

AMENDED IN SENATE JUNE 8, 2000
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, Murray, and
Solis)

February 25, 1999

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: public benefit programs.

(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 *by the Legislature*. 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~~ *submit* 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: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 381 of the Public Utilities Code
2 is amended to read:
3 381. (a) To ensure that the funding for the programs
4 described in subdivision (b) and Section 382 are not
5 commingled with other revenues, the commission shall
6 require each electrical corporation to identify a separate
7 rate component to collect the revenues used to fund these
8 programs. The rate component shall be a nonbypassable
9 element of the local distribution service and collected on
10 the basis of usage. This rate component shall fall within
11 the rate levels identified in subdivision (a) of Section 368.
12 (b) The commission shall allocate funds collected
13 pursuant to subdivision (a), and any interest earned on
14 collected funds, to programs which enhance system
15 reliability and provide in-state benefits as follows:
16 (1) Cost-effective energy efficiency and conservation
17 activities.
18 (2) Public interest research and development not
19 adequately provided by competitive and regulated
20 markets.

1 (3) In-state operation and development of existing
2 and new and emerging renewable resource technologies
3 defined as electricity produced from other than a
4 conventional power source within the meaning of Section
5 2805, provided that a power source utilizing more than 25
6 percent fossil fuel may not be included.

7 (c) The Public Utilities Commission shall order the
8 respective electrical corporations to collect and spend
9 these funds, as follows:

10 (1) Cost-effective energy efficiency and conservation
11 activities shall be funded at not less than the following
12 levels commencing January 1, 1998, through December
13 31, 2001: for San Diego Gas and Electric Company a level
14 of thirty-two million dollars (\$32,000,000) per year; for
15 Southern California Edison Company a level of ninety
16 million dollars (\$90,000,000) for each of the years 1998,
17 1999, and 2000; fifty million dollars (\$50,000,000) for the
18 year 2001; and for Pacific Gas and Electric Company a
19 level of one hundred six million dollars (\$106,000,000) per
20 year.

21 (2) Research, development, and demonstration
22 programs to advance science or technology that are not
23 adequately provided by competitive and regulated
24 markets shall be funded at not less than the following
25 levels commencing January 1, 1998 through December
26 31, 2001: for San Diego Gas and Electric Company a level
27 of four million dollars (\$4,000,000) per year; for Southern
28 California Edison Company a level of twenty-eight
29 million five hundred thousand dollars (\$28,500,000) per
30 year; and for Pacific Gas and Electric Company a level of
31 thirty million dollars (\$30,000,000) per year.

32 (3) In-state operation and development of existing
33 and new and emerging renewable resource technologies
34 shall be funded at not less than the following levels on a
35 statewide basis: one hundred nine million five hundred
36 thousand dollars (\$109,500,000) per year for each of the
37 years 1998, 1999, and 2000, and one hundred thirty-six
38 million five hundred thousand dollars (\$136,500,000) for
39 the year 2001. To accomplish these funding levels over
40 the period described herein the San Diego Gas and

1 Electric Company shall spend twelve million dollars
2 (\$12,000,000) per year, the Southern California Edison
3 Company shall expend no less than forty-nine million five
4 hundred thousand dollars (\$49,500,000) for the years
5 1998, 1999, and 2000, and no less than seventy-six million
6 five hundred thousand dollars (\$76,500,000) for the year
7 2001, and the Pacific Gas and Electric Company shall
8 expend no less than forty-eight million dollars
9 (\$48,000,000) per year through the year 2001. Additional
10 funding not to exceed seventy-five million dollars
11 (\$75,000,000) shall be allocated from moneys collected
12 pursuant to subdivision (d) in order to provide a level of
13 funding totaling five hundred forty million dollars
14 (\$540,000,000).

15 (4) Up to fifty million dollars (\$50,000,000) of the
16 amount collected pursuant to subdivision (d) may be
17 used to resolve outstanding issues related to
18 implementation of subdivision (a) of Section 374. Moneys
19 remaining after fully funding the provisions of this
20 paragraph shall be reallocated for purposes of paragraph
21 (3).

22 (5) Up to ninety million dollars (\$90,000,000) of the
23 amount collected pursuant to subdivision (d) may be
24 used to resolve outstanding issues related to contractual
25 arrangements in the Southern California Edison service
26 territory stemming from the Biennial Resource Planning
27 Update auction. Moneys remaining after fully funding
28 the provisions of this paragraph shall be reallocated for
29 purposes of paragraph (3).

30 (d) Notwithstanding any other provisions of this
31 chapter, entities subject to the jurisdiction of the Public
32 Utilities Commission shall extend the period for
33 competition transition charge collection up to three
34 months beyond its otherwise applicable termination of
35 December 31, 2001, so as to ensure that the aggregate
36 portion of the research, environmental, and low-income
37 funds allocated to renewable resources shall equal five
38 hundred forty million dollars (\$540,000,000) and that the
39 costs specified in paragraphs (3), (4), and (5) of
40 subdivision (c) are collected.

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

(f) The commission's authority to collect funds pursuant to this section for purposes of paragraph (3) of subdivision (b) shall become inoperative on March 31, 2002.

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

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

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

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

1 (2) "Report" means the Policy Report on AB 1890
2 Renewables Funding (March 1997, Publication Number
3 P500-97-002) submitted to the Legislature by the State
4 Energy Resources Conservation and Development
5 Commission.

6 (b) (1) Forty-five percent of the money collected
7 pursuant to paragraph (3) of subdivision (c) of Section
8 381, up to two hundred forty-three million dollars
9 (\$243,000,000), shall be used for programs that are
10 designed to improve the competitiveness of existing
11 in-state renewable electricity generation technology
12 facilities, and to secure for the state the environmental,
13 economic, and reliability benefits that continued
14 operation of those facilities will provide.

15 (2) Any funds used to support in-state renewable
16 electricity generation technology facilities pursuant to
17 this subdivision shall be expended in accordance with the
18 provisions of the report, subject to all of the following
19 requirements:

20 (A) Funding for existing renewable electricity
21 generation technologies shall be grouped into three
22 technology tiers, as follows:

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

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

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

35 (B) The State Energy Resources Conservation and
36 Development Commission shall establish a cents per
37 kilowatt hour production incentive, not to exceed the
38 payment caps per kilowatthour established in the report
39 representing the difference between target prices and
40 the market clearing price for electricity, if sufficient

1 funds are available. If there are insufficient funds in any
2 payment period to pay either the difference between the
3 target and market price or the payment caps, production
4 incentives shall be based on the amount determined by
5 dividing available funds by eligible generation. The
6 target price for Tier 1 technologies shall not be based on
7 less than four cents (\$0.04) per kilowatthour. The market
8 clearing price for electricity shall be the energy prices
9 paid to nonutility power generators as provided in
10 Section 390.

11 (C) Funding for each type of existing in-state
12 renewable electricity generation technology shall be
13 reduced each year during the period from January 1,
14 1998, to January 1, 2002, to encourage the development of
15 increasingly competitive technologies.

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

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

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

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

32 (c) (1) Thirty percent of the money, up to one
33 hundred sixty-two million dollars (\$162,000,000),
34 collected pursuant to paragraph (3) of subdivision (c) of
35 Section 381, shall be used for programs designed to foster
36 the development of new in-state renewable electricity
37 generation technology facilities, and to secure for the
38 state the environmental, economic, and reliability
39 benefits that continued operation of those facilities will

1 provide. Funds to further the purposes of this subdivision
2 may be committed for multiple years.

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

7 (A) Funds shall be allocated for proposed projects
8 based on a competitive solicitation process whereby
9 production incentives, not to exceed one and one-half
10 cents (\$.015) per kilowatthour, are awarded to the lowest
11 bidders, provided that not more than 25 percent of the
12 funds allocated pursuant to paragraph (1) may be
13 awarded to a single project.

14 (B) Funds expended for production incentives shall
15 be paid over a five-year period commencing on the date
16 that a project begins electricity production, provided that
17 the project shall be operational prior to January 1, 2002,
18 unless the State Energy Resources Conservation and
19 Development Commission finds that the project will not
20 be operational prior to January 1, 2002, due to
21 circumstances beyond the control of the developer. Upon
22 making this finding, the State Energy Resources
23 Conservation and Development Commission shall pay
24 production incentives over a five-year period,
25 commencing on the date of operation, provided that the
26 date that a project begins electricity production may not
27 extend beyond January 1, 2007.

28 (C) The amount of funds expended shall be increased
29 for each successive year during the period from January
30 1, 1998, to January 1, 2002, as fewer projects are expected
31 to be funded during the first few years after funding
32 becomes available.

33 (D) Facilities that are eligible to receive payments
34 from the New Renewable Resources Account created
35 pursuant to paragraph (2) of subdivision (a) of Section
36 445 of the Public Utilities Code shall be certified as
37 specified in the report and may not receive payments for
38 any electricity produced that has any of the following
39 characteristics:

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

4 (ii) Is used onsite and is sold to customers in a manner
5 that excludes competitive transition charge payments, or
6 is otherwise excluded from competitive transition charge
7 payments.

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

10 (E) Eligibility to compete for funds or to receive funds
11 shall not be contingent upon the location or nature of the
12 power purchaser.

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

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

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

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

34 (B) The program shall provide monetary rebates,
35 buydowns, or equivalent incentives, subject to
36 subparagraph (C) of paragraph (2) of subdivision (d), to
37 purchasers, lessees, lessors, or sellers of eligible electricity
38 generating systems. Incentives shall benefit the end-use
39 consumer of renewable generation by directly and
40 exclusively reducing the cost of the eligible system, or the

1 cost of electricity produced by the eligible system.
2 Incentives shall be issued on the basis of the rated
3 electrical capacity of the system measured in watts. The
4 amount of the per-watt incentive shall decline over the
5 term of the program, with a corresponding increase in the
6 amount of total electrical capacity eligible for the
7 incentive, thereby encouraging the manufacturers and
8 suppliers of eligible systems to reduce system costs.
9 Incentives shall be limited to a maximum percentage of
10 the system price, as defined by the State Energy
11 Resources Conservation and Development Commission,
12 and the maximum incentive percentage shall decline
13 over the term of the program, as shall the per-watt
14 incentive, in amounts to be determined by the State
15 Energy Resources Conservation and Development
16 Commission.

17 (C) Eligible distributed emerging technologies are
18 photovoltaic, solar thermal electric, fuel cell technologies
19 that utilize renewable fuels, and wind turbines of not
20 more than ten kilowatts rated electrical capacity per
21 customer site, provided that the technologies meet the
22 emerging technology eligibility criteria contained in the
23 report prepared by State Energy Resources Conservation
24 and Development Commission. Eligible electricity
25 generating systems are intended primarily to offset part
26 or all of the consumer's own electrical energy demand,
27 and shall not be owned by electrical corporations or
28 publicly owned utilities, be located at a customer site that
29 is not receiving distribution service from existing in-state
30 electrical corporations. Not less than 60 percent of the
31 available incentive funds shall be reserved for systems of
32 10 kilowatts rated electrical capacity or smaller, and not
33 less than 15 percent of the funds shall be reserved for
34 systems of 100 kilowatts rated electrical capacity or
35 smaller. All eligible electricity generating system
36 components shall be new and unused, and shall not have
37 been previously placed in service in any other location or
38 for any other application. Systems and their fuel resource
39 shall be located on the premises of the end-use consumer
40 of the electricity produced, and all eligible electricity

1 generating systems shall be connected to the utility grid
2 in California.

3 (D) The State Energy Resources Conservation and
4 Development Commission shall also determine, in
5 collaboration with industry and consumer interests, if a
6 program provision limiting the amount of funds available
7 for any single project is warranted, and determine how
8 federal, state, or other funds or incentives not related to
9 this section that are already available, or that may become
10 available for eligible electricity generating systems, may
11 impact the availability of funds allocated under this
12 section, if at all. The emerging renewable technologies
13 program shall be implemented not later than March 31,
14 1998, and incentives shall be available for eligible
15 electricity generating systems that are placed in service
16 after January 1, 1998, in accordance with the program
17 provisions developed by the State Energy Resources
18 Conservation and Development Commission. However,
19 projects placed in service after January 1, 1998, and prior
20 to September 1, 1998, shall not be subject to limits, if any,
21 that may be determined by the commission, pursuant to
22 this subparagraph.

23 (e) Fifteen percent of the money collected pursuant
24 to paragraph (3) of subdivision (c) of Section 381, up to
25 eighty-one million dollars (\$81,000,000), shall be used for
26 programs designed to provide customer credits for
27 purchases of renewable energy produced by certified
28 energy providers, to disseminate information regarding
29 renewable energy technologies, to promote purchases of
30 renewable energy, to help develop a consumer market
31 for renewable energy, and to help develop a consumer
32 market for renewable energy technologies, as provided
33 in the report, subject to the following requirements:

34 (1) (A) Fourteen percent of the money, up to
35 seventy-five million six hundred thousand dollars
36 (\$75,600,000), shall be expended to provide customer
37 credits for purchases of renewable energy produced by
38 certified energy providers. Customer credits shall be
39 awarded to California retail customers located in the
40 service territory of an investor-owned utility that is

1 subject to Section 381 who purchase qualifying renewable
2 electric power through transactions traceable to specific
3 generation sources by any auditable contract trail or
4 equivalent that provides commercial verification that the
5 electricity source claimed has been sold not more than
6 once to a retail customer. Credits may be given without
7 regard to whether the power supplier is also receiving
8 funds under any other subdivision of this section.

9 (B) Credits awarded pursuant to this paragraph may
10 be paid directly to energy marketers, aggregators, or
11 generators if those persons or entities account for the
12 credits on the recipient customer's utility bills. Credits
13 shall not exceed one and one-half cents (\$.015) per
14 kilowatthour. Credits awarded to members of the
15 combined class of customers, other than residential and
16 small commercial customers, shall not exceed one
17 thousand dollars (\$1,000) per customer in 1998 and 1999.
18 Thereafter, the State Energy Resources Conservation
19 and Development Commission shall determine by
20 January 10 of each year the average customer incentive
21 rebate level paid over the preceding calendar year. In the
22 event that the payments have remained at the one and
23 one-half cents (\$.015) per kilowatthour cap over the
24 preceding calendar year, the one thousand dollars
25 (\$1,000) per customer cap shall be removed for that
26 calendar year, except that in no event shall more than
27 fifteen million dollars (\$15,000,000) of the total customer
28 incentive funds be awarded to members of the combined
29 class of customers other than residential and small
30 commercial customers.

31 (C) Funding for credits pursuant to this paragraph
32 shall be increased for each successive year during the
33 period from January 1, 1998, to January 1, 2002, to
34 encourage the increasing use of those credits.

35 (D) The State Energy Resources Conservation and
36 Development Commission shall develop interim criteria
37 and procedures for the certification of energy providers
38 and for the identification of energy purchasers who are
39 eligible to receive funds pursuant to this paragraph
40 through a process consistent with this paragraph. Such

1 criteria and procedures shall apply only to funding
2 eligibility and shall not extend to other renewable
3 marketing claims.

4 (2) One percent of the money, up to five million four
5 hundred thousand dollars (\$5,400,000), shall be expended
6 to promote renewable energy and to disseminate
7 information on renewable energy technologies,
8 including emerging renewable technologies, and to help
9 develop a consumer market for renewable energy and for
10 small-scale emerging renewable energy technologies.

11 (f) (1) The State Energy Resources Conservation and
12 Development Commission shall adopt guidelines
13 governing the funding programs authorized under this
14 section, at a publicly noticed meeting offering all
15 interested parties an opportunity to comment.
16 Substantive changes to the guidelines shall not be
17 adopted without at least 10 days' written notice to the
18 public. The public notice of meetings required by this
19 paragraph shall not be less than 30 days. Notwithstanding
20 any other provision of law, any guidelines adopted
21 pursuant to this section shall be deemed to satisfy the
22 requirements of Chapter 3.5 (commencing with Section
23 11340) of Division 3 of Title 2 of the Government Code.

24 (2) The State Energy Resources Conservation and
25 Development Commission shall, in collaboration with
26 eligible emerging technology industry stakeholders and
27 consumer interests, complete the emerging technology
28 program design, as outlined in subdivision (d), and
29 implement its provisions.

30 (3) Awards made pursuant to this section are grants,
31 subject to appeal to the State Energy Resources
32 Conservation and Development Commission upon a
33 showing that factors other than those described in the
34 guidelines adopted by the State Energy Resources
35 Conservation and Development Commission were
36 applied in making the awards and payments. Any actions
37 taken by an applicant to apply for, or become or remain
38 eligible and certified to receive, payments or awards,
39 including satisfying conditions specified by the State
40 Energy Resources Conservation and Development

Commission, shall not constitute the rendering of goods, services, or a direct benefit to the State Energy Resources Conservation and Development Commission.

(g) The State Energy Resources Conservation and Development Commission shall report to the Legislature on or before May 31, 2000, and on or before May 31 of every second year thereafter, regarding the results of the mechanisms funded pursuant to this section. Reports prepared pursuant to this section shall include a description of the allocation of funds among existing, new and emerging technologies; the allocation of funds among programs, including consumer-side incentives; and the need for the reallocation of money among those technologies. The reports shall also address the allocation of funds from interest on the accounts described in this section, money in the accounts described in subdivision (e) of Section 381, and money included in the accounts pursuant to Section 385. Notwithstanding paragraph (4) of subdivision (b) of Section 383 or subdivisions (b), (c), (d), and (e) of Section 383.5, money may be reallocated without further legislative action among existing, new, and emerging technologies and consumer-side programs in a manner consistent with the report.

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

Article 15. Reliable Electric Service Investments Act

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

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

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

1 (1) To protect the integrity of the electric distribution
2 grid.

3 (2) To ensure an adequately sized and trained utility
4 workforce.

5 (3) To ensure cost-effective energy efficiency
6 improvements.

7 (4) To achieve a sustainable supply of renewable
8 energy.

9 (5) To advance public interest research, development
10 and demonstration programs not adequately provided by
11 competitive and regulated markets.

12 (d) It is the intent of the Legislature to reaffirm,
13 without requiring revision, California's doctrine, as
14 reflected in regulatory and judicial decisions, regarding
15 electrical corporations' reasonable opportunity to
16 recover costs and investments associated with their
17 electric distribution grid and the reasonable opportunity
18 to attract capital for investment on reasonable terms.

19 (e) The Legislature further finds and declares all of
20 the following:

21 (1) Acting under applicable constitutional and
22 statutory authorities, the Public Utilities Commission and
23 the boards of local publicly owned electric utilities have
24 included in regulated electricity prices, investments that
25 are essential to maintaining system reliability, reducing
26 California electricity users' bills, and mitigating
27 environmental costs of California users' electricity
28 consumption.

29 (2) Among the most important of these "system
30 benefits" investments categories are energy efficiency,
31 renewable energy, and public interest research,
32 development and demonstration (RD&D).

33 (3) Energy efficiency investments funded from
34 California's usage-based charges on electricity
35 distribution help improve systemwide reliability by
36 reducing demand in times and areas of system
37 congestion, and at the same time reduce all California
38 electricity users' costs. These investments also
39 significantly reduce environmental costs associated with
40 California's electricity consumption, including, but not

1 limited to, degradation of the state’s air, water, and land
2 resources.

3 (4) California’s in-state renewable energy resources
4 help alleviate supply deficits that could threaten electric
5 system reliability, reduce environmental costs associated
6 with California’s electricity consumption, and increase
7 the diversity of the electricity system’s fuel mix, reducing
8 electricity users’ exposure to fossil-fuel price volatility.

9 (5) California’s public-interest research, development
10 and demonstration (RD&D) investments enhance
11 private and regulated sector investment in electricity
12 system technologies, and are designed specifically to help
13 ensure sustained improvement in the economic and
14 environmental performance of the distribution,
15 transmission, and generation and end-use systems that
16 serve California electricity users.

17 (6) California has established a long tradition of
18 recovering system benefits investments through
19 usage-based electricity charges, which is reflected in at
20 least two decades of electricity price regulation by the
21 commission, the boards of local publicly owned electric
22 utilities, and the mandate of the Legislature in Chapter
23 854 of the Statutes of 1996 (Assembly Bill 1890 of the
24 1995–96 Regular Session of the Legislature) and Chapter
25 905 of the Statutes of 1997 (Senate Bill 90 of the 1995–96
26 Regular Session of the Legislature).

27 (7) Unless the Legislature acts to extend the mandate
28 of Chapter 854 of the Statutes of 1996 for minimum levels
29 of usage based system benefits charges, California
30 electricity users are at substantial risk of higher economic
31 and environmental costs and degraded reliability.

32 399.1. (a) As used in this article, the term “Energy
33 Commission” means the State Energy Resources
34 Conservation and Development Commission.

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

38 399.2. (a) (1) It is the policy of this state, and the
39 intent of the Legislature, to reaffirm that each electrical
40 corporation shall continue to operate its electric

1 distribution grid in its service territory and shall do so in
2 a safe, reliable, efficient, and cost-effective manner.

3 (2) In furtherance of this policy, it is the intent of the
4 Legislature that each electrical corporation shall
5 continue to be responsible for operating its own electric
6 distribution grid including, but not limited to, owning,
7 controlling, operating, managing, maintaining, planning,
8 engineering, designing, and constructing its own electric
9 distribution grid, emergency response and restoration,
10 service connections, service turnons and turnoffs, and
11 service inquiries relating to the operation of its electric
12 distribution grid, subject to the commission's authority.

13 (b) In order to ensure the continued efficient use, and
14 cost effective, safe, and reliable operation of the electric
15 distribution grid, each electrical corporation shall
16 continue to operate its electric distribution grid in its
17 service territory consistent with Section 330.

18 (c) In carrying out the purposes of this section, each
19 electrical corporation shall continue to make reasonable
20 investments in its electric distribution grid. Each
21 electrical corporation shall continue to have a reasonable
22 opportunity to fully recover from all customers of the
23 electrical corporation, in a manner determined by the
24 commission pursuant to this code, all of the following:

25 (1) Reasonable investments in its electric distribution
26 grid.

27 (2) A reasonable return on the investments in its
28 electric distribution grid.

29 (3) Reasonable costs to operate its electric distribution
30 grid.

31 (d) For purposes of this section, the term "electric
32 distribution grid" means those facilities owned or
33 operated by an electrical corporation that are not under
34 the control of the Independent System Operator and that
35 are used to transmit, deliver, or furnish electricity for
36 light, heat, or power.

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

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

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

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

(f) Nothing in this section shall be construed to alter or affect any authority or lack of authority of the commission regarding the ownership and operation of new electric generation used in whole, or in part, for the purpose of maintaining or enhancing the reliability of the electric distribution grid.

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

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

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

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

(2) As used in this section, the term "energy efficiency" includes, but is not limited to, cost-effective activities to achieve peak load reduction that improve

1 end-use efficiency, lower customers' bills, and reduce
2 system needs.

3 (b) The commission, in evaluating energy efficiency
4 investments under its existing statutory authorities, shall
5 also ensure both of the following:

6 (1) That local and regional interests, multifamily
7 dwellings, and energy service industry capabilities are
8 incorporated into program portfolio design and that local
9 governments, community-based organizations, and
10 energy efficiency service providers are encouraged to
11 participate in program implementation where
12 appropriate.

13 (2) That no energy efficiency funds are used to
14 provide incentives for the purchase of new
15 energy-efficient refrigerators.

16 399.6. (a) In order to optimize public investment and
17 ensure that the most cost-effective and efficient
18 investments in renewable resources are vigorously
19 pursued, the Energy Commission shall create an
20 investment plan as set forth in paragraphs (1) to (3),
21 inclusive, to govern the allocation of funds provided
22 pursuant to this article. The Energy Commission's
23 long-term goal shall be a fully competitive and
24 self-sustaining California renewable energy supply. The
25 investment plan shall be in accordance with all of the
26 following:

27 (1) The investment plan's objective shall be to
28 increase, in the near term, the quantity of California's
29 electricity generated by in-state renewable energy
30 resources, while protecting system reliability, fostering
31 resource diversity, and obtaining the greatest
32 environmental benefits for California residents.

33 (2) An additional objective of the plan shall be to
34 identify and support emerging renewable energy
35 technologies that have the greatest near-term
36 commercial promise and that merit targeted assistance.

37 (3) The investment plan shall contain specific
38 numerical targets, reflecting the projected impact of the
39 plan, for both of the following:

1 (A) Increased quantity of California electrical
2 generation produced from emerging technologies and
3 from overall renewable resources.

4 (B) Increased supply of renewable generation
5 available from facilities other than those selling to
6 investor-owned utilities under contracts entered into
7 prior to 1996 under the Public Utilities Regulatory
8 Policies Act of 1978 (P.L. 95-617).

9 (b) The Energy Commission shall, on an annual basis,
10 evaluate progress on meeting the targets set forth in
11 subparagraphs (A) and (B) of paragraph (3) of
12 subdivision (a), or any substitute provisions adopted by
13 the Legislature upon review of the investment plan, and
14 assess the impact of the investment plan on reducing the
15 cost to Californians of renewable energy generation.

16 (c) In preparing these investment plans, the Energy
17 Commission shall recommend allocations among all of
18 the following:

19 (1) (A) Except as provided in subparagraph (B),
20 production incentives for new renewable energy,
21 including repowered or refurbished renewable energy.

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

27 (C) Notwithstanding subparagraph (B), production
28 incentives for incremental repowered or refurbished
29 renewable energy from existing projects under a power
30 purchase contract with an electrical corporation
31 originally entered into prior to September 24, 1996,
32 whether amended or restated thereafter, may be allowed
33 in any month, if all of the following occur:

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

38 (ii) The power purchase contract is amended to
39 provide that the kilowatt hour used to determine the
40 capacity payment in any time-of-delivery period in any

1 month under the contract shall be no greater than the five-year average of the kilowatt hour delivered for the corresponding time-of-delivery period and month, in the years 1995 to 1999, inclusive.

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

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

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

(4) Customer education.

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

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

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

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

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

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

(d) *Commencing on January 1, 2002, public entities are not eligible to receive customer credits for renewables.*

1 (e) Notwithstanding any other provision of law,
2 moneys collected for renewable energy pursuant to this
3 article shall be transferred to the Renewable Resource
4 Trust Fund of the Energy Commission, to be held until
5 further action by the Legislature. The Energy
6 Commission shall prepare and submit to the Legislature,
7 on or before March 31, 2001, an initial investment plan for
8 these moneys, addressing the application of moneys
9 collected between January 1, 2002, and January 1, 2007.
10 The initial investment plan shall also include an
11 evaluation of and report to the Legislature regarding the
12 appropriateness and structure of a mandatory state
13 purchase of renewable energy. On or before March 31,
14 2006, the Energy Commission shall prepare an
15 investment plan proposing the application of moneys
16 collected between January 1, 2007, and January 1, 2012.
17 No moneys may be expended in the years covered by
18 these plans without further legislative action.

19 399.7. (a) In order to ensure that prudent
20 investments in research, development and
21 demonstration of energy efficient technologies continue
22 to produce substantial economic, environmental, public
23 health, and reliability benefits, it is the policy of this state
24 and the intent of the Legislature that funds made
25 available, upon appropriation, for energy related public
26 interest research, development and demonstration
27 programs shall be used to advance science or technology
28 that are not adequately provided by competitive and
29 regulated markets.

30 (b) Notwithstanding any other provision of law,
31 moneys collected for public-interest research,
32 development and demonstration pursuant to this section
33 shall be transferred to the Public Interest Research,
34 Development, and Demonstration Fund of the Energy
35 Commission to be held until further action by the
36 Legislature. The Energy Commission shall prepare and
37 submit to the Legislature, on or before March 1, 2001, an
38 initial investment plan for these moneys, addressing the
39 application of moneys collected between January 1, 2002,
40 and January 1, 2007. The initial investment plan shall

1 address the recommendations of the PIER Independent
2 Review Panel Report, dated March 2000, to either
3 transform the RD&D program within the Energy
4 Commission, or to administer it through, or in
5 cooperation with, an external organization. The initial
6 investment plan shall include criteria that will be used to
7 determine that a project provides public benefits to
8 California that are not adequately provided by
9 competitive and regulated markets. On or before March
10 31, 2006, the Energy Commission shall prepare an
11 investment plan addressing the application of moneys
12 collected between January 1, 2007, and January 1, 2012.
13 No moneys may be expended in the years covered by
14 these plans without further legislative action.

15 399.8. (a) In order to ensure that the citizens of this
16 state continue to receive safe, reliable, affordable, and
17 environmentally sustainable electric service, it is the
18 policy of this state and the intent of the Legislature that
19 prudent investments in energy efficiency, renewable
20 energy, and research, development and demonstration
21 shall continue to be made.

22 (b) (1) Every customer of an electrical corporation,
23 shall pay a nonbypassable systems benefit charge
24 authorized pursuant to this article. The systems benefit
25 charge shall fund energy efficiency, renewable energy,
26 and research, development and demonstration.

27 (2) Local publicly owned electric utilities shall
28 continue to collect and administer system benefits
29 charges pursuant to Section 385.

30 (c) (1) The commission shall require each electrical
31 corporation to identify a separate rate component to
32 collect revenues to fund energy efficiency, renewable
33 energy, and research, development and demonstration
34 programs authorized pursuant to this section beginning
35 January 1, 2002, through January 1, 2012. The rate
36 component shall be a nonbypassable element of the local
37 distribution service and collected on the basis of usage.

38 (2) This rate component may not exceed, for any tariff
39 schedule, the level of the rate component that was used
40 to recover funds authorized pursuant to Section 381 on

1 January 1, 2000. If the amounts specified in paragraph (1)
2 of subdivision (d) are not recovered fully in any year, the
3 commission shall reset the rate component to restore the
4 unrecovered balance, provided that the rate component
5 may not exceed, for any tariff schedule, the level of the
6 rate component that was used to recover funds
7 authorized pursuant to Section 381 on January 1, 2000.
8 Pending restoration, any annual shortfalls shall be
9 allocated pro rata among the three funding categories in
10 the proportions established in paragraph (1) of
11 subdivision (d).

12 (d) The commission shall order San Diego Gas and
13 Electric Company, Southern California Edison
14 Company, and Pacific Gas and Electric Company to
15 collect these funds commencing on January 1, 2002, as
16 follows:

17 (1) Two hundred twenty-eight million dollars
18 (\$228,000,000) per year in total for energy efficiency and
19 conservation activities, one hundred thirty-five million
20 dollars (\$135,000,000) in total per year for renewable
21 energy, and sixty-two million five hundred thousand
22 dollars (\$62,500,000) in total per year for research,
23 development and demonstration. The funds for energy
24 efficiency and conservation activities shall continue to be
25 allocated in proportions established for the year 2000 as
26 set forth in paragraph (1) of subdivision (c) of Section
27 381.

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

32 (e) The commission and the Energy Commission shall
33 retain and continue their oversight responsibilities as set
34 forth in Sections 381, 383, 383.5, and 445, and Chapter 7.1
35 (commencing with Section 25620) of the Public
36 Resources Code.

37 (f) (1) On or before January 1, 2004, the Governor
38 shall appoint an independent review panel including, but
39 not limited to, members with expertise on the energy
40 service needs of large and small electricity consumers,

1 system reliability issues, and energy-related public policy.
2 On or before January 1, 2005, the panel shall prepare and
3 submit to the Legislature and the Energy Commission a
4 report evaluating the energy efficiency, renewable
5 energy, and research, development and demonstration
6 programs funded under this section. Reasonable costs
7 associated with the review in each of the three program
8 categories, including technical assistance, may be
9 charged to the relevant program category under
10 procedures to be developed by the commission for
11 energy efficiency and by the Energy Commission for
12 renewable energy and research development and
13 demonstration.

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

15 (A) Whether ongoing programs are consistent with
16 the statutory goals.

17 (B) *Whether potential synergies among the program*
18 *categories described in paragraph (1) that could provide*
19 *enhanced public value have been identified and*
20 *incorporated in the programs.*

21 (C) If established targets for increased renewable
22 generation are likely to be achieved.

23 ~~(C)~~

24 (D) What changes should be made to result in a more
25 efficient use of public resources.

26 (3) The report shall also compare the Energy
27 Commission's programs with efforts undertaken by other
28 states and assess, as an alternative, the relative costs and
29 benefits of adopting a tradeable minimum renewable
30 energy requirement in California. The evaluation shall
31 include recommendations intended to optimize
32 renewable resource development at the least cost.

33 (4) For energy efficiency programs, the report shall
34 include an evaluation of all of the following:

35 (A) The net benefits secured for residential
36 customers, taking into account both public and private
37 costs, including improvements in that customer group's
38 ability to avoid or reduce consumption of relatively costly
39 peak electricity.

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

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

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

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

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

(G) The extent to which the programs have delivered cost-effective energy efficiency not adequately provided by markets and as a result have reduced energy demand and consumption.

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

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

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

(g) Promptly after receiving the panel's report, the ~~Energy Commission~~ *commission* shall convene a proceeding to address implementation of the panel's energy efficiency recommendations.

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

1 (b) Nothing in this article shall be construed to affect
2 the jurisdiction of the commission over electric
3 distribution service.

4 SEC. 4. No reimbursement is required by this act
5 pursuant to Section 6 of Article XIII B of the California
6 Constitution because the only costs that may be incurred
7 by a local agency or school district will be incurred
8 because this act creates a new crime or infraction,
9 eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section
11 17556 of the Government Code, or changes the definition
12 of a crime within the meaning of Section 6 of Article
13 XIII B of the California Constitution.

