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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, Murray, and Solis)

February 25, 1999

An act to amend Sections 381 ~~and 383.5~~, 383.5, and 394.25 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, *and making an appropriation therefor.*

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 renewable energy and research and development, develop and submit to the Legislature investment plans, and recommend allocations among specified projects. 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) Existing law authorizes the Public Utilities Commission to utilize enforcement provisions against electric service providers as if those providers were public utilities, including having their registration suspended or revoked for specified acts of misconduct.

This bill would include in those acts of misconduct the misrepresentation of a material fact by an applicant in obtaining a registration as an electric service provider.

The bill would require the commission to require any electric service provider whose registration is revoked pursuant to the above misrepresentation provision to refund all of the customer credit funds that the electric service provider received from the State Energy Resources Conservation and Development Commission. The bill would require all customer credit funds refunded to be deposited in the Renewable Resource Trust Fund, a continuously appropriated fund, for redistribution by the State Energy Resources Conservation and Development Commission pursuant to existing law, thereby making an appropriation by depositing funds in a continuously appropriated fund. The bill would apply these provisions retroactively, as specified.

(3) 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~~ yes. 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.

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

27 (c) The Public Utilities Commission shall order the
28 respective electrical corporations to collect and spend
29 these funds, as follows:

30 (1) Cost-effective energy efficiency and conservation
31 activities shall be funded at not less than the following
32 levels commencing January 1, 1998, through December
33 31, 2001: for San Diego Gas and Electric Company a level
34 of thirty-two million dollars (\$32,000,000) per year; for
35 Southern California Edison Company a level of ninety

1 million dollars (\$90,000,000) for each of the years 1998,
2 1999, and 2000; fifty million dollars (\$50,000,000) for the
3 year 2001; and for Pacific Gas and Electric Company a
4 level of one hundred six million dollars (\$106,000,000) per
5 year.

6 (2) Research, development, and demonstration
7 programs to advance science or technology that are not
8 adequately provided by competitive and regulated
9 markets shall be funded at not less than the following
10 levels commencing January 1, 1998 through December
11 31, 2001: for San Diego Gas and Electric Company a level
12 of four million dollars (\$4,000,000) per year; for Southern
13 California Edison Company a level of twenty-eight
14 million five hundred thousand dollars (\$28,500,000) per
15 year; and for Pacific Gas and Electric Company a level of
16 thirty million dollars (\$30,000,000) per year.

17 (3) In-state operation and development of existing
18 and new and emerging renewable resource technologies
19 shall be funded at not less than the following levels on a
20 statewide basis: one hundred nine million five hundred
21 thousand dollars (\$109,500,000) per year for each of the
22 years 1998, 1999, and 2000, and one hundred thirty-six
23 million five hundred thousand dollars (\$136,500,000) for
24 the year 2001. To accomplish these funding levels over
25 the period described herein the San Diego Gas and
26 Electric Company shall spend twelve million dollars
27 (\$12,000,000) per year, the Southern California Edison
28 Company shall expend no less than forty-nine million five
29 hundred thousand dollars (\$49,500,000) for the years
30 1998, 1999, and 2000, and no less than seventy-six million
31 five hundred thousand dollars (\$76,500,000) for the year
32 2001, and the Pacific Gas and Electric Company shall
33 expend no less than forty-eight million dollars
34 (\$48,000,000) per year through the year 2001. Additional
35 funding not to exceed seventy-five million dollars
36 (\$75,000,000) shall be allocated from moneys collected
37 pursuant to subdivision (d) in order to provide a level of
38 funding totaling five hundred forty million dollars
39 (\$540,000,000).

1 (4) Up to fifty million dollars (\$50,000,000) of the
2 amount collected pursuant to subdivision (d) may be
3 used to resolve outstanding issues related to
4 implementation of subdivision (a) of Section 374. Moneys
5 remaining after fully funding the provisions of this
6 paragraph shall be reallocated for purposes of paragraph
7 (3).

8 (5) Up to ninety million dollars (\$90,000,000) of the
9 amount collected pursuant to subdivision (d) may be
10 used to resolve outstanding issues related to contractual
11 arrangements in the Southern California Edison service
12 territory stemming from the Biennial Resource Planning
13 Update auction. Moneys remaining after fully funding
14 the provisions of this paragraph shall be reallocated for
15 purposes of paragraph (3).

16 (d) Notwithstanding any other provisions of this
17 chapter, entities subject to the jurisdiction of the Public
18 Utilities Commission shall extend the period for
19 competition transition charge collection up to three
20 months beyond its otherwise applicable termination of
21 December 31, 2001, so as to ensure that the aggregate
22 portion of the research, environmental, and low-income
23 funds allocated to renewable resources shall equal five
24 hundred forty million dollars (\$540,000,000) and that the
25 costs specified in paragraphs (3), (4), and (5) of
26 subdivision (c) are collected.

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

35 (f) The commission's authority to collect funds
36 pursuant to this section for purposes of paragraph (3) of
37 subdivision (b) shall become inoperative on March 31,
38 2002.

39 (g) For purposes of this article, "emerging renewable
40 technology" means a new renewable technology,

1 including, but not limited to, photovoltaic technology,
2 that is determined by the California Energy Resources
3 Conservation and Development Commission to be
4 emerging from research and development and that has
5 significant commercial potential.

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

8 383.5. (a) As used in this section, the following terms
9 have the following meaning:

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

26 (2) "Report" means the Policy Report on AB 1890
27 Renewables Funding (March 1997, Publication Number
28 P500-97-002) submitted to the Legislature by the State
29 Energy Resources Conservation and Development
30 Commission.

31 (b) (1) Forty-five percent of the money collected
32 pursuant to paragraph (3) of subdivision (c) of Section
33 381, up to two hundred forty-three million dollars
34 (\$243,000,000), shall be used for programs that are
35 designed to improve the competitiveness of existing
36 in-state renewable electricity generation technology
37 facilities, and to secure for the state the environmental,
38 economic, and reliability benefits that continued
39 operation of those facilities will provide.

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

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

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

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

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

(B) The State Energy Resources Conservation and Development Commission shall establish a cents per kilowatthour production incentive, not to exceed the payment caps per kilowatthour established in the report representing the difference between target prices and the market clearing price for electricity, if sufficient funds are available. If there are insufficient funds in any payment period to pay either the difference between the target and market price or the payment caps, production incentives shall be based on the amount determined by dividing available funds by eligible generation. The target price for Tier 1 technologies shall not be based on less than four cents (\$0.04) per kilowatthour. The market clearing price for electricity shall be the energy prices paid to nonutility power generators as provided in 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,

1 1998, to January 1, 2002, to encourage the development of
2 increasingly competitive technologies.

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

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

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

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

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

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

33 (A) Funds shall be allocated for proposed projects
34 based on a competitive solicitation process whereby
35 production incentives, not to exceed one and one-half
36 cents (\$0.015) per kilowatthour, are awarded to the
37 lowest bidders, provided that not more than 25 percent
38 of the funds allocated pursuant to paragraph (1) may be
39 awarded to a single project.

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

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

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

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

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

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

36 (E) Eligibility to compete for funds or to receive funds
37 shall not be contingent upon the location or nature of the
38 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 (\$0.015) 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 (\$0.015) 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 (E) *The Public Utilities Commission shall notify the*
40 *State Energy Resources Conservation and Development*

1 *Commission in writing within 10 days of revoking or*
2 *suspending the registration of any electric service*
3 *provider pursuant to paragraph (4) of subdivision (b) of*
4 *Section 394.25.*

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

18 (2) The State Energy Resources Conservation and
19 Development Commission shall, in collaboration with
20 eligible emerging technology industry stakeholders and
21 consumer interests, complete the emerging technology
22 program design, as outlined in subdivision (d), and
23 implement its provisions.

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

38 (g) The State Energy Resources Conservation and
39 Development Commission shall report to the Legislature
40 on or before May 31, 2000, and on or before May 31 of

1 every second year thereafter, regarding the results of the
2 mechanisms funded pursuant to this section. Reports
3 prepared pursuant to this section shall include a
4 description of the allocation of funds among existing, new
5 and emerging technologies; the allocation of funds among
6 programs, including consumer-side incentives; and the
7 need for the reallocation of money among those
8 technologies. The reports shall also address the allocation
9 of funds from interest on the accounts described in this
10 section, money in the accounts described in subdivision
11 (e) of Section 381, and money included in the accounts
12 pursuant to Section 385. Notwithstanding paragraph (4)
13 of subdivision (b) of Section 383 or subdivisions (b), (c),
14 (d), and (e) of ~~Section 383.5~~ *this section*, money may be
15 reallocated without further legislative action among
16 existing, new, and emerging technologies and
17 consumer-side programs in a manner consistent with the
18 report.

19 SEC. 3. *Section 394.25 of the Public Utilities Code is*
20 *amended to read:*

21 394.25. (a) The commission may enforce the
22 provisions of Sections 2102, 2103, 2104, 2105, 2107, 2108,
23 and 2114 against electric service providers as if those
24 electric service providers were public utilities as defined
25 in these code sections. Notwithstanding the above,
26 nothing in this section grants the commission jurisdiction
27 to regulate electric service providers other than as
28 specifically set forth in this part. Electric service
29 providers shall continue to be subject to the provisions of
30 Sections 2111 and 2112. Upon a finding by the
31 commission's executive director that there is evidence to
32 support a finding that the electric service provider has
33 committed an act constituting grounds for suspension or
34 revocation of registration as set forth in subdivision (b) of
35 Section 394.25, the commission shall notify the electric
36 service provider in writing and notice an expedited
37 hearing on the suspension or revocation of the electric
38 service provider's registration to be held within 30 days
39 of the notification to the electric service provider of the
40 executive director's finding of evidence to support

suspension or revocation of registration. The commission shall, within 45 days after holding the hearing, issue a decision on the suspension or revocation of registration, which shall be based on findings of fact and conclusions of law based on the evidence presented at the hearing. The decision shall include the findings of fact and the conclusions of law relied upon.

(b) An electric service provider may have its registration suspended or revoked, immediately or prospectively, in whole or in part, for any of the following acts:

(1) Making material misrepresentations in the course of soliciting customers, entering into service agreements with those customers, or administering those service agreements.

(2) Dishonesty, fraud, or deceit with the intent to substantially benefit the electric service provider or its employees, agents, or representatives, or to disadvantage retail electric customers.

(3) Where the commission finds that there is evidence that the electric service provider is not financially or operationally capable of providing the offered electric service.

(4) *The misrepresentation of a material fact by an applicant in obtaining a registration pursuant to Section 394.*

(c) Pursuant to its authority to revoke or suspend registration, the commission may suspend a registration for a specified period or revoke the registration, or in lieu of suspension or revocation, impose a moratorium on adding or soliciting additional customers. Any suspension or revocation of a registration shall require the electric service provider to cease serving customers within the boundaries of investor-owned electric corporations, and the affected customers shall be served by the electrical corporation until the time when they may select service from another service provider. Customers shall not be liable for the payment of any early termination fees or other penalties to any electric service provider under the

1 service agreement if the serving electric service
2 provider's registration is suspended or revoked.

3 *(d) The commission shall require any electric service*
4 *provider whose registration is revoked pursuant to*
5 *paragraph (4) of subdivision (b) to refund all of the*
6 *customer credit funds that the electric service provider*
7 *received from the State Energy Resources Conservation*
8 *and Development Commission pursuant to paragraph*
9 *(1) of subdivision (e) of Section 383.5. The repayment of*
10 *these funds shall be in addition to all other penalties and*
11 *finances appropriately assessed the electric service provider*
12 *for committing those acts under other provisions of law.*
13 *All customer credit funds refunded under this subdivision*
14 *shall be deposited in the Renewable Resource Trust Fund*
15 *for redistribution by the State Energy Resources*
16 *Conservation and Development Commission pursuant to*
17 *Section 383.5. This subdivision shall apply retroactively to*
18 *any credits received pursuant to paragraph (1) of*
19 *subdivision (e) of Section 383.5 prior to January 1, 2001.*

20 SEC. 4. Article 15 (commencing with Section 399) is
21 added to Chapter 2.3 of Part 1 of Division 1 of the Public
22 Utilities Code, to read:

23

24 Article 15. Reliable Electric Service Investments Act

25

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

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

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

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

39 (2) To ensure an adequately sized and trained utility
40 workforce.



1 (3) To ensure cost-effective energy efficiency
2 improvements.

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

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

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

15 (e) The Legislature further finds and declares all of
16 the following:

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

25 (2) Among the most important of these "system
26 benefits" investments categories are energy efficiency,
27 renewable energy, and public interest research,
28 development and demonstration (RD&D).

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

39 (4) California's in-state renewable energy resources
40 help alleviate supply deficits that could threaten electric

1 system reliability, reduce environmental costs associated
2 with California's electricity consumption, and increase
3 the diversity of the electricity system's fuel mix, reducing
4 electricity users' exposure to fossil-fuel price volatility.

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

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

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

28 399.1. (a) As used in this article, the term "Energy
29 Commission" means the State Energy Resources
30 Conservation and Development Commission.

31 (b) As used in this article, the term "local publicly
32 owned electric utility" has the same meaning as set forth
33 in subdivision (d) of Section 9604.

34 399.2. (a) (1) It is the policy of this state, and the
35 intent of the Legislature, to reaffirm that each electrical
36 corporation shall continue to operate its electric
37 distribution grid in its service territory and shall do so in
38 a safe, reliable, efficient, and cost-effective manner.

39 (2) In furtherance of this policy, it is the intent of the
40 Legislature that each electrical corporation shall

1 continue to be responsible for operating its own electric
2 distribution grid including, but not limited to, owning,
3 controlling, operating, managing, maintaining, planning,
4 engineering, designing, and constructing its own electric
5 distribution grid, emergency response and restoration,
6 service connections, service turnons and turnoffs, and
7 service inquiries relating to the operation of its electric
8 distribution grid, subject to the commission's authority.

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

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

21 (1) Reasonable investments in its electric distribution
22 grid.

23 (2) A reasonable return on the investments in its
24 electric distribution grid.

25 (3) Reasonable costs to operate its electric distribution
26 grid.

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

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

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

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

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

3 (4) The authority of the commission to establish rules
4 governing the extension of service to new customers.

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

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

15 ~~(h)~~

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

18 ~~(i)~~

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

29 399.3. *Nothing in Section 399.2 shall be construed to*
30 *preclude any of California's local publicly owned electric*
31 *utilities from exercising authority to operate their electric*
32 *distribution grid as provided under law.*

33 399.4. (a) (1) In order to ensure that prudent
34 investments in energy efficiency continue to be made
35 that produce cost-effective energy savings, reduce
36 customer demand, and contribute to the safe and reliable
37 operation of the electric distribution grid, it is the policy
38 of this state and the intent of the Legislature that the
39 commission shall continue to administer cost-effective

1 energy efficiency programs authorized pursuant to
2 existing statutory authority.

3 (2) As used in this section, the term “energy
4 efficiency” includes, but is not limited to, cost-effective
5 activities to achieve peak load reduction that improve
6 end-use efficiency, lower customers’ bills, and reduce
7 system needs.

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

11 (1) That local and regional interests, multifamily
12 dwellings, and energy service industry capabilities are
13 incorporated into program portfolio design and that local
14 governments, community-based organizations, and
15 energy efficiency service providers are encouraged to
16 participate in program implementation where
17 appropriate.

18 (2) That no energy efficiency funds are used to
19 provide incentives for the purchase of new
20 energy-efficient refrigerators.

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

32 (1) The investment plan’s objective shall be to
33 increase, in the near term, the quantity of California’s
34 electricity generated by in-state renewable energy
35 resources, while protecting system reliability, fostering
36 resource diversity, and obtaining the greatest
37 environmental benefits for California residents.

38 (2) An additional objective of the plan shall be to
39 identify and support emerging renewable energy

1 technologies that have the greatest near-term
2 commercial promise and that merit targeted assistance.

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

6 (A) Increased quantity of California electrical
7 generation produced from emerging technologies and
8 from overall renewable resources.

9 (B) Increased supply of renewable generation
10 available from facilities other than those selling to
11 investor-owned utilities under contracts entered into
12 prior to 1996 under the federal Public Utilities Regulatory
13 Policies Act of 1978 (P.L. 95-617).

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

21 (c) In preparing these investment plans, the Energy
22 Commission shall recommend allocations among all of
23 the following:

24 (1) (A) Except as provided in subparagraph (B),
25 production incentives for new renewable energy,
26 including repowered or refurbished renewable energy.

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

32 (C) Notwithstanding subparagraph (B), production
33 incentives for incremental new, repowered, or
34 refurbished renewable energy from existing projects
35 under a power purchase contract with an electrical
36 corporation originally entered into prior to September
37 24, 1996, whether amended or restated thereafter, may be
38 allowed in any month, if all of the following occur:

39 (i) The project's power purchase contract provides
40 that all energy delivered and sold under the contract is

1 paid at a price that does not exceed commission approved
2 short-run avoided cost of energy.

3 (ii) Either of the following:

4 (I) The power purchase contract is amended to
5 provide that the kilowatt hours used to determine the
6 capacity payment in any time-of-delivery period in any
7 month under the contract shall be equal to the actual
8 kilowatt hour production, but no greater than the
9 five-year average of the kilowatt hours delivered for the
10 corresponding time-of-delivery period and month, in the
11 years 1995 to 1999, inclusive.

12 (II) If a project's installed capacity as of December 31,
13 1998, is less than 75 percent of the nameplate capacity as
14 stated in the power purchase contract, the power
15 purchase contract is amended to provide that the
16 kilowatt hours used to determine the capacity payment
17 in any time-of-delivery period in any month under the
18 contract shall be equal to the actual kilowatt hour
19 production, but no greater than the product of the
20 five-year average of the kilowatt hours delivered for the
21 corresponding time-of-delivery period and month, in the
22 years 1994 to 1998, inclusive, and the ratio of installed
23 capacity as of December 31 of the previous year, but not
24 to exceed contract nameplate capacity, to the installed
25 capacity as of December 31, 1998.

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

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

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

34 (4) Customer education.

35 (5) Incentives for reducing fuel costs that are
36 confirmed to the satisfaction of the Energy Commission
37 at solid fuel biomass energy facilities in order to provide
38 demonstrable environmental and public benefits,
39 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.

(8) Existing wind-generating resources, if the Energy Commission finds that the existing wind-generating resources are a cost-effective source of reliability and environmental benefits compared with other eligible sources, and that the existing wind-generating resources require financial assistance to remain economically viable, as determined by the Energy Commission. The Energy Commission may require financial disclosure from applicants for the purposes of this paragraph.

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

(e) Notwithstanding any other provision of law, moneys collected for renewable energy pursuant to this article shall be transferred to the Renewable Resource Trust Fund of the Energy Commission, to be held until further action by the Legislature. The Energy Commission shall prepare and submit to the Legislature, on or before March 31, 2001, an initial investment plan for these moneys, addressing the application of moneys collected between January 1, 2002, and January 1, 2007.

1 The initial investment plan shall also include an
 2 evaluation of and report to the Legislature regarding the
 3 appropriateness and structure of a mandatory state
 4 purchase of renewable energy. On or before March 31,
 5 2006, the Energy Commission shall prepare an
 6 investment plan proposing the application of moneys
 7 collected between January 1, 2007, and January 1, 2012.
 8 No moneys may be expended in the years covered by
 9 these plans without further legislative action.

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

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

1 31, 2006, the Energy Commission shall prepare an
2 investment plan addressing 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.

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

13 (b) (1) Every customer of an electrical corporation,
14 shall pay a nonbypassable ~~systems-benefit~~ *system benefits*
15 charge authorized pursuant to this article. The ~~systems~~
16 ~~benefit~~ *system benefits* charge shall fund energy
17 efficiency, renewable energy, and research,
18 development and demonstration.

19 (2) Local publicly owned electric utilities shall
20 continue to collect and administer system benefits
21 charges pursuant to Section 385.

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

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

1 allocated pro rata among the three funding categories in
2 the proportions established in paragraph (1) of
3 subdivision (d).

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

9 (1) Two hundred twenty-eight million dollars
10 (\$228,000,000) per year in total for energy efficiency and
11 conservation activities, one hundred thirty-five million
12 dollars (\$135,000,000) in total per year for renewable
13 energy, and sixty-two million five hundred thousand
14 dollars (\$62,500,000) in total per year for research,
15 development and demonstration. The funds for energy
16 efficiency and conservation activities shall continue to be
17 allocated in proportions established for the year 2000 as
18 set forth in paragraph (1) of subdivision (c) of Section
19 381.

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

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

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

1 charged to the relevant program category under
2 procedures to be developed by the commission for
3 energy efficiency and by the Energy Commission for
4 renewable energy and research development and
5 demonstration.

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

7 (A) Whether ongoing programs are consistent with
8 the statutory goals.

9 (B) Whether potential synergies among the program
10 categories described in paragraph (1) that could provide
11 enhanced public value have been identified and
12 incorporated in the programs.

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

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

17 (3) The report shall also compare the Energy
18 Commission's programs with efforts undertaken by other
19 states and assess, as an alternative, the relative costs and
20 benefits of adopting a tradeable minimum renewable
21 energy requirement in California. The evaluation shall
22 include recommendations intended to optimize
23 renewable resource development at the least cost.

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

26 (A) The net benefits secured for residential
27 customers, taking into account both public and private
28 costs, including improvements in that customer group's
29 ability to avoid or reduce consumption of relatively costly
30 peak electricity.

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

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

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

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

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

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

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

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

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

20 (g) Promptly after receiving the panel's report, the
21 commission shall convene a proceeding to address
22 implementation of the panel's energy efficiency
23 recommendations.

24 399.9. (a) No part of this article shall be construed to
25 alter or affect the low-income funding provisions set forth
26 in Section 382. Programs provided to low-income
27 electricity customers, including but not limited to,
28 targeted energy efficiency services and the California
29 Alternative Rates for Energy Program shall continue to
30 be funded as set forth in Section 382.

31 (b) Nothing in this article shall be construed to affect
32 the jurisdiction of the commission over electric
33 distribution service.

34 ~~SEC. 4.—~~

35 *SEC. 5.* No reimbursement is required by this act
36 pursuant to Section 6 of Article XIII B of the California
37 Constitution because the only costs that may be incurred
38 by a local agency or school district will be incurred
39 because this act creates a new crime or infraction,
40 eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section
2 17556 of the Government Code, or changes the definition
3 of a crime within the meaning of Section 6 of Article
4 XIII B of the California Constitution.

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