasibility analysis, and providing project design,  
18 field evaluation, and operation and training assistance. The amount  
19 expended for contract services may not exceed 10 percent of the  
20 annual scheduled loan repayment to the Local Jurisdiction Energy  
21 Assistance Account, as determined by the ~~commission~~ *department*  
22 not later than July 1 of each fiscal year.

23 SEC. 188. Section 25449.4 of the Public Resources Code is  
24 amended to read:

25 25449.4. (a) Except as provided in subdivision (b), this chapter  
26 shall remain in effect until January 1, 2011, and as of that date is  
27 repealed, unless a later enacted statute which is enacted before  
28 January 1, 2011, deletes or extends that date.

29 (b) All loans outstanding as of January 1, 2011, shall continue  
30 to be repaid in accordance with a schedule established by the  
31 ~~commission~~ *department* pursuant to Section 25442.7, until paid  
32 in full. All unexpended funds in the Local Jurisdiction Energy  
33 Assistance Account on January 1, 2011, and thereafter, except to  
34 the extent that those funds are encumbered pursuant to Section  
35 25443.5, shall be deposited in the Federal Trust Fund and be  
36 available for the purposes for which federal oil overcharge funds  
37 are available pursuant to court judgment or federal agency order.

38 SEC. 189. Section 25450 of the Public Resources Code is  
39 amended to read:

1 25450. (a) The Legislature finds and declares all of the  
2 following:

3 (1) The cost of energy in California is increasing and creating  
4 greater demands on local governments' operating budgets.

5 (2) The 110th Congress enacted the Energy Independence and  
6 Security Act of 2007 (42 U.S.C. Sec. 17001 et seq.) that provides  
7 energy efficiency and conservation block grants to eligible entities,  
8 including states, to reduce fossil fuel emissions, improve energy  
9 efficiency, and reduce overall energy use.

10 (3) Section 545(c)(1)(A) of the Energy Independence and  
11 Security Act of 2007 (42 U.S.C. Sec. 17155(c)(1)(A)) mandates  
12 that states receiving block grants under the act use not less than  
13 60 percent of the grant amount to provide subgrants to local  
14 governments that are not eligible entities for the purposes of the  
15 act.

16 (4) The 111th Congress enacted the American Recovery and  
17 Reinvestment Act of 2009 (Public Law 111-5) that appropriates  
18 funds for energy efficiency and conservation, water conservation,  
19 home weatherization, green workforce development, and renewable  
20 energy.

21 (b) It is the intent of the Legislature to fully implement the  
22 requirements for, and achieve the purposes of, the energy and  
23 conservation block grants provided pursuant to the Energy  
24 Independence and Security Act of 2007 and the American Recovery  
25 and Reinvestment Act of 2009 (Public Law 111-5), in the most  
26 expedient manner possible, and that the funds allocated to the state  
27 pursuant to those acts be administered by the ~~commission~~  
28 *department*. Moreover, to the extent possible without causing  
29 undue delay, the ~~commission~~ *department* shall look to the Energy  
30 Independence and Security Act of 2007 and the American Recovery  
31 and Reinvestment Act of 2009 programs and make policy decisions  
32 that leverage and maximize the use of these dollars, including, but  
33 not limited to, the areas of energy efficiency, renewable energy,  
34 water efficiency, weatherization, and green workforce development.

35 (c) It is the intent of the Legislature to strive to maximize the  
36 opportunity to allocate funds toward the most cost-effective energy  
37 efficiency projects, and when allocating funds toward  
38 administration, the ~~commission~~ *department* should use the  
39 allowable administrative expenses specified in Section 545(c)(4)  
40 of the Energy Independence and Security Act of 2007 (42 U.S.C.

1 Sec. 17155(c)(4)) as a ceiling and improve efficiencies to allocate  
2 less than the allowable amount.

3 SEC. 190. Section 25450.1 of the Public Resources Code is  
4 amended to read:

5 25450.1. The ~~commission~~ *department, by action of the board,*  
6 shall administer the funds allocated to and received by the state  
7 pursuant to the Energy Independence and Security Act of 2007  
8 (42 U.S.C. Sec. 17001 et seq.) and the American Recovery and  
9 Reinvestment Act of 2009 (Public Law 111-5) for the Energy  
10 Efficiency and Conservation Block Grant Program established  
11 pursuant to Section 542 of the Energy Independence and Security  
12 Act of 2007 (42 U.S.C. Sec. 17152), and may use the federal funds  
13 to award contracts, grants, and loans as expeditiously as possible  
14 consistent with those acts.

15 SEC. 191. Section 25450.3 of the Public Resources Code is  
16 amended to read:

17 25450.3. The ~~commission~~ *department* shall not exceed the  
18 amount specified in Section 545(c)(4) of the Energy Independence  
19 and Security Act of 2007 (42 U.S.C. Sec. 17155(c)(4)) for  
20 administrative expenses, which include, but are not limited to,  
21 reporting, recordkeeping, and evaluation activities required by the  
22 Energy Independence and Security Act of 2007 (42 U.S.C. Section  
23 17001 et seq.), the American Recovery and Reinvestment Act of  
24 2009 (Public Law 111-5), and implementing regulations and  
25 guidelines, that govern or fund the Energy Efficiency and  
26 Conservation Block Grant Program, and the combined  
27 administration program costs, indirect costs, overhead, and costs  
28 associated with the Statewide Cost Allocation Plan.

29 SEC. 192. Section 25450.4 of the Public Resources Code is  
30 amended to read:

31 25450.4. The ~~commission~~ *department, by action of the board,*  
32 may award contracts, grants, and loans pursuant to this chapter,  
33 unless otherwise prohibited by the Energy Independence and  
34 Security Act of 2007 (42 U.S.C. Sec. 17001 et seq.), the American  
35 Recovery and Reinvestment Act of 2009 (Public Law 111-5),  
36 implementing regulations and guidelines.

37 SEC. 193. Section 25450.5 of the Public Resources Code is  
38 amended to read:

39 25450.5. (a) The ~~commission~~ *department, by action of the*  
40 *board,* may adopt guidelines governing the award, eligibility, and

1 administration of funding pursuant to the American Recovery and  
2 Reinvestment Act of 2009 (Public Law 111-5) at a publicly noticed  
3 meeting offering all interested parties an opportunity to comment.  
4 The ~~commission~~ *board* shall provide written public notice of not  
5 less than 30 days for the initial adoption of guidelines. Substantive  
6 changes to the guidelines shall not be adopted without 15-day  
7 written notice to the public. Notwithstanding any other provision  
8 of law, any guidelines adopted pursuant to this chapter shall be  
9 exempt from the requirements of Chapter 3.5 (commencing with  
10 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
11 Code.

12 (b) Grants and loans made pursuant to this chapter are subject  
13 to appeal to the ~~commission~~ *board* upon a showing that factors  
14 other than those described in the guidelines adopted by the  
15 ~~commission~~ *board* were applied in making the awards and  
16 payments.

17 SEC. 194. Section 25460 of the Public Resources Code is  
18 amended to read:

19 25460. (a) The Legislature finds and declares that the 111th  
20 Congress enacted the American Recovery and Reinvestment Act  
21 of 2009 (Public Law 111-5) that appropriates funds for various  
22 energy programs administered by the ~~commission~~ *department*.

23 (b) It is the intent of the Legislature that the ~~commission~~  
24 *department, by action of the board*, should have the authority to  
25 award contracts, grants, and loans from funds received pursuant  
26 to the American Recovery and Reinvestment Act of 2009 and to  
27 make the awards as expeditiously as possible.

28 SEC. 195. Section 25461 of the Public Resources Code is  
29 amended to read:

30 25461. (a) Except as provided in Chapter 5.5 (commencing  
31 with Section 25450), the ~~commission~~ *department* shall administer  
32 federal funds allocated to, and received by, the state for  
33 energy-related projects pursuant to the American Recovery and  
34 Reinvestment Act of 2009 (Public Law 111-5) or federal acts  
35 related to the American Recovery and Reinvestment Act of 2009.

36 (b) Unless otherwise prohibited by the American Recovery and  
37 Reinvestment Act of 2009 (Public Law 111-5) or subsequent  
38 federal acts related to the American Recovery and Reinvestment  
39 Act of 2009, the ~~commission~~ *department, by action of the board*,  
40 may use the federal funds to award contracts, grants, and loans for

1 energy efficiency, energy conservation, renewable energy, and  
2 other energy-related projects and activities authorized by the  
3 American Recovery and Reinvestment Act of 2009 or subsequent  
4 federal acts related to the American Recovery and Reinvestment  
5 Act of 2009.

6 SEC. 196. Section 25462 of the Public Resources Code is  
7 amended to read:

8 25462. (a) ~~The commission~~ *department, by action of the board,*  
9 may adopt guidelines governing the award, eligibility, and  
10 administration of funding pursuant to this chapter at a publicly  
11 noticed meeting offering all interested parties an opportunity to  
12 comment. ~~The commission~~ *board* shall provide written public  
13 notice of not less than 30 days for the initial adoption of guidelines.  
14 Substantive changes to the guidelines shall not be adopted without  
15 15-day written notice to the public. Notwithstanding any other  
16 provision of law, any guidelines adopted pursuant to this chapter  
17 shall be exempt from the requirements of Chapter 3.5 (commencing  
18 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
19 Government Code.

20 (b) Grants and loans made pursuant to this chapter are subject  
21 to appeal to ~~the commission~~ *board* upon a showing that factors  
22 other than those described in the guidelines adopted by the  
23 ~~commission~~ *board* were applied in making the awards and  
24 payments.

25 SEC. 197. Section 25463 of the Public Resources Code is  
26 amended to read:

27 25463. (a) Notwithstanding any other provision of this  
28 division, federal funds available to ~~the commission~~ *department*  
29 pursuant to this chapter may be used by ~~the commission~~  
30 *department, by action of the board,* to augment funding for any  
31 programs or measures authorized by this division unless otherwise  
32 prohibited by the American Recovery and Reinvestment Act of  
33 2009 (Public Law 111-5). ~~The commission~~ *department* may  
34 administer any funds used to augment other programs using the  
35 procedures of the augmented program consistent with applicable  
36 federal law.

37 (b) This section shall be liberally construed to maximize the  
38 ~~commission's~~ *department's and the board's* ability to utilize and  
39 award federal funds expeditiously and in accordance with the

1 American Recovery and Reinvestment Act of 2009 or federal acts  
2 related to the American Recovery and Reinvestment Act of 2009.  
3 SEC. 198. Section 25470 of the Public Resources Code is  
4 amended to read:

5 25470. As used in this chapter:

6 (a) "Act" means the federal American Recovery and  
7 Reinvestment Act of 2009 (Public Law 111-5).

8 (b) "Allocation" means a loan of funds by the Department of  
9 General Services pursuant to the procedures specified in this  
10 chapter.

11 (c) "Building" means any existing structure that includes a  
12 heating or cooling system, or both. Additions to an existing  
13 building shall be considered part of that building rather than a  
14 separate building.

15 ~~(d) "Department" means the Department of General Services.~~

16 ~~(e)~~

17 (d) "Energy audit" means a determination of the energy  
18 consumption characteristics of a building that does all of the  
19 following:

20 (1) Identifies the type, size, and energy use level of the building  
21 and the major energy using systems of the building.

22 (2) Determines appropriate energy conservation maintenance  
23 and operating procedures.

24 (3) Indicates the need, if any, for the acquisition and installation  
25 of energy conservation measures.

26 ~~(f)~~

27 (e) "Energy conservation maintenance and operating procedure"  
28 means a modification or modifications in the maintenance and  
29 operations of a building, and any installations therein, based on  
30 the use time schedule of the building that are designed to reduce  
31 energy consumption in the building and that require no significant  
32 expenditure of funds.

33 ~~(g)~~

34 (f) "Energy conservation measure" means an installation or  
35 modification of an installation in a building that is primarily  
36 intended to reduce energy consumption or allow the use of a more  
37 cost-effective energy source.

38 ~~(h)~~

39 (g) "Energy conservation project" means an undertaking to  
40 acquire and to install one or more energy conservation measures

1 in a building, and technical assistance in connection with that  
2 undertaking.

3 ~~(i)~~

4 (h) “Fund” means the Energy Efficient State Property Revolving  
5 Fund.

6 ~~(j)~~

7 (i) “Project” means a purpose for which an allocation may be  
8 requested and made under this chapter. Those purposes shall  
9 include energy audits, energy conservation and operating  
10 procedures, and energy conservation measures in existing  
11 buildings, and energy conservation projects.

12 ~~(k)~~

13 (j) “State agency” means a unit of state government, including  
14 any department, agency, board, or commission under the State of  
15 California.

16 ~~(l)~~

17 (k) “State-owned building” means a building that is primarily  
18 occupied by offices or agencies of a unit of state government and  
19 includes those properties owned by the State of California.

20 SEC. 199. Section 25471 of the Public Resources Code is  
21 amended to read:

22 25471. (a) There is hereby created in the State Treasury the  
23 Energy Efficient State Property Revolving Fund for the purpose  
24 of implementing this chapter. Notwithstanding Section 13340 of  
25 the Government Code, the money in this fund is continuously  
26 appropriated to the ~~department~~, *Department of General Services*,  
27 without regard to fiscal years, for loans for projects on state-owned  
28 buildings and facilities to achieve greater, long-term energy  
29 efficiency, energy conservation, and energy cost and use avoidance.

30 (b) The fund shall be administered by the ~~department~~.  
31 *Department of General Services*. The ~~department~~ *Department of*  
32 *General Services* may use other funding sources to leverage project  
33 loans.

34 (c) For the 2009–10 fiscal year, the sum of twenty-five million  
35 dollars (\$25,000,000) shall be transferred into the Energy Efficient  
36 State Property Revolving Fund from money received by the  
37 ~~commission~~ *department* pursuant to the act to be used for purposes  
38 of the federal State Energy Program.

1 (d) The Controller shall disburse moneys in the fund for the  
2 purposes of this chapter, as authorized by the ~~department~~.  
3 *Department of General Services*.

4 (e) Moneys in the fund, including all interest earnings, shall be  
5 clearly delineated and distinctly accounted for in accordance with  
6 the requirements of the act.

7 SEC. 200. Section 25472 of the Public Resources Code is  
8 amended to read:

9 25472. (a) The ~~department~~, *Department of General Services*,  
10 in consultation with the ~~commission~~, *department*, shall establish  
11 a process by which projects are identified and funding is allocated.

12 (b) Beginning July 1, 2009, the ~~department~~ *Department of*  
13 *General Services* shall use money in the fund for projects that will  
14 improve long-term energy efficiency and increase energy use  
15 savings.

16 (c) The ~~department~~ *Department of General Services* shall  
17 comply with the requirements of the act and implementing  
18 guidelines of the ~~commission~~, *department*, including, but not  
19 limited to, performance metrics, data collection, and reporting. All  
20 projects must be consistent with these requirements and guidelines.

21 (d) Funding prioritization shall be granted to those projects that  
22 are cost-effective and will yield immediate and sustainable energy  
23 efficiency, energy conservation, energy use cost savings, and cost  
24 avoidance.

25 (e) The ~~department~~ *Department of General Services* shall fund  
26 allowable projects through a loan to the appropriate state agency  
27 or agencies occupying the building or facility for which the project  
28 will be performed.

29 (f) The ~~department~~ *Department of General Services* shall  
30 determine a reasonable loan repayment schedule that may not  
31 exceed the life of the energy conservation measure equipment, as  
32 determined by the ~~department~~, *Department of General Services*,  
33 or the lease term of the building in which the energy conservation  
34 measure is installed.

35 (g) Maximum loan amounts shall be based on estimated energy  
36 cost savings that will allow state agencies to repay loan principal  
37 and interest within the maximum repayment term specified in this  
38 section.

39 (h) The ~~department~~ *Department of General Services* shall  
40 periodically set interest rates on the loans based on surveys of

1 existing financial markets and at rates of not less than 1 percent  
2 per annum.

3 (i) Annual loan repayment amounts shall be structured so as to  
4 reflect the projected annualized energy cost avoidance estimated  
5 from the completed project. The ~~department~~ *Department of General*  
6 *Services* may utilize a direct billing methodology to recover loan  
7 repayments for completed projects.

8 SEC. 201. Section 25473 of the Public Resources Code is  
9 amended to read:

10 25473. (a) On or before January 1, 2010, and annually  
11 thereafter, the ~~department~~, *Department of General Services*, in  
12 collaboration with the ~~commission~~, *department*, shall submit to  
13 the Legislature's fiscal and appropriate policy committees a report  
14 that includes an initial list of projects identified and planned for  
15 the 2009–10 fiscal year, and for each fiscal year thereafter. The  
16 report also shall include the anticipated cost of each project, an  
17 analysis of the results of the methodology, and an estimate of  
18 energy savings to be achieved.

19 (b) On or before July 1, 2010, the ~~department~~, *Department of*  
20 *General Services*, in collaboration with the ~~commission~~,  
21 *department*, shall submit to the Legislature an update to the January  
22 1, 2010, report.

23 SEC. 202. Section 25474 of the Public Resources Code is  
24 amended to read:

25 25474. (a) Any repayment of loans made pursuant to this  
26 chapter, including interest payments, and all interest earnings on  
27 or accruing to, any money resulting from the implementation of  
28 this chapter in the Energy Efficient State Property Revolving Fund,  
29 shall be deposited in that fund and shall be available for the  
30 purposes of this chapter.

31 (b) The ~~department~~ *Department of General Services* may recover  
32 costs of administering the projects and related costs through energy  
33 utility rebates awarded to the state agency as a result of completed  
34 projects up to 5 percent of the project loan amounts. Project costs  
35 can include energy efficiency improvements and costs associated  
36 with managing the project and administering the loan program,  
37 including all reporting requirements.

38 SEC. 203. Section 25494 of the Public Resources Code is  
39 amended to read:

1 25494. Not later than July 31, 1978, the ~~commission~~ *department*  
 2 shall prepare a manual outlining a methodology by which  
 3 governmental agencies and the general public may at their option  
 4 compare the lifecycle costs of various building design alternatives.  
 5 This manual will provide the information and procedures necessary  
 6 to evaluate a building’s lifecycle costs in the microclimate and  
 7 utility service area where it is to be built.

8 SEC. 204. Section 25495 of the Public Resources Code is  
 9 amended to read:

10 25495. No later than July 31, 1978, the ~~commission~~ *department*  
 11 shall develop design guidelines for new construction which include  
 12 energy conserving options, including, but not limited to, the use  
 13 of daylighting, heating ventilation and air conditioning economizer  
 14 cycles, natural ventilation, building envelope solar heat gain control  
 15 mechanisms, and alternative energy systems such as solar energy  
 16 for space heating and water heating and load management  
 17 strategies. These guidelines and the cost analysis done pursuant  
 18 to Section 25494 may be considered by government agencies at  
 19 their option for ultimate selection of a building design in the  
 20 competitive bidding process.

21 SEC. 205. Section 25496 of the Public Resources Code is  
 22 amended to read:

23 25496. No later than July 1, 1978, the ~~commission~~ *department*  
 24 shall develop and make available to government agencies and the  
 25 general public to be utilized at their option lighting standards for  
 26 existing buildings. These standards shall address, but not be limited  
 27 to, task and general area lighting levels, light switching and control  
 28 mechanisms, and lighting energy budgets. The ~~commission~~  
 29 *department* may provide advice and recommendations to the public  
 30 or any governmental agency as to the standards.

31 SEC. 206. Chapter 5.10 (commencing with Section 25499) is  
 32 added to Division 15 of the Public Resources Code, to read:

33

34 CHAPTER 5.10. LOW-INCOME ENERGY ASSISTANCE AND  
 35 COMMUNITY SERVICES  
 36

37 25499. (a) The Legislature finds and declares all of the  
 38 following:

39 (1) Low-income energy assistance programs, including the Low  
 40 Income Home Energy Assistance Program (LIHEAP) and the

1 Weatherization Assistance Program (WAP), and Community  
2 Service Block Grant program are administered in California  
3 through a statewide network of community-based organizations,  
4 including public and private nonprofit agencies, that serve as local  
5 service providers for a comprehensive suite of assistance programs  
6 designed to ameliorate the causes and impacts of poverty.

7 (2) The network of local service providers work closely with  
8 their fellow nonprofit agencies as well as the private sector to meet  
9 the disparate needs of low-income individuals and families by  
10 providing a variety of interrelated services, including home energy,  
11 nutrition, housing, and employment.

12 (3) Unlike various other energy conservation and energy  
13 efficiency programs administered by the state, the state's LIHEAP  
14 and WAP are designed specifically to meet the energy-related  
15 health and safety needs of low-income individuals and families.

16 (b) It is the intent of the Legislature to ensure that these energy  
17 and community service programs funded by federal block grants  
18 continue to be administered by a single entity that will maintain  
19 and support the provision of a comprehensive suite of assistance  
20 services to low-income individuals and families and that the  
21 positive impact of these programs on the target population of  
22 low-income individuals and families not be diluted or redirected  
23 to other purposes.

24 25499.1. The programs transferred pursuant to subdivision (d)  
25 of Section 25202 shall be identified as a separate line item in the  
26 annual Budget Act.

27 25499.2. The department shall administer the programs and  
28 activities transferred pursuant to subdivision (d) of Section 25202  
29 in compliance with Article 1.7 (commencing with Section 16366.1)  
30 of Chapter 2 of Part 2 of Division 4 of, and Chapter 9 (commencing  
31 with Section 12725) of Part 2 of Division 3 of, Title 2 of the  
32 Government Code. This chapter does not authorize the use of  
33 federal block grant funds in a manner that is inconsistent with  
34 federal law or state law, including Section 12758 of the  
35 Government Code.

36 SEC. 207. Section 25500 of the Public Resources Code is  
37 amended to read:

38 25500. In accordance with the provisions of this division, the  
39 ~~commission~~ *board* shall have the exclusive power to certify all  
40 sites and related facilities in the state, whether a new site and

1 related facility or a change or addition to an existing facility. The  
 2 issuance of a certificate by the ~~commission~~ *board* shall be in lieu  
 3 of any permit, certificate, or similar document required by any  
 4 state, local or regional agency, or federal agency to the extent  
 5 permitted by federal law, for such use of the site and related  
 6 facilities, and shall supersede any applicable statute, ordinance, or  
 7 regulation of any state, local, or regional agency, or federal agency  
 8 to the extent permitted by federal law.

9 After the effective date of this division, no construction of any  
 10 facility or modification of any existing facility shall be commenced  
 11 without first obtaining certification for any such site and related  
 12 facility by the commission, as prescribed in this division.

13 SEC. 208. Section 25500.5 of the Public Resources Code is  
 14 amended to read:

15 25500.5. The ~~commission~~ *board* shall certify sufficient sites  
 16 and related facilities ~~which that~~ are required to provide a supply  
 17 of electric power sufficient to ~~accommodate~~ *accommodate* the  
 18 demand projected in the most recent forecast of statewide and  
 19 ~~service area regional~~ *regional* electric power demands ~~adopted~~ *forecasted*  
 20 pursuant to ~~subdivision (b) of Section 25309~~: *Section 25303*.

21 SEC. 209. Section 25501 of the Public Resources Code is  
 22 amended to read:

23 25501. This chapter does not apply to any site or related facility  
 24 ~~for which the Public Utilities Commission that was not subject to~~  
 25 ~~this chapter prior to January 1, 2011, and that as of July 1, 2011,~~  
 26 ~~has issued a certificate of public convenience and necessity or~~  
 27 ~~which any municipal utility has approved an application accepted~~  
 28 ~~as complete by the agency with jurisdiction on or before January~~  
 29 ~~7, 1975; December 31, 2010.~~

30 SEC. 210. Section 25501.7 of the Public Resources Code is  
 31 amended to read:

32 25501.7. ~~Any~~ A person proposing to construct a facility or a  
 33 site to which Section 25501 applies may waive the exclusion of  
 34 ~~such~~ *the* site and related facility from the provisions of this chapter  
 35 by submitting to the ~~commission~~ *department* a notice to that effect  
 36 on or after July 1, 1976, and any and all of the provisions of this  
 37 chapter shall apply to the construction of ~~such~~ *the* facility.

38 SEC. 211. Section 25502 of the Public Resources Code is  
 39 amended to read:

1 25502. (a) Each person proposing to construct a thermal  
2 powerplant or electric transmission line on a site shall submit to  
3 the ~~commission~~ *department* a notice of intention to file an  
4 application for the certification of the site and related facility or  
5 facilities. The notice shall be an attempt primarily to determine  
6 the suitability of the proposed sites to accommodate the facilities  
7 and to determine the general conformity of the proposed sites and  
8 related facilities with standards of the ~~commission~~ *board* and  
9 assessments of need adopted pursuant to Sections 25305 to 25308,  
10 inclusive. The notice shall be in the form prescribed by the  
11 ~~commission~~ *department* and shall be supported by ~~such~~ information  
12 as ~~that the commission~~ *board* may require.

13 ~~Any~~

14 (b) ~~Any~~ site and related facility once found to be acceptable  
15 pursuant to Section 25516 is, and shall continue to be, eligible for  
16 consideration in an application for certification without further  
17 proceedings required for a notice under this chapter.

18 SEC. 212. Section 25502.3 of the Public Resources Code is  
19 amended to read:

20 25502.3. Except as provided in Section 25501.7, ~~any~~ a person  
21 proposing to construct a facility excluded from ~~the provisions of~~  
22 this chapter may waive ~~such that~~ exclusion by submitting to the  
23 ~~commission~~ *department* a notice of intention to file an application  
24 for certification, and any and all of the provisions of this chapter  
25 shall apply to the construction of ~~such that~~ facility.

26 SEC. 213. Section 25504 of the Public Resources Code is  
27 amended to read:

28 25504. The notice of intention shall include a statement by the  
29 applicant describing the location of the proposed sites by section  
30 or sections, range and township, and county; a summary of the  
31 proposed design criteria of the facilities; the type or types of fuels  
32 to be used; the methods of construction and operation; the proposed  
33 location of facilities and structures on each site; a preliminary  
34 statement of the relative economic, technological, and  
35 environmental advantages and disadvantages of the alternative site  
36 and related facility proposals; a statement of need for the facility  
37 and information showing the compatibility of the proposals with  
38 the most recent electricity report issued pursuant to Section 25308;  
39 and any other information that an electric utility deems desirable  
40 to submit to the ~~commission~~ *department*.

1 SEC. 214. Section 25504.5 of the Public Resources Code is  
 2 amended to read:

3 25504.5. An applicant may, in the notice, propose a site to be  
 4 approved ~~which~~ *that* will ~~accommodate~~ *accommodate* a potential  
 5 maximum electric generating capacity in excess of the capacity  
 6 being proposed for the initial approval of the ~~commission~~ *board*.  
 7 If ~~such a~~ *this* proposal is made, the notice shall include, but not be  
 8 limited to, in addition to the information specified in Section 25504,  
 9 all of the following:

10 (a) The number, type, and energy source of electric generating  
 11 units ~~which~~ *that* the site is proposed ultimately to ~~accommodate~~  
 12 *accommodate* and the maximum generating capacity for each unit.

13 (b) The projected installation schedule for each unit.

14 (c) The impact at the site, when fully developed, on the  
 15 environment and public health and safety.

16 (d) The amount and sources of cooling water needed at the fully  
 17 developed site.

18 (e) The location and specifications of auxiliary facilities planned  
 19 for each state of development including, but not limited to,  
 20 pipelines, waste storage facilities, fuel storage facilities,  
 21 switchyards, coolant lines, coolant outfalls, and cooling ponds,  
 22 lakes, or towers.

23 SEC. 215. Section 25505 of the Public Resources Code is  
 24 amended to read:

25 25505. Upon receipt of a notice, the ~~commission~~ *department*  
 26 shall cause a summary of the notice to be published in a newspaper  
 27 of general circulation in each county in which the sites and related  
 28 facilities, or any part thereof, designated in the notice are proposed  
 29 to be located. The ~~commission~~ *department* shall also transmit a  
 30 copy of the notice to the Public Utilities Commission, for sites and  
 31 related facilities requiring a certificate of public convenience and  
 32 necessity, and to other federal, state, regional, and local agencies  
 33 having an interest in matters pertinent to the proposed facilities at  
 34 any of the alternative sites. A copy of the notice shall also be  
 35 transmitted to the Attorney General.

36 SEC. 216. Section 25506 of the Public Resources Code is  
 37 amended to read:

38 25506. The ~~commission~~ *department* shall request the  
 39 appropriate local, regional, state, and federal agencies to make  
 40 comments and recommendations regarding the design, operation,

1 and location of the facilities designated in the notice, in relation  
2 to environmental quality, public health and safety, and other factors  
3 on which they may have expertise.

4 SEC. 217. Section 25506.5 of the Public Resources Code is  
5 amended to read:

6 25506.5. The ~~commission~~ *department* shall request the Public  
7 Utilities Commission, for sites and related facilities requiring a  
8 certificate of public convenience and necessity, to make comments  
9 and recommendations regarding the design, operation, and location  
10 of the facilities designated in the notice in relation to the economic,  
11 financial, rate, system reliability, and service implications of the  
12 proposed facilities.

13 SEC. 218. Section 25507 of the Public Resources Code is  
14 amended to read:

15 25507. (a) If any alternative site and related facility proposed  
16 in the notice is proposed to be located, in whole or in part, within  
17 the coastal zone, the ~~commission~~ *department* shall transmit a copy  
18 of the notice to the California Coastal Commission. The California  
19 Coastal Commission shall analyze the notice and prepare the report  
20 and findings prescribed by subdivision (d) of Section 30413 prior  
21 to commencement of hearings pursuant to Section 25513.

22 (b) If any alternative site and related facility proposed in the  
23 notice is proposed to be located, in whole or in part, within the  
24 Suisun Marsh, or within the jurisdiction of the San Francisco Bay  
25 Conservation and Development Commission, the ~~commission~~  
26 *department* shall transmit a copy of the notice to the San Francisco  
27 Bay Conservation and Development Commission. The San  
28 Francisco Bay Conservation and Development Commission shall  
29 analyze the notice and prepare the report and findings prescribed  
30 by subdivision (d) of Section 66645 of the Government Code prior  
31 to commencement of hearings pursuant to Section 25513.

32 SEC. 219. Section 25508 of the Public Resources Code is  
33 amended to read:

34 25508. The ~~commission~~ *department* shall cooperate with, and  
35 render advice to, the California Coastal Commission and the San  
36 Francisco Bay Conservation and Development Commission in  
37 studying applications for any site and related facility proposed to  
38 be located, in whole or in part, within the coastal zone, the Suisun  
39 Marsh, or the jurisdiction of the San Francisco Bay Conservation  
40 and Development Commission if requested by the California

1 Coastal Commission or the San Francisco Bay Conservation and  
2 Development Commission, as the case may be. The California  
3 Coastal Commission or the San Francisco Bay Conservation and  
4 Development Commission, as the case may be, may participate in  
5 public hearings on the notice and on the application for site and  
6 related facility certification as an interested party in ~~such the~~  
7 proceedings.

8 SEC. 220. Section 25509 of the Public Resources Code is  
9 amended to read:

10 25509. Within 45 days of the filing of the notice, the  
11 ~~commission~~ *department* shall conduct public informational  
12 presentations in the county or counties in which the proposed sites  
13 and related facilities are located. The place of ~~such the~~ public  
14 informational presentations shall be as close as practicable to the  
15 proposed sites. ~~Such~~ *The* presentations shall be for the purpose of  
16 setting forth the electrical demand basis for the proposed site and  
17 related facility and providing knowledge and understanding of the  
18 proposed facilities and sites.

19 SEC. 221. Section 25509.5 of the Public Resources Code is  
20 amended to read:

21 25509.5. No sooner than 15 days after the conclusion of the  
22 presentations pursuant to Section 25509, the ~~commission~~  
23 *department and the board* shall commence nonadjudicatory  
24 hearings. ~~Such~~ *The* hearings shall identify issues for adjudication  
25 in hearings pursuant to Section 25513, issues ~~which that~~ may be  
26 eliminated from further consideration in the notice proceedings,  
27 and issues ~~which that~~ should be deferred to the certification  
28 proceeding. Any person may participate to the extent deemed  
29 reasonable and relevant by the presiding member of the  
30 ~~commission board in any such hearing~~ *the hearings*. In scheduling  
31 ~~such the~~ hearings the presiding member shall confer with the public  
32 adviser to provide that the hearing dates and locations are as  
33 convenient as possible for interested parties and the public. ~~Such~~  
34 *The* hearings shall be conducted in order to accomplish all of the  
35 following purposes:

36 (a) To set forth the electrical demand basis for the proposed site  
37 and related facility.

38 (b) To provide knowledge and understanding of proposed  
39 facilities and sites.

1 (c) To obtain the views and comments of the public, parties,  
2 and concerned governmental agencies on the environmental, public  
3 health and safety, economic, social, and land use impacts of the  
4 facility at the proposed sites.

5 (d) To solicit information regarding reasonable alternative  
6 sources of the electric generating capacity or energy to be provided  
7 by alternative sites and related facilities, or combinations thereof,  
8 which will better carry out the policies and objectives of this  
9 division.

10 SEC. 222. Section 25510 of the Public Resources Code is  
11 amended to read:

12 25510. After the conclusion of ~~such~~ *the* hearings *pursuant to*  
13 *Section 25509.5*, and no later than 150 days after filing of the  
14 notice, the ~~commission~~ *department* shall prepare and make public  
15 a summary and hearing order on the notice of intention to file an  
16 application. The ~~commission~~ *department* may include within the  
17 summary and hearing order any other alternatives proposed by the  
18 ~~commission~~ *board* or presented to the ~~commission~~ *board* at a  
19 public hearing prior to preparation of the summary and hearing  
20 order. The summary and hearing order shall be published and made  
21 available to the public and to interested local, regional, state, and  
22 federal agencies.

23 SEC. 223. Section 25511 of the Public Resources Code is  
24 amended to read:

25 25511. The ~~commission~~ *department and the board* shall review  
26 the factors related to safety and reliability of the facilities at each  
27 of the alternative sites designated in the notice. In addition to other  
28 information requested of the applicant, the ~~commission~~ *board*  
29 shall, in determining the appropriateness of sites and related  
30 facilities, require detailed information on proposed emergency  
31 systems and safety precautions, plans for transport, handling and  
32 storage of wastes and fuels, proposed methods to prevent illegal  
33 diversion of nuclear fuels, special design features to account for  
34 seismic and other potential hazards, proposed methods to control  
35 density of population in areas surrounding nuclear powerplants,  
36 and ~~such~~ *any* other information ~~as that~~ the ~~commission~~ *board* may  
37 determine to be relevant to the reliability and safety of the facility  
38 at the proposed sites. The ~~commission~~ *board* shall analyze the  
39 information provided by the applicant, supplementing it, where  
40 necessary, by onsite investigations and other studies. The

1 ~~commission~~ board shall determine the adequacy of measures  
2 proposed by the applicant to protect public health and safety, and  
3 shall include its findings in the final report required by Section  
4 25514.

5 SEC. 224. Section 25512 of the Public Resources Code is  
6 amended to read:

7 25512. (a) The summary and hearing order shall be based  
8 upon the record of the proceeding including statements or  
9 documents presented during any hearing or informational  
10 presentation on the notice, the comments transmitted by the Public  
11 Utilities Commission and local, regional, state, and federal agencies  
12 and the public to the ~~commission~~ department and the board, and  
13 independent studies conducted by the ~~commission's~~ department's  
14 staff.

15 ~~The~~

16 (b) The summary and hearing order shall:

17 ~~(a)~~

18 (1) Identify those issues for consideration in hearings pursuant  
19 to Section 25513.

20 ~~(b)~~

21 (2) Identify those issues which may be eliminated from further  
22 consideration in the notice of intention proceedings.

23 ~~(c)~~

24 (3) Identify those issues which should be deferred to the  
25 certification proceeding.

26 ~~(d)~~

27 (4) Contain proposed findings on matters relevant to the  
28 provisions of Section 25514.

29 ~~(e)~~

30 (5) Specify dates for the adjudicatory hearings.

31 SEC. 225. Section 25513 of the Public Resources Code is  
32 amended to read:

33 25513. No earlier than 30 days after distribution of the  
34 summary and hearing order, the ~~commission~~ board shall commence  
35 adjudicatory hearings pursuant to the hearing order.

36 SEC. 226. Section 25513.3 of the Public Resources Code is  
37 amended to read:

38 25513.3. Notwithstanding Sections 11425.30 and 11430.10 of  
39 the Government Code, unless a party demonstrates other statutory  
40 grounds for disqualification, a person who has served as

1 investigator or advocate in an adjudicative proceeding of the  
2 ~~commission~~ *board* under this code may serve as a supervisor of  
3 the presiding officer or assist or advise the presiding officer *of the*  
4 *board* in the same proceeding if the service, assistance, or advice  
5 occurs more than one year after the time the person served as  
6 investigator or advocate, ~~provided~~ *and if* the content of any advice  
7 is disclosed on the record and all parties have an opportunity to  
8 comment on the advice.

9 SEC. 227. Section 25514 of the Public Resources Code is  
10 amended to read:

11 25514. After conclusion of the hearings held pursuant to  
12 Section 25513 and no later than 300 days after the filing of the  
13 notice, a final report shall be prepared and distributed. The final  
14 report shall include, but not be limited to, all of the following:

15 (a) The findings and conclusions of the ~~commission~~ *board*  
16 regarding the conformity of alternative sites and related facilities  
17 designated in the notice or considered in the notice of intention  
18 proceeding with both of the following:

19 (1) The 12-year forecast of statewide and service area electric  
20 power demands adopted pursuant to subdivision (e) of Section  
21 25305, except as provided in Section 25514.5.

22 (2) Applicable local, regional, state, and federal standards,  
23 ordinances, and laws, including any long-range land use plans or  
24 guidelines adopted by the state or by any local or regional planning  
25 agency, which would be applicable but for the exclusive authority  
26 of the ~~commission~~ *board* to certify sites and related facilities; and  
27 the standards adopted by the ~~commission~~ *board* pursuant to Section  
28 25216.3.

29 (b) Any findings and comments submitted by the California  
30 Coastal Commission pursuant to Section 25507 and subdivision  
31 (d) of Section 30413.

32 (c) Any findings and comments submitted by the San Francisco  
33 Bay Conservation and Development Commission pursuant to  
34 Section 25507 of this code and subdivision (d) of Section 66645  
35 of the Government Code.

36 (d) The ~~commission's~~ *board's* findings on the acceptability and  
37 relative merit of each alternative siting proposal designated in the  
38 notice or presented at the hearings and reviewed by the ~~commission~~  
39 *board*. The specific findings of relative merit shall be made  
40 pursuant to Sections 25502 to 25516, inclusive. In its findings on

1 any alternative siting proposal, the ~~commission~~ *board* may specify  
 2 modification in the design, construction, location, or other  
 3 conditions ~~which~~ *that* will meet the standards, policies, and  
 4 guidelines established by the ~~commission~~ *board*.

5 (e) Findings and conclusions with respect to the safety and  
 6 reliability of the facility or facilities at each of the sites designated  
 7 in the notice, as determined by the ~~commission~~ *board* pursuant to  
 8 Section 25511, and any conditions, modifications, or criteria  
 9 proposed for any site and related facility proposal resulting from  
 10 the findings and conclusions.

11 (f) Findings and conclusions as to whether increased property  
 12 taxes due to the construction of the project are sufficient to support  
 13 needed local improvements and public services required to serve  
 14 the project.

15 SEC. 228. Section 25514.3 of the Public Resources Code is  
 16 amended to read:

17 25514.3. In specifying any modifications, conditions, or criteria  
 18 pursuant to Section 25514, for sites and related facilities requiring  
 19 a certificate of public convenience and necessity, the ~~commission~~  
 20 *board* shall request the comments and recommendations of the  
 21 Public Utilities Commission on the economic, financial, rate,  
 22 system reliability, and service implications of ~~such~~ *the*  
 23 modifications, conditions, or criteria.

24 SEC. 229. Section 25514.5 of the Public Resources Code is  
 25 amended to read:

26 25514.5. In considering the acceptability of a site proposed to  
 27 accommodate ultimately additional power-generating capacity,  
 28 the ~~commission~~ *board*, in determining, pursuant to Sections 25514  
 29 and 25512, the conformity of the facilities proposed in the notice  
 30 with the 12-year forecast of statewide and service area electric  
 31 power demands adopted pursuant to subdivision (e) of Section  
 32 25305, shall base its determination only on such initial facilities  
 33 as are proposed for operation within the forthcoming 12-year  
 34 period. Additional facilities projected to be operating at the site at  
 35 a time beyond the forthcoming 12-year period shall not be  
 36 considered in the determination of conformity with the electric  
 37 power demand forecast.

38 SEC. 230. Section 25516 of the Public Resources Code is  
 39 amended to read:

1 25516. (a) The approval of the notice by the ~~commission~~ *board*  
2 shall be based upon findings pursuant to Section 25514. The notice  
3 shall not be approved unless the ~~commission~~ *board* finds at least  
4 two alternative site and related facility proposals considered in the  
5 ~~commission's~~ *board's* final report as acceptable. If the ~~commission~~  
6 *board* does not find at least two sites and related facilities  
7 acceptable, additional sites and related facilities may be proposed  
8 by the applicant, which shall be considered in the same manner as  
9 those proposed in the original notice.

10 If

11 (b) ~~If the commission~~ *board* finds that a good faith effort has  
12 been made by the person submitting the notice to find an acceptable  
13 alternative site and related facility and that there is only one  
14 acceptable site and related facility among those submitted, the  
15 ~~commission~~ *board* may approve the notice based on the one site  
16 and related facility. If a notice is approved based on one site and  
17 related facility, the ~~commission~~ *board* may require a new notice  
18 to be filed to identify acceptable alternative sites and related  
19 facilities for the one site and related facility approved unless  
20 suitable alternative sites and related facilities have been approved  
21 by the ~~commission~~ *board* in previous notice of intention  
22 proceedings.

23 If

24 (c) ~~If the commission~~ *board* finds that additional electric  
25 generating capacity is needed to accommodate the electric power  
26 demand forecast pursuant to subdivision (e) of Section 25305 and,  
27 after the ~~commission~~ *board* finds that a good faith effort was made  
28 by the person submitting the notice to propose an acceptable site  
29 and related facility, it fails to find any proposed site and related  
30 facility to be acceptable, the ~~commission~~ *board* shall designate, at  
31 the request of and at the expense of the person submitting the  
32 notice, a feasible site and related facility for providing the needed  
33 electric generating capacity.

34 SEC. 231. Section 25516.1 of the Public Resources Code is  
35 amended to read:

36 25516.1. If a site and related facility found to be acceptable by  
37 the ~~commission~~ *board* pursuant to Section 25516 is located in the  
38 coastal zone, the Suisun Marsh, or the jurisdiction of the San  
39 Francisco Bay Conservation and Development Commission, ~~no~~  
40 *an* application for certification ~~may~~ *shall not* be filed pursuant to

1 Section 25519 unless the ~~commission~~ *board* has determined,  
2 pursuant to Section 25514, that ~~such~~ *the* site and related facility  
3 have greater relative merit than available alternative sites and  
4 related facilities for an applicant's service area ~~which~~ *that* have  
5 been determined to be acceptable by the ~~commission~~ *board*  
6 pursuant to Section 25516.

7 SEC. 232. Section 25516.5 of the Public Resources Code is  
8 amended to read:

9 25516.5. (a) On a notice ~~which~~ *that* proposes an expanded  
10 ultimate electric generating capacity for a site, the ~~commission~~  
11 *board* may, based upon findings pursuant to Section 25514, either  
12 approve the notice only for the initial facility or facilities proposed  
13 for operation within the forthcoming 12-year period or may  
14 approve the notice for the initial facility or facilities and find the  
15 site acceptable for additional generating capacity of the type  
16 tentatively proposed. The maximum allowable amount and type  
17 of ~~such~~ additional capacity shall be determined by the ~~commission~~  
18 *board*.

19 If

20 (b) If a notice is approved ~~which~~ *that* includes a finding that a  
21 particular site is suitable to accommodate a particular additional  
22 generating capacity, the site shall be designated a potential  
23 multiple-facility site. The ~~commission~~ *board* may, in determining  
24 the acceptability of a potential multiple-facility site, specify  
25 conditions or criteria necessary to insure that future additional  
26 facilities will not exceed the limitations of the site.

27 SEC. 233. Section 25516.6 of the Public Resources Code is  
28 amended to read:

29 25516.6. (a) Except as otherwise expressly provided in this  
30 division, the ~~commission~~ *board* shall issue its written decision on  
31 the notice not later than 12 months after the notice is filed, or at  
32 any later time as is mutually agreed upon by the ~~commission~~ *board*  
33 and the applicant.

34 (b) The ~~commission~~ *board* shall determine, within 45 days after  
35 it receives the notice, whether the notice is complete. If the  
36 ~~commission~~ *board* determines that the notice is complete, the  
37 notice shall be deemed filed for the purpose of this section on the  
38 date that this determination is made. If the ~~commission~~ *board*  
39 determines that the notice is incomplete, the ~~commission~~ *board*  
40 shall specify, in writing, those parts of the notice ~~which~~ *that* are

1 incomplete and shall indicate the manner in which it can be made  
2 complete. If the applicant submits additional data to complete the  
3 notice, the ~~commission~~ *board* shall determine, within 30 days after  
4 receipt of that data, whether the data is sufficient to make the notice  
5 complete. The notice shall be deemed filed on the date the  
6 ~~commission~~ *board* determines the notice is complete if the  
7 ~~commission~~ *board* has adopted regulations specifying the  
8 informational requirements for a complete notice, but if the  
9 ~~commission~~ *board* has not adopted regulations, the notice shall be  
10 deemed filed on the last date the ~~commission~~ *board* receives any  
11 additional data that completes the notice.

12 SEC. 234. Section 25517 of the Public Resources Code is  
13 amended to read:

14 25517. Except as provided in Section 25501, ~~no~~ construction  
15 of ~~any a~~ thermal powerplant or electric transmission line shall *not*  
16 be commenced by any electric utility without first obtaining  
17 certification as prescribed in this division. Any onsite  
18 improvements not qualifying as construction may be required to  
19 be restored as determined by the ~~commission~~ *board* to be necessary  
20 to protect the environment, if certification is denied.

21 SEC. 235. Section 25518 of the Public Resources Code is  
22 amended to read:

23 25518. The Public Utilities Commission shall *not* issue ~~no a~~  
24 certificate of public convenience and necessity for a site or related  
25 electrical facilities unless the utility has obtained a certificate from  
26 the ~~commission~~ *board*.

27 SEC. 236. Section 25519 of the Public Resources Code is  
28 amended to read:

29 25519. (a) In order to obtain certification for a site and related  
30 facility, an application for certification of the site and related  
31 facility shall be filed with the ~~commission~~ *department*. The  
32 application shall be in a form prescribed by the ~~commission~~ *board*  
33 and shall be for a site and related facility that has been found to  
34 be acceptable by the ~~commission~~ *board* pursuant to Section 25516,  
35 or for an additional facility at a site that has been designated a  
36 potential multiple-facility site pursuant to Section 25514.5 and  
37 found to be acceptable pursuant to Sections 25516 and 25516.5.  
38 An application for an additional facility at a potential  
39 multiple-facility site shall be subject to the conditions and review  
40 specified in Section 25520.5. An application ~~may~~ *shall* not be filed

1 for a site and related facility; if there is no suitable alternative for  
2 the site and related facility that was previously found to be  
3 acceptable by the ~~commission~~ *board*, unless the ~~commission~~ *board*  
4 has approved the notice based on the one site as specified in Section  
5 25516.

6 (b) The ~~commission~~, *board*, upon its own motion or in response  
7 to the request of any party, may require the applicant to submit  
8 any information, document, or data, in addition to the attachments  
9 required by subdivision (i), that it determines is reasonably  
10 necessary to make any decision on the application.

11 (c) The ~~commission~~ *department* shall be the lead agency as  
12 provided in Section 21165 for all projects that require certification  
13 pursuant to this chapter and for projects that are exempted from  
14 such certification pursuant to Section 25541. Unless the  
15 ~~commission's~~ *department's* regulatory program governing site and  
16 facility certification and related proceedings are certified by the  
17 *Natural Resources Agency* pursuant to Section 21080.5, an  
18 environmental impact report shall be completed within one year  
19 after receipt of the application. If the ~~commission~~ *department*  
20 prepares a document or documents in the place of an environmental  
21 impact report or negative declaration under a regulatory program  
22 certified pursuant to Section 21080.5, any other public agency that  
23 must make a decision that is subject to the California  
24 Environmental Quality Act, Division 13 (commencing with Section  
25 21000), on a site or related facility, shall use the document or  
26 documents prepared by the ~~commission~~ *department* in the same  
27 manner as they would use an environmental impact report or  
28 negative declaration prepared by a lead agency.

29 (d) If the site and related facility specified in the application is  
30 proposed to be located in the coastal zone, the ~~commission~~  
31 *department* shall transmit a copy of the application to the California  
32 Coastal Commission for its review and comments.

33 (e) If the site and related facility specified in the application is  
34 proposed to be located in the Suisun Marsh or the jurisdiction of  
35 the San Francisco Bay Conservation and Development  
36 Commission, the ~~commission~~ *department* shall transmit a copy of  
37 the application to the San Francisco Bay Conservation and  
38 Development Commission for its review and comments.

39 (f) Upon receipt of an application, the ~~commission~~ *department*  
40 shall forward the application to local governmental agencies having

1 land use and related jurisdiction in the area of the proposed site  
2 and related facility. Those local agencies shall review the  
3 application and submit comments on, among other things, the  
4 design of the facility, architectural and aesthetic features of the  
5 facility, access to highways, landscaping and grading, public use  
6 of lands in the area of the facility, and other appropriate aspects  
7 of the design, construction, or operation of the proposed site and  
8 related facility.

9 (g) Upon receipt of an application, the ~~commission~~ *department*  
10 shall cause a summary of the application to be published in a  
11 newspaper of general circulation in the county in which the site  
12 and related facilities, or any part thereof, designated in the  
13 application, is proposed to be located. The ~~commission~~ *department*  
14 shall transmit a copy of the application to each federal and state  
15 agency having jurisdiction or special interest in matters pertinent  
16 to the proposed site and related facilities and to the Attorney  
17 General.

18 (h) Local and state agencies having jurisdiction or special  
19 interest in matters pertinent to the proposed site and related  
20 facilities shall provide their comments and recommendations on  
21 the project within 180 days of the date of filing of an application.

22 (i) The adviser shall require that adequate notice is given to the  
23 public and that the procedures specified by this division are  
24 complied with.

25 (j) For any proposed site and related facility requiring a  
26 certificate of public convenience and necessity, the ~~commission~~  
27 *department* shall transmit a copy of the application to the Public  
28 Utilities Commission and request the comments and  
29 recommendations of the Public Utilities Commission on the  
30 economic, financial, rate, system reliability, and service  
31 implications of the proposed site and related facility. If the  
32 ~~commission board~~ requires modification of the proposed facility,  
33 the ~~commission~~ *department* shall consult with the Public Utilities  
34 Commission regarding the economic, financial, rate, system  
35 reliability, and service implications of those modifications.

36 (k) The ~~commission~~ *department* shall transmit a copy of the  
37 application to any governmental agency not specifically mentioned  
38 in this act, but which it finds has any information or interest in the  
39 proposed site and related facilities, and shall invite the comments  
40 and recommendations of each agency. The ~~commission~~ *department*

1 shall request any relevant laws, ordinances, or regulations that an  
2 agency has promulgated or administered.

3 (l) An application for certification of any site and related  
4 facilities shall contain a listing of every federal agency from which  
5 any approval or authorization concerning the proposed site is  
6 required, specifying the approvals or authorizations obtained at  
7 the time of the application and the schedule for obtaining any  
8 approvals or authorizations pending.

9 SEC. 237. Section 25520 of the Public Resources Code is  
10 amended to read:

11 25520. The application shall contain all of the following  
12 information and any other information that the ~~commission~~ *board*  
13 by regulation may require:

14 (a) A detailed description of the design, construction, and  
15 operation of the proposed facility.

16 (b) Safety and reliability information, including, in addition to  
17 documentation previously provided pursuant to Section 25511,  
18 planned provisions for emergency operations and shutdowns.

19 (c) Available site information, including maps and descriptions  
20 of present and proposed development and, as appropriate,  
21 geological, aesthetic, ecological, seismic, water supply, population,  
22 and load center data, and justification for the particular site  
23 proposed.

24 (d) Any other information relating to the design, operation, and  
25 siting of the facility that the ~~commission~~ *board* may specify.

26 (e) A description of the facility, the cost of the facility, the fuel  
27 to be used, the source of fuel, fuel cost, plant service life and  
28 capacity factor, and generating cost per kilowatthour.

29 (f) A description of any electric transmission lines, including  
30 the estimated cost of the proposed electric transmission line; a map  
31 in suitable scale of the proposed routing showing details of the  
32 rights-of-way in the vicinity of settled areas, parks, recreational  
33 areas, and scenic areas, and existing transmission lines within one  
34 mile of the proposed route; justification for the route, and a  
35 preliminary description of the effect of the proposed electric  
36 transmission line on the environment, ecology, and scenic, historic,  
37 and recreational values.

38 SEC. 238. Section 25520.5 of the Public Resources Code is  
39 amended to read:

1 25520.5. (a) In reviewing an application for an additional  
2 facility at a potential multiple-facility site, the ~~commission~~ *board*  
3 shall undertake a reconsideration of its prior determinations in the  
4 final report on the notice for the site issued pursuant to Section  
5 25514, based on current conditions and other reasonable and  
6 feasible alternatives to the proposed facility.

7 (b) Within 180 days of the filing of the application for an  
8 additional facility at a potential multiple-facility site and after  
9 adequate public hearings, the ~~commission~~ *board* shall issue its  
10 decision on the acceptability of the proposed facility based on the  
11 reconsideration specified in subdivision (a) of this section. A  
12 negative determination shall be the final decision of the  
13 commission on the application and subject to judicial review  
14 pursuant to Section 25531. An affirmative determination shall not  
15 be a final decision of the ~~commission~~ *board* on the application.

16 (c) The decision of the ~~commission~~ *board* on an application for  
17 an additional facility at a potential multiple-facility site receiving  
18 a favorable determination pursuant to subdivision (b) of this section  
19 shall be issued within 24 months after the filing of the application  
20 or at ~~such a~~ later time ~~as~~ *that* is mutually agreed upon by the  
21 ~~commission~~ *board* and the applicant.

22 SEC. 239. Section 25521 of the Public Resources Code is  
23 amended to read:

24 25521. No earlier than 90 nor later than 240 days after the date  
25 of the filing of an application, the ~~commission~~ *board* shall  
26 commence a public hearing or hearings on the application in  
27 Sacramento, San Francisco, Los Angeles, or San Diego, whichever  
28 city is nearest the proposed site. Additionally, the ~~commission~~  
29 *board* may hold a hearing or hearings in the county in which the  
30 proposed site and related facilities are to be located. The  
31 ~~commission~~ *board* hearings shall provide a reasonable opportunity  
32 for the public and all parties to the proceeding to comment upon  
33 the application and the ~~commission~~ *department* staff assessment  
34 and shall provide the equivalent opportunity for comment as  
35 required pursuant to Division 13 (commencing with Section  
36 21000). Consistent with the requirements of this section, the  
37 ~~commission~~ *board* shall have the discretion to determine whether  
38 or not a hearing is to be conducted in a manner that requires formal  
39 examination of witnesses or that uses other similar adjudicatory  
40 procedures.

1 SEC. 240. Section 25522 of the Public Resources Code is  
2 amended to read:

3 25522. (a) Except as provided in subdivision (c) of Section  
4 25520.5, within 18 months of the filing of an application for  
5 certification, or within 12 months if it is filed within one year of  
6 the ~~commission's~~ *board's* approval of the notice of intent, or at  
7 ~~any a~~ later time ~~as that~~ is mutually agreed *upon* by the ~~commission~~  
8 *board* and the applicant, the ~~commission~~ *board* shall issue a written  
9 decision as to the application.

10 (b) The ~~commission~~ *department* shall determine, within 45 days  
11 after it receives the application, whether the application is  
12 complete. If the ~~commission~~ *department* determines that the  
13 application is complete, the application shall be deemed filed for  
14 purposes of this section on the date that this determination is made.  
15 If the ~~commission~~ *department* determines that the application is  
16 incomplete, the ~~commission~~ *department* shall specify in writing  
17 those parts of the application ~~which that~~ are incomplete and shall  
18 indicate the manner in which it can be made complete. If the  
19 applicant submits additional data to complete the application, the  
20 ~~commission~~ *department* shall determine, within 30 days after  
21 receipt of that data, whether the data is sufficient to make the  
22 application complete. The application shall be deemed filed on the  
23 date when the ~~commission~~ *department* determines the application  
24 is complete if the ~~commission~~ *board* has adopted regulations  
25 specifying the informational requirements for a complete  
26 application, but if the ~~commission~~ *board* has not adopted  
27 regulations, the application shall be deemed filed on the last date  
28 the ~~commission~~ *department* receives any additional data that  
29 completes the application.

30 SEC. 241. Section 25523 of the Public Resources Code is  
31 amended to read:

32 25523. The ~~commission~~ *board* shall prepare a written decision  
33 after the public hearing on an application, ~~which that~~ includes all  
34 of the following:

35 (a) Specific provisions relating to the manner in which the  
36 proposed facility is to be designed, sited, and operated in order to  
37 protect environmental quality and ~~assure~~ *ensure* public health and  
38 safety.

39 (b) In the case of a site to be located in the coastal zone, specific  
40 provisions to meet the objectives of Division 20 (commencing

1 with Section 30000) as may be specified in the report submitted  
2 by the California Coastal Commission pursuant to subdivision (d)  
3 of Section 30413, unless the ~~commission~~ *board* specifically finds  
4 that the adoption of the provisions specified in the report would  
5 result in greater adverse effect on the environment or that the  
6 provisions proposed in the report would not be feasible.

7 (c) In the case of a site to be located in the Suisun Marsh or in  
8 the jurisdiction of the San Francisco Bay Conservation and  
9 Development Commission, specific provisions to meet the  
10 requirements of Division 19 (commencing with Section 29000)  
11 of this code or Title 7.2 (commencing with Section 66600) of the  
12 Government Code as may be specified in the report submitted by  
13 the San Francisco Bay Conservation and Development Commission  
14 pursuant to subdivision (d) of Section 66645 of the Government  
15 Code, unless the ~~commission~~ *board* specifically finds that the  
16 adoption of the provisions specified in the report would result in  
17 greater adverse effect on the environment or the provisions  
18 proposed in the report would not be feasible.

19 (d) (1) Findings regarding the conformity of the proposed site  
20 and related facilities with standards adopted by the ~~commission~~  
21 *board* pursuant to Section 25216.3 and subdivision (d) of Section  
22 25402, with public safety standards and the applicable air and  
23 water quality standards, and with other applicable local, regional,  
24 state, and federal standards, ordinances, or laws. If the ~~commission~~  
25 *board* finds that there is noncompliance with a state, local, or  
26 regional ordinance or regulation in the application, it shall consult  
27 and meet with the state, local, or regional governmental agency  
28 concerned to attempt to correct or eliminate the noncompliance.  
29 If the noncompliance cannot be corrected or eliminated, the  
30 ~~commission~~ *department* shall inform the state, local, or regional  
31 governmental agency if it makes the findings required by Section  
32 25525.

33 (2) The ~~commission~~ *board* may not find that the proposed  
34 facility conforms with applicable air quality standards pursuant to  
35 paragraph (1) unless the applicable air pollution control district or  
36 air quality management district certifies, prior to the licensing of  
37 the project by the ~~commission~~, *board*, that complete emissions  
38 offsets for the proposed facility have been identified and will be  
39 obtained by the applicant within the time required by the district's  
40 rules or unless the applicable air pollution control district or air

1 quality management district certifies that the applicant requires  
2 emissions offsets to be obtained prior to the commencement of  
3 operation consistent with Section 42314.3 of the Health and Safety  
4 Code and prior to commencement of the operation of the proposed  
5 facility. The ~~commission~~ *board* shall require as a condition of  
6 certification that the applicant obtain any required emission offsets  
7 within the time required by the applicable district rules, consistent  
8 with any applicable federal and state laws and regulations, and  
9 prior to the commencement of the operation of the proposed  
10 facility.

11 (e) Provision for restoring the site as necessary to protect the  
12 environment, if the ~~commission~~ *board* denies approval of the  
13 application.

14 (f) In the case of a site and related facility using resource  
15 recovery (waste-to-energy) technology, specific conditions  
16 requiring that the facility be monitored to ensure compliance with  
17 paragraphs (1), (2), (3), and (6) of subdivision (a) of Section 42315  
18 of the Health and Safety Code.

19 (g) In the case of a facility, other than a resource recovery  
20 facility subject to subdivision (f), specific conditions requiring the  
21 facility to be monitored to ensure compliance with toxic air  
22 contaminant control measures adopted by an air pollution control  
23 district or air quality management district pursuant to subdivision  
24 (d) of Section 39666 or Section 41700 of the Health and Safety  
25 Code, whether the measures were adopted before or after issuance  
26 of a determination of compliance by the district.

27 (h) A discussion of any public benefits from the project  
28 including, but not limited to, economic benefits, environmental  
29 benefits, and electricity reliability benefits.

30 SEC. 242. Section 25524.1 of the Public Resources Code is  
31 amended to read:

32 25524.1. (a) Except for the existing Diablo Canyon Units 1  
33 and 2 owned by Pacific Gas and Electric Company and San Onofre  
34 Units 2 and 3 owned by Southern California Edison Company and  
35 San Diego Gas and Electric Company, ~~no~~ *a* nuclear fission thermal  
36 powerplant requiring the reprocessing of fuel rods, including any  
37 to which this chapter does not otherwise apply, excepting any  
38 having a vested right as defined in this section, shall *not* be  
39 permitted land use in the state or, where applicable, certified by

1 the ~~commission~~ *board* until both of the following conditions are  
2 met:

3 (1) The ~~commission~~ *board* finds that the United States through  
4 its authorized agency has identified and approved, and there exists  
5 a technology for the construction and operation of, nuclear fuel  
6 rod reprocessing plants.

7 (2) The ~~commission~~ *board* has reported its findings and the  
8 reasons therefor pursuant to paragraph (1) to the Legislature. That  
9 report shall be assigned to the appropriate policy committees for  
10 review. The ~~commission~~ *board* may proceed to certify nuclear  
11 fission thermal powerplants 100 legislative days after reporting  
12 ~~its~~ *the board's* findings unless within those 100 legislative days  
13 either house of the Legislature adopts by a majority vote of its  
14 members a resolution disaffirming the findings of the ~~commission~~  
15 *board* made pursuant to paragraph (1).

16 (3) A resolution of disaffirmance shall set forth the reasons for  
17 the action and shall provide, to the extent possible, guidance to  
18 the ~~commission~~ *board* as to an appropriate method of bringing the  
19 ~~commission's~~ *board's* findings into conformance with paragraph  
20 (1).

21 (4) If a disaffirming resolution is adopted, the ~~commission~~ *board*  
22 shall reexamine its original findings consistent with matters raised  
23 in the resolution. On conclusion of its reexamination, the  
24 ~~commission~~ *board* shall transmit its findings in writing, with the  
25 reasons therefor, to the Legislature.

26 (5) If the findings are that the conditions of paragraph (1) have  
27 been met, the ~~commission~~ *board* may proceed to certify nuclear  
28 fission thermal powerplants 100 legislative days after reporting  
29 its findings to the Legislature unless within those 100 legislative  
30 days both houses of the Legislature act by statute to declare the  
31 findings null and void and ~~takes~~ *take* appropriate action.

32 (6) To allow sufficient time for the Legislature to act, the reports  
33 of findings of the ~~commission~~ *board* shall be submitted to the  
34 Legislature at least six calendar months prior to the adjournment  
35 of the Legislature sine die.

36 (b) The ~~commission~~ *board* shall further find on a case-by-case  
37 basis that facilities with adequate capacity to reprocess nuclear  
38 fuel rods from a certified nuclear facility or to store that fuel if that  
39 storage is approved by an authorized agency of the United States  
40 are in actual operation or will be in operation at the time that the

1 nuclear facility requires reprocessing or storage; provided, however,  
2 that the storage of fuel is in an offsite location to the extent  
3 necessary to provide continuous onsite full core reserve storage  
4 capacity.

5 (c) The ~~commission~~ *board* shall continue to receive and process  
6 ~~notices of intention and~~ applications for certification pursuant to  
7 this division, but *the board* shall not issue a decision pursuant to  
8 Section 25523 granting a certificate until the requirements of this  
9 section have been met. All other permits, licenses, approvals, or  
10 authorizations for the entry or use of the land, including orders of  
11 ~~court, which~~ *court that* may be required may be processed and  
12 granted by the governmental entity concerned, but construction  
13 work to install permanent equipment or structures shall not  
14 commence until the requirements of this section have been met.

15 SEC. 243. Section 25524.2 of the Public Resources Code is  
16 amended to read:

17 25524.2. Except for the existing Diablo Canyon Units 1 and 2  
18 owned by Pacific Gas and Electric Company and San Onofre Units  
19 2 and 3 owned by Southern California Edison Company and San  
20 Diego Gas and Electric Company, ~~no~~ a nuclear fission thermal  
21 powerplant, including any to which this chapter does not otherwise  
22 apply, but excepting those exempted herein, shall *not* be permitted  
23 land use in the state, or where applicable, be certified by the  
24 ~~commission~~ *board* until both of the following conditions have  
25 been met:

26 (a) The ~~commission~~ *board* finds that there has been developed  
27 and that the United States through its authorized agency has  
28 approved and there exists a demonstrated technology or means for  
29 the disposal of high-level nuclear waste.

30 (b) (1) The ~~commission~~ *board* has reported its findings and the  
31 reasons therefor pursuant to paragraph (a) to the Legislature. That  
32 report shall be assigned to the appropriate policy committees for  
33 review. The ~~commission~~ *board* may proceed to certify nuclear  
34 fission thermal powerplants 100 legislative days after reporting  
35 its findings unless within those 100 legislative days either house  
36 of the Legislature adopts by a majority vote of its members a  
37 resolution disaffirming the findings of the ~~commission~~ *board* made  
38 pursuant to subdivision (a).

39 (2) A resolution of disaffirmance shall set forth the reasons for  
40 the action and shall provide, to the extent possible, guidance to

1 the ~~commission~~ *board* as to an appropriate method of bringing the  
2 ~~commission's board's~~ findings into conformance with subdivision  
3 (a).

4 (3) If a disaffirming resolution is adopted, the ~~commission~~ *board*  
5 shall reexamine its original findings consistent with matters raised  
6 in the resolution. On conclusion of its reexamination, the  
7 ~~commission~~ *board* shall transmit its findings in writing, with the  
8 reasons therefor, to the Legislature.

9 (4) If the findings are that the conditions of subdivision (a) have  
10 been met, the ~~commission~~ *board* may proceed to certify nuclear  
11 fission thermal powerplants 100 legislative days after reporting  
12 its findings to the Legislature unless within those 100 legislative  
13 days both houses of the Legislature act by statute to declare the  
14 findings null and void and take appropriate action.

15 (5) To allow sufficient time for the Legislature to act, the reports  
16 of findings of the ~~commission~~ *board* shall be submitted to the  
17 Legislature at least six calendar months prior to the adjournment  
18 of the Legislature sine die.

19 (c) As used in subdivision (a), “technology or means for the  
20 disposal of high-level nuclear waste” means a method for the  
21 permanent and terminal disposition of high-level nuclear waste.  
22 Nothing in this section requires that facilities for the application  
23 of that technology or means be available at the time that the  
24 ~~commission~~ *board* makes its findings. That disposition of  
25 high-level nuclear waste does not preclude the possibility of an  
26 approved process for retrieval of the waste.

27 (d) The ~~commission~~ *board* shall continue to receive and process  
28 notices of intention and applications for certification pursuant to  
29 this division but shall not issue a decision pursuant to Section  
30 25523 granting a certificate until the requirements of this section  
31 have been met. All other permits, licenses, approvals, or  
32 authorizations for the entry or use of the land, including orders of  
33 ~~court, which~~ *court that* may be required may be processed and  
34 granted by the governmental entity concerned, but construction  
35 work to install permanent equipment or structures shall not  
36 commence until the requirements of this section have been met.

37 SEC. 244. Section 25524.5 of the Public Resources Code is  
38 amended to read:

39 25524.5. The ~~commission~~ *board* shall not certify any facility  
40 ~~which~~ *that* adds generating capacity to a potential multiple-facility

1 site in excess of the maximum allowable capacity established by  
2 the ~~commission~~ board pursuant to Section 25516.5, unless the  
3 ~~commission~~ board finds that exceeding the maximum allowable  
4 capacity will not increase adverse environmental impacts or create  
5 technological, seismic, or other difficulties beyond those already  
6 found acceptable in the ~~commission's~~ board's findings on the  
7 notice for that site pursuant to Sections 25516 and 25516.5.

8 SEC. 245. Section 25525 of the Public Resources Code is  
9 amended to read:

10 25525. The ~~commission~~ ~~may~~ board shall not certify a facility  
11 contained in the application ~~when if~~ it finds, pursuant to subdivision  
12 (d) of Section 25523, that the facility does not conform with any  
13 applicable state, local, or regional standards, ordinances, or laws,  
14 unless the ~~commission~~ board determines that the facility is required  
15 for public convenience and necessity and that there are not more  
16 prudent and feasible means of achieving public convenience and  
17 necessity. In making the determination, the ~~commission~~ board  
18 shall consider the entire record of the proceeding, including, but  
19 not limited to, the impacts of the facility on the environment,  
20 consumer benefits, and electric system reliability. The ~~commission~~  
21 ~~may~~ board shall not make a finding in conflict with applicable  
22 federal law or regulation. The basis for these findings shall be  
23 reduced to writing and submitted as part of the record pursuant to  
24 Section 25523.

25 SEC. 246. Section 25526 of the Public Resources Code is  
26 amended to read:

27 25526. (a) The ~~commission~~ board shall not approve as a site  
28 for a facility any location designated by the California Coastal  
29 Commission pursuant to subdivision (b) of Section 30413, unless  
30 the California Coastal Commission first finds that ~~such~~ the use is  
31 not inconsistent with the primary uses of ~~such~~ that land and that  
32 there will be no substantial adverse environmental effects and  
33 unless the approval of any public agency having ownership or  
34 control of ~~such~~ the land is obtained.

35 (b) The ~~commission~~ board shall not approve as a site for a  
36 facility any location designated by the San Francisco Bay  
37 Conservation and Development Commission pursuant to  
38 subdivision (b) of Section 66645 of the Government Code unless  
39 the San Francisco Bay Conservation and Development Commission  
40 first finds that such use is not inconsistent with the primary uses

1 of such land and that there will be no substantial adverse  
2 environmental effects and unless the approval of any public agency  
3 having ownership or control of ~~such~~ *the* land is obtained.

4 SEC. 247. Section 25527 of the Public Resources Code is  
5 amended to read:

6 25527. The following areas of the state shall not be approved  
7 as a site for a facility, unless the ~~commission~~ *board* finds that ~~such~~  
8 *the* use is not inconsistent with the primary uses of ~~such~~ *those* lands  
9 and that there will be no substantial adverse environmental effects  
10 and the approval of any public agency having ownership or control  
11 of ~~such~~ *those* lands is obtained:

12 (a) State, regional, county, and city parks; wilderness, ~~scenic~~  
13 *scenic*, or natural reserves; areas for wildlife protection, recreation,  
14 historic preservation; or natural preservation areas in existence on  
15 the effective date of this division.

16 (b) Estuaries in an essentially natural and undeveloped state.

17 In considering applications for certification, the ~~commission~~  
18 *board* shall give the greatest consideration to the need for  
19 protecting areas of critical environmental concern, including, but  
20 not limited to, unique and irreplaceable scientific, scenic, and  
21 educational wildlife habitats; unique historical, ~~archaeological~~  
22 *archeological*, and cultural sites; lands of hazardous concern; and  
23 areas under consideration by the state or the United States for  
24 wilderness, or wildlife and game reserves.

25 SEC. 248. Section 25528 of the Public Resources Code is  
26 amended to read:

27 25528. (a) The ~~commission~~ *board* shall require, as a condition  
28 of certification of any site and related facility, that the applicant  
29 acquire, by grant or contract, the right to prohibit development of  
30 privately owned lands in the area of the proposed site ~~which~~ *that*  
31 will result in population densities in excess of the maximum  
32 population densities ~~which~~ *that* the ~~commission~~ *board* determines,  
33 as to the factors considered by the ~~commission~~ *board* pursuant to  
34 Section 25511, are necessary to protect public health and safety.

35 If the applicant is authorized to exercise the right of eminent  
36 domain under Article 7 (commencing with Section 610) of Chapter  
37 3 of Part 1 of Division 1 of the Public Utilities Code, the applicant  
38 may exercise the right of eminent domain to acquire ~~such~~ *those*  
39 development rights ~~as~~ *that* the ~~commission~~ *board* requires be  
40 acquired.

1 (b) In the case of an application for a nuclear facility, the area  
2 and population density necessary to ~~insure~~ *ensure* the public's  
3 health and safety designated by the ~~commission~~ *board* shall be  
4 that as determined from time to time by the United States Nuclear  
5 Regulatory Commission, if the ~~commission~~ *board* finds that ~~such~~  
6 *the* determination is sufficiently definitive for valid land use  
7 planning requirements.

8 (c) The ~~commission~~ *board* shall waive the requirements of the  
9 acquisition of development rights by an applicant to the extent that  
10 the ~~commission~~ *board* finds that existing governmental land use  
11 restrictions are of a type necessary and sufficient to guarantee the  
12 maintenance of population levels and land use development over  
13 the lifetime of the facility which will ~~insure~~ *ensure* the public  
14 health and safety requirements set pursuant to this section.

15 (d) No change in governmental land use restrictions in ~~such~~  
16 areas designated in subdivision (c) of this section by any  
17 government agency shall be effective until approved by the  
18 ~~commission~~. ~~Such~~ *board*. ~~This~~ approval shall certify that the change  
19 in land use restrictions is not in conflict with requirements provided  
20 for by this section.

21 (e) It is not the intent of the Legislature by the enactment of this  
22 section to take private property for public use without payment of  
23 just compensation in violation of the United States Constitution  
24 or the Constitution of California.

25 SEC. 249. Section 25529 of the Public Resources Code is  
26 amended to read:

27 25529. ~~When~~ *If* a facility is proposed to be located in the  
28 coastal zone or any other area with recreational, scenic, or historic  
29 value, the ~~commission~~ *board* shall require, as a condition of  
30 certification of any facility contained in the application, that an  
31 area be established for public use, as determined by the  
32 ~~commission~~. ~~board~~. Lands within ~~such~~ *the* area shall be acquired  
33 and maintained by the applicant and shall be available for public  
34 access and use, subject to restrictions required for security and  
35 public safety. The applicant may dedicate ~~such~~ *the* public use zone  
36 to any local agency agreeing to operate or maintain it for the benefit  
37 of the public. If no local agency agrees to operate or maintain the  
38 public use zone for the benefit of the public, the applicant may  
39 dedicate ~~such~~ *the* zone to the state. The ~~commission~~ *board* shall  
40 also require that any facility to be located along the coast or

1 shoreline of any major body of water be set back from the shoreline  
2 to permit reasonable public use and to protect scenic and aesthetic  
3 values.

4 SEC. 250. Section 25530 of the Public Resources Code is  
5 amended to read:

6 25530. (a) The ~~commission~~ board may order a  
7 reconsideration of all or part of a decision or order on its own  
8 motion or on petition of any party.

9 Any

10 (b) ~~such~~ The petition for reconsideration shall be filed within  
11 30 days after adoption by the ~~commission~~ board of a decision or  
12 order. The ~~commission~~ board shall not order a reconsideration on  
13 its own motion more than 30 days after it has adopted a ~~decision~~  
14 decision or order. The ~~commission~~ board shall order or deny  
15 reconsideration on a petition ~~therefor~~ within 30 days after the  
16 petition is filed.

17 (c) A decision or order may be reconsidered by the ~~commission~~  
18 board on the basis of all pertinent portions of the record together  
19 with ~~such any~~ argument as that the ~~commission~~ board may permit,  
20 or the ~~commission~~ board may hold a further hearing, after notice  
21 to all interested persons. A decision or order of the ~~commission~~  
22 board on reconsideration shall have the same force and effect as  
23 an original order or decision.

24 SEC. 251. Section 25531 of the Public Resources Code is  
25 amended to read:

26 25531. (a) The decisions of the ~~commission~~ board on any  
27 application for certification of a site and related facility are subject  
28 to judicial review by the Supreme Court of California.

29 (b) ~~No new~~ New or additional evidence ~~may~~ shall not be  
30 introduced upon review and the cause shall be heard on the record  
31 of the ~~commission~~ board as certified to by it. The review shall not  
32 be extended further than to determine whether the ~~commission~~  
33 board has regularly pursued its authority, including a determination  
34 of whether the order or decision under review violates any right  
35 of the petitioner under the United States Constitution or the  
36 California Constitution. The findings and conclusions of the  
37 ~~commission~~ board on questions of fact are final and are not subject  
38 to review, except as provided in this article. These questions of  
39 fact shall include ultimate facts and the findings and conclusions  
40 of the ~~commission~~ board. A report prepared by, or an approval

1 of, the ~~commission~~ *board* pursuant to Section 25510, 25514, 25516,  
2 or 25516.5, or subdivision (b) of Section 25520.5, shall not  
3 constitute a decision of the ~~commission~~ *board* subject to judicial  
4 review.

5 (c) Subject to the right of judicial review of decisions of the  
6 ~~commission~~, *board*, no court in this state has jurisdiction to hear  
7 or determine any case or controversy concerning any matter which  
8 was, or could have been, determined in a proceeding before the  
9 ~~commission~~, *board*, or to stop or delay the construction or operation  
10 of any thermal powerplant except to enforce compliance with the  
11 provisions of a decision of the ~~commission~~, *board*.

12 (d) Notwithstanding Section 1250.370 of the Code of Civil  
13 Procedure:

14 (1) If the ~~commission~~ *board* requires, pursuant to subdivision  
15 (a) of Section 25528, as a condition of certification of any site and  
16 related facility, that the applicant acquire development rights, that  
17 requirement conclusively establishes the matters referred to in  
18 Sections 1240.030 and 1240.220 of the Code of Civil Procedure  
19 in any eminent domain proceeding brought by the applicant to  
20 acquire the development rights.

21 (2) If the ~~commission~~ *board* certifies any site and related facility,  
22 that certification conclusively establishes the matters referred to  
23 in Sections 1240.030 and 1240.220 of the Code of Civil Procedure  
24 in any eminent domain proceeding brought to acquire the site and  
25 related facility.

26 (e) ~~No~~ A decision of the ~~commission~~ *board* pursuant to Section  
27 25516, 25522, or 25523 shall *not* be found to mandate a specific  
28 supply plan for any utility as prohibited by Section 25323.

29 SEC. 252. Section 25532 of the Public Resources Code is  
30 amended to read:

31 25532. The ~~commission~~ *department* shall establish a monitoring  
32 system to assure that any facility certified under this division is  
33 constructed and is operating in compliance with air and water  
34 quality, public health and safety, and other applicable regulations,  
35 guidelines, and conditions adopted or established by the  
36 ~~commission~~ *board* or specified in the written decision on the  
37 application. In designing and operating the monitoring system, the  
38 ~~commission~~ *department* shall seek the cooperation and assistance  
39 of the State Air Resources Board, the State Water Resources

1 Control Board, the Department of Health, and other state, regional,  
2 and local agencies which have an interest in environmental control.

3 SEC. 253. Section 25534 of the Public Resources Code is  
4 amended to read:

5 25534. (a) The ~~commission~~ *board* may, after one or more  
6 hearings, amend the conditions of, or revoke the certification for,  
7 any facility for any of the following reasons:

8 (1) Any material false statement set forth in the application,  
9 presented in proceedings of the ~~commission~~, *board*, or included  
10 in supplemental documentation provided by the applicant.

11 (2) Any significant failure to comply with the terms or  
12 conditions of approval of the application, as specified by the  
13 ~~commission~~ *board* in its written decision.

14 (3) A violation of this division or any regulation or order issued  
15 by the ~~commission~~ *board* under this division.

16 ~~(4) The owner of a project does not start construction of the  
17 project within 12 months after the date all permits necessary for  
18 the project become final and all administrative and judicial appeals  
19 have been resolved provided the California Consumer Power and  
20 Conservation Financing Authority notifies the commission that it  
21 is willing and able to construct the project pursuant to subdivision  
22 (g). The project owner may extend the 12-month period by 24  
23 additional months pursuant to subdivision (f). This paragraph  
24 applies only to projects with a project permit application deemed  
25 complete by the commission after January 1, 2003.~~

26 (b) The ~~commission~~ *board* may also administratively impose a  
27 civil penalty for a violation of paragraph (1) or (2) of subdivision  
28 (a). Any civil penalty shall be imposed in accordance with Section  
29 25534.1 and may not exceed seventy-five thousand dollars  
30 (\$75,000) per violation, except that the civil penalty may be  
31 increased by an amount not to exceed one thousand five hundred  
32 dollars (\$1,500) per day for each day in which the violation occurs  
33 or persists, but the total of the per day penalties may not exceed  
34 fifty thousand dollars (\$50,000).

35 (c) A project owner shall commence construction of a project  
36 subject to the start-of-construction deadline provided by paragraph  
37 (4) of subdivision (a) within 12 months after the project has been  
38 certified by the ~~commission~~ *board* and after all accompanying  
39 project permits are final and administrative and judicial appeals  
40 have been completed. The project owner shall submit construction

1 and commercial operation milestones to the ~~commission board~~  
2 within 30 days after project certification. Construction milestones  
3 shall require the start of construction within the 12-month period  
4 established by this subdivision. The ~~commission board~~ shall  
5 approve milestones within 60 days after project certification. If  
6 the 30-day deadline to submit construction milestones to the  
7 ~~commission board~~ is not met, the ~~commission board~~ shall establish  
8 milestones for the project.

9 (d) The failure of the owner of a project subject to the  
10 state-of-construction deadline provided by paragraph (4) of  
11 subdivision (a) to meet construction or commercial operation  
12 milestones, without a finding by the ~~commission board~~ of good  
13 cause, shall be cause for revocation of certification or the  
14 imposition of other penalties by the ~~commission department~~.

15 (e) A finding by the ~~commission board~~ that there is good cause  
16 for failure to meet the start-of-construction deadline required by  
17 paragraph (4) of subdivision (a) or any subsequent milestones of  
18 subdivision (c) shall be made if the ~~commission board~~ determines  
19 that any of the following criteria are met:

20 (1) The change in any deadline or milestone does not change  
21 the established deadline or milestone for the start of commercial  
22 operation.

23 (2) The deadline or milestone is changed due to circumstances  
24 beyond the project owner's control, including, but not limited to,  
25 administrative and legal appeals.

26 (3) The deadline or milestone will be missed but the project  
27 owner demonstrates a good faith effort to meet the project deadline  
28 or milestone.

29 (4) The deadline or milestone will be missed due to unforeseen  
30 natural disasters or acts of God that prevent timely completion of  
31 the project deadline or milestone.

32 (5) The deadline or milestone will be missed for any other reason  
33 determined reasonable by the ~~commission board~~.

34 (f) The ~~commission board~~ shall extend the start-of-construction  
35 deadline required by paragraph (4) of subdivision (a) by an  
36 additional 24 months, if the owner reimburses the ~~commission's~~  
37 ~~department's~~ actual cost of licensing the project, less the amount  
38 paid pursuant to subdivision (a) of Section 25806. For the purposes  
39 of this section, the ~~commission's department's~~ actual cost of  
40 licensing the project shall be based on a certified audit report filed

1 by the ~~commission~~ *department* staff within 180 days of the  
2 ~~commission's board's~~ certification of the project. The certified  
3 audit shall be filed and served on all parties to the proceeding, is  
4 subject to public review and comment, and is subject to at least  
5 one public hearing if requested by the project owner. Any  
6 reimbursement received by the ~~commission~~ *department* pursuant  
7 to this subdivision shall be deposited in the General Fund.

8 (g) If the owner of a project subject to the start-of-construction  
9 deadline provided by paragraph (4) of subdivision (a) fails to  
10 commence construction, without good cause, within 12 months  
11 after the project has been certified by the ~~commission board~~ and  
12 has not received an extension pursuant to subdivision (f), the  
13 ~~commission department~~ shall provide immediate notice to the  
14 California Consumer Power and Conservation Financing Authority.  
15 The authority shall evaluate whether to pursue the project  
16 independently or in conjunction with any other public or private  
17 entity, including the original certificate holder. If the authority  
18 demonstrates to the ~~commission department~~ that it is willing and  
19 able to construct the project either independently or in conjunction  
20 with any other public or private entity, including the original  
21 certificate holder, the ~~commission board~~ may revoke the original  
22 certification and issue a new certification for the project to the  
23 authority, unless the authority's statutory authorization to finance  
24 or approve new programs, enterprises, or projects has expired. If  
25 the authority declines to pursue the project, the permit shall remain  
26 with the current project owner until it expires pursuant to the  
27 regulations adopted by the ~~commission board~~.

28 (h) If the ~~commission board~~ issues a new certification for a  
29 project subject to the start-of-construction deadline provided by  
30 paragraph (4) of subdivision (a) to the authority, the ~~commission~~  
31 ~~board~~ shall adopt new milestones for the project that allow the  
32 authority up to 24 months to start construction of the project or to  
33 start to meet the applicable deadlines or milestones. If the authority  
34 fails to begin construction in conformity with the deadlines or  
35 milestones adopted by the ~~commission board~~, without good cause,  
36 the certification may be revoked.

37 (i) (1) If the ~~commission board~~ issues a new certification for  
38 a project subject to the start-of-construction deadline provided by  
39 paragraph (4) of subdivision (a) to the authority and the authority  
40 pursues the project without participation of the original certificate

1 holder, the authority shall offer to reimburse the original certificate  
2 holder for the actual costs the original certificate holder incurred  
3 in permitting the project and in procuring assets associated with  
4 the license, including, but not limited to, major equipment and the  
5 emission offsets. In order to receive reimbursement, the original  
6 certificate holder shall provide to the ~~commission~~ *department*  
7 documentation of the actual costs incurred in permitting the project.  
8 The ~~commission~~ *department* shall validate those costs. The  
9 certificate holder may refuse to accept the offer of reimbursement  
10 for any asset associated with the license and retain the asset. To  
11 the extent the certificate holder chooses to accept the offer for an  
12 asset, it shall provide the authority with the asset.

13 (2) If the authority reimburses the original certificate holder for  
14 the costs described in paragraph (1), the original certificate holder  
15 shall provide the authority with all of the assets for which the  
16 original certificate holder received reimbursement.

17 (j) This section does not prevent a certificate holder from selling  
18 its license to construct and operate a project prior to its revocation  
19 by the ~~commission~~ *board*. In the event of a sale to an entity that  
20 is not an affiliate of the certificate holder, the ~~commission~~ *board*  
21 shall adopt new deadlines or milestones for the project that allow  
22 the new certificate holder up to 12 months to start construction of  
23 the project or to start to meet the applicable deadlines or milestones.

24 (k) Paragraph (4) of subdivision (a) and subdivisions (c) to (j),  
25 inclusive, do not apply to licenses issued for the modernization,  
26 repowering, replacement, or refurbishment of existing facilities or  
27 to a qualifying small power production facility or a qualifying  
28 cogeneration facility within the meaning of Sections 201 and 210  
29 of Title II of the federal Public Utility Regulatory Policies Act of  
30 1978 (16 U.S.C. Secs. 796(17), 796(18), and 824a-3), and the  
31 regulations adopted pursuant to those sections by the Federal  
32 Energy Regulatory Commission (18 C.F.R. Parts 292.101 to  
33 292.602, inclusive), nor shall those provisions apply to any other  
34 generation units installed, operated, and maintained at a customer  
35 site exclusively to serve that facility's load. For the purposes of  
36 this subdivision, "replacement" of an existing facility includes,  
37 but is not limited to, a comparable project at a location different  
38 than the facility being replaced, ~~provided that the commission if~~  
39 *the board* certifies that the new project will result in the  
40 decommissioning of the existing facility.

1 (l) Paragraph (4) of subdivision (a) and subdivisions (c) to (j),  
2 inclusive, do not apply to licenses issued to “local publicly owned  
3 electric utilities,” as defined in Section 224.3 of the Public Utilities  
4 Code, whose governing bodies certify to the ~~commission~~ *board*  
5 that the project is needed to meet the projected native load of the  
6 local publicly owned utility.

7 (m) To implement this section, the ~~commission~~ *department* and  
8 the California Consumer Power and Conservation Financing  
9 Authority may, in consultation with each other, adopt emergency  
10 regulations in accordance with Chapter 3.5 (commencing with  
11 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
12 Code. For purposes of that chapter, including, without limitation,  
13 Section 11349.6 of the Government Code, the adoption of the  
14 regulations shall be considered by the Office of Administrative  
15 Law to be necessary for the immediate preservation of the public  
16 peace, health and safety, or general welfare.

17 SEC. 254. Section 25534.1 of the Public Resources Code is  
18 amended to read:

19 25534.1. (a) The ~~executive director of the commission~~  
20 *department* may issue a complaint to any person or entity on whom  
21 an administrative civil penalty may be imposed pursuant to Section  
22 25534. The complaint shall allege the act or failure to act for which  
23 the civil penalty is proposed, the provision of law authorizing civil  
24 liability, and the proposed civil penalty.

25 (b) The complaint shall be served by personal notice or certified  
26 mail, and shall inform the party so served that a hearing will be  
27 conducted within 60 days after the party has been served. The  
28 hearing shall be before the ~~commission~~ *board*. The complainant  
29 may waive the right to a hearing, in which case the ~~commission~~  
30 *board* shall not conduct a hearing.

31 (c) After any hearing, the ~~commission~~ *board* may adopt, with  
32 or without revision, the proposed decision and order of the  
33 ~~executive director~~ *department*.

34 (d) Orders setting an administrative civil penalty shall become  
35 effective and final upon issuance thereof, and any payment shall  
36 be made within 30 days. Copies of these orders shall be served by  
37 personal service or by registered mail upon the party served with  
38 the complaint and upon other persons who appeared at the hearing  
39 and requested a copy.

1 (e) In determining the amount of the administrative civil penalty,  
2 the ~~commission~~ *board* shall take into consideration the nature,  
3 circumstance, extent, and gravity of the violation or violations,  
4 whether the violation is susceptible to removal or resolution, the  
5 cost to the state in pursuing the enforcement action, and with  
6 respect to the violator, the ability to pay, the effect on ability to  
7 continue in business, any voluntary removal or resolution efforts  
8 undertaken, any prior history of violations, the degree of  
9 culpability, economic savings, if any, resulting from the violation,  
10 and such other matters as justice may require.

11 SEC. 255. Section 25534.2 of the Public Resources Code is  
12 amended to read:

13 25534.2. (a) Within 30 days after service of an order issued  
14 under Section 25534.1, any aggrieved party may file with the  
15 superior court a petition for writ of mandate for review thereof  
16 pursuant to Section 1094.5 of the Code of Civil Procedure. If no  
17 aggrieved party petition for a writ of mandate is filed within the  
18 time provided by this section, an order of the ~~commission~~ *board*  
19 is not subject to review by any court or agency, except that the  
20 ~~commission~~ *board* may grant review on its own motion of an order  
21 issued under Section 25534.1 after the expiration of the time limits  
22 set by this section.

23 (b) Upon request of the ~~commission~~, *board*, the Attorney  
24 General shall institute an action in the appropriate superior court  
25 to collect and recover any administrative civil penalties imposed  
26 pursuant to Section 25534.1. The court shall accord priority on its  
27 calendar to any action under this subdivision.

28 (c) Any moneys recovered by the ~~commission~~ *board* pursuant  
29 to this section shall be deposited in the General Fund.

30 SEC. 256. Section 25537 of the Public Resources Code is  
31 amended to read:

32 25537. Upon approval of an ~~application~~, *application* by the  
33 ~~commission~~ *board*, *the department* shall forward to the United  
34 States Nuclear Regulatory Commission, the Environmental  
35 Protection Agency, and to other appropriate federal agencies, the  
36 results of its studies including the environmental impact report on  
37 the facility, the written decision on the facility contained in the  
38 application, and the ~~commission's~~ *board's* determination of facility  
39 safety and reliability as provided in Section 25511.

1 SEC. 257. Section 25538 of the Public Resources Code is  
2 amended to read:

3 25538. Upon receiving the ~~commission's~~ *board's* request for  
4 review under subdivision (f) of Section 25519 and Section 25506,  
5 the local agency may request a fee from the ~~commission~~ *board* to  
6 reimburse the local agency for the actual and added costs of this  
7 review by the local agency. The ~~commission~~ *board* shall reimburse  
8 the local agency for the added costs that shall be actually incurred  
9 by the local agency in complying with the ~~commission's~~ *board's*  
10 request. The local agency may also request reimbursement for  
11 permit fees that the local agency would receive but for the operation  
12 of Section 25500, provided, however, that ~~such~~ *these* fees may  
13 only be requested in accordance with actual services performed  
14 by the local agency. The ~~commission~~ *board* shall either request a  
15 fee from the person proposing the project or devote a special fund  
16 in its ~~budget,~~ *budget* for the reimbursement of ~~such~~ *these* costs  
17 incurred by local agencies.

18 SEC. 258. Section 25539 of the Public Resources Code is  
19 amended to read:

20 25539. In reviewing notices and applications for certification  
21 of modifications of existing facilities, the ~~commission~~ *board* shall  
22 adopt rules and regulations as necessary to ~~insure~~ *ensure* that  
23 relevant duties pursuant to this division are carried out.

24 SEC. 259. Section 25540 of the Public Resources Code is  
25 amended to read:

26 25540. If a person proposes to construct a geothermal  
27 powerplant and related facility or facilities on a site, the  
28 ~~commission~~ *board* shall not require three alternative sites and  
29 related facilities to be proposed in the notice. Except as otherwise  
30 provided, the ~~commission~~ *board* shall issue its findings on the  
31 notice, as specified in Section 25514, within nine months from the  
32 date of filing of such notice, and shall issue its final decision on  
33 the application, as specified in Section 25523, within nine months  
34 from the date of the filing of the application for certification, or at  
35 such later time as is mutually agreed to by the ~~commission~~ *board*  
36 and the applicant or person submitting the notice or application.

37 SEC. 260. Section 25540.1 of the Public Resources Code is  
38 amended to read:

39 25540.1. The ~~commission~~ *board* shall determine, within 30  
40 days after the receipt of a notice or application for a geothermal

1 powerplant, whether the notice or application is complete. If the  
2 notice or application is determined not to be complete, the  
3 ~~commission's board's~~ determination shall specify, in writing, those  
4 parts of the notice or application which are incomplete and shall  
5 indicate the manner in which it can be made complete. Within 30  
6 days after receipt of the applicant's filing with the ~~commission~~  
7 ~~board~~ the additional information requested by the ~~commission~~  
8 ~~board~~ to make the notice or application complete, the ~~commission~~  
9 ~~board~~ shall determine whether the subsequent filing is sufficient  
10 to complete the notice or application. A notice or application shall  
11 be deemed filed for purposes of Section 25540 on the date the  
12 ~~commission board~~ determines the notice or application is  
13 completed if the ~~commission board~~ has adopted regulations  
14 specifying the informational requirements for a complete notice  
15 or application, but if the ~~commission board~~ has not adopted  
16 regulations, the notice or application shall be deemed filed on the  
17 last date the ~~commission board~~ receives any additional data that  
18 completes the notice or application.

19 SEC. 261. Section 25540.2 of the Public Resources Code is  
20 amended to read:

21 25540.2. Notwithstanding any other ~~provision of law~~:

22 (a) If an applicant proposes to construct a geothermal powerplant  
23 at a site ~~which that~~, at the outset of the proceeding, the applicant  
24 can reasonably demonstrate to be capable of providing geothermal  
25 resources in commercial quantities, ~~no a~~ notice of intention  
26 pursuant to Section 25502 shall *not* be required, and the  
27 ~~commission board~~ shall issue the final decision on the application,  
28 as specified in Section 25523, within 12 months after acceptance  
29 of the application for certification of a geothermal powerplant and  
30 related facilities, or at ~~such a~~ later time ~~as that~~ is mutually agreed  
31 *upon* by the ~~commission board~~ and the applicant.

32 (b) Upon receipt of an application for certification of a  
33 geothermal powerplant and related facilities, the ~~commission~~  
34 ~~department~~ shall transmit a copy of the application to every state  
35 and local agency having jurisdiction over land use in the area  
36 involved.

37 SEC. 262. Section 25540.3 of the Public Resources Code is  
38 amended to read:

39 25540.3. (a) An applicant for a geothermal powerplant may  
40 propose a site to be approved that will accommodate a potential

1 maximum electric generating capacity in excess of the capacity  
2 being proposed for initial construction. In addition to the  
3 information concerning the initial powerplant and related facilities  
4 proposed for construction required pursuant to Section 25520, ~~such~~  
5 *the* application shall include all of the following, to the extent  
6 known:

7 (1) The number, type, and energy source of electric generating  
8 units ~~which~~ *that* the site is proposed ultimately to accommodate  
9 and the maximum generating capacity for each unit.

10 (2) The projected installation schedule for each unit.

11 (3) The impact of the site, when fully developed, on the  
12 environment and public health and safety.

13 (4) The amount and sources of cooling water needed at the fully  
14 developed site.

15 (5) The general location and design of auxiliary facilities  
16 planned for each stage of development, including, but not limited  
17 to, pipelines, transmission lines, waste storage and disposal ~~facilities~~  
18 *facilities*, switchyards, and cooling ponds, lakes, or towers.

19 (6) ~~Such~~ *Other* information relating to the design,  
20 operation, and siting of the facility ~~as that the commission board~~  
21 may by regulation require.

22 (b) (1) If an application is filed pursuant to subdivision (a)  
23 ~~which~~ *that* proposes a site to be approved ~~which~~ *that* will  
24 accommodate a potential maximum electric generating capacity  
25 in excess of the capacity being proposed for initial construction,  
26 ~~the commission board~~ may, in its decision pursuant to subdivision  
27 (a) of Section 25540.3, either certify only the initial facility or  
28 facilities proposed for initial construction or may certify the initial  
29 facility or facilities and find the site acceptable for additional  
30 generating capacity of the type tentatively proposed. The maximum  
31 allowable amount and type of such additional capacity shall be  
32 determined by ~~the commission board~~.

33 (2) If the decision includes a finding that a particular site is  
34 suitable to accommodate a particular additional generating capacity,  
35 the site shall be designated a potential multiple facility site. The  
36 ~~commission board~~ may, in determining the acceptability of a  
37 potential multiple facility site, specify conditions or criteria  
38 necessary to ensure that future additional facilities will not exceed  
39 the limitations of the site.

1 SEC. 263. Section 25540.4 of the Public Resources Code is  
2 amended to read:

3 25540.4. Notwithstanding any other ~~provision of law:~~

4 (a) The decision of the ~~commission~~ *board* on an application for  
5 an additional facility at a potential multiple facility site shall be  
6 issued within three months after the acceptance of the application  
7 or at ~~such a~~ later time ~~as that~~ is mutually agreed upon by the  
8 ~~commission~~ *board* and the applicant.

9 (b) In reviewing an application for an additional facility at a  
10 potential multiple facility site, the ~~commission~~ *board* may, upon  
11 a showing of good cause, undertake a reconsideration of its prior  
12 determinations in the final report for the site pursuant to Section  
13 25514 or its decision pursuant to Section 25523 based on current  
14 conditions and other reasonable alternatives to the proposed  
15 facility. ~~Such~~ *The* reconsideration must be completed within seven  
16 months after acceptance of ~~such the~~ application for an additional  
17 facility.

18 (c) The ~~commission~~ *board* shall, pursuant to Section 21100.2,  
19 provide by resolution or order for completing and certifying the  
20 environmental impact report within the time limits established by  
21 subdivisions (a) and (b).

22 SEC. 264. Section 25540.5 of the Public Resources Code is  
23 amended to read:

24 25540.5. The ~~commission~~ *board* may, at the petition of a county  
25 ~~which that~~ has adopted a geothermal element for its general plan,  
26 approve an equivalent certification program ~~which that~~ delegates  
27 to that county full authority for the certification of all geothermal  
28 powerplants within ~~such that~~ county. Once approved by the  
29 ~~commission,~~ *board,* the equivalent certification program shall  
30 replace and supersede the procedures for certification of all  
31 geothermal powerplants and related facilities, pursuant to Sections  
32 25540 to 25540.4, inclusive, to be located within ~~such that~~ county.  
33 The ~~commission~~ *board* may, after public hearings, revoke the  
34 approved equivalent certification program of ~~such the~~ county if  
35 the ~~commission~~ *board* finds that the program does not comply  
36 with current ~~commission~~ *board* certification requirements. The  
37 equivalent certification program shall include, but not be limited  
38 to, provisions for all of the following:

39 (a) Certification of geothermal areas as potential multiple facility  
40 sites, if so applied for.

1 (b) Processing of applications in less than 12 months.

2 (c) Periodic review and updating of the program by the county  
3 as may be required by law and the ~~commission~~ *board*.

4 (d) Appeal procedures, including appeals to the ~~commission~~  
5 *board* on substantive issues. In any such appeal on a substantive  
6 issue, the ~~commission~~ *board* shall determine whether the act or  
7 decision is supported by substantial evidence in the light of the  
8 whole record. The ~~commission~~ *board* shall determine, within 15  
9 days of receipt of an appeal, whether the appeal has merit and  
10 whether action should be taken.

11 (e) Input and review by other relevant public agencies and  
12 members of the public.

13 (f) Public hearing procedures equivalent to those specified in  
14 Article 6 (commencing with Section 65350) of Chapter 3 of Title  
15 7 of the Government Code.

16 SEC. 265. Section 25540.6 of the Public Resources Code is  
17 amended to read:

18 25540.6. (a) Notwithstanding any other ~~provision of law, no~~  
19 *a* notice of intention is *not* required, and the ~~commission~~ *board*  
20 shall issue its final decision on the application, as specified in  
21 Section 25523, within 12 months after the filing of the application  
22 for certification of the powerplant and related facility or facilities,  
23 or at any later time ~~as that~~ is mutually agreed *upon* by the  
24 ~~commission~~ *board* and the applicant, for any of the following:

25 (1) A thermal powerplant ~~which that~~ will employ cogeneration  
26 technology, a thermal powerplant that will employ natural gas-fired  
27 technology, or a solar thermal powerplant.

28 (2) A modification of an existing facility.

29 (3) A thermal powerplant which it is only technologically or  
30 economically feasible to site at or near the energy source.

31 (4) A thermal powerplant with a generating capacity of up to  
32 100 megawatts.

33 (5) A thermal powerplant designed to develop or demonstrate  
34 technologies which have not previously been built or operated on  
35 a commercial scale. ~~Such a~~ *The* research, development, or  
36 commercial demonstration project may include, but is not limited  
37 to, the use of renewable or alternative fuels, improvements in  
38 energy conversion efficiency, or the use of advanced pollution  
39 control systems. ~~Such a~~ *The* facility may not exceed 300 megawatts  
40 unless the ~~commission~~ *board*, by regulation, authorizes a greater

1 capacity. Section 25524 does not apply to ~~such a~~ *the* powerplant  
 2 and related facility or facilities.

3 (b) Projects exempted from the notice of intention requirement  
 4 pursuant to paragraph (1), (4), or (5) of subdivision (a) shall  
 5 include, in the application for certification, a discussion of the  
 6 applicant’s site selection criteria, any alternative sites that the  
 7 applicant considered for the project, and the reasons why the  
 8 applicant chose the proposed site. That discussion shall not be  
 9 required for cogeneration projects at existing industrial sites. The  
 10 ~~commission~~ *board* may also accept an application for a  
 11 noncogeneration project at an existing industrial site without  
 12 requiring a discussion of site alternatives if the ~~commission~~ *board*  
 13 finds that the project has a strong relationship to the existing  
 14 industrial site and that it is therefore reasonable not to analyze  
 15 alternative sites for the project.

16 SEC. 266. Section 25541 of the Public Resources Code is  
 17 amended to read:

18 25541. The ~~commission~~ *board* may exempt from this chapter  
 19 thermal powerplants with a generating capacity of up to 100  
 20 megawatts and modifications to existing generating facilities that  
 21 do not add capacity in excess of 100 megawatts, if the ~~commission~~  
 22 *board* finds that no substantial adverse impact on the environment  
 23 or energy resources will result from the construction or operation  
 24 of the proposed facility or from the modifications.

25 SEC. 267. Section 25541.5 of the Public Resources Code is  
 26 amended to read:

27 25541.5. (a) On or before January 1, 2001, the Secretary of  
 28 the *Natural* Resources Agency shall review the regulatory program  
 29 conducted pursuant to this chapter that was certified pursuant to  
 30 subdivision ~~(k)~~ *(j)* of Section 15251 of Title 14 of the California  
 31 Code of Regulations, to determine whether the regulatory program  
 32 meets the criteria specified in Section 21080.5. If the Secretary of  
 33 the *Natural* Resources Agency determines that the regulatory  
 34 program meets those criteria, ~~the secretary~~ *he or she* shall continue  
 35 the certification of the regulatory program.

36 (b) If the Secretary of the *Natural* Resources Agency continues  
 37 the certification of the regulatory program, the ~~commission~~ *board*  
 38 shall amend the regulatory program from time to time, as necessary  
 39 to permit the ~~secretary~~ *Secretary of the Natural Resources Agency*  
 40 to continue to certify the program.

1 (c) This section does not invalidate the certification of the  
2 regulatory program, as it existed on January 1, 2000, pending the  
3 review required by subdivision (a).

4 SEC. 268. Section 25542 of the Public Resources Code is  
5 amended to read:

6 25542. In the case of any site and related facility or facilities  
7 for which the provisions of this division do not apply, the exclusive  
8 power given to the ~~commission~~ *board* pursuant to Section 25500  
9 to certify sites and related facilities shall not be in effect.

10 SEC. 269. Section 25543 of the Public Resources Code is  
11 amended to read:

12 25543. (a) It is the intent of the Legislature to improve the  
13 process of siting and licensing new thermal electric powerplants  
14 to ensure that these facilities can be sited in a timely manner, while  
15 protecting environmental quality and public participation in the  
16 siting process.

17 (b) ~~Notwithstanding Section 7550.5 of the Government Code,~~  
18 ~~the commission~~ *The department* shall prepare a report to the  
19 Governor and the Legislature on or before March 31, 2000, that  
20 identifies administrative and statutory measures that, preserving  
21 environmental protections and public participation, would improve  
22 the ~~commission's board's~~ siting and licensing process for thermal  
23 powerplants of 50 megawatts and larger. The report shall include,  
24 but is not limited to, all of the following:

25 (1) An examination of potential process efficiencies associated  
26 with required hearings, site visits, and documents.

27 (2) A review of the impacts on both process efficiency and  
28 public participation of restrictions on communications between  
29 applicants, the public, and staff or decisionmakers.

30 (3) An assessment of means for improving coordination with  
31 the licensing activities of local jurisdictions and participation by  
32 other state agencies.

33 (4) An assessment of organizational structure issues including  
34 the adequacy of the amounts and organization of current technical  
35 and legal resources.

36 (5) Recommendations for administrative and statutory measures  
37 to improve the *board's* siting and licensing process.

38 (c) The ~~commission~~ *board* may immediately implement any  
39 administrative recommendations. Regulations, as identified in  
40 paragraph (5), adopted within 180 days of the effective date of this

1 section may be adopted as emergency regulations in accordance  
2 with Chapter 3.5 (commencing with Section 11340) of the  
3 Government Code. For purposes of that chapter, including Section  
4 11349.6 of the Government Code, the adoption of the regulations  
5 shall be considered by the Office of Administrative Law to be  
6 necessary for the immediate preservation of the public peace,  
7 health, safety, and general welfare.

8 SEC. 270. Section 25601 of the Public Resources Code is  
9 amended to read:

10 25601. The ~~commission~~ *department* shall develop and  
11 coordinate a program of research and development in energy  
12 supply, consumption, and conservation and the technology of siting  
13 facilities and shall give priority to those forms of research and  
14 development ~~which~~ *that* are of particular importance to the state,  
15 including, but not limited to, all of the following:

16 (a) Methods of energy conservation specified in Chapter 5  
17 (commencing with Section 25400).

18 (b) Increased energy use efficiencies of existing thermal electric  
19 and hydroelectric powerplants and increased energy efficiencies  
20 in designs of thermal electric and hydroelectric powerplants.

21 (c) Expansion and accelerated development of alternative  
22 sources of energy, including geothermal and solar resources,  
23 including, but not limited to, participation in large-scale  
24 demonstrations of alternative energy systems sited in California  
25 in cooperation with federal agencies, regional compacts, other  
26 state governments, and other participants. For purposes of this  
27 subdivision, "participation" shall be defined as any of the  
28 following: (1) direct interest in a project, (2) research and  
29 development to ~~insure~~ *ensure* acceptable resolution of ~~environment~~  
30 *environmental* and other impacts of alternative energy systems,  
31 (3) research and development to improve siting and permitting  
32 methodology for alternative energy systems, (4) experiments  
33 utilizing the alternative energy systems, and (5) research and  
34 development of appropriate methods to ~~insure~~ *ensure* the  
35 widespread utilization of economically useful alternative energy  
36 systems. Large-scale demonstrations of alternative energy systems  
37 are exemplified by the 100KW<sub>e</sub> to 100MW<sub>e</sub> range demonstrations  
38 of solar, wind, and geothermal systems contemplated by federal  
39 agencies, regional compacts, other state governments, and other  
40 participants.

1 (d) Improved methods of construction, design, and operation  
2 of facilities to protect against seismic hazards.

3 (e) Improved methods of energy-demand forecasting.

4 (f) To accomplish the purposes of subdivision (c), an amount  
5 not more than one-half of the total state funds appropriated for the  
6 solar energy research and development program as proposed in  
7 the budget prepared pursuant to Section 25604 shall be allocated  
8 for large-scale demonstration of alternative energy systems.

9 SEC. 271. Section 25602 of the Public Resources Code is  
10 amended to read:

11 25602. The ~~commission~~ *department* shall carry out technical  
12 assessment studies on all forms of energy and energy-related  
13 problems, in order to influence federal research and development  
14 priorities and to be informed on future energy options and their  
15 impacts, including, in addition to those problems specified in  
16 Section 25601, but not limited to, the following:

17 (a) Advanced nuclear powerplant concepts, fusion, and fuel  
18 cells.

19 (b) Total energy concepts.

20 (c) New technology related to coastal and offshore siting of  
21 facilities.

22 (d) Expanded use of wastewater as cooling water and other  
23 advances in powerplant cooling.

24 (e) Improved methods of power transmission to permit interstate  
25 and interregional transfer and exchange of bulk electric power.

26 (f) Measures to reduce wasteful and inefficient uses of energy.

27 (g) Shifts in transportation modes and changes in transportation  
28 technology in relation to implications for energy consumption.

29 (h) Methods of recycling, extraction, processing, fabricating,  
30 handling, or disposing of materials, especially materials which  
31 require large commitments of energy.

32 (i) Expanded recycling of materials and its effect on energy  
33 consumption.

34 (j) Implications of government subsidies and taxation and  
35 ratesetting policies.

36 (k) Utilization of waste heat.

37 (l) Use of hydrogen as an energy form.

38 (m) Use of agricultural products, municipal wastes, and organic  
39 refuse as an energy source.

1 ~~Such~~ *These* assessments may also be conducted in order to  
2 determine which energy systems among competing technologies  
3 are most compatible with standards established pursuant to this  
4 division.

5 SEC. 272. Section 25603 of the Public Resources Code is  
6 amended to read:

7 25603. For research purposes, the ~~commission~~ *department*  
8 shall, in cooperation with other state agencies, participate in the  
9 design, construction, and operation of energy-conserving buildings  
10 using data developed pursuant to Section 25401, in order to  
11 demonstrate the economic and technical feasibility of ~~such~~ *those*  
12 designs.

13 SEC. 273. Section 25603.5 of the Public Resources Code is  
14 repealed.

15 ~~25603.5. (a) Pursuant to the duties of the commission described~~  
16 ~~in subdivision (a) of Section 25401 and Section 25603, the~~  
17 ~~commission shall conduct a statewide architectural design~~  
18 ~~competition to select outstanding designs for new single-family~~  
19 ~~and multifamily residential units which incorporate passive solar~~  
20 ~~and other energy-conserving design features.~~

21 ~~The purpose of the competition, to be known as the “State Solar~~  
22 ~~Medallion Passive Design Competition”, is to demonstrate the~~  
23 ~~technical and economic feasibility of passive solar design for~~  
24 ~~residential construction, to speed its commercialization, and to~~  
25 ~~promote its use by developers in housing for moderate-income~~  
26 ~~families in the state. The competition shall be carried out with the~~  
27 ~~assistance and cooperation of the Office of the State Architect.~~

28 ~~(b) The competition shall be conducted for each of the state’s~~  
29 ~~six regional climate zones. Each climate zone shall have the~~  
30 ~~following four categories of competition:~~

31 ~~(1) Single-family dwellings. The construction costs of these~~  
32 ~~dwellings shall not exceed thirty-five thousand dollars (\$35,000)~~  
33 ~~and the market price, inclusive of land, construction, permits, fees,~~  
34 ~~overhead and profit shall not exceed fifty-five thousand dollars~~  
35 ~~(\$55,000); provided that, if the commission determines that, as of~~  
36 ~~the date construction is completed, the cost of housing construction~~  
37 ~~in this state has increased due to economic inflation since January~~  
38 ~~1, 1979, the commission may increase these sums by the amount~~  
39 ~~of such inflation as indicated by the construction cost index.~~

1 ~~(2) Single-family dwellings. The construction costs of these~~  
2 ~~dwellings shall not exceed fifty-five thousand dollars (\$55,000)~~  
3 ~~and the market price, inclusive of land, construction, permits, fees,~~  
4 ~~overhead and profit shall not exceed eighty-five thousand dollars~~  
5 ~~(\$85,000); provided that, if the commission determines that, as of~~  
6 ~~the date construction is completed, the cost of housing construction~~  
7 ~~in this state has increased due to economic inflation since January~~  
8 ~~1, 1979, the commission may increase these sums by the amount~~  
9 ~~of such inflation as indicated by the construction cost index.~~

10 ~~(3) Multifamily housing units with a market price or rental value~~  
11 ~~comparable to paragraph (1) of this subdivision.~~

12 ~~(4) Multifamily housing units with a market price or rental value~~  
13 ~~comparable to paragraph (2) of this subdivision.~~

14 ~~(e) In order to qualify for the competition, entrants shall be a~~  
15 ~~team composed of at least one member from each of the following~~  
16 ~~categories:~~

17 ~~(1) A building designer or architect.~~

18 ~~(2) A builder, developer, or contractor.~~

19 ~~(d) With submission of designs to the competition, all entrants~~  
20 ~~shall agree to comply with the following provisions, if awarded~~  
21 ~~the Solar Medallion or the first place prize in any category:~~

22 ~~(1) To build five models of the winning design for single-family~~  
23 ~~home categories if the builder, developer, or contractor member~~  
24 ~~of the winning team constructed more than 30 single-family~~  
25 ~~detached units during the one-year period ending on the date of~~  
26 ~~the award, or~~

27 ~~(2) To build three models of the winning design for single-family~~  
28 ~~home categories if the builder, developer, or contractor member~~  
29 ~~of the winning team constructed 30 or fewer single-family detached~~  
30 ~~units during the one-year period ending on the date of the award,~~  
31 ~~or~~

32 ~~(3) To build one model of the winning design for all multifamily~~  
33 ~~categories.~~

34 ~~(4) To commence construction within 18 months of the~~  
35 ~~announcement of awards.~~

36 ~~(5) To permit the commission to install monitoring equipment~~  
37 ~~for measuring energy conservation performance of the structure~~  
38 ~~on all models constructed in compliance with paragraphs (1), (2),~~  
39 ~~and (3) of this subdivision.~~

1 ~~(6) To permit the commission to document, exhibit, and~~  
2 ~~publicize the constructed designs.~~

3 ~~All models of winning designs shall be built on the site or sites~~  
4 ~~described in the submission or on an alternate site or sites with~~  
5 ~~comparable features.~~

6 ~~Cash awards to authors of the winning designs may be made~~  
7 ~~prior to commencement of the agreed upon construction.~~

8 ~~All winning designs in the competition shall become the property~~  
9 ~~of the state and may be published and exhibited by the state after~~  
10 ~~completion of competition.~~

11 ~~(e) The judging panel for the competition shall consist of the~~  
12 ~~following five jurors:~~

13 ~~(1) One representative of the Office of the State Architect.~~

14 ~~(2) One representative of the commission.~~

15 ~~(3) One certificated architect.~~

16 ~~(4) One representative of the state's lending institutions.~~

17 ~~(5) One developer, builder, or contractor.~~

18 ~~The nonagency members shall be appointed by the State~~  
19 ~~Architect.~~

20 ~~In recognition of the wide variation in construction costs~~  
21 ~~statewide, and in order to ensure fair and equitable competition in~~  
22 ~~all areas of the state, a cost index shall be used to determine~~  
23 ~~different construction cost and market price requirements for each~~  
24 ~~category of competition in the major metropolitan areas of the~~  
25 ~~state. The construction cost and market price figures specified in~~  
26 ~~paragraphs (1) and (2) of subdivision (b) shall be used as the upper~~  
27 ~~limit values on which the index shall be based. Construction cost~~  
28 ~~and market price figures reflecting the diversity in costs in different~~  
29 ~~areas of the state shall be determined in relation to upper limit~~  
30 ~~values specified in this section.~~

31 ~~The cost index shall be prepared by the Office of the State~~  
32 ~~Architect and shall be published in the competition program.~~

33 ~~The evaluation shall take place in two stages, with an initial~~  
34 ~~technical review by the commission staff. The staff shall submit~~  
35 ~~to the judging panel a rigorous technical assessment of the~~  
36 ~~anticipated energy conservation performance of all submissions.~~  
37 ~~Final selection shall be made by the judging panel.~~

38 ~~Designs submitted to the competition shall be judged on the~~  
39 ~~extent to which they satisfy the following criteria:~~

1 ~~(1) Use of passive solar and other energy conserving design~~  
2 ~~features.~~

3 ~~(2) Amount of energy savings achieved by the design.~~

4 ~~(3) Adaptability of the design to widespread use.~~

5 ~~(f) The commission shall be responsible for developing rules~~  
6 ~~and procedures for the conduct of the competition and for the~~  
7 ~~judging, which rules shall ensure anonymity of designs submitted~~  
8 ~~prior to final awarding of prizes, shall ensure impartiality of the~~  
9 ~~judging panel, and shall ensure uniform treatment of competitors.~~

10 ~~In administering the competition, the commission shall~~  
11 ~~accomplish the following tasks:~~

12 ~~(1) Preparation of a competition program, including~~  
13 ~~climatological data for each of the six regional climate zones.~~

14 ~~(2) Distribution of competition information and ongoing~~  
15 ~~publicity.~~

16 ~~(3) Development of rules and procedures for competitors and~~  
17 ~~judges.~~

18 ~~(4) Preparation of a summary document for the competition,~~  
19 ~~including a portfolio of winning designs and followup publicity.~~

20 ~~(5) Instrumentation of winning dwellings constructed in~~  
21 ~~accordance with requirements of this section; instrumentation for~~  
22 ~~measurement of energy conservation performance of the units and~~  
23 ~~ongoing data collection shall be provided by the commission~~  
24 ~~pursuant to Section 25607.~~

25 ~~For purposes of administering the competition, the commission~~  
26 ~~shall contract with the Office of the State Architect for materials~~  
27 ~~and services that cannot be performed by its staff.~~

28 ~~(g) Cash awards to authors of the winning designs shall be made~~  
29 ~~on the following basis:~~

30 ~~Using the criteria in subdivision (c) of this section, the judging~~  
31 ~~panel shall select, as follows:~~

32 ~~(1) The most outstanding design statewide selected from among~~  
33 ~~the first place winners in either of two single-family categories in~~  
34 ~~any of the six climate zones which shall receive the State Solar~~  
35 ~~Medallion Award and five thousand dollars (\$5,000) in addition~~  
36 ~~to the cash award specified in paragraph (3) of this subdivision.~~

37 ~~(2) The most outstanding design statewide selected from among~~  
38 ~~the first place winners in either of the two multifamily categories~~  
39 ~~in any of the six climate zones which shall receive the State Solar~~

1 ~~Medallion Award and five thousand dollars (\$5,000) in addition~~  
 2 ~~to the cash award specified in paragraph (3) of this subdivision.~~

3 ~~(3) The first place designs in each of the four competition~~  
 4 ~~categories within each of the six climate zones, which shall each~~  
 5 ~~receive a cash award of five thousand dollars (\$5,000).~~

6 ~~(4) The second place designs in each of the four competition~~  
 7 ~~categories within each of the six climate zones, which shall each~~  
 8 ~~receive a cash award of two thousand dollars (\$2,000).~~

9 SEC. 274. Section 25605 of the Public Resources Code is  
 10 amended to read:

11 25605. On or before November 1, 1978, the ~~commission~~  
 12 ~~department, with the approval by the board,~~ shall develop and  
 13 adopt, in cooperation with affected industry and consumer  
 14 representatives, and after one or more public hearings, regulations  
 15 governing solar devices. The regulations shall be designed to  
 16 encourage the development and use of solar energy and to provide  
 17 maximum information to the public concerning solar devices. The  
 18 regulations may include, but need not be limited to, any or all of  
 19 the following:

20 (a) Standards for testing, inspection, certification, sizing, and  
 21 installation of solar devices.

22 (b) Provisions for the enforcement of the standards. ~~Such~~ *These*  
 23 provisions may include any or all of the following:

24 (1) Procedures for the accreditation by the ~~commission~~  
 25 ~~department~~ of laboratories to test and certify solar devices.

26 (2) Requirements for onsite inspection of solar devices,  
 27 including specifying methods for inspection, to determine  
 28 compliance or noncompliance with the standards.

29 (3) Requirements for submission to the ~~commission~~ *department*  
 30 of any data resulting from the testing and inspection of solar  
 31 devices.

32 (4) Prohibitions on the sale of solar devices ~~which~~ *that* do not  
 33 meet minimum requirements for safety and durability as established  
 34 by the ~~commission.~~ *board.*

35 (5) Dissemination of the results of the testing, inspection, and  
 36 certification program to the public.

37 (c) In adopting the regulations, the ~~commission~~ *department* shall  
 38 give due consideration to their effect on the cost of purchasing,  
 39 installing, operating, and maintaining solar devices. The  
 40 ~~commission~~ *department, with the approval of the board,* shall

1 reassess the regulations as often as it deems necessary, based upon  
2 the value of the regulations in terms of benefits and disadvantages  
3 to the widespread adoption of solar energy systems and the need  
4 to encourage creativity and innovative adaptations of solar energy.  
5 The ~~commission~~ *department* may amend or repeal these regulations  
6 based on such reassessment.

7 (d) Under no circumstances may the ~~commission~~ *department*  
8 *or the board* preclude any person from developing, installing, or  
9 operating a solar device on his or her own property.

10 (e) Any violation of any regulation adopted by the ~~commission~~  
11 *board* pursuant to this section may be enjoined in the same manner  
12 as is prescribed in Chapter 10 (commencing with Section 25900)  
13 of this division for enjoining a violation of this division.

14 SEC. 275. Section 25605.5 of the Public Resources Code is  
15 amended to read:

16 25605.5. Standards adopted by the ~~commission~~ *board* pursuant  
17 to Section 25605, which are building standards as defined in  
18 Section 25488.5, shall be submitted to the State Building Standards  
19 Commission for approval pursuant to, and are governed by, the  
20 State Building Standards Law (Part 2.5 (commencing with Section  
21 18901) of Division 13 of the Health and Safety Code). Building  
22 standards adopted by the ~~commission~~ *board* and published in the  
23 State Building Standards Code shall comply with, and be enforced  
24 as provided in, Section 25605.

25 SEC. 276. Section 25608 of the Public Resources Code is  
26 amended to read:

27 25608. The ~~commission~~ *department* shall confer with officials  
28 of federal agencies, including the National Aeronautics and Space  
29 Administration, the National Institute of Standards and Technology,  
30 the Department of Energy, and the Department of Housing and  
31 Urban Development, to coordinate the adoption of regulations  
32 pursuant to Sections 25603 and 25605.

33 SEC. 277. Section 25609 of the Public Resources Code is  
34 amended to read:

35 25609. The ~~commission~~ *board* may, in adopting regulations  
36 pursuant to this chapter, specify the date when the regulations shall  
37 take effect. The ~~commission~~ *board* may specify different dates for  
38 different regulations.

39 SEC. 278. Section 25609.5 of the Public Resources Code is  
40 amended to read:

1 25609.5. The effective dates of building standards adopted by  
2 ~~the commission~~ *board* pursuant to Section 25609 are subject to  
3 approval pursuant to the provisions of the State Building Standards  
4 Law, Part 2.5 (commencing with Section 18901) of Part 13 of the  
5 Health and Safety Code.

6 SEC. 279. Section 25610 of the Public Resources Code is  
7 amended to read:

8 25610. For purposes of carrying out the provisions of this  
9 chapter, ~~the commission~~ *department* may contract with any person  
10 for materials and services that cannot be performed by its staff or  
11 other state agencies, and may apply for federal grants or any other  
12 funding.

13 SEC. 280. Section 25616 of the Public Resources Code is  
14 amended to read:

15 25616. (a) It is the intent of the Legislature to encourage local  
16 agencies to expeditiously review permit applications to site energy  
17 projects, and to encourage energy project developers to consider  
18 all cost-effective and environmentally superior alternatives that  
19 achieve their project objectives.

20 (b) Subject to the availability of funds appropriated therefor,  
21 ~~the commission~~ *department* shall provide technical assistance and  
22 grants-in-aid to assist local agencies to do either or both of the  
23 following:

24 (1) Site energy production or transmission projects ~~which that~~  
25 are not otherwise subject to ~~the provisions of~~ Chapter 6  
26 (commencing with Section 25500).

27 (2) Integrate into their planning processes, and incorporate into  
28 their general plans, methods to achieve cost-effective energy  
29 efficiency.

30 (c) ~~The commission~~ *department* shall provide assistance at the  
31 request of local agencies and shall coordinate that assistance with  
32 ~~the assistance provided by the Department of Permit Assistance,~~  
33 ~~created pursuant to Section 15399.50 of the Government Code.~~  
34 *agencies.*

35 (d) As used in this section, an energy project is any project  
36 designed to produce, convert, or transmit energy as one of its  
37 primary functions.

38 SEC. 281. Section 25617 of the Public Resources Code is  
39 amended to read:

1 25617. (a) It is the intent of the Legislature to preserve  
2 diversity of energy resources, including diversity of resources used  
3 in electric generation facilities, industrial and commercial  
4 applications, and transportation.

5 (b) The ~~commission~~ *department* shall, within the limits of  
6 available funds, provide technical assistance and support for the  
7 development of petroleum diesel fuels ~~which~~ *that* are as clean or  
8 cleaner than alternative clean fuels and clean diesel engines. That  
9 technical assistance and support may include the creation of  
10 research, development, and demonstration programs.

11 SEC. 282. Section 25618 of the Public Resources Code is  
12 amended to read:

13 25618. (a) The ~~commission~~ *department* shall facilitate  
14 development and commercialization of ultra low- and  
15 zero-emission electric vehicles and advanced battery technologies,  
16 as well as development of an infrastructure to support maintenance  
17 and fueling of those vehicles in California. Facilitating  
18 commercialization of ultra low- and zero-emission electric vehicles  
19 in California shall include, but not be limited to, the following:

20 (1) The ~~commission~~ *department* may, in cooperation with  
21 county, regional, and city governments, the state's public and  
22 private utilities, and the private business sector, develop plans for  
23 accelerating the introduction and use of ultra low- and  
24 zero-emission electric vehicles throughout California's air quality  
25 nonattainment areas, and for accelerating the development and  
26 implementation of the necessary infrastructure to support the  
27 planned use of those vehicles in California. These plans shall be  
28 consistent with, but not limited to, the criteria for similar efforts  
29 contained in federal loan, grant, or matching fund projects.

30 (2) In coordination with other state agencies, the ~~commission~~  
31 *department* shall seek to maximize the state's use of federal  
32 programs, loans, and matching funds available to states for ultra  
33 low- and zero-emission electric vehicle development and  
34 demonstration programs, and infrastructure development projects.

35 (b) Priority for implementing demonstration projects under this  
36 section shall be directed toward those areas of the state currently  
37 in a nonattainment status with federal and state air quality  
38 regulations.

39 SEC. 283. Section 25620 of the Public Resources Code is  
40 amended to read:

1 25620. The Legislature hereby finds and declares all of the  
 2 following:

3 (a) It is in the best interests of the people of this state that the  
 4 quality of life of its citizens be improved by providing  
 5 environmentally sound, safe, reliable, and affordable energy  
 6 services and products.

7 (b) To improve the quality of life of this state’s citizens, it is  
 8 proper and appropriate for the state to undertake public interest  
 9 energy research, development, and demonstration projects that are  
 10 not adequately provided for by competitive and regulated energy  
 11 markets.

12 (c) Public interest energy research, demonstration, and  
 13 development projects should advance energy science or  
 14 technologies of value to California citizens and should be consistent  
 15 with the policies of this chapter.

16 (d) It is in the best interest of the people of California for the  
 17 ~~commission board and the department~~ to positively contribute to  
 18 the overall economic climate of the state within the roles and  
 19 responsibilities of the ~~commission board and the department~~ as  
 20 defined by statute, regulation, and other official government  
 21 authority, including, but not limited to, providing economic benefits  
 22 to California-based entities.

23 SEC. 284. Section 25620.1 of the Public Resources Code is  
 24 amended to read:

25 25620.1. (a) The ~~commission~~ *department* shall develop,  
 26 implement, and administer the Public Interest Research,  
 27 Development, and Demonstration Program that is hereby created.  
 28 The program shall include a full range of research, development,  
 29 and demonstration activities that, as determined by the ~~commission~~  
 30 *board*, are not adequately provided for by competitive and  
 31 regulated markets. The ~~commission~~ *department* shall administer  
 32 the program consistent with the policies of this chapter.

33 (b) The general goal of the program is to develop, and help bring  
 34 to market, energy technologies that provide increased  
 35 environmental benefits, greater system reliability, and lower system  
 36 costs, and that provide tangible benefits to electric utility customers  
 37 through the following investments:

38 (1) Advanced transportation technologies that reduce air  
 39 pollution and greenhouse gas emissions beyond applicable  
 40 standards, and that benefit electricity and natural gas ratepayers.

1 (2) Increased energy efficiency in buildings, appliances, lighting,  
2 and other applications beyond applicable standards, and that benefit  
3 electric utility customers.

4 (3) Advanced electricity generation technologies that exceed  
5 applicable standards to increase reductions in greenhouse gas  
6 emissions from electricity generation, and that benefit electric  
7 utility customers.

8 (4) Advanced electricity technologies that reduce or eliminate  
9 consumption of water or other finite resources, increase use of  
10 renewable energy resources, or improve transmission or distribution  
11 of electricity generated from renewable energy resources.

12 (c) To achieve the goals established in subdivision (b), the  
13 ~~commission~~ *department* shall adopt a portfolio approach for the  
14 program that does all of the following:

15 (1) Effectively balances the risks, benefits, and time horizons  
16 for various activities and investments that will provide tangible  
17 energy or environmental benefits for California electricity  
18 customers.

19 (2) Emphasizes innovative energy supply and end use  
20 technologies, focusing on their reliability, affordability, and  
21 environmental attributes.

22 (3) Includes projects that have the potential to enhance  
23 transmission and distribution capabilities.

24 (4) Includes projects that have the potential to enhance the  
25 reliability, peaking power, and storage capabilities of renewable  
26 energy.

27 (5) Demonstrates a balance of benefits to all sectors that  
28 contribute to the funding under Section 399.8 of the Public Utilities  
29 Code.

30 (6) Addresses key technical and scientific barriers.

31 (7) Demonstrates a balance between short-term, mid-term, and  
32 long-term potential.

33 (8) Ensures that prior, current, and future research not be  
34 unnecessarily duplicated.

35 (9) Provides for the future market utilization of projects funded  
36 through the program.

37 (10) Ensures an open project selection process and encourages  
38 the awarding of research funding for a diverse type of research as  
39 well as a diverse award recipient base and equally considers  
40 research proposals from the public and private sectors.

1 (11) Coordinates with other related research programs.

2 (d) The term “award,” as used in this chapter, may include, but  
3 is not limited to, contracts, grants, interagency agreements, loans,  
4 and other financial agreements designed to fund public interest  
5 research, demonstration, and development projects or programs.

6 SEC. 285. Section 25620.2 of the Public Resources Code is  
7 amended to read:

8 25620.2. (a) To ensure the efficient implementation and  
9 administration of the Public Interest Research, Development, and  
10 Demonstration Program, the ~~commission~~ *department* shall do both  
11 of the following:

12 (1) Develop procedures for the solicitation of award applications  
13 for project or program funding, and to ensure efficient program  
14 management.

15 (2) Evaluate and select programs and projects, based on merit,  
16 that will be funded under the program.

17 (b) The ~~commission~~ *department* shall *recommend and the board*  
18 *shall* adopt regulations to implement the program, in accordance  
19 with the following procedures:

20 (1) Prepare a preliminary text of the proposed regulation and  
21 provide a copy of the preliminary text to any person requesting a  
22 copy.

23 (2) Provide public notice of the proposed regulation to any  
24 person who has requested notice of the regulations prepared by  
25 the ~~commission~~ *department*. The notice shall contain all of the  
26 following:

27 (A) A clear overview explaining the proposed regulation.

28 (B) Instructions on how to obtain a copy of the proposed  
29 regulations.

30 (C) A statement that if a public hearing is not scheduled for the  
31 purpose of reviewing a proposed regulation, any person may  
32 request, not later than 15 days prior to the close of the written  
33 comment period, a public hearing conducted in accordance with  
34 ~~commission~~ *board* procedures.

35 (3) Accept written public comments for 30 calendar days after  
36 providing the notice required in paragraph (2).

37 (4) Certify that all written comments were read and considered  
38 by the ~~commission~~ *board*.

39 (5) Place all written comments in a record that includes copies  
40 of any written factual support used in developing the proposed

1 regulation, including written reports and copies of any transcripts  
2 or minutes in connection with any public hearings on the adoption  
3 of the regulation. The record shall be open to public inspection  
4 and available to the courts.

5 (6) Provide public notice of any substantial revision of the  
6 proposed regulation at least 15 days prior to the expiration of the  
7 deadline for public comments and comment period using the  
8 procedures provided in paragraph (2).

9 (7) Conduct public hearings *before the board*, if a hearing is  
10 requested by an interested party, that shall be conducted in  
11 accordance with ~~commission~~ *board* procedures.

12 (8) Adopt any proposed regulation at a regularly scheduled and  
13 noticed meeting of the ~~commission~~ *board*. The regulation shall  
14 become effective immediately unless otherwise provided by the  
15 ~~commission~~ *board*.

16 (9) Publish any adopted regulation in a manner that makes copies  
17 of the regulation easily available to the public. Any adopted  
18 regulation shall also be made available on the Internet. The  
19 ~~commission~~ *department* shall transmit a copy of an adopted  
20 regulation to the Office of Administrative Law for publication, or,  
21 if the ~~commission~~ *board* determines that printing the regulation is  
22 impractical, an appropriate reference as to where a copy of the  
23 regulation may be obtained.

24 (10) Notwithstanding any other provision of law, this  
25 subdivision provides an interim exception from the requirements  
26 of Chapter 3.5 (commencing with Section 11340) of Part 1 of  
27 Division 3 of Title 2 of the Government Code for regulations  
28 required to implement Sections 25620.1 and 25620.2 that are  
29 adopted under the procedures specified in this subdivision.

30 (11) This subdivision shall become inoperative on January 1,  
31 2012, unless a later enacted statute deletes or extends that date.  
32 However, after January 1, 2012, the ~~commission~~ *board* is not  
33 required to repeat any procedural step in adopting a regulation that  
34 has been completed before January 1, 2012, using the procedures  
35 specified in this subdivision.

36 SEC. 286. Section 25620.3 of the Public Resources Code is  
37 amended to read:

38 25620.3. (a) The ~~commission~~ *department*, by action of the  
39 *board*, may, consistent with the requirements of this chapter,  
40 provide awards to any individual or entity for planning,

1 implementation, and administration of projects or programs  
2 selected pursuant to Section 25620.5.

3 (b) ~~The commission~~ *department, by action of the board*, may  
4 provide an award to a project or program that includes a group of  
5 related projects, or to a party who aggregates projects that directly  
6 benefit from the award.

7 (c) ~~The commission~~ *department, by action of the board*, may  
8 establish multiparty agreements. In a multiparty agreement, the  
9 ~~commission~~ *department, by action of the board*, may be a signatory  
10 to a common agreement among two or more parties. These  
11 agreements include, but are not limited to, cofunding, leveraged  
12 research, collaborations, and membership arrangements. If the  
13 ~~commission~~ *department, by action of the board*, enters into these  
14 agreements, it shall be a party to these agreements and may share  
15 in the roles, responsibilities, risks, investments, and results.

16 (d) ~~The commission~~ *department, by action of the board*, may  
17 issue awards that include the ability to make advance payments to  
18 prime contractors, to enable them to make advance payments to a  
19 subcontractor that is a federal agency, national laboratory, or state  
20 entity, on the condition that the subcontract is binding and  
21 enforceable and includes specific performance milestones.

22 (e) ~~The commission~~ *department, by action of the board*, may  
23 issue awards that include the ability to assign tasks on a work  
24 authorization basis.

25 (f) Prior to making any award pursuant to this chapter for a  
26 research, development, or demonstration program or project, the  
27 ~~commission~~ *department* shall identify the expected costs and any  
28 qualitative or quantitative benefits of the proposed program or  
29 project.

30 SEC. 287. Section 25620.4 of the Public Resources Code is  
31 amended to read:

32 25620.4. (a) To the extent that intellectual property is  
33 developed under this chapter, an equitable share of rights in the  
34 intellectual property or in the benefits derived therefrom shall  
35 accrue to the State of California.

36 (b) ~~The commission~~ *department, by action of the board*, may  
37 determine what share, if any, of the intellectual property, or the  
38 benefits derived therefrom, shall accrue to the state. The  
39 ~~commission~~ *department* may negotiate sharing mechanisms for  
40 intellectual property or benefits with award recipients.

1 SEC. 288. Section 25620.5 of the Public Resources Code is  
2 amended to read:

3 25620.5. (a) The ~~commission~~ *department* may solicit  
4 applications for awards, using a sealed competitive bid, competitive  
5 negotiation process, ~~commission-issued~~ *department-issued*  
6 intradepartmental master agreement, the methods for selection of  
7 professional services firms set forth in Chapter 10 (commencing  
8 with Section 4525) of Division 5 of Title 1 of the Government  
9 Code, interagency agreement, single source, or sole source method.  
10 When scoring teams are convened to review and score proposals,  
11 the scoring teams may include persons not employed by the  
12 ~~commission~~ *department*, as long as employees of the state  
13 constitute no less than 50 percent of the membership of the scoring  
14 team. A person participating on a scoring team may not have any  
15 conflict of interest with respect to the proposal before the scoring  
16 team.

17 (b) A sealed bid method may be used when goods and services  
18 to be acquired can be described with sufficient specificity so that  
19 bids can be evaluated against specifications and criteria set forth  
20 in the solicitation for bids.

21 (c) The ~~commission~~ *department* may use a competitive  
22 negotiation process in any of the following circumstances:

- 23 (1) Whenever the desired award is not for a fixed price.
- 24 (2) Whenever project specifications cannot be drafted in  
25 sufficient detail so as to be applicable to a sealed competitive bid.
- 26 (3) Whenever there is a need to compare the different price,  
27 quality, and structural factors of the bids submitted.
- 28 (4) Whenever there is a need to afford bidders an opportunity  
29 to revise their proposals.

30 (5) Whenever oral or written discussions with bidders  
31 concerning the technical and price aspects of their proposals will  
32 provide better results to the state.

33 (6) Whenever the price of the award is not the determining  
34 factor.

35 (d) The ~~commission~~ *department*, *by action of the board*, may  
36 establish interagency agreements.

37 (e) The ~~commission~~ *department*, *by action of the board*, may  
38 provide awards on a single source basis by choosing from among  
39 two or more parties or by soliciting multiple applications from  
40 parties capable of supplying or providing similar goods or services.

1 The cost to the state shall be reasonable and the ~~commission~~  
2 *department* may only enter into a single source agreement with a  
3 particular party if the ~~commission~~ *department, by action of the*  
4 *board*, determines that it is in the state's best interests.

5 (f) The ~~commission~~ *department, by action of the board*, in  
6 accordance with subdivision (g) and in consultation with the  
7 Department of General Services, may provide awards on a sole  
8 source basis when the cost to the state is reasonable and the  
9 ~~commission~~ *department, by action of the board*, makes any of the  
10 following determinations:

11 (1) The proposal was unsolicited and meets the evaluation  
12 criteria of this chapter.

13 (2) The expertise, service, or product is unique.

14 (3) A competitive solicitation would frustrate obtaining  
15 necessary information, goods, or services in a timely manner.

16 (4) The award funds the next phase of a multiphased proposal  
17 and the existing agreement is being satisfactorily performed.

18 (5) When it is determined by the ~~commission~~ *department* to be  
19 in the best interests of the state.

20 (g) The ~~commission~~ *department* may not use a sole source basis  
21 for an award pursuant to subdivision (f), unless both of the  
22 following conditions are met:

23 (1) The ~~commission~~ *board*, at least 60 days prior to taking an  
24 action pursuant to subdivision (f), notifies the Joint Legislative  
25 Budget Committee and the relevant policy committees in both  
26 houses of the Legislature, in writing, of its intent to take the  
27 proposed action.

28 (2) The Joint Legislative Budget Committee either approves or  
29 does not disapprove the proposed action within 60 days from the  
30 date of notification required by paragraph (1).

31 (h) The ~~commission~~ *department* shall give priority to  
32 California-based entities in making awards pursuant to this chapter.

33 (i) The provisions of this section are severable. If any provision  
34 of this section or its application is held to be invalid, that invalidity  
35 does not affect other provisions or applications that can be given  
36 effect without the invalid provision or application.

37 For purposes of this Section and Section 25620,  
38 "California-based entity" means either of the following:

39 A corporation or other business form organized for the  
40 transaction of business that has its headquarters in California and

1 manufactures in California the product that qualifies for the  
2 incentive or award, or a corporation or other business form  
3 organized for the transaction of business that has an office for the  
4 transaction of business in California and substantially manufactures  
5 in California the product that qualifies for the incentive or award,  
6 or substantially develops within California the research that  
7 qualifies for the incentive or award, as determined by the agency  
8 issuing the incentive or award.

9 SEC. 289. Section 25620.6 of the Public Resources Code is  
10 amended to read:

11 25620.6. ~~The commission,~~ *department, by action of the board*  
12 *and* in consultation with the Department of General Services, may  
13 purchase insurance coverage necessary to implement an award.  
14 Funding for the purchase of insurance may be made from money  
15 in the Public Interest Research, Development, and Demonstration  
16 Fund created pursuant to Section 384 of the Public Utilities Code.

17 SEC. 290. Section 25620.7 of the Public Resources Code is  
18 amended to read:

19 25620.7. (a) ~~The commission~~ *department, by action of the*  
20 *board,* may contract for, or through interagency agreement obtain,  
21 technical, scientific, or administrative services or expertise from  
22 one or more entities, to support the program. Funding for this  
23 purpose shall be made from money in the Public Interest Research,  
24 Development, and Demonstration Fund.

25 (b) ~~The commission~~ *department, by action of the board,* may  
26 select the services or expertise described in subdivision (a),  
27 pursuant to Section 25620.5. In the event that contracts or  
28 interagency agreements have been made to multiple entities and  
29 their subcontractors for similar purposes, the commission may  
30 select from among those entities the particular expertise needed  
31 for a specified type of work. Selection of the particular expertise  
32 may be based solely on a review of qualifications, including the  
33 specific expertise required, availability of the expertise, or access  
34 to a resource of special relevance to the work, including, but not  
35 limited to, a database, model, technical facility, or a collaborative  
36 or institutional affiliation that will expedite the quality and  
37 performance of the work.

38 SEC. 291. Section 25620.8 of the Public Resources Code is  
39 amended to read:

1 25620.8. The ~~commission~~ *department* shall prepare and submit  
2 to the Legislature an annual report *that is approved by the board*,  
3 not later than March 31 of each year, on awards made pursuant to  
4 this chapter and progress toward achieving the goals set forth in  
5 Section 25620.1. The report shall include information on the names  
6 of award recipients, the amount of awards, and the types of projects  
7 funded, an evaluation of the success of funded projects, and  
8 recommendations for improvements in the program. The report  
9 shall set forth the actual costs of programs or projects funded by  
10 the ~~commission~~ *department*, the results achieved, and how the  
11 actual costs and results compare to the expected costs and benefits.  
12 The ~~commission~~ *department* shall establish procedures for  
13 protecting confidential or proprietary information and shall consult  
14 with all interested parties in the preparation of the annual report.

15 SEC. 292. Section 25620.11 of the Public Resources Code is  
16 amended to read:

17 25620.11. (a) The ~~commission~~ *department* shall regularly  
18 convene an advisory ~~board~~ *committee* that shall make  
19 recommendations to guide the ~~commission's~~ *department's* selection  
20 of programs and projects to be funded under this chapter. The  
21 advisory ~~board~~ *committee* shall include as appropriate, but not be  
22 limited to, representatives from the Public Utilities Commission,  
23 consumer organizations, environmental organizations, and  
24 electrical corporations subject to the funding requirements of  
25 Section 381 of the Public Utilities Code.

26 (b) Three members of the Senate, appointed by the Senate  
27 President Pro Tempore, and three members of the Assembly,  
28 appointed by the Speaker of the Assembly, may meet with the  
29 advisory ~~board~~ *committee* and participate in its activities to the  
30 extent that such participation is not incompatible with their  
31 respective positions as Members of the Legislature.

32 SEC. 293. Section 25630 of the Public Resources Code is  
33 amended to read:

34 25630. (a) The ~~commission~~ *department* shall establish a small  
35 business energy assistance low-interest revolving loan program to  
36 fund the purchase of equipment for alternative technology energy  
37 projects for California's small businesses.

38 (b) Loan repayments, interest, and royalties shall be deposited  
39 in the Energy Technologies Research, Development, and  
40 Demonstration Account. The interest rate shall be based on surveys

1 of existing financial markets and at rates not lower than the Pooled  
2 Money Investment Account.

3 SEC. 294. Section 25650 of the Public Resources Code is  
4 amended to read:

5 25650. (a) All funds from loan repayments and interest that  
6 become due and payable for loans made by the ~~commission~~  
7 *department* pursuant to an agriculture energy assistance program  
8 shall be deposited in the Energy Technologies Research,  
9 Development, and Demonstration Account, and shall be available  
10 for loans and technical assistance pursuant to this section, upon  
11 appropriation in the Budget Act. Up to 20 percent of the annual  
12 appropriation may be available for technical assistance.

13 (b) Loans made pursuant to this section shall be for the purchase  
14 of equipment and services for agriculture energy efficiency and  
15 development demonstration projects, including, but not limited to,  
16 production of methane or ethanol, use of wind, photovoltaics, and  
17 other sources of energy for irrigation pumping, application of load  
18 management conservation techniques, improvements in water  
19 pumping and pressurization techniques, and conservation tillage  
20 techniques.

21 (c) The loans shall contain terms that provide for a repayment  
22 period of not more than seven years and for interest at a rate that  
23 is not less than 2 percent below the rate earned by moneys in the  
24 Pooled Money Investment Account.

25 SEC. 295. Section 25678 of the Public Resources Code is  
26 amended to read:

27 25678. The ~~commission~~ *department, by action of the board,*  
28 shall establish a grant program which provides a forty cent (\$0.40)  
29 per gallon production incentive for liquid fuels fermented in this  
30 state from biomass and biomass-derived resources produced in  
31 this state. Eligible liquid fuels include, but are not limited to,  
32 ethanol, methanol, and vegetable oils. Eligible biomass resources  
33 include, but are not limited to, agricultural products and byproducts,  
34 forestry products and byproducts, and industrial wastes. The  
35 ~~commission board~~ shall adopt rules and regulations necessary to  
36 implement the program. Prior to determining an applicant eligible  
37 for participation in the production incentive program, the  
38 ~~commission board~~ shall find, among other things, that the  
39 production techniques employed will lead to a net increase in the  
40 amount of energy available for consumption.

1 SEC. 296. Section 25679 of the Public Resources Code is  
2 amended to read:

3 25679. Applicants for a grant under this chapter shall submit  
4 an application on a form prescribed by the ~~commission~~ which  
5 *department* that is responsible for administration of the program.

6 SEC. 297. Section 25696 of the Public Resources Code is  
7 amended to read:

8 25696. The ~~commission~~ *department* may assist California-based  
9 energy technology and energy conservation firms to export their  
10 technologies, products, and services to international markets.

11 The ~~commission~~ *department* may do all of the following:

12 (a) Conduct a technical assistance program to help California  
13 energy companies improve export opportunities and enhance  
14 foreign buyers' awareness of and access to energy technologies  
15 and services offered by California-based companies. Technical  
16 assistance activities may include, but are not limited to, an energy  
17 technology export information clearinghouse, a referral service, a  
18 trade lead service consulting services for financing, market  
19 evaluation, and legal counseling, and information seminars.

20 (b) Perform research studies and solicit technical advice to  
21 identify international market opportunities.

22 (c) Assist California energy companies to evaluate project or  
23 site-specific energy needs of international markets.

24 (d) Assist California energy companies to identify and address  
25 international trade barriers restricting energy technology exports,  
26 including unfair trade practices and discriminatory trade laws.

27 (e) Develop promotional materials in conjunction with California  
28 energy companies to expand energy technology exports.

29 (f) Establish technical exchange programs to increase foreign  
30 buyers' awareness of suitable energy technology uses.

31 (g) Prepare equipment performance information to enhance  
32 potential export opportunities.

33 (h) Coordinate activities with state, federal, and international  
34 donor agencies to take advantage of trade promotion and financial  
35 assistance efforts offered.

36 SEC. 298. Section 25696.5 of the Public Resources Code is  
37 amended to read:

38 25696.5. (a) Every California-based energy technology and  
39 energy conservation firm awarded direct financial assistance  
40 pursuant to Section 25696 shall reimburse the ~~commission~~

1 *department* for that assistance, when both of the following  
2 conditions have been met:

3 (1) The assistance was substantial and essential for the  
4 completion of a specific identifiable project.

5 (2) The resulting project is producing revenues.

6 (b) All moneys appropriated for purposes of this chapter and  
7 all moneys received by the ~~commission~~ *department* as  
8 reimbursement under this section shall be deposited in the Energy  
9 Resources Programs Account and shall be available, when  
10 appropriated by the Legislature, for the purposes of this chapter.

11 SEC. 299. Section 25697 of the Public Resources Code is  
12 amended to read:

13 25697. The ~~commission~~ *department* shall consult with the  
14 California State World Trade Commission with respect to  
15 conducting overseas trade missions, trade shows, and trade exhibits.  
16 Consultation may include interagency agreements, cosponsorship,  
17 and memoranda of understanding for joint overseas trade activities.

18 SEC. 300. Section 25700 of the Public Resources Code is  
19 amended to read:

20 25700. The ~~commission~~ *department* shall, in accordance with  
21 the provisions of this chapter, develop contingency plans to deal  
22 with possible shortages of electrical energy or fuel supplies to  
23 protect public health, safety, and welfare.

24 SEC. 301. Section 25701 of the Public Resources Code is  
25 amended to read:

26 25701. (a) Within six months after the effective date of this  
27 division, each electric utility, gas utility, and fuel wholesaler or  
28 manufacturer in the state shall prepare and submit to the  
29 ~~commission~~ *department* a proposed emergency load curtailment  
30 plan or emergency energy supply distribution plan setting forth  
31 proposals for identifying priority loads or users in the event of a  
32 sudden and serious shortage of fuels or interruption in the  
33 generation of electricity.

34 (b) The ~~commission~~ *department* shall encourage electric utilities  
35 to cooperate in joint preparation of an emergency load curtailment  
36 plan or emergency energy *supply* distribution plan. If ~~such a~~ *this*  
37 cooperative plan is developed between two or more electric  
38 utilities, ~~such the~~ utilities may submit ~~such the~~ joint plans to the  
39 ~~commission~~ *department* in place of individual plans required by  
40 subdivision (a) of this section.

1 (c) The ~~commission~~ *department* shall collect from all relevant  
 2 governmental agencies, including, but not limited to, the Public  
 3 Utilities Commission and the Office of Emergency Services, any  
 4 existing contingency plans for dealing with sudden energy  
 5 shortages or information related thereto.

6 SEC. 302. Section 25702 of the Public Resources Code is  
 7 amended to read:

8 25702. The ~~commission~~ *department* shall, after one or more  
 9 public hearings, review the emergency load curtailment program  
 10 plans or emergency energy supply distribution plans submitted  
 11 pursuant to Section 25701, and, ~~within one year after~~ *on or before*  
 12 *January 6, 1975, the effective date of this division, the commission*  
 13 *department* shall approve and recommend to the Governor and the  
 14 Legislature plans for emergency load curtailment and energy supply  
 15 distribution in the event of a sudden energy shortage. ~~Such Those~~  
 16 plans shall be based upon the plans presented by the electric  
 17 utilities, gas utilities, and fuel wholesalers or manufacturers,  
 18 information provided by other governmental agencies, independent  
 19 analysis and study by the ~~commission~~ *department* and information  
 20 provided at the hearing or hearings. ~~Such Those~~ plans shall provide  
 21 for the provision of essential services, the protection of public  
 22 health, safety, and welfare, and the maintenance of a sound basic  
 23 state economy. Provision shall be made in such plans to eliminate  
 24 wasteful, uneconomic, and unnecessary uses of energy in times of  
 25 shortages and to differentiate curtailment of energy consumption  
 26 by users on the basis of ability to accommodate such curtailments.  
 27 ~~Such Those~~ plans shall also specify the authority of and recommend  
 28 the appropriate actions of state and local governmental agencies  
 29 in dealing with energy shortages.

30 SEC. 303. Section 25703 of the Public Resources Code is  
 31 amended to read:

32 25703. Within four months after the date of certification of  
 33 any new facility, the ~~commission~~ *department* shall review and  
 34 revise the recommended plans based on additional new capacity  
 35 attributed to ~~any such~~ *that* facility. The ~~commission~~ *department*  
 36 shall, after one or more public hearings, review the plans at least  
 37 every five years from the approval of the initial plan as specified  
 38 in Section 25702.

39 SEC. 304. Section 25704 of the Public Resources Code is  
 40 amended to read:

1 25704. The ~~commission~~ *department* shall carry out studies to  
2 determine if potential serious shortages of electrical, natural gas,  
3 or other sources of energy are likely to occur and shall make  
4 recommendations to the Governor and the Legislature concerning  
5 administrative and legislative actions required to avert possible  
6 energy supply emergencies or serious fuel shortages, including,  
7 but not limited to, energy conservation and energy development  
8 measures, to grant authority to specific governmental agencies or  
9 officers to take actions in the event of a sudden energy shortage,  
10 and to clarify and coordinate existing responsibilities for energy  
11 emergency actions.

12 SEC. 305. Section 25705 of the Public Resources Code is  
13 amended to read:

14 25705. (a) If the ~~commission~~ *department* determines that all  
15 reasonable conservation, allocation, and service restriction  
16 measures may not alleviate an energy supply emergency, and upon  
17 a declaration by the Governor or by an act of the Legislature that  
18 a threat to public health, safety, and welfare exists and requires  
19 immediate action, the ~~commission~~ *department* shall authorize the  
20 construction and use of generating facilities under ~~such~~ terms and  
21 conditions as specified by the ~~commission~~ *department* to protect  
22 the public interest.

23 (b) Within 60 days after the authorization of construction and  
24 use of ~~such~~ *the* generating facilities, the ~~commission~~ *department*  
25 shall issue a report detailing the full nature, extent, and estimated  
26 duration of the emergency situation and making recommendations  
27 to the Governor and the Legislature for further energy conservation  
28 and energy supply measures to alleviate the emergency situation  
29 as alternatives to use of ~~such~~ *the* generating facilities.

30 SEC. 306. Section 25720 of the Public Resources Code is  
31 amended to read:

32 25720. (a) By January 31, 2002, the ~~commission~~ *department*  
33 shall examine the feasibility, including possible costs and benefits  
34 to consumers and impacts on fuel prices for the general public, of  
35 operating a strategic fuel reserve to insulate California consumers  
36 and businesses from substantial short-term price increases arising  
37 from refinery outages and other similar supply interruptions. In  
38 evaluating the potential operation of a strategic fuel reserve, the  
39 ~~commission~~ *department* shall consult with other state agencies,  
40 including, but not limited to, the State Air Resources Board.

1 (b) The ~~commission~~ *department* shall examine and recommend  
2 an appropriate level of reserves of fuel, but in no event may the  
3 reserve be less than the amount of refined fuel that the ~~commission~~  
4 *department* estimates could be produced by the largest California  
5 refiner over a two week period. In making this examination and  
6 recommendation, the ~~commission~~ *department* shall take into  
7 account all of the following:

8 (1) Inventories of California-quality fuels or fuel components  
9 reasonably available to the California market.

10 (2) Current and historic levels of inventory of fuels.

11 (3) The availability and cost of storage of fuels.

12 (4) The potential for future supply interruptions, price spikes,  
13 and the costs thereof to California consumers and businesses.

14 (c) The ~~commission~~ *department* shall evaluate a mechanism to  
15 release fuel from the reserve that permits any customer to contract  
16 at any time for the delivery of fuel from the reserve in exchange  
17 for an equal amount of fuel that meets California specifications  
18 and is produced from a source outside of California that the  
19 customer agrees to deliver back to the reserve within a time period  
20 to be established by the ~~commission~~, *department*, but not longer  
21 than six weeks.

22 (d) The ~~commission~~ *department* shall evaluate reserve storage  
23 space from existing facilities.

24 (e) The ~~commission~~ *department* shall evaluate a reserve operated  
25 by an independent operator that specializes in purchasing and  
26 storing fuel, and is selected through competitive bidding.

27 (f) (1) Not later than January 31, 2002, the ~~commission~~  
28 *department* and the State Air Resources Board, in consultation  
29 with the other state and local agencies the ~~commission~~ *department*  
30 deems necessary, shall develop and adopt recommendations for  
31 the Governor and *the* Legislature on a California Strategy to  
32 Reduce Petroleum Dependence.

33 (2) The strategy shall include a base case forecast by the  
34 ~~commission~~ *department* of gasoline, diesel, and petroleum  
35 consumption in years 2010 and 2020 based on current best  
36 estimates of economic and population growth, petroleum base fuel  
37 supply and availability, vehicle efficiency, and utilization of  
38 alternative fuels and advanced transportation technologies.

39 (3) The strategy shall include recommended statewide goals for  
40 reductions in the rate of growth of gasoline and diesel fuel

1 consumption and increased transportation energy efficiency and  
2 utilization of nonpetroleum based fuels and advanced transportation  
3 technologies, including alternative fueled vehicles, hybrid vehicles,  
4 and high fuel efficiency vehicles.

5 (g) The studies required by this section shall be conducted in  
6 conjunction with any other studies required by acts enacted during  
7 the 2000 portion of the 1999–2000 Regular Session dealing with  
8 gasoline prices.

9 SEC. 307. Section 25721 of the Public Resources Code is  
10 amended to read:

11 25721. The ~~commission~~ *department* shall report its findings  
12 and recommendations *for the purposes of Section 25720* to the  
13 Governor, the Legislature, and the Attorney General by January  
14 31, 2002. If the ~~commission~~ *department* finds that it would be  
15 feasible to operate a strategic gas reserve to insulate California  
16 consumers and businesses from substantial, short-term price  
17 increases arising from refinery outages or other similar supply  
18 interruptions, the ~~commission~~ *department* shall request specific  
19 statutory authority and funding for establishment of a reserve.

20 SEC. 308. Section 25722 of the Public Resources Code is  
21 amended to read:

22 25722. (a) On or before January 31, 2003, the ~~commission,~~  
23 *department*, the Department of General Services, and the State Air  
24 Resources Board, in consultation with any other state agency that  
25 the ~~commission,~~ *department*, the ~~department,~~ *Department of*  
26 *General Services*, and the state board deem necessary, shall develop  
27 and adopt fuel-efficiency specifications governing the purchase  
28 by the state of motor vehicles and replacement tires that, on an  
29 annual basis, will reduce petroleum consumption of the state  
30 vehicle fleet to the maximum extent practicable and cost-effective.

31 (b) In developing the specifications, the ~~commission~~ *department*  
32 and the ~~department~~ *Department of General Services* shall jointly  
33 conduct a study to examine state vehicle purchasing patterns,  
34 including the purchase of after market tires, and to analyze the  
35 costs and benefits of reducing the energy consumption of the state  
36 vehicle fleet by no less than 10 percent on or before January 1,  
37 2005.

38 (c) The study shall include an analysis of all of the following  
39 topics:

40 (1) Use of alternative fuels.

1 (2) Use of fuel-efficient vehicles.

2 (3) Costs and benefits of decreasing the size of the state vehicle  
3 fleet.

4 (4) Reduction in vehicle trips and increase in use of alternative  
5 means of transportation.

6 (5) Improved vehicle maintenance.

7 (6) Costs and benefits of using fuel-efficient tires relative to  
8 using retreaded tires, as described in the Retreaded Tire Program  
9 (Chapter 7 (commencing with Section 42400) of Part 3 of Division  
10 ~~30 of the Public Resources Code~~; 30).

11 (7) The costs and benefits of purchasing high fuel efficiency  
12 gasoline vehicles, including hybrid electric vehicles, instead of  
13 flexible fuel vehicles.

14 (d) On or before January 31, 2003, and annually thereafter, the  
15 ~~commission, department~~, the Department of General Services, and  
16 the State Air Resources Board, in consultation with any other state  
17 agency that the ~~commission, department, the department,~~  
18 *Department of General Services*, and the state board deem  
19 necessary, shall develop and adopt air pollution emission  
20 specifications governing the purchase by the state of passenger  
21 cars and light-duty trucks that meet or exceed California's  
22 Ultra-Low Emission Vehicle (ULEV) standards for exhaust  
23 emissions (13 Cal. Code Regs. 1960.1).

24 (e) If the study described in subdivision (b) determines that  
25 lower cost measures exist that deliver petroleum reductions  
26 equivalent to applicable federal requirements governing the state  
27 purchase of passenger cars and light-duty trucks, the state shall  
28 pursue a waiver from those federal requirements.

29 SEC. 309. Section 25722.5 of the Public Resources Code is  
30 amended to read:

31 25722.5. (a) In order to achieve the policy objectives set forth  
32 in Sections 25000.5 and 25722, the Department of General  
33 Services, in consultation with the ~~commission~~ *department* and the  
34 State Air Resources Board, shall develop and adopt specifications  
35 and standards for all passenger cars and light-duty trucks that are  
36 purchased or leased on behalf of, or by, state offices, agencies,  
37 and departments. An authorized emergency vehicle, as defined in  
38 Section 165 of the Vehicle Code, that is equipped with emergency  
39 lamps or lights described in Section 25252 of the Vehicle Code is

1 exempt from the requirements of this section. The specifications  
2 and standards shall include the following:

3 (1) Minimum air pollution emission specifications that meet or  
4 exceed California’s Ultra-Low Emission Vehicle II (ULEV II)  
5 standards for exhaust emissions (13 Cal. Code Regs. 1961). These  
6 specifications shall apply on January 1, 2006, for passenger cars  
7 and on January 1, 2010, for light-duty trucks.

8 (2) Notwithstanding any other provision of law, the utilization  
9 of procurement policies that enable the Department of General  
10 Services to do all of the following:

11 (A) Evaluate and score emissions, fuel costs, and fuel economy  
12 in addition to capital cost to enable the Department of General  
13 Services to choose the vehicle with the lowest life-cycle cost when  
14 awarding a state vehicle procurement contract.

15 (B) Maximize the purchase or lease of hybrid or “Best in Class”  
16 vehicles that are substantially more fuel efficient than the class  
17 average.

18 (C) Maximize the purchase or lease of available vehicles that  
19 meet or exceed California’s Super Ultra-Low Emission Vehicle  
20 (SULEV) passenger car standards for exhaust emissions.

21 (D) Maximize the purchase or lease of alternative fuel vehicles.

22 (3) In order to discourage the unnecessary purchase or leasing  
23 of a sport utility vehicle and a four-wheel drive truck, a requirement  
24 that each state office, agency, or department seeking to purchase  
25 or lease that vehicle, demonstrate to the satisfaction of the Director  
26 of General Services or to the entity that purchases or leases vehicles  
27 for that office, agency, or department, that the vehicle is required  
28 to perform an essential function of the office, agency, or  
29 department. If it is so demonstrated, priority consideration shall  
30 be given to the purchase or lease of an alternative fuel or hybrid  
31 sports utility vehicle or four-wheel drive vehicle.

32 (b) The specifications and standards developed and adopted  
33 pursuant to subdivision (a) do not apply upon the development  
34 and implementation of the method, criteria, and procedure  
35 described in Section 25722.6.

36 (c) Each state office, agency, and department shall review its  
37 vehicle fleet and, upon finding that it is fiscally prudent, cost  
38 effective, or otherwise in the public interest to do so, shall dispose  
39 of nonessential sport utility vehicles and four-wheel drive trucks

1 in its fleet and replace these vehicles with more fuel-efficient  
2 passenger cars and trucks.

3 (d) To the maximum extent practicable, each state office,  
4 agency, and department that has bifuel natural gas, bifuel propane,  
5 and flex fuel vehicles in its vehicle fleet shall use the respective  
6 alternative fuel in those vehicles.

7 (e) The Director of General Services shall compile annually and  
8 maintain information on the nature of vehicles that are owned or  
9 leased by the state, including, but not limited to, all of the  
10 following:

11 (1) The number of passenger-type motor vehicles purchased or  
12 leased during the year, and the number owned or leased as of  
13 December 31 of each year.

14 (2) The number of sport utility vehicles and four-wheel drive  
15 trucks purchased or leased by the state during the year, and the  
16 number owned or leased as of December 31 of each year.

17 (3) The number of alternatively fueled vehicles and hybrid  
18 vehicles purchased or leased by the state during the year, and the  
19 total number owned or leased as of December 31 of each year and  
20 their location.

21 (4) The locations of the alternative fuel pumps available for  
22 those vehicles.

23 (5) The justification provided for all sport utility vehicles and  
24 four-wheel drive trucks purchased or leased by the state and the  
25 specific office, department, or agency responsible for the purchase  
26 or lease.

27 (6) The number of sport utility vehicles and four-wheel drive  
28 trucks purchased or leased by the state during the year, and the  
29 number owned or leased as of December 31 of each year that are  
30 alternative fuel or hybrid vehicles.

31 (7) The number of light-duty trucks disposed of under  
32 subdivision (c).

33 (8) The total dollars spent by the state on passenger-type vehicle  
34 purchases and leases, categorized by sport utility vehicle and  
35 nonsport utility vehicle, and within each of those categories, by  
36 alternative fuel, ~~hybrid~~ *hybrid*, and other.

37 (9) The total annual consumption of gasoline and diesel fuel  
38 used by the state fleet.

39 (10) The total annual consumption of alternative fuels.

1 (11) On December 31, 2009, and annually thereafter, the  
2 Director of General Services shall also compile the total annual  
3 vehicle miles traveled by vehicles in the state fleet.

4 (f) Each state office, agency, and department shall cooperate  
5 with the Department of General Services' data requests in order  
6 that the department may compile and maintain the information  
7 required in subdivision (e).

8 (g) As soon as practicable, but no later than 12 months after  
9 receiving the data, the information compiled and maintained under  
10 subdivision (e) and a list of those state offices, agencies, and  
11 departments that are not in compliance with subdivision (f) shall  
12 be made available to the public on the Department of General  
13 Services' Internet Web site.

14 (h) Beginning July 1, 2009, and every three years thereafter,  
15 the Director of General Services shall report to the Legislature and  
16 the Governor the information compiled and maintained pursuant  
17 to subdivision (e).

18 (i) Pursuant to Article IX of the California Constitution, this  
19 section shall not apply to the University of California except to  
20 the extent that the Regents of the University of California, by  
21 appropriate resolution, make this section applicable.

22 SEC. 310. Section 25722.6 of the Public Resources Code is  
23 amended to read:

24 25722.6. (a) On or before December 31, 2008, the Department  
25 of General Services, in conjunction with the State Air Resources  
26 Board and the ~~commission~~, *department*, shall amend the existing  
27 "Enhanced Efficiency Costing Methodology for Passenger Cars  
28 and Light-Duty Vehicles" to rank the environmental and energy  
29 benefits, and costs of motor vehicles for potential procurement by  
30 state and local governments. The vehicle rankings shall include  
31 both of the following criteria:

32 (1) The reduction in greenhouse gas emissions, air pollutant  
33 emissions, and petroleum use on a full fuel-cycle basis, to the  
34 extent possible, based on existing data available to the State Air  
35 Resources Board, the ~~commission~~, *department*, or other reliable  
36 sources, including the California Strategy to Reduce Petroleum  
37 Dependence developed pursuant to subdivision (f) of Section 25720  
38 and the state plan to increase the use of alternative transportation  
39 fuels developed pursuant to Section 43866 of the Health and Safety  
40 Code.

1 (2) The life-cycle costs of the vehicle and fuel, including  
2 maintenance.

3 (b) On or before December 31, 2008, the Department of General  
4 Services shall revise its procedures for the procurement of state  
5 and local government vehicles based upon the necessary  
6 performance specifications of the vehicles to perform the required  
7 work or tasks of the vehicles in the fleet. The Department of  
8 General Services shall establish vehicle “classes” depending upon  
9 the required work or tasks and the necessary performance  
10 specifications.

11 (c) On or before July 1, 2009, for the purpose of state fleet  
12 procurement, both of the following shall apply:

13 (1) Available vehicles in individual classes shall be ranked for  
14 purchase or lease using the method and criteria developed in  
15 subdivision (a).

16 (2) (A) Vehicles shall be procured for use in the state fleet that  
17 meet all requirements established by the federal government,  
18 including, but not limited to, the federal Energy Policy Act of  
19 1992, Public Law 102-486, if applicable, and that have been ranked  
20 best in their class as determined by the evaluation in subdivision  
21 (a).

22 (B) If fueling infrastructure, for the fuel used to rank a vehicle  
23 best in class, is not available, or planned to be available within  
24 two years, the Department of General Services shall procure the  
25 vehicle ranked next best in class for which fueling infrastructure  
26 is or will be available.

27 (d) The Department of General Services shall evaluate vehicles  
28 for potential addition to the state and local fleets, as described in  
29 this section, on an annual basis, reflecting annual new vehicle  
30 availability.

31 (e) A vehicle capable of using alternative fuels shall be operated  
32 on those fuels to the maximum extent practicable unless alternative  
33 fuels are not readily available or other factors exist that may prevent  
34 the use of those fuels in the area in which the vehicle is used.

35 (f) The Department of General Services shall do both of the  
36 following:

37 (1) During the normal course of coordination and contracting  
38 with nearby fueling stations, provide information related to the  
39 alternative fuel vehicles in the state fleet and request the stations  
40 to provide a fuel supply to meet that demand.

1 (2) When replacing, retrofitting, or installing a fueling tank or  
2 infrastructure at a facility that fuels state vehicles, the Department  
3 of General Services shall consider requesting competitive bids for  
4 alternative fuel infrastructure that would meet the needs of vehicles  
5 used, or planned to be used, in that facility.

6 (g) Authorized emergency vehicles as defined in Section 165  
7 of the Vehicle Code, that are equipped with emergency lamps or  
8 lights described in Section 25252 of the Vehicle Code, are exempt  
9 from the requirements of this section.

10 (h) Each state office, agency, or department seeking to purchase  
11 or lease a sport utility vehicle or four-wheel drive vehicle shall  
12 demonstrate to the satisfaction of the Director of General Services  
13 or the entity that purchases or leases vehicles that the vehicle is  
14 required to perform an essential function of the office, agency, or  
15 department. If it is so demonstrated, priority consideration shall  
16 be given to the purchase or lease of an alternative fuel or hybrid  
17 sports utility vehicle or four-wheel drive vehicle.

18 (i) Pursuant to Article IX of the California Constitution, this  
19 section shall not apply to the University of California except to  
20 the extent that the Regents of the University of California, by  
21 appropriate resolution, make this section applicable.

22 SEC. 311. Section 25722.7 of the Public Resources Code is  
23 amended to read:

24 25722.7. (a) In order to further achieve the policy objectives  
25 set forth in Sections 25000.5, 25722, and 25722.5, on or before  
26 June 1, 2007, the Department of General Services in consultation  
27 with the ~~State Department of Energy Resources Conservation and~~  
28 ~~Development Commission~~ shall establish a minimum fuel economy  
29 standard that is above the standard, as it exists on January 1, 2007,  
30 established pursuant to Section 3620.1 of the State Administrative  
31 Manual, for the purchase of passenger vehicles and ~~light-duty~~  
32 *light-duty* trucks for the state fleet that are powered solely by  
33 internal combustion engines utilizing fossil fuels.

34 (b) On or after January 1, 2008, all new state fleet purchases of  
35 passenger vehicles and ~~light-duty~~ *light-duty* trucks powered solely  
36 by internal combustion engines utilizing fossil fuels, by the  
37 Department of General Services and any other state entities shall  
38 meet the fuel economy standard established under subdivision (a).

1 (c) Authorized emergency vehicles, as defined in Section 165  
2 of the Vehicle Code, and vehicles identified in paragraph (3) of  
3 subdivision (a) of Section 25722.5 are exempt from this section.

4 (d) Vehicles purchased, that are modified for the following  
5 purposes, are exempt from this section.

6 (1) To provide services by a state entity to an individual with a  
7 disability or a developmental disability, as defined under the  
8 statutes or regulations governing that state entity.

9 (2) As a reasonable accommodation for the known physical or  
10 mental disability, as defined in Section 12926 of the Government  
11 Code, of an employee.

12 (e) For purposes of this section, “state entities” includes all state  
13 departments, boards, commissions, programs, and other  
14 organizational units of the executive, legislative, and judicial  
15 branches of state government, the California Community Colleges,  
16 the California State University, and the University of California.

17 (f) ~~No provision of this~~ *This* section shall *not* apply to the  
18 University of California except to the extent that the Regents of  
19 the University of California, by appropriate resolution, make that  
20 provision applicable.

21 SEC. 312. Section 25723 of the Public Resources Code is  
22 amended to read:

23 25723. On or before January 31, 2003, the ~~commission,~~  
24 ~~department,~~ in consultation with any other state agency that the  
25 ~~commission~~ *department* deems necessary, shall develop and adopt  
26 recommendations for consideration by the Governor and the  
27 Legislature of a California State Fuel-Efficient Tire Program. The  
28 ~~commission~~ *department* shall make recommendations on all of the  
29 following items:

30 (a) Establishing a test procedure for measuring tire fuel  
31 efficiency.

32 (b) Development of a ~~data base~~ *database* of fuel efficiency of  
33 existing tires in order to establish an accurate baseline of tire  
34 efficiency.

35 (c) A rating system for tires that provides consumers with  
36 information on the fuel efficiency of individual tire models.

37 (d) A consumer-friendly system to disseminate tire  
38 fuel-efficiency information as broadly as possible. The ~~commission~~  
39 *department* shall consider labeling, *Internet* Web site listing,

1 printed fuel economy guide booklets, and mandatory requirements  
2 for tire retailers to provide fuel-efficiency information.

3 (e) A study to determine the safety implications, if any, of  
4 different policies to promote fuel efficient replacement tires in the  
5 consumer market.

6 (f) A mandatory fuel-efficiency standard for all after market  
7 tires sold in California.

8 (g) Consumer incentive programs that would offer a rebate to  
9 purchasers of replacement tires that are more fuel efficient than  
10 the average replacement tire.

11 SEC. 313. Section 25740.5 of the Public Resources Code is  
12 amended to read:

13 25740.5. (a) ~~The commission~~ *department, by action of the*  
14 *board,* shall optimize public investment and ensure that the most  
15 cost-effective and efficient investments in renewable energy  
16 resources are vigorously pursued.

17 (b) ~~The commission's~~ *department's* long-term goal shall be a  
18 fully competitive and self-sustaining supply of electricity generated  
19 from renewable sources.

20 (c) The program objective shall be to increase, in the near term,  
21 the quantity of California's electricity generated by in-state  
22 renewable electricity generation facilities, while protecting system  
23 reliability, fostering resource diversity, and obtaining the greatest  
24 environmental benefits for California residents.

25 (d) An additional objective of the program shall be to identify  
26 and support emerging renewable technologies in distributed  
27 generation applications that have the greatest near-term commercial  
28 promise and that merit targeted assistance.

29 (e) The Legislature recommends allocations among all of the  
30 following:

31 (1) Rebates, buydowns, or equivalent incentives for emerging  
32 renewable technologies.

33 (2) Customer education.

34 (3) Production incentives for reducing fuel costs, that are  
35 confirmed to the satisfaction of ~~the commission,~~ *department,* at  
36 solid fuel biomass energy facilities in order to provide  
37 demonstrable environmental and public benefits, including  
38 improved air quality.

39 (4) Solar thermal generating resources that enhance the  
40 environmental value or reliability of the electrical system and that

1 require financial assistance to remain economically viable, as  
 2 determined by the ~~commission~~ *department, by action of the board*.  
 3 The ~~commission~~ *department, by action of the board*, may require  
 4 financial disclosure from applicants for purposes of this paragraph.

5 (5) Specified fuel cell technologies, if the ~~commission~~  
 6 *department* makes all of the following findings:

7 (A) The specified technologies have similar or better air  
 8 pollutant characteristics than renewable technologies in the report  
 9 made pursuant to Section 25748.

10 (B) The specified technologies require financial assistance to  
 11 become commercially viable by reference to wholesale generation  
 12 prices.

13 (C) The specified technologies could contribute significantly  
 14 to the infrastructure development or other innovation required to  
 15 meet the long-term objective of a self-sustaining, competitive  
 16 supply of electricity generated from renewable sources.

17 (6) Existing wind-generating resources, if the ~~commission~~  
 18 *department, by action of the board*, finds that the existing  
 19 wind-generating resources are a cost-effective source of reliable  
 20 energy and environmental benefits compared with other in-state  
 21 renewable electricity generation facilities, and that the existing  
 22 wind-generating resources require financial assistance to remain  
 23 economically viable. The ~~commission~~ *department* may require  
 24 financial disclosure from applicants for the purposes of this  
 25 paragraph.

26 (f) Notwithstanding any other provision of law, moneys  
 27 collected for renewable energy pursuant to Article 15 (commencing  
 28 with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the  
 29 Public Utilities Code shall be transferred to the Renewable  
 30 Resource Trust Fund. Moneys collected between January 1, 2007,  
 31 and January 1, 2012, shall be used for the purposes specified in  
 32 this chapter.

33 SEC. 314. Section 25741 of the Public Resources Code is  
 34 amended to read:

35 25741. As used in this chapter, the following terms have the  
 36 following ~~meaning~~ *meanings*:

37 (a) “Delivered” and “delivery” mean the electricity output of  
 38 an in-state renewable electricity generation facility that is used to  
 39 serve end-use retail customers located within the state. Subject to  
 40 verification by the accounting system established by the

1 ~~commission~~ *department* pursuant to subdivision (b) of Section  
2 399.13 of the Public Utilities Code, electricity shall be deemed  
3 delivered if it is either generated at a location within the state, or  
4 is scheduled for consumption by California end-use retail  
5 customers. Subject to criteria adopted by the ~~commission,~~  
6 *department*, electricity generated by an eligible renewable energy  
7 resource may be considered “delivered” regardless of whether the  
8 electricity is generated at a different time from consumption by a  
9 California end-use customer.

10 (b) “In-state renewable electricity generation facility” means a  
11 facility that meets all of the following criteria:

12 (1) The facility uses biomass, solar thermal, photovoltaic, wind,  
13 geothermal, fuel cells using renewable fuels, small hydroelectric  
14 generation of 30 megawatts or less, digester gas, municipal solid  
15 waste conversion, landfill gas, ocean wave, ocean thermal, or tidal  
16 current, and any additions or enhancements to the facility using  
17 that technology.

18 (2) The facility satisfies one of the following requirements:

19 (A) The facility is located in the state or near the border of the  
20 state with the first point of connection to the transmission network  
21 within this state and electricity produced by the facility is delivered  
22 to an in-state location.

23 (B) The facility has its first point of interconnection to the  
24 transmission network outside the state and satisfies all of the  
25 following requirements:

26 (i) It is connected to the transmission network within the  
27 Western Electricity Coordinating Council (WECC) service  
28 territory.

29 (ii) It commences initial commercial operation after January 1,  
30 2005.

31 (iii) Electricity produced by the facility is delivered to an in-state  
32 location.

33 (iv) It will not cause or contribute to any violation of a California  
34 environmental quality standard or requirement.

35 (v) If the facility is outside of the United States, it is developed  
36 and operated in a manner that is as protective of the environment  
37 as a similar facility located in the state.

38 (vi) It participates in the accounting system to verify compliance  
39 with the renewables portfolio standard by retail sellers, once  
40 established by the ~~Energy Commission~~ *Department of Energy*

1 pursuant to subdivision (b) of Section 399.13 of the Public Utilities  
 2 Code.

3 (C) The facility meets the requirements of clauses (i), (iii), (iv),  
 4 (v), and (vi) in subparagraph (B), but does not meet the  
 5 requirements of clause (ii) because it commences initial operation  
 6 prior to January 1, 2005, if the facility satisfies either of the  
 7 following requirements:

8 (i) The electricity is from incremental generation resulting from  
 9 expansion or repowering of the facility.

10 (ii) The facility has been part of the existing baseline of eligible  
 11 renewable energy resources of a retail seller established pursuant  
 12 to paragraph (2) of subdivision (b) of Section 399.15 of the Public  
 13 Utilities Code or has been part of the existing baseline of eligible  
 14 renewable energy resources of a local publicly owned electric  
 15 utility established pursuant to Section 387 of the Public Utilities  
 16 Code.

17 (3) For the purposes of this subdivision, “solid waste  
 18 conversion” means a technology that uses a noncombustion thermal  
 19 process to convert solid waste to a clean-burning fuel for the  
 20 purpose of generating electricity, and that meets all of the following  
 21 criteria:

22 (A) The technology does not use air or oxygen in the conversion  
 23 process, except ambient air to maintain temperature control.

24 (B) The technology produces no discharges of air contaminants  
 25 or emissions, including greenhouse gases as defined in Section  
 26 38505 of the Health and Safety Code.

27 (C) The technology produces no discharges to surface *waters*  
 28 or groundwaters of the state.

29 (D) The technology produces no hazardous wastes.

30 (E) To the maximum extent feasible, the technology removes  
 31 all recyclable materials and marketable green waste compostable  
 32 materials from the solid waste stream prior to the conversion  
 33 process and the owner or operator of the facility certifies that those  
 34 materials will be recycled or composted.

35 (F) The facility at which the technology is used is in compliance  
 36 with all applicable laws, regulations, and ordinances.

37 (G) The technology meets any other conditions established by  
 38 ~~the commission.~~ *department.*

39 (H) The facility certifies that any local agency sending solid  
 40 waste to the facility diverted at least 30 percent of all solid waste

1 it collects through solid waste reduction, recycling, and  
2 composting. For purposes of this paragraph, “local agency” means  
3 any city, county, or special district, or subdivision thereof, which  
4 is authorized to provide solid waste handling services.

5 (c) “Procurement entity” means any person or corporation that  
6 enters into an agreement with a retail seller to procure eligible  
7 renewable energy resources pursuant to subdivision (f) of Section  
8 399.14 of the Public Utilities Code.

9 (d) “Renewable energy public goods charge” means that portion  
10 of the nonbypassable system benefits charge authorized to be  
11 collected and to be transferred to the Renewable Resource Trust  
12 Fund pursuant to the Reliable Electric Service Investments Act  
13 (Article 15 (commencing with Section 399) of Chapter 2.3 of Part  
14 1 of Division 1 of the Public Utilities Code).

15 (e) “Report” means the report entitled “Investing in Renewable  
16 Electricity Generation in California” (June 2001, Publication  
17 Number P500-00-022) submitted to the Governor and the  
18 Legislature by the ~~commission~~ *former State Energy Resources*  
19 *Conservation and Development Commission*.

20 (f) “Retail seller” means a “retail seller” as defined in Section  
21 399.12 of the Public Utilities Code.

22 SEC. 315. Section 25742 of the Public Resources Code is  
23 amended to read:

24 25742. (a) Twenty percent of the funds collected pursuant to  
25 the renewable energy public goods charge shall be used for  
26 programs that are designed to achieve fully competitive and  
27 self-sustaining existing in-state renewable electricity generation  
28 facilities, and to secure for the state the environmental, economic,  
29 and reliability benefits that continued operation of those facilities  
30 will provide during the 2007–2011 investment cycle. Eligibility  
31 for production incentives under this section shall be limited to  
32 those technologies found eligible for funds by the ~~commission~~  
33 *department* pursuant to paragraphs (3), (4), and (6) of subdivision  
34 (e) of Section 25740.5.

35 (b) Any funds used to support in-state renewable electricity  
36 generation facilities pursuant to this section shall be expended in  
37 accordance with the provisions of this chapter.

38 (c) Facilities that are eligible to receive funding pursuant to this  
39 section shall be registered in accordance with criteria developed  
40 by the ~~commission~~ *department* and those facilities shall not receive

1 payments for any electricity produced that has any of the following  
2 characteristics:

3 (1) Is sold at monthly average rates equal to, or greater than,  
4 the applicable target price, as determined by the ~~commission~~  
5 *department, by action of the board.*

6 (2) Is used onsite.

7 (d) (1) Existing facilities generating electricity from biomass  
8 energy shall be eligible for funding and otherwise considered an  
9 in-state renewable electricity generation facility only if they report  
10 to the ~~commission~~ *department* the types and quantities of biomass  
11 fuels used.

12 (2) The ~~commission~~ *department* shall report the types and  
13 quantities of biomass fuels used by each facility to the Legislature  
14 in the reports prepared pursuant to Section 25748 *and approved*  
15 *by the board.*

16 (e) Each existing facility seeking an award pursuant to this  
17 section shall be evaluated by the ~~commission~~ *department* to  
18 determine the amount of the funds being sought, the cumulative  
19 amount of funds the facility has received previously from the  
20 ~~commission~~ *department* and other state sources, the value of any  
21 past and current federal or state tax credits, the facility's contract  
22 price for energy and capacity, the prices received by similar  
23 facilities, the market value of the facility, and the likelihood that  
24 the award will make the facility competitive and self-sustaining  
25 within the 2007–2011 investment cycle. The ~~commission~~  
26 *department* shall use this evaluation to determine the value of an  
27 award to the public relative to other renewable energy investment  
28 alternatives. The ~~commission~~ *department* shall compile its findings  
29 and report them to the Legislature in the reports prepared pursuant  
30 to Section 25748 *and approved by the board.*

31 SEC. 316. Section 25743 of the Public Resources Code is  
32 amended to read:

33 25743. (a) The ~~commission~~ *department, by action of the board,*  
34 shall terminate all production incentives awarded from the New  
35 Renewable Resources Account prior to January 1, 2002, unless  
36 the project began generating electricity by January 1, 2007.

37 (b) (1) The ~~commission~~ *department, by action of the board,*  
38 shall, by March 1, 2008, transfer to electrical corporations serving  
39 customers subject to the renewable energy public goods charge

1 the remaining unencumbered funds in the New Renewable  
2 Resources Account.

3 (2) The Public Utilities Commission shall ensure that each  
4 electrical corporation allocates funds received from the ~~commission~~  
5 *department* pursuant to paragraph (1) in a manner that maximizes  
6 the economic benefit to all customer classes that funded the New  
7 Renewable Resources Account.

8 SEC. 317. Section 25744 of the Public Resources Code is  
9 amended to read:

10 25744. (a) Seventy-nine percent of the money collected  
11 pursuant to the renewable energy public goods charge shall be  
12 used for a multiyear, consumer-based program to foster the  
13 development of emerging renewable technologies in distributed  
14 generation applications.

15 (b) ~~Any funds~~ *Funds* used for emerging technologies pursuant  
16 to this section shall be expended in accordance with this chapter,  
17 subject to all of the following requirements:

18 (1) Funding for emerging technologies shall be provided through  
19 a competitive, market-based process that is in place for a period  
20 of not less than five years, and is structured to allow eligible  
21 emerging technology manufacturers and suppliers to anticipate  
22 and plan for increased sale and installation volumes over the life  
23 of the program.

24 (2) The program shall provide monetary rebates, buydowns, or  
25 equivalent incentives, subject to paragraph (3), to purchasers,  
26 lessees, lessors, or sellers of eligible electricity generating systems.  
27 Incentives shall benefit the end-use consumer of renewable  
28 generation by directly and exclusively reducing the purchase or  
29 lease cost of the eligible system, or the cost of electricity produced  
30 by the eligible system. Incentives shall be issued on the basis of  
31 the rated electrical generating capacity of the system measured in  
32 watts, or the amount of electricity production of the system,  
33 measured in kilowatthours. Incentives shall be limited to a  
34 maximum percentage of the system price, as determined by the  
35 ~~commission board~~. ~~The commission department, by action of the~~  
36 *board*, may establish different incentive levels for systems based  
37 on technology type and system size, and may provide different  
38 incentive levels for systems used in conjunction with  
39 energy-efficiency measures.

1 (3) Eligible distributed emerging technologies are fuel cell  
2 technologies that utilize renewable fuels, including fuel cell  
3 technologies with an emission profile equivalent or better than the  
4 State Air Resources Board 2007 standard, and that serve as backup  
5 generation for emergency, safety, or telecommunications systems.  
6 Eligible renewable fuels may include wind turbines of not more  
7 than 50 kilowatts rated electrical generating capacity per customer  
8 site and other distributed renewable emerging technologies that  
9 meet the emerging technology eligibility criteria established by  
10 the ~~commission~~ *board* and are not eligible for rebates, buydowns,  
11 or similar incentives from any other ~~commission~~ *department* or  
12 Public Utilities Commission program. Eligible electricity  
13 generating systems are intended primarily to offset part or all of  
14 the consumer's own electricity demand, including systems that  
15 are used as backup power for emergency, safety, or  
16 telecommunications, and shall not be owned by local publicly  
17 owned electric utilities, nor be located at a customer site that is  
18 not receiving distribution service from an electrical corporation  
19 that is subject to the renewable energy public goods charge and  
20 contributing funds to support programs under this chapter. All  
21 eligible electricity generating system components shall be new  
22 and unused, shall not have been previously placed in service in  
23 any other location or for any other application, and shall have a  
24 warranty of not less than five years to protect against defects and  
25 undue degradation of electrical generation output. Systems and  
26 their fuel resources shall be located on the same premises of the  
27 end-use consumer where the consumer's own electricity demand  
28 is located, and all eligible electricity generating systems shall be  
29 connected to the utility grid, unless the system purpose is for  
30 backup generation used in emergency, safety, or  
31 telecommunications in California. The ~~commission~~ *department*,  
32 *by action of the board*, may require eligible electricity generating  
33 systems to have meters in place to monitor and measure a system's  
34 performance and generation. Only systems that will be operated  
35 in compliance with applicable law and the rules of the Public  
36 Utilities Commission shall be eligible for funding.

37 (4) The ~~commission~~ *department, by action of the board*, shall  
38 limit the amount of funds available for a system or project of  
39 multiple systems and reduce the level of funding for a system or

1 project of multiple systems that has received, or may be eligible  
2 to receive, any government or utility funds, incentives, or credit.

3 (5) In awarding funding, the ~~commission~~ *department, by action*  
4 *of the board*, may provide preference to systems that provide  
5 tangible demonstrable benefits to communities with a plurality of  
6 minority or low-income populations.

7 (6) In awarding funding, the ~~commission~~ *department, by action*  
8 *of the board*, shall develop and implement eligibility criteria and  
9 a system that provides preference to systems based upon system  
10 performance, taking into account factors, including shading,  
11 insulation levels, and installation orientation.

12 (7) At least once annually, the ~~commission~~ *department* shall  
13 publish and make available to the public the balance of funds  
14 available for emerging renewable energy resources for rebates,  
15 buydowns, and other incentives for the purchase of these resources.

16 (c) Notwithstanding Section 27540.5, the ~~commission~~  
17 *department, by action of the board*, may expend, until December  
18 31, 2008, up to sixty million dollars (\$60,000,000) of the funding  
19 allocated to the Renewable Resources Trust Fund for the program  
20 established in this section, subject to the repayment requirements  
21 of subdivision (f) of Section 25751.

22 (d) ~~Any funds~~ *Funds* for photovoltaic or solar thermal electric  
23 technologies shall be awarded in compliance with Chapter 8.8  
24 (commencing with Section 25780), and not with this section.

25 SEC. 318. Section 25744.5 of the Public Resources Code is  
26 amended to read:

27 25744.5. The ~~commission~~ *department, by action of the board*,  
28 shall allocate and use funding available for emerging renewable  
29 technologies pursuant to Section 25744 and Section 25751 to fund  
30 photovoltaic and solar thermal electric technologies in accordance  
31 with eligibility criteria and conditions established pursuant to  
32 Chapter 8.8 (commencing with Section 25780).

33 SEC. 319. Section 25747 of the Public Resources Code is  
34 amended to read:

35 25747. (a) The ~~commission~~ *department, by action of the board*,  
36 shall adopt guidelines governing the funding programs authorized  
37 under this chapter, at a publicly noticed meeting offering all  
38 interested parties an opportunity to comment. Substantive changes  
39 to the guidelines may not be adopted without at least 10 days'  
40 written notice to the public. The public notice of meetings required

1 by this subdivision may not be less than 30 days. Notwithstanding  
2 any other provision of law, any guidelines adopted pursuant to this  
3 chapter or Section 399.13 of the Public Utilities Code, shall be  
4 exempt from the requirements of Chapter 3.5 (commencing with  
5 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
6 Code. The Legislature declares that the changes made to this  
7 subdivision by the act amending this section during the 2002  
8 portion of the 2001–02 Regular Session are declaratory of, and  
9 not a change in existing law.

10 (b) Funds to further the purposes of this chapter may be  
11 committed for multiple years.

12 (c) Awards made pursuant to this chapter are grants, subject to  
13 appeal to the ~~commission~~ *board* upon a showing that factors other  
14 than those described in the guidelines adopted by the ~~commission~~  
15 *board* were applied in making the awards and payments. Any  
16 actions taken by an applicant to apply for, or become or remain  
17 eligible and registered to receive, payments or awards, including  
18 satisfying conditions specified by the ~~commission~~ *board*, shall not  
19 constitute the rendering of goods, services, or a direct benefit to  
20 the ~~commission~~ *department of the board*.

21 (d) An award made pursuant to this chapter, the amount of the  
22 award, and the terms and conditions of the grant are public  
23 information.

24 SEC. 320. Section 25748 of the Public Resources Code is  
25 amended to read:

26 25748. (a) The ~~commission~~ *department, by action of the board*,  
27 shall report to the Legislature on or before November 1, 2007, and  
28 annually thereafter, regarding the results of the mechanisms funded  
29 pursuant to this chapter. The report shall contain all of the  
30 following:

31 (1) A description of the allocation of funds among existing,  
32 new, and emerging technologies, the allocation of funds among  
33 programs, including consumer-side incentives, and the need for  
34 the reallocation of money among those technologies.

35 (2) The status of account transfers and repayments.

36 (3) A description of the cumulative commitment of claims by  
37 account, the relative demand for funds by account, and a forecast  
38 of future awards.

1 (4) A list identifying the types and quantities of biomass fuels  
2 used by facilities receiving funds pursuant to Section 25742 and  
3 their impacts on improving air quality.

4 (5) A discussion of the progress being made toward achieving  
5 the targets established under Section 25740 by each funding  
6 category authorized pursuant to this chapter.

7 (6) A description of the allocation of funds from interest on the  
8 accounts described in this chapter, and money in the accounts  
9 described in subdivision (b) of Section 25751.

10 (7) An itemized list, including project descriptions, award  
11 amounts, and outcomes for projects awarded funding in the prior  
12 year.

13 (8) Other matters the ~~commission~~ *department* determines may  
14 be of importance to the Legislature.

15 (b) Money may be reallocated without further legislative action  
16 among existing, new, and emerging technologies and  
17 consumer-side programs in a manner consistent with the report  
18 and with the latest report provided to the Legislature pursuant to  
19 this section, except that reallocations shall not increase the  
20 allocation established in Section 25742.

21 SEC. 321. Section 25751 of the Public Resources Code is  
22 amended to read:

23 25751. (a) The Renewable Resource Trust Fund is hereby  
24 created in the State Treasury.

25 (b) The following accounts are hereby established within the  
26 Renewable Resource Trust Fund:

27 (1) Existing Renewable Resources Account.

28 (2) Emerging Renewable Resources Account.

29 (3) Renewable Resources Consumer Education Account.

30 (c) The money in the fund may be expended, only upon  
31 appropriation by the Legislature in the annual Budget Act, for the  
32 following purposes:

33 (1) The administration of this article by the state.

34 (2) The state's expenditures associated with the accounting  
35 system established by the ~~commission~~ *board* pursuant to  
36 subdivision (b) of Section 399.13 of the Public Utilities Code.

37 (d) That portion of revenues collected by electrical corporations  
38 for the benefit of in-state operation and development of existing  
39 and new and emerging renewable resource technologies, pursuant  
40 to Section 399.8 of the Public Utilities Code, shall be transmitted

1 to the ~~commission~~ *department* at least quarterly for deposit in the  
2 Renewable Resource Trust Fund pursuant to Section 25740.5.  
3 After setting aside in the fund money that may be needed for  
4 expenditures authorized by the annual Budget Act in accordance  
5 with subdivision (c), the Treasurer shall immediately deposit  
6 money received pursuant to this section into the accounts created  
7 pursuant to subdivision (b) in proportions designated by the  
8 ~~commission~~ *department* for the current calendar year.  
9 Notwithstanding Section 13340 of the Government Code, the  
10 money in the fund and the accounts within the fund are hereby  
11 continuously appropriated to the ~~commission~~ *department* without  
12 regard to fiscal year for the purposes enumerated in this chapter.

13 (e) Upon notification by the ~~commission~~ *department*, the  
14 Controller shall pay all awards of the money in the accounts created  
15 pursuant to subdivision (b) for purposes enumerated in this chapter.  
16 The eligibility of each award shall be determined solely by the  
17 ~~commission~~ *department, by action of the board*, based on the  
18 procedures it adopts under this chapter. Based on the eligibility of  
19 each award, the ~~commission~~ *department* shall also establish the  
20 need for a multiyear commitment to any particular award and so  
21 advise the Department of Finance. Eligible awards submitted by  
22 the ~~commission~~ *department* to the Controller shall be accompanied  
23 by information specifying the account from which payment should  
24 be made and the amount of each payment; a summary description  
25 of how payment of the award furthers the purposes enumerated in  
26 this chapter; and an accounting of future costs associated with any  
27 award or group of awards known to the ~~commission~~ *department*  
28 to represent a portion of a multiyear funding commitment.

29 (f) The ~~commission~~ *department* may transfer funds between  
30 accounts for cashflow purposes, provided that the balance due  
31 each account is restored and the transfer does not adversely affect  
32 any of the accounts.

33 (g) The Department of Finance shall conduct an independent  
34 audit of the Renewable Resource Trust Fund and its related  
35 accounts annually, and provide an audit report to the Legislature  
36 not later than March 1 of each year for which this article is  
37 operative. The Department of Finance's report shall include  
38 information regarding revenues, payment of awards, reserves held  
39 for future commitments, unencumbered cash balances, and other

1 matters that the Director of Finance determines may be of  
2 importance to the Legislature.

3 SEC. 322. Section 25770 of the Public Resources Code is  
4 amended to read:

5 25770. For the purposes of this chapter, the following terms  
6 have the following meanings:

7 ~~(a) “Board” means the California Integrated Waste Management~~  
8 ~~Board established pursuant to Division 30 (commencing with~~  
9 ~~Section 40000).~~

10 ~~(b)–~~

11 (a) “Consumer information requirement” means point-of-sale  
12 information or signs that are conspicuously displayed, readily  
13 accessible, and written in a manner that can be easily understood  
14 by the consumer. “Consumer information requirement” does not  
15 include mandatory labeling, imprinting, or other marking, on an  
16 individual tire by the tire manufacturer or the tire retailer.

17 ~~(e)–~~

18 (b) “Cost effective” means the cost savings to the consumer  
19 resulting from a replacement tire subject to an energy efficiency  
20 standard that equals or exceeds the additional cost to the consumer  
21 resulting from the standard, taking into account the expected fuel  
22 cost savings over the expected life of the replacement tire.

23 ~~(d)–~~

24 (c) “Replacement tire” means a tire sold in the state that is  
25 designed to replace a tire sold with a new passenger car or  
26 light-duty truck. “Replacement tire” does not include any of the  
27 following tires:

28 (1) A tire or group of tires with the same SKU, plant, and year,  
29 for which the volume of tires produced or imported is less than  
30 15,000 annually.

31 (2) A deep tread, winter-type snow tire, a space-saver tire, or a  
32 temporary use spare tire.

33 (3) A tire with a nominal rim diameter of 12 inches or less.

34 (4) A motorcycle tire.

35 (5) A tire manufactured specifically for use in an off-road  
36 motorized recreational vehicle.

37 SEC. 323. Section 25771 of the Public Resources Code is  
38 amended to read:

39 25771. On or before July 1, 2006, the ~~commission~~ *department*  
40 shall develop and adopt all of the following:

1 (a) A database of the energy efficiency of a representative  
 2 sample of replacement tires sold in the state, based on test  
 3 procedures adopted by the ~~commission~~ department.

4 (b) Based on the data collected pursuant to subdivision (a), a  
 5 rating system for the energy efficiency of replacement tires sold  
 6 in the state, that will enable consumers to make more informed  
 7 decisions when purchasing tires for their vehicles.

8 (c) Based on the test procedures adopted pursuant to subdivision  
 9 (a) and the rating system established pursuant to subdivision (b),  
 10 requirements for tire manufacturers to report to the ~~commission~~  
 11 department the energy efficiency of replacement tires sold in the  
 12 state.

13 SEC. 324. Section 25772 of the Public Resources Code is  
 14 amended to read:

15 25772. On or before July 1, 2007, the ~~commission~~, in  
 16 consultation with department by action of the board and in  
 17 consultation with the Department of Resources Recovery and  
 18 Recycling, shall, after appropriate notice and workshops, adopt  
 19 and, on or before July 1, 2008, ~~implement~~, implement a tire energy  
 20 efficiency program of statewide applicability for replacement tires,  
 21 designed to ensure that replacement tires sold in the state are at  
 22 least as energy efficient, on average, as tires sold in the state as  
 23 original equipment on new passenger cars and light-duty trucks.

24 SEC. 325. Section 25773 of the Public Resources Code is  
 25 amended to read:

26 25773. (a) The program described in Section 25772 shall  
 27 include all of the following:

28 (1) The development and adoption of minimum energy  
 29 efficiency standards for replacement tires, except to the extent that  
 30 the ~~commission~~ department determines that it is unable to do so  
 31 in a manner that complies with subparagraphs (A) to (E), inclusive.  
 32 Energy efficiency standards adopted pursuant to this paragraph  
 33 shall meet all of the following conditions:

- 34 (A) Be technically feasible and cost effective.
- 35 (B) Not adversely affect tire safety.
- 36 (C) Not adversely affect the average tire life of replacement  
 37 tires.
- 38 (D) Not adversely affect state efforts to manage scrap tires  
 39 pursuant to Chapter 17 (commencing with Section 42860) of Part  
 40 3 of Division 30.

1 (2) The development and adoption of consumer information  
2 requirements for replacement tires for which standards have been  
3 adopted pursuant to paragraph (1).

4 (b) The energy efficiency standards established pursuant to  
5 paragraph (1) of subdivision (a) shall be based on the results of  
6 laboratory testing and, to the extent it is available and deemed  
7 appropriate by the ~~commission~~, *department*, an onroad fleet testing  
8 program developed by tire manufacturers in consultation with the  
9 ~~commission~~ *department* and the ~~board~~ *Department of Resources*  
10 *Recovery and Recycling*, conducted by tire manufacturers, and  
11 submitted to the ~~commission~~ *department* on or before January 1,  
12 2006.

13 (c) If the ~~commission~~ *department* finds that tires used to equip  
14 an authorized emergency vehicle, as defined in Section 165 of the  
15 Vehicle Code, are unable to meet the standards established pursuant  
16 to paragraph (1) of subdivision (a), the ~~commission~~ *department*  
17 shall authorize an operator of an authorized emergency vehicle  
18 fleet to purchase for those vehicles tires that do not meet those  
19 standards.

20 (d) The ~~commission~~, *department*, by action of the board, in  
21 consultation with the ~~board~~ *Department of Resources Recovery*  
22 *and Recycling*, shall review and revise the program, including any  
23 standards adopted pursuant to the program, as necessary, but not  
24 less than once every three years. The ~~commission~~ *department* may  
25 not revise the program or standards in a way that reduces the  
26 average efficiency of replacement tires.

27 SEC. 326. Section 25782 of the Public Resources Code is  
28 amended to read:

29 25782. (a) The ~~commission~~ *department*, by the action of the  
30 board shall, by January 1, 2008, in consultation with the Public  
31 Utilities Commission, local publicly owned electric utilities, and  
32 interested members of the public, establish eligibility criteria for  
33 solar energy systems receiving ratepayer funded incentives that  
34 include all of the following:

35 (1) Design, installation, and electrical output standards or  
36 incentives.

37 (2) The solar energy system is intended primarily to offset part  
38 or all of the consumer's own electricity demand.

1 (3) All components in the solar energy system are new and  
2 unused, and have not previously been placed in service in any  
3 other location or for any other application.

4 (4) The solar energy system has a warranty of not less than 10  
5 years to protect against defects and undue degradation of electrical  
6 generation output.

7 (5) The solar energy system is located on the same premises of  
8 the end-use consumer where the consumer’s own electricity  
9 demand is located.

10 (6) The solar energy system is connected to the electrical  
11 corporation’s electrical distribution system within the state.

12 (7) The solar energy system has meters or other devices in place  
13 to monitor and measure the system’s performance and the quantity  
14 of electricity generated by the system.

15 (8) The solar energy system is installed in conformance with  
16 the manufacturer’s specifications and in compliance with all  
17 applicable electrical and building code standards.

18 (b) ~~The commission~~ *department, by the action of the board* shall  
19 establish conditions on ratepayer funded incentives that require  
20 all of the following:

21 (1) Appropriate siting and high quality installation of the solar  
22 energy system by developing installation guidelines that maximize  
23 the performance of the system and prevent qualified systems from  
24 being inefficiently or inappropriately installed. The conditions  
25 established by the ~~commission~~ *department, by the action of the*  
26 *board* shall not impact housing designs or densities presently  
27 authorized by a city, county, or city and county. The goal of this  
28 paragraph is to achieve efficient installation of solar energy systems  
29 to promote the greatest energy production per ratepayer dollar.

30 (2) Optimal solar energy system performance during periods of  
31 peak electricity demand.

32 (3) Appropriate energy efficiency improvements in the new or  
33 existing home or commercial structure where the solar energy  
34 system is installed.

35 (c) ~~The commission~~ *department, by the action of the board* shall  
36 set rating standards for equipment, components, and systems to  
37 ~~assure~~ *ensure* reasonable performance and shall develop standards  
38 that provide for compliance with the minimum ratings.

39 (d) Upon establishment of eligibility criteria pursuant to  
40 subdivision (a), ~~no~~ a ratepayer funded incentives shall *not* be made

1 for a solar energy system that ~~does not~~ *fails to* meet the eligibility  
2 criteria.

3 SEC. 327. Section 25783 of the Public Resources Code is  
4 amended to read:

5 25783. The ~~commission~~ *department, by the action of the board*  
6 shall do all the following:

7 (a) Publish educational materials designed to demonstrate how  
8 builders may incorporate solar energy systems during construction  
9 as well as energy efficiency measures that best complement solar  
10 energy systems.

11 (b) Develop and publish the estimated annual electrical  
12 generation and savings for solar energy systems. The estimates  
13 shall vary by climate zone, type of system, size, life cycle costs,  
14 electricity prices, and other factors the ~~commission~~ *department*  
15 determines to be relevant to a consumer when making a purchasing  
16 decision.

17 (c) Provide assistance to builders and contractors. The assistance  
18 may include technical workshops, training, educational materials,  
19 and related research.

20 (d) The ~~commission~~ *department* shall annually conduct random  
21 audits of solar energy systems to evaluate their operational  
22 performance.

23 SEC. 328. Section 25784 of the Public Resources Code is  
24 amended to read:

25 25784. The ~~commission~~ *department, by action of the board,*  
26 shall adopt guidelines for solar energy systems receiving ratepayer  
27 funded incentives at a publicly noticed meeting offering all  
28 interested parties an opportunity to comment. Not less than 30  
29 days' public notice shall be given of the meeting required by this  
30 section, before the ~~commission~~ *board* initially adopts guidelines.  
31 Substantive changes to the guidelines shall not be adopted without  
32 at least 10 days' written notice to the public. Notwithstanding any  
33 other provision of law, any guidelines adopted pursuant to this  
34 chapter shall be exempt from the requirements of Chapter 3.5  
35 (commencing with Section 11340) of Part 1 of Division 3 of Title  
36 2 of the Government Code.

37 SEC. 329. Section 25802 of the Public Resources Code is  
38 amended to read:

39 25802. ~~Each~~ *(a)* A person who submits to the ~~commission~~  
40 *department* a notice of intent for any proposed generating facility

1 shall accompany the notice with a fee of one cent (\$0.01) per  
2 kilowatt of net electric capacity of the proposed generation facility.  
3 ~~Such~~ *The* fee shall only be paid on one of the alternate proposed  
4 facility sites ~~which~~ *that* has the highest electrical designed capacity.  
5 In no event shall ~~such~~ *the* fee be less than one thousand dollars  
6 (\$1,000) nor more than twenty-five thousand dollars (\$25,000).

7 For

8 (b) For any other facility, the notice shall be accompanied by  
9 a fee of five thousand dollars (\$5,000). ~~Such~~ *The* fee shall only be  
10 paid on one of the alternate proposed facility sites.

11 SEC. 330. Section 25803 of the Public Resources Code is  
12 amended to read:

13 25803. ~~All funds~~ *Funds* received by the ~~commission~~  
14 *department* pursuant to Section 25802, shall be remitted to the  
15 State Treasurer for deposit in the account. All funds in the account  
16 shall be expended for purposes of carrying out the provisions of  
17 this division, when appropriated by the Legislature in the Budget  
18 Act.

19 SEC. 331. Section 25806 of the Public Resources Code is  
20 amended to read:

21 25806. (a) A person who submits to the ~~commission~~  
22 *department* an application for certification *by the board* for a  
23 proposed generating facility shall submit with the application a  
24 fee of one hundred thousand dollars (\$100,000) plus two hundred  
25 fifty dollars (\$250) per megawatt of gross generating capacity of  
26 the proposed facility. The total fee accompanying an application  
27 may not exceed three hundred fifty thousand dollars (\$350,000).

28 (b) A person who receives certification of a proposed generating  
29 facility shall pay an annual fee of fifteen thousand dollars  
30 (\$15,000). The first payment of the annual fee is due on the date  
31 this section takes effect. For a facility certified on or after the  
32 effective date of this section, the first payment of the annual fee  
33 is due on the date the ~~commission~~ *board* adopts the final decision.  
34 All subsequent payments are due by July 1 of each year in which  
35 the facility retains its certification. The fiscal year for the annual  
36 fee is July 1 to June 30, inclusive.

37 (c) The fees in subdivisions (a) and (b) shall be adjusted annually  
38 to reflect the percentage change in the Implicit Price Deflator for  
39 State and Local Government Purchases of Goods and Services, as  
40 published by the United States Department of Commerce.

1 (d) ~~No~~A fee is *not* required to accompany an application for  
2 certification, and ~~no~~ an annual fee is *not* required thereafter, for a  
3 generating facility that uses a renewable resource as its primary  
4 fuel or power source. For purposes of this subdivision, a renewable  
5 resource includes, but is not limited to, biomass, solar thermal,  
6 geothermal, digester gas, municipal solid waste conversion, landfill  
7 gas, ocean thermal, and solid waste converted to a clean burning  
8 fuel by using a noncombustion thermal process.

9 (e) The Energy Facility License and Compliance Fund is hereby  
10 created in the State Treasury. All fees received by the ~~commission~~  
11 *department* pursuant to this section shall be remitted to the  
12 Treasurer for deposit in the fund. The money in the fund shall be  
13 expended, upon appropriation by the Legislature, for processing  
14 applications for certification and for compliance monitoring.

15 SEC. 332. Section 25900 of the Public Resources Code is  
16 amended to read:

17 25900. Except as provided in Section 25531, whenever the  
18 ~~commission~~ *department, by the action of the board,* finds that any  
19 provision of this division is violated or a violation is threatening  
20 to take place ~~which~~ *that* constitutes an emergency requiring  
21 immediate action to protect the public health, welfare, or safety,  
22 the Attorney General, upon request of the ~~commission,~~ *department*  
23 *or the board,* shall petition a court to enjoin ~~such~~ *the* violation.  
24 The court shall have jurisdiction to grant ~~such~~ prohibitory or  
25 mandatory injunctive relief as may be warranted by way of  
26 temporary restraining order, preliminary injunction, and permanent  
27 injunction.

28 SEC. 333. Section 25901 of the Public Resources Code is  
29 amended to read:

30 25901. (a) Within 30 days after the ~~commission~~ *department,*  
31 *including the board,* issues its determination on any matter  
32 specified in this division, except as provided in Section 25531,  
33 any aggrieved person may file with the superior court a petition  
34 for a writ of mandate for review ~~thereof.~~ *of the determination.*  
35 Failure to file ~~such an action~~ *this petition* does not preclude a  
36 person from challenging the reasonableness and validity of a  
37 decision in any judicial proceedings brought to enforce the decision  
38 or to obtain other civil remedies.

39 (b) The decision of the ~~commission~~ *department or the board*  
40 shall be sustained by the court unless the court finds (1) that the

1 ~~commission~~ *department or the board* proceeded without, or in  
2 excess of its jurisdiction, (2) that, based exclusively upon a review  
3 of the record before the ~~commission~~, *department or the board*, the  
4 decision is not supported by substantial evidence in light of the  
5 whole record, or (3) that the ~~commission~~ *department or the board*  
6 failed to proceed in the manner required by law.

7 (c) Except as otherwise provided in this section, subdivisions  
8 (f) and (g) of Section 1094.5 of the Code of Civil Procedure govern  
9 proceedings pursuant to this section.

10 (d) The amendment of this section made at the 1989–90 Regular  
11 Session of the Legislature does not constitute a change in, but is  
12 declaratory of, existing law.

13 SEC. 334. Section 25902 of the Public Resources Code is  
14 amended to read:

15 25902. Any evaluations in the reports required by Section  
16 ~~25309~~ 25302 and any findings and determinations on the notice  
17 of intent pursuant to Chapter 6 (commencing with Section 25500)  
18 shall not be construed as a final evaluation, finding, or  
19 determination by the ~~commission~~ *department or the board* and a  
20 court action may not be brought to review ~~any such~~ *the* evaluation,  
21 finding, or determination.

22 SEC. 335. Section 25910 of the Public Resources Code is  
23 amended to read:

24 25910. The ~~commission~~ *department* shall, by regulation  
25 adopted ~~no later than July 1, 1978~~, *by the board*, establish minimum  
26 standards for the amount of additional insulation (expressed in  
27 terms of R-value) installed in existing buildings. One year after  
28 the adoption of those standards, no insulation shall be installed in  
29 any existing building by a contractor unless the contractor certifies  
30 to the customer in writing that the amount of insulation (expressed  
31 in terms of R-value) meets or exceeds the minimum amount  
32 established by the standards. The minimum standards may vary  
33 for different types of buildings or building occupancies and  
34 different climate zones in the state. The minimum standards shall  
35 be economically feasible in that the resultant savings in energy  
36 procurement costs shall be greater than the cost of the insulation  
37 to the customer amortized over the useful life of the insulation.

38 SEC. 336. Section 25911 of the Public Resources Code is  
39 amended to read:

1 25911. The ~~State California Energy Resources Conservation~~  
2 ~~and Development Commission Board~~ may adopt regulations  
3 pertaining to urea formaldehyde foam insulation materials as are  
4 reasonably necessary to protect the public health and safety. These  
5 regulations may include, but are not limited to, prohibition of the  
6 manufacture, sale, or installation of urea formaldehyde foam  
7 insulation, requirements for safety notices to consumers,  
8 certification of installers, and specification of installation practices.  
9 Regulations adopted pursuant to this section shall be promulgated  
10 after public hearings in accordance with Chapter 3.5 (commencing  
11 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
12 Government Code. Any regulation adopted by the ~~commission~~  
13 ~~board~~ to prohibit the sale and installation of urea formaldehyde  
14 foam insulation shall be based upon a record of scientific evidence  
15 ~~which that~~ demonstrates the need for the prohibition in order to  
16 protect the public health and safety.

17 SEC. 337. Section 25912 of the Public Resources Code is  
18 amended to read:

19 25912. Prior to ~~the board~~ adopting any regulation ~~which that~~  
20 causes a prohibition on the sale and installation of urea  
21 formaldehyde foam insulation, the ~~commission~~ *department* shall  
22 consult with, and solicit written comments from, all of the  
23 following:

24 (a) Federal and state agencies with appropriate scientific staffs,  
25 including, but not limited to, the State Department of Health  
26 Services, the National Academy of Sciences, the United States  
27 Department of Housing and Urban Development, the United States  
28 Department of Energy, and the United States Consumer Product  
29 Safety Commission.

30 (b) Universities and public and private scientific organizations.

31 SEC. 338. Section 25942 of the Public Resources Code is  
32 amended to read:

33 25942. (a) On or before July 1, 1995, the ~~commission~~  
34 ~~department~~ shall establish criteria for adopting a statewide home  
35 energy rating program for residential dwellings. The program  
36 criteria shall include, but are not limited to, all of the following  
37 elements:

38 (1) Consistent, accurate, and uniform ratings based on a single  
39 statewide rating scale.

1 (2) Reasonable estimates of potential utility bill savings, and  
 2 reliable recommendations on cost-effective measures to improve  
 3 energy efficiency.

4 (3) Training and certification procedures for home raters and  
 5 quality assurance procedures to promote accurate ratings and to  
 6 protect consumers.

7 (4) In coordination with home energy rating service organization  
 8 data bases, procedures to establish a centralized, publicly  
 9 accessible, data base that includes a uniform reporting system for  
 10 information on residential dwellings, excluding proprietary  
 11 information, needed to facilitate the program. There shall be no  
 12 public access to information in the data base concerning specific  
 13 dwellings without the owner's or occupant's permission.

14 (5) Labeling procedures that will meet the needs of home buyers,  
 15 homeowners, renters, the real estate industry, and mortgage lenders  
 16 with an interest in home energy ratings.

17 (b) The ~~commission~~ *department* shall adopt the program  
 18 pursuant to subdivision (a) in consultation with representatives of  
 19 the Department of Real Estate, the Department of Housing and  
 20 Community Development, the Public Utilities Commission,  
 21 investor-owned and municipal utilities, cities and counties, real  
 22 estate licensees, home builders, mortgage lenders, home appraisers  
 23 and inspectors, home energy rating organizations, contractors who  
 24 provide home energy services, consumer groups, and  
 25 environmental groups.

26 (c) On and after January 1, 1996, no home energy rating services  
 27 may be performed in this state unless the services have been  
 28 certified, if ~~such~~ a certification program is available, by the  
 29 ~~commission~~ *department* to be in compliance with the program  
 30 criteria specified in subdivision (a) and, in addition, are in  
 31 conformity with any other applicable element of the program.

32 (d) On or before July 1, 1996, the ~~commission~~ *department* shall  
 33 consult with the agencies and organizations described in  
 34 subdivision (b), to facilitate a public information program to inform  
 35 homeowners, rental property owners, renters, sellers, and others  
 36 of the existence of the statewide home energy rating program  
 37 adopted by the ~~commission~~ *department*.

38 (e) Beginning with the 1998 biennial energy conservation report  
 39 required by Section 25401.1, the ~~commission~~ *department* shall, as  
 40 part of that biennial ~~report~~, report *prepared pursuant to Section*

1 25302, *report* on the progress made to implement a statewide home  
2 energy rating program. The report shall include an evaluation of  
3 the energy savings attributable to the program, and a  
4 recommendation concerning which means and methods will be  
5 most efficient and cost-effective to induce home energy ratings  
6 for residential dwellings.

7 SEC. 339. Section 25943 of the Public Resources Code is  
8 amended to read:

9 25943. (a) (1) By March 1, 2010, the ~~commission~~ *department*,  
10 *by action of the board*, shall establish a regulatory proceeding to  
11 develop and implement a comprehensive program to achieve  
12 greater energy savings in California's existing residential and  
13 nonresidential building stock. This program shall comprise a  
14 complementary portfolio of techniques, applications, and practices  
15 that will achieve greater energy efficiency in existing residential  
16 and nonresidential structures that fall significantly below the  
17 current standards in Title 24 of the California Code of Regulations,  
18 as determined by the ~~commission~~ *department*.

19 (2) The comprehensive program may include, but need not be  
20 limited to, a broad range of energy assessments, building  
21 benchmarking, energy rating, cost-effective energy efficiency  
22 improvements, public and private sector energy efficiency  
23 financing options, public outreach and education efforts, and green  
24 workforce training.

25 (b) To develop and implement the program specified in  
26 subdivision (a), the ~~commission~~ *department* shall do both of the  
27 following:

28 (1) Coordinate with the Public Utilities Commission and consult  
29 with representatives from the Department of Real Estate, the  
30 Department of Housing and Community Development,  
31 investor-owned and publicly owned utilities, local governments,  
32 real estate licensees, commercial and home builders, commercial  
33 property owners, small businesses, mortgage lenders, financial  
34 institutions, home appraisers, inspectors, energy rating  
35 organizations, consumer groups, environmental and environmental  
36 justice groups, and other entities the ~~commission~~ *board* deems  
37 appropriate.

38 (2) Hold at least three public hearings in geographically diverse  
39 locations throughout the state.

- 1 (c) In developing the requirements for the program specified in  
2 subdivision (a), the ~~commission~~ *board* shall consider all of the  
3 following:
- 4 (1) The amount of annual and peak energy savings, greenhouse  
5 gas emission reductions, and projected customer utility bill savings  
6 that will accrue from the program.
  - 7 (2) The most cost-effective means and reasonable timeframes  
8 to achieve the goals of the program.
  - 9 (3) The various climatic zones within the state.
  - 10 (4) An appropriate method to inform and educate the public  
11 about the need for, benefits of, and environmental impacts of, the  
12 comprehensive energy efficiency program.
  - 13 (5) The most effective way to report the energy assessment  
14 results and the corresponding energy efficiency improvements to  
15 the owner of the residential or nonresidential building, including,  
16 among other things, the following:
    - 17 (A) Prioritizing the identified energy efficiency improvements.
    - 18 (B) The payback period or cost-effectiveness of each  
19 improvement identified.
    - 20 (C) The various incentives, loans, grants, and rebates offered  
21 to finance the improvements.
    - 22 (D) Available financing options including all of the following:
      - 23 (i) Mortgages or sales agreement components.
      - 24 (ii) On-bill financing.
      - 25 (iii) Contractual property tax assessments.
      - 26 (iv) Home warranties.
  - 27 (6) Existing statutory and regulatory requirements to achieve  
28 energy efficiency savings and greenhouse gas emission reductions.
  - 29 (7) A broad range of implementation approaches, including both  
30 utility and nonutility administration of energy efficiency programs.
  - 31 (8) Any other considerations deemed appropriate by the  
32 ~~commission~~ *board*.
- 33 (d) The program developed pursuant to this section shall do all  
34 of the following:
- 35 (1) Minimize the overall costs of establishing and implementing  
36 the comprehensive energy efficiency program requirements.
  - 37 (2) Ensure, for residential buildings, that the energy efficiency  
38 assessments, ratings, or improvements do not unreasonably or  
39 unnecessarily affect the home purchasing process or the ability of  
40 individuals to rent housing. A transfer of property subject to the

1 program implemented pursuant to this section shall not be  
2 invalidated solely because of the failure of a person to comply  
3 with a provision of the program.

4 (3) Ensure, for nonresidential buildings, that the energy  
5 improvements do not have an undue economic impact on California  
6 businesses.

7 (4) Determine, for residential buildings, the appropriateness of  
8 the Home Energy Rating System (HERS) program to support the  
9 goals of this section and whether there are a sufficient number of  
10 HERS-certified raters available to meet the program requirements.

11 (5) Determine, for nonresidential structures, the availability of  
12 an appropriate cost-effective energy efficiency assessment system  
13 and whether there are a sufficient number of certified raters or  
14 auditors available to meet the program requirements.

15 (6) Coordinate with the California Workforce Investment Board,  
16 the Employment Training Panel, the California Community  
17 Colleges, and other entities to ensure a qualified, well-trained  
18 workforce is available to implement the program requirements.

19 (7) Coordinate with, and avoid duplication of, existing  
20 proceedings of the Public Utilities Commission and programs  
21 administered by utilities.

22 (e) A home energy rating or energy assessment service does not  
23 meet the requirements of this section unless the service has been  
24 certified by the ~~commission~~ board to be in compliance with the  
25 program criteria developed pursuant to this section and is in  
26 conformity with other applicable elements of the program.

27 (f) The ~~commission~~ department, by action of the board, shall  
28 periodically update the criteria and adopt any revision that, in its  
29 judgment, is necessary to improve or refine program requirements  
30 after receiving public input.

31 (g) Before implementing an element of the program developed  
32 pursuant to subdivision (a) that requires the expansion of statutory  
33 authority of the ~~commission~~ department or the Public Utilities  
34 Commission, the ~~commission~~ department and the Public Utilities  
35 Commission shall obtain legislative approval for the expansion of  
36 their authorities.

37 (h) The ~~commission~~ department shall report on the status of the  
38 program in the integrated energy policy report pursuant to Section  
39 25302.

1 (i) ~~The commission~~ *department* shall fund activities undertaken  
2 pursuant to this section from the Federal Trust Fund consistent  
3 with the federal American Recovery and Reinvestment Act of  
4 2009 (Public Law 111-5) or other sources of nonstate funds  
5 available to the ~~commission~~ *department* for the purposes of this  
6 section.

7 (j) For purposes of this section, “energy assessment” means a  
8 determination of an energy user’s energy consumption level,  
9 relative efficiency compared to other users, and opportunities to  
10 achieve greater efficiency or improve energy resource utilization.

11 SEC. 340. Section 25960 of the Public Resources Code is  
12 amended to read:

13 25960. ~~No~~ A new residential-type gas appliance that is  
14 equipped with a pilot light shall *not* be sold in the state after an  
15 alternate means has been certified by the ~~commission~~ *board*. This  
16 prohibition shall become operative 24 months after an intermittent  
17 ignition device has been demonstrated and certified by the  
18 ~~commission~~ *board* as an alternate means. The ~~commission~~ *board*  
19 may determine, after demonstration, that there is no feasible  
20 alternative means to the use of pilot light or that the use of a pilot  
21 light is necessary for public health and safety.

22 SEC. 341. Section 25961 of the Public Resources Code is  
23 amended to read:

24 25961. ~~The commission~~ *The department, by action of the*  
25 *board*, shall, on or before January 1, 1976, develop in cooperation  
26 with affected industry and consumer representatives, who will be  
27 designated as such representatives by the ~~commission~~ *board*, the  
28 specifications for certification of intermittent ignition devices  
29 ~~which~~ *that* shall not significantly affect the price of gas appliances  
30 in competition with similar electrical appliances. The specification  
31 shall be developed so as to result in the conservation of primary  
32 energy resources, shall include provisions necessary for public  
33 health and safety, and shall give due consideration to the initial  
34 costs, including installation and maintenance costs imposed upon  
35 the consumer.

36 SEC. 342. Section 25962 of the Public Resources Code is  
37 amended to read:

38 25962. Within 90 days after an intermittent ignition device has  
39 been certified by the ~~commission~~ *board*, the ~~commission~~  
40 *department* shall notify all gas appliance manufacturers doing

1 business in the state, as to the prohibition of affected pilot lights  
2 and shall inform the manufacturers of the devices available to  
3 comply with this article.

4 SEC. 343. Section 25963 of the Public Resources Code is  
5 amended to read:

6 25963. The ~~commission~~ *department* shall create a seal of  
7 certification and shall distribute the seal to every manufacturer  
8 that complies with this article. The seal shall be affixed to every  
9 new appliance sold in the state.

10 SEC. 344. Section 25964 of the Public Resources Code is  
11 amended to read:

12 25964. After 24 months after an intermittent ignition device  
13 has been certified by the ~~commission, no board~~, a person shall *not*  
14 sell or offer for sale in this state any new gas appliances, as defined  
15 in Section 25950, without obtaining the proper seal of certification  
16 from the ~~commission, board~~, unless the ~~commission board~~  
17 otherwise permits ~~such this~~ action. Beginning 24 months after an  
18 intermittent ignition device has been certified by the ~~commission,~~  
19 ~~no board~~, a city or county, city and county, or state agency shall  
20 *not* issue a permit for any building to be equipped with any new  
21 gas appliance, as defined in Section 25950, unless ~~such the~~ building  
22 permit shows that the gas appliance complies with this chapter.  
23 However, any new gas appliance ~~which that~~ does not comply with  
24 this chapter may be installed if the appliance was purchased  
25 pursuant to a contract executed prior to June 17, 1978, and if the  
26 building permit was approved prior to July 8, 1978.

27 SEC. 345. Section 25965 of the Public Resources Code is  
28 amended to read:

29 25965. After 24 months after an intermittent ignition device  
30 has been certified by the ~~commission, board~~, the ~~commission~~  
31 *department* shall make periodic inspections of manufacturers and  
32 distributors of gas appliances and may inspect retail outlets,  
33 including gas appliances that have been or are to be installed by  
34 contractors or builders at building sites in order to determine their  
35 compliance with this article.

36 SEC. 346. Section 25967 of the Public Resources Code is  
37 amended to read:

38 25967. (a) Any person who violates ~~any provision of~~ this  
39 chapter shall be liable for a civil penalty not to exceed two thousand  
40 five hundred dollars (\$2,500) for each violation, which shall be

1 assessed and recovered in a civil action brought in the name of the  
2 people of the State of California by the Attorney General or by  
3 any district attorney, county counsel, or city attorney in any court  
4 of competent jurisdiction.

5 (b) If the action is brought by the Attorney General, one-half  
6 of the penalty collected shall be paid to the treasurer of the county  
7 in which the judgment was entered, and one-half to the State  
8 Treasurer. If brought by a district attorney or county counsel, the  
9 entire amount of penalty collected shall be paid to the treasurer of  
10 the county in which the judgment was entered. If brought by a city  
11 attorney or city prosecutor, one-half of the penalty shall be paid  
12 to the treasurer of the county and one-half to the city.

13 (c) If the action is brought at the request of the ~~commission,~~  
14 ~~department or the board,~~ the court shall determine the reasonable  
15 expenses incurred by the ~~commission department or the board~~ in  
16 the investigation and prosecution of the action.

17 (d) Before any penalty collected is paid out pursuant to  
18 subdivision (b), the amount of such reasonable expenses incurred  
19 by the ~~commission department or the board~~ shall be paid to the  
20 State Treasurer.

21 SEC. 347. Section 25968 of the Public Resources Code is  
22 amended to read:

23 25968. Any inspector appointed or authorized by the  
24 ~~commission department or the board~~ shall have access to the  
25 premises, equipment, materials, partly finished and finished  
26 articles, and records of any person subject to ~~the provisions of this~~  
27 chapter.

28 SEC. 348. Section 26004 of the Public Resources Code is  
29 amended to read:

30 26004. (a) There is in the state government the California  
31 Alternative Energy and Advanced Transportation Financing  
32 Authority. The authority constitutes a public instrumentality and  
33 the exercise by the authority of powers conferred by this division  
34 is the performance of an essential public function.

35 (b) The authority shall consist of five members, as follows:

36 (1) The Director of Finance.

37 (2) ~~The Chairperson Secretary of the State Energy Resources~~  
38 ~~Conservation and Development Commission.~~ *Department of*  
39 *Energy.*

40 (3) The President of the Public Utilities Commission.

1 (4) The Controller.

2 (5) The Treasurer, who shall serve as the chairperson of the  
3 authority.

4 (c) The members listed in paragraphs (1) to (5), inclusive, of  
5 subdivision (b) may each designate a deputy or clerk in his or her  
6 agency to act for and represent the member at all meetings of the  
7 authority.

8 (d) The first meeting of the authority shall be convened by the  
9 Treasurer.

10 SEC. 349. Section 26011.5 of the Public Resources Code is  
11 amended to read:

12 26011.5. The authority, in consultation with the ~~State Energy~~  
13 ~~Resources—Conservation—and—Development—Commission,~~  
14 *Department of Energy*, shall establish criteria for the selection of  
15 projects to receive financing assistance from the authority. In the  
16 selection of projects, the authority shall, in accordance with the  
17 legislative intent, provide financial assistance under this division  
18 in a manner consistent with sound financial practice. In developing  
19 project selection criteria, the authority shall consider, but not be  
20 limited to, all of the following:

21 (a) The technological feasibility of the projects.

22 (b) The economic soundness of the projects and a realistic  
23 expectation that all financial obligations can and will be met by  
24 the participating parties.

25 (c) The contribution that the projects can make to a reduction  
26 or more efficient use of fossil fuels.

27 (d) The contribution that the project can make toward  
28 diversifying California's energy resources by fostering renewable  
29 energy systems that can substitute, or preferably eliminate, the  
30 demand for conventional energy fuels.

31 (e) Any other such factors that the authority finds significant in  
32 achieving the purposes and objectives of this division.

33 SEC. 350. Section 26011.6 of the Public Resources Code is  
34 amended to read:

35 26011.6. (a) The authority shall establish a renewable energy  
36 program to provide financial assistance to public power entities,  
37 independent generators, utilities, or businesses manufacturing  
38 components or systems, or both, to generate new and renewable  
39 energy sources, develop clean and efficient distributed generation,  
40 and demonstrate the economic feasibility of new technologies,

1 such as solar, photovoltaic, wind, and ultralow-emission equipment.  
2 The authority shall give preference to utility-scale projects that  
3 can be rapidly deployed to provide a significant contribution as a  
4 renewable energy supply. The program established pursuant to  
5 this subdivision shall include financial assistance provided pursuant  
6 to subdivision (g) of Section 26011.

7 (b) The authority shall make every effort to expedite the  
8 operation of renewable energy systems, and shall adopt regulations  
9 for purposes of this section and Section 26011.5 as emergency  
10 regulations in accordance with Chapter 3.5 (commencing with  
11 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
12 Code. For purposes of ~~that~~ Chapter 3.5, including Section 11349.6  
13 of the Government Code, the adoption of the regulations shall be  
14 considered by the Office of Administrative Law to be necessary  
15 for the immediate preservation of the public peace, health and  
16 safety, and general welfare. Notwithstanding the 120-day limitation  
17 specified in subdivision (e) of Section 11346.1 of the Government  
18 Code, the regulations shall be repealed 180 days after their effective  
19 date, unless the authority complies with Sections 11346.2 to  
20 11347.3, inclusive, as provided in subdivision (e) of Section  
21 11346.1 of the Government Code.

22 (c) The authority shall consult with the ~~State Department of~~  
23 ~~Energy Resources Conservation and Development Commission~~  
24 regarding the financing of projects to avoid duplication of other  
25 renewable energy projects.

26 (d) The authority shall ensure that any financed project shall  
27 offer its power within California on a long-term contract basis.

28 (e) The authority shall ensure that a financed project is limited  
29 to resources that the authority determines support the state's goals  
30 for the reduction of emissions of greenhouse gases pursuant to the  
31 California Global Warming Solutions Act of 2006 (Division 25.5  
32 (commencing with Section 38500) of the Health and Safety Code).

33 SEC. 351. Section 30404 of the Public Resources Code is  
34 amended to read:

35 30404. (a) The commission shall periodically, in the case of  
36 the ~~State Energy Resources Conservation and Development~~  
37 ~~Commission~~, *Department of Energy*, the State Board of Forestry  
38 and Fire Protection, the State Water Resources Control Board and  
39 the California regional water quality control boards, the State Air  
40 Resources Board and air pollution control districts and air quality

1 management districts, the Department of Fish and Game, the  
2 Department of Parks and Recreation, the Department of Boating  
3 and Waterways, the California Geological Survey and the Division  
4 of Oil, Gas, and Geothermal Resources in the Department of  
5 Conservation, and the State Lands Commission, and may, with  
6 respect to any other state agency, submit recommendations  
7 designed to encourage the state agency to carry out its functions  
8 in a manner consistent with this division. The recommendations  
9 may include proposed changes in administrative regulations, rules,  
10 and statutes.

11 (b) Each of those state agencies shall review and consider the  
12 commission recommendations and shall, within six months from  
13 the date of their receipt, to the extent that the recommendations  
14 have not been implemented, report to the Governor and the  
15 Legislature its action and reasons therefor. The report shall also  
16 include the state agency's comments on any legislation that may  
17 have been proposed by the commission.

18 SEC. 352. Section 322 is added to the Public Utilities Code,  
19 to read:

20 322. (a) Whenever in this chapter a reference is made to the  
21 "California Energy Resources Conservation and Development  
22 Commission," the "State Energy Resources Conservation and  
23 Development Commission," or the "Energy Commission," it means  
24 the Department of Energy as successor to that entity.

25 (b) Whenever in this chapter a reference is made to the  
26 Department of Water Resources acting pursuant to Division 27  
27 (commencing with Section 80000) of the Water Code, it includes  
28 the Department of Energy as the successor to the Department of  
29 Water Resources for this purpose.

30 SEC. 353. Article 2 (commencing with Section 334) of Chapter  
31 2.3 of Part 1 of Division 1 of the Public Utilities Code is repealed.

32 SEC. 354. Section 345.1 is added to the Public Utilities Code,  
33 to read:

34 345.1. (a) The Independent System Operator governing board  
35 shall be composed of a five-member independent governing board  
36 of directors appointed by the Governor and subject to confirmation  
37 by the Senate. Any reference in this chapter or in any other  
38 provision of law to the Independent System Operator governing  
39 board means the independent governing board appointed under  
40 this subdivision.

1 (b) A member of the independent governing board appointed  
2 under subdivision (a) may not be affiliated with any actual or  
3 potential participant in any market administered by the Independent  
4 System Operator.

5 (c) (1) All appointments shall be for three-year terms.

6 (2) There is no limit on the number of terms that may be served  
7 by any member.

8 (d) The Office of Energy Market Oversight shall require the  
9 articles of incorporation and bylaws of the Independent System  
10 Operator to be maintained in accordance with this section, and  
11 shall make filings with the Federal Energy Regulatory Commission  
12 as the office determines to be necessary.

13 (e) For the purposes of the initial appointments to the  
14 Independent System Operator governing board, as provided in  
15 subdivision (a), the Governor shall appoint one member to a  
16 one-year term, two members to a two-year term, and two members  
17 to a three-year term.

18 SEC. 355. Section 345.2 is added to the Public Utilities Code,  
19 to read:

20 345.2. (a) The Independent System Operator bylaws shall  
21 contain provisions that identify those matters specified in  
22 subdivision (b) of Section 25227.6 of the Public Resources Code  
23 as matters within state jurisdiction. The bylaws shall also contain  
24 provisions that state that California's bylaws approval function  
25 with respect to the matters specified in subdivision (b) of Section  
26 25227.6 of the Public Resources Code shall not preclude the  
27 Federal Energy Regulatory Commission from taking any action  
28 necessary to address undue discrimination or other violations of  
29 the Federal Power Act (16 U.S.C. Sec. 791a et seq.) or to exercise  
30 any other commission responsibility under the Federal Power Act.  
31 In taking this action, the Federal Energy Regulatory Commission  
32 shall give due respect to California's jurisdictional interests in the  
33 functions of the Independent System Operator and to attempt to  
34 accommodate state interests to the extent those interests are not  
35 inconsistent with the Federal Energy Regulatory Commission's  
36 statutory responsibilities. The bylaws shall state that any future  
37 agreement regarding the apportionment of the Independent System  
38 Operator board appointment function among participating states  
39 associated with the expansion of the Independent System Operator  
40 into a multistate entity shall be filed with the Federal Energy

1 Regulatory Commission pursuant to Section 205 of the Federal  
2 Power Act (16 U.S.C. Sec. 824d).

3 (b) Any necessary bylaw changes to implement the provisions  
4 of Section 345.1 or subdivision (a) of this section, or Section  
5 25227.1, 25227.5, or 25227.6 of the Public Resources Code, or  
6 changes required pursuant to an agreement as contemplated by  
7 subdivision (a) of this section with a participating state for a  
8 regional organization, shall be effective upon approval of the  
9 Independent System Operator governing board and the Office of  
10 Energy Market Oversight and acceptance for filing by the Federal  
11 Energy Regulatory Commission.

12 SEC. 356. Section 346 of the Public Utilities Code is repealed.

13 ~~346. The Independent System Operator shall immediately~~  
14 ~~participate in all relevant Federal Energy Regulatory Commission~~  
15 ~~proceedings. The Independent System Operator shall ensure that~~  
16 ~~additional filings at the Federal Energy Regulatory Commission~~  
17 ~~request confirmation of the relevant provisions of this chapter and~~  
18 ~~seek the authority needed to give the Independent System Operator~~  
19 ~~the ability to secure generating and transmission resources~~  
20 ~~necessary to guarantee achievement of planning and operating~~  
21 ~~reserve criteria no less stringent than those established by the~~  
22 ~~Western Electricity Coordinating Council and the North American~~  
23 ~~Electric Reliability Council.~~

24 SEC. 357. Section 348 of the Public Utilities Code is amended  
25 to read:

26 348. The Independent System Operator shall adopt inspection,  
27 maintenance, repair, and replacement standards for the transmission  
28 facilities under its control no later than September 30, 1997. The  
29 standards, which shall be performance or prescriptive standards,  
30 or both, as appropriate, for each substantial type of transmission  
31 equipment or facility, shall provide for high quality, safe, and  
32 reliable service. In adopting its standards, the Independent System  
33 Operator shall consider: cost, local geography and weather,  
34 applicable codes, national electric industry practices, sound  
35 engineering judgment, and experience. The Independent System  
36 Operator shall also adopt standards for reliability, and safety during  
37 periods of emergency and disaster. The Independent System  
38 Operator shall report to the ~~Oversight Board~~, *Office of Energy*  
39 *Market Oversight*, at such the times as the ~~Oversight Board~~ *that*  
40 *office* may specify, on the development and implementation of the

1 standards in relation to facilities under the operational control of  
2 the Independent System Operator. The Independent System  
3 Operator shall require each transmission facility owner or operator  
4 to report annually on its compliance with the standards. That report  
5 shall be made available to the public.

6 SEC. 358. Section 350 of the Public Utilities Code is repealed.

7 ~~350. The Independent System Operator, in consultation with  
8 the California Energy Resources Conservation and Development  
9 Commission, the Public Utilities Commission, the Western  
10 Electricity Coordinating Council, and concerned regulatory  
11 agencies in other western states, shall within six months after the  
12 Federal Energy Regulatory Commission approval of the  
13 Independent System Operator, provide a report to the Legislature  
14 and to the Oversight Board that does the following:~~

15 ~~(a) Conducts an independent review and assessment of Western  
16 Electricity Coordinating Council operating reliability criteria.~~

17 ~~(b) Quantifies the economic cost of major transmission outages  
18 relating to the Pacific Intertie, Southwest Power Link, DC link,  
19 and other important high voltage lines that carry power both into  
20 and from California.~~

21 ~~(c) Identifies the range of cost-effective options that would  
22 prevent or mitigate the consequences of major transmission  
23 outages.~~

24 ~~(d) Identifies communication protocols that may be needed to  
25 be established to provide advance warning of incipient problems.~~

26 ~~(e) Identifies the need for additional generation reserves and  
27 other voltage support equipment, if any, or other resources that  
28 may be necessary to carry out its functions.~~

29 ~~(f) Identifies transmission capacity additions that may be  
30 necessary at certain times of the year or under certain conditions.~~

31 ~~(g) Assesses the adequacy of current and prospective  
32 institutional provisions for the maintenance of reliability.~~

33 ~~(h) Identifies mechanisms to enforce transmission right-of-way  
34 maintenance.~~

35 ~~(i) Contains recommendations regarding cost-beneficial  
36 improvements to electric system reliability for the citizens of  
37 California.~~

38 SEC. 359. Section 352 of the Public Utilities Code is amended  
39 to read:

1 352. The Independent System Operator ~~may~~ *shall* not enter  
2 into a multistate entity or a regional organization as authorized in  
3 Section 359 unless that entry is approved by the ~~Oversight Board~~.  
4 *Office of Energy Market Oversight*.

5 SEC. 360. Section 360 of the Public Utilities Code is repealed.

6 ~~360. The commission shall ensure that existing, and if~~  
7 ~~necessary, additional filings at the Federal Energy Regulatory~~  
8 ~~Commission request confirmation of the relevant provisions of~~  
9 ~~this chapter and seek the authority needed to give the Independent~~  
10 ~~System Operator the ability to secure generating and transmission~~  
11 ~~resources necessary to guarantee achievement of planning and~~  
12 ~~operating reserve criteria no less stringent than those established~~  
13 ~~by the Western Electricity Coordinating Council and the North~~  
14 ~~American Electric Reliability Council.~~

15 SEC. 361. Section 365 of the Public Utilities Code is repealed.

16 ~~365. The actions of the commission pursuant to this chapter~~  
17 ~~shall be consistent with the findings and declarations contained in~~  
18 ~~Section 330. In addition, the commission shall do all of the~~  
19 ~~following:~~

20 (a) ~~Facilitate the efforts of the state's electrical corporations to~~  
21 ~~develop and obtain authorization from the Federal Energy~~  
22 ~~Regulatory Commission for the creation and operation of an~~  
23 ~~Independent System Operator and an independent Power Exchange,~~  
24 ~~for the determination of which transmission and distribution~~  
25 ~~facilities are subject to the exclusive jurisdiction of the commission,~~  
26 ~~and for approval, to the extent necessary, of the cost recovery~~  
27 ~~mechanism established as provided in Sections 367 to 376,~~  
28 ~~inclusive. The commission shall also participate fully in all~~  
29 ~~proceedings before the Federal Energy Regulatory Commission~~  
30 ~~in connection with the Independent System Operator and the~~  
31 ~~independent Power Exchange, and shall encourage the Federal~~  
32 ~~Energy Regulatory Commission to adopt protocols and procedures~~  
33 ~~that strengthen the reliability of the interconnected transmission~~  
34 ~~grid, encourage all publicly owned utilities in California to become~~  
35 ~~full participants, and maximize enforceability of such protocols~~  
36 ~~and procedures by all market participants.~~

37 (b) (1) ~~Authorize direct transactions between electricity~~  
38 ~~suppliers and end use customers, subject to implementation of the~~  
39 ~~nonbypassable charge referred to in Sections 367 to 376, inclusive.~~  
40 ~~Direct transactions shall commence simultaneously with the start~~

1 of an Independent System Operator and Power Exchange referred  
2 to in subdivision (a). The simultaneous commencement shall occur  
3 as soon as practicable, but no later than January 1, 1998. The  
4 commission shall develop a phase-in schedule at the conclusion  
5 of which all customers shall have the right to engage in direct  
6 transactions. Any phase-in of customer eligibility for direct  
7 transactions ordered by the commission shall be equitable to all  
8 customer classes and accomplished as soon as practicable,  
9 consistent with operational and other technological considerations,  
10 and shall be completed for all customers by January 1, 2002.

11 (2) ~~Customers shall be eligible for direct access irrespective of~~  
12 ~~any direct access phase-in implemented pursuant to this section if~~  
13 ~~at least one-half of that customer's electrical load is supplied by~~  
14 ~~energy from a renewable resource provider certified pursuant to~~  
15 ~~Section 383, provided however that nothing in this section shall~~  
16 ~~provide for direct access for electric consumers served by municipal~~  
17 ~~utilities unless so authorized by the governing board of that~~  
18 ~~municipal utility.~~

19 SEC. 362. Section 384 of the Public Utilities Code is amended  
20 to read:

21 384. (a) Funds transferred to the *State Department of Energy*  
22 ~~Resources Conservation and Development Commission~~ pursuant  
23 to this article for purposes of public interest research, development,  
24 and demonstration shall be transferred to the Public Interest  
25 Research, Development, and Demonstration Fund, which is hereby  
26 created in the State Treasury. The fund is a trust fund and shall  
27 contain money from all interest, repayments, disencumbrances,  
28 royalties, and any other proceeds appropriated, transferred, or  
29 otherwise received for purposes pertaining to public interest  
30 research, development, and demonstration. Any appropriations  
31 that are made from the fund shall have an encumbrance period of  
32 not longer than two years, and a liquidation period of not longer  
33 than four years.

34 (b) Funds deposited in the Public Interest Research,  
35 Development, and Demonstration Fund may be expended for  
36 projects that serve the energy needs of both stationary and  
37 transportation purposes if the research provides an electricity  
38 ratepayer benefit.

39 (c) ~~The *State Department of Energy Resources Conservation*~~  
40 ~~and *Development Commission* shall report annually to the~~

1 appropriate budget committees of the Legislature on any  
2 encumbrances or liquidations that are outstanding at the time the  
3 commission's budget is submitted to the Legislature for review.

4 SEC. 363. Section 398.3 of the Public Utilities Code is  
5 amended to read:

6 398.3. (a) Beginning January 1, 1998, or as soon as practicable  
7 thereafter, each generator that provides meter data to a system  
8 operator shall report to the system operator electricity generated  
9 in kilowatthours by hour by generator, the fuel type or fuel types  
10 and fuel consumption by fuel type by month on an historical  
11 recorded quarterly basis. Facilities using only one fuel type may  
12 satisfy this requirement by reporting fuel type only. With regard  
13 to any facility using more than one fuel type, reports shall reflect  
14 the fuel consumed as a percentage of electricity generation.

15 (b) ~~The California Department of Energy Resources~~  
16 ~~Conservation and Development Commission~~ shall have  
17 authorization to access the electricity generation data in  
18 kilowatthours by hour for each facility that provides meter data to  
19 the system operator, and the fuel type or fuel types.

20 (c) With regard to out-of-state generation, ~~the California~~  
21 ~~Department of Energy Resources Conservation and Development~~  
22 ~~Commission~~ shall have authorization to access the electricity  
23 generation data in kilowatthours by hour at the point at which  
24 out-of-state generation is metered, to the extent the information  
25 has been submitted to a system operator.

26 (d) Trade secrets as defined in subdivision (d) of Section 3426.1  
27 of the Civil Code contained in the information provided to the  
28 system operators pursuant to this section shall be treated as  
29 confidential. These data may be disclosed only by the system  
30 operators and only by authorization of the generator except that  
31 ~~the California Department of Energy Resources Conservation and~~  
32 ~~Development Commission~~ shall have authorization to access these  
33 data, shall consider all these data to be trade secrets, and shall only  
34 release these data in an aggregated form such that trade secrets  
35 cannot be discerned.

36 SEC. 364. Section 398.5 of the Public Utilities Code is  
37 amended to read:

38 398.5. (a) Retail suppliers that disclose specific purchases  
39 pursuant to Section 398.4 shall report on June 1, 2009, and annually  
40 thereafter, to the ~~Energy Commission~~, *Department of Energy*, for

1 each electricity offering for the previous calendar year, each of  
2 the following:

3 (1) The kilowatthours purchased, by generator and fuel type  
4 during the previous calendar year, consistent with the meter data,  
5 including losses, reported to the system operator.

6 (2) For each electricity offering the kilowatthours sold at retail.

7 (3) For each electricity offering the disclosures made to  
8 consumers pursuant to Section 398.4.

9 (b) Information submitted to the *Department of Energy*  
10 ~~Commission~~ pursuant to this section that is a trade secret as defined  
11 in subdivision (d) of Section 3426.1 of the Civil Code shall not be  
12 released except in an aggregated form such that trade secrets cannot  
13 be discerned.

14 (c) On or before January 1, 1998, the *Department of Energy*  
15 ~~Commission~~ shall specify guidelines and standard formats, based  
16 on the requirements of this article and subject to public hearing,  
17 for the submittal of information pursuant to this article.

18 (d) In developing the rules and procedures specified in this  
19 section, the *Department of Energy*—~~Commission~~ shall seek to  
20 minimize the reporting burden and cost of reporting that it imposes  
21 on retail suppliers.

22 (e) The provisions of this section shall not apply to generators  
23 providing electric service onsite, under an over-the-fence  
24 transaction as described in Section 218, or to an affiliate or  
25 affiliates, as defined in subdivision (a) of Section 372.

26 (f) The *Department of Energy*—~~Commission~~ may verify the  
27 veracity of environmental claims made by retail suppliers.

28 SEC. 365. Section 399.2.5 of the Public Utilities Code is  
29 amended to read:

30 399.2.5. (a) Notwithstanding any other provision in Sections  
31 1001 to 1013, inclusive, an application *to the California Energy*  
32 *Board within the Department of Energy* of an electrical corporation  
33 for a certificate authorizing the construction of new transmission  
34 facilities shall be deemed to be necessary to the provision of  
35 electric service for purposes of any determination made under  
36 Section 1003 if the ~~commission~~ *California Energy Board within*  
37 *the Department of Energy* finds that the new facility is necessary  
38 to facilitate achievement of the renewable power goals established  
39 in Article 16 (commencing with Section 399.11).

1 (b) With respect to a transmission facility described in  
2 subdivision (a), the commission shall take all feasible actions to  
3 ensure that the transmission rates established by the Federal Energy  
4 Regulatory Commission are fully reflected in any retail rates  
5 established by the commission. These actions shall include, but  
6 are not limited to:

7 (1) Making findings, where supported by an evidentiary record,  
8 that those transmission facilities provide benefit to the transmission  
9 network and are necessary to facilitate the achievement of the  
10 renewables portfolio standard established in Article 16  
11 (commencing with Section 399.11).

12 (2) Directing the utility to which the generator will be  
13 interconnected, where the direction is not preempted by federal  
14 law, to seek the recovery through general transmission rates of the  
15 costs associated with the transmission facilities.

16 (3) Asserting the positions described in paragraphs (1) and (2)  
17 to the Federal Energy Regulatory Commission in appropriate  
18 proceedings.

19 (4) Allowing recovery in retail rates of any increase in  
20 transmission costs incurred by an electrical corporation resulting  
21 from the construction of the transmission facilities that are not  
22 approved for recovery in transmission rates by the Federal Energy  
23 Regulatory Commission after the commission determines that the  
24 costs were prudently incurred in accordance with subdivision (a)  
25 of Section 454.

26 SEC. 366. Section 399.8 of the Public Utilities Code is  
27 amended to read:

28 399.8. (a) In order to ensure that the citizens of this state  
29 continue to receive safe, reliable, affordable, and environmentally  
30 sustainable electric service, it is the policy of this state and the  
31 intent of the Legislature that prudent investments in energy  
32 efficiency, renewable energy, and research, ~~development~~  
33 *development*, and demonstration shall continue to be made.

34 (b) (1) Every customer of an electrical corporation shall pay a  
35 nonbypassable system benefits charge authorized pursuant to this  
36 article. The system benefits charge shall fund energy efficiency,  
37 renewable energy, and research, ~~development~~ *development*, and  
38 demonstration.

1 (2) Local publicly owned electric utilities shall continue to  
2 collect and administer system benefits charges pursuant to Section  
3 385.

4 (c) (1) The commission shall require each electrical corporation  
5 to identify a separate rate component to collect revenues to fund  
6 energy efficiency, renewable energy, and research, ~~development~~  
7 *development*, and demonstration programs authorized pursuant to  
8 this section beginning January 1, 2002, and ending January 1,  
9 2012. The rate component shall be a nonbypassable element of  
10 the local distribution service and collected on the basis of usage.

11 (2) This rate component may not exceed, for any tariff schedule,  
12 the level of the rate component that was used to recover funds  
13 authorized pursuant to Section 381 on January 1, 2000. If the  
14 amounts specified in paragraph (1) of subdivision (d) are not  
15 recovered fully in any year, the commission shall reset the rate  
16 component to restore the unrecovered balance, provided that the  
17 rate component may not exceed, for any tariff schedule, the level  
18 of the rate component that was used to recover funds authorized  
19 pursuant to Section 381 on January 1, 2000. Pending restoration,  
20 any annual shortfalls shall be allocated pro rata among the three  
21 funding categories in the proportions established in paragraph (1)  
22 of subdivision (d).

23 (d) The commission shall order San Diego Gas and Electric  
24 Company, Southern California Edison Company, and Pacific Gas  
25 and Electric Company to collect these funds commencing on  
26 January 1, 2002, as follows:

27 (1) Two hundred twenty-eight million dollars (\$228,000,000)  
28 per year in total for energy efficiency and conservation activities,  
29 sixty-five million five hundred thousand dollars (\$65,500,000) in  
30 total per year for renewable energy, and sixty-two million five  
31 hundred thousand dollars (\$62,500,000) in total per year for  
32 research, ~~development~~ *development*, and demonstration. The funds  
33 for energy efficiency and conservation activities shall continue to  
34 be allocated in proportions established for the year 2000 as set  
35 forth in paragraph (1) of subdivision (c) of Section 381.

36 (2) The amounts shall be adjusted annually at a rate equal to  
37 the lesser of the annual growth in electric commodity sales or  
38 inflation, as defined by the gross domestic product deflator.

39 (e) The commission shall ensure that each electrical corporation  
40 allocates funds transferred by the *Department of Energy*

1 ~~Commission~~ pursuant to subdivision (b) of Section 25743 in a  
2 manner that maximizes the economic benefit to all customer classes  
3 that funded the New Renewable Resources Account.

4 (f) The commission and the *Department of Energy-Commission*  
5 shall retain and continue their oversight responsibilities as set forth  
6 in Sections 381 and ~~383~~, 383 of this code, and Chapter 7.1  
7 (commencing with Section 25620) and Chapter 8.6 (commencing  
8 with Section 25740) of Division 15 of the Public Resources Code.

9 (g) An applicant for the Large Nonresidential Standard  
10 Performance Contract Program funded pursuant to paragraph (1)  
11 of subdivision (b) and an electrical corporation shall promptly  
12 attempt to resolve disputes that arise related to the program's  
13 guidelines and parameters prior to entering into a program  
14 agreement. The applicant shall provide the electrical corporation  
15 with written notice of any dispute. Within 10 business days after  
16 receipt of the notice, the parties shall meet to resolve the dispute.  
17 If the dispute is not resolved within 10 business days after the date  
18 of the meeting, the electrical corporation shall notify the applicant  
19 of his or her right to file a complaint with the commission, which  
20 complaint shall describe the grounds for the complaint, injury, and  
21 relief sought. The commission shall issue its findings in response  
22 to a filed complaint within 30 business days of the date of receipt  
23 of the complaint. Prior to issuance of its findings, the commission  
24 shall provide a copy of the complaint to the electrical corporation,  
25 which shall provide a response to the complaint to the commission  
26 within five business days of the date of receipt. During the dispute  
27 period, the amount of estimated financial incentives shall be held  
28 in reserve until the dispute is resolved.

29 SEC. 367. Section 399.11 of the Public Utilities Code is  
30 amended to read:

31 399.11. The Legislature finds and declares all of the following:

32 (a) In order to attain a target of generating 20 percent of total  
33 retail sales of electricity in California from eligible renewable  
34 energy resources by December 31, 2010, and for the purposes of  
35 increasing the diversity, reliability, public health, and  
36 environmental benefits of the energy mix, it is the intent of the  
37 Legislature that the commission and the ~~State Department of~~  
38 ~~Energy Resources Conservation and Development Commission~~  
39 implement the California Renewables Portfolio Standard Program  
40 described in this article.

1 (b) Increasing California’s reliance on eligible renewable energy  
2 resources may promote stable electricity prices, protect public  
3 health, improve environmental quality, stimulate sustainable  
4 economic development, create new employment opportunities,  
5 and reduce reliance on imported fuels.

6 (c) The development of eligible renewable energy resources  
7 and the delivery of the electricity generated by those resources to  
8 customers in California may ameliorate air quality problems  
9 throughout the state and improve public health by reducing the  
10 burning of fossil fuels and the associated environmental impacts  
11 and by reducing in-state fossil fuel consumption.

12 (d) The California Renewables Portfolio Standard Program is  
13 intended to complement the Renewable Energy Resources Program  
14 administered by the ~~State Department of Energy Resources~~  
15 ~~Conservation and Development Commission~~ and established  
16 pursuant to Chapter 8.6 (commencing with Section 25740) of  
17 Division 15 of the Public Resources Code.

18 (e) New and modified electric transmission facilities may be  
19 necessary to facilitate the state achieving its renewables portfolio  
20 standard targets.

21 SEC. 368. Section 399.12 of the Public Utilities Code is  
22 amended to read:

23 399.12. For purposes of this article, the following terms have  
24 the following meanings:

25 (a) “Conduit hydroelectric facility” means a facility for the  
26 generation of electricity that uses only the hydroelectric potential  
27 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other  
28 manmade conduit that is operated to distribute water for a  
29 beneficial use.

30 (b) “Delivered” and “delivery” have the same meaning as  
31 provided in subdivision (a) of Section 25741 of the Public  
32 Resources Code.

33 (c) “Eligible renewable energy resource” means an electric  
34 generating facility that meets the definition of “in-state renewable  
35 electricity generation facility” in Section 25741 of the Public  
36 Resources Code, subject to the following limitations:

37 (1) (A) An existing small hydroelectric generation facility of  
38 30 megawatts or less shall be eligible only if a retail seller or local  
39 publicly owned electric utility owned or procured the electricity  
40 from the facility as of December 31, 2005. A new hydroelectric

1 facility is not an eligible renewable energy resource if it will cause  
2 an adverse impact on instream beneficial uses or cause a change  
3 in the volume or timing of streamflow.

4 (B) Notwithstanding subparagraph (A), a conduit hydroelectric  
5 facility of 30 megawatts or less that commenced operation before  
6 January 1, 2006, is an eligible renewable energy resource. A  
7 conduit hydroelectric facility of 30 megawatts or less that  
8 commences operation after December 31, 2005, is an eligible  
9 renewable energy resource so long as it does not cause an adverse  
10 impact on instream beneficial uses or cause a change in the volume  
11 or timing of streamflow.

12 (2) A facility engaged in the combustion of municipal solid  
13 waste shall not be considered an eligible renewable resource unless  
14 it is located in Stanislaus County and was operational prior to  
15 September 26, 1996.

16 (d) “Procure” means that a retail seller or local publicly owned  
17 electric utility receives delivered electricity generated by an eligible  
18 renewable energy resource that it owns or for which it has entered  
19 into an electricity purchase agreement. Nothing in this article is  
20 intended to imply that the purchase of electricity from third parties  
21 in a wholesale transaction is the preferred method of fulfilling a  
22 retail seller’s obligation to comply with this article or the obligation  
23 of a local publicly owned electric utility to meet its renewables  
24 portfolio standard implemented pursuant to Section 387.

25 (e) “Renewables portfolio standard” means the specified  
26 percentage of electricity generated by eligible renewable energy  
27 resources that a retail seller is required to procure pursuant to this  
28 article or the obligation of a local publicly owned electric utility  
29 to meet its renewables portfolio standard implemented pursuant  
30 to Section 387.

31 (f) (1) “Renewable energy credit” means a certificate of proof,  
32 issued through the accounting system established by the  
33 *Department of Energy-Commission* pursuant to Section 399.13,  
34 that one unit of electricity was generated and delivered by an  
35 eligible renewable energy resource.

36 (2) “Renewable energy credit” includes all renewable and  
37 environmental attributes associated with the production of  
38 electricity from the eligible renewable energy resource, except for  
39 an emissions reduction credit issued pursuant to Section 40709 of  
40 the Health and Safety Code and any credits or payments associated

1 with the reduction of solid waste and treatment benefits created  
2 by the utilization of biomass or biogas fuels.

3 (3) No electricity generated by an eligible renewable energy  
4 resource attributable to the use of nonrenewable fuels, beyond a  
5 de minimis quantity, as determined by the ~~Energy Commission,~~  
6 *Department of Energy*, shall result in the creation of a renewable  
7 energy credit.

8 (g) “Retail seller” means an entity engaged in the retail sale of  
9 electricity to end-use customers located within the state, including  
10 any of the following:

11 (1) An electrical corporation, as defined in Section 218.

12 (2) A community choice aggregator. The commission shall  
13 institute a rulemaking to determine the manner in which a  
14 community choice aggregator will participate in the renewables  
15 portfolio standard program subject to the same terms and conditions  
16 applicable to an electrical corporation.

17 (3) An electric service provider, as defined in Section 218.3,  
18 for all sales of electricity to customers beginning January 1, 2006.  
19 The commission shall institute a rulemaking to determine the  
20 manner in which electric service providers will participate in the  
21 renewables portfolio standard program. The electric service  
22 provider shall be subject to the same terms and conditions  
23 applicable to an electrical corporation pursuant to this article.  
24 ~~Nothing in this~~ This paragraph ~~shall~~ does not impair a contract  
25 entered into between an electric service provider and a retail  
26 customer prior to the suspension of direct access by the commission  
27 pursuant to Section 80110 of the Water Code.

28 (4) “Retail seller” does not include any of the following:

29 (A) A corporation or person employing cogeneration technology  
30 or producing electricity consistent with subdivision (b) of Section  
31 218.

32 (B) The Department of Water Resources acting in its capacity  
33 pursuant to Division 27 (commencing with Section 80000) of the  
34 Water Code.

35 (C) A local publicly owned electric utility.

36 SEC. 369. Section 399.12.5 of the Public Utilities Code is  
37 amended to read:

38 399.12.5. (a) Notwithstanding subdivision (c) of Section  
39 399.12, a small hydroelectric generation facility that satisfies the  
40 criteria for an eligible renewable energy resource pursuant to

1 Section 399.12 shall not lose its eligibility if efficiency  
2 improvements undertaken after January 1, 2008, cause the  
3 generating capacity of the facility to exceed 30 megawatts, and  
4 the efficiency improvements do not result in an adverse impact on  
5 instream beneficial uses or cause a change in the volume or timing  
6 of streamflow. The entire generating capacity of the facility shall  
7 be eligible.

8 (b) Notwithstanding subdivision (c) of Section 399.12, the  
9 incremental increase in the amount of electricity generated from  
10 a hydroelectric generation facility as a result of efficiency  
11 improvements at the facility, is electricity from an eligible  
12 renewable energy resource, without regard to the electrical output  
13 of the facility, if all of the following conditions are met:

14 (1) The incremental increase is the result of efficiency  
15 improvements from a retrofit that do not result in an adverse impact  
16 on instream beneficial uses or cause a change in the volume or  
17 timing of streamflow.

18 (2) ~~(A)~~ The hydroelectric generation facility has, within the  
19 immediately preceding 15 years, received certification from the  
20 State Water Resources Control Board pursuant to Section 401 of  
21 the Clean Water Act (33 U.S.C. Sec. 1341), or has received  
22 certification from a regional board to which the state board has  
23 delegated authority to issue certification, unless the facility is ~~not~~  
24 ~~subject to~~ *exempt from* certification because there is no potential  
25 for discharge into waters of the United States.

26 ~~(B) If the hydroelectric facility is not located in California, the~~  
27 ~~certification pursuant to Section 401 of the federal Clean Water~~  
28 ~~Act (33 U.S.C. Sec. 1341) may be received from the applicable~~  
29 ~~state board or agency or from a regional board to which the state~~  
30 ~~board has delegated authority to issue the certification.~~

31 (3) The hydroelectric generation facility ~~is owned by a retail~~  
32 ~~seller or a local publicly owned electric utility,~~ was operational  
33 prior to January 1, 2007, the efficiency improvements are initiated  
34 on or after January 1, 2008, the efficiency improvements are not  
35 the result of routine maintenance activities, as determined by the  
36 *Department of Energy, by action of the California Energy*  
37 ~~Commission, Board,~~ and the efficiency improvements were not  
38 included in any resource plan sponsored by the facility owner prior  
39 to January 1, 2008.

1 (4) All of the incremental increase in electricity resulting from  
2 the efficiency improvements are demonstrated to result from a  
3 long-term financial commitment by the retail seller or local publicly  
4 owned electric utility. For purposes of this paragraph, “long-term  
5 financial commitment” means either new ownership investment  
6 in the facility by the retail seller or local publicly owned electric  
7 utility or a new or renewed contract with a term of 10 or more  
8 years, which includes procurement of the incremental generation.

9 (c) The incremental increase in the amount of electricity  
10 generated from a hydroelectric generation facility as a result of  
11 efficiency improvements at the facility are not eligible for  
12 supplemental energy payments pursuant to the Renewable Energy  
13 Resources Program (Chapter 8.6 (commencing with Section 25740)  
14 of Division 15 of the Public Resources Code), or a successor  
15 program.

16 SEC. 370. Section 399.13 of the Public Utilities Code is  
17 amended to read:

18 399.13. The *Department of Energy, by action of the California*  
19 *Energy-Commission Board*, shall do all of the following:

20 (a) Certify eligible renewable energy resources that it determines  
21 meet the criteria described in subdivision (b) of Section 399.12.

22 (b) Design and implement an accounting system to verify  
23 compliance with the renewables portfolio standard by retail sellers,  
24 to ensure that electricity generated by an eligible renewable energy  
25 resource is counted only once for the purpose of meeting the  
26 renewables portfolio standard of this state or any other state, to  
27 certify renewable energy credits produced by eligible renewable  
28 energy resources, and to verify retail product claims in this state  
29 or any other state. In establishing the guidelines governing this  
30 accounting system, the *Department of Energy-Commission* shall  
31 collect data from electricity market participants that it deems  
32 necessary to verify compliance of retail sellers, in accordance with  
33 the requirements of this article and the California Public Records  
34 Act (Chapter 3.5 (commencing with Section 6250) of Division 7  
35 of Title 1 of the Government Code). In seeking data from electrical  
36 corporations, the *Department of Energy-Commission* shall request  
37 data from the commission. The commission shall collect data from  
38 electrical corporations and remit the data to the *Department of*  
39 *Energy-Commission* within 90 days of the request.

1 (c) Establish a system for tracking and verifying renewable  
2 energy credits that, through the use of independently audited data,  
3 verifies the generation and delivery of electricity associated with  
4 each renewable energy credit and protects against multiple counting  
5 of the same renewable energy credit. The *Department of Energy*  
6 ~~Commission~~ shall consult with other western states and with the  
7 Western Electricity Coordinating Council in the development of  
8 this system.

9 (d) Certify, for purposes of compliance with the renewable  
10 portfolio standard requirements by a retail seller, the eligibility of  
11 renewable energy credits associated with deliveries of electricity  
12 by an eligible renewable energy resource to a local publicly owned  
13 electric utility, if the *Department of Energy*—~~Commission~~  
14 determines that the following conditions have been satisfied:

15 (1) The local publicly owned electric utility that is procuring  
16 the electricity is in compliance with the requirements of Section  
17 387.

18 (2) The local publicly owned electric utility has established an  
19 annual renewables portfolio standard target comparable to those  
20 applicable to an electrical corporation, is procuring sufficient  
21 eligible renewable energy resources to satisfy the targets, and will  
22 not fail to satisfy the targets in the event that the renewable energy  
23 credit is sold to another retail seller.

24 SEC. 371. Section 399.15 of the Public Utilities Code is  
25 amended to read:

26 399.15. (a) In order to fulfill unmet long-term resource needs,  
27 the commission shall establish a renewables portfolio standard  
28 requiring all electrical corporations to procure a minimum quantity  
29 of electricity generated by eligible renewable energy resources as  
30 a specified percentage of total kilowatthours sold to their retail  
31 end-use customers each calendar year, subject to limits on the total  
32 amount of costs expended above the market prices determined in  
33 subdivision (c), to achieve the targets established under this article.

34 (b) The commission shall implement annual procurement targets  
35 for each retail seller as follows:

36 (1) Each retail seller shall, pursuant to subdivision (a), increase  
37 its total procurement of eligible renewable energy resources by at  
38 least an additional 1 percent of retail sales per year so that 20  
39 percent of its retail sales are procured from eligible renewable  
40 energy resources no later than December 31, 2010. A retail seller

1 with 20 percent of retail sales procured from eligible renewable  
2 energy resources in any year shall not be required to increase its  
3 procurement of renewable energy resources in the following year.

4 (2) For purposes of setting annual procurement targets, the  
5 commission shall establish an initial baseline for each retail seller  
6 based on the actual percentage of retail sales procured from eligible  
7 renewable energy resources in 2001, and to the extent applicable,  
8 adjusted going forward pursuant to Section 399.12.

9 (3) Only for purposes of establishing these targets, the  
10 commission shall include all electricity sold to retail customers by  
11 the Department of Water Resources pursuant to Section 80100 of  
12 the Water Code in the calculation of retail sales by an electrical  
13 corporation.

14 (4) In the event that a retail seller fails to procure sufficient  
15 eligible renewable energy resources in a given year to meet any  
16 annual target established pursuant to this subdivision, the retail  
17 seller shall procure additional eligible renewable energy resources  
18 in subsequent years to compensate for the shortfall, subject to the  
19 limitation on costs for electrical corporations established pursuant  
20 to subdivision (d).

21 (c) The commission shall establish a methodology to determine  
22 the market price of electricity for terms corresponding to the length  
23 of contracts with eligible renewable energy resources, in  
24 consideration of the following:

25 (1) The long-term market price of electricity for fixed price  
26 contracts, determined pursuant to an electrical corporation's general  
27 procurement activities as authorized by the commission.

28 (2) The long-term ownership, operating, and fixed-price fuel  
29 costs associated with fixed-price electricity from new generating  
30 facilities.

31 (3) The value of different products including baseload, peaking,  
32 and as-available electricity.

33 (d) The commission shall establish, for each electrical  
34 corporation, a limitation on the total costs expended above the  
35 market prices determined in subdivision (c) for the procurement  
36 of eligible renewable energy resources to achieve the annual  
37 procurement targets established under this article.

38 (1) The cost limitation shall be equal to the amount of funds  
39 transferred to each electrical corporation by the *former State Energy*  
40 *Resources Conservation and Development* Commission pursuant

1 to subdivision (b) of Section 25743 of the Public Resources Code  
2 and the 51.5 percent of the funds which would have been collected  
3 through January 1, 2012, from the customers of the electrical  
4 corporation based on the renewable energy public goods charge  
5 in effect as of January 1, 2007.

6 (2) The above-market costs of a contract selected by an electrical  
7 corporation may be counted toward the cost limitation if all of the  
8 following conditions are satisfied:

9 (A) The contract has been approved by the commission and was  
10 selected through a competitive solicitation pursuant to the  
11 requirements of subdivision (d) of Section 399.14.

12 (B) The contract covers a duration of no less than 10 years.

13 (C) The contracted project is a new or repowered facility  
14 commencing commercial operations on or after January 1, 2005.

15 (D) No purchases of renewable energy credits may be eligible  
16 for consideration as an above-market cost.

17 (E) The above-market costs of a contract do not include any  
18 indirect expenses including imbalance energy charges, sale of  
19 excess energy, decreased generation from existing resources, or  
20 transmission upgrades.

21 (3) If the cost limitation for an electrical corporation is  
22 insufficient to support the total costs expended above the market  
23 prices determined in subdivision (c) for the procurement of eligible  
24 renewable energy resources satisfying the conditions of paragraph  
25 (2), the commission shall allow the electrical corporation to limit  
26 its procurement to the quantity of eligible renewable energy  
27 resources that can be procured at or below the market prices  
28 established in subdivision (c).

29 (4) ~~Nothing in this~~ *This section prevents does not prevent* an  
30 electrical corporation from voluntarily proposing to procure eligible  
31 renewable energy resources at above-market prices that are not  
32 counted toward the cost limitation. Any voluntary procurement  
33 involving above-market costs shall be subject to commission  
34 approval prior to the expense being recovered in rates.

35 (e) The establishment of a renewables portfolio standard shall  
36 not constitute implementation by the commission of the federal  
37 Public Utility Regulatory Policies Act of 1978 (Public Law  
38 95-617).

1 (f) The commission shall consult with the *Department of Energy*  
2 ~~Commission~~ in calculating market prices under subdivision (c)  
3 and establishing other renewables portfolio standard policies.

4 SEC. 372. Section 399.16 of the Public Utilities Code is  
5 amended to read:

6 399.16. (a) The commission, by rule, may authorize the use  
7 of renewable energy credits to satisfy the requirements of the  
8 renewables portfolio standard established pursuant to this article,  
9 subject to the following conditions:

10 (1) Prior to authorizing any renewable energy credit to be used  
11 toward satisfying annual procurement targets, the commission and  
12 the *Department of Energy, by action of the California Energy*  
13 ~~Commission Board~~, shall conclude that the tracking system  
14 established pursuant to subdivision (c) of Section 399.13, is  
15 operational, is capable of independently verifying the electricity  
16 generated by an eligible renewable energy resource and delivered  
17 to the retail seller, and can ensure that renewable energy credits  
18 shall not be double counted by any seller of electricity within the  
19 service territory of the Western Electricity Coordinating Council  
20 (WECC).

21 (2) A renewable energy credit shall be counted only once for  
22 compliance with the renewables portfolio standard of this state or  
23 any other state, or for verifying retail product claims in this state  
24 or any other state.

25 (3) The electricity is delivered to a retail seller, the Independent  
26 System Operator, or a local publicly owned electric utility.

27 (4) All revenues received by an electrical corporation for the  
28 sale of a renewable energy credit shall be credited to the benefit  
29 of ratepayers.

30 (5) ~~No renewable~~ *Renewable* energy credits shall *not* be created  
31 for electricity generated pursuant to any electricity purchase  
32 contract with a retail seller or a local publicly owned electric utility  
33 executed before January 1, 2005, unless the contract contains  
34 explicit terms and conditions specifying the ownership or  
35 disposition of those credits. Deliveries under those contracts shall  
36 be tracked through the accounting system described in subdivision  
37 (b) of Section 399.13 and included in the baseline quantity of  
38 eligible renewable energy resources of the purchasing retail seller  
39 pursuant to Section 399.15.

1 (6) ~~No renewable~~ *Renewable* energy credits shall *not* be created  
2 for electricity generated under any electricity purchase contract  
3 executed after January 1, 2005, pursuant to the federal Public  
4 Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec. 2601 et  
5 seq.). Deliveries under the electricity purchase contracts shall be  
6 tracked through the accounting system described in subdivision  
7 (b) of Section 399.12 and count toward the renewables portfolio  
8 standard obligations of the purchasing retail seller.

9 (7) The commission may limit the quantity of renewable energy  
10 credits that may be procured unbundled from electricity generation  
11 by any retail seller, to meet the requirements of this article.

12 (8) ~~No~~ *An* electrical corporation shall *not* be obligated to  
13 procure renewable energy credits to satisfy the requirements of  
14 this article in the event that the total costs expended above the  
15 applicable market prices for the procurement of eligible renewable  
16 energy resources exceeds the cost limitation established pursuant  
17 to subdivision (d) of Section 399.15.

18 (9) Any additional condition that the commission determines  
19 is reasonable.

20 (b) The commission shall allow an electrical corporation to  
21 recover the reasonable costs of purchasing renewable energy credits  
22 in rates.

23 SEC. 373. Section 399.17 of the Public Utilities Code is  
24 amended to read:

25 399.17. (a) Subject to the provisions of this section, the  
26 requirements of this article apply to an electrical corporation with  
27 60,000 or fewer customer accounts in California that serves retail  
28 end-use customers outside California.

29 (b) For an electrical corporation with 60,000 or fewer customer  
30 accounts in California that serves retail end-use customers outside  
31 California, an eligible renewable energy resource includes a facility  
32 that is located outside California, if the facility is connected to the  
33 Western Electricity Coordinating Council (WECC) transmission  
34 system, provided all of the following conditions are met:

35 (1) The electricity generated by the facility is procured by the  
36 electrical corporation on behalf of its California ~~customers,~~  
37 *customers* and is not used to fulfill renewable energy procurement  
38 requirements in other states.

39 (2) The electrical corporation participates in, and complies with,  
40 the accounting system administered by the *Department of Energy*,

1 *by action of the California Energy Commission Board*, pursuant  
 2 to subdivision (b) of Section 399.13.

3 (3) The *Department of Energy, by action of the California*  
 4 *Energy Commission Board*, verifies that the electricity generated  
 5 by the facility is eligible to meet the annual procurement targets  
 6 of this article.

7 (c) The commission shall determine the annual procurement  
 8 targets for an electrical corporation with 60,000 or fewer customer  
 9 accounts in California that serves retail end-use customers outside  
 10 California, as a specified percentage of total kilowatthours sold  
 11 by the electrical corporation to its retail end-use customers in  
 12 California in a calendar year.

13 (d) An electrical corporation with 60,000 or fewer customer  
 14 accounts in California that serves retail end-use customers outside  
 15 California, may use an integrated resource plan prepared in  
 16 compliance with the requirements of another state utility regulatory  
 17 commission, to fulfill the requirement to prepare a renewable  
 18 energy procurement plan pursuant to this article, provided the plan  
 19 meets the requirements of Sections 399.11, 399.12, 399.13, and  
 20 399.14, as modified by this section.

21 (e) Procurement and administrative costs associated with  
 22 long-term contracts entered into by an electrical corporation with  
 23 60,000 or fewer customer accounts in California that serves retail  
 24 end-use customers outside California, for eligible renewable energy  
 25 resources pursuant to this article, at or below the market price  
 26 determined by the commission pursuant to subdivision (c) of  
 27 Section 399.15, shall be deemed reasonable per se, and shall be  
 28 recoverable in rates of the electrical corporation's California  
 29 customers, provided the costs are not recoverable in rates in other  
 30 states served by the electrical corporation.

31 SEC. 374. Section 411 is added to the Public Utilities Code,  
 32 to read:

33 411. All fees collected by the commission from electrical  
 34 corporations and gas corporations to support those functions of  
 35 the commission in reviewing and issuing certificates of public  
 36 convenience and necessity that are transferred to the California  
 37 Energy Board within the Department of Energy pursuant to  
 38 subdivision (b) of Section 1001, shall be identified and transferred  
 39 to the Secretary of Energy, at least quarterly, upon the assumption  
 40 by the department of those functions.

1 SEC. 375. Section 454.5 of the Public Utilities Code is  
2 amended to read:

3 454.5. (a) The commission shall specify the allocation of  
4 electricity, including quantity, characteristics, and duration of  
5 electricity delivery, that the Department of Water Resources shall  
6 provide under its power purchase agreements to the customers of  
7 each electrical corporation, which shall be reflected in the electrical  
8 corporation's proposed procurement plan. Each electrical  
9 corporation shall file a proposed procurement plan with the  
10 commission not later than 60 days after the commission specifies  
11 the allocation of electricity. The proposed procurement plan shall  
12 specify the date that the electrical corporation intends to resume  
13 procurement of electricity for its retail customers, consistent with  
14 its obligation to serve. After the commission's adoption of a  
15 procurement plan, the commission shall allow not less than 60  
16 days before the electrical corporation resumes procurement  
17 pursuant to this section.

18 (b) An electrical corporation's proposed procurement plan shall  
19 include, but not be limited to, all of the following:

20 (1) An assessment of the price risk associated with the electrical  
21 corporation's portfolio, including any utility-retained generation,  
22 existing power purchase and exchange contracts, and proposed  
23 contracts or purchases under which an electrical corporation will  
24 procure electricity, electricity demand reductions, and  
25 electricity-related products and the remaining open position to be  
26 served by spot market transactions.

27 (2) A definition of each electricity product, electricity-related  
28 product, and procurement related financial product, including  
29 support and justification for the product type and amount to be  
30 procured under the plan.

31 (3) The duration of the plan.

32 (4) The duration, timing, and range of quantities of each product  
33 to be procured.

34 (5) A competitive procurement process under which the  
35 electrical corporation may request bids for procurement-related  
36 services, including the format and criteria of that procurement  
37 process.

38 (6) An incentive mechanism, if any incentive mechanism is  
39 proposed, including the type of transactions to be covered by that

1 mechanism, their respective procurement benchmarks, and other  
2 parameters needed to determine the sharing of risks and benefits.

3 (7) The upfront standards and criteria by which the acceptability  
4 and eligibility for rate recovery of a proposed procurement  
5 transaction will be known by the electrical corporation prior to  
6 execution of the transaction. This shall include an expedited  
7 approval process for the commission's review of proposed contracts  
8 and subsequent approval or rejection thereof. The electrical  
9 corporation shall propose alternative procurement choices in the  
10 event a contract is rejected.

11 (8) Procedures for updating the procurement plan.

12 (9) A showing that the procurement plan will achieve the  
13 following:

14 (A) The electrical corporation will, in order to fulfill its unmet  
15 resource needs and in furtherance of Section 701.3, until a 20  
16 percent renewable resources portfolio is achieved, procure  
17 renewable energy resources with the goal of ensuring that at least  
18 an additional 1 percent per year of the electricity sold by the  
19 electrical corporation is generated from renewable energy  
20 resources, provided sufficient funds are made available pursuant  
21 to Sections 399.6 and 399.15, to cover the above-market costs for  
22 new renewable energy resources.

23 (B) The electrical corporation will create or maintain a  
24 diversified procurement portfolio consisting of both short-term  
25 and long-term electricity and electricity-related and demand  
26 reduction products.

27 (C) The electrical corporation will first meet its unmet resource  
28 needs through all available energy efficiency and demand reduction  
29 resources that are cost effective, reliable, and feasible.

30 (10) The electrical corporation's risk management policy,  
31 strategy, and practices, including specific measures of price  
32 stability.

33 (11) A plan to achieve appropriate increases in diversity of  
34 ownership and diversity of fuel supply of nonutility electrical  
35 generation.

36 (12) A mechanism for recovery of reasonable administrative  
37 costs related to procurement in the generation component of rates.

38 (c) The commission shall review and accept, modify, or reject  
39 each electrical corporation's procurement plan. The commission's  
40 review shall consider each electrical corporation's individual

1 procurement situation, and shall give strong consideration to that  
2 situation in determining which one or more of the features set forth  
3 in this subdivision shall apply to that electrical corporation. A  
4 procurement plan approved by the commission shall contain one  
5 or more of the following features, provided that the commission  
6 may not approve a feature or mechanism for an electrical  
7 corporation if it finds that the feature or mechanism would impair  
8 the restoration of an electrical corporation's creditworthiness or  
9 would lead to a deterioration of an electrical corporation's  
10 creditworthiness:

11 (1) A competitive procurement process under which the  
12 electrical corporation may request bids for procurement-related  
13 services. The commission shall specify the format of that  
14 procurement process, as well as criteria to ensure that the auction  
15 process is open and adequately subscribed. Any purchases made  
16 in compliance with the commission-authorized process shall be  
17 recovered in the generation component of rates.

18 (2) An incentive mechanism that establishes a procurement  
19 benchmark or benchmarks and authorizes the electrical corporation  
20 to procure from the market, subject to comparing the electrical  
21 corporation's performance to the commission-authorized  
22 benchmark or benchmarks. The incentive mechanism shall be  
23 clear, achievable, and contain quantifiable objectives and standards.  
24 The incentive mechanism shall contain balanced risk and reward  
25 incentives that limit the risk and reward of an electrical corporation.

26 (3) Upfront achievable standards and criteria by which the  
27 acceptability and eligibility for rate recovery of a proposed  
28 procurement transaction will be known by the electrical corporation  
29 prior to the execution of the bilateral contract for the transaction.  
30 The commission shall provide for expedited review and either  
31 approve or reject the individual contracts submitted by the electrical  
32 corporation to ensure compliance with its procurement plan. To  
33 the extent the commission rejects a proposed contract pursuant to  
34 this criteria, the commission shall designate alternative procurement  
35 choices obtained in the procurement plan that will be recoverable  
36 for ratemaking purposes.

37 (d) A procurement plan approved by the commission shall  
38 accomplish each of the following objectives:

39 (1) Enable the electrical corporation to fulfill its obligation to  
40 serve its customers at just and reasonable rates.

1 (2) Eliminate the need for after-the-fact reasonableness reviews  
2 of an electrical corporation's actions in compliance with an  
3 approved procurement plan, including resulting electricity  
4 procurement contracts, practices, and related expenses. However,  
5 the commission may establish a regulatory process to verify and  
6 ~~assure~~ *ensure* that each contract was administered in accordance  
7 with the terms of the contract, and contract disputes which may  
8 arise are reasonably resolved.

9 (3) Ensure timely recovery of prospective procurement costs  
10 incurred pursuant to an approved procurement plan. The  
11 commission shall establish rates based on forecasts of procurement  
12 costs adopted by the commission, actual procurement costs  
13 incurred, or combination thereof, as determined by the commission.  
14 The commission shall establish power procurement balancing  
15 accounts to track the differences between recorded revenues and  
16 costs incurred pursuant to an approved procurement plan. The  
17 commission shall review the power procurement balancing  
18 accounts, not less than semiannually, and shall adjust rates or order  
19 refunds, as necessary, to promptly amortize a balancing account,  
20 according to a schedule determined by the commission. Until  
21 January 1, 2006, the commission shall ensure that any  
22 overcollection or undercollection in the power procurement  
23 balancing account does not exceed 5 percent of the electrical  
24 corporation's actual recorded generation revenues for the prior  
25 calendar year excluding revenues collected for the Department of  
26 Water Resources. The commission shall determine the schedule  
27 for amortizing the overcollection or undercollection in the  
28 balancing account to ensure that the 5 percent threshold is not  
29 exceeded. After January 1, 2006, this adjustment shall occur when  
30 deemed appropriate by the commission consistent with the  
31 objectives of this section.

32 (4) Moderate the price risk associated with serving its retail  
33 customers, including the price risk embedded in its long-term  
34 supply contracts, by authorizing an electrical corporation to enter  
35 into financial and other electricity-related product contracts.

36 (5) Provide for just and reasonable rates, with an appropriate  
37 balancing of price stability and price level in the electrical  
38 corporation's procurement plan.

1 (e) The commission shall provide for the periodic review and  
2 prospective modification of an electrical corporation's procurement  
3 plan.

4 (f) The commission may engage an independent consultant or  
5 advisory service to evaluate risk management and strategy. The  
6 reasonable costs of any consultant or advisory service is a  
7 reimbursable expense and eligible for funding pursuant to Section  
8 631.

9 (g) The commission shall adopt appropriate procedures to ensure  
10 the confidentiality of any market sensitive information submitted  
11 in an electrical corporation's proposed procurement plan or  
12 resulting from or related to its approved procurement plan,  
13 including, but not limited to, proposed or executed power purchase  
14 agreements, data request responses, or consultant reports, or any  
15 combination, provided that the Office of Ratepayer Advocates and  
16 other consumer groups that are nonmarket participants shall be  
17 provided access to this information under confidentiality  
18 procedures authorized by the commission.

19 (h) ~~Nothing in this~~ *This section alters, modifies, does not alter,*  
20 *modify, or amends amend* the commission's oversight of affiliate  
21 transactions under its rules and decisions or the commission's  
22 existing authority to investigate and penalize an electrical  
23 corporation's alleged fraudulent activities, or to disallow costs  
24 incurred as a result of gross incompetence, fraud, abuse, or similar  
25 grounds. ~~Nothing in this~~ *This section expands, modifies, does not*  
26 *expand, modify, or limits limit* the ~~State Energy Resources~~  
27 ~~Conservation and Development Commission's~~ *Department of*  
28 *Energy's* existing authority and responsibilities as set forth in  
29 Sections 25216, 25216.5, and 25323 of the Public Resources Code.

30 (i) An electrical corporation that serves less than 500,000 electric  
31 retail customers within the state may file with the commission a  
32 request for exemption from this section, which the commission  
33 shall grant upon a showing of good cause.

34 (j) (1) Prior to its approval pursuant to Section 851 of any  
35 divestiture of generation assets owned by an electrical corporation  
36 on or after ~~the date of enactment of the act adding this section, the~~  
37 *September 24, 2002, the* commission shall determine the impact  
38 of the proposed divestiture on the electrical corporation's  
39 procurement rates and shall approve a divestiture only to the extent  
40 it finds, taking into account the effect of the divestiture on

1 procurement rates, that the divestiture is in the public interest and  
2 will result in net ratepayer benefits.

3 (2) Any electrical corporation's procurement necessitated as a  
4 result of the divestiture of generation assets on or after ~~the effective~~  
5 ~~date of the act adding this subdivision~~ *September 24, 2002*, shall  
6 be subject to the mechanisms and procedures set forth in this  
7 section only if its actual cost is less than the recent historical cost  
8 of the divested generation assets.

9 (3) Notwithstanding paragraph (2), the commission may deem  
10 proposed procurement eligible to use the procedures in this section  
11 upon its approval of asset divestiture pursuant to Section 851.

12 SEC. 376. Section 464 of the Public Utilities Code is amended  
13 to read:

14 464. (a) Reasonable expenditures by transmission owners that  
15 are electrical corporations to plan, design, and engineer  
16 reconfiguration, replacement, or expansion of transmission facilities  
17 are in the public interest and are deemed prudent if made for the  
18 purpose of facilitating competition in electric generation markets,  
19 ensuring open access and comparable service, or maintaining or  
20 enhancing reliability, whether or not these expenditures are for  
21 transmission facilities that become operational.

22 (b) The commission and the ~~Electricity Office of Energy Market~~  
23 ~~Oversight Board~~ *in the Department of Energy* shall jointly facilitate  
24 the efforts of the state's transmission owning electrical corporations  
25 to obtain authorization from the Federal Energy Regulatory  
26 Commission to recover reasonable expenditures made for the  
27 purposes stated in subdivision (a).

28 (c) ~~Nothing in this~~ *This section alters does not alter* or ~~affects~~  
29 ~~affect~~ the recovery of the reasonable costs of other electric facilities  
30 in rates pursuant to the commission's existing ratemaking authority  
31 under this code or pursuant to the Federal Power Act (41 Stat.  
32 1063; 16 U.S.C. Secs. 791a, et seq.). The commission may  
33 periodically review and adjust depreciation schedules and rates  
34 authorized for an electric plant that is under the jurisdiction of the  
35 commission and owned by an electrical corporation and  
36 periodically review and adjust depreciation schedules and rates  
37 authorized for a gas plant that is under the jurisdiction of the  
38 commission and owned by a gas corporation, consistent with this  
39 code.

1 SEC. 377. Section 848.1 of the Public Utilities Code is  
2 amended to read:

3 848.1. (a) No later than 120 days after the effective date of  
4 this article, and from time to time thereafter, the recovery  
5 corporation shall apply to the commission for a determination that  
6 some or all of the recovery corporation's recovery costs may be  
7 recovered through fixed recovery amounts, which would be  
8 recovery property under this article, and that any portion of the  
9 recovery corporation's federal and State of California income and  
10 franchise taxes associated with those fixed recovery amounts and  
11 not financed from proceeds of recovery bonds be recovered through  
12 fixed recovery tax amounts. The recovery corporation may request  
13 this determination by the commission in a separate proceeding or  
14 in an existing proceeding, or both. The recovery corporation shall  
15 in its application specify that consumers within its service territory  
16 would benefit from reduced rates on a present value basis through  
17 the issuance of recovery bonds. The commission shall designate  
18 fixed recovery amounts and any associated fixed recovery tax  
19 amounts as recoverable in one or more financing orders if the  
20 commission determines, as part of its findings in connection with  
21 the financing order, that the designation of the fixed recovery  
22 amounts and any associated fixed recovery tax amounts, and the  
23 issuance of recovery bonds in connection with fixed recovery  
24 amounts, would reduce the rates on a present value basis that  
25 consumers within the recovery corporation's service territory would  
26 pay if the financing order were not adopted. Fixed recovery  
27 amounts and any associated fixed recovery tax amounts shall only  
28 be imposed on existing and future consumers in the service  
29 territory. Consumers within the service territory shall continue to  
30 pay fixed recovery amounts and any associated fixed tax recovery  
31 amounts until the recovery bonds are paid in full by the financing  
32 entity. Once the recovery bonds have been paid in full, the payment  
33 by consumers of fixed recovery amounts and fixed recovery tax  
34 amounts shall terminate.

35 (b) The commission shall establish an effective mechanism that  
36 ensures recovery of recovery costs through fixed recovery amounts  
37 and any associated fixed recovery tax amounts from existing and  
38 future consumers in the service territory, provided that the costs  
39 shall not be recoverable from any of the following:

1 (1) New load or incremental load of an existing consumer of  
2 the recovery corporation where the load is being met through a  
3 direct transaction and the transaction does not require the use of  
4 transmission or distribution facilities owned by the recovery  
5 corporation.

6 (2) ~~Customer-Generation~~ *generation* departing load that is  
7 exempt from Department of Water Resources power charges  
8 pursuant to the commission's Decision No. 03-04-030, as modified  
9 by Decision No. 03-04-041, and as clarified and affirmed by  
10 Decision No. 03-05-039, except that the load shall pay the costs  
11 as a component of and in proportion to any purchase of electricity  
12 delivered by the recovery corporation under standby or other  
13 service made following its departure.

14 (3) The Department of Water Resources, with respect to the  
15 pumping, generation, and transmission facilities and operations of  
16 the State Water Resources Development System, except to the  
17 extent that system facilities receive electric service from the  
18 recovery corporation on or after December 19, 2003, under a  
19 ~~commission-approved~~ *commission-approved* tariff.

20 (4) Retail electric load, continuously served by a local publicly  
21 owned electric utility from January 1, 2000, through the effective  
22 date of the act adding this section.

23 (5) Load that ~~thereafter comes to~~ *subsequently* take electric  
24 service from a city where all the following conditions are met:

25 (A) The new load is from locations that never received electric  
26 service from the recovery corporation.

27 (B) The city owns and operates the local publicly owned electric  
28 utility.

29 (C) The local publicly owned electric utility served more than  
30 95 percent of the customers receiving electric service residing  
31 within the city limits prior to December 19, 2003.

32 (D) The city annexed the territory in which the load is located  
33 on or after December 19, 2003.

34 (E) Following annexation, the city provides all municipal  
35 services to the annexed territory that the city provides to other  
36 territory within the city limits, including electric service.

37 (F) The total load exempt from paying fixed recovery amounts  
38 and associated fixed recovery tax amounts pursuant to  
39 subparagraphs (A) through (D), inclusive, does not exceed 50  
40 megawatts, as determined by the commission, and any load above

1 the 50 megawatt exemption amount shall be responsible for paying  
2 recovery amounts and associated fixed recovery tax amounts,  
3 except as provided in subdivision (c).

4 (c) Except as provided in paragraphs (4) and (5) of subdivision  
5 (b), the commission shall determine the extent to which fixed  
6 recovery amounts and any associated fixed recovery tax amounts  
7 are recoverable from new municipal load, consistent with the  
8 commission's determination in the limited rehearing granted in  
9 Decision 03-08-076. The determination of the commission shall  
10 be made on the earlier of the date it adopts a financing order or  
11 December 31, 2004.

12 (d) Except as provided in paragraphs (4) and (5) of subdivision  
13 (b) and in subdivision (c), the obligation to pay fixed recovery  
14 amounts and any associated fixed recovery tax amounts cannot be  
15 avoided by the formation of a local publicly owned electric utility  
16 on or after December 19, 2003, or by annexation of any portion  
17 of the service territory of the recovery corporation by an existing  
18 local publicly owned electric utility.

19 (e) Recovery bonds authorized by the commission's financing  
20 orders may be issued in one or more series on or before December  
21 31, 2006.

22 (f) The commission may issue financing orders in accordance  
23 with this article to facilitate the recovery, financing, or refinancing  
24 of recovery costs. A financing order may be adopted only upon  
25 the application of the recovery corporation and shall become  
26 effective in accordance with its terms only after the recovery  
27 corporation files with the commission the recovery corporation's  
28 written consent to all terms and conditions of the financing order.  
29 A financing order may specify how amounts collected from a  
30 consumer shall be allocated between fixed recovery amounts, any  
31 associated fixed recovery tax amounts, and other charges.

32 (g) Notwithstanding Section 455.5 or 1708, or any other  
33 provision of law, except as otherwise provided in Section 848.7  
34 or in this subdivision with respect to recovery property that has  
35 been made the basis for the issuance of recovery bonds and with  
36 respect to any associated fixed recovery tax amounts, the financing  
37 order, the fixed recovery amounts and any associated fixed  
38 recovery tax amounts shall be irrevocable, and the commission  
39 shall not have authority either by rescinding, altering, or amending  
40 the financing order or otherwise, to revalue or revise for ratemaking

1 purposes, the recovery costs or the costs of recovering, financing,  
2 or refinancing the recovery costs, determine that the fixed recovery  
3 amounts, any associated fixed recovery tax amounts or rates are  
4 unjust or unreasonable, or in any way reduce or impair the value  
5 of recovery property or of the right to receive any associated fixed  
6 recovery tax amounts either directly or indirectly by taking fixed  
7 recovery amounts or any associated fixed recovery tax amounts  
8 into account when setting other rates for the recovery corporation  
9 or when setting charges for the Department of Water Resources;  
10 nor shall the amount of revenues arising with respect thereto be  
11 subject to reduction, impairment, postponement, or termination.  
12 Except as otherwise provided in this subdivision, the State of  
13 California does hereby pledge and agree with the recovery  
14 corporation, owners of recovery property, and holders of recovery  
15 bonds that the state shall neither limit nor alter the fixed recovery  
16 amounts, any associated fixed recovery tax amounts, recovery  
17 property, financing orders, or any rights thereunder until the  
18 recovery bonds, together with the interest thereon, are fully paid  
19 and discharged, and any associated fixed recovery tax amounts  
20 have been satisfied or, in the alternative, have been refinanced  
21 through an additional issue of recovery bonds; provided nothing  
22 contained in this section shall preclude the limitation or alteration  
23 if and when adequate provision shall be made by law for the  
24 protection of the recovery corporation, owners, and holders. The  
25 financing entity is authorized to include this pledge and undertaking  
26 for the state in these recovery bonds. Notwithstanding any other  
27 provision of this section, the commission shall approve adjustments  
28 to the fixed recovery amounts and any associated fixed recovery  
29 tax amounts as may be necessary to ensure timely recovery of all  
30 recovery costs that are the subject of the pertinent financing order,  
31 and the costs of capital associated with the recovery, financing, or  
32 refinancing thereof, including servicing and retiring the recovery  
33 bonds contemplated by the financing order. When setting other  
34 rates for the recovery corporation, ~~nothing in this subdivision shall~~  
35 *does not* prevent the commission from taking into account either  
36 of the following:

37 (1) Any collection of fixed recovery amounts in excess of  
38 amounts actually required to pay recovery costs financed or  
39 refinanced by recovery bonds.

1 (2) Any collection of fixed recovery tax amounts in excess of  
2 amounts actually required to pay federal and State of California  
3 income and franchise taxes associated with fixed recovery amounts;  
4 provided that this would not result in a recharacterization of the  
5 tax, accounting, and other intended characteristics of the financing,  
6 including, but not limited to, either of the following:

7 (A) Treating the recovery bonds as debt of the recovery  
8 corporation or its affiliates for federal income tax purposes.

9 (B) Treating the transfer of the recovery property by the recovery  
10 corporation as a true sale for bankruptcy purposes.

11 (h) (1) Financing orders issued under this article do not  
12 constitute a debt or liability of the state or of any political  
13 subdivision thereof, and do not constitute a pledge of the full faith  
14 and credit of the state or any of its political subdivisions, but are  
15 payable solely from the funds provided therefor under this article  
16 and shall be consistent with Sections 1 and 18 of Article XVI of  
17 the California Constitution. This subdivision shall in no way  
18 preclude bond guarantees or enhancements pursuant to this article.  
19 All recovery bonds shall contain on the face thereof a statement  
20 to the following effect: “Neither the full faith and credit nor the  
21 taxing power of the State of California is pledged to the payment  
22 of the principal of, or interest on, this bond.”

23 (2) The issuance of recovery bonds under this article shall not  
24 directly, indirectly, or contingently obligate the state or any  
25 political subdivision thereof to levy or to pledge any form of  
26 taxation therefor or to make any appropriation for their payment.

27 (i) The commission shall establish procedures for the expeditious  
28 processing of applications for financing orders, including the  
29 approval or disapproval thereof within 120 days of the recovery  
30 corporation making application therefor. The commission shall  
31 provide in any financing order for a procedure for the expeditious  
32 approval by the commission of periodic adjustments to the fixed  
33 recovery amounts and any associated fixed recovery tax amounts  
34 that are the subject of the pertinent financing order, as required by  
35 subdivision (g). The procedure shall require the commission to  
36 determine whether the adjustments are required on each anniversary  
37 of the issuance of the financing order, and at the additional intervals  
38 as may be provided for in the financing order, and for the  
39 adjustments, if required, to be approved within 90 days of each

1 anniversary of the issuance of the financing order, or of each  
2 additional interval provided for in the financing order.

3 (j) Fixed recovery amounts are recovery property when, and to  
4 the extent that, a financing order authorizing the fixed recovery  
5 amounts has become effective in accordance with this article, and  
6 the recovery property shall thereafter continuously exist as property  
7 for all purposes with all of the rights and privileges of this article  
8 for the period and to the extent provided in the financing order,  
9 but in any event until the recovery bonds are paid in full, including  
10 all principal, interest, premium, costs, and arrearages thereon.

11 (k) This article and any financing order made pursuant to this  
12 article do not amend, reduce, modify, or otherwise affect the right  
13 of the Department of Water Resources to recover its revenue  
14 requirements and to receive the charges that it is to recover and  
15 receive pursuant to Division 27 (commencing with Section 80000)  
16 of the Water Code, or pursuant to any agreement entered into by  
17 the commission and the Department of Water Resources pursuant  
18 to that division.

19 SEC. 378. Section 1822 of the Public Utilities Code is amended  
20 to read:

21 1822. (a) Any computer model that is the basis for any  
22 testimony or exhibit in a hearing or proceeding before the  
23 commission shall be available to, and subject to verification by,  
24 the commission and parties to the hearing or proceedings to the  
25 extent necessary for cross-examination or rebuttal, subject to  
26 applicable rules of evidence, except that verification is not required  
27 for any electricity demand model or forecast prepared by the ~~State~~  
28 ~~Department of Energy Resources Conservation and Development~~  
29 ~~Commission~~ pursuant to Section 25309 or 25402.1 of the Public  
30 Resources Code and approved and adopted after a hearing during  
31 which testimony was offered subject to cross-examination. The  
32 commission shall afford each of these electricity demand models  
33 or forecasts the evidentiary weight it determines appropriate.  
34 ~~Nothing in this~~ *This* subdivision ~~requires~~ *does not require* the ~~State~~  
35 ~~Energy Resources Conservation and Development Commission~~  
36 ~~department~~ to approve or adopt any electricity demand model or  
37 forecast.

38 (b) ~~Any testimony~~ *Testimony* presented in a hearing or  
39 proceeding before the commission that is based in whole, or in

1 part, on a computer model shall include a listing of all the equations  
2 and assumptions built into the model.

3 (c) ~~Any data base~~ *A database* that is used for any testimony or  
4 exhibit in a hearing or proceeding before the commission shall be  
5 reasonably accessible to the commission staff and parties to the  
6 hearing or proceeding to the extent necessary for cross-examination  
7 or rebuttal, subject to applicable rules of evidence, as applied in  
8 commission proceedings.

9 (d) The commission shall adopt rules and procedures to meet  
10 the requirements specified in subdivisions (a), (b), and (c). These  
11 rules shall include procedural safeguards that protect ~~data bases~~  
12 *databases* and models not owned by the public utility.

13 (e) The commission shall establish appropriate procedures for  
14 determining the appropriate level of compensation for a party's  
15 access.

16 (f) Each party shall have access to the computer programs and  
17 models of each other party to the extent provided by Section 1822.  
18 The commission shall not require a utility to provide a remote  
19 terminal or other direct physical link to the computer systems of  
20 a utility to a third party.

21 (g) The commission shall verify, validate, and review the  
22 computer models of any electric corporation that are used for the  
23 purpose of planning, operating, constructing, or maintaining the  
24 corporation's electricity transmission system, and that are the basis  
25 for testimony and exhibits in hearings and proceedings before the  
26 commission.

27 (h) The transmission computer models shall be available to, and  
28 subject to verification by, each party to a commission proceeding  
29 in accordance with subdivision (a) of Section 1822, and regulations  
30 adopted pursuant to subdivision (d) of Section 1822.

31 SEC. 379. Section 2774.6 of the Public Utilities Code is  
32 amended to read:

33 2774.6. The commission, in consultation with the ~~State Energy~~  
34 ~~Resources Conservation and Development Commission,~~  
35 *Department of Energy*, shall develop a program for residential and  
36 commercial customer air-conditioning load control, as an element  
37 of each electrical corporation's tariffed service offerings paid for  
38 with electric rates. The goal of the program shall be to contribute  
39 to the adequacy of electricity supply and to help customers reduce  
40 their electric bills in a cost-effective manner. The program may

1 include peak load reduction programs for residential and  
2 commercial air-conditioning systems, if the commission determines  
3 that the inclusion would be cost-effective.

4 SEC. 380. Section 2827 of the Public Utilities Code is amended  
5 to read:

6 2827. (a) The Legislature finds and declares that a program  
7 to provide net energy metering combined with net surplus  
8 compensation, co-energy metering, and wind energy co-metering  
9 for eligible customer-generators is one way to encourage substantial  
10 private investment in renewable energy resources, stimulate in-state  
11 economic growth, reduce demand for electricity during peak  
12 consumption periods, help stabilize California's energy supply  
13 infrastructure, enhance the continued diversification of California's  
14 energy resource mix, reduce interconnection and administrative  
15 costs for electricity suppliers, and encourage conservation and  
16 efficiency.

17 (b) As used in this section, the following terms have the  
18 following meanings:

19 (1) "Co-energy metering" means a program that is the same in  
20 all other respects as a net energy metering program, except that  
21 the local publicly owned electric utility has elected to apply a  
22 generation-to-generation energy and time-of-use credit formula  
23 as provided in subdivision (i).

24 (2) "Electrical cooperative" means an electrical cooperative as  
25 defined in Section 2776.

26 (3) "Electric utility" means an electrical corporation, a local  
27 publicly owned electric utility, or an electrical cooperative, or any  
28 other entity, except an electric service provider, that offers electrical  
29 service. This section shall not apply to a local publicly owned  
30 electric utility that serves more than 750,000 customers and that  
31 also conveys water to its customers.

32 (4) "Eligible customer-generator" means a residential, small  
33 commercial customer as defined in subdivision (h) of Section 331,  
34 commercial, industrial, or agricultural customer of an electric  
35 utility, who uses a solar or a wind turbine electrical generating  
36 facility, or a hybrid system of both, with a capacity of not more  
37 than one megawatt that is located on the customer's owned, leased,  
38 or rented premises, and is interconnected and operates in parallel  
39 with the electric grid, and is intended primarily to offset part or  
40 all of the customer's own electrical requirements.

1 (5) “Net energy metering” means measuring the difference  
2 between the electricity supplied through the electric grid and the  
3 electricity generated by an eligible customer-generator and fed  
4 back to the electric grid over a 12-month period as described in  
5 subdivisions (c) and (h).

6 (6) “Net surplus customer-generator” means an eligible  
7 customer-generator that generates more electricity during a  
8 12-month period than is supplied by the electric utility to the  
9 eligible customer-generator during the same 12-month period.

10 (7) “Net surplus electricity” means all electricity generated by  
11 an eligible customer-generator measured in kilowatthours over a  
12 12-month period that exceeds the amount of electricity consumed  
13 by that eligible customer-generator.

14 (8) “Net surplus electricity compensation” means a per  
15 kilowatthour rate offered by the electric utility to the net surplus  
16 customer-generator for net surplus electricity that is set by the  
17 ratemaking authority pursuant to subdivision (h).

18 (9) “Ratemaking authority” means, for an electrical corporation  
19 or electrical cooperative, the commission, and for a local publicly  
20 owned electric utility, the local elected body responsible for setting  
21 the rates of the local publicly owned utility.

22 (10) “Wind energy co-metering” means any wind energy project  
23 greater than 50 kilowatts, but not exceeding one megawatt, where  
24 the difference between the electricity supplied through the electric  
25 grid and the electricity generated by an eligible customer-generator  
26 and fed back to the electric grid over a 12-month period is as  
27 described in subdivision (h). Wind energy co-metering shall be  
28 accomplished pursuant to Section 2827.8.

29 (c) (1) Every electric utility shall develop a standard contract  
30 or tariff providing for net energy metering, and shall make this  
31 standard contract or tariff available to eligible customer-generators,  
32 upon request, on a first-come-first-served basis until the time that  
33 the total rated generating capacity used by eligible  
34 customer-generators exceeds 2.5 percent of the electric utility’s  
35 aggregate customer peak demand. Net energy metering shall be  
36 accomplished using a single meter capable of registering the flow  
37 of electricity in two directions. An additional meter or meters to  
38 monitor the flow of electricity in each direction may be installed  
39 with the consent of the eligible customer-generator, at the expense  
40 of the electric utility, and the additional metering shall be used

1 only to provide the information necessary to accurately bill or  
2 credit the eligible customer-generator pursuant to subdivision (h),  
3 or to collect solar or wind electric generating system performance  
4 information for research purposes. If the existing electrical meter  
5 of an eligible customer-generator is not capable of measuring the  
6 flow of electricity in two directions, the eligible customer-generator  
7 shall be responsible for all expenses involved in purchasing and  
8 installing a meter that is able to measure electricity flow in two  
9 directions. If an additional meter or meters are installed, the net  
10 energy metering calculation shall yield a result identical to that of  
11 a single meter. An eligible customer-generator that is receiving  
12 service other than through the standard contract or tariff may elect  
13 to receive service through the standard contract or tariff until the  
14 electric utility reaches the generation limit set forth in this  
15 paragraph. Once the generation limit is reached, only eligible  
16 customer-generators that had previously elected to receive service  
17 pursuant to the standard contract or tariff have a right to continue  
18 to receive service pursuant to the standard contract or tariff.  
19 Eligibility for net energy metering does not limit an eligible  
20 customer-generator's eligibility for any other rebate, incentive, or  
21 credit provided by the electric utility, or pursuant to any  
22 governmental program, including rebates and incentives provided  
23 pursuant to the California Solar Initiative.

24 (2) (A) On an annual basis, beginning in 2003, every electric  
25 utility shall make available to the ratemaking authority information  
26 on the total rated generating capacity used by eligible  
27 customer-generators that are customers of that provider in the  
28 provider's service area and the net surplus electricity purchased  
29 by the electric utility pursuant to this section.

30 (B) An electric service provider operating pursuant to Section  
31 394 shall make available to the ratemaking authority the  
32 information required by this paragraph for each eligible  
33 customer-generator that is their customer for each service area of  
34 an electric corporation, local publicly owned electric utility, or  
35 electrical cooperative, in which the eligible customer-generator  
36 has net energy metering.

37 (C) The ratemaking authority shall develop a process for making  
38 the information required by this paragraph available to electric  
39 utilities, and for using that information to determine when, pursuant  
40 to paragraphs (1) and (3), an electric utility is not obligated to

1 provide net energy metering to additional eligible  
2 customer-generators in its service area.

3 (3) An electric utility is not obligated to provide net energy  
4 metering to additional eligible customer-generators in its service  
5 area when the combined total peak demand of all electricity used  
6 by eligible customer-generators served by all the electric utilities  
7 in that service area furnishing net energy metering to eligible  
8 customer-generators exceeds 2.5 percent of the aggregate customer  
9 peak demand of those electric utilities.

10 (4) By January 1, 2010, the commission, in consultation with  
11 the ~~Energy Commission~~ *Department of Energy*, shall submit a  
12 report to the Governor and the Legislature on the costs and benefits  
13 of net energy metering, wind energy co-metering, and co-energy  
14 metering to participating customers and nonparticipating customers  
15 and with options to replace the economic costs and benefits of net  
16 energy metering, wind energy co-metering, and co-energy metering  
17 with a mechanism that more equitably balances the interests of  
18 participating and nonparticipating customers, and that incorporates  
19 the findings of the report on economic and environmental costs  
20 and benefits of net metering required by subdivision (n).

21 (d) Every electric utility shall make all necessary forms and  
22 contracts for net energy metering and net surplus electricity  
23 compensation service available for download from the Internet.

24 (e) (1) Every electric utility shall ensure that requests for  
25 establishment of net energy metering and net surplus electricity  
26 compensation are processed in a time period not exceeding that  
27 for similarly situated customers requesting new electric service,  
28 but not to exceed 30 working days from the date it receives a  
29 completed application form for net energy metering service or net  
30 surplus electricity compensation, including a signed interconnection  
31 agreement from an eligible customer-generator and the electric  
32 inspection clearance from the governmental authority having  
33 jurisdiction.

34 (2) Every electric utility shall ensure that requests for an  
35 interconnection agreement from an eligible customer-generator  
36 are processed in a time period not to exceed 30 working days from  
37 the date it receives a completed application form from the eligible  
38 customer-generator for an interconnection agreement.

39 (3) If an electric utility is unable to process a request within the  
40 allowable timeframe pursuant to paragraph (1) or (2), it shall notify

1 the eligible customer-generator and the ratemaking authority of  
2 the reason for its inability to process the request and the expected  
3 completion date.

4 (f) (1) If a customer participates in direct transactions pursuant  
5 to paragraph (1) of subdivision (b) of Section 365 with an electric  
6 service provider that does not provide distribution service for the  
7 direct transactions, the electric utility that provides distribution  
8 service for the eligible customer-generator is not obligated to  
9 provide net energy metering or net surplus electricity compensation  
10 to the customer.

11 (2) If a customer participates in direct transactions pursuant to  
12 paragraph (1) of subdivision (b) of Section 365 with an electric  
13 service provider, and the customer is an eligible  
14 customer-generator, the electric utility that provides distribution  
15 service for the direct transactions may recover from the customer's  
16 electric service provider the incremental costs of metering and  
17 billing service related to net energy metering and net surplus  
18 electricity compensation in an amount set by the ratemaking  
19 authority.

20 (g) Except for the time-variant kilowatthour pricing portion of  
21 any tariff adopted by the commission pursuant to paragraph (4) of  
22 subdivision (a) of Section 2851, each net energy metering contract  
23 or tariff shall be identical, with respect to rate structure, all retail  
24 rate components, and any monthly charges, to the contract or tariff  
25 to which the same customer would be assigned if the customer did  
26 not use an eligible solar or wind electrical generating facility,  
27 except that eligible customer-generators shall not be assessed  
28 standby charges on the electrical generating capacity or the  
29 kilowatthour production of an eligible solar or wind electrical  
30 generating facility. The charges for all retail rate components for  
31 eligible customer-generators shall be based exclusively on the  
32 customer-generator's net kilowatthour consumption over a  
33 12-month period, without regard to the eligible  
34 customer-generator's choice as to from whom it purchases  
35 electricity that is not self-generated. Any new or additional demand  
36 charge, standby charge, customer charge, minimum monthly  
37 charge, interconnection charge, or any other charge that would  
38 increase an eligible customer-generator's costs beyond those of  
39 other customers who are not eligible customer-generators in the  
40 rate class to which the eligible customer-generator would otherwise

1 be assigned if the customer did not own, lease, rent, or otherwise  
2 operate an eligible solar or wind electrical generating facility ~~are~~  
3 *is* contrary to the intent of this section, and shall not form a part  
4 of net energy metering contracts or tariffs.

5 (h) For eligible customer-generators, the net energy metering  
6 calculation shall be made by measuring the difference between  
7 the electricity supplied to the eligible customer-generator and the  
8 electricity generated by the eligible customer-generator and fed  
9 back to the electric grid over a 12-month period. The following  
10 rules shall apply to the annualized net metering calculation:

11 (1) The eligible residential or small commercial  
12 customer-generator shall, at the end of each 12-month period  
13 following the date of final interconnection of the eligible  
14 customer-generator's system with an electric utility, and at each  
15 anniversary date thereafter, be billed for electricity used during  
16 that 12-month period. The electric utility shall determine if the  
17 eligible residential or small commercial customer-generator was  
18 a net consumer or a net surplus customer-generator during that  
19 period.

20 (2) At the end of each 12-month period, where the electricity  
21 supplied during the period by the electric utility exceeds the  
22 electricity generated by the eligible residential or small commercial  
23 customer-generator during that same period, the eligible residential  
24 or small commercial customer-generator is a net electricity  
25 consumer and the electric utility shall be owed compensation for  
26 the eligible customer-generator's net kilowatthour consumption  
27 over that 12-month period. The compensation owed for the eligible  
28 residential or small commercial customer-generator's consumption  
29 shall be calculated as follows:

30 (A) For all eligible customer-generators taking service under  
31 contracts or tariffs employing "baseline" and "over baseline" rates,  
32 any net monthly consumption of electricity shall be calculated  
33 according to the terms of the contract or tariff to which the same  
34 customer would be assigned to, or be eligible for, if the customer  
35 was not an eligible customer-generator. If those same  
36 customer-generators are net generators over a billing period, the  
37 net kilowatthours generated shall be valued at the same price per  
38 kilowatthour as the electric utility would charge for the baseline  
39 quantity of electricity during that billing period, and if the number  
40 of kilowatthours generated exceeds the baseline quantity, the excess

1 shall be valued at the same price per kilowatthour as the electric  
2 utility would charge for electricity over the baseline quantity during  
3 that billing period.

4 (B) For all eligible customer-generators taking service under  
5 contracts or tariffs employing time-of-use rates, any net monthly  
6 consumption of electricity shall be calculated according to the  
7 terms of the contract or tariff to which the same customer would  
8 be assigned, or be eligible for, if the customer was not an eligible  
9 customer-generator. When those same customer-generators are  
10 net generators during any discrete time-of-use period, the net  
11 kilowatthours produced shall be valued at the same price per  
12 kilowatthour as the electric utility would charge for retail  
13 kilowatthour sales during that same time-of-use period. If the  
14 eligible customer-generator's time-of-use electrical meter is unable  
15 to measure the flow of electricity in two directions, paragraph (1)  
16 of subdivision (c) shall apply.

17 (C) For all eligible residential and small commercial  
18 customer-generators and for each billing period, the net balance  
19 of moneys owed to the electric utility for net consumption of  
20 electricity or credits owed to the eligible customer-generator for  
21 net generation of electricity shall be carried forward as a monetary  
22 value until the end of each 12-month period. For all eligible  
23 commercial, industrial, and agricultural customer-generators, the  
24 net balance of moneys owed shall be paid in accordance with the  
25 electric utility's normal billing cycle, except that if the eligible  
26 commercial, industrial, or agricultural customer-generator is a net  
27 electricity producer over a normal billing cycle, any excess  
28 kilowatthours generated during the billing cycle shall be carried  
29 over to the following billing period as a monetary value, calculated  
30 according to the procedures set forth in this section, and appear as  
31 a credit on the eligible commercial, industrial, or agricultural  
32 customer-generator's account, until the end of the annual period  
33 when paragraph (3) shall apply.

34 (3) At the end of each 12-month period, where the electricity  
35 generated by the eligible customer-generator during the 12-month  
36 period exceeds the electricity supplied by the electric utility during  
37 that same period, the eligible customer-generator is a net surplus  
38 customer-generator and the electric utility shall, upon an  
39 affirmative election by the eligible customer-generator, either (A)  
40 provide net surplus electricity compensation for any net surplus

1 electricity generated during the prior 12-month period, or (B) allow  
2 the eligible customer-generator to apply the net surplus electricity  
3 as a credit for kilowatthours subsequently supplied by the electric  
4 utility to the surplus customer-generator. For an eligible  
5 customer-generator that does not affirmatively elect to receive  
6 service pursuant to net surplus electricity compensation, the electric  
7 utility shall retain any excess kilowatthours generated during the  
8 prior 12-month period. The eligible customer-generator not  
9 affirmatively electing to receive service pursuant to net surplus  
10 electricity compensation shall not be owed any compensation for  
11 the net surplus electricity unless the electric utility enters into a  
12 purchase agreement with the eligible customer-generator for those  
13 excess kilowatthours. Every electric utility shall, by January 31,  
14 2010, provide notice to eligible customer-generators that they are  
15 eligible to receive net surplus electricity compensation for net  
16 surplus electricity, that they must elect to receive net surplus  
17 electricity compensation, and that the 12-month period commences  
18 when the electric utility receives the eligible customer-generator's  
19 election. The commission may, for an electric utility that is an  
20 electrical corporation or electrical cooperative, adopt requirements  
21 for providing notice and the manner by which eligible  
22 customer-generators may elect to receive net surplus electricity  
23 compensation.

24 (4) (A) The ratemaking authority shall, by January 1, 2011,  
25 establish a net surplus electricity compensation valuation to  
26 compensate the net surplus customer-generator for the value of  
27 net surplus electricity generated by the net surplus  
28 customer-generator. The commission shall establish the valuation  
29 in a ratemaking proceeding. The ratemaking authority for a local  
30 publicly owned electric utility shall establish the valuation in a  
31 public proceeding. The net surplus electricity compensation  
32 valuation shall be established so as to provide the net surplus  
33 customer-generator just and reasonable compensation for the value  
34 of net surplus electricity, while leaving other ratepayers unaffected.  
35 The ratemaking authority shall determine whether the  
36 compensation will include, where appropriate justification exists,  
37 either or both of the following components:

- 38 (i) The value of the electricity itself.
- 39 (ii) The value of the renewable attributes of the electricity.

1 (B) In establishing the rate pursuant to subparagraph (A), the  
2 ratemaking authority shall ensure that the rate does not result in a  
3 shifting of costs between solar customer-generators and other  
4 bundled service customers.

5 (5) (A) Upon adoption of the net surplus electricity  
6 compensation rate by the ratemaking authority, any renewable  
7 energy credit, as defined in Section 399.12, for net surplus  
8 electricity purchased by the electric utility shall belong to the  
9 electric utility. Any renewable energy credit associated with  
10 electricity generated by the eligible customer-generator that is  
11 utilized by the eligible customer-generator shall remain the property  
12 of the eligible customer-generator.

13 (B) Upon adoption of the net surplus electricity compensation  
14 rate by the ratemaking authority, the net surplus electricity  
15 purchased by the electric utility shall count toward the electric  
16 utility's renewables portfolio standard annual procurement targets  
17 for the purposes of paragraph (1) of subdivision (b) of Section  
18 399.15, or for a local publicly owned electric utility, the renewables  
19 portfolio standard annual procurement targets established pursuant  
20 to Section 387.

21 (6) The electric utility shall provide every eligible residential  
22 or small commercial customer-generator with net electricity  
23 consumption and net surplus electricity generation information  
24 with each regular bill. That information shall include the current  
25 monetary balance owed the electric utility for net electricity  
26 consumed, or the net surplus electricity generated, since the last  
27 12-month period ended. Notwithstanding this subdivision, an  
28 electric utility shall permit that customer to pay monthly for net  
29 energy consumed.

30 (7) If an eligible residential or small commercial  
31 customer-generator terminates the customer relationship with the  
32 electric utility, the electric utility shall reconcile the eligible  
33 customer-generator's consumption and production of electricity  
34 during any part of a 12-month period following the last  
35 reconciliation, according to the requirements set forth in this  
36 subdivision, except that those requirements shall apply only to the  
37 months since the most recent 12-month bill.

38 (8) If an electric service provider or electric utility providing  
39 net energy metering to a residential or small commercial  
40 customer-generator ceases providing that electric service to that

1 customer during any 12-month period, and the customer-generator  
2 enters into a new net energy metering contract or tariff with a new  
3 electric service provider or electric utility, the 12-month period,  
4 with respect to that new electric service provider or electric utility,  
5 shall commence on the date on which the new electric service  
6 provider or electric utility first supplies electric service to the  
7 customer-generator.

8 (i) Notwithstanding any other provisions of this section, the  
9 following provisions shall apply to an eligible customer-generator  
10 with a capacity of more than 10 kilowatts, but not exceeding one  
11 megawatt, that receives electric service from a local publicly owned  
12 electric utility that has elected to utilize a co-energy metering  
13 program unless the local publicly owned electric utility chooses  
14 to provide service for eligible customer-generators with a capacity  
15 of more than 10 kilowatts in accordance with subdivisions (g) and  
16 (h):

17 (1) The eligible customer-generator shall be required to utilize  
18 a meter, or multiple meters, capable of separately measuring  
19 electricity flow in both directions. All meters shall provide  
20 time-of-use measurements of electricity flow, and the customer  
21 shall take service on a time-of-use rate schedule. If the existing  
22 meter of the eligible customer-generator is not a time-of-use meter  
23 or is not capable of measuring total flow of energy in both  
24 directions, the eligible customer-generator shall be responsible for  
25 all expenses involved in purchasing and installing a meter that is  
26 both time-of-use and able to measure total electricity flow in both  
27 directions. This subdivision shall not restrict the ability of an  
28 eligible customer-generator to utilize any economic incentives  
29 provided by a government agency or an electric utility to reduce  
30 its costs for purchasing and installing a time-of-use meter.

31 (2) The consumption of electricity from the local publicly owned  
32 electric utility shall result in a cost to the eligible  
33 customer-generator to be priced in accordance with the standard  
34 rate charged to the eligible customer-generator in accordance with  
35 the rate structure to which the customer would be assigned if the  
36 customer did not use an eligible solar or wind electrical generating  
37 facility. The generation of electricity provided to the local publicly  
38 owned electric utility shall result in a credit to the eligible  
39 customer-generator and shall be priced in accordance with the  
40 generation component, established under the applicable structure

1 to which the customer would be assigned if the customer did not  
2 use an eligible solar or wind electrical generating facility.

3 (3) All costs and credits shall be shown on the eligible  
4 customer-generator's bill for each billing period. In any months  
5 in which the eligible customer-generator has been a net consumer  
6 of electricity calculated on the basis of value determined pursuant  
7 to paragraph (2), the customer-generator shall owe to the local  
8 publicly owned electric utility the balance of electricity costs and  
9 credits during that billing period. In any billing period in which  
10 the eligible customer-generator has been a net producer of  
11 electricity calculated on the basis of value determined pursuant to  
12 paragraph (2), the local publicly owned electric utility shall owe  
13 to the eligible customer-generator the balance of electricity costs  
14 and credits during that billing period. Any net credit to the eligible  
15 customer-generator of electricity costs may be carried forward to  
16 subsequent billing periods, provided that a local publicly owned  
17 electric utility may choose to carry the credit over as a kilowatthour  
18 credit consistent with the provisions of any applicable contract or  
19 tariff, including any differences attributable to the time of  
20 generation of the electricity. At the end of each 12-month period,  
21 the local publicly owned electric utility may reduce any net credit  
22 due to the eligible customer-generator to zero.

23 (j) A solar or wind turbine electrical generating system, or a  
24 hybrid system of both, used by an eligible customer-generator shall  
25 meet all applicable safety and performance standards established  
26 by the National Electrical Code, the Institute of Electrical and  
27 Electronics Engineers, and accredited testing laboratories, including  
28 Underwriters Laboratories and, where applicable, rules of the  
29 commission regarding safety and reliability. A customer-generator  
30 whose solar or wind turbine electrical generating system, or a  
31 hybrid system of both, meets those standards and rules shall not  
32 be required to install additional controls, perform or pay for  
33 additional tests, or purchase additional liability insurance.

34 (k) If the commission determines that there are cost or revenue  
35 obligations for an electric corporation, as defined in Section 218,  
36 that may not be recovered from customer-generators acting  
37 pursuant to this section, those obligations shall remain within the  
38 customer class from which any shortfall occurred and may not be  
39 shifted to any other customer class. Net energy metering and  
40 co-energy metering customers shall not be exempt from the public

1 goods charges imposed pursuant to Article 7 (commencing with  
2 Section 381), Article 8 (commencing with Section 385), or Article  
3 15 (commencing with Section 399) of Chapter 2.3 of Part 1. In its  
4 report to the Legislature, the commission shall examine different  
5 methods to ensure that the public goods charges remain  
6 nonbypassable.

7 (l) A net energy metering, co-energy metering, or wind energy  
8 co-metering customer shall reimburse the Department of Water  
9 Resources for all charges that would otherwise be imposed on the  
10 customer by the commission to recover bond-related costs pursuant  
11 to an agreement between the commission and the Department of  
12 Water Resources pursuant to Section 80110 of the Water Code,  
13 as well as the costs of the department equal to the share of the  
14 department's estimated net unavoidable power purchase contract  
15 costs attributable to the customer. The commission shall  
16 incorporate the determination into an existing proceeding before  
17 the commission, and shall ensure that the charges are  
18 nonbypassable. Until the commission has made a determination  
19 regarding the nonbypassable charges, net energy metering,  
20 co-energy metering, and wind energy co-metering shall continue  
21 under the same rules, procedures, terms, and conditions as were  
22 applicable on December 31, 2002.

23 (m) In implementing the requirements of subdivisions (k) and  
24 ~~(l),~~ an eligible customer-generator shall not be required to  
25 replace its existing meter except as set forth in paragraph (1) of  
26 subdivision (c), nor shall the electric utility require additional  
27 measurement of usage beyond that which is necessary for  
28 customers in the same rate class as the eligible customer-generator.

29 (n) It is the intent of the Legislature that the Treasurer  
30 incorporate net energy metering, including net surplus electricity  
31 compensation, co-energy metering, and wind energy co-metering  
32 projects undertaken pursuant to this section as sustainable building  
33 methods or distributive energy technologies for purposes of  
34 evaluating low-income housing projects.

35 SEC. 381. Division 1.5 (commencing with Section 3300) of  
36 the Public Utilities Code is repealed.

37 SEC. 382. Section 9502 of the Public Utilities Code is amended  
38 to read:

39 9502. On or before December 1, 1994, and on a biennial basis  
40 thereafter, each publicly owned electric and gas utility shall submit

1 a report to the ~~State Department of Energy Resources Conservation~~  
2 ~~and Development Commission~~ describing the status of their  
3 low-income weatherization programs required by Sections 9500  
4 and 9501. Thereafter, as part of the biennial conservation report  
5 prepared pursuant to Section 25401.1 of the Public Resources  
6 Code, the commission shall report to the Legislature summarizing  
7 publicly owned utility efforts to comply with Sections 9500 and  
8 9501.

9 SEC. 383. The provisions of this act are severable. If any  
10 provision of this act or its application is held invalid, that invalidity  
11 shall not affect other provisions or applications that can be given  
12 effect without the invalid provision or application.