

AMENDED IN SENATE MAY 25, 2000
AMENDED IN ASSEMBLY APRIL 14, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 995

Introduced by Assembly Member Wright
(Principal coauthor: Assembly Member Pescetti)

(Principal coauthor: Senator Sher)

(Coauthors: Assembly Members Battin, Calderon, Cardenas, Dickerson, Lempert, Maddox, Maldonado, Mazzoni, Papan, Reyes, Strickland, Thomson, Vincent, Wesson, and Zettel)

(Coauthors: Senators Alarcon and Murray)

February 25, 1999

~~An act to add Section 330.5 to the Public Utilities Code, An act to amend Sections 381 and 383.5 of, and to add Article 15 (commencing with Section 399) to Chapter 2.3 of Part 1 of Division 1 of, the Public Utilities Code, relating to public utilities.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 995, as amended, R. Wright. Electric restructuring: ~~transmission grid~~ *public benefit programs*.

~~The Public Utilities Act provides for the restructuring of the electrical industry in this state, including provisions with regard to the reliability and operation of the transmission grid.~~

~~This bill would state that it is the policy of this state that, to ensure the continued efficient use and reliable operation of~~

~~the transmission grid and of any upgrades, enhancements, or additions to the transmission grid, transmission planning, siting, and permitting be conducted in a manner consistent with specified existing law so as to provide open, nondiscriminatory, comparable access to transmission services.~~

~~The bill would require the Independent System Operator to coordinate with participating utility transmission owners to implement those policies, consistent with a specified provision of existing law.~~

(1) Under the Public Utilities Act, the Public Utilities Commission, until December 31, 2001, and in certain instances until March 31, 2002, requires electrical corporations to identify a separate rate component to fund cost-effective energy efficiency and conservation activities, public interest research and development and development of renewable resources technology. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing law requires specified electrical corporations to collect specific amounts to support each of these programs. Existing law also requires the State Energy Resources Conservation and Development Commission (Energy Commission) to transfer funds collected for these programs to specified funds. Existing law also provides that funds expended for production incentives for new in-state renewable electricity generation technology facilities are limited to facilities that are operational prior to January 1, 2002.

This bill would extend the production incentives for renewable electricity to January 1, 2007, if the Energy Commission makes specified findings. This bill would restate the policy of the state that each electrical corporation operate its electric distribution grid in a safe, reliable, efficient, and cost-effective manner and that electric corporations continue to make prudent investments in their distribution grids. The bill would also require the Public Utilities Commission and the Energy Commission to continue to administer energy efficiency programs, as defined, following prescribed guidelines.

This bill would extend the collection of this nonbypassable system benefit charge to support these programs through January 1, 2012, and would require the funds to be deposited in specified accounts until appropriation. The bill would require named electrical corporations to collect specific dollar amounts for each of the programs beginning on January 1, 2002. The bill would also require the Governor, on or before January 1, 2004, to appoint an independent review panel that, on or before January 1, 2005, would be required to report to the Legislature and the Energy Commission on, among other things, the benefits secured for residential customers. The bill would also require the Energy Commission to report to the Legislature on the renewable energy and research and development and develop and present to the Legislature investment plans. The bill would make related findings and declarations. Because a violation of the act is a crime, this bill would impose a state-mandated local program by expanding an existing crime.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~-yes.

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

- 1 ~~SECTION 1. Section 330.5 is added to the Public~~
- 2 *SECTION 1. Section 381 of the Public Utilities Code*
- 3 *is amended to read:*
- 4 381. (a) To ensure that the funding for the programs
- 5 described in subdivision (b) and Section 382 are not
- 6 commingled with other revenues, the commission shall

1 require each electrical corporation to identify a separate
2 rate component to collect the revenues used to fund these
3 programs. The rate component shall be a nonbypassable
4 element of the local distribution service and collected on
5 the basis of usage. This rate component shall fall within
6 the rate levels identified in subdivision (a) of Section 368.

7 (b) The commission shall allocate funds collected
8 pursuant to subdivision (a), and any interest earned on
9 collected funds, to programs which enhance system
10 reliability and provide in-state benefits as follows:

11 (1) Cost-effective energy efficiency and conservation
12 activities.

13 (2) Public interest research and development not
14 adequately provided by competitive and regulated
15 markets.

16 (3) In-state operation and development of existing
17 and new and emerging renewable resource technologies
18 defined as electricity produced from other than a
19 conventional power source within the meaning of Section
20 2805, provided that a power source utilizing more than 25
21 percent fossil fuel may not be included.

22 (c) The Public Utilities Commission shall order the
23 respective electrical corporations to collect and spend
24 these funds, as follows:

25 (1) Cost-effective energy efficiency and conservation
26 activities shall be funded at not less than the following
27 levels commencing January 1, 1998, through December
28 31, 2001: for San Diego Gas and Electric Company a level
29 of thirty-two million dollars (\$32,000,000) per year; for
30 Southern California Edison Company a level of ninety
31 million dollars (\$90,000,000) for each of the years 1998,
32 1999, and 2000; fifty million dollars (\$50,000,000) for the
33 year 2001; and for Pacific Gas and Electric Company a
34 level of one hundred six million dollars (\$106,000,000) per
35 year.

36 (2) Research, development, and demonstration
37 programs to advance science or technology that are not
38 adequately provided by competitive and regulated
39 markets shall be funded at not less than the following
40 levels commencing January 1, 1998 through December

1 31, 2001: for San Diego Gas and Electric Company a level
2 of four million dollars (\$4,000,000) per year; for Southern
3 California Edison Company a level of twenty-eight
4 million five hundred thousand dollars (\$28,500,000) per
5 year; and for Pacific Gas and Electric Company a level of
6 thirty million dollars (\$30,000,000) per year.

7 (3) In-state operation and development of existing
8 and new and emerging renewable resource technologies
9 shall be funded at not less than the following levels on a
10 statewide basis: one hundred nine million five hundred
11 thousand dollars (\$109,500,000) per year for each of the
12 years 1998, 1999, and 2000, and one hundred thirty-six
13 million five hundred thousand dollars (\$136,500,000) for
14 the year 2001. To accomplish these funding levels over
15 the period described herein the San Diego Gas and
16 Electric Company shall spend twelve million dollars
17 (\$12,000,000) per year, the Southern California Edison
18 Company shall expend no less than forty-nine million five
19 hundred thousand dollars (\$49,500,000) for the years
20 1998, 1999, and 2000, and no less than seventy-six million
21 five hundred thousand dollars (\$76,500,000) for the year
22 2001, and the Pacific Gas and Electric Company shall
23 expend no less than forty-eight million dollars
24 (\$48,000,000) per year through the year 2001. Additional
25 funding not to exceed seventy-five million dollars
26 (\$75,000,000) shall be allocated from moneys collected
27 pursuant to subdivision (d) in order to provide a level of
28 funding totaling five hundred forty million dollars
29 (\$540,000,000).

30 (4) Up to fifty million dollars (\$50,000,000) of the
31 amount collected pursuant to subdivision (d) may be
32 used to resolve outstanding issues related to
33 implementation of subdivision (a) of Section 374. Moneys
34 remaining after fully funding the provisions of this
35 paragraph shall be reallocated for purposes of paragraph
36 (3).

37 (5) Up to ninety million dollars (\$90,000,000) of the
38 amount collected pursuant to subdivision (d) may be
39 used to resolve outstanding issues related to contractual
40 arrangements in the Southern California Edison service

1 territory stemming from the Biennial Resource Planning
2 Update auction. Moneys remaining after fully funding
3 the provisions of this paragraph shall be reallocated for
4 purposes of paragraph (3).

5 (d) Notwithstanding any other provisions of this
6 chapter, entities subject to the jurisdiction of the Public
7 Utilities Commission shall extend the period for
8 competition transition charge collection up to three
9 months beyond its otherwise applicable termination of
10 December 31, 2001, so as to ensure that the aggregate
11 portion of the research, environmental, and low-income
12 funds allocated to renewable resources shall equal five
13 hundred forty million dollars (\$540,000,000) and that the
14 costs specified in paragraphs (3), (4), and (5) of
15 subdivision (c) are collected.

16 (e) Each electrical corporation shall allow customers
17 to make voluntary contributions through their utility bill
18 payments as either a fixed amount or a variable amount
19 to support programs established pursuant to paragraph
20 (3) of subdivision (b). Funds collected by electrical
21 corporations for these purposes shall be forwarded in a
22 timely manner to the appropriate fund as specified by the
23 commission.

24 ~~(f) The commission shall determine how to utilize~~
25 ~~funds for purposes of paragraphs (1) and (2) of~~
26 ~~subdivision (b), provided that only those research and~~
27 ~~development funds for transmission and distribution~~
28 ~~functions shall remain with the regulated public utilities~~
29 ~~under the supervision of the commission. The~~
30 ~~commission shall provide for the transfer of all research~~
31 ~~and development funds collected for purposes of~~
32 ~~paragraph (2) of subdivision (b) other than those for~~
33 ~~transmission and distribution functions and funds~~
34 ~~collected for purposes of paragraph (3) of subdivision (b)~~
35 ~~to the California Energy Resources Conservation and~~
36 ~~Development Commission pursuant to administration~~
37 ~~and expenditure criteria to be established by the~~
38 ~~Legislature.~~

39 ~~(g) The commission's authority to collect funds~~
40 ~~pursuant to this section for purposes of paragraph (3) of~~

1 subdivision (b) shall become inoperative on March 31,
2 2002.

3 ~~(h)~~

4 (g) For purposes of this article, “emerging renewable
5 technology” means a new renewable technology,
6 including, but not limited to, photovoltaic technology,
7 that is determined by the California Energy Resources
8 Conservation and Development Commission to be
9 emerging from research and development and that has
10 significant commercial potential.

11 *SEC. 2. Section 383.5 of the Public Utilities Code is*
12 *amended to read:*

13 383.5. (a) As used in this section, the following terms
14 have the following meaning:

15 (1) “In-state renewable electricity generation
16 technology” means biomass, solar thermal, photovoltaic,
17 wind, geothermal, small hydropower of 30 megawatts or
18 less, waste tire, digester gas, landfill gas, and municipal
19 solid waste generation technologies, as described in the
20 report, defined in paragraph (2), including any additions
21 or enhancements thereto, that are produced in facilities
22 located in this state and placed in operation after
23 September 26, 1996, or that were operational prior to that
24 date, and that are also certified under Section 292.2904 of
25 Title 18 of the Code of Federal Regulations as a qualifying
26 small power production facility either located in
27 California, or that began selling electricity to a California
28 electrical corporation prior to September 26, 1996, under
29 a Standard Offer Power Purchase Agreement authorized
30 by the California Public Utilities Commission.

31 (2) “Report” means the Policy Report on AB 1890
32 Renewables Funding (March 1997, Publication Number
33 P500-97-002) submitted to the Legislature by the State
34 Energy Resources Conservation and Development
35 Commission.

36 (b) (1) Forty-five percent of the money collected
37 pursuant to paragraph (3) of subdivision (c) of Section
38 381, up to two hundred forty-three million dollars
39 (\$243,000,000), shall be used for programs that are
40 designed to improve the competitiveness of existing

1 in-state renewable electricity generation technology
2 facilities, and to secure for the state the environmental,
3 economic, and reliability benefits that continued
4 operation of those facilities will provide.

5 (2) Any funds used to support in-state renewable
6 electricity generation technology facilities pursuant to
7 this subdivision shall be expended in accordance with the
8 provisions of the report, subject to all of the following
9 requirements:

10 (A) Funding for existing renewable electricity
11 generation technologies shall be grouped into three
12 technology tiers, as follows:

13 (i) Twenty-five percent of the money, up to one
14 hundred thirty-five million dollars (\$135,000,000), shall be
15 used to fund first tier technologies, including biomass,
16 solar thermal, and whole waste tire technologies.

17 (ii) Thirteen percent of the money, up to seventy
18 million two hundred thousand dollars (\$70,200,000) shall
19 be used to fund second tier wind technologies.

20 (iii) Seven percent of the money, up to thirty-seven
21 million eight hundred thousand dollars (\$37,800,000),
22 shall be used to fund third tier technologies, including
23 geothermal, small hydropower, digester gas, landfill gas,
24 and municipal solid waste technologies.

25 (B) The State Energy Resources Conservation and
26 Development Commission shall establish a cents per
27 kilowatt hour production incentive, not to exceed the
28 payment caps per kilowatthour established in the report
29 representing the difference between target prices and
30 the market clearing price for electricity, if sufficient
31 funds are available. If there are insufficient funds in any
32 payment period to pay either the difference between the
33 target and market price or the payment caps, production
34 incentives shall be based on the amount determined by
35 dividing available funds by eligible generation. The
36 target price for Tier 1 technologies shall not be based on
37 less than four cents (\$0.04) per kilowatthour. The market
38 clearing price for electricity shall be the energy prices
39 paid to nonutility power generators as provided in
40 Section 390.

(C) Funding for each type of existing in-state renewable electricity generation technology shall be reduced each year during the period from January 1, 1998, to January 1, 2002, to encourage the development of increasingly competitive technologies.

(D) Facilities that are eligible to receive funding pursuant to this section shall be certified in accordance with the requirements set forth in the report and may not receive payments for any electricity produced that has any of the following characteristics:

(i) Is sold under a fixed energy price payment under a long-term contract with an existing in-state electrical corporation.

(ii) Derives from utility-owned facility that is receiving, or is eligible to receive, recovery of above-market facility costs through a competitive transition charge.

(iii) Is used onsite, sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.

(c) (1) Thirty percent of the money, up to one hundred sixty-two million dollars (\$162,000,000), collected pursuant to paragraph (3) of subdivision (c) of Section 381, shall be used for programs designed to foster the development of new in-state renewable electricity generation technology facilities, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide. Funds to further the purposes of this subdivision may be committed for multiple years.

(2) Any funds used for new in-state renewable electricity generation technology facilities pursuant to this subdivision shall be expended in accordance with the report, subject to all of the following requirements:

(A) Funds shall be allocated for proposed projects based on a competitive solicitation process whereby production incentives, not to exceed one and one-half cents (\$.015) per kilowatthour, are awarded to the lowest bidders, provided that not more than 25 percent of the

1 funds allocated pursuant to paragraph (1) may be
2 awarded to a single project.

3 (B) Funds expended for production incentives shall
4 be paid over a five-year period commencing on the date
5 that a project begins electricity production, provided that
6 the project shall be operational prior to January 1, 2002,
7 *unless the State Energy Resources Conservation and*
8 *Development Commission finds that the project will not*
9 *be operational prior to January 1, 2002, due to*
10 *circumstances beyond the control of the developer. Upon*
11 *making this finding, the State Energy Resources*
12 *Conservation and Development Commission shall pay*
13 *production incentives over a five-year period,*
14 *commencing on the date of operation, provided that the*
15 *date that a project begins electricity production may not*
16 *extend beyond January 1, 2007.*

17 (C) The amount of funds expended shall be increased
18 for each successive year during the period from January
19 1, 1998, to January 1, 2002, as fewer projects are expected
20 to be funded during the first few years after funding
21 becomes available.

22 (D) Facilities that are eligible to receive payments
23 from the New Renewable Resources Account created
24 pursuant to paragraph (2) of subdivision (a) of Section
25 445 of the Public Utilities Code shall be certified as
26 specified in the report and may not receive payments for
27 any electricity produced that has any of the following
28 characteristics:

29 (i) Is sold under an existing long-term contract with an
30 existing in-state electrical corporation if the contract
31 includes fixed energy or capacity payments.

32 (ii) Is used onsite and is sold to customers in a manner
33 that excludes competitive transition charge payments, or
34 is otherwise excluded from competitive transition charge
35 payments.

36 (iii) Is produced by a facility that is owned by
37 customer-owned electricity generating systems.

38 (E) Eligibility to compete for funds or to receive funds
39 shall not be contingent upon the location or nature of the
40 power purchaser.

(3) Repowered wind projects shall be eligible for funding under this subdivision if the new investment is at least 80 percent of the value of the repowered facility.

(d) (1) Ten percent of the money collected pursuant to paragraph (3) of subdivision (c) of Section 381, up to fifty-four million dollars (\$54,000,000), shall be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications. Funds to further the purposes of this subdivision may be committed for multiple years.

(2) Any funds used for emerging technologies pursuant to this subdivision shall be expended in accordance with all of the following requirements:

(A) Funding for emerging technologies shall be provided through a competitive, market-based process that shall be in place for a period of not less than four years, and shall be structured so as to allow eligible emerging technology manufacturers and suppliers to anticipate and plan for increased sale and installation volumes over the life of the program.

(B) The program shall provide monetary rebates, buydowns, or equivalent incentives, subject to subparagraph (C) of paragraph (2) of subdivision (d), to purchasers, lessees, lessors, or sellers of eligible electricity generating systems. Incentives shall benefit the end-use consumer of renewable generation by directly and exclusively reducing the cost of the eligible system, or the cost of electricity produced by the eligible system. Incentives shall be issued on the basis of the rated electrical capacity of the system measured in watts. The amount of the per-watt incentive shall decline over the term of the program, with a corresponding increase in the amount of total electrical capacity eligible for the incentive, thereby encouraging the manufacturers and suppliers of eligible systems to reduce system costs. Incentives shall be limited to a maximum percentage of the system price, as defined by the State Energy Resources Conservation and Development Commission, and the maximum incentive percentage shall decline

1 over the term of the program, as shall the per-watt
2 incentive, in amounts to be determined by the State
3 Energy Resources Conservation and Development
4 Commission.

5 (C) Eligible distributed emerging technologies are
6 photovoltaic, solar thermal electric, fuel cell technologies
7 that utilize renewable fuels, and wind turbines of not
8 more than ten kilowatts rated electrical capacity per
9 customer site, provided that the technologies meet the
10 emerging technology eligibility criteria contained in the
11 report prepared by State Energy Resources Conservation
12 and Development Commission. Eligible electricity
13 generating systems are intended primarily to offset part
14 or all of the consumer's own electrical energy demand,
15 and shall not be owned by electrical corporations or
16 publicly owned utilities, be located at a customer site that
17 is not receiving distribution service from existing in-state
18 electrical corporations. Not less than 60 percent of the
19 available incentive funds shall be reserved for systems of
20 10 kilowatts rated electrical capacity or smaller, and not
21 less than 15 percent of the funds shall be reserved for
22 systems of 100 kilowatts rated electrical capacity or
23 smaller. All eligible electricity generating system
24 components shall be new and unused, and shall not have
25 been previously placed in service in any other location or
26 for any other application. Systems and their fuel resource
27 shall be located on the premises of the end-use consumer
28 of the electricity produced, and all eligible electricity
29 generating systems shall be connected to the utility grid
30 in California.

31 (D) The State Energy Resources Conservation and
32 Development Commission shall also determine, in
33 collaboration with industry and consumer interests, if a
34 program provision limiting the amount of funds available
35 for any single project is warranted, and determine how
36 federal, state, or other funds or incentives not related to
37 this section that are already available, or that may become
38 available for eligible electricity generating systems, may
39 impact the availability of funds allocated under this
40 section, if at all. The emerging renewable technologies

1 program shall be implemented not later than March 31,
2 1998, and incentives shall be available for eligible
3 electricity generating systems that are placed in service
4 after January 1, 1998, in accordance with the program
5 provisions developed by the State Energy Resources
6 Conservation and Development Commission. However,
7 projects placed in service after January 1, 1998, and prior
8 to September 1, 1998, shall not be subject to limits, if any,
9 that may be determined by the commission, pursuant to
10 this subparagraph.

11 (e) Fifteen percent of the money collected pursuant
12 to paragraph (3) of subdivision (c) of Section 381, up to
13 eighty-one million dollars (\$81,000,000), shall be used for
14 programs designed to provide customer credits for
15 purchases of renewable energy produced by certified
16 energy providers, to disseminate information regarding
17 renewable energy technologies, to promote purchases of
18 renewable energy, to help develop a consumer market
19 for renewable energy, and to help develop a consumer
20 market for renewable energy technologies, as provided
21 in the report, subject to the following requirements:

22 (1) (A) Fourteen percent of the money, up to
23 seventy-five million six hundred thousand dollars
24 (\$75,600,000), shall be expended to provide customer
25 credits for purchases of renewable energy produced by
26 certified energy providers. Customer credits shall be
27 awarded to California retail customers located in the
28 service territory of an investor-owned utility that is
29 subject to Section 381 who purchase qualifying renewable
30 electric power through transactions traceable to specific
31 generation sources by any auditable contract trail or
32 equivalent that provides commercial verification that the
33 electricity source claimed has been sold not more than
34 once to a retail customer. Credits may be given without
35 regard to whether the power supplier is also receiving
36 funds under any other subdivision of this section.

37 (B) Credits awarded pursuant to this paragraph may
38 be paid directly to energy marketers, aggregators, or
39 generators if those persons or entities account for the
40 credits on the recipient customer's utility bills. Credits

1 shall not exceed one and one-half cents (\$.015) per
2 kilowatthour. Credits awarded to members of the
3 combined class of customers, other than residential and
4 small commercial customers, shall not exceed one
5 thousand dollars (\$1,000) per customer in 1998 and 1999.
6 Thereafter, the State Energy Resources Conservation
7 and Development Commission shall determine by
8 January 10 of each year the average customer incentive
9 rebate level paid over the preceding calendar year. In the
10 event that the payments have remained at the one and
11 one-half cents (\$.015) per kilowatthour cap over the
12 preceding calendar year, the one thousand dollars
13 (\$1,000) per customer cap shall be removed for that
14 calendar year, except that in no event shall more than
15 fifteen million dollars (\$15,000,000) of the total customer
16 incentive funds be awarded to members of the combined
17 class of customers other than residential and small
18 commercial customers.

19 (C) Funding for credits pursuant to this paragraph
20 shall be increased for each successive year during the
21 period from January 1, 1998, to January 1, 2002, to
22 encourage the increasing use of those credits.

23 (D) The State Energy Resources Conservation and
24 Development Commission shall develop interim criteria
25 and procedures for the certification of energy providers
26 and for the identification of energy purchasers who are
27 eligible to receive funds pursuant to this paragraph
28 through a process consistent with this paragraph. Such
29 criteria and procedures shall apply only to funding
30 eligibility and shall not extend to other renewable
31 marketing claims.

32 (2) One percent of the money, up to five million four
33 hundred thousand dollars (\$5,400,000), shall be expended
34 to promote renewable energy and to disseminate
35 information on renewable energy technologies,
36 including emerging renewable technologies, and to help
37 develop a consumer market for renewable energy and for
38 small-scale emerging renewable energy technologies.

39 (f) (1) The State Energy Resources Conservation and
40 Development Commission shall adopt guidelines

1 governing the funding programs authorized under this
2 section, at a publicly noticed meeting offering all
3 interested parties an opportunity to comment.
4 Substantive changes to the guidelines shall not be
5 adopted without at least 10 days' written notice to the
6 public. The public notice of meetings required by this
7 paragraph shall not be less than 30 days. Notwithstanding
8 any other provision of law, any guidelines adopted
9 pursuant to this section shall be deemed to satisfy the
10 requirements of Chapter 3.5 (commencing with Section
11 11340) of Division 3 of Title 2 of the Government Code.

12 (2) The State Energy Resources Conservation and
13 Development Commission shall, in collaboration with
14 eligible emerging technology industry stakeholders and
15 consumer interests, complete the emerging technology
16 program design, as outlined in subdivision (d), and
17 implement its provisions.

18 (3) Awards made pursuant to this section are grants,
19 subject to appeal to the State Energy Resources
20 Conservation and Development Commission upon a
21 showing that factors other than those described in the
22 guidelines adopted by the State Energy Resources
23 Conservation and Development Commission were
24 applied in making the awards and payments. Any actions
25 taken by an applicant to apply for, or become or remain
26 eligible and certified to receive, payments or awards,
27 including satisfying conditions specified by the State
28 Energy Resources Conservation and Development
29 Commission, shall not constitute the rendering of goods,
30 services, or a direct benefit to the State Energy Resources
31 Conservation and Development Commission.

32 (g) The State Energy Resources Conservation and
33 Development Commission shall report to the Legislature
34 on or before May 31, 2000, and on or before May 31 of
35 every second year thereafter, regarding the results of the
36 mechanisms funded pursuant to this section. Reports
37 prepared pursuant to this section shall include a
38 description of the allocation of funds among existing, new
39 and emerging technologies; the allocation of funds among
40 programs, including consumer-side incentives; and the

1 need for the reallocation of money among those
2 technologies. The reports shall also address the allocation
3 of funds from interest on the accounts described in this
4 section, money in the accounts described in subdivision
5 (e) of Section 381, and money included in the accounts
6 pursuant to Section 385. Notwithstanding paragraph (4)
7 of subdivision (b) of Section 383 or subdivisions (b), (c),
8 (d), and (e) of Section 383.5, money may be reallocated
9 without further legislative action among existing, new,
10 and emerging technologies and consumer-side programs
11 in a manner consistent with the report.

12 *SEC. 3. Article 15 (commencing with Section 399) is*
13 *added to Chapter 2.3 of Part 1 of Division 1 of the Public*
14 *Utilities Code, to read:*

15

16 *Article 15. Reliable Electric Service Investments Act*

17

18 *399. (a) This article shall be known, and may be*
19 *cited, as the Reliable Electric Service Investments Act.*

20 *(b) The Legislature finds and declares that safe,*
21 *reliable electric service is of utmost importance to the*
22 *citizens of this state, and its economy.*

23 *(c) The Legislature further finds and declares that in*
24 *order to ensure that the citizens of this state continue to*
25 *receive safe, reliable, affordable, and environmentally*
26 *sustainable electric service, it is essential that prudent*
27 *investments continue to be made in all of the following*
28 *areas:*

29 *(1) To protect the integrity of the electric distribution*
30 *grid.*

31 *(2) To ensure an adequately sized and trained utility*
32 *workforce.*

33 *(3) To ensure cost-effective energy efficiency*
34 *improvements.*

35 *(4) To achieve a sustainable supply of renewable*
36 *energy.*

37 *(5) To advance public interest research, development*
38 *and demonstration programs not adequately provided by*
39 *competitive and regulated markets.*



1 (d) It is the intent of the Legislature to reaffirm,
2 without requiring revision, California's doctrine, as
3 reflected in regulatory and judicial decisions, regarding
4 electrical corporations' reasonable opportunity to
5 recover costs and investments associated with their
6 electric distribution grid and the reasonable opportunity
7 to attract capital for investment on reasonable terms.

8 (e) The Legislature further finds and declares all of
9 the following:

10 (1) Acting under applicable constitutional and
11 statutory authorities, the Public Utilities Commission and
12 the boards of local publicly owned electric utilities have
13 included in regulated electricity prices, investments that
14 are essential to maintaining system reliability, reducing
15 California electricity users' bills, and mitigating
16 environmental costs of California users' electricity
17 consumption.

18 (2) Among the most important of these "system
19 benefits" investments categories are energy efficiency,
20 renewable energy, and public interest research,
21 development and demonstration (RD&D).

22 (3) Energy efficiency investments funded from
23 California's usage-based charges on electricity
24 distribution help improve systemwide reliability by
25 reducing demand in times and areas of system
26 congestion, and at the same time reduce all California
27 electricity users' costs. These investments also
28 significantly reduce environmental costs associated with
29 California's electricity consumption, including, but not
30 limited to, degradation of the state's air, water, and land
31 resources.

32 (4) California's in-state renewable energy resources
33 help alleviate supply deficits that could threaten electric
34 system reliability, reduce environmental costs associated
35 with California's electricity consumption, and increase
36 the diversity of the electricity system's fuel mix, reducing
37 electricity users' exposure to fossil-fuel price volatility.

38 (5) California's public-interest research, development
39 and demonstration (RD&D) investments enhance
40 private and regulated sector investment in electricity

1 system technologies, and are designed specifically to help
2 ensure sustained improvement in the economic and
3 environmental performance of the distribution,
4 transmission, and generation and end-use systems that
5 serve California electricity users.

6 (6) California has established a long tradition of
7 recovering system benefits investments through
8 usage-based electricity charges, which is reflected in at
9 least two decades of electricity price regulation by the
10 commission, the boards of local publicly owned electric
11 utilities, and the mandate of the Legislature in Chapter
12 854 of the Statutes of 1996 (Assembly Bill 1890 of the
13 1995-96 Regular Session of the Legislature) and Chapter
14 905 of the Statutes of 1997 (Senate Bill 90 of the 1995-96
15 Regular Session of the Legislature).

16 (7) Unless the Legislature acts to extend the mandate
17 of Chapter 854 of the Statutes of 1996 for minimum levels
18 of usage based system benefits charges, California
19 electricity users are at substantial risk of higher economic
20 and environmental costs and degraded reliability.

21 399.1. (a) As used in this article, the term “Energy
22 Commission” means the State Energy Resources
23 Conservation and Development Commission.

24 (b) As used in this article, the term “local publicly
25 owned electric utility” has the same meaning as set forth
26 in subdivision (d) of Section 9604.

27 399.2. (a) (1) It is the policy of this state, and the
28 intent of the Legislature, to reaffirm that each electrical
29 corporation shall continue to operate its electric
30 distribution grid in its service territory and shall do so in
31 a safe, reliable, efficient, and cost-effective manner.

32 (2) In furtherance of this policy, it is the intent of the
33 Legislature that each electrical corporation shall
34 continue to be responsible for operating its own electric
35 distribution grid including, but not limited to, owning,
36 controlling, operating, managing, maintaining, planning,
37 engineering, designing, and constructing its own electric
38 distribution grid, emergency response and restoration,
39 service connections, service turnons and turnoffs, and

1 service inquiries relating to the operation of its electric
2 distribution grid, subject to the commission's authority.

3 (b) In order to ensure the continued efficient use, and
4 cost effective, safe, and reliable operation of the electric
5 distribution grid, each electrical corporation shall
6 continue to operate its electric distribution grid in its
7 service territory consistent with Section 330.

8 (c) In carrying out the purposes of this section, each
9 electrical corporation shall continue to make reasonable
10 investments in its electric distribution grid. Each
11 electrical corporation shall continue to have a reasonable
12 opportunity to fully recover from all customers of the
13 electrical corporation, in a manner determined by the
14 commission pursuant to this code, all of the following:

15 (1) Reasonable investments in its electric distribution
16 grid.

17 (2) A reasonable return on the investments in its
18 electric distribution grid.

19 (3) Reasonable costs to operate its electric distribution
20 grid.

21 (d) For purposes of this section, the term "electric
22 distribution grid" means those facilities owned or
23 operated by an electrical corporation that are not under
24 the control of the Independent System Operator and that
25 are used to transmit, deliver, or furnish electricity for
26 light, heat, or power.

27 (e) Nothing in this section shall be construed to alter
28 or to affect any of the following:

29 (1) Section 216, 218, or 2827.

30 (2) The authority of the commission to establish and
31 enforce standards and tariff conditions for the
32 interconnection of customer-owned facilities to the
33 electric distribution grid.

34 (3) The ratemaking authority of the commission
35 under the this code.

36 (f) Nothing in this section shall be construed to alter
37 or affect any authority or lack of authority of the
38 commission regarding the ownership and operation of
39 new electric generation used in whole, or in part, for the

1 *purpose of maintaining or enhancing the reliability of the*
2 *electric distribution grid.*

3 *(g) Nothing in this section shall be construed to*
4 *preclude any of California's local publicly owned electric*
5 *utilities from exercising its authority to operate its electric*
6 *distribution grid as provided under relevant state law.*

7 *(h) Nothing in this section diminishes or expands any*
8 *existing authority of a local governmental entity.*

9 *(i) The commission shall require every electrical*
10 *corporation operating an electric distribution grid to*
11 *inform all customers who request residential service*
12 *connections via telephone of the availability of the*
13 *California Alternative Rates for Energy (CARE)*
14 *program and how they may qualify for and obtain these*
15 *services and shall accept applications for the CARE*
16 *program according to procedures specified by the*
17 *commission. Electrical corporations shall recover the*
18 *reasonable costs of implementing this subdivision.*

19 *399.4. (a) (1) In order to ensure that prudent*
20 *investments in energy efficiency continue to be made*
21 *that produce cost-effective energy savings, reduce*
22 *customer demand, and contribute to the safe and reliable*
23 *operation of the electric distribution grid, it is the policy*
24 *of this state and the intent of the Legislature that the*
25 *commission shall continue to administer cost-effective*
26 *energy efficiency programs authorized pursuant to*
27 *existing statutory authority.*

28 *(2) As used in this section, the term "energy*
29 *efficiency" includes, but is not limited to, cost-effective*
30 *activities to achieve peak load reduction that improve*
31 *end-use efficiency, lower customers' bills, and reduce*
32 *system needs.*

33 *(b) The commission, in evaluating energy efficiency*
34 *investments under its existing statutory authorities, shall*
35 *also ensure both of the following:*

36 *(1) That local and regional interests, multifamily*
37 *dwelling, and energy service industry capabilities are*
38 *incorporated into program portfolio design and that local*
39 *governments, community-based organizations, and*
40 *energy efficiency service providers are encouraged to*

1 participate in program implementation where
2 appropriate.

3 (2) That no energy efficiency funds are used to
4 provide incentives for the purchase of new
5 energy-efficient refrigerators.

6 399.6. (a) In order to optimize public investment and
7 ensure that the most cost-effective and efficient
8 investments in renewable resources are vigorously
9 pursued, the Energy Commission shall create an
10 investment plan as set forth in paragraphs (1) to (3),
11 inclusive, to govern the allocation of funds provided
12 pursuant to this article. The Energy Commission's
13 long-term goal shall be a fully competitive and
14 self-sustaining California renewable energy supply. The
15 investment plan shall be in accordance with all of the
16 following:

17 (1) The investment plan's objective shall be to
18 increase, in the near term, the quantity of California's
19 electricity generated by in-state renewable energy
20 resources, while protecting system reliability, fostering
21 resource diversity, and obtaining the greatest
22 environmental benefits for California residents.

23 (2) An additional objective of the plan shall be to
24 identify and support emerging renewable energy
25 technologies that have the greatest near-term
26 commercial promise and that merit targeted assistance.

27 (3) The investment plan shall contain specific
28 numerical targets, reflecting the projected impact of the
29 plan, for both of the following:

30 (A) Increased quantity of California electrical
31 generation produced from emerging technologies and
32 from overall renewable resources.

33 (B) Increased supply of renewable generation
34 available from facilities other than those selling to
35 investor-owned utilities under contracts entered into
36 prior to 1996 under the Public Utilities Regulatory
37 Policies Act of 1978 (P.L. 95-617).

38 (b) The Energy Commission shall, on an annual basis,
39 evaluate progress on meeting the targets set forth in
40 subparagraphs (A) and (B) of paragraph (3) of

1 subdivision (a), or any substitute provisions adopted by
2 the Legislature upon review of the investment plan, and
3 assess the impact of the investment plan on reducing the
4 cost to Californians of renewable energy generation.

5 (c) In preparing these investment plans, the Energy
6 Commission shall recommend allocations among all of
7 the following:

8 (1) (A) Except as provided in subparagraph (B),
9 production incentives for new renewable energy,
10 including repowered or refurbished renewable energy.

11 (B) Allocations may not be made for renewable
12 energy that is generated by a project that remains under
13 a power purchase contract with an electrical corporation
14 originally entered into prior to September 24, 1996,
15 whether amended or restated thereafter.

16 (C) Notwithstanding subparagraph (B), production
17 incentives for incremental repowered or refurbished
18 renewable energy from existing projects under a power
19 purchase contract with an electrical corporation
20 originally entered into prior to September 24, 1996,
21 whether amended or restated thereafter, may be allowed
22 in any month, if all of the following occur:

23 (i) The project's power purchase contract provides
24 that all energy delivered and sold under the contract is
25 paid at a price that does not exceed commission approved
26 short-run avoided cost of energy.

27 (ii) The power purchase contract is amended to
28 provide that the kilowatt hour used to determine the
29 capacity payment in any time-of-delivery period in any
30 month under the contract shall be no greater than the
31 five-year average of the kilowatt hour delivered for the
32 corresponding time-of-delivery period and month, in the
33 years 1995 to 1999, inclusive.

34 (iii) The production incentive is payable only with
35 respect to the kilowatt hour delivered in a particular
36 month that exceeds the corresponding five-year average
37 calculated pursuant to clause (ii).

38 (2) Rebates, buydowns, or equivalent incentives for
39 emerging renewable technologies.

1 (3) Customer credits for renewables not under
2 contract with a utility.

3 (4) Customer education.

4 (5) Incentives for reducing fuel costs that are
5 confirmed to the satisfaction of the Energy Commission
6 at solid fuel biomass energy facilities in order to provide
7 demonstrable environmental and public benefits,
8 including but not limited to, air quality.

9 (6) Solar thermal generating resources that enhance
10 the environmental value or reliability of the electricity
11 system and that require financial assistance to remain
12 economically viable, as determined by the Energy
13 Commission. The Energy Commission may require
14 financial disclosure from applicants for purposes of this
15 paragraph.

16 (7) Specified fuel cell technologies, if the Energy
17 Commission makes all of the following findings:

18 (A) The specified technologies have similar or better
19 air pollutant characteristics than renewable technologies
20 in the investment plan.

21 (B) The specified technologies require financial
22 assistance to become commercially viable by reference to
23 wholesale generation prices.

24 (C) The specified technologies could contribute
25 significantly to the infrastructure development or other
26 innovation required to meet the long-term objective of a
27 self-sustaining, competitive supply of renewable energy.

28 (d) Notwithstanding any other provision of law,
29 moneys collected for renewable energy pursuant to this
30 article shall be transferred to the Renewable Resource
31 Trust Fund of the Energy Commission, to be held until
32 further action by the Legislature. The Energy
33 Commission shall prepare and submit to the Legislature,
34 on or before March 31, 2001, an initial investment plan for
35 these moneys, addressing the application of moneys
36 collected between January 1, 2002, and January 1, 2007.
37 The initial investment plan shall also include an
38 evaluation of and report to the Legislature regarding the
39 appropriateness and structure of a mandatory state
40 purchase of renewable energy. On or before March 31,

1 2006, the Energy Commission shall prepare an
2 investment plan proposing the application of moneys
3 collected between January 1, 2007, and January 1, 2012.
4 No moneys may be expended in the years covered by
5 these plans without further legislative action.

6 399.7. (a) In order to ensure that prudent
7 investments in research, development and
8 demonstration of energy efficient technologies continue
9 to produce substantial economic, environmental, public
10 health, and reliability benefits, it is the policy of this state
11 and the intent of the Legislature that funds made
12 available, upon appropriation, for energy related public
13 interest research, development and demonstration
14 programs shall be used to advance science or technology
15 that are not adequately provided by competitive and
16 regulated markets.

17 (b) Notwithstanding any other provision of law,
18 moneys collected for public-interest research,
19 development and demonstration pursuant to this section
20 shall be transferred to the Public Interest Research,
21 Development, and Demonstration Fund of the Energy
22 Commission to be held until further action by the
23 Legislature. The Energy Commission shall prepare and
24 submit to the Legislature, on or before March 1, 2001, an
25 initial investment plan for these moneys, addressing the
26 application of moneys collected between January 1, 2002,
27 and January 1, 2007. The initial investment plan shall
28 address the recommendations of the PIER Independent
29 Review Panel Report, dated March 2000, to either
30 transform the RD&D program within the Energy
31 Commission, or to administer it through, or in
32 cooperation with, an external organization. The initial
33 investment plan shall include criteria that will be used to
34 determine that a project provides public benefits to
35 California that are not adequately provided by
36 competitive and regulated markets. On or before March
37 31, 2006, the Energy Commission shall prepare an
38 investment plan addressing the application of moneys
39 collected between January 1, 2007, and January 1, 2012.

1 No moneys may be expended in the years covered by
2 these plans without further legislative action.

3 399.8. (a) In order to ensure that the citizens of this
4 state continue to receive safe, reliable, affordable, and
5 environmentally sustainable electric service, it is the
6 policy of this state and the intent of the Legislature that
7 prudent investments in energy efficiency, renewable
8 energy, and research, development and demonstration
9 shall continue to be made.

10 (b) (1) Every customer of an electrical corporation,
11 shall pay a nonbypassable systems benefit charge
12 authorized pursuant to this article. The systems benefit
13 charge shall fund energy efficiency, renewable energy,
14 and research, development and demonstration.

15 (2) Local publicly owned electric utilities shall
16 continue to collect and administer system benefits
17 charges pursuant to Section 385.

18 (c) (1) The commission shall require each electrical
19 corporation to identify a separate rate component to
20 collect revenues to fund energy efficiency, renewable
21 energy, and research, development and demonstration
22 programs authorized pursuant to this section beginning
23 January 1, 2002, through January 1, 2012. The rate
24 component shall be a nonbypassable element of the local
25 distribution service and collected on the basis of usage.

26 (2) This rate component may not exceed, for any tariff
27 schedule, the level of the rate component that was used
28 to recover funds authorized pursuant to Section 381 on
29 January 1, 2000. If the amounts specified in paragraph (1)
30 of subdivision (d) are not recovered fully in any year, the
31 commission shall reset the rate component to restore the
32 unrecovered balance, provided that the rate component
33 may not exceed, for any tariff schedule, the level of the
34 rate component that was used to recover funds
35 authorized pursuant to Section 381 on January 1, 2000.
36 Pending restoration, any annual shortfalls shall be
37 allocated pro rata among the three funding categories in
38 the proportions established in paragraph (1) of
39 subdivision (d).

1 (d) The commission shall order San Diego Gas and
2 Electric Company, Southern California Edison
3 Company, and Pacific Gas and Electric Company to
4 collect these funds commencing on January 1, 2002, as
5 follows:

6 (1) Two hundred twenty-eight million dollars
7 (\$228,000,000) per year in total for energy efficiency and
8 conservation activities, one hundred thirty-five million
9 dollars (\$135,000,000) in total per year for renewable
10 energy, and sixty-two million five hundred thousand
11 dollars (\$62,500,000) in total per year for research,
12 development and demonstration. The funds for energy
13 efficiency and conservation activities shall continue to be
14 allocated in proportions established for the year 2000 as
15 set forth in paragraph (1) of subdivision (c) of Section
16 381.

17 (2) The amounts shall be adjusted annually at a rate
18 equal to the lesser of the annual growth in electric
19 commodity sales or inflation, as defined by the gross
20 domestic product deflator.

21 (e) The commission and the Energy Commission shall
22 retain and continue their oversight responsibilities as set
23 forth in Sections 381, 383, 383.5, and 445, and Chapter 7.1
24 (commencing with Section 25620) of the Public
25 Resources Code.

26 (f) (1) On or before January 1, 2004, the Governor
27 shall appoint an independent review panel including, but
28 not limited to, members with expertise on the energy
29 service needs of large and small electricity consumers,
30 system reliability issues, and energy-related public policy.
31 On or before January 1, 2005, the panel shall prepare and
32 submit to the Legislature and the Energy Commission a
33 report evaluating the energy efficiency, renewable
34 energy, and research, development and demonstration
35 programs funded under this section. Reasonable costs
36 associated with the review in each of the three program
37 categories, including technical assistance, may be
38 charged to the relevant program category under
39 procedures to be developed by the commission for
40 energy efficiency and by the Energy Commission for

1 *renewable energy and research development and*
2 *demonstration.*

3 *(2) The report shall also assess all of the following:*

4 *(A) Whether ongoing programs are consistent with*
5 *the statutory goals.*

6 *(B) If established targets for increased renewable*
7 *generation are likely to be achieved.*

8 *(C) What changes should be made to result in a more*
9 *efficient use of public resources.*

10 *(3) The report shall also compare the Energy*
11 *Commission's programs with efforts undertaken by other*
12 *states and assess, as an alternative, the relative costs and*
13 *benefits of adopting a tradeable minimum renewable*
14 *energy requirement in California. The evaluation shall*
15 *include recommendations intended to optimize*
16 *renewable resource development at the least cost.*

17 *(4) For energy efficiency programs, the report shall*
18 *include an evaluation of all of the following:*

19 *(A) The net benefits secured for residential*
20 *customers, taking into account both public and private*
21 *costs, including improvements in that customer group's*
22 *ability to avoid or reduce consumption of relatively costly*
23 *peak electricity.*

24 *(B) Whether the programs provide a balance of*
25 *benefits to all sectors that contribute to the funding.*

26 *(C) The extent to which competition in energy*
27 *markets including, but not limited to, load participation*
28 *in ancillary services markets, and improvements in*
29 *technology affect the continuing need for such programs.*

30 *(D) The status and growth of the private, competitive*
31 *energy services industry that provides energy efficiency*
32 *services and other energy products to customers.*

33 *(E) The commercial availability of any new*
34 *technologies that reduce electricity demands during*
35 *high-priced periods.*

36 *(F) Customers' willingness and ability to reduce*
37 *consumption or adopt energy efficiency measures*
38 *without program support.*

39 *(G) The extent to which the programs have delivered*
40 *cost-effective energy efficiency not adequately provided*

1 by markets and as a result have reduced energy demand
2 and consumption.

3 (H) The relative cost-effectiveness of program
4 expenditures compared to other current or potential
5 expenditures to enhance system reliability.

6 (5) The report shall include specific recommendations
7 aimed at assisting the Legislature in determining
8 whether to change or eliminate the collection of the
9 system benefits charge on or after January 1, 2007.

10 (6) The panel may update and revise the report as
11 needed.

12 (g) Promptly after receiving the panel's report, the
13 Energy Commission shall convene a proceeding to
14 address implementation of the panel's energy efficiency
15 recommendations.

16 399.9. (a) No part of this article shall be construed to
17 alter or affect the low-income funding provisions set forth
18 in Section 382. Programs provided to low-income
19 electricity customers, including but not limited to,
20 targeted energy efficiency services and the California
21 Alternative Rates for Energy Program shall continue to
22 be funded as set forth in Section 382.

23 (b) Nothing in this article shall be construed to affect
24 the jurisdiction of the commission over electric
25 distribution service.

26 SEC. 4. No reimbursement is required by this act
27 pursuant to Section 6 of Article XIII B of the California
28 Constitution because the only costs that may be incurred
29 by a local agency or school district will be incurred
30 because this act creates a new crime or infraction,
31 eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section
33 17556 of the Government Code, or changes the definition
34 of a crime within the meaning of Section 6 of Article
35 XIII B of the California Constitution.

36 Utilities Code, to read:

37 ~~330.5. (a) It is the policy of this state to ensure the~~
38 ~~continued efficient use and reliable operation of the~~
39 ~~transmission grid and of any upgrades, enhancements, or~~
40 ~~additions to the transmission grid, that transmission~~

1 ~~planning, siting, and permitting be conducted in a~~
2 ~~manner consistent with this division so as to provide open,~~
3 ~~nondiscriminatory, comparable access to transmission~~
4 ~~services.~~

5 ~~(b) The Independent System Operator shall~~
6 ~~coordinate with participating utility transmission owners~~
7 ~~to implement this section, consistent with Section 345.~~

O

