

ASSEMBLY BILL

No. 33

Introduced by Assembly Member Villines
(Coauthors: Assembly Members Adams, Bill Berryhill, Duvall,
Emmerson, Fletcher, Gilmore, Hagman, Jeffries, Knight, Niello,
and Smyth)

May 5, 2009

An act to amend Section 1250.310 of the Code of Civil Procedure, to amend Section 14074 of the Corporations Code, to amend Sections 17910.1, 17911.2, 17911.3, 17911.4, 17911.6, 17912, 17912.2, 17925, and 41304 of the Education Code, to amend Sections 32320, 32321, 32322, 32940, and 32942 of, and to repeal Section 32208 of, the Financial Code, to amend Sections 9100 and 9101 of the Fish and Game Code, to amend Sections 11553, 12802.5, 12805, 14450, 14684, 14684.1, 15814.22, 15814.23, 15814.30, 15814.34, 66645, and 66646 of, and to amend and renumber Section 15814.25 of, the Government Code, to amend Sections 3808, 3810, 3822, 3822.1, 3822.2, 4799.16, 6815.2, 14584, 21080, 25104, 25106, 25110, 25112, 25123, 25205, 25207, 25212, 25214, 25216.5, 25217.1, 25218, 25219, 25220, 25221, 25222, 25223, 25224, 25225, 25226, 25301, 25302, 25303, 25304, 25305, 25305.5, 25306, 25320, 25321, 25322, 25323, 25324, 25354, 25356, 25357, 25358, 25362, 25364, 25366, 25400, 25401, 25401.2, 25401.5, 25401.6, 25401.7, 25402, 25402.1, 25402.3, 25402.6, 25402.9, 25403, 25403.5, 25403.8, 25404, 25410.5, 25410.6, 25412, 25413, 25414, 25415, 25416, 25417, 25417.5, 25419, 25420, 25426, 25433.5, 25434, 25434.5, 25435, 25436, 25441, 25442, 25442.5, 25442.7, 25443, 25443.5, 25445, 25449, 25449.3, 25494, 25496, 25500, 25500.5, 25501, 25501.7, 25508, 25517, 25518, 25519, 25520, 25522, 25523, 25524.1, 25524.2, 25525, 25526, 25527, 25528, 25529, 25530, 25531, 25534, 25534.1, 25538, 25539, 25540, 25540.1, 25540.2, 25540.3, 25541,

25541.1, 25541.5, 25542, 25543, 25601, 25602, 25603, 25603.5, 25608, 25610, 25616, 25617, 25618, 25620, 25620.1, 25620.2, 25620.3, 25620.4, 25620.5, 25620.6, 25620.7, 25620.8, 25620.11, 25630, 25678, 25679, 25696, 25696.5, 25697, 25700, 25701, 25702, 25703, 25704, 25705, 25720, 25721, 25722, 25722.5, 25723, 25741, 25742, 25743, 25744, 25747, 25748, 25751, 25771, 25772, 25773, 25802, 25803, 25900, 25901, 25902, 25911, 25912, 25942, 25967, 25968, 26004, 26011.5, 26011.6, and 30404 of, to amend the heading of Chapter 3 (commencing with Section 25200) of Division 15 of, to add Sections 3806.5, 25104.1, 25104.2, 25205.5, 25207.5, 25208, 25544, and 25545 to, to add Chapter 3.5 (commencing with Section 25227) to Division 15 of, to repeal Sections 3805.5, 25113, 25217, 25217.5, 25502, 25503, 25504, 25504.5, 25505, 25506, 25506.5, 25507, 25509, 25509.5, 25510, 25511, 25512, 25512.5, 25513, 25514, 25514.3, 25514.5, 25515, 25516, 25516.1, 25516.5, 25516.6, 25520.5, 25524.5, 25540.4, and 25540.6 of, and to repeal and add Sections 25107, 25120, 25200, 25201, 25202, 25203, 25204, and 25206 of, the Public Resources Code, to amend Sections 332.1, 348, 350, 352, 353.7, 360, 365, 366.1, 366.2, 384, 398.2, 398.3, 398.5, 399.25, 399.8, 399.11, 399.12, 399.13, 399.15, 399.16, 454.5, 464, 848.1, 1001, 1731, 1768, 1822, 2774.6, 2826.5, 2827, 3302, 3310, 3320, 3330, 3341, 3341.1, 3341.2, 3345, 3370, and 9502 of, to add Sections 322, 345.1, 345.2, and 411 to, to repeal Sections 346, 3325, 3326, and 3327 of, to repeal Article 2 (commencing with Section 334) of Chapter 2.3 of Part 1 of Division 1 of, and to repeal and add Section 3340 of, the Public Utilities Code, and to amend Section 80000 of, and to add Sections 80001 and 80001.5 to, the Water Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 33, as introduced, Villines. Energy: commission and department.

(1) Existing law establishes the State Energy Resources Conservation and Development Commission, the California Consumer Power and Conservation Financing Authority, and the Electricity Oversight Board with jurisdiction related to energy matters. Existing law provides the California Public Utilities Commission with jurisdiction over the certification of natural gas and electric facilities. Existing law also provides the Office of Planning and Research, the Department of Water Resources, the Department of General Services, and the Office of the State Architect with jurisdiction over certain energy-related matters.

Existing law provides the State Energy Resources Conservation and Development Commission with the jurisdiction over the certification of thermal powerplants.

This bill would abolish the State Energy Resources and Conservation Commission, the California Consumer Power and Conservation Financing Authority, and the Electricity Oversight board. The bill would create the Department of Energy, headed by a Secretary of Energy, and would create the California Energy Commission and the Office of Energy Market Oversight within the department. The bill would provide for the creation of various divisions and subdivisions as deemed necessary by the secretary. The secretary would be appointed by, and hold office at the pleasure of, the Governor, subject to confirmation by the Senate. The bill would authorize the Governor to appoint an Assistant Secretary of Energy who would serve at the pleasure of the secretary.

The bill would provide that the California Energy Commission consists of the following members: the Secretary of Energy who would be the chair of the commission, 4 members of the public with qualifications, as specified, appointed by the Governor, subject to confirmation by the Senate, the chief executive officer of the California Independent System Operator, the Secretary of the Natural Resources Agency, and the president of the California Public Utilities Commission. The bill would provide that the chief executive officer of the California Independent System Operator, the Secretary of the Natural Resources Agency, and the president of the California Public Utilities Commission shall serve as ex officio, nonvoting members of the commission. The bill would specify that the public members shall serve for a term of 4 years.

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

The bill would vest the new department and the California Energy Commission with the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the State Energy Resources Conservation and Development Commission and the California Consumer Power and Conservation Financing Authority, as specified.

The bill would transfer the jurisdiction over the certification for electric facilities from the Public Utilities Commission to the Secretary of Energy. The bill would also transfer jurisdiction of certain energy-related matters from the Office of Planning and Research, the

Department of Water Resources, the Department of General Services, and the Office of the State Architect to the Department of Energy or the California Energy Commission, as specified. The bill would also rename the California Consumer Power and Conservation Authority Fund as the California Consumer Power and Conservation Financing Fund.

(2) Existing law requires a person proposing to construct a thermal powerplant or electric transmission line on a site to submit to the State Energy Resources Conservation and Development Commission a notice of intention to file an application for the certification of the site.

This bill would repeal this requirement.

(3) Existing law prohibits, with specified exceptions, land use for a nuclear fission thermal powerplant unless the State Energy Resources Conservation and Development Commission certifies that specified conditions exist.

This bill would, instead, prohibit land use for a nuclear fission powerplant unless the California Energy Commission certifies that specified conditions exist.

(4) Existing law prohibits the State Energy Resources Conservation and Development Commission from certifying a facility that adds generating capacity to a potential multiple facility site in excess of the maximum allowable capacity determined by the commission.

This bill would repeal this prohibition.

(5) The existing State Assistance Fund for Enterprise Act of 1989 establishes the State Assistance Fund for Enterprise, Business, and Industrial Development Corporation and provides that a member of the State Energy Resources Conservation and Development Commission is a member of the board of directors of the corporation.

This bill would eliminate the commission's membership on the board of directors of the corporation.

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

(7) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

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

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

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

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

3 1250.310. The complaint shall contain all of the following:

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

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

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

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

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

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

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

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

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

1 14074. The agency shall enter into an agreement with the
 2 ~~California Energy Extension Service of the Office of Planning and~~
 3 ~~Research~~ *Department of Energy* to assist small business owners
 4 in reducing their energy costs through low interest loans and by
 5 providing assistance and information.

6 SEC. 3. Section 17910.1 of the Education Code is amended to
 7 read:

8 17910.1. As used in this part, the following terms have the
 9 following meanings:

10 (a) ~~“Commission” means the State Energy Resources~~
 11 ~~Conservation and Development Commission.~~

12 (b)

13 (a) “Superintendent” means the Superintendent of Public
 14 Instruction.

15 (c)

16 (b) “Fund” means the Katz Schoolbus Fund created pursuant
 17 to Section 17911.

18 (d)

19 (c) “Department” means the Department of the California
 20 Highway Patrol.

21 (e)

22 (d) “Program” means the Katz Safe Schoolbus Clean Fuel
 23 Efficiency Demonstration Program.

24 (f)

25 (e) “Schoolbus” means a schoolbus, as defined in Section 545
 26 of the Vehicle Code, which is Type 1 and publicly owned.

27 (g)

28 (f) “Local educational agency” means any of the following:

29 (1) A school district.

30 (2) A county office of education.

31 (3) A regional occupational program or center.

32 (4) A joint powers agency ~~which~~ *that* operates publicly owned
 33 schoolbuses.

34 SEC. 4. Section 17911.2 of the Education Code is amended to
 35 read:

36 17911.2. ~~The commission~~ *Department of Energy* shall
 37 determine the local educational agencies that are to receive
 38 replacement schoolbuses for participation in the program.

39 SEC. 5. Section 17911.3 of the Education Code is amended to
 40 read:

1 17911.3. In determining which candidate schoolbuses will be
2 selected for replacement, the ~~commission~~ *Department of Energy*
3 shall first, in coordination with the department and the
4 superintendent, determine which local educational agencies meet
5 the demonstration project criteria.

6 SEC. 6. Section 17911.4 of the Education Code is amended to
7 read:

8 17911.4. All candidate schoolbuses selected by the ~~commission~~
9 *Department of Energy* for replacement shall be inspected by the
10 department to determine all of the following criteria:

11 (a) The dates of manufacture of the schoolbuses. The
12 schoolbuses shall have been manufactured prior to April 1, 1977,
13 and shall have been certified during the prior school year pursuant
14 to Section 2807 of the Vehicle Code.

15 (b) The total accumulated mileage of each candidate schoolbus,
16 as supported by the owner's records and records of the department.
17 Any records maintained by the superintendent may also be
18 considered in determining the true accumulated mileage of a
19 candidate schoolbus. Only mileage accumulated on the candidate
20 schoolbus during usage by the applicant district may be considered
21 by the commission as mileage under this subdivision.

22 (c) The average number of miles per day each candidate
23 schoolbus traveled during the prior school year and to date during
24 the current school year, as evidenced by the owner's records. Any
25 records maintained by the department or by the superintendent
26 may also be considered in determining the true average daily miles
27 of a candidate schoolbus.

28 (d) The dates of each of the last three annual certifications and
29 the odometer reading for each of those dates.

30 SEC. 7. Section 17911.6 of the Education Code is amended to
31 read:

32 17911.6. Local educational agencies may submit a statement
33 describing special circumstances ~~which~~ *that* are applicable to a
34 qualified candidate schoolbus, such as the unavailability of repair
35 or replacement parts, or any necessary chassis modifications
36 requiring the approval of the manufacturer of the chassis, as
37 required by regulations of the department, with its application for
38 a replacement schoolbus. The ~~commission~~ *Department of Energy*
39 may consider those special circumstances in determining the local
40 educational agencies that are to receive replacement schoolbuses.

1 SEC. 8. Section 17912 of the Education Code is amended to
2 read:

3 17912. The demonstration program established by this chapter
4 shall be designed and administered by the ~~commission~~, *Department*
5 *of Energy*, with the advice and consultation of the department and
6 the superintendent. The ~~commission~~ *Department of Energy* shall
7 insure that fuel economy and exhaust emissions are monitored as
8 a part of the demonstration, and shall ensure that at least 35 percent
9 of the vehicles are powered by methanol or other low-emission,
10 clean-burning fuels, unless the ~~commission~~ *Department of Energy*
11 determines, ~~within 18 months of the effective date of this act on~~
12 ~~or before March 26, 1990~~, that the use of these funds for clean
13 burning fuel projects is infeasible. The ~~commission~~ *Department*
14 *of Energy* shall, within 30 days of making that determination,
15 submit a report to the Legislature explaining its determination with
16 respect to the feasibility or infeasibility of the project. The field
17 demonstration shall be in accordance with State Energy
18 Conservation Program guidelines.

19 SEC. 9. Section 17912.2 of the Education Code is amended to
20 read:

21 17912.2. When a local educational agency accepts a
22 replacement schoolbus, it shall also agree to participate in the
23 demonstration program. That participation shall include
24 maintaining records of mileage and fuel consumption, and reporting
25 that information to the ~~commission~~ *Department of Energy* in a
26 timely manner. The ~~commission~~ *Department of Energy* shall
27 establish a procedure and requirement for participation in the
28 demonstration program. All vehicles acquired under the
29 demonstration program, at a minimum, shall meet all applicable
30 laws and regulations, including those related to their acquisition
31 by school districts, operation, fuel efficiency, air emissions, and
32 safety.

33 SEC. 10. Section 17925 of the Education Code is amended to
34 read:

35 17925. Prior to distributing any state funds pursuant to this
36 part, the Superintendent of Public Instruction shall consult with
37 the ~~State Energy Resources Conservation and Development~~
38 ~~Commission~~ *Department of Energy* to avoid duplication or overlap
39 with appropriations from the Katz Schoolbus Fund, created
40 pursuant to Section 17911.

1 SEC. 11. Section 41304 of the Education Code is amended to
2 read:

3 41304. (a) There is appropriated annually from the Driver
4 Training Penalty Assessment Fund to the General Fund in the State
5 Treasury and from the General Fund to the ~~California Energy~~
6 ~~Extension Service of the Office of Planning and Research~~
7 *Department of Energy* a sum as necessary to establish and maintain
8 a unit for driver instruction within the State Department of
9 Education as set forth in Section 41904.

10 (b) In addition, subject to Section 41305, there shall be
11 appropriated from the Driver Training Penalty Assessment Fund
12 to the General Fund, then to the State School Fund each fiscal
13 year, the sum the Superintendent of Public Instruction certifies as
14 necessary to reimburse on a quarterly basis for each current fiscal
15 year school districts, county superintendents of schools, the
16 Department of the ~~Youth Authority~~ *Corrections and Rehabilitation,*
17 *Division of Juvenile Facilities,* and the State Department of
18 Education for the actual cost of instructing pupils in the operation
19 of motor vehicles.

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

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

1 only that portion of the total mileage used exclusively in the
2 laboratory phase of driver education programs.

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

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

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

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

39 SEC. 12. Section 32208 of the Financial Code is repealed.

1 32208. ~~“Energy Commission” means the California Energy~~
2 ~~Resources Conservation and Development Commission.~~

3 SEC. 13. Section 32320 of the Financial Code is amended to
4 read:

5 32320. Except as provided in Sections 32325 and 32352.5, the
6 board of directors of the corporation shall consist of ~~six~~ *five*
7 members, ~~two~~ *one* official and four public directors.

8 SEC. 14. Section 32321 of the Financial Code is amended to
9 read:

10 32321. (a) ~~The official members of the board shall be:~~

11 ~~(1) A member of the Governor’s cabinet, or his or her designee.~~

12 ~~(2) One member of the Energy Commission, selected and~~
13 ~~appointed by the members of the Energy Commission.~~

14 *(a) The official member of the board shall be a member of the*
15 *Governor’s cabinet, or his or her designee.*

16 (b) The public members of the board shall be:

17 (1) One member selected and appointed by the Senate ~~Rules~~
18 *Committee on Rules.*

19 (2) One member selected and appointed by the Speaker of the
20 Assembly.

21 (3) Two members selected and appointed by the Governor as
22 follows:

23 (A) One member with a minimum three years’ experience as
24 an owner, partner, officer, or employee of a California-based small
25 business.

26 (B) One member with a minimum three years’ experience as
27 an officer or employee of a financial institution.

28 SEC. 15. Section 32322 of the Financial Code is amended to
29 read:

30 32322. (a) ~~The terms term of the official members member of~~
31 ~~the board shall coincide with their his or her official terms term~~
32 ~~of office, except in the case of the member selected and appointed~~
33 ~~by the members of the Energy Commission, who shall serve on~~
34 ~~the board until he or she is no longer a member of the Energy~~
35 ~~Commission or until he or she is replaced by a vote of the Energy~~
36 ~~Commission.~~

37 (b) The public members of the board shall be appointed by the
38 ~~Rules Senate~~ *Committee on Rules*, Speaker, and Governor in such
39 a manner that they shall hold office for overlapping terms. At the
40 time of the appointment of first directors, the first term of the

1 directors appointed by the ~~Rules Senate~~ *Committee on Rules* and
2 Speaker shall be approximately two years. At the time of the
3 appointment of first directors, the first term of the directors
4 appointed by the Governor shall be approximately one year for
5 one director and approximately three years for two directors.
6 Thereafter, the terms of all public directors shall be three years.
7 Directors shall be eligible for reappointment for an unlimited
8 number of terms.

9 (c) A public director's tenure shall continue until his successor
10 has been appointed and has taken his position on the board.

11 (d) In the case of public members, vacancies shall be filled by
12 appointment of the respective appointing authority for the
13 unexpired remainder of the term.

14 SEC. 16. Section 32940 of the Financial Code is amended to
15 read:

16 32940. Guidelines for approving loan applications shall be
17 developed by the board on or before May 1, 1987. In developing
18 those guidelines, the board shall incorporate the recommendations
19 adopted by the ~~California Energy Commission~~ *Department of*
20 *Energy* with respect to technical criteria ~~which~~ *that* are to be
21 applied to projects receiving loans from the corporation pursuant
22 to this chapter. The corporation may contract with the ~~Energy~~
23 ~~Commission~~ *Department of Energy* for the purpose of developing
24 technical guidelines.

25 SEC. 17. Section 32942 of the Financial Code is amended to
26 read:

27 32942. Loans shall be approved according to criteria established
28 by a credit committee, chaired by the chief financial officer of the
29 corporation or that officer's designee. The other members of the
30 committee shall be the member of the board appointed by the
31 ~~Energy Commission~~ *Department of Energy* and the corporate
32 president.

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

35 9100. The ~~California Energy Extension Service of the Office~~
36 ~~of Planning and Research~~ *Department of Energy* shall implement
37 a revolving loan fund program to assist low-income fishing fleet
38 operators *to* reduce their energy costs and conserve fuel by
39 providing low-interest loans to those operators.

1 SEC. 19. Section 9101 of the Fish and Game Code is amended
2 to read:

3 9101. Commencing January 1, 1994, and thereafter biennially,
4 ~~the California Energy Extension Service of the Office of Planning~~
5 ~~and Research~~ *Department of Energy* shall report to the Legislature
6 on the status of the loan program, including the number and the
7 amounts of loans made, the amount of loans repaid, and a
8 comparison of the ethnic background of the loan recipients with
9 the ethnic background of the low-income fishing fleet operators.

10 SEC. 20. Section 11553 of the Government Code is amended
11 to read:

12 11553. (a) Effective January 1, 1988, an annual salary of
13 eighty-one thousand six hundred thirty-five dollars (\$81,635) shall
14 be paid to each of the following:

15 (1) Chairperson of the Unemployment Insurance Appeals Board.

16 (2) Chairperson of the Agricultural Labor Relations Board.

17 (3) President of the Public Utilities Commission.

18 (4) Chairperson of the Fair Political Practices Commission.

19 ~~(5) Chairperson of the Energy Resources Conservation and~~
20 ~~Development Commission:~~

21 ~~(6)~~

22 (5) Chairperson of the Public Employment Relations Board.

23 ~~(7)~~

24 (6) Chairperson of the Workers' Compensation Appeals Board.

25 ~~(8)~~

26 (7) Administrative Director of the Division of Industrial
27 Accidents.

28 ~~(9)~~

29 (8) Chairperson of the State Water Resources Control Board.

30 ~~(10)~~

31 (9) Chairperson and each member of the California Integrated
32 Waste Management Board.

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

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

1 SEC. 21. Section 12802.5 of the Government Code is amended
2 to read:

3 12802.5. The Governor may, with respect to the *Natural*
4 *Resources Agency*, appoint ~~an Assistant~~ *a Deputy* Secretary for
5 Energy Matters who may serve as Secretary ~~for~~ *of the Natural*
6 *Resources Agency* designee on the *California Energy Resources*
7 ~~Conservation and Development~~ Commission and *appoint* an
8 Assistant Secretary for Coastal Matters who may serve as Secretary
9 ~~for~~ *of the Natural Resources Agency* designee on the ~~State~~
10 *California Coastal* Commission.

11 SEC. 22. Section 12805 of the Government Code is amended
12 to read:

13 12805. (a) The Resources Agency is hereby renamed the
14 Natural Resources Agency. The Natural Resources Agency consists
15 of the departments of *Energy*, Forestry and Fire Protection,
16 Conservation, Fish and Game, Boating and Waterways, Parks and
17 Recreation, and Water Resources; the State Lands Commission;
18 the Colorado River Board; the San Francisco Bay Conservation
19 and Development Commission; the Central Valley Flood Protection
20 Board; ~~the Energy Resources Conservation and Development~~
21 ~~Commission~~; the Wildlife Conservation Board; the Delta Protection
22 Commission; the Native American Heritage Commission; the
23 California Conservation Corps; the California Coastal Commission;
24 the State Coastal Conservancy; the California Tahoe Conservancy;
25 the Santa Monica Mountains Conservancy; the Coachella Valley
26 Mountains Conservancy; the San Joaquin River Conservancy; the
27 San Gabriel and Lower Los Angeles Rivers and Mountains
28 Conservancy; the Baldwin Hills Conservancy; the San Diego River
29 Conservancy; and the Sierra Nevada Conservancy.

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

34 SEC. 23. Section 14450 of the Government Code is amended
35 to read:

36 14450. The department, in preparing its research and
37 development program, shall consult with other parts of the
38 transportation industry, including the private and public sectors,
39 in order to obtain maximum input designed to develop a balanced
40 multimodal research and development program. The department

1 shall also consult with affected state agencies, including the
2 Department of Motor Vehicles, the State Air Resources Board,
3 ~~the State Energy Resources Conservation and Development~~
4 ~~Commission~~, *Department of Energy*, and the Department of the
5 California Highway Patrol.

6 SEC. 24. Section 14684 of the Government Code is amended
7 to read:

8 14684. (a) The department, in consultation with the ~~State~~
9 ~~Energy Resources Conservation and Development Commission~~,
10 *Department of Energy*, shall ensure that solar energy equipment
11 is installed, no later than January 1, 2007, on all state buildings
12 and state parking facilities, where feasible. The department shall
13 establish a schedule designating when solar energy equipment will
14 be installed on each building and facility, with priority given to
15 buildings and facilities where installation is most feasible, both
16 for state building and facility use and consumption and local
17 publicly owned electric utility use, where feasible.

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

21 (c) For purposes of this section, it is feasible to install solar
22 energy equipment if adequate space on a building is available, and
23 if the solar energy equipment is cost-effective.

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

27 (e) The department may adopt regulations for the purposes of
28 this section as emergency regulations in accordance with Chapter
29 3.5 (commencing with Section 11340) of Part 1. For purposes of
30 Chapter 3.5 (commencing with Section 11340) of Part 1, including,
31 but not limited to, Section 11349.6, the adoption of the regulations
32 shall be considered by the Office of Administrative Law to be
33 necessary for the immediate preservation of the public peace,
34 health, safety, and general welfare. Notwithstanding the 120-day
35 limit specified in subdivision (e) of Section 11346.1, the regulations
36 shall be repealed 180 days after their effective date, unless the
37 department complies with Chapter 3.5 (commencing with Section
38 11340) of Part 1 as provided in subdivision (e) of Section 11346.1.

39 (f) For purposes of this section, the following terms have the
40 following meanings:

1 (1) “Cost-effective” means that the present value of the savings
 2 generated over the life of the solar energy system, including
 3 consideration of the value of the energy produced during peak and
 4 off-peak demand periods and the value of a reliable energy supply
 5 not subject to price volatility, shall exceed the present value cost
 6 of the solar energy equipment by not less than 10 percent. The
 7 present value cost of the solar energy equipment does not include
 8 the cost of unrelated building components. The department, in
 9 making the present value assessment, shall obtain interest rates,
 10 discount rates, and consumer price index figures from the
 11 Treasurer, and shall take into consideration air emission reduction
 12 benefits.

13 (2) “Local publicly owned electric utility” means a local publicly
 14 owned electric utility as defined in Section 9604 of the Public
 15 Utilities Code.

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

19 SEC. 25. Section 14684.1 of the Government Code is amended
 20 to read:

21 14684.1. (a) The department, in consultation with the ~~State~~
 22 ~~Energy Resources Conservation and Development Commission,~~
 23 *Department of Energy*, shall ensure that solar energy equipment
 24 is installed, no later than January 1, 2009, on all state buildings,
 25 state parking facilities, and state-owned swimming pools that are
 26 heated with fossil fuels or electricity, where feasible. The
 27 department shall establish a schedule designating when solar energy
 28 equipment will be installed on each building and facility, with
 29 priority given to buildings and facilities where installation is most
 30 feasible.

31 (b) Solar energy equipment shall be installed, where feasible,
 32 as part of the construction of all state buildings and state parking
 33 facilities for which construction commences on or after January
 34 1, 2008.

35 (c) For purposes of this section, it is feasible to install solar
 36 energy equipment if adequate space on or adjacent to a building
 37 is available, if the solar energy equipment is cost-effective, and if
 38 funding is available from the state or another source.

39 (d) Any solar energy equipment installed pursuant to this section
 40 shall meet applicable standards and requirements imposed by state

1 and local permitting authorities, including, but not limited to, all
2 of the following:

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

7 (2) All applicable safety and performance standards established
8 by the National Electrical Code, the Institute of Electrical and
9 Electronics Engineers, and accredited testing laboratories, such as
10 the Underwriters Laboratories.

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

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

16 (f) The department may adopt regulations for the purposes of
17 this section as emergency regulations in accordance with Chapter
18 3.5 (commencing with Section 11340) of Part 1. For purposes of
19 that chapter, including, but not limited to, Section 11349.6, the
20 adoption of the regulations shall be considered by the Office of
21 Administrative Law to be necessary for the immediate preservation
22 of the public peace, health, safety, and general welfare.
23 Notwithstanding the 120-day limit specified in subdivision (e) of
24 Section 11346.1, the regulations shall be repealed 180 days after
25 their effective date, unless the department complies with Chapter
26 3.5 (commencing with Section 11340) of Part 1 as provided in
27 subdivision (e) of Section 11346.1.

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

31 (h) For purposes of this section, the following terms have the
32 following meanings:

33 (1) “Cost-effective” means that the present value of the savings
34 generated over the life of the solar energy system, including
35 consideration of the value of the energy produced during peak and
36 off-peak demand periods and the value of a reliable energy supply
37 not subject to price volatility, shall exceed the present value cost
38 of the solar energy equipment by not less than 10 percent. The
39 present value cost of the solar energy equipment does not include
40 the cost of unrelated building components. The department, in

1 making the present value assessment, shall obtain interest rates,
2 discount rates, and consumer price index figures from the
3 Treasurer, and shall take into consideration air emission reduction
4 benefits and the value of stable energy costs.

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

8 (3) “Solar energy equipment” means equipment whose primary
9 purpose is to provide for the collection, conversion, storage, or
10 control of solar energy for the purpose of heat production,
11 electricity production, or simultaneous heat and electricity
12 production.

13 SEC. 26. Section 15814.22 of the Government Code is amended
14 to read:

15 15814.22. The Department of General Services, in consultation
16 with the ~~California Energy Resources Conservation and~~
17 ~~Development Commission~~ *Department of Energy* and other state
18 agencies and departments, shall develop a multiyear plan, to be
19 updated biennially, with the goal of exploiting all practicable and
20 cost-effective energy efficiency measures in state facilities. The
21 department shall coordinate plan implementation efforts; and make
22 recommendations to the Governor and the Legislature to achieve
23 energy efficiency goals for state facilities.

24 SEC. 27. Section 15814.23 of the Government Code is amended
25 to read:

26 15814.23. The Department of General Services or each state
27 agency having jurisdiction shall ensure that all new state buildings
28 are designed and constructed to meet at least the minimum energy
29 efficiencies specified in standards adopted by the ~~State Energy~~
30 ~~Resources Conservation and Development Commission~~
31 *Department of Energy* pursuant to Section 25402 of the Public
32 Resources Code. In the design and construction of new state
33 buildings, the department or other responsible state agency shall
34 also consider additional state-of-the-art energy efficiency design
35 measures and equipment, beyond those required by the standards,
36 that are cost-effective and feasible.

37 SEC. 28. Section 15814.25 of the Government Code, as
38 amended by Section 48 of Chapter 193 of the Statutes of 2004, is
39 amended and renumbered to read:

1 ~~15814.25.~~

2 *15814.24.1.* Energy conservation measures eligible for
3 financing by kindergarten through grade 12 schools shall be limited
4 to those measures recommended pursuant to an energy audit
5 provided by the ~~State Energy Resources Conservation and~~
6 ~~Development Commission~~ *Department of Energy* under its existing
7 authority.

8 SEC. 29. Section 15814.30 of the Government Code is amended
9 to read:

10 15814.30. (a) All new public buildings for which construction
11 begins after January 1, 1993, shall be models of energy efficiency
12 and shall be designed, constructed, and equipped with all energy
13 efficiency measures, materials, and devices that are feasible and
14 cost-effective over the life of the building or the life of the energy
15 efficiency measure, whichever is less.

16 (b) In determining which energy efficiency measures, materials,
17 and devices are feasible and cost-effective over the life of the
18 building, the State Architect and the Department of General
19 Services shall consult with the ~~State Energy Resources~~
20 ~~Conservation and Development Commission.~~ *Department of*
21 *Energy.*

22 (c) For purposes of this section, “cost-effective” means that
23 savings generated over the life of the building or the life of the
24 energy efficiency measure, whichever is less, shall exceed the cost
25 of purchasing and installing the energy efficiency measures,
26 materials, or devices by not less than 10 percent.

27 SEC. 30. Section 15814.34 of the Government Code is amended
28 to read:

29 15814.34. (a) The Legislature finds and declares all of the
30 following:

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

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

38 (3) Commodities necessary for state operations may be
39 purchased directly by the state department or agency using the

1 commodity, or may be purchased by the Department of General
2 Services on behalf of other state departments or agencies.

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

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

10 (1) Identify commodities purchased by the department that,
11 individually or on a statewide basis, consume a significant amount
12 of energy.

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

15 (A) The brand or model of the commodity purchased by the
16 department.

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

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

24 (c) In order to assist other agencies and departments in
25 identifying commodities with the lowest life cycle costs, the
26 Department of General Services shall distribute the following to
27 all state agencies and departments:

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

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

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

36 (e) Notwithstanding any other provision of law, all state agencies
37 and departments shall purchase those commodities identified
38 pursuant to subdivision (b) that have the lowest life cycle costs
39 and that meet the applicable specifications, and shall make every

1 reasonable effort to identify and purchase other commodities with
2 the lowest life cycle costs.

3 (f) “Life cycle cost” for the purposes of this section, means the
4 total cost of purchasing, installing, maintaining, and operating a
5 device or system during its reasonably expected life. It includes,
6 but is not necessarily limited to, capital costs, labor costs, energy
7 costs, and operating and maintenance costs.

8 SEC. 31. Section 66645 of the Government Code is amended
9 to read:

10 66645. (a) In addition to the provisions of Sections 25302,
11 25500, 25507, 25508, 25514, 25516.1, 25519, 25523, and 25526
12 of the Public Resources Code, the provisions of this section shall
13 apply to the commission and the ~~State Energy Resources~~
14 ~~Conservation and Development Commission~~ *Department of Energy*
15 with respect to matters within the statutory responsibility of the
16 latter.

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

1 ~~Development Commission~~ *Department of Energy* in its most
 2 recently promulgated comprehensive report issued pursuant to
 3 ~~former~~ Section 25309 of the Public Resources Code. The
 4 commission also shall request the assistance of the ~~State Energy~~
 5 ~~Resources Conservation and Development Commission~~
 6 *Department of Energy* in carrying out the requirements of this
 7 section. The commission shall transmit a copy of its report prepared
 8 pursuant to this subdivision to the ~~State Energy Resources~~
 9 ~~Conservation and Development Commission~~. *Department of*
 10 *Energy*.

11 (c) The commission shall revise and update the designations
 12 specified in subdivision (b) not less than once every five years.
 13 ~~The provisions of subdivision~~ *Subdivision* (b) shall not apply to
 14 any sites and related facilities specified in any notice of intention
 15 to file an application for certification filed pursuant to Section
 16 25502 of the Public Resources Code prior to designation of
 17 additional locations made by the commission pursuant to this
 18 subdivision.

19 (d) Whenever the ~~State Energy Resources Conservation and~~
 20 ~~Development Commission~~ *Secretary of Energy* exercises its siting
 21 authority and undertakes proceedings pursuant to ~~the provisions~~
 22 ~~of~~ Chapter 6 (commencing with Section 25500) of Division 15 of
 23 the Public Resources Code with respect to any ~~thermal~~ powerplant
 24 or transmission line to be located, in whole or in part, within the
 25 Suisun Marsh or the area of jurisdiction of the commission, the
 26 commission shall participate in those proceedings and shall receive
 27 from the ~~State Energy Resources Conservation and Development~~
 28 ~~Commission~~ *Department of Energy* any notice of intention to file
 29 an application for certification of a site and related facilities within
 30 the Suisun Marsh or the area of jurisdiction of the commission.
 31 The commission shall analyze each notice of intention and, prior
 32 to commencement of the hearings conducted pursuant to Section
 33 25513 of the Public Resources Code, shall forward to the ~~State~~
 34 ~~Energy Resources Conservation and Development Commission~~
 35 *Department of Energy* a written report on the suitability of the
 36 proposed site and related facilities specified in that notice. The
 37 commission's report shall contain a consideration of, and findings
 38 regarding, the following:

39 (1) If it is to be located within the Suisun Marsh, the consistency
 40 of the proposed site and related facilities, with ~~the provisions of~~

1 this title and Division 19 (commencing with Section 29000) of the
 2 Public Resources Code, the policies of the Suisun Marsh Protection
 3 Plan~~(as, as~~ defined in Section 29113 of the Public Resources
 4 Code~~) Code~~, and the certified local protection program~~(as, as~~
 5 defined in Section 29111 of the Public Resources Code~~) Code~~, if
 6 any.

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

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

16 (4) ~~Such~~Any other matters as the commission deems appropriate
 17 and necessary to carry out Division 19 (commencing with Section
 18 29000) of the Public Resources Code.

19 SEC. 32. Section 66646 of the Government Code is amended
 20 to read:

21 66646. Notwithstanding any other provision of this title, except
 22 subdivisions (b) and (c) of Section 66645, and notwithstanding
 23 any provision of Division 19 (commencing with Section 29000)
 24 of the Public Resources Code, new or expanded~~thermal~~ electric
 25 generating plants may be constructed within the Suisun Marsh, as
 26 defined in Section 29101 of the Public Resources Code, or the area
 27 of jurisdiction of the commission, if the proposed site has been
 28 determined, pursuant to~~the provisions of~~ Section 25516.1 of the
 29 Public Resources Code, by the~~State Energy Resources~~
 30 ~~Conservation and Development Commission~~ *Department of Energy*
 31 to have greater relative merit than available alternative sites and
 32 related facilities for an applicant’s service area~~which that~~ have
 33 been determined to be acceptable pursuant to~~the provisions of~~
 34 Section 25516 of the Public Resources Code.

35 SEC. 33. Section 3805.5 of the Public Resources Code is
 36 repealed.

37 3805.5. ~~“Commission” means the State Energy Resources~~
 38 ~~Conservation and Development Commission.~~

39 SEC. 34. Section 3806.5 is added to the Public Resources Code,
 40 to read:

1 3806.5. “Department” means the Department of Energy.

2 SEC. 35. Section 3808 of the Public Resources Code is
3 amended to read:

4 3808. (a) “Geothermal resources” means geothermal resources
5 designated by the United States Geological Survey or the
6 Department of Conservation, or by both.

7 ~~The department~~

8 (b) *The Department of Conservation* shall periodically review,
9 and revise as necessary, its designation of geothermal resource
10 areas and shall transmit any changes to the ~~State Energy Resources~~
11 ~~Conservation and Development Commission.~~ *department.*

12 SEC. 36. Section 3810 of the Public Resources Code is
13 amended to read:

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

27 (2) An award repayment or program reimbursement agreement
28 shall specify the method to be used by the ~~commission~~ *department*
29 to determine and establish the terms of repayment and
30 reimbursement of the award.

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

34 (4) Subject to the confidentiality requirements of Section 2505
35 of Title 20 of the California Code of Regulations, the ~~commission~~
36 *department* may require access to financial, sales, and production
37 information, and to other agreements involving transactions of the
38 award recipient, affiliates of the award recipient, and third parties,
39 as necessary, to ascertain the royalties or other payments due the
40 ~~commission~~ *department.*

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

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

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

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

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

15 (c) (1) The ~~commission~~ *department* may require that the
16 intellectual property developed, made possible, or derived, in whole
17 or in part, as a result of the award repayment or program
18 reimbursement agreement, revert to the state upon a default in the
19 terms of the award repayment or program reimbursement
20 agreement or royalty agreement.

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

23 SEC. 37. Section 3822 of the Public Resources Code is
24 amended to read:

25 3822. (a) Thirty percent of the revenues received and deposited
26 in the Geothermal Resources Development Account shall be
27 available for expenditure by the ~~commission~~ *department* as grants
28 or loans to local jurisdictions or private entities without regard to
29 fiscal years. These revenues shall be held by the ~~commission~~
30 *department* in the Local Government Geothermal Resources
31 Revolving Subaccount, which is hereby created in the Geothermal
32 Resources Development Account. Loan repayments shall be
33 deposited in the subaccount and shall be used for making additional
34 grants and loans pursuant to Section 3823.

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

38 (c) Each recipient of a grant or loan made pursuant to this section
39 shall establish, for the deposit of the revenues, an account or fund
40 that is separate from the other accounts and funds of the recipient,

1 and may expend the revenues only for the purposes specified in
 2 this chapter.

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

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

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

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

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

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

29 SEC. 38. Section 3822.1 of the Public Resources Code is
 30 amended to read:

31 3822.1. Notwithstanding any other provision of law,
 32 commencing with the 1984–85 fiscal year and in each fiscal year
 33 thereafter, any revenues not granted pursuant to Section 3822
 34 remaining in the Geothermal Resources Development Account
 35 and any revenues expected to be received and disbursed during
 36 the 1984–85 fiscal year and in each fiscal year thereafter shall be
 37 made a part of the Governor’s Budget. Projects approved by the
 38 ~~State Energy Resources Conservation and Development~~
 39 ~~Commission~~ *department* under this chapter shall be submitted for
 40 review and comment to the Department of Finance, the Legislative

1 Analyst, and the Joint Legislative Budget Committee when the
 2 Legislature is in session. After a 30-day period, the ~~commission~~
 3 *department* shall execute the funding agreements. The ~~commission~~
 4 *department* shall submit to the Legislature by April 1 of each year,
 5 a list of projects, in priority order, selected and approved during
 6 the previous year.

7 SEC. 39. Section 3822.2 of the Public Resources Code is
 8 amended to read:

9 3822.2. (a) Notwithstanding any other provision of law, the
 10 ~~State Energy Resources Conservation and Development~~
 11 ~~Commission~~ *department* may expend funds, from that portion of
 12 the Geothermal Resources Development Account used by the
 13 ~~commission~~ *department* for grants and loans, to provide direct
 14 technical assistance to local jurisdictions ~~which~~ *that* are eligible
 15 for grants and loans pursuant to Section 3822.

16 (b) The total of all amounts expended pursuant to this section
 17 shall not exceed 5 percent of all funds available under Section
 18 3822 or one hundred thousand dollars (\$100,000), whichever
 19 amount is less.

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

- 23 (1) The availability of energy resource and technology
 24 opportunities.
- 25 (2) The project definition and likelihood of success.
- 26 (3) Local needs and potential project benefits.

27 SEC. 40. Section 4799.16 of the Public Resources Code is
 28 amended to read:

29 4799.16. The department shall coordinate its activities and
 30 cooperate with the ~~State Energy Resources Conservation and~~
 31 ~~Development Commission~~ *Department of Energy* in the
 32 development of surveys, studies, and research concerning the
 33 utilization of wood waste and forest growth for energy. The
 34 department shall also coordinate its activities with other public
 35 and private agencies to insure that the activities of the department
 36 and ~~such~~ *those* other agencies are not duplicative and the maximum
 37 benefit occurs from actions taken by the department to carry out
 38 its responsibilities pursuant to this chapter.

39 SEC. 41. Section 6815.2 of the Public Resources Code is
 40 amended to read:

1 6815.2. (a) Notwithstanding Section 6815.1, the commission
 2 may take any oil, gas, or other hydrocarbons taken in kind by it,
 3 pursuant to any lease or agreement, and exchange it, by competitive
 4 bidding, for refined products ~~which~~ *that* shall be allocated to state
 5 agencies and to other public agencies, if the ~~State Energy Resources~~
 6 ~~Conservation and Development Commission, established pursuant~~
 7 ~~to Division 15 (commencing with Section 25000);~~ *Department of*
 8 *Energy*, after a public hearing, finds, in its judgment, that ~~such~~ *the*
 9 retention and allocation is necessary to alleviate fuel shortage
 10 conditions or will effect a substantial cost saving to the state.

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

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

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

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

36 (2) The commission shall charge the state or other public
 37 agencies allocated in kind oil, gas, or other hydrocarbons the
 38 current market price of these products, including all applicable
 39 taxes. This price shall not be less than the value of the oil, gas, or
 40 other hydrocarbons ~~which~~ *that* would have been received by the

1 state if not taken in kind. The commission may also charge for any
2 transportation, treatment, or other costs associated with taking the
3 in kind royalty. The revenue shall be subject to the terms and
4 conditions enumerated in Section 6217. The taxes generated by
5 these sales shall be distributed according to applicable provisions
6 of the Revenue and Taxation Code.

7 SEC. 42. Section 14584 of the Public Resources Code is
8 amended to read:

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

16 (b) Corporations, companies, or individuals may apply for loan
17 and grant funds from the Energy Technologies Research,
18 Development, and Demonstration Account specified in Section
19 25683 by applying to the ~~State Energy Resources Conservation~~
20 ~~and Development Commission~~ *Department of Energy* for the
21 purpose of demonstrating equipment for enhancing recycling
22 opportunities.

23 SEC. 43. Section 21080 of the Public Resources Code is
24 amended to read:

25 21080. (a) Except as otherwise provided in this division, this
26 division shall apply to discretionary projects proposed to be carried
27 out or approved by public agencies, including, but not limited to,
28 the enactment and amendment of zoning ordinances, the issuance
29 of zoning variances, the issuance of conditional use permits, and
30 the approval of tentative subdivision maps unless the project is
31 exempt from this division.

32 (b) This division does not apply to any of the following
33 activities:

34 (1) Ministerial projects proposed to be carried out or approved
35 by public agencies.

36 (2) Emergency repairs to public service facilities necessary to
37 maintain service.

38 (3) Projects undertaken, carried out, or approved by a public
39 agency to maintain, repair, restore, demolish, or replace property
40 or facilities damaged or destroyed as a result of a disaster in a

1 disaster-stricken area in which a state of emergency has been
2 proclaimed by the Governor pursuant to Chapter 7 (commencing
3 with Section 8550) of Division 1 of Title 2 of the Government
4 Code.

5 (4) Specific actions necessary to prevent or mitigate an
6 emergency.

7 (5) Projects ~~which~~ *that* a public agency rejects or disapproves.

8 (6) Actions undertaken by a public agency relating to any
9 ~~thermal~~ powerplant site or facility, including the expenditure,
10 obligation, or encumbrance of funds by a public agency for
11 planning, engineering, or design purposes, or for the conditional
12 sale or purchase of equipment, fuel, water (except groundwater),
13 steam, or power for a ~~thermal~~ powerplant, if the powerplant site
14 and related facility will be the subject of an environmental impact
15 report, negative declaration, or other document, prepared pursuant
16 to a regulatory program certified pursuant to Section 21080.5,
17 which will be prepared by the ~~State Energy Resources Conservation~~
18 ~~and Development Commission~~, *Department of Energy*, by the
19 Public Utilities Commission, or by the city or county in which the
20 powerplant and related facility would be located if the
21 environmental impact report, negative declaration, or document
22 includes the environmental impact, if any, of the action described
23 in this paragraph.

24 (7) Activities or approvals necessary to the bidding for, hosting
25 or staging of, and funding or carrying out of, an Olympic games
26 under the authority of the International Olympic Committee, except
27 for the construction of facilities necessary for the Olympic games.

28 (8) The establishment, modification, structuring, restructuring,
29 or approval of rates, tolls, fares, or other charges by public agencies
30 ~~which~~ *that* the public agency finds are for the purpose of (A)
31 meeting operating expenses, including employee wage rates and
32 fringe benefits, (B) purchasing or leasing supplies, equipment, or
33 materials, (C) meeting financial reserve needs and requirements,
34 (D) obtaining funds for capital projects necessary to maintain
35 service within existing service areas, or (E) obtaining funds
36 necessary to maintain those intracity transfers as are authorized
37 by city charter. The public agency shall incorporate written findings
38 in the record of any proceeding in which an exemption under this
39 paragraph is claimed setting forth with specificity the basis for the
40 claim of exemption.

1 (9) All classes of projects designated pursuant to Section 21084.

2 (10) A project for the institution or increase of passenger or
3 commuter services on rail or highway rights-of-way already in
4 use, including modernization of existing stations and parking
5 facilities.

6 (11) A project for the institution or increase of passenger or
7 commuter service on high-occupancy vehicle lanes already in use,
8 including the modernization of existing stations and parking
9 facilities.

10 (12) Facility extensions not to exceed four miles in length ~~which~~
11 *that* are required for the transfer of passengers from or to exclusive
12 public mass transit guideway or busway public transit services.

13 (13) A project for the development of a regional transportation
14 improvement program, the state transportation improvement
15 program, or a congestion management program prepared pursuant
16 to Section 65089 of the Government Code.

17 (14) Any project or portion thereof located in another state
18 ~~which~~ *that* will be subject to environmental impact review pursuant
19 to the National Environmental Policy Act of 1969 (42 U.S.C. Sec.
20 4321 et seq.) or similar state laws of that state. Any emissions or
21 discharges that would have a significant effect on the environment
22 in this state are subject to this division.

23 (15) Projects undertaken by a local agency to implement a rule
24 or regulation imposed by a state agency, board, or commission
25 under a certified regulatory program pursuant to Section 21080.5.
26 Any site-specific effect of the project ~~which~~ *that* was not analyzed
27 as a significant effect on the environment in the plan or other
28 written documentation required by Section 21080.5 is subject to
29 this division.

30 (c) If a lead agency determines that a proposed project, not
31 otherwise exempt from this division, would not have a significant
32 effect on the environment, the lead agency shall adopt a negative
33 declaration to that effect. The negative declaration shall be prepared
34 for the proposed project in either of the following circumstances:

35 (1) There is no substantial evidence, in light of the whole record
36 before the lead agency, that the project may have a significant
37 effect on the environment.

38 (2) An initial study identifies potentially significant effects on
39 the environment, but (A) revisions in the project plans or proposals
40 made by, or agreed to by, the applicant before the proposed

1 negative declaration and initial study are released for public review
2 would avoid the effects or mitigate the effects to a point where
3 clearly no significant effect on the environment would occur, and
4 (B) there is no substantial evidence, in light of the whole record
5 before the lead agency, that the project, as revised, may have a
6 significant effect on the environment.

7 (d) If there is substantial evidence, in light of the whole record
8 before the lead agency, that the project may have a significant
9 effect on the environment, an environmental impact report shall
10 be prepared.

11 (e) (1) For the purposes of this section and this division,
12 substantial evidence includes fact, a reasonable assumption
13 predicated upon fact, or expert opinion supported by fact.

14 (2) Substantial evidence is not argument, speculation,
15 unsubstantiated opinion or narrative, evidence that is clearly
16 inaccurate or erroneous, or evidence of social or economic impacts
17 that do not contribute to, or are not caused by, physical impacts
18 on the environment.

19 (f) As a result of the public review process for a mitigated
20 negative declaration, including administrative decisions and public
21 hearings, the lead agency may conclude that certain mitigation
22 measures identified pursuant to paragraph (2) of subdivision (c)
23 are infeasible or otherwise undesirable. In those circumstances,
24 the lead agency, prior to approving the project, may delete those
25 mitigation measures and substitute for them other mitigation
26 measures that the lead agency finds, after holding a public hearing
27 on the matter, are equivalent or more effective in mitigating
28 significant effects on the environment to a less than significant
29 level and that do not cause any potentially significant effect on the
30 environment. If those new mitigation measures are made conditions
31 of project approval or are otherwise made part of the project
32 approval, the deletion of the former measures and the substitution
33 of the new mitigation measures shall not constitute an action or
34 circumstance requiring recirculation of the mitigated negative
35 declaration.

36 (g) ~~Nothing in this~~ This section shall does not preclude a project
37 applicant or any other person from challenging, in an administrative
38 or judicial proceeding, the legality of a condition of project
39 approval imposed by the lead agency. If, however, any condition
40 of project approval set aside by either an administrative body or

1 court was necessary to avoid or lessen the likelihood of the
2 occurrence of a significant effect on the environment, the lead
3 agency’s approval of the negative declaration and project shall be
4 invalid and a new environmental review process shall be conducted
5 before the project can be reapproved, unless the lead agency
6 substitutes a new condition that the lead agency finds, after holding
7 a public hearing on the matter, is equivalent to, or more effective
8 in, lessening or avoiding significant effects on the environment
9 and that does not cause any potentially significant effect on the
10 environment.

11 SEC. 44. Section 25104 of the Public Resources Code is
12 amended to read:

13 25104. “Commission” means the ~~State Energy Resources~~
14 ~~Conservation and Development~~ *California Energy* Commission.

15 SEC. 45. Section 25104.1 is added to the Public Resources
16 Code, to read:

17 25104.1. (a) “Department” means the Department of Energy.

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

19 SEC. 46. Section 25104.2 is added to the Public Resources
20 Code, to read:

21 25104.2. “Secretary” means the Secretary of Energy.

22 SEC. 47. Section 25106 of the Public Resources Code is
23 amended to read:

24 25106. “Adviser” means the ~~administrative public~~ adviser
25 employed by the ~~commission department~~ pursuant to Section
26 ~~25217. 25217.1.~~

27 SEC. 48. Section 25107 of the Public Resources Code is
28 repealed.

29 ~~25107. “Electric transmission line” means any electric~~
30 ~~powerline carrying electric power from a thermal powerplant~~
31 ~~located within the state to a point of junction with any~~
32 ~~interconnected transmission system. “Electric transmission line”~~
33 ~~does not include any replacement on the existing site of existing~~
34 ~~electric powerlines with electric powerlines equivalent to such~~
35 ~~existing electric powerlines or the placement of new or additional~~
36 ~~conductors, insulators, or accessories related to such electric~~
37 ~~powerlines on supporting structures in existence on the effective~~
38 ~~date of this division or certified pursuant to this division.~~

39 SEC. 49. Section 25107 is added to the Public Resources Code,
40 to read:

1 25107. “Electric transmission line” means any of the following
2 and any appurtenant facilities, including, but not limited to,
3 substations, switching stations, and voltage regulating facilities:

4 (a) An electric power line carrying electric power from a
5 powerplant located within the state to a point of junction with any
6 interconnected transmission system. “Electric transmission line”
7 does not include any replacement on the existing site of existing
8 electric power lines with electric power lines equivalent to the
9 existing electric power lines or the placement of new or additional
10 conductors, insulators, or accessories related to the existing electric
11 power lines on supporting structures in existence on the effective
12 date of this division or certified pursuant to this division.

13 (b) An electric power line that is proposed to be built by a
14 merchant developer and that is either of the following:

15 (1) Designed for immediate or eventual operation at a maximum
16 rated voltage of 200 kilovolts or greater.

17 (2) Has a maximum rated voltage of 100 kilovolts or greater
18 and certification is sought following inclusion of that facility as
19 an element of the strategic plan adopted under Section 25324.

20 (c) An electric power line that meets the criteria in subdivision
21 (b) and that is proposed to be built by a municipal utility district
22 that chooses to submit an application for certification to the
23 commission for the electric power line.

24 SEC. 50. Section 25110 of the Public Resources Code is
25 amended to read:

26 25110. “Facility” means any electric transmission line or
27 ~~thermal~~ powerplant, or both electric transmission line and ~~thermal~~
28 powerplant, regulated according to ~~the provisions of~~ this division.

29 SEC. 51. Section 25112 of the Public Resources Code is
30 amended to read:

31 25112. “Member” or “member of the commission” means a
32 member of the ~~State Energy Resources Conservation and~~
33 ~~Development~~ *California Energy Commission designated or*
34 *appointed pursuant to Section ~~25200~~; 25203.*

35 SEC. 52. Section 25113 of the Public Resources Code is
36 repealed.

37 25113. “Notice” means ~~the notice of intent, as further defined~~
38 ~~in Chapter 6 (commencing with Section 25500), which shall state~~
39 ~~the intention of an applicant to file an application for certification~~
40 ~~of any site and related facility.~~

1 SEC. 53. Section 25120 of the Public Resources Code is
2 repealed.

3 ~~25120. “Thermal powerplant” means any stationary or floating~~
4 ~~electrical generating facility using any source of thermal energy,~~
5 ~~with a generating capacity of 50 megawatts or more, and any~~
6 ~~facilities appurtenant thereto. Exploratory, development, and~~
7 ~~production wells, resource transmission lines, and other related~~
8 ~~facilities used in connection with a geothermal exploratory project~~
9 ~~or a geothermal field development project are not appurtenant~~
10 ~~facilities for the purposes of this division.~~

11 ~~“Thermal powerplant” does not include any wind, hydroelectric,~~
12 ~~or solar photovoltaic electrical generating facility.~~

13 SEC. 54. Section 25120 is added to the Public Resources Code,
14 to read:

15 25120. “Powerplant” means a stationary or floating electrical
16 generating facility using any source of energy, with a generating
17 capacity of 50 megawatts or more, and any facilities appurtenant
18 to the generating facility. Exploratory, development, and production
19 wells, resource transmission lines, and other related facilities used
20 in connection with a geothermal exploratory project or a
21 geothermal field development project are not appurtenant facilities
22 for the purposes of this division.

23 SEC. 55. Section 25123 of the Public Resources Code is
24 amended to read:

25 25123. “Modification of an existing facility” means any
26 alteration, replacement, or improvement of equipment that results
27 in a 50-megawatt or more increase in the electric generating
28 capacity of an existing ~~thermal~~ powerplant or an increase of 25
29 percent in the peak operating voltage or peak kilowatt capacity of
30 an existing electric transmission line.

31 SEC. 56. The heading of Chapter 3 (commencing with Section
32 25200) of Division 15 of the Public Resources Code is amended
33 to read:

34

35 ~~CHAPTER 3. STATE ENERGY RESOURCES CONSERVATION AND~~
36 ~~DEVELOPMENT COMMISSION-DEPARTMENT OF ENERGY~~

37

38 SEC. 57. Section 25200 of the Public Resources Code is
39 repealed.

1 ~~25200. There is in the Resources Agency the State Energy~~
2 ~~Resources Conservation and Development Commission, consisting~~
3 ~~of five members appointed by the Governor subject to Section~~
4 ~~25204.~~

5 SEC. 58. Section 25200 is added to the Public Resources Code,
6 to read:

7 25200. (a) The Department of Energy is hereby created in
8 state government to be headed by the Secretary of Energy who
9 shall be appointed by, and hold office at the pleasure of, the
10 Governor, subject to Senate confirmation.

11 (b) The Secretary of Energy shall serve as the principal advisor
12 to the Governor on, and shall assist the Governor in establishing,
13 major policy and program matters on electric power and other
14 sources of energy as related to renewable energy, energy
15 conservation, environmental protection, and other goals and
16 policies established by this division.

17 (c) The Secretary of Energy shall have the power of a head of
18 a department pursuant to Chapter 2 (commencing with Section
19 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

20 (d) The Governor may appoint, and the Secretary of Energy
21 shall fix, the salary of an Assistant Secretary of Energy who shall
22 serve at the pleasure of the secretary.

23 (e) Consistent with the powers set forth in Chapter 2
24 (commencing with Section 12850) of Part 2.5 of Division 3 of
25 Title 2 of the Government Code, the Secretary of Energy shall
26 organize the department, with the approval of the Governor, in the
27 manner he or she deems necessary to properly conduct the
28 operations of the department. The secretary may employ legal
29 counsel who shall advise the department in connection with legal
30 matters and litigation before any boards, agencies, or courts of the
31 state or federal government.

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

35 (g) On or before April 1, 2010, the Secretary of Energy shall
36 submit to the Legislature a proposal to recodify statutory provisions
37 related to the department, and any other appropriate provisions,
38 into an Energy Code.

39 SEC. 59. Section 25201 of the Public Resources Code is
40 repealed.

1 ~~25201. One member of the commission shall have a background~~
2 ~~in the field of engineering or physical science and have knowledge~~
3 ~~of energy supply or conversion systems; one member shall be an~~
4 ~~attorney and a member of the State Bar of California with~~
5 ~~administrative law experience; one member shall have background~~
6 ~~and experience in the field of environmental protection or the study~~
7 ~~of ecosystems; one member shall be an economist with background~~
8 ~~and experience in the field of natural resource management; and~~
9 ~~one member shall be from the public at large.~~

10 SEC. 60. Section 25201 is added to the Public Resources Code,
11 to read:

12 25201. (a) The Department of Energy hereby succeeds to, and
13 is vested with, all the powers, duties, responsibilities, obligations,
14 liabilities, and jurisdiction of the following agencies, which shall
15 no longer exist, and shall be known as predecessor entities:

16 (1) The State Energy Resources Conservation and Development
17 Commission, some of whose former functions shall be
18 administrated by the California Energy Commission within the
19 department as provided by law or directly by the Secretary of
20 Energy.

21 (2) California Consumer Power and Conservation Financing
22 Authority.

23 (3) Electricity Oversight Board.

24 (b) Any reference in any law or regulation to any of the
25 predecessor entities listed in subdivision (a) shall be deemed to
26 refer to the Department of Energy or the California Energy
27 Commission, as appropriate, unless the context requires otherwise.

28 SEC. 61. Section 25202 of the Public Resources Code is
29 repealed.

30 ~~25202. The Secretary of the Resources Agency and the~~
31 ~~President of the Public Utilities Commission shall be ex officio,~~
32 ~~nonvoting members of the commission, whose presence shall not~~
33 ~~be counted for a quorum or for vote requirements.~~

34 SEC. 62. Section 25202 is added to the Public Resources Code,
35 to read:

36 25202. In addition to the powers, duties, responsibilities, and
37 jurisdiction specified in Section 25201, the Department of Energy
38 hereby succeeds to, and is vested with, all the powers, duties,
39 responsibilities, obligations, liabilities, and jurisdiction of all of
40 the following:

1 (a) The California Energy Extension Service of the Office of
2 Planning and Research.

3 (b) The functions of the Department of Water Resources related
4 to the purchase and sales of electric power under Division 27
5 (commencing with Section 1308) of the Water Code and all other
6 related functions of the Department of Water Resources pursuant
7 to that division, including, but not limited to, the issuance and
8 repayment of revenue bonds and the establishment and revision
9 of revenue requirements.

10 (c) All functions of the Energy Assessment Program or its
11 successor entity within the Department of General Services.

12 (d) All functions of the Energy Services Programs or their
13 successor entities in the Office of the State Architect within the
14 Department of General Services.

15 SEC. 63. Section 25203 of the Public Resources Code is
16 repealed.

17 ~~25203. Each member of the commission shall represent the~~
18 ~~state at large and not any particular area thereof, and shall serve~~
19 ~~on a full-time basis.~~

20 SEC. 64. Section 25203 is added to the Public Resources Code,
21 to read:

22 25203. (a) There is, in the state government, the California
23 Energy Commission, which is hereby created within the
24 Department of Energy.

25 (b) The commission shall consist of all of the following:

26 (1) The Secretary of Energy, who shall serve as the chair of the
27 commission.

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

30 (A) A person having a background in the field of engineering
31 or physical science with knowledge in energy supply or conversion
32 systems.

33 (B) A member of the State Bar of California with administrative
34 law experience.

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

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

39 (3) The president of the California Public Utilities Commission.

1 (4) The chief executive officer of the California Independent
2 System Operator.

3 (5) The Secretary of the Natural Resources Agency.

4 (c) The president of the California Public Utilities Commission,
5 the chief executive officer of the California Independent System
6 Operator, and the Secretary of the Natural Resources Agency shall
7 serve as ex-officio, nonvoting members of the commission, whose
8 presence shall not be counted for a quorum or for vote
9 requirements.

10 (d) (1) The Governor shall appoint the public members of the
11 commission, subject to confirmation by the Senate, for a term of
12 four years. The public members shall serve staggered terms.

13 (2) A vacancy shall be filled by the Governor within 30 days
14 of the date on which a vacancy occurs for the unexpired portion
15 of the term in which it occurs or for any new term of office. If the
16 Governor fails to make an appointment for a vacancy within the
17 30-day period, the Senate Committee on Rules may make the
18 appointment to fill the vacancy for the unexpired portion of the
19 term in which the vacancy occurred or for any new term of office.

20 (3) On or before January 31, 2010, the Governor shall appoint
21 the initial members of the commission. Every appointment made
22 by the Governor to the commission shall be subject to the advice
23 and consent of a majority of the members elected to the Senate.

24 (4) The terms of office of the members of the commission shall
25 be for four years, except that the members first appointed to the
26 commission shall classify themselves by lot so that the term of
27 office of one member shall expire at the end of each one of the
28 four years following the effective date of this division. Any
29 vacancy shall be filled by the Governor within 30 days of the date
30 on which a vacancy occurs for the unexpired portion of the term
31 in which it occurs or for any new term of office.

32 (5) Each board member holding office on December 31, 2009,
33 shall continue to serve until his or her successor is appointed and
34 has been qualified to hold office. The order of replacement shall
35 be determined by lot.

36 (e) Each member of the commission shall represent the state at
37 large and not any particular area thereof, and shall serve on a
38 full-time basis.

39 (f) The secretary may name a designee who may act in the place
40 of the secretary in hearing any matter before the commission,

1 except on any matter for which the secretary determines he or she
2 may have a conflict of interest in hearing a case. The participation
3 of the designee will count for quorum and voting purposes.

4 (g) The commission hereby succeeds to, and is vested with, all
5 powers, duties, obligations, liabilities, responsibilities, and
6 jurisdiction of the predecessor State Energy Resources
7 Conservation and Development Commission set forth in Chapter
8 6 (commencing with Section 25500).

9 (h) Meetings of the commission shall be open to the public and
10 shall be conducted in accordance with the Bagley-Keene Open
11 Meeting Act (Article 9 (commencing with Section 11120) of
12 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
13 Code).

14 (i) The secretary may delegate to the commission the conduct
15 of a rulemaking, policy investigation, or quasi-adjudicatory
16 proceeding or other power or duty of the secretary if the secretary
17 determines that doing so would not conflict with other
18 responsibilities of the commission and that utilizing the procedures
19 of the commission would serve the public interest.

20 SEC. 65. Section 25204 of the Public Resources Code is
21 repealed.

22 ~~25204. The Governor shall appoint the members of the~~
23 ~~commission within 30 days after the effective date of this division.~~
24 ~~Every appointment made by the Governor to the commission shall~~
25 ~~be subject to the advice and consent of a majority of the members~~
26 ~~elected to the Senate.~~

27 SEC. 66. Section 25204 is added to the Public Resources Code,
28 to read:

29 25204. (a) All regulations and orders adopted by an entity
30 listed in subdivision (a) of Section 25201 or an entity listed in
31 Section 25202 with regard to functions of that entity described in
32 that section, and any of their predecessors in effect on or before
33 January 1, 2010, shall remain in effect with respect to the programs
34 and functions for which they were adopted, and shall be fully
35 enforceable unless and until readopted, amended, or repealed, or
36 until they expire by their own terms.

37 (b) Except as otherwise specified, a statute, law, rule, or
38 regulation now in force, or that may hereafter be enacted or adopted
39 that references an entity listed in subdivision (a) of Section 25201,
40 or an entity listed in Section 25202 with regard to functions of that

1 entity described in that section, or any of their predecessors shall
2 mean the Department of Energy.

3 (c) An action by or against the entities listed in subdivision (a)
4 of Section 25201 or Section 25202, or any of their predecessors
5 shall not abate but, except as provided in Section 25227.3, shall
6 continue in the name of the Department of Energy and the
7 department shall be substituted for the entities and any of their
8 predecessors by the court where the action is pending. The
9 substitution shall not in any way affect the rights of the parties to
10 the action.

11 (d) With respect to the members of the California Energy
12 Commission other than public members appointed pursuant to
13 paragraph (2) of subdivision (b) of Section 25203 or continuing
14 to serve pursuant to paragraph (3) of subdivision (d) of Section
15 25203, the rule in effect regarding *ex parte* communications shall
16 be applicable only as to communications regarding a matter
17 pending before the commission.

18 SEC. 67. Section 25205 of the Public Resources Code is
19 amended to read:

20 25205. (a) ~~No~~—A person shall *not* be a member of the
21 commission *pursuant to paragraph (2) of subdivision (b) of Section*
22 *25203* who, during the two years prior to appointment on the
23 commission, received any substantial portion of his or her income
24 directly or indirectly from any electric utility, or who engages in
25 sale or manufacture of any major component of any facility *subject*
26 *to licensing by the commission*. A member of the commission shall
27 not be employed by any electric utility, applicant, or, within two
28 years after he or she ceases to be a member of the commission, by
29 any person who engages in the sale or manufacture of any major
30 component of any facility *subject to licensing by the commission*.

31 (b) Except as provided in Section ~~25202~~, 25203, the members
32 of the commission shall not hold any other elected or appointed
33 public office or position.

34 (c) The members of the commission and all employees of the
35 commission shall comply with all applicable provisions of Section
36 19251 of the Government Code.

37 (d) A person who is a member or employee of the commission
38 shall not participate personally and substantially as a member or
39 employee of the commission, through decision, approval,
40 disapproval, recommendation, the rendering of advice,

1 investigation, or otherwise, in a judicial or other proceeding,
2 hearing, application, request for a ruling, or other determination,
3 contract, claim, controversy, study, plan, or other particular matter
4 in which, to his or her knowledge, he or she, his or her spouse,
5 minor child, or partner, or any organization, except a governmental
6 agency or educational or research institution qualifying as a
7 nonprofit organization under state or federal income tax law, in
8 which he or she is serving, or has served as officer, director, trustee,
9 partner, or employee while serving as a member or employee of
10 the commission or within two years prior to his or her appointment
11 as a member of the commission, has a direct or indirect financial
12 interest.

13 (e) A person who is a partner, employer, or employee of a
14 member or employee of the commission shall not act as an attorney,
15 agent, or employee for any person other than the state in connection
16 with any judicial or other proceeding, hearing, application, request
17 for a ruling, or other determination, contract, claim, controversy,
18 study, plan, or other particular matter in which the commission is
19 a party or has a direct and substantial interest.

20 (f) ~~The provisions of this~~ This section shall not apply if the
21 Attorney General finds that the interest of the member or employee
22 of the commission is not so substantial as to be deemed likely to
23 affect the integrity of the services ~~which~~ that the state may expect
24 from the member or employee.

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

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

32 SEC. 68. Section 25205.5 is added to the Public Resources
33 Code, to read:

34 25205.5. A contract, lease, license, bond, or any other
35 agreement to which an entity listed in subdivision (a) of Section
36 25201, or an entity listed in Section 25202 with regard to functions
37 of that entity described in that section, or any of their predecessors
38 are a party shall not be void or voidable by reason of this act, but
39 shall continue in full force and effect, with the Department of
40 Energy assuming all the rights, obligations, liabilities, and duties

1 of the entity and any of its predecessors. That assumption by the
2 department shall not in any way affect the rights of the parties to
3 the contract, lease, license, or agreement. Bonds issued by the
4 entity or any of its predecessors, on or before January 1, 2010,
5 shall become the indebtedness of any newly created entity. Any
6 ongoing obligations or responsibilities of the entity or any of its
7 predecessors for managing and maintaining bond issuances shall
8 be transferred to the newly created entity without impairment to
9 any security contained in the bond instrument.

10 SEC. 69. Section 25206 of the Public Resources Code is
11 repealed.

12 ~~25206. The terms of office of the members of the commission~~
13 ~~shall be for five years, except that the members first appointed to~~
14 ~~the commission shall classify themselves by lot so that the term~~
15 ~~of office of one member shall expire at the end of each one of the~~
16 ~~five years following the effective date of this division. Any vacancy~~
17 ~~shall be filled by the Governor within 30 days of the date on which~~
18 ~~a vacancy occurs for the unexpired portion of the term in which it~~
19 ~~occurs or for any new term of office.~~

20 ~~If the Governor fails to make an appointment for any vacancy~~
21 ~~within such 30-day period, the Senate Rules Committee may make~~
22 ~~the appointment to fill the vacancy for the unexpired portion of~~
23 ~~the term in which the vacancy occurred or for any new term of~~
24 ~~office, subject to the provisions of Section 25204.~~

25 SEC. 70. Section 25206 is added to the Public Resources Code,
26 to read:

27 25206. On and after January 1, 2010, the unexpended balance
28 of all funds available for use by the entities listed in subdivision
29 (a) of Section 25201, or the entities listed in Section 25202 for the
30 performance of functions of these entities described in that section,
31 or any of their predecessors in carrying out a function transferred
32 to the Department of Energy shall be available for use by the
33 department. Unexpended balances shall be utilized consistent with
34 the purposes for which they were appropriated. All books,
35 documents, records, and property of the entities shall be transferred
36 to the department.

37 SEC. 71. Section 25207 of the Public Resources Code is
38 amended to read:

39 25207. (a) The *public* members of the commission shall
40 receive the salary provided for by Chapter 6 (commencing with

1 Section 11550) of Part 1 of Division 3 of Title 2 of the Government
2 Code.

3 ~~Each~~

4 (b) *Each* member of the commission shall receive the necessary
5 traveling and other expenses incurred in the performance of his
6 official duties. When necessary, the members of the commission
7 and its employees may travel within or without the state.

8 SEC. 72. Section 25207.5 is added to the Public Resources
9 Code, to read:

10 25207.5. (a) An officer or employee of the entities listed in
11 subdivision (a) of Section 25201 or Section 25202 who is
12 performing a function transferred to the Department of Energy
13 and who is serving in the state civil service, other than as a
14 temporary employee, shall be transferred to the department. The
15 status, position, and rights of an officer or employee of the entities
16 shall not be affected by the transfer and shall be retained by the
17 person as an officer or employee of the department, as the case
18 may be, pursuant to the State Civil Service Act (Part 2
19 (commencing with Section 18500) of Division 5 of Title 2 of the
20 Government Code), except as to a position that is exempt from
21 civil service.

22 (b) The Department of Energy shall have possession and control
23 of all records, pages, offices, equipment, supplies, moneys, funds,
24 appropriations, licenses, permits, agreements, contracts, claims,
25 judgments, land, and other property, real or personal, connected
26 with the administration of, or held for, the benefit or use of the
27 entities listed in subdivision (a) of Section 25201 or for the
28 performance of the functions listed in Section 25202.

29 SEC. 73. Section 25208 is added to the Public Resources Code,
30 to read:

31 25208. (a) All responsibilities of the Public Utilities
32 Commission that are transferred pursuant to subdivision (b) of
33 Section 1001 of the Public Utilities Code shall be transferred in
34 an expeditious and orderly manner to the Department of Energy
35 or the California Energy Commission, as the case may be.
36 Resources, including personnel, associated with responsibilities
37 transferred to the department shall also be transferred to the
38 department in an expeditious manner. The Secretary of Energy
39 may allocate the responsibilities transferred to the department by

1 the Public Utilities Commission among the divisions of the
2 department.

3 (b) Applications on file before the Public Utilities Commission
4 on or before January 1, 2010, may proceed to decision before the
5 Public Utilities Commission and the procedural rules and
6 substantive regulations of that agency shall apply until a final
7 decision on the application.

8 (c) On and after January 1, 2010, all rules and orders in effect
9 with respect to the requirements of an application for certificate
10 under Section 1001 of the Public Utilities Code, including, but not
11 limited to, General Order 131-D of the Public Utilities
12 Commission, shall remain in effect and shall also be considered a
13 rule of the department. The secretary shall cause timely publication
14 of all rules that may be enumerated to effect a logical integration
15 with other rules of the department. Any subsequent modification
16 of these rules as they apply to the jurisdiction of the department
17 shall be carried out in conformance with the procedures of the
18 department.

19 (d) The commission and the Public Utilities Commission may,
20 by jointly adopted order, provide a mechanism for an applicant to
21 move for the transfer of an application pending before the Public
22 Utilities Commission for completion before the commission. The
23 order shall preserve the status and rights of any party to an existing
24 proceeding.

25 SEC. 74. Section 25212 of the Public Resources Code is
26 amended to read:

27 ~~25212. Every two years the Governor shall designate a~~
28 ~~chairman and The Secretary of Energy may appoint a vice-chairman~~
29 ~~chair~~ of the commission from among its *public* members.

30 SEC. 75. Section 25214 of the Public Resources Code is
31 amended to read:

32 25214. The commission shall maintain its headquarters in the
33 County of Sacramento and may establish branch offices in ~~such~~
34 ~~the~~ parts of the state as the commission deems necessary. The
35 commission shall hold meetings at ~~such~~ *the* times and at ~~such~~ *the*
36 places as shall be determined by it. All meetings and hearings of
37 the commission shall be open to the public, and opportunity to be
38 heard with respect to the subject of the hearings shall be afforded
39 to any person. Upon request, an interested party may be granted
40 reasonable opportunity to examine any witness testifying at the

1 hearing. The first meeting of the commission shall be held within
 2 30 days after the confirmation of the last member of the
 3 commission pursuant to Section 25204. The Governor shall
 4 designate the time and place for the first meeting of the
 5 commission.

6 SEC. 76. Section 25216.5 of the Public Resources Code is
 7 amended to read:

8 25216.5. The ~~commission~~ *department* shall do all of the
 9 following:

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

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

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

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

1 for expenditure, by the ~~commission~~, *department*, for purposes of
2 retrieving and disseminating any such information pursuant to this
3 section.

4 SEC. 77. Section 25217 of the Public Resources Code is
5 repealed.

6 ~~25217. The commission shall do all of the following:~~

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

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

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

17 SEC. 78. Section 25217.1 of the Public Resources Code is
18 amended to read:

19 25217.1. The ~~commission~~ *secretary* shall nominate ~~and the~~
20 ~~Governor shall appoint for a term of three years a public adviser~~
21 ~~to the commission~~ *department* who shall be an attorney admitted
22 to the practice of law in this state and who shall *serve at the*
23 *pleasure of the secretary and shall* carry out the provisions of
24 Section 25222 as well as other duties prescribed by this division
25 or by the ~~commission~~. ~~The adviser may be removed from office~~
26 ~~only upon the joint concurrence of four commissioners and the~~
27 ~~Governor.~~ *secretary*.

28 SEC. 79. Section 25217.5 of the Public Resources Code is
29 repealed.

30 ~~25217.5. The chairman of the commission shall direct the~~
31 ~~adviser, the executive director, and other staff in the performance~~
32 ~~of their duties in conformance with the policies and guidelines~~
33 ~~established by the commission.~~

34 SEC. 80. Section 25218 of the Public Resources Code is
35 amended to read:

36 25218. In addition to other powers specified in this division,
37 the ~~commission~~ *department* may do any of the following:

38 (a) Apply for and accept grants, contributions, and
39 appropriations.

1 (b) Contract for professional services if such work or services
 2 cannot be satisfactorily performed by its employees or by any other
 3 state agency.

4 (c) Be sued and sue.

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

7 (e) Adopt any rule or regulation, or take any action, it deems
 8 reasonable and necessary to carry out the provisions of this
 9 division.

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

14 SEC. 81. Section 25219 of the Public Resources Code is
 15 amended to read:

16 25219. As to any matter involving the federal government, its
 17 departments or agencies, which is within the scope of the power
 18 and duties of the ~~commission~~, *department*, the ~~commission~~
 19 *department* may represent its interest or the interest of any county,
 20 city, state agency, or public district upon its request, and to that
 21 end may correspond, confer, and cooperate with the federal
 22 government, its departments or agencies.

23 SEC. 82. Section 25220 of the Public Resources Code is
 24 amended to read:

25 25220. The ~~commission~~ *department* may participate as a party,
 26 to the extent that it shall determine, in any proceeding before any
 27 federal or state agency having authority whatsoever to approve or
 28 disapprove any aspect of a proposed facility, receive notice from
 29 any applicant of all applications and pleadings filed subsequently
 30 by ~~such those~~ applicants in any of ~~such those~~ proceedings, and,
 31 by its request, receive copies of any of ~~such the~~ subsequently filed
 32 applications and pleadings that it shall deem necessary.

33 SEC. 83. Section 25221 of the Public Resources Code is
 34 amended to read:

35 25221. ~~Upon~~ *Except as provided in Sections 341 and 341.4 of*
 36 *the Public Utilities Code, upon* request of the ~~commission~~,
 37 *department*, the Attorney General shall represent the ~~commission~~
 38 *department* and the state in litigation concerning affairs of the
 39 ~~commission~~, *department*, unless the Attorney General represents

1 another state agency, in which case the ~~commission~~ *department*
2 shall be authorized to employ other counsel.

3 SEC. 84. Section 25222 of the Public Resources Code is
4 amended to read:

5 25222. The adviser shall insure that full and adequate
6 participation by all interested groups and the public at large is
7 secured in the planning, site and facility certification, energy
8 conservation, and emergency allocation procedures provided in
9 this division. The adviser shall insure that timely and complete
10 notice of *department and* commission meetings and public hearings
11 is disseminated to all interested groups and to the public at large.
12 The adviser shall also advise ~~such~~ *these* groups and the public as
13 to effective ways of participating in the ~~commission's~~ *department's*
14 *and the commission's* proceedings. The adviser shall recommend
15 to the *department and the* commission additional measures to
16 assure open consideration and public participation in energy
17 planning, site and facility certification, energy conservation, and
18 emergency allocation proceedings.

19 SEC. 85. Section 25223 of the Public Resources Code is
20 amended to read:

21 25223. ~~The~~ *(a) Except as provided in subdivision (b), the*
22 *department and the* commission shall make available any
23 information filed or submitted pursuant to this division under the
24 provisions of the California Public Records Act, Chapter 3.5
25 (commencing with Section 6250) of Division 7, Title 1 of the
26 Government Code; ~~provided, however, that the.~~

27 *(b) The department and the* commission shall keep confidential
28 any information submitted to the Division of Oil and Gas of the
29 Department of Conservation that the division determines, pursuant
30 to Section 3752, to be proprietary.

31 SEC. 86. Section 25224 of the Public Resources Code is
32 amended to read:

33 25224. The ~~commission~~ *department* and other state agencies
34 shall, to the fullest extent possible, exchange records, reports,
35 material, and other information relating to energy resources and
36 conservation and power facilities siting, or any areas of mutual
37 concern, to the end that unnecessary duplication of effort may be
38 avoided.

39 SEC. 87. Section 25225 of the Public Resources Code is
40 amended to read:

1 25225. (a) Prior to expending any funds for any research,
 2 development, or demonstration program or project relating to
 3 vehicles or vehicle fuels, the ~~commission~~ *department* shall do both
 4 of the following, using existing resources:

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

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

13 (b) Within 120 days from the date of the conclusion of a program
 14 or project subject to subdivision (a) that is funded by the
 15 ~~commission~~, *department*, the ~~commission~~ *department* shall issue
 16 a public report that sets forth the actual costs of the program or
 17 project, the results achieved and how they compare with expected
 18 costs and benefits determined pursuant to paragraph (1) of
 19 subdivision (a), and any problems that were encountered by the
 20 program or project.

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

24 (A) A vehicle technology or vehicle fuel ~~which~~ *that* is the
 25 subject of the research, development, or demonstration.

26 (B) The purpose of, or anticipated products of, the research,
 27 development, or demonstration.

28 (2) This section does not apply to the Katz Safe Schoolbus Clean
 29 Fuel Efficiency Demonstration Program (Part 10.7 (commencing
 30 with Section 17910) of Division 1 of Title 1 of the Education
 31 Code).

32 SEC. 88. Section 25226 of the Public Resources Code is
 33 amended to read:

34 25226. (a) The Energy Technologies Research, Development,
 35 and Demonstration Account established under former Section
 36 25683 is hereby continued in existence, in the General Fund, to
 37 be administered by the ~~commission~~ *department* for the purpose of
 38 carrying out Chapter 7.3 (commencing with Section 25630) and
 39 Chapter 7.5 (commencing with Section 25650).

1 (b) The Controller shall deposit in the account all money
2 appropriated to the account by the Legislature, plus accumulated
3 interest on that money, and money from loan repayments, interest,
4 and royalties pursuant to Sections 25630 and 25650, for use by
5 the ~~commission~~, *department*, upon appropriation by the Legislature,
6 for the purposes specified in Chapter 7.3 (commencing with Section
7 25630) and Chapter 7.5 (commencing with Section 25650).

8 SEC. 89. Chapter 3.5 (commencing with Section 25227) is
9 added to Division 15 of the Public Resources Code, to read:

10
11 CHAPTER 3.5. OFFICE OF ENERGY MARKET OVERSIGHT
12

13 25227. In order to ensure that the interests of the people of
14 California are served, there is hereby created within the department,
15 the Office of Energy Market Oversight. Under the direction of the
16 Secretary of Energy, the office shall perform all of the following
17 functions:

18 (a) Oversee the Independent System Operator.

19 (b) Hear and decide appeals of majority decisions of the
20 Independent System Operator governing board, as they relate to
21 matters subject to exclusive state jurisdiction, as specified in
22 Section 25227.3.

23 (c) Investigate any matter related to the wholesale market for
24 electricity to ensure that the interests of California’s citizens and
25 consumers are served, protected, and represented in relation to the
26 availability of electric transmission and generation and related
27 costs.

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

31 (e) Arrange to obtain all transactional data from a “public utility”
32 within the meaning of Section 1001 of the Public Utilities Code
33 or a district established by the Municipal Utility District Act
34 (Division 6 (commencing with Section 11501) of the Public
35 Utilities Code) for transactions through the California Independent
36 System Operator. The office shall review the data quarterly for
37 unjust or unreasonable pricing or practices that are not subject to
38 the jurisdiction of the Federal Energy Regulatory Commission.

1 25227.1. (a) Any reference in the law to the “Electricity
2 Oversight Board” shall mean the Office of Energy Market
3 Oversight in the Department of Energy, as successor to that board.

4 (b) The Office of Energy Market Oversight may exercise any
5 right that exists in the name of the former Electricity Oversight
6 Board and may pursue and continue to final resolution any claim
7 or right that exists in the name of the Electricity Oversight Board.
8 It may take an action in its own name, or may maintain it in the
9 name of the former Electricity Oversight Board, as it determines
10 will best preserve and protect the interests of the public in those
11 rights or claims.

12 (c) An action initiated, joined, or pursued by the Office of
13 Energy Market Oversight shall not be considered an action by any
14 other office, division, or commission within the Department of
15 Energy unless specifically stated in a pleading. The office shall
16 maintain separation and procedures, as are necessary, to prevent
17 any inappropriate sharing of personnel or flow of proprietary
18 information between its market monitoring and investigation
19 functions and any program or function within the department that
20 has a market interest.

21 (d) Any pending litigation for which there could be a conflict
22 if combined with another program reorganized under the
23 Department of Energy, including, but not limited to, the Federal
24 Energy Regulatory Commission dockets EL02-60 and EL02-62,
25 and any related appeals or remands, shall be continued by the
26 Office of Energy Market Oversight in the name of the Electricity
27 Oversight Board and maintained separate from all other programs
28 of the department. The office shall report on the resolution of those
29 cases any such case directly to the legal affairs office of the
30 Governor.

31 (e) Other agencies that are parties to, or commenting agencies
32 in, matters before the Federal Energy Regulatory Commission, on
33 and after January 1, 2010, shall cooperate with the office to
34 promote coordination of the state’s advocacy with respect to those
35 matters.

36 25227.2. (a) The Office of Energy Market Oversight shall hear
37 and decide appeals of majority decisions of the Independent System
38 Operator governing board relating to matters that are identified in
39 subdivision (b) as they pertain to the Independent System Operator.

1 (b) The following matters are subject to California’s exclusive
2 jurisdiction:

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

5 (2) Matters pertaining to retail electric service or retail sales of
6 electric energy.

7 (3) Ensuring that the purposes and functions of the Independent
8 System Operator and Power Exchange are consistent with the
9 purposes and functions of California nonprofit public benefit
10 corporations, including duties of care and conflict of interest
11 standards for directors of the corporations.

12 (4) State functions assigned to the Independent System Operator
13 and Power Exchange under state law.

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

15 (6) Appointment of advisory representatives representing state
16 interests.

17 (7) Public access to corporate records.

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

19 (c) Only members of the Independent System Operator
20 governing board may appeal a majority decision of the Independent
21 System Operator related to any of the matters specified in
22 subdivision (b) to the Office of Energy Market Oversight.

23 25227.3. The Office of Energy Market Oversight may do all
24 of the following:

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

27 (b) Sue and be sued.

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

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

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

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

37 (g) Issue subpoenas to compel the production of books, records,
38 papers, accounts, reports, and documents and the attendance of
39 witnesses.

40 (h) Administer oaths.

1 (i) Adopt or amend rules and regulations to carry out the
2 purposes and provisions of this chapter, and to govern the
3 procedures of the office.

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

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

8 (l) Participate in proceedings relevant to the purposes of this
9 chapter or to the purposes of Division 4.9 (commencing with
10 Section 9600) of the Public Utilities Code or consistent with the
11 policies of the department, participate in activities to promote the
12 formation of interstate agreements to enhance the reliability and
13 function of the electricity system and the electricity market.

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

16 25228. (a) The Office of Energy Market Oversight may adopt
17 rules or protective orders to protect the confidential status of market
18 sensitive information.

19 (b) Information made confidential pursuant to a federally
20 approved tariff that is obtained by the department or the office is
21 confidential and prohibited from disclosure without the consent
22 of the source of information except as required by a court order
23 or other legal process.

24 25228.2. (a) The Office of Energy Market Oversight in the
25 department succeeds to and is vested with all duties,
26 responsibilities, powers, jurisdiction, liabilities, and functions of
27 the Electricity Oversight Board, which is hereby abolished. Any
28 reference in any law to the duties, responsibilities, powers, and
29 functions of the Electricity Oversight Board, which no longer
30 exists, shall be considered a reference to the Office of Energy
31 Market Oversight unless the context otherwise requires.

32 (b) All officers and employees of the Electricity Oversight Board
33 who, on January 1, 2010, are serving in the state civil service, other
34 than as temporary employees, shall be transferred to the
35 Department of Energy pursuant to Section 19050.9 of the
36 Government Code. The status, position, and rights of any officer
37 or employee of the board shall not be affected by the transfer and
38 shall be retained by the person as an officer or employee of the
39 department, as the case may be, pursuant to the State Civil Service
40 Act (Part 2 (commencing with Section 18500) of Division 5 of

1 Title 2 of the Government Code), except as to a position that is
2 exempt from civil service.

3 (c) As soon as practicable, the Secretary of Energy shall report
4 to the Department of Finance on whether the resources transferred
5 to the department are sufficient to ensure that all of the state's
6 interests can be adequately represented under subdivision (d) of
7 Section 25227. The Department of Finance shall assess whether
8 the consolidation of this function under the department allows the
9 transfer of any resources previously used to support this function
10 within any other agency to the department.

11 25228.4. The secretary may appoint, and fix the salary of, a
12 deputy who shall have charge of administering the affairs of the
13 Office of the Energy Market Oversight, including entering into
14 contracts, subject to policies of the department. Notwithstanding
15 Sections 11042 and 11043 of the Government Code, the office
16 shall appoint an attorney who shall advise and represent the office
17 and the People of the State of California as a party in any state or
18 federal action, proceeding, or litigation related to the purposes of
19 this chapter or to an action of the office and who shall perform
20 generally all the duties of attorney with respect to the office.

21 SEC. 90. Section 25301 of the Public Resources Code is
22 amended to read:

23 25301. (a) At least every two years, the ~~commission~~
24 *department* shall conduct assessments and forecasts of all aspects
25 of energy industry supply, production, transportation, delivery and
26 distribution, demand, and prices. The ~~commission~~ *department* shall
27 use these assessments and forecasts to develop energy policies that
28 conserve resources, protect the environment, ensure energy
29 reliability, enhance the state's economy, and protect public health
30 and safety. To perform these assessments and forecasts, the
31 ~~commission~~ *department* may require submission of demand
32 forecasts, resource plans, market assessments, and related outlooks
33 from electric and natural gas utilities, transportation fuel and
34 technology suppliers, and other market participants. These
35 assessments and forecasts shall be done in consultation with *the*
36 *California Independent System Operator* and the appropriate state
37 and federal agencies including, but not limited to, the Public
38 Utilities Commission, the Office of Ratepayer Advocates, the Air
39 Resources Board, ~~the Electricity Oversight Board, the Independent~~
40 ~~System Operator~~, the Department of Water Resources, ~~the~~

1 ~~California Consumer Power and Conservation Financing Authority,~~
2 the Department of Transportation, and the Department of Motor
3 Vehicles.

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

7 (1) Provide information about the performance of energy
8 industries.

9 (2) Develop and maintain the analytical capability sufficient to
10 answer inquiries about energy issues from government, market
11 participants, and the public.

12 (3) Analyze and develop energy policies.

13 (4) Provide an analytical foundation for regulatory and policy
14 decisionmaking.

15 (5) Facilitate efficient and reliable energy markets.

16 SEC. 91. Section 25302 of the Public Resources Code is
17 amended to read:

18 25302. (a) Beginning November 1, 2003, and every two years
19 thereafter, the ~~commission~~ *department* shall adopt an integrated
20 energy policy report. This integrated report shall contain an
21 overview of major energy trends and issues facing the state,
22 including, but not limited to, supply, demand, pricing, reliability,
23 efficiency, and impacts on public health and safety, the economy,
24 resources, and the environment. Energy markets and systems shall
25 be grouped and assessed in three subsidiary volumes:

26 (1) Electricity and natural gas markets.

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

28 (3) Public interest energy strategies.

29 (b) The ~~commission~~ *department* shall compile the integrated
30 energy policy report prepared pursuant to subdivision (a) by
31 consolidating the analyses and findings of the subsidiary volumes
32 in paragraphs (1), (2), and (3) of subdivision (a). The integrated
33 energy policy report shall present policy recommendations based
34 on an indepth and integrated analysis of the most current and
35 pressing energy issues facing the state. The analyses supporting
36 this integrated energy policy report shall explicitly address interfuel
37 and intermarket effects to provide a more informed evaluation of
38 potential tradeoffs when developing energy policy across different
39 markets and systems.

1 (c) The integrated energy policy report shall include an
2 assessment and forecast of system reliability and the need for
3 resource additions, efficiency, and conservation that considers all
4 aspects of energy industries and markets that are essential for the
5 state economy, general welfare, public health and safety, energy
6 diversity, and protection of the environment. This assessment shall
7 be based on determinations made pursuant to this chapter.

8 (d) Beginning November 1, 2004, and every two years thereafter,
9 ~~the commission~~ *department* shall prepare an energy policy review
10 to update analyses from the integrated energy policy report
11 prepared pursuant to subdivisions (a), (b), and (c), or to raise energy
12 issues that have emerged since the release of the integrated energy
13 policy report. ~~The commission~~ *department* may also periodically
14 prepare and release technical analyses and assessments of energy
15 issues and concerns to provide timely and relevant information for
16 the Governor, the Legislature, market participants, and the public.

17 (e) In preparation of the report, ~~the commission~~ *department*
18 shall consult with the following entities: the Public Utilities
19 Commission, the Office of Ratepayer Advocates, the State Air
20 Resources Board, ~~the Electricity Oversight Board~~, the Independent
21 System Operator, the Department of Water Resources, ~~the~~
22 ~~California Consumer Power and Conservation Financing Authority~~,
23 the Department of Transportation, and the Department of Motor
24 Vehicles, and any federal, state, and local agencies it deems
25 necessary in preparation of the integrated energy policy report. To
26 assure collaborative development of state energy policies, these
27 agencies shall make a good faith effort to provide data, assessment,
28 and proposed recommendations for review by ~~the commission~~.
29 *department*.

30 (f) ~~The commission~~ *department* shall provide the report to the
31 Public Utilities Commission, the Office of Ratepayer Advocates,
32 the State Air Resources Board, ~~the Electricity Oversight Board~~,
33 the Independent System Operator, the Department of Water
34 Resources, ~~the California Consumer Power and Conservation~~
35 ~~Financing Authority~~, and the Department of Transportation. For
36 the purpose of ensuring consistency in the underlying information
37 that forms the foundation of energy policies and decisions affecting
38 the state, those entities shall carry out their energy-related duties
39 and responsibilities based upon the information and analyses
40 contained in the report. If an entity listed in this subdivision objects

1 to information contained in the report, and has a reasonable basis
 2 for that objection, the entity shall not be required to consider that
 3 information in carrying out its energy-related duties.

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

6 SEC. 92. Section 25303 of the Public Resources Code is
 7 amended to read:

8 25303. (a) The ~~commission~~ *department* shall conduct
 9 electricity and natural gas forecasting and assessment activities to
 10 meet the requirements of paragraph (1) of subdivision (a) of Section
 11 25302, including, but not limited to, all of the following:

12 (1) Assessment of trends in electricity and natural gas supply
 13 and demand, and the outlook for wholesale and retail prices for
 14 commodity electricity and natural gas under current market
 15 structures and expected market conditions.

16 (2) Forecasts of statewide and regional electricity and natural
 17 gas demand including annual, seasonal, and peak demand, and the
 18 factors leading to projected demand growth, including, but not
 19 limited to, projected population growth, urban development,
 20 industrial expansion and energy intensity of industries, energy
 21 demand for different building types, energy efficiency, and other
 22 factors influencing demand for electricity. With respect to
 23 long-range forecasts of the demand for natural gas, the report shall
 24 include an evaluation of average conditions, as well as best and
 25 worst case scenarios, and an evaluation of the impact of the
 26 increasing use of renewable resources on natural gas demand.

27 (3) Evaluation of the adequacy of electricity and natural gas
 28 supplies to meet forecasted demand growth. Assessment of the
 29 availability, reliability, and efficiency of the electricity and natural
 30 gas infrastructure and systems, including, but not limited to, natural
 31 gas production capability both in and out of state, natural gas
 32 interstate and intrastate pipeline capacity, storage and use, and
 33 western regional and California electricity and transmission system
 34 capacity and use.

35 (4) Evaluation of potential impacts of electricity and natural gas
 36 supply, demand, and infrastructure and resource additions on the
 37 electricity and natural gas systems, public health and safety, the
 38 economy, resources, and the environment.

39 (5) Evaluation of the potential impacts of electricity and natural
 40 gas load management efforts, including end-user response to

1 market price signals, as a means to ensure reliable operation of
2 electricity and natural gas systems.

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

17 (7) Identification of impending or potential problems or
18 uncertainties in the electricity and natural gas markets, potential
19 options and solutions, and recommendations.

20 (8) (A) Compilation and assessment of existing scientific studies
21 that have been performed by persons or entities with expertise and
22 qualifications in the subject of the studies to determine the potential
23 vulnerability to a major disruption due to aging or a major seismic
24 event of large baseload generation facilities, of 1,700 megawatts
25 or greater.

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

29 (C) The commission may work with other public entities and
30 public agencies, including, but not limited to, ~~the California~~
31 ~~Independent System Operator~~, the Public Utilities Commission,
32 the Department of Conservation, and the Seismic Safety
33 Commission as necessary, *as well as the California Independent*
34 *System Operator* to gather and analyze the information required
35 by this paragraph.

36 (D) Upon completion and publication of the initial review of
37 the information required pursuant to this paragraph, the commission
38 shall perform subsequent updates as new data or new understanding
39 of potential seismic hazards emerge.

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

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

7 (A) Generation facility efficiency.

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

9 (C) The extent to which recent resource additions have, and
10 expected resource additions are likely to, displace or reduce the
11 operation of existing facilities, including the environmental
12 consequences of these changes.

13 (2) The geographic distribution of statewide environmental,
14 efficiency, and socioeconomic benefits and drawbacks of existing
15 generation facilities, including, but not limited to, the impacts on
16 natural resources including wildlife habitat, air quality, and water
17 resources, and the relationship to demographic factors. The
18 assessment shall describe the socioeconomic and demographic
19 factors that existed when the facilities were constructed and the
20 current status of these factors. In addition, the report shall include
21 how expected or recent resource additions could change the
22 assessment through displaced or reduced operation of existing
23 facilities.

24 (c) In the absence of a long-term nuclear waste storage facility,
25 the ~~commission~~ *department* shall assess the potential state and
26 local costs and impacts associated with accumulating waste at
27 California's nuclear powerplants. The ~~commission~~ *department*
28 shall further assess other key policy and planning issues that will
29 affect the future role of nuclear powerplants in the state. The
30 ~~commission's~~ *department's* assessment shall be adopted on or
31 before November 1, 2008, and included in the 2008 energy policy
32 review adopted pursuant to subdivision (d) of Section 25302.

33 SEC. 93. Section 25304 of the Public Resources Code is
34 amended to read:

35 25304. The ~~commission~~ *department* shall conduct
36 transportation forecasting and assessment activities to meet the
37 requirements of paragraph (2) of subdivision (a) of Section 25302
38 including, but not limited to:

39 (a) Assessment of trends in transportation fuels, technologies,
40 and infrastructure supply and demand and the outlook for wholesale

1 and retail prices for petroleum, petroleum products, and alternative
2 transportation fuels under current market structures and expected
3 market conditions.

4 (b) Forecasts of statewide and regional transportation energy
5 demand, both annual and seasonal, and the factors leading to
6 projected demand growth including, but not limited to, projected
7 population growth, urban development, vehicle miles traveled, the
8 type, class, and efficiency of personal vehicles and commercial
9 fleets, and shifts in transportation modes.

10 (c) Evaluation of the sufficiency of transportation fuel supplies,
11 technologies, and infrastructure to meet projected transportation
12 demand growth. Assessment of crude oil and other transportation
13 fuel feedstock supplies; in-state, national, and worldwide
14 production and refining capacity; product output storage
15 availability; and transportation and distribution systems capacity
16 and use.

17 (d) Assessments of the risks of supply disruptions, price shocks,
18 or other events and the consequences of these events on the
19 availability and price of transportation fuels and effects on the
20 state's economy.

21 (e) Evaluation of the potential for needed changes in the state's
22 energy shortage contingency plans to increase production and
23 productivity, improve efficiency of fuel use, increase conservation
24 of resources, and other actions to maintain sufficient, secure, and
25 affordable transportation fuel supplies for the state.

26 (f) Evaluation of alternative transportation energy scenarios, in
27 the context of least environmental and economic costs, to examine
28 potential effects of alternative fuels usage, vehicle efficiency
29 improvements, and shifts in transportation modes on public health
30 and safety, the economy, resources, the environment, and energy
31 security.

32 (g) Examination of the success of introduction, prices, and
33 availability of advanced transportation technologies, low- or
34 zero-emission vehicles, and clean-burning transportation fuels,
35 including their potential future contributions to air quality, energy
36 security, and other public interest benefits.

37 (h) Recommendations to improve the efficiency of transportation
38 energy use, reduce dependence on petroleum fuels, decrease
39 environmental impacts from transportation energy use, and

1 contribute to reducing congestion, promoting economic
2 development, and enhancing energy diversity and security.

3 SEC. 94. Section 25305 of the Public Resources Code is
4 amended to read:

5 25305. The ~~commission~~ *department* shall rely upon forecasting
6 and assessments performed in accordance with Sections 25301 to
7 25304, inclusive, as the basis for analyzing the success of and
8 developing policy recommendations for public interest energy
9 strategies. Public interest energy strategies include, but are not
10 limited to, achieving energy efficiency and energy conservation;
11 implementing load management; pursuing research, development,
12 demonstration, and commercialization of new technologies;
13 promoting renewable generation technologies; reducing statewide
14 greenhouse gas emissions and addressing the impacts of climate
15 change on California; stimulating California's energy-related
16 business activities to contribute to the state's economy; and
17 protecting and enhancing the environment. Additional assessments
18 to address public interest energy strategies shall include, but are
19 not limited to, all of the following:

20 (a) Identification of emerging trends in energy efficiency in the
21 residential, commercial, industrial, agricultural, and transportation
22 sectors of the state's economy, including, but not limited to,
23 evaluation of additional achievable energy efficiency measures
24 and technologies. Identification of policies that would permit fuller
25 realization of the potential for energy efficiency, either through
26 direct programmatic actions or facilitation of the market.

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

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

34 (d) Identification of progress in reducing statewide greenhouse
35 gas emissions and addressing the effects of climate change on
36 California.

37 SEC. 95. Section 25305.5 of the Public Resources Code is
38 amended to read:

39 25305.5. The ~~commission~~ *department* shall include in its report
40 prepared pursuant to Sections 25301 to 25304, inclusive, a

1 description of international energy market prospects and an
2 evaluation of its export promotion activities, as well as an
3 assessment of the state of the California energy technology and
4 energy conservation industry's efforts to enter foreign markets.
5 The report shall also include recommendations for state government
6 initiatives to foster the California energy technology and energy
7 conservation industry's competition in world markets.

8 SEC. 96. Section 25306 of the Public Resources Code is
9 amended to read:

10 25306. The ~~commission~~ *department* shall conduct workshops,
11 hearings, and other forums to gain the perspectives of the public
12 and market participants for purposes of the integrated energy policy
13 report prepared pursuant to Section 25302 and the forecasting and
14 assessments prepared pursuant to Sections 25301, 25303, 25304,
15 and 25305. The ~~commission~~ *department* shall include the
16 comments, as well as responses to those comments, of
17 governmental agencies, industry representatives, market
18 participants, private groups, and any other person concerning the
19 commission's proposals and recommendations in the docket for
20 the integrated energy policy report.

21 SEC. 97. Section 25320 of the Public Resources Code is
22 amended to read:

23 25320. (a) The ~~commission~~ *department* shall manage a data
24 collection system for obtaining information necessary to develop
25 the policy reports and analyses required by Sections 25301 to
26 25307, inclusive, the energy shortage contingency planning efforts
27 in Chapter 8 (commencing with Section 25700), and to support
28 other duties of the ~~commission~~ *department*.

29 (b) The data collection system, adopted by regulation under
30 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
31 3 of Title 2 of the Government Code, and managed by the
32 ~~commission~~ *department* shall:

33 (1) Include a timetable for the submission of this information,
34 so that the integrated energy policy report required by Section
35 25302 can be completed in an accurate and timely manner.

36 (2) Require a person to submit only information that is
37 reasonably relevant, and that the person can either be expected to
38 acquire through his or her market activities, or possesses or
39 controls. Information collected pursuant to this section shall relate

1 to the functional role of each category of market participant in that
2 industry and the consumers within that industry.

3 (3) To the extent it satisfies the information needs of the
4 ~~commission~~, *department*, rely on the use of estimates and proxies,
5 to the maximum extent practicable, for some data elements using
6 survey and research techniques, while for other information it shall
7 obtain data from market participants using submissions consistent
8 with their accounting records. In determining whether to rely upon
9 estimates or participant provided data, the commission shall weigh
10 the burden of compliance upon industry participants and energy
11 consumers against the benefit of participant provided data for the
12 public interest.

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

17 (c) Pursuant to the requirements of subdivision (b), the data
18 collection system for electricity and natural gas shall enumerate
19 specific requirements for each category of market participants,
20 including, but not limited to, private market participants, energy
21 service providers, energy service companies, natural gas marketers,
22 electric utility and natural gas utility companies, independent
23 generators, electric transmission entities, natural gas producers,
24 natural gas pipeline operators, importers and exporters of electricity
25 and natural gas, and specialized electric or natural gas system
26 operators. The ~~commission~~ *department* may also collect
27 information about consumers' natural gas and electricity use from
28 their voluntary participation in surveys and other research
29 techniques.

30 (d) Pursuant to the requirements of subdivision (b), the data
31 collection system for nonpetroleum fuels and transportation
32 technologies shall enumerate specific requirements for each
33 category of market participant, including, but not limited to, fuel
34 importers and exporters, fuel distributors and retailers, fuel pipeline
35 operators, natural gas liquid producers, and transportation
36 technology providers. The ~~commission~~ *department* may also collect
37 information about consumers' nonpetroleum fuel and transportation
38 technology use from their voluntary participation in surveys and
39 other research techniques.

1 (e) The ~~commission~~ *department* shall collect data for petroleum
2 fuel pursuant to Chapter 4.5 (commencing with Section 25350).
3 The ~~commission~~ *department* may also collect information about
4 consumers' petroleum fuel use from consumers' participation in
5 surveys and other research techniques.

6 SEC. 98. Section 25321 of the Public Resources Code is
7 amended to read:

8 25321. In order to ensure timely and accurate compliance with
9 the data collection system adopted under Section 25320, the
10 ~~commission~~ *department* may use any of the following enforcement
11 measures:

12 (a) If ~~any~~ a person fails to comply with an applicable provision
13 of the data collection system, the ~~commission~~ *department* shall
14 notify the person. If, after five working days from being notified
15 of the violation, the person continues to fail to comply, the person
16 shall be subject to a civil penalty, to be imposed by the ~~commission~~
17 *department* after a hearing that complies with constitutional
18 requirements.

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

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

30 (b) For the purposes of this section, "person" means, in addition
31 to the definition contained in Section 25116, any responsible
32 corporate officer.

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

35 SEC. 99. Section 25322 of the Public Resources Code is
36 amended to read:

37 25322. (a) The data collection system managed pursuant to
38 Section 25320 shall include the following requirements regarding
39 the confidentiality of the information collected by the ~~commission~~
40 *department*:

1 (1) ~~Any~~—A person required to present information to the
 2 commission pursuant to this section may request that specific
 3 information be held in confidence. The ~~commission~~ *department*
 4 shall grant the request in any of the following circumstances:

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

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

12 (C) On the facts of the particular case, the public interest served
 13 by not disclosing the information clearly outweighs the public
 14 interest served by disclosure of the information.

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

18 (3) Any confidential information pertinent to the responsibilities
 19 of the ~~commission~~ *department* specified in this chapter that is
 20 obtained by another state agency, or the California Independent
 21 System Operator or its successor, shall be available to the
 22 ~~commission~~ *department* and shall be treated in a confidential
 23 manner.

24 (4) Information presented to or developed by the ~~commission~~
 25 *department* and deemed confidential pursuant to this section shall
 26 be held in confidence by the ~~commission~~ *department*. Confidential
 27 information shall be aggregated or masked to the extent necessary
 28 to assure confidentiality if public disclosure of the specific
 29 information would result in an unfair competitive disadvantage to
 30 the person supplying the information.

31 (b) Requests for records of information shall be handled as
 32 follows:

33 (1) If the ~~commission~~ *department* receives a written request to
 34 publicly disclose information that is being held in confidence
 35 pursuant to paragraph (1) or (2) of subdivision (a), the ~~commission~~
 36 *department* shall provide the person making the request with
 37 written justification for the confidential designation and a
 38 description of the process to seek disclosure.

39 (2) If the ~~commission~~ *department* receives a written request to
 40 publicly disclose a disaggregated or unmasked record of

1 information designated as confidential under paragraph (1) or (2)
2 of subdivision (a), notice of the request shall be provided to the
3 person that submitted the record. Upon receipt of the notice, the
4 person that submitted the record may, within five working days
5 of receipt of the notice, provide a written justification of the claim
6 of confidentiality.

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

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

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

19 (d) The ~~commission~~ *department* shall establish, maintain, and
20 use appropriate security practices and procedures to ensure that
21 the information it has designated as confidential, or received with
22 a confidential designation from another government agency, is
23 protected against disclosure other than that authorized using the
24 procedures in subdivision (b). The commission shall incorporate
25 the following elements into its security practices and procedures:

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

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

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

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

1 SEC. 100. Section 25323 of the Public Resources Code is
2 amended to read:

3 ~~25323. Nothing in this~~ *This division shall does not* authorize
4 ~~the commission~~ *department* in the performance of its analytical,
5 planning, siting, or certification responsibilities to mandate a
6 specified supply plan for any utility.

7 SEC. 101. Section 25324 of the Public Resources Code is
8 amended to read:

9 ~~25324. The commission,~~ *department*, in consultation with the
10 Public Utilities Commission, the California Independent System
11 Operator, transmission owners, users, and consumers, shall adopt
12 a strategic plan for the state's electric transmission grid using
13 existing resources. The strategic plan shall identify and recommend
14 actions required to implement investments needed to ensure
15 reliability, relieve congestion, and meet future growth in load and
16 generation, including, but not limited to, renewable resources,
17 energy efficiency, and other demand reduction measures. The plan
18 shall be included in the integrated energy policy report adopted
19 on November 1, 2005, pursuant to subdivision (a) of Section 25302.

20 SEC. 102. Section 25354 of the Public Resources Code is
21 amended to read:

22 25354. (a) Each refiner and major marketer shall submit
23 information each month to ~~the commission~~ *department* in ~~such the~~
24 form and extent as ~~the commission~~ *department* prescribes pursuant
25 to this section. The information shall be submitted within 30 days
26 after the end of each monthly reporting period and shall include
27 the following:

28 (1) Refiners shall report, for each of their refineries, feedstock
29 inputs, origin of petroleum receipts, imports of finished petroleum
30 products and blendstocks, by type, including the source of those
31 imports, exports of finished petroleum products and blendstocks,
32 by type, including the destination of those exports, refinery outputs,
33 refinery stocks, and finished product supply and distribution,
34 including all gasoline sold unbranded by the refiner, blender, or
35 importer.

36 (2) Major marketers shall report on petroleum product receipts
37 and the sources of these receipts, inventories of finished petroleum
38 products and blendstocks, by type, distributions through branded
39 and unbranded distribution networks, and exports of finished
40 petroleum products and blendstocks, by type, from the state.

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

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

17 (2) Major oil storers shall report on storage capacity, inventories,
18 receipts and distributions, and methods of transportation of receipts
19 and distributions.

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

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

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

27 (c) Each person required to report pursuant to subdivision (a)
28 shall submit a projection each month of the information to be
29 submitted pursuant to subdivision (a) for the quarter following the
30 month in which the information is submitted to the ~~commission~~
31 *department*.

32 (d) In addition to the data required under subdivision (a), each
33 integrated oil refiner (produces, refines, transports, and markets
34 in interstate commerce) who supplies more than 500 branded retail
35 outlets in California shall submit to the ~~commission~~ *department*
36 an annual industry forecast for Petroleum Administration for
37 Defense, District V (covering Arizona, Nevada, Washington,
38 Oregon, California, Alaska, and Hawaii). The forecast shall include
39 the information to be submitted under subdivision (a), and shall
40 be submitted by March 15 of each year. The ~~commission~~

1 *department* may require California-specific forecasts. However,
 2 those forecasts shall be required only if the ~~commission~~ *department*
 3 finds them necessary to carry out its responsibilities.

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

7 (f) The ~~commission~~ *department* may request additional
 8 information as necessary to perform its responsibilities under this
 9 chapter.

10 (g) ~~Any~~ A person required to submit information or data under
 11 this chapter, in lieu thereof, may submit a report made to any other
 12 governmental agency, if:

13 (1) The alternate report or reports contain all of the information
 14 or data required by specific request under this chapter.

15 (2) The person clearly identifies the specific request to which
 16 the alternate report is responsive.

17 (h) Each refiner shall submit to the ~~commission,~~ *department,*
 18 within 30 days after the end of each monthly reporting period, all
 19 of the following information in such form and extent as the
 20 ~~commission~~ *department* prescribes:

21 (1) Monthly California weighted average prices and sales
 22 volumes of finished leaded regular, unleaded regular, and premium
 23 motor gasoline sold through company-operated retail outlets, to
 24 other end-users, and to wholesale customers.

25 (2) Monthly California weighted average prices and sales
 26 volumes for residential sales, commercial and institutional sales,
 27 industrial sales, sales through company-operated retail outlets,
 28 sales to other end-users, and wholesale sales of No. 2 diesel fuel
 29 and No. 2 fuel oil.

30 (3) Monthly California weighted average prices and sales
 31 volumes for retail sales and wholesale sales of No. 1 distillate,
 32 kerosene, finished aviation gasoline, kerosene-type jet fuel, No. 4
 33 fuel oil, residual fuel oil with 1 percent or less sulfur, residual fuel
 34 oil with greater than 1 percent sulfur and consumer grade propane.

35 (i) (1) Beginning the first week after the effective date of the
 36 act that added this subdivision, and each week thereafter, an oil
 37 refiner, oil producer, petroleum product transporter, petroleum
 38 product marketer, petroleum product pipeline operator, and
 39 terminal operator, as designated by the ~~commission,~~ *department,*
 40 shall submit a report in the form and extent as the ~~commission~~

1 *department* prescribes pursuant to this section. The ~~commission~~
2 *department* may determine the form and extent necessary by order
3 or by regulation.

4 (2) A report may include any of the following information:

5 (A) Receipts and inventory levels of crude oil and petroleum
6 products at each refinery and terminal location.

7 (B) Amount of gasoline, diesel, jet fuel, blending components,
8 and other petroleum products imported and exported.

9 (C) Amount of gasoline, diesel, jet fuel, blending components,
10 and other petroleum products transported intrastate by marine
11 vessel.

12 (D) Amount of crude oil imported, including information
13 identifying the source of the crude oil.

14 (E) The regional average of invoiced retailer buying price. This
15 subparagraph does not either preclude or augment the current
16 authority of the ~~commission~~ *department* to collect additional data
17 under subdivision (f).

18 (3) This subdivision is intended to clarify the ~~commission's~~
19 *department's* existing authority under subdivision (f) to collect
20 specific information. This subdivision does not either preclude or
21 augment the existing authority of the ~~commission~~ *department* to
22 collect information.

23 SEC. 103. Section 25356 of the Public Resources Code is
24 amended to read:

25 25356. (a) The ~~commission~~, *department*, utilizing its own staff
26 and other support staff having expertise and experience in, or with,
27 the petroleum industry, shall gather, analyze, and interpret the
28 information submitted to it pursuant to Section 25354 and other
29 information relating to the supply and price of petroleum products,
30 with particular emphasis on motor vehicle fuels, including, but not
31 limited to, all of the following:

32 (1) The nature, cause, and extent of any petroleum or petroleum
33 products shortage or condition affecting supply.

34 (2) The economic and environmental impacts of any petroleum
35 and petroleum product shortage or condition affecting supply.

36 (3) Petroleum or petroleum product demand and supply
37 forecasting methodologies utilized by the petroleum industry in
38 California.

39 (4) The prices, with particular emphasis on retail motor fuel
40 prices, including sales to unbranded retail markets, and any

1 significant changes in prices charged by the petroleum industry
2 for petroleum or petroleum products sold in California and the
3 reasons for those changes.

4 (5) The profits, both before and after taxes, of the industry as a
5 whole and of major firms within it, including a comparison with
6 other major industry groups and major firms within them as to
7 profits, return on equity and capital, and price-earnings ratio.

8 (6) The emerging trends relating to supply, demand, and
9 conservation of petroleum and petroleum products.

10 (7) The nature and extent of efforts of the petroleum industry
11 to expand refinery capacity and to make acquisitions of additional
12 supplies of petroleum and petroleum products, including activities
13 relative to the exploration, development, and extraction of resources
14 within the state.

15 (8) The development of a petroleum and petroleum products
16 information system in a manner that will enable the state to take
17 action to meet and mitigate any petroleum or petroleum products
18 shortage or condition affecting supply.

19 (b) The ~~commission~~ *department* shall analyze the impacts of
20 state and federal policies and regulations upon the supply and
21 pricing of petroleum products.

22 SEC. 104. Section 25357 of the Public Resources Code is
23 amended to read:

24 25357. The ~~commission~~ *department* shall obtain and analyze
25 monthly production reports prepared by the State Oil and Gas
26 Supervisor pursuant to Section 3227.

27 SEC. 105. Section 25358 of the Public Resources Code is
28 amended to read:

29 25358. (a) Within 70 days after the end of each preceding
30 quarter of each calendar year, the ~~commission~~ *department* shall
31 publish and submit to the Governor and the Legislature a summary,
32 an analysis, and an interpretation of the information submitted to
33 it pursuant to Section 25354 and information reviewed pursuant
34 to Section 25357. This report shall be separate from the report
35 submitted pursuant to Section ~~25322~~ 25302. Any person may
36 submit comments in writing regarding the accuracy or sufficiency
37 of the information submitted.

38 (b) The ~~commission~~ *department* shall prepare a biennial
39 assessment of the information provided pursuant to this chapter

1 and shall include its assessment in the biennial fuels report prepared
2 pursuant to Section 25310.

3 (c) The ~~commission~~ *department* may use reasonable means
4 necessary and available to it to seek and obtain any facts, figures,
5 and other information from any source for the purpose of preparing
6 and providing reports to the Governor and the Legislature. The
7 ~~commission~~ *department* shall specifically include in the reports
8 its analysis of any unsuccessful attempts in obtaining information
9 from potential sources, including the lack of cooperation or refusal
10 to provide information.

11 (d) Whenever the ~~commission~~ *department* fails to provide any
12 report required pursuant to this section within the specified time,
13 it shall provide to all members of the Legislature, within five days
14 of the specified time, a detailed written explanation of the cause
15 of any delay.

16 SEC. 106. Section 25362 of the Public Resources Code is
17 amended to read:

18 25362. (a) The ~~commission~~ *department* shall notify those
19 persons who have failed to timely provide the information specified
20 in Section 25354. If, within five days after being notified of the
21 failure to provide the specified information, the person fails to
22 supply the specified information, the person shall be subject to a
23 civil penalty of not less than five hundred dollars (\$500) nor more
24 than two thousand dollars (\$2,000) per day for each day the
25 submission of information is refused or delayed, unless the person
26 has timely filed objections with the ~~commission~~ *department*
27 regarding the information and the ~~commission~~ *department* has not
28 yet held a hearing on the matter, or the ~~commission~~ *department*
29 has held a hearing and the person has properly submitted the issue
30 to a court of competent jurisdiction for review.

31 (b) ~~Any~~ A person who willfully makes any false statement,
32 representation, or certification in any record, report, plan, or other
33 document filed with the ~~commission~~ *department* shall be subject
34 to a civil penalty not to exceed two thousand dollars (\$2,000).

35 (c) For the purposes of this section, the term “person” shall
36 mean, in addition to the definition contained in Section 25116, any
37 responsible corporate officer.

38 SEC. 107. Section 25364 of the Public Resources Code is
39 amended to read:

1 25364. (a) ~~Any~~A person required to present information to
2 the ~~commission~~ *department* pursuant to Section 25354 may request
3 that specific information be held in confidence. Information
4 requested to be held in confidence shall be presumed to be
5 confidential.

6 (b) Information presented to the ~~commission~~ *department*
7 pursuant to Section 25354 shall be held in confidence by the
8 ~~commission~~ *department* or aggregated to the extent necessary to
9 assure confidentiality if public disclosure of the specific
10 information or data would result in unfair competitive disadvantage
11 to the person supplying the information.

12 (c) (1) Whenever the ~~commission~~ *department* receives a request
13 to publicly disclose unaggregated information, or otherwise
14 proposes to publicly disclose information submitted pursuant to
15 Section 25354, notice of the request or proposal shall be provided
16 to the person submitting the information. The notice shall indicate
17 the form in which the information is to be released. Upon receipt
18 of notice, the person submitting the information shall have 10
19 working days in which to respond to the notice to justify the claim
20 of confidentiality on each specific item of information covered by
21 the notice on the basis that public disclosure of the specific
22 information would result in unfair competitive disadvantage to the
23 person supplying the information.

24 (2) The ~~commission~~ *department* shall consider the respondent's
25 submittal in determining whether to publicly disclose the
26 information submitted to it to which a claim of confidentiality is
27 made. The ~~commission~~ *department* shall issue a written decision
28 ~~which~~ *that* sets forth its reasons for making the determination
29 whether each item of information for which a claim of
30 confidentiality is made shall remain confidential or shall be
31 publicly disclosed.

32 (d) The ~~commission~~ *department* shall not make public disclosure
33 of information submitted to it pursuant to Section 25354 within
34 10 working days after the ~~commission~~ *department* has issued its
35 written decision required in this section.

36 (e) ~~No information~~ *Information* submitted to the ~~commission~~
37 *department* pursuant to Section 25354 shall *not* be deemed
38 confidential if the person submitting the information or data has
39 made it public.

1 (f) With respect to petroleum products and blendstocks reported
2 by type pursuant to paragraph (1) or (2) of subdivision (a) of
3 Section 25354 and information provided pursuant to subdivision
4 (h) or (i) of Section 25354, neither the ~~commission~~ *department*
5 nor any employee of the ~~commission~~ *department* may do any of
6 the following:

7 (1) Use the information furnished under paragraph (1) or (2) of
8 subdivision (a) of Section 25354 or under subdivision (h) or (i) of
9 Section 25354 for any purpose other than the statistical purposes
10 for which it is supplied.

11 (2) Make any publication whereby the information furnished
12 by any particular establishment or individual under paragraph (1)
13 or (2) of subdivision (a) of Section 25354 or under subdivision (h)
14 or (i) of Section 25354 can be identified.

15 (3) Permit anyone other than ~~commission~~ *department* members
16 and employees of the ~~commission~~ *department* to examine the
17 individual reports provided under paragraph (1) or (2) of
18 subdivision (a) of Section 25354 or under subdivision (h) or (i) of
19 Section 25354.

20 (g) Notwithstanding any other provision of law, the ~~commission~~
21 *department* may disclose confidential information received
22 pursuant to subdivision (a) of Section 25304 or Section 25354 to
23 the State Air Resources Board if the state board agrees to keep the
24 information confidential. With respect to the information it
25 receives, the state board shall be subject to all pertinent provisions
26 of this section.

27 SEC. 108. Section 25366 of the Public Resources Code is
28 amended to read:

29 25366. Any confidential information pertinent to the
30 responsibilities of the ~~commission~~ *department* specified in this
31 division ~~which~~ *that* is obtained by another state agency shall be
32 available to the ~~commission~~ *department* and shall be treated in a
33 confidential manner.

34 SEC. 109. Section 25400 of the Public Resources Code is
35 amended to read:

36 25400. The ~~commission~~ *department* shall conduct an ongoing
37 assessment of the opportunities and constraints presented by all
38 forms of energy. The ~~commission~~ *department* shall encourage the
39 balanced use of all sources of energy to meet the state's needs and

1 shall seek to avoid possible undesirable consequences of reliance
2 on a single source of energy.

3 SEC. 110. Section 25401 of the Public Resources Code is
4 amended to read:

5 25401. (a) ~~The commission~~ *department* shall continuously
6 carry out studies, research projects, data collection, and other
7 activities required to assess the nature, extent, and distribution of
8 energy resources to meet the needs of the state, including but not
9 limited to, fossil fuels and solar, nuclear, and geothermal energy
10 resources. It shall also carry out studies, technical assessments,
11 research projects, and data collection directed to reducing wasteful,
12 inefficient, unnecessary, or uneconomic uses of energy, including,
13 but not limited to, all of the following:

- 14 (a)
- 15 (1) Pricing of electricity and other forms of energy.
- 16 (b)
- 17 (2) Improved building design and insulation.
- 18 (c)
- 19 (3) Restriction of promotional activities designed to increase
20 the use of electrical energy by consumers.
- 21 (d)
- 22 (4) Improved appliance efficiency.
- 23 (e)
- 24 (5) Advances in power generation and transmission technology.
- 25 (f)
- 26 (6) Comparisons in the efficiencies of alternative methods of
27 energy utilization.

28 ~~The commission~~

29 (b) *The department* shall survey pursuant to this section all
30 forms of energy on which to base its recommendations to the
31 Governor and Legislature for elimination of waste or increases in
32 efficiency for sources or uses of energy. ~~The commission~~
33 *department* shall transmit to the Governor and the Legislature, as
34 part of the biennial report specified in Section ~~25309~~ 25302,
35 recommendations for state policy and actions for the orderly
36 development of all potential sources of energy to meet the state's
37 needs, including, but not limited to, fossil fuels and solar, nuclear,
38 and geothermal energy resources, and to reduce wasteful and
39 inefficient uses of energy.

1 SEC. 111. Section 25401.2 of the Public Resources Code is
2 amended to read:

3 25401.2. (a) As part of the report required by Section 25302,
4 ~~the commission~~ *department* shall develop and update an inventory
5 of current and potential cost-effective opportunities in each utility's
6 service territory; to improve efficiencies and to help utilities
7 manage loads in all sectors of natural gas and electricity use. The
8 report shall include estimates of the overall magnitude of these
9 resources, load shapes, and the projected costs associated with
10 delivering the various types of energy savings that are identified
11 in the inventory. The report shall also estimate the amount and
12 incremental cost per unit of potential energy efficiency and load
13 management activities. Where applicable, the inventory shall
14 include data on variations in savings and costs associated with
15 particular measures. The report shall take into consideration
16 environmental benefits as developed in related ~~commission~~
17 ~~department~~ and ~~public utilities commission~~ *Public Utilities*
18 *Commission* proceedings.

19 (b) ~~The commission~~ *department* shall develop and maintain the
20 inventory in consultation with electric and gas utilities, the Public
21 Utilities Commission, academic institutions, and other interested
22 parties.

23 (c) ~~The commission~~ *department* shall convene a technical
24 advisory group to develop an analytic framework for the inventory,
25 to discuss the level of detail at which the inventory would operate,
26 and to ensure that the inventory is consistent with other
27 demand-side databases. Privately owned electric and gas utilities
28 shall provide financial support, gather data, and provide analysis
29 for activities that the technical advisory group recommends. The
30 technical advisory group shall terminate on January 1, 1993.

31 SEC. 112. Section 25401.5 of the Public Resources Code is
32 amended to read:

33 25401.5. For the purpose of reducing electrical and natural gas
34 energy consumption, ~~the commission~~ *department* may develop
35 and disseminate measures that would enhance energy efficiency
36 for single-family residential dwellings that were built prior to the
37 development of the current energy efficiency standards. The
38 measures, if developed and disseminated, shall provide a
39 homeowner with information to improve the energy efficiency of
40 a single-family residential dwelling. ~~The commission~~ *department*

1 may comply with this section by posting the measures on the
2 ~~commission's~~ *department's* Internet Web site or by making the
3 measures available to the public, upon request.

4 SEC. 113. Section 25401.6 of the Public Resources Code is
5 amended to read:

6 25401.6. (a) In its administration of Section 25744, the
7 ~~commission~~ *department* shall establish a separate rebate for eligible
8 distributed emerging technologies for affordable housing projects
9 including, but not limited to, projects undertaken pursuant to
10 Section 50052.5, 50053, or 50199.4 of the Health and Safety Code.
11 In establishing the rebate, where the ~~commission~~ *department*
12 determines that the occupants of the housing shall have individual
13 meters, the ~~commission~~ *department* may adjust the amount of the
14 rebate based on the capacity of the system, provided that a system
15 may receive a rebate only up to 75 percent of the total installed
16 costs. The ~~commission~~ *department* may establish a reasonable
17 limit on the total amount of funds dedicated for purposes of this
18 section.

19 (b) It is the intent of the Legislature that this section fulfills the
20 purpose of paragraph (5) of subdivision (b) of Section 25744.

21 SEC. 114. Section 25401.7 of the Public Resources Code is
22 amended to read:

23 25401.7. At the time a single-family residential dwelling is
24 sold, a buyer or seller may request a home inspection, as defined
25 in subdivision (a) of Section 7195 of the Business and Professions
26 Code, and a home inspector, as defined in subdivision (d) of
27 Section 7195 of the Business and Professions Code, shall provide,
28 contact information for one or more of the following entities that
29 provide home energy information:

30 (a) A nonprofit organization.

31 (b) A provider to the residential dwelling of electrical service,
32 or gas service, or both.

33 (c) A government agency, including, but not limited to, the
34 ~~commission~~ *department*.

35 SEC. 115. Section 25402 of the Public Resources Code is
36 amended to read:

37 25402. The commission, *with staff support from the*
38 *department*, shall, after one or more public hearings, do all of the
39 following, in order to reduce the wasteful, uneconomic, inefficient,

1 or unnecessary consumption of energy, including the energy
2 associated with the use of water:

3 (a) (1) Prescribe, by regulation, lighting, insulation climate
4 control system, and other building design and construction
5 standards that increase the efficiency in the use of energy and water
6 for new residential and new nonresidential buildings. The
7 commission shall periodically update the standards and adopt any
8 revision that, in its judgment, it deems necessary. Six months after
9 the commission certifies an energy conservation manual pursuant
10 to subdivision (c) of Section 25402.1, ~~no~~ a city, county, city and
11 county, or state agency shall *not* issue a permit for ~~any~~ a building
12 unless the building satisfies the standards prescribed by the
13 commission pursuant to this subdivision or subdivision (b) that
14 are in effect on the date an application for a building permit is
15 filed. Water efficiency standards adopted pursuant to this
16 subdivision shall be demonstrated by the commission to be
17 necessary to save energy.

18 (2) Prior to adopting a water efficiency standard for residential
19 buildings, the Department of Housing and Community
20 Development and the commission shall issue a joint finding
21 whether the standard (A) is equivalent or superior in performance,
22 safety, and for the protection of life, health, and general welfare
23 to standards in Title 24 of the California Code of Regulations and
24 (B) does not unreasonably or unnecessarily impact the ability of
25 Californians to purchase or rent affordable housing, as determined
26 by taking account of the overall benefit derived from water
27 efficiency standards. Nothing in this subdivision in any way
28 reduces the authority of the Department of Housing and
29 Community Development to adopt standards and regulations
30 pursuant to Part 1.5 (commencing with Section 17910) of Division
31 13 of the Health and Safety Code.

32 (3) Water efficiency standards and water conservation design
33 standards adopted pursuant to this subdivision and subdivision (b)
34 shall be consistent with the legislative findings of this division to
35 ensure and maintain a reliable supply of electrical energy and be
36 equivalent to or superior to the performance, safety, and protection
37 of life, health, and general welfare standards contained in Title 24
38 of the California Code of Regulations. The commission shall
39 consult with the members of the coordinating council as established

1 in Section 18926 of the Health and Safety Code in the development
2 of these standards.

3 (b) (1) Prescribe, by regulation, energy and water conservation
4 design standards for new residential and new nonresidential
5 buildings. The standards shall be performance standards and shall
6 be promulgated in terms of energy consumption per gross square
7 foot of floorspace, but may also include devices, systems, and
8 techniques required to conserve energy and water. The commission
9 shall periodically review the standards and adopt any revision that,
10 in its judgment, it deems necessary. A building that satisfies the
11 standards prescribed pursuant to this subdivision need not comply
12 with the standards prescribed pursuant to subdivision (a). Water
13 conservation design standards adopted pursuant to this subdivision
14 shall be demonstrated by the commission to be necessary to save
15 energy. Prior to adopting a water conservation design standard for
16 residential buildings, the Department of Housing and Community
17 Development and the commission shall issue a joint finding
18 whether the standard (A) is equivalent or superior in performance,
19 safety, and for the protection of life, health, and general welfare
20 to standards in the California Building Standards Code and (B)
21 does not unreasonably or unnecessarily impact the ability of
22 Californians to purchase or rent affordable housing, as determined
23 by taking account of the overall benefit derived from the water
24 conservation design standards. Nothing in this subdivision in any
25 way reduces the authority of the Department of Housing and
26 Community Development to adopt standards and regulations
27 pursuant to Part 1.5 (commencing with Section 17910) of Division
28 13 of the Health and Safety Code.

29 (2) In order to increase public participation and improve the
30 efficacy of the standards adopted pursuant to ~~subdivisions~~ *this*
31 *subdivision and subdivision (a) and (b)*, the commission shall, prior
32 to publication of the notice of proposed action required by Section
33 18935 of the Health and Safety Code, involve parties who would
34 be subject to the proposed regulations in public meetings regarding
35 the proposed regulations. All potential affected parties shall be
36 provided advance notice of these meetings and given an
37 opportunity to provide written or oral comments. During these
38 public meetings, the commission shall receive and take into
39 consideration input from all parties concerning the parties' design
40 recommendations, cost considerations, and other factors that would

1 affect consumers and California businesses of the proposed
2 standard. The commission shall take into consideration prior to
3 the start of the notice of proposed action any input provided during
4 these public meetings.

5 (3) The standards adopted or revised pursuant to ~~subdivisions~~
6 *this subdivision and subdivision (a) and (b)* shall be cost-effective
7 when taken in their entirety and when amortized over the economic
8 life of the structure compared with historic practice. When
9 determining cost-effectiveness, the commission shall consider the
10 value of the water or energy saved, impact on product efficacy for
11 the consumer, and the life cycle cost of complying with the
12 standard. The commission shall consider other relevant factors, as
13 required by Sections 18930 and 18935 of the Health and Safety
14 Code, including, but not limited to, the impact on housing costs,
15 the total statewide costs and benefits of the standard over its
16 lifetime, economic impact on California businesses, and alternative
17 approaches and their associated costs.

18 (c) (1) Prescribe, by regulation, standards for minimum levels
19 of operating efficiency, based on a reasonable use pattern, and
20 may prescribe other cost-effective measures, including incentive
21 programs, fleet averaging, energy and water consumption labeling
22 not preempted by federal labeling law, and consumer education
23 programs, to promote the use of energy and water efficient
24 appliances whose use, as determined by the commission, requires
25 a significant amount of energy or water on a statewide basis. The
26 minimum levels of operating efficiency shall be based on feasible
27 and attainable efficiencies or feasible improved efficiencies that
28 will reduce the energy or water consumption growth rates. The
29 standards shall become effective no sooner than one year after the
30 date of adoption or revision. No new appliance manufactured on
31 or after the effective date of the standards may be sold or offered
32 for sale in the state, unless it is certified by the manufacturer thereof
33 to be in compliance with the standards. The standards shall be
34 drawn so that they do not result in any added total costs for
35 consumers over the designed life of the appliances concerned.

36 In order to increase public participation and improve the efficacy
37 of the standards adopted pursuant to this subdivision, the
38 commission shall, prior to publication of the notice of proposed
39 action required by Section 18935 of the Health and Safety Code,
40 involve parties who would be subject to the proposed regulations

1 in public meetings regarding the proposed regulations. All potential
2 affected parties shall be provided advance notice of these meetings
3 and given an opportunity to provide written or oral comments.
4 During these public meetings, the commission shall receive and
5 take into consideration input from all parties concerning the parties'
6 design recommendations, cost considerations, and other factors
7 that would affect consumers and California businesses of the
8 proposed standard. The commission shall take into consideration
9 prior to the start of the notice of proposed action any input provided
10 during these public meetings.

11 The standards adopted or revised pursuant to this subdivision
12 shall not result in any added total costs for consumers over the
13 designed life of the appliances concerned. When determining
14 cost-effectiveness, the commission shall consider the value of the
15 water or energy saved, impact on product efficacy for the
16 consumer, and the life cycle cost to the consumer of complying
17 with the standard. The commission shall consider other relevant
18 factors, as required by Sections 11346.5 and 11357 of the
19 Government Code, including, but not limited to, the impact on
20 housing costs, the total statewide costs and benefits of the standard
21 over its lifetime, economic impact on California businesses, and
22 alternative approaches and their associated costs.

23 (2) ~~No~~A new appliance, except for any plumbing fitting,
24 regulated under paragraph (1), that is manufactured on or after
25 July 1, 1984, ~~may~~ shall not be sold, or offered for sale, in the state,
26 unless the date of the manufacture is permanently displayed in an
27 accessible place on that appliance.

28 (3) During the period of five years after the commission has
29 adopted a standard for a particular appliance under paragraph (1),
30 no increase or decrease in the minimum level of operating
31 efficiency required by the standard for that appliance shall become
32 effective, unless the commission adopts other cost-effective
33 measures for that appliance.

34 (4) Neither the commission nor any other state agency shall
35 take any action to decrease any standard adopted under this
36 subdivision on or before June 30, 1985, prescribing minimum
37 levels of operating efficiency or other energy conservation
38 measures for any appliance, unless the commission finds by a
39 four-fifths vote that a decrease is of benefit to ratepayers, and that
40 there is significant evidence of changed circumstances. Before

1 January 1, 1986, the commission shall not take any action to
2 increase a standard prescribing minimum levels of operating
3 efficiency for any appliance or adopt a new standard under
4 paragraph (1). Before January 1, 1986, any appliance manufacturer
5 doing business in this state shall provide directly, or through an
6 appropriate trade or industry association, information, as specified
7 by the commission after consultation with manufacturers doing
8 business in the state and appropriate trade or industry associations
9 on sales of appliances so that the commission may study the effects
10 of regulations on those sales. These informational requirements
11 shall remain in effect until the information is received. The trade
12 or industry association may submit sales information in an
13 aggregated form in a manner that allows the commission to carry
14 out the purposes of the study. The commission shall treat any sales
15 information of an individual manufacturer as confidential and that
16 information shall not be a public record. The commission shall not
17 request any information that cannot be reasonably produced in the
18 exercise of due diligence by the manufacturer. At least one year
19 prior to the adoption or amendment of a standard for an appliance,
20 the commission shall notify the Legislature of its intent, and the
21 justification to adopt or amend a standard for the appliance.
22 Notwithstanding paragraph (3) and this paragraph, the commission
23 may do any of the following:

24 (A) Increase the minimum level of operating efficiency in an
25 existing standard up to the level of the National Voluntary
26 Consensus Standards 90, adopted by the American Society of
27 Heating, Refrigeration, and Air Conditioning Engineers or, for
28 appliances not covered by that standard, up to the level established
29 in a similar nationwide consensus standard.

30 (B) Change the measure or rating of efficiency of any standard,
31 if the minimum level of operating efficiency remains substantially
32 the same.

33 (C) Adjust the minimum level of operating efficiency in an
34 existing standard in order to reflect changes in test procedures that
35 the standards require manufacturers to use in certifying compliance,
36 if the minimum level of operating efficiency remains substantially
37 the same.

38 (D) Readopt a standard preempted, enjoined, or otherwise found
39 legally defective by an administrative agency or a lower court, if
40 final legal action determines that the standard is valid and if the

1 standard that is readopted is not more stringent than the standard
 2 that was found to be defective or preempted.

3 (E) Adopt or amend any existing or new standard at any level
 4 of operating efficiency, if the Governor has declared an energy
 5 emergency as described in Section 8558 of the Government Code.

6 (5) Notwithstanding paragraph (4), the commission may adopt
 7 standards pursuant to Commission Order No. 84-0111-1, on or
 8 before June 30, 1985.

9 (d) Recommend minimum standards of efficiency for the
 10 operation of any new facility at a particular site that are technically
 11 and economically feasible. No site and related facility shall be
 12 certified pursuant to Chapter 6 (commencing with Section 25500),
 13 unless the applicant certifies that standards recommended by the
 14 commission have been considered, which certification shall include
 15 a statement specifying the extent to which conformance with the
 16 recommended standards will be achieved.

17 Whenever this section and Chapter 11.5 (commencing with
 18 Section 19878) of Part 3 of Division 13 of the Health and Safety
 19 Code are in conflict, the commission shall be governed by that
 20 chapter of the Health and Safety Code to the extent of the conflict.

21 (e) The commission shall do all of the following:

22 (1) Not later than January 1, 2004, amend any regulations in
 23 effect on January 1, 2003, pertaining to the energy efficiency
 24 standards for residential clothes washers to require that residential
 25 clothes washers manufactured on or after January 1, 2007, be at
 26 least as water efficient as commercial clothes washers.

27 (2) Not later than April 1, 2004, petition the federal Department
 28 of Energy for an exemption from any relevant federal regulations
 29 governing energy efficiency standards that are applicable to
 30 residential clothes washers.

31 (3) Not later than January 1, 2005, report to the Legislature on
 32 its progress with respect to the requirements of paragraphs (1) and
 33 (2).

34 SEC. 116. Section 25402.1 of the Public Resources Code is
 35 amended to read:

36 25402.1. In order to implement the requirements of subdivisions
 37 (a) and (b) of Section 25402, the commission *and the department*
 38 shall do all of the following:

39 (a) Develop a public domain computer program ~~which~~ *that* will
 40 enable contractors, builders, architects, engineers, and government

1 officials to estimate the energy consumed by residential and
2 nonresidential buildings. The ~~commission~~ *department* may charge
3 a fee for the use of the program, which fee shall be based upon the
4 actual cost of the program, including any computer costs.

5 (b) Establish a formal process for certification of compliance
6 options for new products, materials, and calculation methods ~~which~~
7 *that* provides for adequate technical and public review to ensure
8 accurate, equitable, and timely evaluation of certification
9 applications. Proponents filing applications for new products,
10 materials, and calculation methods shall provide all information
11 needed to evaluate the application that is required by the
12 ~~commission~~ *department* shall publish annually
13 the results of its certification decisions and instructions to users
14 and local building officials concerning requirements for showing
15 compliance with the building standards for new products, materials,
16 or calculation methods. The ~~commission~~ *department* may charge
17 and collect a reasonable fee from applicants to cover the costs
18 under this subdivision. Any funds received by the ~~commission~~
19 *department* for purposes of this subdivision shall be deposited in
20 the Energy Resources Programs Account and, notwithstanding
21 Section 13340 of the Government Code, are continuously
22 appropriated to the ~~commission~~ *department* for the purposes of
23 this subdivision. Any unencumbered portion of funds collected as
24 a fee for an application remaining in the Energy Resources
25 Programs Account after completion of the certification process
26 for that application shall be returned to the applicant within a
27 reasonable period of time.

28 (c) Include a prescriptive method of complying with the
29 standards, including design aids such as a manual, sample
30 calculations, and model structural designs.

31 (d) Conduct a pilot project of field testing of actual residential
32 buildings to calibrate and identify potential needed changes in the
33 modeling assumptions to increase the accuracy of the public
34 domain computer program specified in subdivision (a) and to
35 evaluate the impacts of the standards, including, but not limited
36 to, the energy savings, cost effectiveness, and the effects on indoor
37 air quality. The pilot project shall be conducted pursuant to a
38 contract entered into by the ~~commission~~ *department*. The
39 ~~commission~~ *department* shall consult with the participants
40 designated pursuant to Section 9202 of the Public Utilities Code

1 to seek funding and support for field monitoring in each public
2 utility service territory, with the University of California to take
3 advantage of its extensive building monitoring expertise, and with
4 the California Building Industry Association to coordinate the
5 involvement of builders and developers throughout the state. The
6 pilot project shall include periodic public workshops to develop
7 plans and review progress. The ~~commission~~ *department* shall
8 prepare and submit a report to the Legislature on progress and
9 initial findings not later than December 31, 1988, and a final report
10 on the results of the pilot project on residential buildings not later
11 than June 30, 1990. The report shall include recommendations
12 regarding the need and feasibility of conducting further monitoring
13 of actual residential and nonresidential buildings. The report shall
14 also identify any revisions to the public domain computer program
15 and energy conservation standards if the pilot project determines
16 that revisions are appropriate.

17 (e) Certify, not later than 180 days after approval of the
18 standards by the ~~State~~ *California* Building Standards Commission,
19 an energy conservation manual for use by designers, builders, and
20 contractors of residential and nonresidential buildings. The manual
21 shall be furnished upon request at a price sufficient to cover the
22 costs of production and shall be distributed at no cost to all affected
23 local agencies. The manual shall contain, but not be limited to, the
24 following:

25 (1) The standards for energy conservation established by the
26 ~~commission~~ *department*.

27 (2) Forms, charts, tables, and other data to assist designers and
28 builders in meeting the standards.

29 (3) Design suggestions for meeting or exceeding the standards.

30 (4) Any other information ~~which~~ *that* the ~~commission~~
31 *department* finds will assist persons in conforming to the standards.

32 (5) Instructions for use of the computer program for calculating
33 energy consumption in residential and nonresidential buildings.

34 (6) The prescriptive method for use as an alternative to the
35 computer program.

36 (f) The ~~commission~~ *department* shall establish a continuing
37 program of technical assistance to local building departments in
38 the enforcement of subdivisions (a) and (b) of Section 25402 and
39 this section. The program shall include the training of local officials
40 in building technology and enforcement procedures related to

1 energy conservation, and the development of complementary
2 training programs conducted by local governments, educational
3 institutions, and other public or private entities. The technical
4 assistance program shall include the preparation and publication
5 of forms and procedures for local building departments in
6 performing the review of building plans and specifications. The
7 ~~commission~~ *department* shall provide, on a contract basis, a review
8 of building plans and specifications submitted by a local building
9 department, and shall adopt a schedule of fees sufficient to repay
10 the cost of those services.

11 (g) Subdivisions (a) and (b) of Section 25402 and this section,
12 and the rules and regulations of the commission adopted pursuant
13 thereto, shall be enforced by the building department of every city,
14 county, or city and county.

15 (1) No building permit for any residential or nonresidential
16 building shall be issued by a local building department, unless a
17 review by the building department of the plans for the proposed
18 residential or nonresidential building contains detailed energy
19 system specifications and confirms that the building satisfies the
20 minimum standards established pursuant to subdivision (a) or (b)
21 of Section 25402 and this section applicable to the building.

22 (2) Where there is no local building department, the ~~commission~~
23 *department* shall enforce subdivisions (a) and (b) of Section 25402
24 and this section.

25 (3) If a local building department fails to enforce subdivisions
26 (a) and (b) of Section 25402 and this section or any other provision
27 of this chapter or standard adopted pursuant thereto, the
28 ~~commission~~ *department* may provide enforcement after furnishing
29 10 days' written notice to the local building department.

30 (4) A city, county, or city and county may, by ordinance or
31 resolution, prescribe a schedule of fees sufficient to pay the costs
32 incurred in the enforcement of subdivisions (a) and (b) of Section
33 25402 and this section. The ~~commission~~ *department* may establish
34 a schedule of fees sufficient to pay the costs incurred by that
35 enforcement.

36 (5) ~~No construction~~ *Construction of any* a state building shall
37 *not* commence until the Department of General Services or the
38 state agency that otherwise has jurisdiction over the property
39 reviews the plans for the proposed building and certifies that the
40 plans satisfy the minimum standards established pursuant to

1 ~~subdivision (a) or (b)~~ of Chapter 2.8 (commencing with Section
2 15814.30) of Part 10b of Division 3 of Title 2 of the Government
3 Code, Section 25402, and this section which are applicable to the
4 building.

5 (h) Subdivisions (a) and (b) of Section 25402 and this section
6 shall apply only to new residential and nonresidential buildings
7 on which actual site preparation and construction have not
8 commenced prior to the effective date of rules and regulations
9 adopted pursuant to those sections that are applicable to those
10 buildings. Nothing in those sections shall prohibit either of the
11 following:

12 (1) The enforcement of state or local energy conservation or
13 energy insulation standards, adopted prior to the effective date of
14 rules and regulations adopted pursuant to subdivisions (a) and (b)
15 of Section 25402 and this section with regard to residential and
16 nonresidential buildings on which actual site preparation and
17 construction have commenced prior to that date.

18 (2) The enforcement of city or county energy conservation or
19 energy insulation standards, whenever adopted, with regard to
20 residential and nonresidential buildings on which actual site
21 preparation and construction have not commenced prior to the
22 effective date of rules and regulations adopted pursuant to
23 subdivisions (a) and (b) of Section 25402 and this section, if the
24 city or county files the basis of its determination that the standards
25 are cost effective with the ~~commission~~ *department* and the
26 commission finds that the standards will require the diminution of
27 energy consumption levels permitted by the rules and regulations
28 adopted pursuant to those sections. If, after two or more years after
29 the filing with the ~~commission~~ *department* of the determination
30 that those standards are cost effective, there has been a substantial
31 change in the factual circumstances affecting the determination,
32 upon application by any interested party, the city or county shall
33 update and file a new basis of its determination that the standards
34 are cost effective. The determination that the standards are cost
35 effective shall be adopted by the governing body of the city or
36 county at a public meeting. If, at the meeting on the matter, the
37 governing body determines that the standards are no longer cost
38 effective, the standards shall, as of that date, be unenforceable and
39 no building permit or other entitlement shall be denied based on
40 the noncompliance with the standards.

1 (i) The ~~commission~~ *department* may exempt from the
2 requirements of this section and of any regulations adopted
3 pursuant thereto any proposed building for which compliance
4 would be impossible without substantial delays and increases in
5 cost of construction, if the ~~commission~~ *department* finds that
6 substantial funds have been expended in good faith on planning,
7 designing, architecture or engineering prior to the date of adoption
8 of the regulations.

9 (j) If a dispute arises between an applicant for a building permit,
10 or the state pursuant to paragraph (5) of subdivision (g), and the
11 building department regarding interpretation of Section 25402 or
12 the regulations adopted pursuant thereto, either party may submit
13 the dispute to the commission for resolution. The commission's
14 determination of the matter shall be binding on the parties.

15 (k) Nothing in Section 25130, 25131, or 25402, or in this section
16 prevents enforcement of any regulation adopted pursuant to this
17 chapter, or Chapter 11.5 (commencing with Section 19878) of Part
18 3 of Division 13 of the Health and Safety Code as they existed
19 prior to September 16, 1977.

20 SEC. 117. Section 25402.3 of the Public Resources Code is
21 amended to read:

22 25402.3. For purposes of subdivision (e) of Section 25402.1,
23 the ~~commission~~ *department* shall contract with California building
24 officials to establish two regional training centers to provide
25 continuing education for local building officials and enforcement
26 personnel as follows:

27 (a) One site shall be located in northern California and one site
28 shall be located in southern California to serve the needs of the
29 respective regions.

30 (b) The centers shall provide training on a monthly basis to
31 ensure a uniform understanding and implementation of the energy
32 efficient building standards. Existing resources shall be used as
33 much as possible by utilizing members of the building official
34 community in training activities.

35 (c) The centers shall provide similar training sessions, in the
36 form of workshops given in designated rural areas, to ensure that
37 adequate training is available throughout the state. *The workshops*
38 *shall meet the following requirements:*

39 (1) A minimum of two workshops in northern California and
40 two workshops in southern California shall be offered each year.

1 (2) The sites shall be selected to ensure the greatest number of
2 participants will be served in areas of greatest need to decrease
3 the financial burden on small rural or isolated local government
4 agencies that would not be able to travel to the regional training
5 centers for instruction.

6 SEC. 118. Section 25402.6 of the Public Resources Code is
7 amended to read:

8 25402.6. The ~~commission~~ *department* shall investigate options
9 and develop a plan to decrease wasteful peakload energy
10 consumption in existing residential and nonresidential buildings.
11 On or before January 1, 2004, the ~~commission~~ *department* shall
12 report its findings to the Legislature, including, but not limited to,
13 any changes in law necessary to implement the plan to decrease
14 wasteful peakload energy consumption in existing residential and
15 nonresidential buildings.

16 SEC. 119. Section 25402.9 of the Public Resources Code is
17 amended to read:

18 25402.9. (a) On or before July 1, 1996, the ~~commission~~
19 *department* shall develop, adopt, and publish an informational
20 booklet to educate and inform homeowners, rental property owners,
21 renters, sellers, brokers, and the general public about the statewide
22 home energy rating program adopted pursuant to Section 25942.

23 (b) In the development of the booklet, the ~~commission~~
24 *department* shall consult with representatives of the Department
25 of Real Estate, the Department of Housing and Community
26 Development, the Public Utilities Commission, investor-owned
27 and municipal utilities, cities and counties, real estate licensees,
28 home builders, mortgage lenders, home appraisers and inspectors,
29 home energy rating organizations, contractors who provide home
30 energy services, consumer groups, and environmental groups.

31 (c) The ~~commission~~ *department* shall charge a fee for the
32 informational booklet to recover its costs under subdivision (a).

33 SEC. 120. Section 25403 of the Public Resources Code is
34 amended to read:

35 25403. The ~~commission~~ *department* shall submit to the Public
36 Utilities Commission and to any publicly owned electric utility,
37 recommendations designed to reduce wasteful, unnecessary, or
38 uneconomic energy consumption resulting from practices
39 including, but not limited to, differential rate structures,
40 cost-of-service allocations, the disallowance of a business expense

1 of advertising or promotional activities ~~which~~ *that* encourage the
 2 use of electrical power, peakload pricing, and other pricing
 3 measures. The Public Utilities Commission or publicly owned
 4 electric utility shall review and consider ~~such~~ *the* recommendations
 5 and shall, within six months after the date it receives them, as
 6 prescribed by this section, report to the Governor and the
 7 Legislature its actions and reasons therefor with respect to ~~such~~
 8 *the* recommendations.

9 SEC. 121. Section 25403.5 of the Public Resources Code is
 10 amended to read:

11 25403.5. (a) ~~The commission~~ *department* shall, by July 1,
 12 1978, adopt standards by regulation for a program of electrical
 13 load management for each utility service area. In adopting the
 14 standards, ~~the commission~~ *department* shall consider, but need not
 15 be limited to, the following load management techniques:

16 (1) Adjustments in rate structure to encourage use of electrical
 17 energy at off-peak hours or to encourage control of daily electrical
 18 load. Compliance with those adjustments in rate structure shall be
 19 subject to the approval of the Public Utilities Commission in a
 20 proceeding to change rates or service.

21 (2) End use storage systems which store energy during off-peak
 22 periods for use during peak periods.

23 (3) Mechanical and automatic devices and systems for the
 24 control of daily and seasonal peakloads.

25 (b) (1) The standards shall be cost-effective when compared
 26 with the costs for new electrical capacity, and ~~the commission~~
 27 *department* shall find them to be technologically feasible. Any
 28 expense or any capital investment required of a utility by the
 29 standards shall be an allowable expense or an allowable item in
 30 the utility rate base and shall be treated by the Public Utilities
 31 Commission as allowable in a rate proceeding.

32 ~~The commission~~

33 (2) *The department* may determine that one or more of the load
 34 management techniques are infeasible and may delay their
 35 adoption. If ~~the commission~~ *department* determines that any
 36 techniques are infeasible to implement, it shall make a finding in
 37 each instance stating the grounds upon which the determination
 38 was made and the actions it intends to take to remove the
 39 impediments to implementation.

1 (c) The ~~commission~~ *department* may also grant, upon application
2 by a utility, an exemption from the standards or a delay in
3 implementation. The grant of an exemption or delay shall be
4 accompanied by a statement of findings by the ~~commission~~
5 *department* indicating the grounds for the exemption or delay.
6 Exemption or delay shall be granted only upon a showing of
7 extreme hardship, technological infeasibility, lack of
8 cost-effectiveness, or reduced system reliability and efficiency.

9 ~~(d) This section does not apply to proposed sites and related
10 facilities for which a notice of intent or an application requesting
11 certification has been filed with the commission prior to the
12 effective date of the standards.~~

13 SEC. 122. Section 25403.8 of the Public Resources Code is
14 amended to read:

15 25403.8. (a) The ~~commission~~ *department* shall develop and
16 implement a program to provide battery backup power for those
17 official traffic control signals, operated by a city, county, or city
18 and county, that the ~~commission, department,~~ in consultation with
19 cities, counties, or cities and counties, determines to be high
20 priority traffic control signals.

21 (b) Based on traffic factors considered by cities, counties, or
22 cities and counties, including, but not limited to, traffic volume,
23 number of accidents, and presence of children, the ~~commission~~
24 *department* shall determine a priority schedule for the installation
25 of battery backup power for traffic control systems. The
26 ~~commission~~ *department* shall give priority to a city, county, or
27 city and county that did not receive a grant from the State of
28 California for the installation of light-emitting diode traffic control
29 signals.

30 (c) The ~~commission~~ *department* shall also develop or adopt the
31 necessary technical criteria as to wiring, circuitry, and recharging
32 units for traffic control signals. Only light-emitting diodes (LED)
33 traffic control signals are eligible for battery backup power for the
34 full operation of the traffic control signal or a flashing red mode.
35 A city, county, or city and county may apply for a matching grant
36 for battery backup power for traffic control signals retrofitted with
37 light-emitting diodes.

38 (d) Based on the criteria described in subdivision (c), the
39 ~~commission~~ *department* shall provide matching grants to cities,
40 counties, and cities and counties for backup battery systems

1 described in this section in accordance with the priority schedule
2 established by the ~~commission~~ *department* pursuant to subdivision
3 (b). The ~~commission~~ *department* shall provide 70 percent of the
4 funds for a battery backup system, and the city, county, or city and
5 county shall provide 30 percent.

6 (e) If a city, county, or city and county has installed a backup
7 battery system for LED traffic control signals between January 1,
8 2001, and ~~the effective date of the act adding this section~~ *October*
9 *1, 2001*, the ~~commission~~ *department* may reimburse the city,
10 county, or city and county for up to 30 percent of the cost incurred
11 for the backup battery system installation. However, the
12 ~~commission~~ *department* may not spend more than one million five
13 hundred thousand dollars (\$1,500,000) for reimbursements pursuant
14 to this subdivision.

15 SEC. 123. Section 25404 of the Public Resources Code is
16 amended to read:

17 25404. The ~~commission~~ *department* shall cooperate with the
18 Office of Planning and Research, the Resources Agency, and other
19 interested parties in developing procedures to ensure that mitigation
20 measures to minimize wasteful, inefficient, and unnecessary
21 consumption of energy are included in all environmental impact
22 reports required on local projects as specified in Section 21151.

23 SEC. 124. Section 25410.5 of the Public Resources Code is
24 amended to read:

25 25410.5. The Legislature finds and declares all of the following:

26 (a) Energy costs are frequently the second largest discretionary
27 expense in a local government's budget. According to the
28 ~~commission~~, *department*, most public institutions could reduce
29 their energy costs by 20 to 30 percent.

30 (b) A variety of energy conservation measures are available to
31 local governments. These measures are highly cost-effective, often
32 providing a payback on the initial investment in three years or less.

33 (c) Many local governments lack energy management expertise
34 and are often unaware of their high energy costs or the
35 opportunities to reduce those costs.

36 (d) Local governments that desire to reduce their energy costs
37 through energy conservation and efficiency measures often lack
38 available funding.

39 (e) Since 1980, the Energy Conservation Assistance Account
40 has provided \$110 million in loans, through a revolving loan

1 account, to 600 schools, hospitals, and local governments. The
 2 energy conservation projects funded by the account save
 3 approximately \$35 million annually in energy costs.

4 (f) Local governments and public institutions need assistance
 5 in all aspects of energy efficiency improvements, including, but
 6 not limited to, project identification, project development and
 7 implementation, evaluation of project proposals and options,
 8 operations and maintenance, and troubleshooting of problem
 9 projects.

10 SEC. 125. Section 25410.6 of the Public Resources Code is
 11 amended to read:

12 25410.6. (a) It is the intent of the Legislature that the
 13 ~~commission~~ *department* shall administer the State Energy
 14 Conservation Assistance Account to provide grants and loans to
 15 local governments and public institutions to maximize energy use
 16 savings, including, but not limited to, technical assistance,
 17 demonstrations, and identification and implementation of
 18 cost-effective energy efficiency measures and programs in existing
 19 and planned buildings or facilities.

20 (b) It is further the intent of the Legislature that the ~~commission~~
 21 *department* seek the assistance of utility companies in providing
 22 energy audits for local governments and public institutions and in
 23 publicizing the availability of State Energy Conservation
 24 Assistance Account funds to qualified entities.

25 SEC. 126. Section 25412 of the Public Resources Code is
 26 amended to read:

27 25412. (a) Any eligible institution may submit an application
 28 to the ~~commission~~ *department* for an allocation for the purpose of
 29 financing all or a portion of the costs incurred in implementing a
 30 project. The application shall be in ~~such~~ *the* form and contain ~~such~~
 31 *the* information ~~as incurred in implementing a project that the~~
 32 ~~commission~~ *department* shall prescribe.

33 (b) An application may be for the purpose of financing the
 34 eligible institution’s share of ~~such~~ costs ~~which~~ *that* are to be jointly
 35 funded through a state, local, or federal-local program.

36 SEC. 127. Section 25413 of the Public Resources Code is
 37 amended to read:

38 25413. Applications may be approved by the ~~commission~~
 39 *department* only in those instances where the eligible institution
 40 has furnished information satisfactory to the ~~commission~~

1 *department* that the costs of the project, plus interest on state funds
2 loaned, calculated in accordance with Section 25415, will be
3 recovered through savings in the cost of energy to the institution
4 during the repayment period of the allocation.

5 The savings shall be calculated in a manner prescribed by the
6 ~~commission~~ *department*.

7 SEC. 128. Section 25414 of the Public Resources Code is
8 amended to read:

9 25414. Annually at the conclusion of each fiscal year, but not
10 later than October 31, each eligible institution ~~which~~ *that* has
11 received an allocation pursuant to ~~the provisions of this chapter~~
12 shall compute the cost of the energy saved as a result of
13 implementing a project funded by ~~such~~ *that* allocation. ~~Such That~~
14 cost shall be calculated in a manner prescribed by the ~~commission~~
15 *department*.

16 SEC. 129. Section 25415 of the Public Resources Code is
17 amended to read:

18 25415. (a) ~~Each~~ *An* eligible institution to which an allocation
19 has been made under this chapter shall repay the principal amount
20 of the allocation, plus interest, in not more than 30 equal
21 semiannual payments, as determined by the commission. The first
22 semiannual payment shall be made on or before December 22 of
23 the fiscal year following the year in which the project is completed.
24 The repayment period may not exceed the life of the equipment,
25 as determined by the ~~commission~~ *department* or the lease term of
26 the building *or facility* in which the energy conservation measures
27 will be installed.

28 (b) Notwithstanding any other provision of law, the ~~commission~~
29 *department* shall, unless it determines that the purposes of this
30 chapter would be better served by establishing an alternative
31 interest rate schedule, periodically set interest rates on the loans
32 based on surveys of existing financial markets and at rates not less
33 than 3 percent per annum.

34 (c) The governing body of each eligible institution shall annually
35 budget an amount at least sufficient to make the semiannual
36 payments required in this section. The amount shall not be raised
37 by the levy of additional taxes but shall instead be obtained by a
38 savings in energy costs or other sources.

39 SEC. 130. Section 25416 of the Public Resources Code is
40 amended to read:

1 25416. (a) The State Energy Conservation Assistance Account
 2 is hereby created in the General Fund. Notwithstanding Section
 3 13340 of the Government Code, the account is continuously
 4 appropriated to the ~~commission~~ *department* without regard to fiscal
 5 year.

6 (b) The money in the account shall consist of all money
 7 authorized or required to be deposited in the account by the
 8 Legislature and all money received by the ~~commission~~ *department*
 9 pursuant to Sections 25414 and 25415.

10 (c) The money in the account shall be disbursed by the
 11 Controller for the purposes of this chapter as authorized by the
 12 ~~commission~~ *department*.

13 (d) The ~~commission~~ *department* may contract and provide grants
 14 for services to be performed for eligible institutions. Services may
 15 include, but are not limited to, feasibility analysis, project design,
 16 field assistance, and operation and training. The amount expended
 17 for those services may not exceed 10 percent of the balance of the
 18 account as determined by the ~~commission~~ *department* on July 1
 19 of each year.

20 (e) The ~~commission~~ *department* may make grants for innovative
 21 projects and programs. The amount expended for grants may not
 22 exceed 5 percent of the annual appropriation from the account.

23 (f) The ~~commission~~ *department* may charge a fee for the services
 24 provided under subdivision (d).

25 (g) Notwithstanding any other provision of law, the Controller
 26 may use the State Energy Conservation Assistance Account for
 27 loans to the General Fund as provided in Sections 16310 and 16381
 28 of the Government Code.

29 SEC. 131. Section 25417 of the Public Resources Code is
 30 amended to read:

31 25417. (a) An allocation made pursuant to this chapter shall
 32 be used for the purposes specified in an approved application.

33 (b) In the event that the ~~commission~~ *department* determines that
 34 an allocation has been expended for purposes other than those
 35 specified in an approved application, it shall immediately request
 36 the return of the full amount of the allocation. The eligible
 37 institution shall immediately comply with ~~such~~ *this* request.

38 SEC. 132. Section 25417.5 of the Public Resources Code is
 39 amended to read:

1 25417.5. (a) In furtherance of the purposes of the ~~commission~~
2 *department* as set forth in this chapter, the ~~commission~~ *department*
3 has the power and authority to do all of the following:

4 (1) Borrow money, for the purpose of obtaining funds to make
5 loans pursuant to this chapter, from the California Economic
6 Development Financing Authority; *and* the California Infrastructure
7 and Economic Development Bank; ~~and the California Consumer~~
8 ~~Power and Conservation Financing Authority~~ from the proceeds
9 of revenue bonds issued by any of those agencies.

10 (2) Pledge, to provide collateral in connection with the
11 borrowing of money pursuant to paragraph (1), loans made
12 pursuant to this chapter or Chapter 5.4 (commencing with Section
13 25440), or the principal and interest payments on loans made
14 pursuant to this chapter or Chapter 5.4 (commencing with Section
15 25440).

16 (3) Sell loans made pursuant to this chapter or Chapter 5.4
17 (commencing with Section 25440), at prices determined in the
18 sole discretion of the ~~commission~~, *department*, to the California
19 Economic Development Financing Authority; *and* the California
20 Infrastructure and Economic Development Bank; ~~and the California~~
21 ~~Consumer Power and Conservation Financing Authority~~ to raise
22 funds to enable the ~~commission~~ *department* to make loans to
23 eligible institutions.

24 (4) Enter into loan agreements or other contracts necessary or
25 appropriate in connection with the pledge or sale of loans pursuant
26 to paragraph (2) or (3), or the borrowing of money as provided in
27 paragraph (1), containing any provisions that may be required by
28 the California Economic Development Financing Authority, the
29 California Infrastructure and Economic Development Bank, or the
30 ~~California Consumer Power and Conservation Financing Authority~~
31 *department* as conditions of issuing bonds to fund loans to, or the
32 purchase of loans from, the ~~commission~~ *department*.

33 (b) In connection with the pledging of loans, or of the principal
34 and interest payment on loans, pursuant to paragraph (2) of
35 subdivision (a), the ~~commission~~ *department* may enter into pledge
36 agreements setting forth the terms and conditions pursuant to which
37 the ~~commission~~ *department* is pledging loans or the principal and
38 interest payment on loans, and may also agree to have the loans
39 held by bond trustees or by independent collateral or escrow agents

1 and to direct that payments received on those loans be paid to those
2 trustee, collateral, or escrow agents.

3 (c) The ~~commission~~ *department* may employ financial
4 consultants, legal advisers, accountants, and other service
5 providers, as may be necessary in its judgment, in connection with
6 activities pursuant to this chapter.

7 (d) Notwithstanding any other provision of law, this chapter
8 provides a complete, separate, additional, and alternative method
9 for implementing the measures authorized by this chapter,
10 including the authority of the eligible institutions or local
11 jurisdictions to have borrowed and to borrow in the future pursuant
12 to loans made pursuant to this chapter or Chapter 5.4 (commencing
13 with Section 25440), and is supplemental and additional to powers
14 conferred by other laws.

15 SEC. 133. Section 25419 of the Public Resources Code is
16 amended to read:

17 25419. In addition to the powers specifically granted to the
18 ~~commission~~ *department* by the other provisions of this chapter,
19 the ~~commission~~ *department* shall have the following powers:

20 (a) To establish qualifications and priorities, consistent with the
21 objectives of this chapter, for making allocations.

22 (b) To establish ~~such~~ procedures and policies as may be
23 necessary for the administration of this chapter.

24 SEC. 134. Section 25420 of the Public Resources Code is
25 amended to read:

26 25420. The ~~commission~~ *department* may expend from the State
27 Energy Conservation Assistance Account an amount to pay for
28 the actual administrative costs incurred by the ~~commission~~
29 *department* pursuant to this chapter. ~~Such~~ This amount shall not
30 exceed 5 percent of the total appropriation, to be held in reserve
31 and used to defray costs incurred by the ~~commission~~ *department*
32 for allocations made by the ~~commission~~ *department* pursuant to
33 this chapter.

34 SEC. 135. Section 25426 of the Public Resources Code is
35 amended to read:

36 25426. As used in this article, the following terms have the
37 following meanings:

38 (a) “Commercial refrigeration” means a refrigerator that is not
39 a federally regulated consumer product.

1 (b) “Energy-efficient model” means ~~any~~ *an* appliance that meets
 2 the efficiency standards of the United States Department of Energy
 3 that are effective on and after July 1, 2001, and, if applicable,
 4 products certified as energy efficient zone heating products by the
 5 ~~State Energy Resources Conservation and Development~~
 6 ~~Commission.~~ *commission.*

7 (c) “Small business” means ~~any~~ *a* small business as defined in
 8 paragraph (1) of subdivision (d) of Section 14837 of the
 9 Government Code.

10 SEC. 136. Section 25433.5 of the Public Resources Code is
 11 amended to read:

12 25433.5. (a) ~~In~~ *The department, in* consultation with the Public
 13 Utilities Commission, ~~the commission~~ shall do both of the
 14 following for the purpose of full or partial funding of an eligible
 15 construction or retrofit project:

16 (1) Establish a grant program to provide financial assistance to
 17 eligible low-income individuals.

18 (2) Establish a 2-percent interest per annum loan program to
 19 provide financial assistance to a small business owner, residential
 20 property owner, or individual who is not eligible for a grant
 21 pursuant to paragraph (1). The loans shall be available to a small
 22 business owner who has a gross annual income that does not exceed
 23 one hundred thousand dollars (\$100,000) or to an individual or
 24 residential property owner who has a gross annual household
 25 income that does not exceed one hundred thousand dollars
 26 (\$100,000).

27 (b) (1) ~~The commission~~ *department* shall use the design
 28 guidelines adopted pursuant to paragraph (2) of subdivision (f) of
 29 Section 14 of ~~the act that added this section~~ *Chapter 8 of the*
 30 *Statutes of the First Extraordinary Session of 2001* as standards
 31 to determine eligible energy-efficiency projects.

32 (2) The award of a grant pursuant to this section is subject to
 33 appeal to the ~~commission~~ *department* upon a showing that the
 34 ~~commission~~ *department* applied factors, other than those adopted
 35 by the ~~commission,~~ *department,* in making the award.

36 (3) The grant or loan recipient shall commit to using the grant
 37 or loan for the purpose for which the grant or loan was awarded.

38 (4) Any action taken by an applicant to apply for, or to become
 39 or remain eligible to receive, a grant award, including satisfying
 40 conditions specified by the ~~commission,~~ *department,* does not

1 constitute the rendering of goods, services, or a direct benefit to
 2 ~~the commission~~ department.

3 (5) The amount of any grant awarded pursuant to this article to
 4 a low-income individual does not constitute income for purposes
 5 of calculating the recipient’s gross income for the tax year during
 6 which the grant is received.

7 SEC. 137. Section 25434 of the Public Resources Code is
 8 amended to read:

9 25434. The ~~commission~~ department may contract with one or
 10 more business entities capable of supplying or providing goods or
 11 services necessary for the ~~commission~~ department to carry out the
 12 responsibilities for the programs conducted pursuant to this article,
 13 and shall contract with one or more business entities to evaluate
 14 the effectiveness of the programs implemented pursuant to
 15 subdivision (a) of Section 25433.5. The ~~commission~~ department
 16 may select an entity on a sole source basis for one or both of those
 17 purposes if the cost to the state will be reasonable and the
 18 ~~commission~~ department determines that it is in the best interest of
 19 the state.

20 SEC. 138. Section 25434.5 of the Public Resources Code is
 21 amended to read:

22 25434.5. As used in this article, the following terms have the
 23 following meanings:

24 (a) “Eligible construction or retrofit project” means a project
 25 for making improvements to a home or building in existence on
 26 ~~the effective date of the act adding this section~~ April 12, 2001,
 27 through an addition, alteration, or repair, which effectively
 28 increases the energy efficiency or reduces the energy consumption
 29 of the home or building as specified by the ~~commission’s~~
 30 departmental guidelines under paragraph (2) of subdivision (f) of
 31 Section 14 of ~~the act that added this section~~ Chapter 8 of the
 32 Statutes of the First Extraordinary Session of 2001. The
 33 improvements shall be deemed to be cost-effective.

34 (b) “Low income” means an individual with a gross annual
 35 income equal to or less than 200 percent of the federal poverty
 36 level.

37 (c) “Small business” means ~~any~~ a small business as defined in
 38 paragraph (1) of subdivision (d) of Section 14837 of the
 39 Government Code.

1 SEC. 139. Section 25435 of the Public Resources Code is
2 amended to read:

3 25435. ~~The commission~~ *department* shall administer the Small
4 Business Energy Efficient Refrigeration Loan Program, as provided
5 for in Section 25436.

6 SEC. 140. Section 25436 of the Public Resources Code is
7 amended to read:

8 25436. (a) ~~Within 45 days of the effective date of this chapter,~~
9 ~~the commission~~ *The department* shall implement a Small Business
10 Energy Efficient Refrigeration Loan Program for qualifying small
11 businesses to purchase and install energy efficient refrigeration
12 equipment.

13 (b) The program shall offer loans at 3 percent interest on terms
14 that will ensure the small business owner will repay the loan over
15 time in accordance with terms established by the ~~Energy~~
16 ~~Commission,~~ *department*, but in no event may the term exceed the
17 useful life of the purchase.

18 (c) ~~The commission~~ *department* may enter into agreements with
19 lending institutions and qualifying vendors to facilitate making
20 and administering loans. ~~Any~~ A loan made by the ~~commission~~
21 *department* for the purchase of equipment shall be secured against
22 the equipment purchased.

23 SEC. 141. Section 25441 of the Public Resources Code is
24 amended to read:

25 25441. ~~The commission~~ *department* shall provide financial
26 assistance to local jurisdictions for the purpose of providing staff
27 training and support services, including, but not limited to, planning
28 design, permitting, energy conservation, comprehensive energy
29 management, project evaluation, and development of alternative
30 energy resources.

31 SEC. 142. Section 25442 of the Public Resources Code is
32 amended to read:

33 25442. ~~The commission~~ *department* shall provide loans to local
34 jurisdictions for all of the following purposes:

35 (a) Purchase, maintenance, and evaluation of energy efficient
36 *or peak load reduction* equipment for existing ~~and new~~ *or planned*
37 facilities, including, but not limited to, equipment related to lights,
38 motors, pumps, water and wastewater systems, boilers, heating,
39 and air conditioning.

1 (b) Purchase, maintenance, and evaluation of small power
2 production systems, including, but not limited to, wind,
3 cogeneration, photovoltaics, geothermal, and hydroelectric systems.

4 (c) ~~Improve~~ *Improvement of* the operating efficiency of existing
5 local transportation systems.

6 SEC. 143. Section 25442.5 of the Public Resources Code is
7 amended to read:

8 25442.5. The ~~commission~~ *department* may award financial
9 assistance for project audits, feasibility studies, engineering and
10 design, and legal and financial analysis related to the purposes of
11 Section 25442.

12 SEC. 144. Section 25442.7 of the Public Resources Code is
13 amended to read:

14 25442.7. (a) Loans under this article may not exceed five
15 million dollars (\$5,000,000) for any one local jurisdiction unless
16 the ~~commission~~ *department* determines, ~~by unanimous vote~~, that
17 the public interest and objectives of this chapter would be better
18 served at a higher loan amount.

19 (b) Loan repayments shall be made in accordance with a
20 schedule established by the ~~commission~~ *department*. Repayment
21 of loans shall be made in full unless the ~~commission~~ *department*
22 determines, ~~by unanimous vote~~, that the public interest and
23 objectives of this chapter would be better served by negotiating a
24 reduced loan repayment for a project that fails to meet the technical
25 or financial performance criteria through no fault of the local
26 jurisdiction.

27 SEC. 145. Section 25443 of the Public Resources Code is
28 amended to read:

29 25443. (a) Principal and interest payments on loans under this
30 article shall be returned to the ~~commission~~ *department* and shall
31 be used to make additional loans to local jurisdictions pursuant to
32 Section 25442 or to provide financial assistance to local
33 jurisdictions pursuant to Section 25441.

34 (b) Notwithstanding any other provision of law, the ~~commission~~
35 *department* shall, unless it determines that the purposes of this
36 chapter would be better served by establishing an alternative
37 interest rate schedule, periodically set interest rates on the loans
38 based on surveys of existing financial markets and at rates not less
39 than 3 percent per annum.

1 SEC. 146. Section 25443.5 of the Public Resources Code is
2 amended to read:

3 25443.5. (a) In furtherance of the purposes of the ~~commission~~
4 *department* as set forth in this chapter, the ~~commission~~ *department*
5 has the power and authority to do all of the following:

6 (1) Borrow money, for the purpose of obtaining funds to make
7 loans pursuant to this chapter, from the California Economic
8 Development Financing Authority; *and* the California Infrastructure
9 and Economic Development Bank; ~~and the California Consumer~~
10 ~~Power and Conservation Financing Authority~~ from the proceeds
11 of revenue bonds issued by ~~any~~ *either* of those agencies.

12 (2) Pledge, to provide collateral in connection with the
13 borrowing of money pursuant to paragraph (1), loans made
14 pursuant to this chapter or Chapter 5.2 (commencing with Section
15 25410), or the principal and interest payments on loans made
16 pursuant to this chapter or Chapter 5.2 (commencing with Section
17 25410).

18 (3) Sell loans made pursuant to this chapter or Chapter 5.2
19 (commencing with Section 25410), at prices determined in the
20 sole discretion of the ~~commission~~; *department*, to the California
21 Economic Development Financing Authority; *and* the California
22 Infrastructure and Economic Development Bank; ~~and the California~~
23 ~~Consumer Power and Conservation Financing Authority~~ to raise
24 funds to enable the ~~commission~~ *department* to make loans to
25 eligible institutions.

26 (4) Enter into loan agreements or other contracts necessary or
27 appropriate in connection with the pledge or sale of loans pursuant
28 to paragraph (2) or (3), or the borrowing of money as provided in
29 paragraph (1), containing any provisions that may be required by
30 the California Economic Development Financing Authority, the
31 California Infrastructure and Economic Development Bank, or the
32 ~~California Consumer Power and Conservation Financing Authority~~
33 *department* as conditions of issuing bonds to fund loans to, or the
34 purchase of loans from, the ~~commission~~ *department*.

35 (b) In connection with the pledging of loans, or of the principal
36 and interest payment on loans, pursuant to paragraph (2) of
37 subdivision (a), the ~~commission~~ *department* may enter into pledge
38 agreements setting forth the terms and conditions pursuant to which
39 the ~~commission~~ *department* is pledging loans or the principal and
40 interest payment on loans, and may also agree to have the loans

1 held by bond trustees or by independent collateral or escrow agents
2 and to direct that payments received on those loans be paid to those
3 trustee, collateral, or escrow agents.

4 (c) The ~~commission~~ *department* may employ financial
5 consultants, legal advisers, accountants, and other service
6 providers, as may be necessary in its judgment, in connection with
7 activities pursuant to this chapter.

8 (d) Notwithstanding any other provision of law, this chapter
9 provides a complete, separate, additional, and alternative method
10 for implementing the measures authorized by this chapter,
11 including the authority of the eligible institutions or local
12 jurisdictions to have borrowed and to borrow in the future pursuant
13 to loans made pursuant to this chapter or Chapter 5.2 (commencing
14 with Section 25410), and is supplemental and additional to powers
15 conferred by other laws.

16 SEC. 147. Section 25445 of the Public Resources Code is
17 amended to read:

18 25445. The ~~commission~~ *department* shall design a local
19 jurisdiction energy assistance program for the purpose of providing
20 financial assistance under Article 2 (commencing with Section
21 25441) and providing loans under Article 3 (commencing with
22 Section 25442). A local jurisdiction's energy assistance program
23 shall be funded through the commission's existing local
24 government assistance programs, except that if a project is not
25 eligible for funding under an existing program, the ~~commission~~
26 *department* may fund the project under this chapter.

27 SEC. 148. Section 25449 of the Public Resources Code is
28 amended to read:

29 25449. The ~~commission~~ *department* shall enter into an
30 agreement with the Regents of the University of California, the
31 Trustees of the California State University, and the Board of
32 Governors of the California Community Colleges for the
33 expenditure of petroleum violation escrow funds to supplement,
34 and not supplant, other available funds to improve energy
35 efficiency at state-supported universities and colleges under their
36 respective jurisdictions by funding projects involving any of the
37 following:

- 38 (a) Data collection.
- 39 (b) Establishment of operations and maintenance standards.
- 40 (c) Staff training.

- 1 (d) Ongoing energy equipment maintenance.
- 2 (e) Projects involving heating, ventilation, air conditioning, and
- 3 lighting equipment.

4 SEC. 149. Section 25449.3 of the Public Resources Code is

5 amended to read:

6 25449.3. (a) The Local Jurisdiction Energy Assistance Account

7 is hereby created in the General Fund. All money appropriated for

8 purposes of this chapter and all money received from local

9 jurisdictions from loan repayments shall be deposited in the account

10 and disbursed by the Controller as authorized by the ~~commission~~

11 *department*.

12 (b) The ~~commission~~ *department* may charge a fee for the

13 services provided under this chapter.

14 (c) The ~~commission~~ *department* may contract for services to be

15 performed by eligible institutions, as defined in subdivision (c) of

16 Section 25411. Those services may include, but are not limited to,

17 performance of a feasibility analysis, and providing project design,

18 field evaluation, and operation and training assistance. The amount

19 expended for contract services may not exceed 10 percent of the

20 annual scheduled loan repayment to the Local Jurisdiction Energy

21 Assistance Account, as determined by the ~~commission~~ *department*

22 not later than July 1 of each fiscal year.

23 SEC. 150. Section 25494 of the Public Resources Code is

24 amended to read:

25 25494. Not later than July 31, 1978, the ~~commission~~ *department*

26 shall prepare a manual outlining a methodology by which

27 governmental agencies and the general public may at their option

28 compare the lifecycle costs of various building design alternatives.

29 This manual will provide the information and procedures necessary

30 to evaluate a building's lifecycle costs in the microclimate and

31 utility service area where it is to be built.

32 SEC. 151. Section 25496 of the Public Resources Code is

33 amended to read:

34 25496. No later than July 1, 1978, the commission shall develop

35 and make available to government agencies and the general public

36 to be utilized at their option lighting standards for existing

37 buildings. These standards shall address, but not be limited to, task

38 and general area lighting levels, light switching and control

39 mechanisms, and lighting energy budgets. The ~~commission~~

1 *department* may provide advice and recommendations to the public
 2 or any governmental agency as to the standards.

3 SEC. 152. Section 25500 of the Public Resources Code is
 4 amended to read:

5 25500. (a) In accordance with the provisions of this division,
 6 the *secretary, in consultation with the* commission, shall have the
 7 exclusive power to certify all sites and related facilities in the state,
 8 whether a new site and related facility or a change or addition to
 9 an existing facility. The issuance of a certificate by the ~~commission~~
 10 *secretary* shall be in lieu of any permit, certificate, or similar
 11 document required by any state, local or regional agency, or federal
 12 agency to the extent permitted by federal law, for such use of the
 13 site and related facilities, and shall supersede any applicable statute,
 14 ordinance, or regulation of any state, local, or regional agency, or
 15 federal agency to the extent permitted by federal law.

16 ~~After~~

17 (b) ~~After~~ the effective date of this division, ~~no~~ construction of
 18 ~~any~~ a facility or modification of ~~any~~ an existing facility shall *not*
 19 be commenced without first obtaining certification for ~~any such~~
 20 *the* site and related facility by the ~~commission, secretary,~~ as
 21 prescribed in this division.

22 SEC. 153. Section 25500.5 of the Public Resources Code is
 23 amended to read:

24 25500.5. The ~~commission~~ *secretary* shall certify sufficient sites
 25 and related facilities ~~which that~~ are required to provide a supply
 26 of electric power sufficient to ~~acomodate~~ *accommodate* the
 27 demand projected in the most recent forecast of statewide and
 28 service area electric power demands adopted pursuant to
 29 subdivision (b) of Section 25309.

30 SEC. 154. Section 25501 of the Public Resources Code is
 31 amended to read:

32 25501. This chapter does not apply to any site or related facility
 33 ~~for which the Public Utilities Commission has issued a certificate~~
 34 ~~of public convenience and necessity or which any municipal utility~~
 35 ~~has approved before January 7, 1975. that was not subject to this~~
 36 ~~chapter prior to January 1, 2010, and that, as of July 1, 2010, has~~
 37 ~~an application accepted as complete by the agency with jurisdiction~~
 38 ~~on December 31, 2009.~~

39 SEC. 155. Section 25501.7 of the Public Resources Code is
 40 amended to read:

1 25501.7. ~~Any~~A person proposing to construct a facility or a
2 site to which Section 25501 applies may waive the exclusion of
3 ~~such~~ *the* site and related facility from the provisions of this chapter
4 by submitting to the commission ~~a notice to that effect on or after~~
5 ~~July 1, 1976, an application~~ and any and all of the provisions of
6 this chapter shall apply to the construction of ~~such~~ *the* facility.

7 SEC. 156. Section 25502 of the Public Resources Code is
8 repealed.

9 ~~25502. Each person proposing to construct a thermal~~
10 ~~powerplant or electric transmission line on a site shall submit to~~
11 ~~the commission a notice of intention to file an application for the~~
12 ~~certification of the site and related facility or facilities. The notice~~
13 ~~shall be an attempt primarily to determine the suitability of the~~
14 ~~proposed sites to accommodate the facilities and to determine the~~
15 ~~general conformity of the proposed sites and related facilities with~~
16 ~~standards of the commission and assessments of need adopted~~
17 ~~pursuant to Sections 25305 to 25308, inclusive. The notice shall~~
18 ~~be in the form prescribed by the commission and shall be supported~~
19 ~~by such information as the commission may require.~~

20 ~~Any site and related facility once found to be acceptable pursuant~~
21 ~~to Section 25516 is, and shall continue to be, eligible for~~
22 ~~consideration in an application for certification without further~~
23 ~~proceedings required for a notice under this chapter.~~

24 SEC. 157. Section 25503 of the Public Resources Code is
25 repealed.

26 ~~25503. Each notice of intention to file an application shall~~
27 ~~contain at least three alternative sites and related facilities, at least~~
28 ~~one of which shall not be located in whole or in part in the coastal~~
29 ~~zone. In addition, the alternative sites and related electrical facilities~~
30 ~~may be proposed from an inventory of sites which have previously~~
31 ~~been approved by the commission in a notice of intent or may be~~
32 ~~proposed from sites previously examined.~~

33 SEC. 158. Section 25504 of the Public Resources Code is
34 repealed.

35 ~~25504. The notice of intention shall include a statement by the~~
36 ~~applicant describing the location of the proposed sites by section~~
37 ~~or sections, range and township, and county; a summary of the~~
38 ~~proposed design criteria of the facilities; the type or types of fuels~~
39 ~~to be used; the methods of construction and operation; the proposed~~
40 ~~location of facilities and structures on each site; a preliminary~~

1 statement of the relative economic, technological, and
2 environmental advantages and disadvantages of the alternative site
3 and related facility proposals; a statement of need for the facility
4 and information showing the compatibility of the proposals with
5 the most recent electricity report issued pursuant to Section 25308;
6 and any other information that an electric utility deems desirable
7 to submit to the commission.

8 SEC. 159. Section 25504.5 of the Public Resources Code is
9 repealed.

10 25504.5. An applicant may, in the notice, propose a site to be
11 approved which will accommodate a potential maximum electric
12 generating capacity in excess of the capacity being proposed for
13 the initial approval of the commission. If such a proposal is made,
14 the notice shall include, but not be limited to, in addition to the
15 information specified in Section 25504, all of the following:

16 (a) The number, type, and energy source of electric generating
17 units which the site is proposed ultimately to accommodate and the
18 maximum generating capacity for each unit.

19 (b) The projected installation schedule for each unit.

20 (c) The impact at the site when fully developed, on the
21 environment and public health and safety.

22 (d) The amount and sources of cooling water needed at the fully
23 developed site.

24 (e) The location and specifications of auxiliary facilities planned
25 for each state of development including, but not limited to,
26 pipelines, waste storage facilities, fuel storage facilities,
27 switchyards, coolant lines, coolant outfalls, and cooling ponds,
28 lakes, or towers.

29 SEC. 160. Section 25505 of the Public Resources Code is
30 repealed.

31 25505. Upon receipt of a notice, the commission shall cause
32 a summary of the notice to be published in a newspaper of general
33 circulation in each county in which the sites and related facilities,
34 or any part thereof, designated in the notice are proposed to be
35 located. The commission shall also transmit a copy of the notice
36 to the Public Utilities Commission, for sites and related facilities
37 requiring a certificate of public convenience and necessity, and to
38 other federal, state, regional, and local agencies having an interest
39 in matters pertinent to the proposed facilities at any of the

1 alternative sites. A copy of the notice shall also be transmitted to
2 the Attorney General:

3 SEC. 161. Section 25506 of the Public Resources Code is
4 repealed.

5 25506. The commission shall request the appropriate local,
6 regional, state, and federal agencies to make comments and
7 recommendations regarding the design, operation, and location of
8 the facilities designated in the notice, in relation to environmental
9 quality, public health and safety, and other factors on which they
10 may have expertise:

11 SEC. 162. Section 25506.5 of the Public Resources Code is
12 repealed.

13 25506.5. The commission shall request the Public Utilities
14 Commission, for sites and related facilities requiring a certificate
15 of public convenience and necessity, to make comments and
16 recommendations regarding the design, operation, and location of
17 the facilities designated in the notice in relation to the economic,
18 financial, rate, system reliability, and service implications of the
19 proposed facilities:

20 SEC. 163. Section 25507 of the Public Resources Code is
21 repealed.

22 25507. (a) If any alternative site and related facility proposed
23 in the notice is proposed to be located, in whole or in part, within
24 the coastal zone, the commission shall transmit a copy of the notice
25 to the California Coastal Commission. The California Coastal
26 Commission shall analyze the notice and prepare the report and
27 findings prescribed by subdivision (d) of Section 30413 prior to
28 commencement of hearings pursuant to Section 25513.

29 (b) If any alternative site and related facility proposed in the
30 notice is proposed to be located, in whole or in part, within the
31 Suisun Marsh, or within the jurisdiction of the San Francisco Bay
32 Conservation and Development Commission, the commission shall
33 transmit a copy of the notice to the San Francisco Bay Conservation
34 and Development Commission. The San Francisco Bay
35 Conservation and Development Commission shall analyze the
36 notice and prepare the report and findings prescribed by subdivision
37 (d) of Section 66645 of the Government Code prior to
38 commencement of hearings pursuant to Section 25513.

39 SEC. 164. Section 25508 of the Public Resources Code is
40 amended to read:

1 25508. The commission shall cooperate with, and render advice
 2 to, the California Coastal Commission and the San Francisco Bay
 3 Conservation and Development Commission in studying
 4 applications for any site and related facility proposed to be located,
 5 in whole or in part, within the coastal zone, the Suisun Marsh, or
 6 the jurisdiction of the San Francisco Bay Conservation and
 7 Development Commission if requested by the California Coastal
 8 Commission or the San Francisco Bay Conservation and
 9 Development Commission, as the case may be. The California
 10 Coastal Commission or the San Francisco Bay Conservation and
 11 Development Commission, as the case may be, may participate in
 12 public hearings ~~on the notice and~~ on the application for site and
 13 related facility certification as an interested party in ~~such~~ *those*
 14 proceedings.

15 SEC. 165. Section 25509 of the Public Resources Code is
 16 repealed.

17 ~~25509. Within 45 days of the filing of the notice, the~~
 18 ~~commission shall conduct public informational presentations in~~
 19 ~~the county or counties in which the proposed sites and related~~
 20 ~~facilities are located. The place of such public informational~~
 21 ~~presentations shall be as close as practicable to the proposed sites.~~
 22 ~~Such presentations shall be for the purpose of setting forth the~~
 23 ~~electrical demand basis for the proposed site and related facility~~
 24 ~~and providing knowledge and understanding of the proposed~~
 25 ~~facilities and sites.~~

26 SEC. 166. Section 25509.5 of the Public Resources Code is
 27 repealed.

28 ~~25509.5. No sooner than 15 days after the conclusion of the~~
 29 ~~presentations pursuant to Section 25509, the commission shall~~
 30 ~~commence nonadjudicatory hearings. Such hearings shall identify~~
 31 ~~issues for adjudication in hearings pursuant to Section 25513,~~
 32 ~~issues which may be eliminated from further consideration in the~~
 33 ~~notice proceedings, and issues which should be deferred to the~~
 34 ~~certification proceeding. Any person may participate to the extent~~
 35 ~~deemed reasonable and relevant by the presiding member of the~~
 36 ~~commission in any such hearing. In scheduling such hearings the~~
 37 ~~presiding member shall confer with the public adviser to provide~~
 38 ~~that the hearing dates and locations are as convenient as possible~~
 39 ~~for interested parties and the public. Such hearings shall be~~
 40 ~~conducted in order to accomplish all of the following purposes:~~

1 (a) ~~To set forth the electrical demand basis for the proposed site~~
2 ~~and related facility.~~

3 (b) ~~To provide knowledge and understanding of proposed~~
4 ~~facilities and sites.~~

5 (c) ~~To obtain the views and comments of the public, parties,~~
6 ~~and concerned governmental agencies on the environmental, public~~
7 ~~health and safety, economic, social, and land use impacts of the~~
8 ~~facility at the proposed sites.~~

9 (d) ~~To solicit information regarding reasonable alternative~~
10 ~~sources of the electric generating capacity or energy to be provided~~
11 ~~by alternative sites and related facilities, or combinations thereof,~~
12 ~~which will better carry out the policies and objectives of this~~
13 ~~division.~~

14 SEC. 167. Section 25510 of the Public Resources Code is
15 repealed.

16 25510. ~~After the conclusion of such hearings, and no later than~~
17 ~~150 days after filing of the notice, the commission shall prepare~~
18 ~~and make public a summary and hearing order on the notice of~~
19 ~~intention to file an application. The commission may include within~~
20 ~~the summary and hearing order any other alternatives proposed~~
21 ~~by the commission or presented to the commission at a public~~
22 ~~hearing prior to preparation of the summary and hearing order.~~
23 ~~The summary and hearing order shall be published and made~~
24 ~~available to the public and to interested local, regional, state, and~~
25 ~~federal agencies.~~

26 SEC. 168. Section 25511 of the Public Resources Code is
27 repealed.

28 25511. ~~The commission shall review the factors related to~~
29 ~~safety and reliability of the facilities at each of the alternative sites~~
30 ~~designated in the notice. In addition to other information requested~~
31 ~~of the applicant, the commission shall, in determining the~~
32 ~~appropriateness of sites and related facilities, require detailed~~
33 ~~information on proposed emergency systems and safety~~
34 ~~precautions, plans for transport, handling and storage of wastes~~
35 ~~and fuels, proposed methods to prevent illegal diversion of nuclear~~
36 ~~fuels, special design features to account for seismic and other~~
37 ~~potential hazards, proposed methods to control density of~~
38 ~~population in areas surrounding nuclear powerplants, and such~~
39 ~~other information as the commission may determine to be relevant~~
40 ~~to the reliability and safety of the facility at the proposed sites.~~

1 The commission shall analyze the information provided by the
2 applicant, supplementing it, where necessary, by onsite
3 investigations and other studies. The commission shall determine
4 the adequacy of measures proposed by the applicant to protect
5 public health and safety, and shall include its findings in the final
6 report required by Section 25514.

7 SEC. 169. Section 25512 of the Public Resources Code is
8 repealed.

9 25512. The summary and hearing order shall be based upon
10 the record of the proceeding including statements or documents
11 presented during any hearing or informational presentation on the
12 notice, the comments transmitted by the Public Utilities
13 Commission and local, regional, state, and federal agencies and
14 the public to the commission, and independent studies conducted
15 by the commission's staff.

16 The summary and hearing order shall:

17 (a) Identify those issues for consideration in hearings pursuant
18 to Section 25513.

19 (b) Identify those issues which may be eliminated from further
20 consideration in the notice of intention proceedings.

21 (c) Identify those issues which should be deferred to the
22 certification proceeding.

23 (d) Contain proposed findings on matters relevant to the
24 provisions of Section 25514.

25 (e) Specify dates for the adjudicatory hearings.

26 SEC. 170. Section 25512.5 of the Public Resources Code is
27 repealed.

28 25512.5. Within 15 days of the publication of the summary
29 and hearing order, a copy will be distributed to any person who
30 requests such copy.

31 SEC. 171. Section 25513 of the Public Resources Code is
32 repealed.

33 25513. No earlier than 30 days after distribution of the
34 summary and hearing order, the commission shall commence
35 adjudicatory hearings pursuant to the hearing order.

36 SEC. 172. Section 25514 of the Public Resources Code is
37 repealed.

38 25514. After conclusion of the hearings held pursuant to
39 Section 25513 and no later than 300 days after the filing of the

1 notice, a final report shall be prepared and distributed. The final
2 report shall include, but not be limited to, all of the following:

3 (a) ~~The findings and conclusions of the commission regarding~~
4 ~~the conformity of alternative sites and related facilities designated~~
5 ~~in the notice or considered in the notice of intention proceeding~~
6 ~~with both of the following:~~

7 (1) ~~The 12-year forecast of statewide and service area electric~~
8 ~~power demands adopted pursuant to subdivision (e) of Section~~
9 ~~25305, except as provided in Section 25514.5.~~

10 (2) ~~Applicable local, regional, state, and federal standards,~~
11 ~~ordinances, and laws, including any long-range land use plans or~~
12 ~~guidelines adopted by the state or by any local or regional planning~~
13 ~~agency, which would be applicable but for the exclusive authority~~
14 ~~of the commission to certify sites and related facilities; and the~~
15 ~~standards adopted by the commission pursuant to Section 25216.3.~~

16 (b) ~~Any findings and comments submitted by the California~~
17 ~~Coastal Commission pursuant to Section 25507 and subdivision~~
18 ~~(d) of Section 30413.~~

19 (c) ~~Any findings and comments submitted by the San Francisco~~
20 ~~Bay Conservation and Development Commission pursuant to~~
21 ~~Section 25507 of this code and subdivision (d) of Section 66645~~
22 ~~of the Government Code.~~

23 (d) ~~The commission's findings on the acceptability and relative~~
24 ~~merit of each alternative siting proposal designated in the notice~~
25 ~~or presented at the hearings and reviewed by the commission. The~~
26 ~~specific findings of relative merit shall be made pursuant to~~
27 ~~Sections 25502 to 25516, inclusive. In its findings on any~~
28 ~~alternative siting proposal, the commission may specify~~
29 ~~modification in the design, construction, location, or other~~
30 ~~conditions which will meet the standards, policies, and guidelines~~
31 ~~established by the commission.~~

32 (e) ~~Findings and conclusions with respect to the safety and~~
33 ~~reliability of the facility or facilities at each of the sites designated~~
34 ~~in the notice, as determined by the commission pursuant to Section~~
35 ~~25511, and any conditions, modifications, or criteria proposed for~~
36 ~~any site and related facility proposal resulting from the findings~~
37 ~~and conclusions.~~

38 (f) ~~Findings and conclusions as to whether increased property~~
39 ~~taxes due to the construction of the project are sufficient to support~~

1 needed local improvements and public services required to serve
2 the project.

3 SEC. 173. Section 25514.3 of the Public Resources Code is
4 repealed.

5 25514.3. In specifying any modifications, conditions, or criteria
6 pursuant to Section 25514, for sites and related facilities requiring
7 a certificate of public convenience and necessity, the commission
8 shall request the comments and recommendations of the Public
9 Utilities Commission on the economic, financial, rate, system
10 reliability, and service implications of such modifications,
11 conditions, or criteria.

12 SEC. 174. Section 25514.5 of the Public Resources Code is
13 repealed.

14 25514.5. In considering the acceptability of a site proposed to
15 accommodate ultimately additional power-generating capacity,
16 the commission, in determining, pursuant to Sections 25514 and
17 25512, the conformity of the facilities proposed in the notice with
18 the 12-year forecast of statewide and service area electric power
19 demands adopted pursuant to subdivision (e) of Section 25305,
20 shall base its determination only on such initial facilities as are
21 proposed for operation within the forthcoming 12-year period.
22 Additional facilities projected to be operating at the site at a time
23 beyond the forthcoming 12-year period shall not be considered in
24 the determination of conformity with the electric power demand
25 forecast.

26 SEC. 175. Section 25515 of the Public Resources Code is
27 repealed.

28 25515. No later than 30 days after the final report is distributed,
29 a hearing or hearings on the final report shall be commenced. Such
30 hearings shall be concluded within 15 days of their commencement.

31 SEC. 176. Section 25516 of the Public Resources Code is
32 repealed.

33 25516. The approval of the notice by the commission shall be
34 based upon findings pursuant to Section 25514. The notice shall
35 not be approved unless the commission finds at least two alternative
36 site and related facility proposals considered in the commission's
37 final report as acceptable. If the commission does not find at least
38 two sites and related facilities acceptable, additional sites and
39 related facilities may be proposed by the applicant which shall be

1 considered in the same manner as those proposed in the original
2 notice.

3 If the commission finds that a good faith effort has been made
4 by the person submitting the notice to find an acceptable alternative
5 site and related facility and that there is only one acceptable site
6 and related facility among those submitted, the commission may
7 approve the notice based on the one site and related facility. If a
8 notice is approved based on one site and related facility, the
9 commission may require a new notice to be filed to identify
10 acceptable alternative sites and related facilities for the one site
11 and related facility approved unless suitable alternative sites and
12 related facilities have been approved by the commission in previous
13 notice of intention proceedings.

14 If the commission finds that additional electric generating
15 capacity is needed to accommodate the electric power demand
16 forecast pursuant to subdivision (e) of Section 25305 and, after
17 the commission finds that a good faith effort was made by the
18 person submitting the notice to propose an acceptable site and
19 related facility, it fails to find any proposed site and related facility
20 to be acceptable, the commission shall designate, at the request of
21 and at the expense of the person submitting the notice, a feasible
22 site and related facility for providing the needed electric generating
23 capacity.

24 SEC. 177. Section 25516.1 of the Public Resources Code is
25 repealed.

26 25516.1.— If a site and related facility found to be acceptable by
27 the commission pursuant to Section 25516 is located in the coastal
28 zone, the Suisun Marsh, or the jurisdiction of the San Francisco
29 Bay Conservation and Development Commission, no application
30 for certification may be filed pursuant to Section 25519 unless the
31 commission has determined, pursuant to Section 25514, that such
32 site and related facility have greater relative merit than available
33 alternative sites and related facilities for an applicant's service area
34 which have been determined to be acceptable by the commission
35 pursuant to Section 25516.

36 SEC. 178. Section 25516.5 of the Public Resources Code is
37 repealed.

38 25516.5.— On a notice which proposes an expanded ultimate
39 electric generating capacity for a site, the commission may, based
40 upon findings pursuant to Section 25514, either approve the notice

1 only for the initial facility or facilities proposed for operation within
2 the forthcoming 12-year period or may approve the notice for the
3 initial facility or facilities and find the site acceptable for additional
4 generating capacity of the type tentatively proposed. The maximum
5 allowable amount and type of such additional capacity shall be
6 determined by the commission.

7 If a notice is approved which includes a finding that a particular
8 site is suitable to accommodate a particular additional generating
9 capacity, the site shall be designated a potential multiple-facility
10 site. The commission may, in determining the acceptability of a
11 potential multiple-facility site, specify conditions or criteria
12 necessary to insure that future additional facilities will not exceed
13 the limitations of the site.

14 SEC. 179. Section 25516.6 of the Public Resources Code is
15 repealed.

16 25516.6. (a) Except as otherwise expressly provided in this
17 division, the commission shall issue its written decision on the
18 notice not later than 12 months after the notice is filed, or at any
19 later time as is mutually agreed upon by the commission and the
20 applicant.

21 (b) The commission shall determine, within 45 days after it
22 receives the notice, whether the notice is complete. If the
23 commission determines that the notice is complete, the notice shall
24 be deemed filed for the purpose of this section on the date that this
25 determination is made. If the commission determines that the notice
26 is incomplete, the commission shall specify, in writing, those parts
27 of the notice which are incomplete and shall indicate the manner
28 in which it can be made complete. If the applicant submits
29 additional data to complete the notice, the commission shall
30 determine, within 30 days after receipt of that data, whether the
31 data is sufficient to make the notice complete. The notice shall be
32 deemed filed on the date the commission determines the notice is
33 complete if the commission has adopted regulations specifying
34 the informational requirements for a complete notice, but if the
35 commission has not adopted regulations, the notice shall be deemed
36 filed on the last date the commission receives any additional data
37 that completes the notice.

38 SEC. 180. Section 25517 of the Public Resources Code is
39 amended to read:

1 25517. Except as provided in Section 25501, ~~no~~ construction
2 of ~~any thermal~~ a powerplant or electric transmission line shall *not*
3 be commenced by ~~any~~ an electric utility without first obtaining
4 certification as prescribed in this division. Any onsite
5 improvements not qualifying as construction may be required to
6 be restored as determined by the commission to be necessary to
7 protect the environment, if certification is denied.

8 SEC. 181. Section 25518 of the Public Resources Code is
9 amended to read:

10 25518. The Public Utilities Commission shall *not* issue ~~no~~ a
11 certificate of public convenience and necessity for a site or related
12 electrical facilities unless the utility has obtained a certificate from
13 the ~~commission~~ *secretary*.

14 SEC. 182. Section 25519 of the Public Resources Code is
15 amended to read:

16 25519. (a) In order to obtain certification for a site and related
17 facility, an application for certification of the site and related
18 facility shall be filed with the commission. The application shall
19 be in a form prescribed by the commission ~~and shall be for a site~~
20 ~~and related facility that has been found to be acceptable by the~~
21 ~~commission pursuant to Section 25516, or for an additional facility~~
22 ~~at a site that has been designated a potential multiple-facility site~~
23 ~~pursuant to Section 25514.5 and found to be acceptable pursuant~~
24 ~~to Sections 25516 and 25516.5. An application for an additional~~
25 ~~facility at a potential multiple-facility site shall be subject to the~~
26 ~~conditions and review specified in Section 25520.5. An application~~
27 ~~may not be filed for a site and related facility, if there is no suitable~~
28 ~~alternative for the site and related facility that was previously found~~
29 ~~to be acceptable by the commission, unless the commission has~~
30 ~~approved the notice based on the one site as specified in Section~~
31 ~~25516.~~

32 (b) The commission, upon its own motion or in response to the
33 request of any party, may require the applicant to submit any
34 information, document, or data, in addition to the attachments
35 required by subdivision (i), that it determines is reasonably
36 necessary to make any decision on the application.

37 (c) The commission shall be the lead agency as provided in
38 Section 21165 for all projects that require certification pursuant
39 to this chapter and for projects that are exempted from such
40 certification pursuant to Section 25541. Unless the commission's

1 regulatory program governing site and facility certification and
2 related proceedings are certified by the Resources Agency pursuant
3 to Section 21080.5, an environmental impact report shall be
4 completed within one year after receipt of the application. If the
5 commission prepares a document or documents in the place of an
6 environmental impact report or negative declaration under a
7 regulatory program certified pursuant to Section 21080.5, any
8 other public agency that must make a decision that is subject to
9 the California Environmental Quality Act, Division 13
10 (commencing with Section 21000), on a site or related facility,
11 shall use the document or documents prepared by the commission
12 in the same manner as they would use an environmental impact
13 report or negative declaration prepared by a lead agency.

14 (d) If the site and related facility specified in the application is
15 proposed to be located in the coastal zone, the commission shall
16 transmit a copy of the application to the California Coastal
17 Commission for its review and comments.

18 (e) If the site and related facility specified in the application is
19 proposed to be located in the Suisun Marsh or the jurisdiction of
20 the San Francisco Bay Conservation and Development
21 Commission, the commission shall transmit a copy of the
22 application to the San Francisco Bay Conservation and
23 Development Commission for its review and comments.

24 (f) Upon receipt of an application, the commission shall forward
25 the application to local governmental agencies having land use
26 and related jurisdiction in the area of the proposed site and related
27 facility. Those local agencies shall review the application and
28 submit comments on, among other things, the design of the facility,
29 architectural and aesthetic features of the facility, access to
30 highways, landscaping and grading, public use of lands in the area
31 of the facility, and other appropriate aspects of the design,
32 construction, or operation of the proposed site and related facility.

33 (g) Upon receipt of an application, the commission shall cause
34 a summary of the application to be published in a newspaper of
35 general circulation in the county in which the site and related
36 facilities, or any part thereof, designated in the application, is
37 proposed to be located. The commission shall transmit a copy of
38 the application to each federal and state agency having jurisdiction
39 or special interest in matters pertinent to the proposed site and
40 related facilities and to the Attorney General.

1 (h) Local and state agencies having jurisdiction or special
2 interest in matters pertinent to the proposed site and related
3 facilities shall provide their comments and recommendations on
4 the project within 180 days of the date of filing of an application.

5 (i) The adviser shall require that adequate notice is given to the
6 public and that the procedures specified by this division are
7 complied with.

8 (j) For any proposed site and related facility requiring a
9 certificate of public convenience and necessity, the commission
10 shall transmit a copy of the application to the Public Utilities
11 Commission and request the comments and recommendations of
12 the Public Utilities Commission on the economic, financial, rate,
13 system reliability, and service implications of the proposed site
14 and related facility. If the commission requires modification of the
15 proposed facility, the commission shall consult with the Public
16 Utilities Commission regarding the economic, financial, rate,
17 system reliability, and service implications of those modifications.

18 (k) The commission shall transmit a copy of the application to
19 any governmental agency not specifically mentioned in this act,
20 but which it finds has any information or interest in the proposed
21 site and related facilities, and shall invite the comments and
22 recommendations of each agency. The commission shall request
23 any relevant laws, ordinances, or regulations that an agency has
24 promulgated or administered.

25 (l) An application for certification of any site and related
26 facilities shall contain a listing of every federal agency from which
27 any approval or authorization concerning the proposed site is
28 required, specifying the approvals or authorizations obtained at
29 the time of the application and the schedule for obtaining any
30 approvals or authorizations pending.

31 SEC. 183. Section 25520 of the Public Resources Code is
32 amended to read:

33 25520. The application shall contain all of the following
34 information and any other information that the commission by
35 regulation may require:

36 (a) A detailed description of the design, construction, and
37 operation of the proposed facility.

38 (b) Safety and reliability information, including, ~~in addition to~~
39 ~~documentation previously provided pursuant to Section 25511,~~

1 *but not limited to*, planned provisions for emergency operations
2 and shutdowns.

3 (c) Available site information, including maps and descriptions
4 of present and proposed development and, as appropriate,
5 geological, aesthetic, ecological, seismic, water supply, population,
6 and load center data, and justification for the particular site
7 proposed.

8 (d) Any other information relating to the design, operation, and
9 siting of the facility that the commission may specify.

10 (e) A description of the facility, the cost of the facility, the fuel
11 to be used, the source of fuel, fuel cost, plant service life and
12 capacity factor, and generating cost per kilowatthour.

13 (f) A description of any electric transmission lines, including
14 the estimated cost of the proposed electric transmission line; a map
15 in suitable scale of the proposed routing showing details of the
16 rights-of-way in the vicinity of settled areas, parks, recreational
17 areas, and scenic areas, and existing transmission lines within one
18 mile of the proposed route; justification for the route, and a
19 preliminary description of the effect of the proposed electric
20 transmission line on the environment, ecology, and scenic, historic,
21 and recreational values.

22 (g) *A discussion of the applicant's site selection criteria, any*
23 *alternative sites that the applicant considered for the project, and*
24 *the reasons why the applicant chose the proposed site. This*
25 *subdivision does not apply to an application for certification of*
26 *any of the following:*

27 (1) *A modification of an existing facility.*

28 (2) *A powerplant that can be sited, in a technologically or*
29 *economically feasible manner, only at or near the energy source.*

30 (3) *A cogeneration project at an existing industrial site.*

31 (4) *A powerplant at an existing industrial site, if the commission*
32 *finds that the project has a strong relationship to the existing*
33 *industrial site and that it is therefore reasonable not to analyze*
34 *alternative sites for the project.*

35 SEC. 184. Section 25520.5 of the Public Resources Code is
36 repealed.

37 ~~25520.5.—(a) In reviewing an application for an additional~~
38 ~~facility at a potential multiple-facility site, the commission shall~~
39 ~~undertake a reconsideration of its prior determinations in the final~~
40 ~~report on the notice for the site issued pursuant to Section 25514,~~

1 based on current conditions and other reasonable and feasible
2 alternatives to the proposed facility.

3 (b) ~~Within 180 days of the filing of the application for an~~
4 ~~additional facility at a potential multiple-facility site and after~~
5 ~~adequate public hearings, the commission shall issue its decision~~
6 ~~on the acceptability of the proposed facility based on the~~
7 ~~reconsideration specified in subdivision (a) of this section. A~~
8 ~~negative determination shall be the final decision of the~~
9 ~~commission on the application and subject to judicial review~~
10 ~~pursuant to Section 25531. An affirmative determination shall not~~
11 ~~be a final decision of the commission on the application.~~

12 (c) ~~The decision of the commission on an application for an~~
13 ~~additional facility at a potential multiple-facility site receiving a~~
14 ~~favorable determination pursuant to subdivision (b) of this section~~
15 ~~shall be issued within 24 months after the filing of the application~~
16 ~~or at such later time as is mutually agreed upon by the commission~~
17 ~~and the applicant.~~

18 SEC. 185. Section 25522 of the Public Resources Code is
19 amended to read:

20 25522. (a) ~~Except as provided in subdivision (c) of Section~~
21 ~~25520.5, within 18~~ *Within 12* months of the filing of an application
22 for certification, ~~or within 12 months if it is filed within one year~~
23 ~~of the commission's approval of the notice of intent, or at any later~~
24 ~~time as is mutually agreed by the commission and the applicant,~~
25 ~~the commission secretary shall issue a written decision as to the~~
26 ~~application.~~

27 (b) The commission shall determine, within 45 days after it
28 receives the application, whether the application is complete. If
29 the commission determines that the application is complete, the
30 application shall be deemed filed for purposes of this section on
31 the date that this determination is made. If the commission
32 determines that the application is incomplete, the commission shall
33 specify in writing those parts of the application which are
34 incomplete and shall indicate the manner in which it can be made
35 complete. If the applicant submits additional data to complete the
36 application, the commission shall determine, within 30 days after
37 receipt of that data, whether the data is sufficient to make the
38 application complete. The application shall be deemed filed on the
39 date when the commission determines the application is complete
40 if the commission has adopted regulations specifying the

1 informational requirements for a complete application, but if the
 2 commission has not adopted regulations, the application shall be
 3 deemed filed on the last date the commission receives any
 4 additional data that completes the application.

5 SEC. 186. Section 25523 of the Public Resources Code is
 6 amended to read:

7 25523. The ~~commission~~ *secretary* shall prepare a written
 8 decision after the public hearing on an application, ~~which that~~
 9 includes all of the following:

10 (a) Specific provisions relating to the manner in which the
 11 proposed facility is to be designed, sited, and operated in order to
 12 protect environmental quality and assure public health and safety.

13 (b) In the case of a site to be located in the coastal zone, specific
 14 provisions to meet the objectives of Division 20 (commencing
 15 with Section 30000) as may be specified in the report submitted
 16 by the California Coastal Commission pursuant to subdivision (d)
 17 of Section 30413, unless the commission specifically finds that
 18 the adoption of the provisions specified in the report would result
 19 in greater adverse effect on the environment or that the provisions
 20 proposed in the report would not be feasible.

21 (c) In the case of a site to be located in the Suisun Marsh or in
 22 the jurisdiction of the San Francisco Bay Conservation and
 23 Development Commission, specific provisions to meet the
 24 requirements of Division 19 (commencing with Section 29000)
 25 of this code or Title 7.2 (commencing with Section 66600) of the
 26 Government Code as may be specified in the report submitted by
 27 the San Francisco Bay Conservation and Development Commission
 28 pursuant to subdivision (d) of Section 66645 of the Government
 29 Code, unless the commission specifically finds that the adoption
 30 of the provisions specified in the report would result in greater
 31 adverse effect on the environment or the provisions proposed in
 32 the report would not be feasible.

33 (d) (1) Findings regarding the conformity of the proposed site
 34 and related facilities with standards adopted by the commission
 35 pursuant to Section 25216.3 and subdivision (d) of Section 25402,
 36 with public safety standards and the applicable air and water quality
 37 standards, and with other applicable local, regional, state, and
 38 federal standards, ordinances, or laws. If the ~~commission~~ *secretary*
 39 finds that there is noncompliance with a state, local, or regional
 40 ordinance or regulation in the application, ~~it~~ *he or she* shall consult

1 and meet with the state, local, or regional governmental agency
2 concerned to attempt to correct or eliminate the noncompliance.
3 If the noncompliance cannot be corrected or eliminated, the
4 commission shall inform the state, local, or regional governmental
5 agency if ~~it~~ *he or she* makes the findings required by Section
6 25525.

7 (2) ~~The commission may~~ *secretary shall* not find that the
8 proposed facility conforms with applicable air quality standards
9 pursuant to paragraph (1) unless the applicable air pollution control
10 district or air quality management district certifies, prior to the
11 licensing of the project by the ~~commission~~, *secretary*, that complete
12 emissions offsets for the proposed facility have been identified
13 and will be obtained by the applicant within the time required by
14 the district's rules or unless the applicable air pollution control
15 district or air quality management district certifies that the applicant
16 requires emissions offsets to be obtained prior to the
17 commencement of operation consistent with Section 42314.3 of
18 the Health and Safety Code and prior to commencement of the
19 operation of the proposed facility. ~~The commission~~ *secretary* shall
20 require as a condition of certification that the applicant obtain any
21 required emission offsets within the time required by the applicable
22 district rules, consistent with any applicable federal and state laws
23 and regulations, and prior to the commencement of the operation
24 of the proposed facility.

25 (e) Provision for restoring the site as necessary to protect the
26 environment, if the ~~commission~~ *secretary* denies approval of the
27 application.

28 (f) In the case of a site and related facility using resource
29 recovery (waste-to-energy) technology, specific conditions
30 requiring that the facility be monitored to ensure compliance with
31 paragraphs (1), (2), (3), and (6) of subdivision (a) of Section 42315
32 of the Health and Safety Code.

33 (g) In the case of a facility, other than a resource recovery
34 facility subject to subdivision (f), specific conditions requiring the
35 facility to be monitored to ensure compliance with toxic air
36 contaminant control measures adopted by an air pollution control
37 district or air quality management district pursuant to subdivision
38 (d) of Section 39666 or Section 41700 of the Health and Safety
39 Code, whether the measures were adopted before or after issuance
40 of a determination of compliance by the district.

1 (h) A discussion of any public benefits from the project
2 including, but not limited to, economic benefits, environmental
3 benefits, and electricity reliability benefits.

4 SEC. 187. Section 25524.1 of the Public Resources Code is
5 amended to read:

6 25524.1. (a) Except for the existing Diablo Canyon Units 1
7 and 2 owned by Pacific Gas and Electric Company and San Onofre
8 Units 2 and 3 owned by Southern California Edison Company and
9 San Diego Gas and Electric Company, ~~no a nuclear fission-thermal~~
10 powerplant requiring the reprocessing of fuel rods, including any
11 to which this chapter does not otherwise apply, excepting any
12 having a vested right as defined in this section, shall *not* be
13 permitted land use in the state or, where applicable, certified by
14 the commission until both of the following conditions are met:

15 (1) The commission finds that the United States through its
16 authorized agency has identified and approved, and there exists a
17 technology for the construction and operation of, nuclear fuel rod
18 reprocessing plants.

19 (2) The commission has reported its findings and the reasons
20 therefor pursuant to paragraph (1) to the Legislature. That report
21 shall be assigned to the appropriate policy committees for review.
22 ~~The commission~~ *secretary* may proceed to certify nuclear fission
23 thermal powerplants 100 legislative days after reporting ~~its the~~
24 *commission's* findings unless within those 100 legislative days
25 either house of the Legislature adopts by a majority vote of its
26 members a resolution disaffirming the findings of the commission
27 made pursuant to paragraph (1).

28 (3) A resolution of disaffirmance shall set forth the reasons for
29 the action and shall provide, to the extent possible, guidance to
30 the commission as to an appropriate method of bringing the
31 commission's findings into conformance with paragraph (1).

32 (4) If a disaffirming resolution is adopted, the commission shall
33 reexamine its original findings consistent with matters raised in
34 the resolution. On conclusion of its reexamination, the commission
35 shall transmit its findings in writing, with the reasons therefor, to
36 the Legislature.

37 (5) If the findings are that the conditions of paragraph (1) have
38 been met, ~~the commission~~ *secretary* may proceed to certify nuclear
39 fission-~~thermal~~ powerplants 100 legislative days after reporting
40 its findings to the Legislature unless within those 100 legislative

1 days both houses of the Legislature act by statute to declare the
2 findings null and void and takes appropriate action.

3 (6) To allow sufficient time for the Legislature to act, the reports
4 of findings of the commission shall be submitted to the Legislature
5 at least six calendar months prior to the adjournment of the
6 Legislature sine die.

7 (b) The commission shall further find on a case-by-case basis
8 that facilities with adequate capacity to reprocess nuclear fuel rods
9 from a certified nuclear facility or to store that fuel if that storage
10 is approved by an authorized agency of the United States are in
11 actual operation or will be in operation at the time that the nuclear
12 facility requires reprocessing or storage; provided, however, that
13 the storage of fuel is in an offsite location to the extent necessary
14 to provide continuous onsite full core reserve storage capacity.

15 (c) The commission shall continue to receive and process ~~notices~~
16 ~~of intention and~~ applications for certification pursuant to this
17 division, but *the secretary* shall not issue a decision pursuant to
18 Section 25523 granting a certificate until the requirements of this
19 section have been met. All other permits, licenses, approvals, or
20 authorizations for the entry or use of the land, including orders of
21 court, which may be required may be processed and granted by
22 the governmental entity concerned, but construction work to install
23 permanent equipment or structures shall not commence until the
24 requirements of this section have been met.

25 SEC. 188. Section 25524.2 of the Public Resources Code is
26 amended to read:

27 25524.2. Except for the existing Diablo Canyon Units 1 and 2
28 owned by Pacific Gas and Electric Company and San Onofre Units
29 2 and 3 owned by Southern California Edison Company and San
30 Diego Gas and Electric Company, ~~no~~ a nuclear fission-~~thermal~~
31 powerplant, including any to which this chapter does not otherwise
32 apply, but excepting those exempted herein, shall *not* be permitted
33 land use in the state, or where applicable, be certified by the
34 ~~commission~~ *secretary* until both of the following conditions have
35 been met:

36 (a) The commission finds that there has been developed and
37 that the United States through its authorized agency has approved
38 and there exists a demonstrated technology or means for the
39 disposal of high-level nuclear waste.

1 (b) (1) The commission has reported its findings and the reasons
2 therefor pursuant to paragraph (a) to the Legislature. That report
3 shall be assigned to the appropriate policy committees for review.
4 ~~The commission~~ *secretary* may proceed to certify nuclear fission
5 thermal powerplants 100 legislative days after reporting ~~its~~ *the*
6 *commission's* findings unless within those 100 legislative days
7 either house of the Legislature adopts by a majority vote of its
8 members a resolution disaffirming the findings of the commission
9 made pursuant to subdivision (a).

10 (2) A resolution of disaffirmance shall set forth the reasons for
11 the action and shall provide, to the extent possible, guidance to
12 the commission as to an appropriate method of bringing the
13 commission's findings into conformance with subdivision (a).

14 (3) If a disaffirming resolution is adopted, the commission shall
15 reexamine its original findings consistent with matters raised in
16 the resolution. On conclusion of its reexamination, the commission
17 shall transmit its findings in writing, with the reasons therefor, to
18 the Legislature.

19 (4) If the findings are that the conditions of subdivision (a) have
20 been met, ~~the commission~~ *secretary* may proceed to certify nuclear
21 fission ~~thermal~~ powerplants 100 legislative days after reporting
22 its findings to the Legislature unless within those 100 legislative
23 days both houses of the Legislature act by statute to declare the
24 findings null and void and take appropriate action.

25 (5) To allow sufficient time for the Legislature to act, the reports
26 of findings of the commission shall be submitted to the Legislature
27 at least six calendar months prior to the adjournment of the
28 Legislature sine die.

29 (c) As used in subdivision (a), "technology or means for the
30 disposal of high-level nuclear waste" means a method for the
31 permanent and terminal disposition of high-level nuclear waste.
32 Nothing in this section requires that facilities for the application
33 of that technology or means be available at the time that the
34 commission makes its findings. That disposition of high-level
35 nuclear waste does not preclude the possibility of an approved
36 process for retrieval of the waste.

37 (d) The commission shall continue to receive and process ~~notices~~
38 ~~of intention and~~ applications for certification pursuant to this
39 division but *the secretary* shall not issue a decision pursuant to
40 Section 25523 granting a certificate until the requirements of this

1 section have been met. All other permits, licenses, approvals, or
2 authorizations for the entry or use of the land, including orders of
3 court, which may be required may be processed and granted by
4 the governmental entity concerned, but construction work to install
5 permanent equipment or structures shall not commence until the
6 requirements of this section have been met.

7 SEC. 189. Section 25524.5 of the Public Resources Code is
8 repealed.

9 ~~25524.5. The commission shall not certify any facility which~~
10 ~~adds generating capacity to a potential multiple-facility site in~~
11 ~~excess of the maximum allowable capacity established by the~~
12 ~~commission pursuant to Section 25516.5, unless the commission~~
13 ~~finds that exceeding the maximum allowable capacity will not~~
14 ~~increase adverse environmental impacts or create technological,~~
15 ~~seismic, or other difficulties beyond those already found acceptable~~
16 ~~in the commission's findings on the notice for that site pursuant to~~
17 ~~Sections 25516 and 25516.5.~~

18 SEC. 190. Section 25525 of the Public Resources Code is
19 amended to read:

20 25525. ~~The commission may~~ *secretary shall* not certify a
21 facility contained in the application ~~when it~~ *if he or she* finds,
22 pursuant to subdivision (d) of Section 25523, that the facility does
23 not conform with any applicable state, local, or regional standards,
24 ordinances, or laws, unless the ~~commission~~ *secretary* determines
25 that the facility is required for public convenience and necessity
26 and that there are not more prudent and feasible means of achieving
27 public convenience and necessity. In making the determination,
28 the ~~commission~~ *secretary* shall consider the entire record of the
29 proceeding, including, but not limited to, the impacts of the facility
30 on the environment, consumer benefits, and electric system
31 reliability. ~~The commission may~~ *secretary shall* not make a finding
32 in conflict with applicable federal law or regulation. The basis for
33 these findings shall be reduced to writing and submitted as part of
34 the record pursuant to Section 25523.

35 SEC. 191. Section 25526 of the Public Resources Code is
36 amended to read:

37 25526. (a) ~~The commission~~ *secretary* shall not approve as a
38 site for a facility any location designated by the California Coastal
39 Commission pursuant to subdivision (b) of Section 30413, unless
40 the California Coastal Commission first finds that ~~such~~ *the* use is

1 not inconsistent with the primary uses of ~~such~~ *the* land and that
2 there will be no substantial adverse environmental effects and
3 unless the approval of any public agency having ownership or
4 control of such land is obtained.

5 (b) The ~~commission~~ *secretary* shall not approve as a site for a
6 facility any location designated by the San Francisco Bay
7 Conservation and Development Commission pursuant to
8 subdivision (b) of Section 66645 of the Government Code unless
9 the San Francisco Bay Conservation and Development Commission
10 first finds that ~~such~~ *the* use is not inconsistent with the primary
11 uses of ~~such~~ *the* land and that there will be no substantial adverse
12 environmental effects and unless the approval of any public agency
13 having ownership or control of ~~such~~ *the* land is obtained.

14 SEC. 192. Section 25527 of the Public Resources Code is
15 amended to read:

16 25527. The following areas of the state shall not be approved
17 as a site for a facility, unless the ~~commission~~ *secretary* finds that
18 ~~such~~ *the* use is not inconsistent with the primary uses of ~~such~~ *the*
19 lands and that there will be no substantial adverse environmental
20 effects and the approval of any public agency having ownership
21 or control of ~~such~~ *the* lands is obtained:

22 (a) State, regional, county and city parks; wilderness, scenic or
23 natural reserves; areas for wildlife protection, recreation, historic
24 preservation; or natural preservation areas in existence on the
25 effective date of this division.

26 (b) Estuaries in an essentially natural and undeveloped state.

27 In considering applications for certification, the ~~commission~~
28 *secretary* shall give the greatest consideration to the need for
29 protecting areas of critical environmental concern, including, but
30 not limited to, unique and irreplaceable scientific, scenic, and
31 educational wildlife habitats; unique historical, archaeological, and
32 cultural sites; lands of hazardous concern; and areas under
33 consideration by the state or the United States for wilderness, or
34 wildlife and game reserves.

35 SEC. 193. Section 25528 of the Public Resources Code is
36 amended to read:

37 25528. (a) (1) The ~~commission~~ *secretary* shall require, as a
38 condition of certification of any site and related facility, that the
39 applicant acquire, by grant or contract, the right to prohibit
40 development of privately owned lands in the area of the proposed

1 site ~~which~~ *that* will result in population densities in excess of the
2 maximum population densities ~~which that the commission~~
3 *secretary* determines, as to the factors considered by the
4 commission pursuant to ~~Section 25511, subdivision (b) of Section~~
5 *25520*, are necessary to protect public health and safety.

6 If

7 (2) *If* the applicant is authorized to exercise the right of eminent
8 domain under Article 7 (commencing with Section 610) of Chapter
9 3 of Part 1 of Division 1 of the Public Utilities Code, the applicant
10 may exercise the right of eminent domain to acquire ~~such those~~
11 development rights ~~as that the commission secretary~~ requires be
12 acquired.

13 (b) In the case of an application for a nuclear facility, the area
14 and population density necessary to insure the public's health and
15 safety designated by the ~~commission secretary~~ shall be that as
16 determined from time to time by the United States Nuclear
17 Regulatory Commission, if the ~~commission secretary~~ finds that
18 ~~such the~~ determination is sufficiently definitive for valid land use
19 planning requirements.

20 (c) The ~~commission secretary~~ shall waive the requirements of
21 the acquisition of development rights by an applicant to the extent
22 that the ~~commission secretary~~ finds that existing governmental
23 land use restrictions are of a type necessary and sufficient to
24 guarantee the maintenance of population levels and land use
25 development over the lifetime of the facility which will insure the
26 public health and safety requirements set pursuant to this section.

27 (d) ~~No~~ A change in governmental land use restrictions in ~~such~~
28 areas designated in subdivision (c) of this section by any
29 government agency shall *not* be effective until approved by the
30 ~~commission. Such secretary. The~~ approval shall certify that the
31 change in land use restrictions is not in conflict with requirements
32 provided for by this section.

33 (e) It is not the intent of the Legislature by the enactment of this
34 section to take private property for public use without payment of
35 just compensation in violation of the United States Constitution
36 or the Constitution of California.

37 SEC. 194. Section 25529 of the Public Resources Code is
38 amended to read:

39 25529. ~~When~~ *If* a facility is proposed to be located in the coastal
40 zone or any other area with recreational, scenic, or historic value,

1 the ~~commission~~ *secretary* shall require, as a condition of
 2 certification of any facility contained in the application, that an
 3 area be established for public use, as determined by the
 4 ~~commission~~ *secretary*. Lands within ~~such~~ *the* area shall be
 5 acquired and maintained by the applicant and shall be available
 6 for public access and use, subject to restrictions required for
 7 security and public safety. The applicant may dedicate ~~such~~ *the*
 8 public use zone to any local agency agreeing to operate or maintain
 9 it for the benefit of the public. If no local agency agrees to operate
 10 or maintain the public use zone for the benefit of the public, the
 11 applicant may dedicate ~~such~~ *the* zone to the state. The ~~commission~~
 12 *secretary* shall also require that any facility to be located along
 13 the coast or shoreline of any major body of water be set back from
 14 the shoreline to permit reasonable public use and to protect scenic
 15 and aesthetic values.

16 SEC. 195. Section 25530 of the Public Resources Code is
 17 amended to read:

18 25530. (a) The ~~commission~~ *secretary* may order a
 19 reconsideration of all or part of a decision or order on ~~its own~~
 20 ~~motion or on~~ petition of any party.

21 ~~Any such~~

22 (b) A petition *for reconsideration* shall be filed within 30 days
 23 after adoption by the ~~commission~~ *secretary* of a decision or order.
 24 The ~~commission~~ *secretary* shall not order a reconsideration ~~on its~~
 25 ~~own motion~~ more than 30 days after ~~it~~ *he or she* has adopted a
 26 ~~decision~~ *decision* or order. The ~~commission~~ *secretary* shall order
 27 or deny reconsideration on a petition ~~therefor~~ within 30 days after
 28 the petition is filed.

29 ~~A~~

30 (c) A decision or order may be reconsidered by the ~~commission~~
 31 *secretary* on the basis of all pertinent portions of the record together
 32 with ~~such any~~ argument ~~as that~~ the ~~commission~~ *secretary* may
 33 permit, or the ~~commission~~ *secretary* may hold a further hearing,
 34 after notice to all interested persons. A decision or order of the
 35 ~~commission~~ *secretary* on reconsideration shall have the same force
 36 and effect as an original order or decision.

37 SEC. 196. Section 25531 of the Public Resources Code is
 38 amended to read:

1 25531. (a) The decisions of the ~~commission~~ *secretary* on any
2 an application for certification of a site and related facility are
3 subject to judicial review by the Supreme Court of California.

4 (b) ~~No new~~ *New* or additional evidence ~~may shall not~~ be
5 introduced upon review and the cause shall be heard on the record
6 of the ~~commission~~ *secretary* as certified to by ~~it~~ *him or her*. The
7 review shall not be extended further than to determine whether the
8 ~~commission~~ *secretary* has regularly pursued ~~its~~ *his or her* authority,
9 including a determination of whether the order or decision under
10 review violates any right of the petitioner under the United States
11 Constitution or the California Constitution. The findings and
12 conclusions of the commission on questions of fact are final and
13 are not subject to review, except as provided in this article. These
14 questions of fact shall include ultimate facts and the findings and
15 conclusions of the ~~commission~~. ~~A report prepared by, or an~~
16 ~~approval of, the commission pursuant to Section 25510, 25514,~~
17 ~~25516, or 25516.5, or subdivision (b) of Section 25520.5, shall~~
18 ~~not constitute a decision of the commission subject to judicial~~
19 ~~review.~~ *secretary*.

20 (c) Subject to the right of judicial review of decisions of the
21 ~~commission,~~ *secretary*, no court in this state has jurisdiction to
22 hear or determine any case or controversy concerning any matter
23 which was, or could have been, determined in a proceeding before
24 the ~~commission~~ *secretary*, or to stop or delay the construction or
25 operation of ~~any thermal~~ *a* powerplant except to enforce
26 compliance with the provisions of a decision of the ~~commission~~
27 *secretary*.

28 (d) Notwithstanding Section 1250.370 of the Code of Civil
29 Procedure:

30 (1) If the ~~commission~~ *secretary* requires, pursuant to subdivision
31 (a) of Section 25528, as a condition of certification of any site and
32 related facility, that the applicant acquire development rights, that
33 requirement conclusively establishes the matters referred to in
34 Sections 1240.030 and 1240.220 of the Code of Civil Procedure
35 in any eminent domain proceeding brought by the applicant to
36 acquire the development rights.

37 (2) If the ~~commission~~ *secretary* certifies any site and related
38 facility, that certification conclusively establishes the matters
39 referred to in Sections 1240.030 and 1240.220 of the Code of Civil

1 Procedure in any eminent domain proceeding brought to acquire
 2 the site and related facility.

3 (e) ~~No~~ A decision of the ~~commission~~ *secretary* pursuant to
 4 Section ~~25516~~, 25522; or 25523 shall *not* be found to mandate a
 5 specific supply plan for any utility as prohibited by Section 25323.

6 SEC. 197. Section 25534 of the Public Resources Code is
 7 amended to read:

8 25534. (a) The ~~commission~~ *secretary* may, after one or more
 9 hearings, amend the conditions of, or revoke the certification for,
 10 any facility for any of the following reasons:

11 (1) Any material false statement set forth in the application,
 12 presented in proceedings of the commission, or included in
 13 supplemental documentation provided by the applicant.

14 (2) Any significant failure to comply with the terms or
 15 conditions of approval of the application, as specified by the
 16 ~~commission~~ *secretary* in its written decision.

17 (3) A violation of this division or any regulation or order issued
 18 by the commission under this division.

19 (4) The owner of a project does not start construction of the
 20 project within 12 months after the date all permits necessary for
 21 the project become final and all administrative and judicial appeals
 22 have been resolved provided the ~~California Consumer Power and~~
 23 ~~Conservation Financing Authority~~ *commission* notifies the
 24 ~~commission~~ *secretary* that it is willing and able to construct the
 25 project pursuant to subdivision (g). The project owner may extend
 26 the 12-month period by 24 additional months pursuant to
 27 subdivision (f). This paragraph applies only to projects with a
 28 project permit application deemed complete by the commission
 29 after January 1, 2003.

30 (b) The commission may also administratively impose a civil
 31 penalty for a violation of paragraph (1) or (2) of subdivision (a).
 32 Any civil penalty shall be imposed in accordance with Section
 33 25534.1 and may not exceed seventy-five thousand dollars
 34 (\$75,000) per violation, except that the civil penalty may be
 35 increased by an amount not to exceed one thousand five hundred
 36 dollars (\$1,500) per day for each day in which the violation occurs
 37 or persists, but the total of the per day penalties may not exceed
 38 fifty thousand dollars (\$50,000).

39 (c) A project owner shall commence construction of a project
 40 subject to the start-of-construction deadline provided by paragraph

1 (4) of subdivision (a) within 12 months after the project has been
2 certified by the ~~commission~~ *secretary* and after all accompanying
3 project permits are final and administrative and judicial appeals
4 have been completed. The project owner shall submit construction
5 and commercial operation milestones to the commission within
6 30 days after project certification. Construction milestones shall
7 require the start of construction within the 12-month period
8 established by this subdivision. The commission shall approve
9 milestones within 60 days after project certification. If the 30-day
10 deadline to submit construction milestones to the commission is
11 not met, the commission shall establish milestones for the project.

12 (d) The failure of the owner of a project subject to the
13 start-of-construction deadline provided by paragraph (4) of
14 subdivision (a) to meet construction or commercial operation
15 milestones, without a finding by the commission of good cause,
16 shall be cause for revocation of certification or the imposition of
17 other penalties by the commission.

18 (e) A finding by the commission that there is good cause for
19 failure to meet the start-of-construction deadline required by
20 paragraph (4) of subdivision (a) or any subsequent milestones of
21 subdivision (c) shall be made if the commission determines that
22 any of the following criteria are met:

23 (1) The change in any deadline or milestone does not change
24 the established deadline or milestone for the start of commercial
25 operation.

26 (2) The deadline or milestone is changed due to circumstances
27 beyond the project owner's control, including, but not limited to,
28 administrative and legal appeals.

29 (3) The deadline or milestone will be missed but the project
30 owner demonstrates a good faith effort to meet the project deadline
31 or milestone.

32 (4) The deadline or milestone will be missed due to unforeseen
33 natural disasters or acts of God that prevent timely completion of
34 the project deadline or milestone.

35 (5) The deadline or milestone will be missed for any other reason
36 determined reasonable by the commission.

37 (f) The commission shall extend the start-of-construction
38 deadline required by paragraph (4) of subdivision (a) by an
39 additional 24 months, if the owner reimburses the commission's
40 actual cost of licensing the project, less the amount paid pursuant

1 to subdivision (a) of Section 25806. For the purposes of this
2 section, the commission's actual cost of licensing the project shall
3 be based on a certified audit report filed by the commission staff
4 within 180 days of the commission's certification of the project.
5 The certified audit shall be filed and served on all parties to the
6 proceeding, is subject to public review and comment, and is subject
7 to at least one public hearing if requested by the project owner.
8 Any reimbursement received by the commission pursuant to this
9 subdivision shall be deposited in the General Fund.

10 (g) If the owner of a project subject to the start-of-construction
11 deadline provided by paragraph (4) of subdivision (a) fails to
12 commence construction, without good cause, within 12 months
13 after the project has been certified by the commission and has not
14 received an extension pursuant to subdivision (f), the commission
15 ~~shall provide immediate notice to the California Consumer Power~~
16 ~~and Conservation Financing Authority. The authority shall evaluate~~
17 whether to pursue the project independently or in conjunction with
18 any other public or private entity, including the original certificate
19 holder. If the ~~authority demonstrates to the commission that it is~~
20 willing and able to construct the project either independently or
21 in conjunction with any other public or private entity, including
22 the original certificate holder, the ~~commission~~ *secretary* may
23 revoke the original certification and issue a new certification for
24 the project to the ~~authority~~, *commission* unless the ~~authority's~~
25 *commission's* statutory authorization to finance or approve new
26 programs, enterprises, or projects has expired. If the ~~authority~~
27 *commission* declines to pursue the project, the permit shall remain
28 with the current project owner until it expires pursuant to the
29 regulations adopted by the commission.

30 (h) If the ~~commission~~ *secretary* issues a new certification for a
31 project subject to the start-of-construction deadline provided by
32 paragraph (4) of subdivision (a) to the ~~authority~~, *commission*, the
33 ~~commission~~ *secretary* shall adopt new milestones for the project
34 that allow the ~~authority~~ *commission* up to 24 months to start
35 construction of the project or to start to meet the applicable
36 deadlines or milestones. If the ~~authority~~ *commission* fails to begin
37 construction in conformity with the deadlines or milestones adopted
38 by the ~~commission~~, *secretary*, without good cause, the certification
39 may be revoked.

1 (i) (1) If the ~~commission~~ *secretary* issues a new certification
2 for a project subject to the start-of-construction deadline provided
3 by paragraph (4) of subdivision (a) to the ~~authority~~ *commission*
4 and the ~~authority~~ *commission* pursues the project without
5 participation of the original certificate holder, the ~~authority~~
6 *commission* shall offer to reimburse the original certificate holder
7 for the actual costs the original certificate holder incurred in
8 permitting the project and in procuring assets associated with the
9 license, including, but not limited to, major equipment and the
10 emission offsets. In order to receive reimbursement, the original
11 certificate holder shall provide to the commission documentation
12 of the actual costs incurred in permitting the project. The
13 commission shall validate those costs. The certificate holder may
14 refuse to accept the offer of reimbursement for any asset associated
15 with the license and retain the asset. To the extent the certificate
16 holder chooses to accept the offer for an asset, it shall provide the
17 ~~authority~~ *commission* with the asset.

18 (2) If the ~~authority~~ *commission* reimburses the original certificate
19 holder for the costs described in paragraph (1), the original
20 certificate holder shall provide the ~~authority~~ *commission* with all
21 of the assets for which the original certificate holder received
22 reimbursement.

23 (j) This section does not prevent a certificate holder from selling
24 its license to construct and operate a project prior to its revocation
25 by the ~~commission~~ *secretary*. In the event of a sale to an entity
26 that is not an affiliate of the certificate holder, the commission
27 shall adopt new deadlines or milestones for the project that allow
28 the new certificate holder up to 12 months to start construction of
29 the project or to start to meet the applicable deadlines or milestones.

30 (k) Paragraph (4) of subdivision (a) and subdivisions (c) to (j),
31 inclusive, do not apply to licenses issued for the modernization,
32 repowering, replacement, or refurbishment of existing facilities or
33 to a qualifying small power production facility or a qualifying
34 cogeneration facility within the meaning of Sections 201 and 210
35 of Title II of the federal Public Utility Regulatory Policies Act of
36 1978 (16 U.S.C. Secs. 796(17), 796(18), and 824a-3), and the
37 regulations adopted pursuant to those sections by the Federal
38 Energy Regulatory Commission (18 C.F.R. Parts 292.101 to
39 292.602, inclusive), nor shall those provisions apply to any other
40 generation units installed, operated, and maintained at a customer

1 site exclusively to serve that facility's load. For the purposes of
 2 this subdivision, "replacement" of an existing facility includes,
 3 but is not limited to, a comparable project at a location different
 4 than the facility being replaced, provided that the commission
 5 certifies that the new project will result in the decommissioning
 6 of the existing facility.

7 (l) Paragraph (4) of subdivision (a) and subdivisions (c) to (j),
 8 inclusive, do not apply to licenses issued to "local publicly owned
 9 electric utilities," as defined in Section 224.3 of the Public Utilities
 10 Code, whose governing bodies certify to the ~~commission~~ *secretary*
 11 that the project is needed to meet the projected native load of the
 12 local publicly owned utility.

13 (m) To implement this section, the ~~commission and the~~
 14 ~~California Consumer Power and Conservation Financing Authority~~
 15 ~~may, in consultation with each other,~~ adopt emergency regulations
 16 in accordance with Chapter 3.5 (commencing with Section 11340)
 17 of Part 1 of Division 3 of Title 2 of the Government Code. For
 18 purposes of that chapter, including, without limitation, Section
 19 11349.6 of the Government Code, the adoption of the regulations
 20 shall be considered by the Office of Administrative Law to be
 21 necessary for the immediate preservation of the public peace, health
 22 and safety, or general welfare.

23 SEC. 198. Section 25534.1 of the Public Resources Code is
 24 amended to read:

25 25534.1. (a) ~~The executive director of the commission~~
 26 ~~department~~ may issue a complaint to any person or entity on whom
 27 an administrative civil penalty may be imposed pursuant to Section
 28 25534. The complaint shall allege the act or failure to act for which
 29 the civil penalty is proposed, the provision of law authorizing civil
 30 liability, and the proposed civil penalty.

31 (b) The complaint shall be served by personal notice or certified
 32 mail, and shall inform the party so served that a hearing will be
 33 conducted within 60 days after the party has been served. The
 34 hearing shall be before the commission. The complainant may
 35 waive the right to a hearing, in which case the commission shall
 36 not conduct a hearing.

37 (c) After any hearing, the commission may adopt, with or
 38 without revision, the proposed decision and order of the ~~executive~~
 39 ~~director~~ *department*.

1 (d) Orders setting an administrative civil penalty shall become
2 effective and final upon issuance thereof, and any payment shall
3 be made within 30 days. Copies of these orders shall be served by
4 personal service or by registered mail upon the party served with
5 the complaint and upon other persons who appeared at the hearing
6 and requested a copy.

7 (e) In determining the amount of the administrative civil penalty,
8 the commission shall take into consideration the nature,
9 circumstance, extent, and gravity of the violation or violations,
10 whether the violation is susceptible to removal or resolution, the
11 cost to the state in pursuing the enforcement action, and with
12 respect to the violator, the ability to pay, the effect on ability to
13 continue in business, any voluntary removal or resolution efforts
14 undertaken, any prior history of violations, the degree of
15 culpability, economic savings, if any, resulting from the violation,
16 and such other matters as justice may require.

17 SEC. 199. Section 25538 of the Public Resources Code is
18 amended to read:

19 25538. Upon receiving the commission's request for review
20 under subdivision (f) of Section 25519 ~~and Section 25506~~, the
21 local agency may request a fee from the commission to reimburse
22 the local agency for the actual and added costs of this review by
23 the local agency. The commission shall reimburse the local agency
24 for the added costs that shall be actually incurred by the local
25 agency in complying with the commission's request. The local
26 agency may also request reimbursement for permit fees that the
27 local agency would receive but for the operation of Section 25500;
28 ~~provided, however, that such.~~ *However, these* fees may only be
29 requested in accordance with actual services performed by the
30 local agency. The commission shall either request a fee from the
31 person proposing the project or devote a special fund in its budget,
32 for the reimbursement of ~~such~~ *these* costs incurred by local
33 agencies.

34 SEC. 200. Section 25539 of the Public Resources Code is
35 amended to read:

36 25539. In reviewing ~~notices and~~ applications for certification
37 of modifications of existing facilities, the commission shall adopt
38 rules and regulations as necessary to ~~insure~~ *ensure* that relevant
39 duties pursuant to this division are carried out.

1 SEC. 201. Section 25540 of the Public Resources Code is
2 amended to read:

3 25540. If a person proposes to construct a geothermal
4 powerplant and related facility or facilities on a site, the
5 commission *secretary* shall not require three alternative sites and
6 related facilities to be proposed in the notice. Except as otherwise
7 provided, the commission shall issue its findings on the notice, as
8 specified in Section 25514, within nine months from the date of
9 filing of such notice, and shall issue its final decision on the
10 application, as specified in Section 25523, within nine months
11 from the date of the filing of the application for certification, or at
12 such later time as is mutually agreed to by the commission and the
13 applicant or person submitting the notice or application.

14 SEC. 202. Section 25540.1 of the Public Resources Code is
15 amended to read:

16 25540.1. The commission shall determine, within 30 days after
17 the receipt of ~~a notice or~~ an application for a geothermal
18 powerplant, whether the ~~notice or~~ application is complete. If the
19 ~~notice or~~ application is determined not to be complete, the
20 commission's determination shall specify, in writing, those parts
21 of the ~~notice or~~ application ~~which~~ that are incomplete and shall
22 indicate the manner in which it can be made complete. Within 30
23 days after receipt of the applicant's filing with the commission the
24 additional information requested by the commission to make the
25 ~~notice or~~ application complete, the commission shall determine
26 whether the subsequent filing is sufficient to complete the ~~notice~~
27 ~~or~~ application. ~~A notice or~~ An application shall be deemed filed
28 for purposes of Section 25540 on the date the commission
29 determines the ~~notice or~~ application is completed if the commission
30 has adopted regulations specifying the informational requirements
31 for a complete ~~notice or~~ application, but if the commission has not
32 adopted regulations, the ~~notice or~~ application shall be deemed filed
33 on the last date the commission receives any additional data that
34 completes the ~~notice or~~ application.

35 SEC. 203. Section 25540.2 of the Public Resources Code is
36 amended to read:

37 25540.2. ~~Notwithstanding any other provision of law:~~
38 (a) ~~If an applicant proposes to construct a geothermal powerplant~~
39 ~~at a site which, at the outset of the proceeding, the applicant can~~
40 ~~reasonably demonstrate to be capable of providing geothermal~~

1 resources in commercial quantities, no notice of intention pursuant
2 to Section 25502 shall be required, and the commission shall issue
3 the final decision on the application, as specified in Section 25523,
4 within 12 months after acceptance of the application for
5 certification of a geothermal powerplant and related facilities, or
6 at such later time as is mutually agreed by the commission and the
7 applicant.

8 ~~(b) Upon~~

9 *Upon* receipt of an application for certification of a geothermal
10 powerplant and related facilities, the commission shall transmit a
11 copy of the application to every state and local agency having
12 jurisdiction over land use in the area involved.

13 SEC. 204. Section 25540.3 of the Public Resources Code is
14 amended to read:

15 25540.3. (a) An applicant for a geothermal powerplant may
16 propose a site to be approved that will accommodate a potential
17 maximum electric generating capacity in excess of the capacity
18 being proposed for initial construction. In addition to the
19 information concerning the initial powerplant and related facilities
20 proposed for construction required pursuant to Section 25520, ~~such~~
21 *the* application shall include all of the following, to the extent
22 known:

23 (1) The number, type, and energy source of electric generating
24 units ~~which~~ *that* the site is proposed ultimately to accommodate
25 and the maximum generating capacity for each unit.

26 (2) The projected installation schedule for each unit.

27 (3) The impact of the site, when fully developed, on the
28 environment and public health and safety.

29 (4) The amount and sources of cooling water needed at the fully
30 developed site.

31 (5) The general location and design of auxiliary facilities
32 planned for each stage of development, including, but not limited
33 to pipelines, transmission lines, waste storage and disposal ~~facilities~~
34 *facilities*, switchyards, and cooling ponds, lakes, or towers.

35 (6) ~~Such other~~ *Other* information relating to the design,
36 operation, and siting of the facility ~~as~~ *that* the commission may by
37 regulation require.

38 (b) (1) If an application is filed pursuant to subdivision (a)
39 ~~which~~ *that* proposes a site to be approved ~~which~~ *that* will
40 accommodate a potential maximum electric generating capacity

1 in excess of the capacity being proposed for initial construction,
 2 the ~~commission~~ *secretary* may, in ~~its~~ *his or her* decision pursuant
 3 to subdivision (a) of Section ~~25540.3~~, either certify only the initial
 4 facility or facilities proposed for initial construction or may certify
 5 the initial facility or facilities and find the site acceptable for
 6 additional generating capacity of the type tentatively proposed.
 7 The maximum allowable amount and type of ~~such~~ *the* additional
 8 capacity shall be determined by the commission.

9 If

10 (2) *If* the decision includes a finding that a particular site is
 11 suitable to accommodate a particular additional generating capacity,
 12 the site shall be designated a potential multiple facility site. The
 13 ~~commission~~ *secretary* may, in determining the acceptability of a
 14 potential multiple facility site, specify conditions or criteria
 15 necessary to ensure that future additional facilities will not exceed
 16 the limitations of the site.

17 SEC. 205. Section 25540.4 of the Public Resources Code is
 18 repealed.

19 ~~25540.4. Notwithstanding any other provision of law:~~

20 (a) ~~The decision of the commission on an application for an~~
 21 ~~additional facility at a potential multiple facility site shall be issued~~
 22 ~~within three months after the acceptance of the application or at~~
 23 ~~such later time as is mutually agreed upon by the commission and~~
 24 ~~the applicant.~~

25 (b) ~~In reviewing an application for an additional facility at a~~
 26 ~~potential multiple facility site, the commission may, upon a~~
 27 ~~showing of good cause, undertake a reconsideration of its prior~~
 28 ~~determinations in the final report for the site pursuant to Section~~
 29 ~~25514 or its decision pursuant to Section 25523 based on current~~
 30 ~~conditions and other reasonable alternatives to the proposed~~
 31 ~~facility. Such reconsideration must be completed within seven~~
 32 ~~months after acceptance of such application for an additional~~
 33 ~~facility.~~

34 (c) ~~The commission shall, pursuant to Section 21100.2, provide~~
 35 ~~by resolution or order for completing and certifying the~~
 36 ~~environmental impact report within the time limits established by~~
 37 ~~subdivisions (a) and (b).~~

38 SEC. 206. Section 25540.6 of the Public Resources Code is
 39 repealed.

1 ~~25540.6. (a) Notwithstanding any other provision of law, no~~
2 ~~notice of intention is required, and the commission shall issue its~~
3 ~~final decision on the application, as specified in Section 25523,~~
4 ~~within 12 months after the filing of the application for certification~~
5 ~~of the powerplant and related facility or facilities, or at any later~~
6 ~~time as is mutually agreed by the commission and the applicant,~~
7 ~~for any of the following:~~

8 ~~(1) A thermal powerplant which will employ cogeneration~~
9 ~~technology, a thermal powerplant that will employ natural gas-fired~~
10 ~~technology, or a solar thermal powerplant.~~

11 ~~(2) A modification of an existing facility.~~

12 ~~(3) A thermal powerplant which it is only technologically or~~
13 ~~economically feasible to site at or near the energy source.~~

14 ~~(4) A thermal powerplant with a generating capacity of up to~~
15 ~~100 megawatts.~~

16 ~~(5) A thermal powerplant designed to develop or demonstrate~~
17 ~~technologies which have not previously been built or operated on~~
18 ~~a commercial scale. Such a research, development, or commercial~~
19 ~~demonstration project may include, but is not limited to, the use~~
20 ~~of renewable or alternative fuels, improvements in energy~~
21 ~~conversion efficiency, or the use of advanced pollution control~~
22 ~~systems. Such a facility may not exceed 300 megawatts unless the~~
23 ~~commission, by regulation, authorizes a greater capacity. Section~~
24 ~~25524 does not apply to such a powerplant and related facility or~~
25 ~~facilities.~~

26 ~~(b) Projects exempted from the notice of intention requirement~~
27 ~~pursuant to paragraph (1), (4), or (5) of subdivision (a) shall~~
28 ~~include, in the application for certification, a discussion of the~~
29 ~~applicant's site selection criteria, any alternative sites that the~~
30 ~~applicant considered for the project, and the reasons why the~~
31 ~~applicant chose the proposed site. That discussion shall not be~~
32 ~~required for cogeneration projects at existing industrial sites. The~~
33 ~~commission may also accept an application for a noneogeneration~~
34 ~~project at an existing industrial site without requiring a discussion~~
35 ~~of site alternatives if the commission finds that the project has a~~
36 ~~strong relationship to the existing industrial site and that it is~~
37 ~~therefore reasonable not to analyze alternative sites for the project.~~

38 ~~SEC. 207. Section 25541 of the Public Resources Code is~~
39 ~~amended to read:~~

1 25541. The commission may exempt from this chapter ~~thermal~~
 2 powerplants with a generating capacity of up to 100 megawatts
 3 and modifications to existing generating facilities that do not add
 4 capacity in excess of 100 megawatts, if the commission finds that
 5 no substantial adverse impact on the environment or energy
 6 resources will result from the construction or operation of the
 7 proposed facility or from the modifications.

8 SEC. 208. Section 25541.1 of the Public Resources Code is
 9 amended to read:

10 25541.1. It is the intent of the Legislature to encourage the
 11 development of ~~thermal~~ powerplants using resource recovery
 12 (waste-to-energy) technology. Previously enacted incentives for
 13 the production of electrical energy from nonfossil fuels in
 14 commercially scaled projects have failed to produce the desired
 15 results. At the same time, the state faces a growing problem in the
 16 environmentally safe disposal of its solid waste. The creation of
 17 electricity by a ~~thermal~~ powerplant using resource recovery
 18 technology addresses both problems by doing all of the following:

19 (a) Generating electricity from a nonfossil fuel of an ample,
 20 growing supply.

21 (b) Conserving landfill space, thus reducing waste disposal
 22 costs.

23 (c) Avoiding the health hazards of burying garbage.

24 Furthermore, development of resource recovery facilities creates
 25 new construction jobs, as well as ongoing operating jobs, in the
 26 communities in which they are located.

27 SEC. 209. Section 25541.5 of the Public Resources Code is
 28 amended to read:

29 25541.5. (a) On or before January 1, 2001, the Secretary of
 30 the *Natural* Resources Agency shall review the regulatory program
 31 conducted pursuant to this chapter that was certified pursuant to
 32 subdivision ~~(k)~~ (j) of Section 15251 of Title 14 of the California
 33 Code of Regulations, to determine whether the regulatory program
 34 meets the criteria specified in Section 21080.5. If the Secretary of
 35 the *Natural* Resources Agency determines that the regulatory
 36 program meets those criteria, ~~the secretary~~ *he or she* shall continue
 37 the certification of the regulatory program.

38 (b) If the Secretary of the *Natural* Resources Agency continues
 39 the certification of the regulatory program, the commission shall
 40 amend the regulatory program from time to time, as necessary to

1 permit the ~~secretary~~ *Secretary of the Natural Resources Agency*
2 to continue to certify the program.

3 (c) This section does not invalidate the certification of the
4 regulatory program, as it existed on January 1, 2000, pending the
5 review required by subdivision (a).

6 SEC. 210. Section 25542 of the Public Resources Code is
7 amended to read:

8 25542. In the case of any site and related facility or facilities
9 for which the provisions of this division do not apply, the exclusive
10 power given to the ~~commission~~ *secretary* pursuant to Section 25500
11 to certify sites and related facilities shall not be in effect.

12 SEC. 211. Section 25543 of the Public Resources Code is
13 amended to read:

14 25543. (a) It is the intent of the Legislature to improve the
15 process of siting and licensing new ~~thermal~~ electric powerplants
16 to ensure that these facilities can be sited in a timely manner, while
17 protecting environmental quality and public participation in the
18 siting process.

19 (b) ~~Notwithstanding Section 7550.5 of the Government Code,~~
20 ~~the commission~~ *The department* shall prepare a report, and submit
21 to the Governor and the Legislature on or before March 31, 2000,
22 a report that identifies administrative and statutory measures that,
23 preserving environmental protections and public participation,
24 would improve the commission's siting and licensing process for
25 ~~thermal~~ powerplants of 50 megawatts and larger. The report shall
26 include, but is not limited to, all of the following:

27 (1) An examination of potential process efficiencies associated
28 with required hearings, site visits, and documents.

29 (2) A review of the impacts on both process efficiency and
30 public participation of restrictions on communications between
31 applicants, the public, and staff or decisionmakers.

32 (3) An assessment of means for improving coordination with
33 the licensing activities of local jurisdictions and participation by
34 other state agencies.

35 (4) An assessment of organizational structure issues including
36 the adequacy of the amounts and organization of current technical
37 and legal resources.

38 (5) Recommendations for administrative and statutory measures
39 to improve the siting and licensing process.

1 (c) The commission may immediately implement any
 2 administrative recommendations. Regulations, as identified in
 3 paragraph (5), adopted within 180 days of the effective date of this
 4 section may be adopted as emergency regulations in accordance
 5 with Chapter 3.5 (commencing with Section 11340) of the
 6 Government Code. For purposes of that chapter, including Section
 7 11349.6 of the Government Code, the adoption of the regulations
 8 shall be considered by the Office of Administrative Law to be
 9 necessary for the immediate preservation of the public peace,
 10 health, safety, and general welfare.

11 SEC. 212. Section 25544 is added to the Public Resources
 12 Code, to read:

13 25544. (a) The commission may, after one or more public
 14 hearings, designate preferred areas for solar energy development
 15 based on environmental sensitivity, the presence of infrastructure,
 16 and other relevant considerations. Designation of an area under
 17 this section shall be through a planning study, which will not have
 18 a legally binding effect on later activities, but will serve as guidance
 19 to developers and regulatory agencies in the selection of suitable
 20 sites for the development of solar projects.

21 (b) The commission shall give priority to, and expedite the
 22 review of, applications for generating facilities that use a renewable
 23 resource as their primary fuel or power source and transmission
 24 lines proposed to access new or anticipated generating facilities.

25 SEC. 213. Section 25545 is added to the Public Resources
 26 Code, to read:

27 25545. (a) Notwithstanding subdivision (a) of Section 25522,
 28 the commission shall establish a process to issue the secretary's
 29 final decision within nine months after the filing of an application
 30 for any of the following:

31 (1) An electric transmission line that provides access to electric
 32 generation from renewable resources and would be constructed
 33 within a transmission corridor zone designated under Section
 34 25331.

35 (2) A solar powerplant that is constructed within an area
 36 designated as a preferred area for solar energy development in a
 37 planning report under Section 25552.

38 (3) A generating facility that uses a renewable resource as its
 39 primary fuel or power source and would be constructed within an

1 area designated by the Renewable Energy Transmission Initiative
2 as a competitive renewable energy zone.

3 (b) For purposes of this section, “filing” has the same meaning
4 as in Section 25522.

5 (c) For an application filed in a process established under this
6 section, all local, regional, and state agencies that would have
7 jurisdiction over the proposed electric transmission line or
8 powerplant and related facilities, but for the exclusive jurisdiction
9 of the secretary, shall provide their final comments, determinations,
10 or opinions within 100 days after the filing of the application. The
11 regional water quality control boards, as established pursuant to
12 Chapter 4 (commencing with Section 13200) of Division 7 of the
13 Water Code, shall retain jurisdiction over any applicable water
14 quality standard that is incorporated into a final certification issued
15 pursuant to this chapter.

16 (d) To implement this section, the commission may adopt
17 emergency regulations in accordance with Chapter 3.5
18 (commencing with Section 11340) of Part 2 of Division 3 of Title
19 2 of the Government Code. For purposes of that chapter, including
20 without limitation, Section 11349.6 of the Government Code, the
21 adoption of the regulations shall be considered by the Office of
22 Administrative Law to be necessary for the immediate preservation
23 of the public peace, health, safety, and general welfare.

24 SEC. 214. Section 25601 of the Public Resources Code is
25 amended to read:

26 25601. The ~~commission~~ *department* shall develop and
27 coordinate a program of research and development in energy
28 supply, consumption, and conservation and the technology of siting
29 facilities and shall give priority to those forms of research and
30 development ~~which~~ *that* are of particular importance to the state,
31 including, but not limited to, all of the following:

32 (a) Methods of energy conservation specified in Chapter 5
33 (commencing with Section 25400).

34 (b) Increased energy use efficiencies of existing thermal electric
35 and hydroelectric powerplants and increased energy efficiencies
36 in designs of thermal electric and hydroelectric powerplants.

37 (c) Expansion and accelerated development of alternative
38 sources of energy, including geothermal and solar resources,
39 including, but not limited to, participation in large-scale
40 demonstrations of alternative energy systems sited in California

1 in cooperation with federal agencies, regional compacts, other
 2 state governments, and other participants. For purposes of this
 3 subdivision, “participation” shall be defined as any of the
 4 following: (1) direct interest in a project, (2) research and
 5 development to insure acceptable resolution of environment and
 6 other impacts of alternative energy systems, (3) research and
 7 development to improve siting and permitting methodology for
 8 alternative energy systems, (4) experiments utilizing the alternative
 9 energy systems, and (5) research and development of appropriate
 10 methods to insure the widespread utilization of economically useful
 11 alternative energy systems. Large-scale demonstrations of
 12 alternative energy systems are exemplified by the 100KW_e to
 13 100MW_e range demonstrations of solar, wind, and geothermal
 14 systems contemplated by federal agencies, regional compacts,
 15 other state governments, and other participants.

16 (d) Improved methods of construction, design, and operation
 17 of facilities to protect against seismic hazards.

18 (e) Improved methods of energy-demand forecasting.

19 (f) To accomplish the purposes of subdivision (c), an amount
 20 not more than one-half of the total state funds appropriated for the
 21 solar energy research and development program as proposed in
 22 the budget prepared pursuant to Section 25604 shall be allocated
 23 for large-scale demonstration of alternative energy systems.

24 SEC. 215. Section 25602 of the Public Resources Code is
 25 amended to read:

26 25602. The ~~commission~~ *department* shall carry out technical
 27 assessment studies on all forms of energy and energy-related
 28 problems, in order to influence federal research and development
 29 priorities and to be informed on future energy options and their
 30 impacts, including, in addition to those problems specified in
 31 Section 25601, but not limited to, the following:

32 (a) Advanced nuclear powerplant concepts, fusion, and fuel
 33 cells.

34 (b) Total energy concepts.

35 (c) New technology related to coastal and offshore siting of
 36 facilities.

37 (d) Expanded use of wastewater as cooling water and other
 38 advances in powerplant cooling.

39 (e) Improved methods of power transmission to permit interstate
 40 and interregional transfer and exchange of bulk electric power.

- 1 (f) Measures to reduce wasteful and inefficient uses of energy.
- 2 (g) Shifts in transportation modes and changes in transportation
- 3 technology in relation to implications for energy consumption.
- 4 (h) Methods of recycling, extraction, processing, fabricating,
- 5 handling, or disposing of materials, especially materials which
- 6 require large commitments of energy.
- 7 (i) Expanded recycling of materials and its effect on energy
- 8 consumption.
- 9 (j) Implications of government subsidies and taxation and
- 10 ratesetting policies.
- 11 (k) Utilization of waste heat.
- 12 (l) Use of hydrogen as an energy form.
- 13 (m) Use of agricultural products, municipal wastes, and organic
- 14 refuse as an energy source.

15 ~~Such~~

16 *These* assessments may also be conducted in order to determine

17 which energy systems among competing technologies are most

18 compatible with standards established pursuant to this division.

19 SEC. 216. Section 25603 of the Public Resources Code is

20 amended to read:

21 25603. For research purposes, ~~the commission~~ *department*

22 shall, in cooperation with other state agencies, participate in the

23 design, construction, and operation of energy-conserving buildings

24 using data developed pursuant to Section 25401, in order to

25 demonstrate the economic and technical feasibility of ~~such~~ *the*

26 designs.

27 SEC. 217. Section 25603.5 of the Public Resources Code is

28 amended to read:

29 25603.5. (a) Pursuant to the duties of ~~the commission~~

30 *department* described in *paragraph (1) of* subdivision (a) of Section

31 25401 and Section 25603, ~~the commission~~ *department* shall

32 conduct a statewide architectural design competition to select

33 outstanding designs for new single-family and multifamily

34 residential units ~~which~~ *that* incorporate passive solar and other

35 energy-conserving design features.

36 The purpose of the competition, to be known as the “State Solar

37 Medallion Passive Design Competition”, is to demonstrate the

38 technical and economic feasibility of passive solar design for

39 residential construction, to speed its commercialization, and to

40 promote its use by developers in housing for moderate-income

1 families in the state. The competition shall be carried out with the
2 assistance and cooperation of the Office of the State Architect.

3 (b) The competition shall be conducted for each of the state's
4 six regional climate zones. Each climate zone shall have the
5 following four categories of competition:

6 (1) Single-family dwellings. The construction costs of these
7 dwellings shall not exceed thirty-five thousand dollars (\$35,000)
8 and the market price, inclusive of land, construction, permits, fees,
9 overhead and profit shall not exceed fifty-five thousand dollars
10 (\$55,000); ~~provided that, if. However, if the commission~~
11 ~~department~~ determines that, as of the date construction is
12 completed, the cost of housing construction in this state has
13 increased due to economic inflation since January 1, 1979, the
14 ~~commission department~~ may increase these sums by the amount
15 of ~~such that~~ inflation as indicated by the construction cost index.

16 (2) Single-family dwellings. The construction costs of these
17 dwellings shall not exceed fifty-five thousand dollars (\$55,000)
18 and the market price, inclusive of land, construction, permits, fees,
19 overhead and profit shall not exceed eighty-five thousand dollars
20 (\$85,000); ~~provided that, if. However, if the commission~~
21 ~~department~~ determines that, as of the date construction is
22 completed, the cost of housing construction in this state has
23 increased due to economic inflation since January 1, 1979, the
24 ~~commission department~~ may increase these sums by the amount
25 of such inflation as indicated by the construction cost index.

26 (3) Multifamily housing units with a market price or rental value
27 comparable to paragraph (1) ~~of this subdivision.~~

28 (4) Multifamily housing units with a market price or rental value
29 comparable to paragraph (2) ~~of this subdivision.~~

30 (c) In order to qualify for the competition, entrants shall be a
31 team composed of at least one member from each of the following
32 categories:

33 (1) A building designer or architect.

34 (2) A builder, developer, or contractor.

35 (d) With submission of designs to the competition, all entrants
36 shall agree to comply with the following provisions, if awarded
37 the Solar Medallion or the first place prize in any category:

38 (1) To build five models of the winning design for single-family
39 home categories if the builder, developer, or contractor member
40 of the winning team constructed more than 30 single-family

1 detached units during the one-year period ending on the date of
2 the award, or

3 (2) To build three models of the winning design for single-family
4 home categories if the builder, developer, or contractor member
5 of the winning team constructed 30 or fewer single-family detached
6 units during the one-year period ending on the date of the award,
7 or

8 (3) To build one model of the winning design for all multifamily
9 categories.

10 (4) To commence construction within 18 months of the
11 announcement of awards.

12 (5) To permit the ~~commission~~ *department* to install monitoring
13 equipment for measuring energy conservation performance of the
14 structure on all models constructed in compliance with paragraphs
15 (1), (2), and (3) ~~of this subdivision~~.

16 (6) To permit the ~~commission~~ *department* to document, exhibit,
17 and publicize the constructed designs.

18 All models of winning designs shall be built on the site or sites
19 described in the submission or on an alternate site or sites with
20 comparable features.

21 Cash awards to authors of the winning designs may be made
22 prior to commencement of the agreed upon construction.

23 All winning designs in the competition shall become the property
24 of the state and may be published and exhibited by the state after
25 completion of competition.

26 (e) The judging panel for the competition shall consist of the
27 following five jurors:

28 (1) One representative of the ~~Office Division~~ of the State
29 Architect.

30 (2) One representative of the ~~commission~~ *department*.

31 (3) One certificated architect.

32 (4) One representative of the state's lending institutions.

33 (5) One developer, builder, or contractor.

34 The nonagency members shall be appointed by the State
35 Architect.

36 (f) (1) In recognition of the wide variation in construction costs
37 statewide, and in order to ensure fair and equitable competition in
38 all areas of the state, a cost index shall be used to determine
39 different construction cost and market price requirements for each
40 category of competition in the major metropolitan areas of the

1 state. The construction cost and market price figures specified in
 2 paragraphs (1) and (2) of subdivision (b) shall be used as the upper
 3 limit values on which the index shall be based. Construction cost
 4 and market price figures reflecting the diversity in costs in different
 5 areas of the state shall be determined in relation to upper limit
 6 values specified in this section.

7 (2) The cost index shall be prepared by the Office of the State
 8 Architect and shall be published in the competition program.

9 (g) The evaluation shall take place in two stages, with an initial
 10 technical review by the ~~commission~~ *department* staff. The staff
 11 shall submit to the judging panel a rigorous technical assessment
 12 of the anticipated energy conservation performance of all
 13 submissions. Final selection shall be made by the judging panel.

14 (h) Designs submitted to the competition shall be judged on the
 15 extent to which they satisfy the following criteria:

16 (1) Use of passive solar and other energy conserving design
 17 features.

18 (2) Amount of energy savings achieved by the design.

19 (3) Adaptability of the design to widespread use.

20 (f)

21 (i) The ~~commission~~ *department* shall be responsible for
 22 developing rules and procedures for the conduct of the competition
 23 and for the judging, which rules shall ensure anonymity of designs
 24 submitted prior to final awarding of prizes, shall ensure impartiality
 25 of the judging panel, and shall ensure uniform treatment of
 26 competitors.

27 (j) In administering the competition, the ~~commission~~ *department*
 28 shall accomplish the following tasks:

29 (1) Preparation of a competition program, including
 30 climatological data for each of the six regional climate zones.

31 (2) Distribution of competition information and ongoing
 32 publicity.

33 (3) Development of rules and procedures for competitors and
 34 judges.

35 (4) Preparation of a summary document for the competition,
 36 including a portfolio of winning designs and followup publicity.

37 (5) Instrumentation of winning dwellings constructed in
 38 accordance with requirements of this section; instrumentation for
 39 measurement of energy conservation performance of the units,

1 and ongoing data collection shall be provided by the commission
2 pursuant to Section 25607.

3 For purposes of administering the competition, the ~~commission~~
4 *department* shall contract with the ~~Office Division~~ of the State
5 Architect for materials and services that cannot be performed by
6 its staff.

7 ~~(g)~~

8 (k) Cash awards to authors of the winning designs shall be made
9 on the following basis:

10 (l) Using the criteria in subdivision (e) of this section, the
11 judging panel shall select, as follows:

12 (1) The most outstanding design statewide selected from among
13 the first place winners in either of two single-family categories in
14 any of the six climate zones which shall receive the State Solar
15 Medallion Award and five thousand dollars (\$5,000) in addition
16 to the cash award specified in paragraph (3) of this subdivision.

17 (2) The most outstanding design statewide selected from among
18 the first place winners in either of the two multifamily categories
19 in any of the six climate zones which shall receive the State Solar
20 Medallion Award and five thousand dollars (\$5,000) in addition
21 to the cash award specified in paragraph (3) of this subdivision.

22 (3) The first place designs in each of the four competition
23 categories within each of the six climate zones, which shall each
24 receive a cash award of five thousand dollars (\$5,000).

25 (4) The second place designs in each of the four competition
26 categories within each of the six climate zones, which shall each
27 receive a cash award of two thousand dollars (\$2,000).

28 SEC. 218. Section 25608 of the Public Resources Code is
29 amended to read:

30 25608. The ~~commission~~ *department* shall confer with officials
31 of federal agencies, including the National Aeronautics and Space
32 Administration, the National Institute of Standards and Technology,
33 the Department of Energy, and the Department of Housing and
34 Urban Development, to coordinate the adoption of regulations
35 pursuant to Sections 25603 and 25605.

36 SEC. 219. Section 25610 of the Public Resources Code is
37 amended to read:

38 25610. For purposes of carrying out the provisions of this
39 chapter, the ~~commission~~ *department* may contract with any person
40 for materials and services that cannot be performed by its staff or

1 other state agencies, and may apply for federal grants or any other
2 funding.

3 SEC. 220. Section 25616 of the Public Resources Code is
4 amended to read:

5 25616. (a) It is the intent of the Legislature to encourage local
6 agencies to expeditiously review permit applications to site energy
7 projects, and to encourage energy project developers to consider
8 all cost-effective and environmentally superior alternatives that
9 achieve their project objectives.

10 (b) Subject to the availability of funds appropriated therefor,
11 ~~the commission~~ *department* shall provide technical assistance and
12 grants-in-aid to assist local agencies to do either or both of the
13 following:

14 (1) Site energy production or transmission projects ~~which that~~
15 are not otherwise subject to ~~the provisions of~~ Chapter 6
16 (commencing with Section 25500).

17 (2) Integrate into their planning processes, and incorporate into
18 their general plans, methods to achieve cost-effective energy
19 efficiency.

20 (c) ~~The commission~~ *department* shall provide assistance at the
21 request of local agencies ~~and shall coordinate that assistance with~~
22 ~~the assistance provided by the Department of Permit Assistance,~~
23 ~~created pursuant to Section 15399.50 of the Government Code.~~

24 (d) As used in this section, an energy project is any project
25 designed to produce, convert, or transmit energy as one of its
26 primary functions.

27 SEC. 221. Section 25617 of the Public Resources Code is
28 amended to read:

29 25617. (a) It is the intent of the Legislature to preserve
30 diversity of energy resources, including diversity of resources used
31 in electric generation facilities, industrial and commercial
32 applications, and transportation.

33 (b) ~~The commission~~ *department* shall, within the limits of
34 available funds, provide technical assistance and support for the
35 development of petroleum diesel fuels ~~which that~~ are as clean or
36 cleaner than alternative clean fuels and clean diesel engines. That
37 technical assistance and support may include the creation of
38 research, development, and demonstration programs.

39 SEC. 222. Section 25618 of the Public Resources Code is
40 amended to read:

1 25618. (a) The ~~commission~~ *department* shall facilitate
2 development and commercialization of ultra low- and
3 zero-emission electric vehicles and advanced battery technologies,
4 as well as development of an infrastructure to support maintenance
5 and fueling of those vehicles in California. Facilitating
6 commercialization of ultra low- and zero-emission electric vehicles
7 in California shall include, but not be limited to, the following:

8 (1) The ~~commission~~ *department* may, in cooperation with
9 county, regional, and city governments, the state’s public and
10 private utilities, and the private business sector, develop plans for
11 accelerating the introduction and use of ultra low- and
12 zero-emission electric vehicles throughout California’s air quality
13 nonattainment areas, and for accelerating the development and
14 implementation of the necessary infrastructure to support the
15 planned use of those vehicles in California. These plans shall be
16 consistent with, but not limited to, the criteria for similar efforts
17 contained in federal loan, grant, or matching fund projects.

18 (2) In coordination with other state agencies, the ~~commission~~
19 *department* shall seek to maximize the state’s use of federal
20 programs, loans, and matching funds available to states for ultra
21 low- and zero-emission electric vehicle development and
22 demonstration programs, and infrastructure development projects.

23 (b) Priority for implementing demonstration projects under this
24 section shall be directed toward those areas of the state currently
25 in a nonattainment status with federal and state air quality
26 regulations.

27 SEC. 223. Section 25620 of the Public Resources Code is
28 amended to read:

29 25620. The Legislature hereby finds and declares all of the
30 following:

31 (a) It is in the best interests of the people of this state that the
32 quality of life of its citizens be improved by providing
33 environmentally sound, safe, reliable, and affordable energy
34 services and products.

35 (b) To improve the quality of life of this state’s citizens, it is
36 proper and appropriate for the state to undertake public interest
37 energy research, development, and demonstration projects that are
38 not adequately provided for by competitive and regulated energy
39 markets.

1 (c) Public interest energy research, demonstration, and
2 development projects should advance energy science or
3 technologies of value to California citizens and should be consistent
4 with the policies of this chapter.

5 (d) It is in the best interest of the people of California for the
6 *department and the commission* to positively contribute to the
7 overall economic climate of the state within the roles and
8 responsibilities of the *department and the commission* as defined
9 by statute, regulation, and other official government authority,
10 including, but not limited to, providing economic benefits to
11 California-based entities.

12 SEC. 224. Section 25620.1 of the Public Resources Code is
13 amended to read:

14 25620.1. (a) ~~The commission~~ *department* shall develop,
15 implement, and administer the Public Interest Research,
16 Development, and Demonstration Program that is hereby created.
17 The program shall include a full range of research, development,
18 and demonstration activities that, as determined by ~~the commission,~~
19 *department*, are not adequately provided for by competitive and
20 regulated markets. ~~The commission~~ *department* shall administer
21 the program consistent with the policies of this chapter.

22 (b) The general goal of the program is to develop, and help bring
23 to market, energy technologies that provide increased
24 environmental benefits, greater system reliability, and lower system
25 costs, and that provide tangible benefits to electric utility customers
26 through the following investments:

27 (1) Advanced transportation technologies that reduce air
28 pollution and greenhouse gas emissions beyond applicable
29 standards, and that benefit electricity and natural gas ratepayers.

30 (2) Increased energy efficiency in buildings, appliances, lighting,
31 and other applications beyond applicable standards, and that benefit
32 electric utility customers.

33 (3) Advanced electricity generation technologies that exceed
34 applicable standards to increase reductions in greenhouse gas
35 emissions from electricity generation, and that benefit electric
36 utility customers.

37 (4) Advanced electricity technologies that reduce or eliminate
38 consumption of water or other finite resources, increase use of
39 renewable energy resources, or improve transmission or distribution
40 of electricity generated from renewable energy resources.

1 (c) To achieve the goals established in subdivision (b), the
2 ~~commission~~ *department* shall adopt a portfolio approach for the
3 program that does all of the following:

4 (1) Effectively balances the risks, benefits, and time horizons
5 for various activities and investments that will provide tangible
6 energy or environmental benefits for California electricity
7 customers.

8 (2) Emphasizes innovative energy supply and end use
9 technologies, focusing on their reliability, affordability, and
10 environmental attributes.

11 (3) Includes projects that have the potential to enhance
12 transmission and distribution capabilities.

13 (4) Includes projects that have the potential to enhance the
14 reliability, peaking power, and storage capabilities of renewable
15 energy.

16 (5) Demonstrates a balance of benefits to all sectors that
17 contribute to the funding under Section 399.8 of the Public Utilities
18 Code.

19 (6) Addresses key technical and scientific barriers.

20 (7) Demonstrates a balance between short-term, mid-term, and
21 long-term potential.

22 (8) Ensures that prior, current, and future research not be
23 unnecessarily duplicated.

24 (9) Provides for the future market utilization of projects funded
25 through the program.

26 (10) Ensures an open project selection process and encourages
27 the awarding of research funding for a diverse type of research as
28 well as a diverse award recipient base and equally considers
29 research proposals from the public and private sectors.

30 (11) Coordinates with other related research programs.

31 (d) The term “award,” as used in this chapter, may include, but
32 is not limited to, contracts, grants, interagency agreements, loans,
33 and other financial agreements designed to fund public interest
34 research, demonstration, and development projects or programs.

35 SEC. 225. Section 25620.2 of the Public Resources Code is
36 amended to read:

37 25620.2. (a) To ensure the efficient implementation and
38 administration of the Public Interest Research, Development, and
39 Demonstration Program, the ~~commission~~ *department* shall do both
40 of the following:

- 1 (1) Develop procedures for the solicitation of award applications
2 for project or program funding, and to ensure efficient program
3 management.
- 4 (2) Evaluate and select programs and projects, based on merit,
5 that will be funded under the program.
- 6 (b) The ~~commission~~ *department* shall adopt regulations to
7 implement the program, in accordance with the following
8 procedures:
- 9 (1) Prepare a preliminary text of the proposed regulation and
10 provide a copy of the preliminary text to any person requesting a
11 copy.
- 12 (2) Provide public notice of the proposed regulation to any
13 person who has requested notice of the regulations prepared by
14 the ~~commission~~ *department*. The notice shall contain all of the
15 following:
- 16 (A) A clear overview explaining the proposed regulation.
- 17 (B) Instructions on how to obtain a copy of the proposed
18 regulations.
- 19 (C) A statement that if a public hearing is not scheduled for the
20 purpose of reviewing a proposed regulation, any person may
21 request, not later than 15 days prior to the close of the written
22 comment period, a public hearing conducted in accordance with
23 ~~commission~~ *department* procedures.
- 24 (3) Accept written public comments for 30 calendar days after
25 providing the notice required in paragraph (2).
- 26 (4) Certify that all written comments were read and considered
27 by the ~~commission~~ *department*.
- 28 (5) Place all written comments in a record that includes copies
29 of any written factual support used in developing the proposed
30 regulation, including written reports and copies of any transcripts
31 or minutes in connection with any public hearings on the adoption
32 of the regulation. The record shall be open to public inspection
33 and available to the courts.
- 34 (6) Provide public notice of any substantial revision of the
35 proposed regulation at least 15 days prior to the expiration of the
36 deadline for public comments and comment period using the
37 procedures provided in paragraph (2).
- 38 (7) Conduct public hearings, if a hearing is requested by an
39 interested party, that shall be conducted in accordance with
40 ~~commission~~ *department* procedures.

1 (8) Adopt any proposed regulation at a regularly scheduled and
2 noticed meeting of the ~~commission~~ *department*. The regulation
3 shall become effective immediately unless otherwise provided by
4 the ~~commission~~ *department*.

5 (9) Publish any adopted regulation in a manner that makes copies
6 of the regulation easily available to the public. Any adopted
7 regulation shall also be made available on the Internet. The
8 ~~commission~~ *department* shall transmit a copy of an adopted
9 regulation to the Office of Administrative Law for publication, or,
10 if the ~~commission~~ *department* determines that printing the
11 regulation is impractical, an appropriate reference as to where a
12 copy of the regulation may be obtained.

13 (10) Notwithstanding any other provision of law, this
14 subdivision provides an interim exception from the requirements
15 of Chapter 3.5 (commencing with Section 11340) of Part 1 of
16 Division 3 of Title 2 of the Government Code for regulations
17 required to implement Sections 25620.1 and ~~25620.2~~ *this Section*
18 that are adopted under the procedures specified in this subdivision.

19 (11) This subdivision shall become inoperative on January 1,
20 2012, unless a later enacted statute deletes or extends that date.
21 However, after January 1, 2012, the ~~commission~~ *department* is
22 not required to repeat any procedural step in adopting a regulation
23 that has been completed before January 1, 2012, using the
24 procedures specified in this subdivision.

25 SEC. 226. Section 25620.3 of the Public Resources Code is
26 amended to read:

27 25620.3. (a) The ~~commission~~ *department* may, consistent with
28 the requirements of this chapter, provide awards to any individual
29 or entity for planning, implementation, and administration of
30 projects or programs selected pursuant to Section 25620.5.

31 (b) The ~~commission~~ *department* may provide an award to a
32 project or program that includes a group of related projects, or to
33 a party who aggregates projects that directly benefit from the
34 award.

35 (c) The ~~commission~~ *department* may establish multiparty
36 agreements. In a multiparty agreement, the ~~commission~~ *department*
37 may be a signatory to a common agreement among two or more
38 parties. These agreements include, but are not limited to, cofunding,
39 leveraged research, collaborations, and membership arrangements.
40 If the ~~commission~~ *department* enters into these agreements, it shall

1 be a party to these agreements and may share in the roles,
 2 responsibilities, risks, investments, and results.

3 (d) ~~The commission~~ *department* may issue awards that include
 4 the ability to make advance payments to prime contractors, to
 5 enable them to make advance payments to a subcontractor that is
 6 a federal agency, national laboratory, or state entity, on the
 7 condition that the subcontract is binding and enforceable and
 8 includes specific performance milestones.

9 (e) ~~The commission~~ *department* may issue awards that include
 10 the ability to assign tasks on a work authorization basis.

11 (f) Prior to making any award pursuant to this chapter for a
 12 research, development, or demonstration program or project, the
 13 ~~commission~~ *department* shall identify the expected costs and any
 14 qualitative or quantitative benefits of the proposed program or
 15 project.

16 SEC. 227. Section 25620.4 of the Public Resources Code is
 17 amended to read:

18 25620.4. (a) To the extent that intellectual property is
 19 developed under this chapter, an equitable share of rights in ~~the~~
 20 *that intellectual property* or in the benefits derived ~~therefrom~~ *from*
 21 *that intellectual property* shall accrue to the State of California.

22 (b) ~~The commission~~ *department* may determine what share, if
 23 any, of the intellectual property, or the benefits derived ~~therefrom~~
 24 *from the intellectual property*, shall accrue to the state. The
 25 commission may negotiate sharing mechanisms for intellectual
 26 property or benefits with award recipients.

27 SEC. 228. Section 25620.5 of the Public Resources Code is
 28 amended to read:

29 25620.5. (a) ~~The commission~~ *department* may solicit
 30 applications for awards; using a sealed competitive bid, competitive
 31 negotiation process, ~~commission-issued~~ *department-issued*
 32 intradepartmental master agreement, the methods for selection of
 33 professional services firms set forth in Chapter 10 (commencing
 34 with Section 4525) of Division 5 of Title 1 of the Government
 35 Code, interagency agreement, single source, or sole source method.
 36 When scoring teams are convened to review and score proposals,
 37 the scoring teams may include persons not employed by the
 38 ~~commission~~ *department*, as long as employees of the state
 39 constitute no less than 50 percent of the membership of the scoring
 40 team. A person participating on a scoring team may not have any

1 conflict of interest with respect to the proposal before the scoring
2 team.

3 (b) A sealed bid method may be used when goods and services
4 to be acquired can be described with sufficient specificity so that
5 bids can be evaluated against specifications and criteria set forth
6 in the solicitation for bids.

7 (c) The ~~commission~~ *department* may use a competitive
8 negotiation process in any of the following circumstances:

9 (1) Whenever the desired award is not for a fixed price.

10 (2) Whenever project specifications cannot be drafted in
11 sufficient detail so as to be applicable to a sealed competitive bid.

12 (3) Whenever there is a need to compare the different price,
13 quality, and structural factors of the bids submitted.

14 (4) Whenever there is a need to afford bidders an opportunity
15 to revise their proposals.

16 (5) Whenever oral or written discussions with bidders
17 concerning the technical and price aspects of their proposals will
18 provide better results to the state.

19 (6) Whenever the price of the award is not the determining
20 factor.

21 (d) The ~~commission~~ *department* may establish interagency
22 agreements.

23 (e) The ~~commission~~ *department* may provide awards on a single
24 source basis by choosing from among two or more parties or by
25 soliciting multiple applications from parties capable of supplying
26 or providing similar goods or services. The cost to the state shall
27 be reasonable and the ~~commission~~ *department* may only enter into
28 a single source agreement with a particular party if the ~~commission~~
29 *department* determines that it is in the state's best interests.

30 (f) The ~~commission~~ *department*, in accordance with subdivision
31 (g) and in consultation with the Department of General Services,
32 may provide awards on a sole source basis when the cost to the
33 state is reasonable and the ~~commission~~ *department* makes any of
34 the following determinations:

35 (1) The proposal was unsolicited and meets the evaluation
36 criteria of this chapter.

37 (2) The expertise, service, or product is unique.

38 (3) A competitive solicitation would frustrate obtaining
39 necessary information, goods, or services in a timely manner.

1 (4) The award funds the next phase of a multiphased proposal
 2 and the existing agreement is being satisfactorily performed.

3 (5) When it is determined by the ~~commission~~ *department* to be
 4 in the best interests of the state.

5 (g) The ~~commission~~ *department* may not use a sole source basis
 6 for an award pursuant to subdivision (f), unless both of the
 7 following conditions are met:

8 (1) The ~~commission~~ *department*, at least 60 days prior to taking
 9 an action pursuant to subdivision (f), notifies the Joint Legislative
 10 Budget Committee and the relevant policy committees in both
 11 houses of the Legislature, in writing, of its intent to take the
 12 proposed action.

13 (2) The Joint Legislative Budget Committee either approves or
 14 does not disapprove the proposed action within 60 days from the
 15 date of notification required by paragraph (1).

16 (h) The ~~commission~~ *department* shall give priority to
 17 California-based entities in making awards pursuant to this chapter.

18 (i) The provisions of this section are severable. If any provision
 19 of this section or its application is held to be invalid, that invalidity
 20 does not affect other provisions or applications that can be given
 21 effect without the invalid provision or application.

22 For purposes of this Section and Section 25620,
 23 “California-based entity” means either of the following:

24 A corporation or other business form organized for the
 25 transaction of business that has its headquarters in California and
 26 manufactures in California the product that qualifies for the
 27 incentive or award, or a corporation or other business form
 28 organized for the transaction of business that has an office for the
 29 transaction of business in California and substantially manufactures
 30 in California the product that qualifies for the incentive or award,
 31 or substantially develops within California the research that
 32 qualifies for the incentive or award, as determined by the agency
 33 issuing the incentive or award.

34 SEC. 229. Section 25620.6 of the Public Resources Code is
 35 amended to read:

36 25620.6. The ~~commission~~, *department*, in consultation with
 37 the Department of General Services, may purchase insurance
 38 coverage necessary to implement an award. Funding for the
 39 purchase of insurance may be made from money in the Public

1 Interest Research, Development, and Demonstration Fund created
2 pursuant to Section 384 of the Public Utilities Code.

3 SEC. 230. Section 25620.7 of the Public Resources Code is
4 amended to read:

5 25620.7. (a) The ~~commission~~ *department* may contract for,
6 or through interagency agreement obtain, technical, scientific, or
7 administrative services or expertise from one or more entities, to
8 support the program. Funding for this purpose shall be made from
9 money in the Public Interest Research, Development, and
10 Demonstration Fund.

11 (b) The ~~commission~~ *department* may select the services or
12 expertise described in subdivision (a), pursuant to Section 25620.5.
13 In the event that contracts or interagency agreements have been
14 made to multiple entities and their subcontractors for similar
15 purposes, the ~~commission~~ *department* may select from among
16 those entities the particular expertise needed for a specified type
17 of work. Selection of the particular expertise may be based solely
18 on a review of qualifications, including the specific expertise
19 required, availability of the expertise, or access to a resource of
20 special relevance to the work, including, but not limited to, a
21 database, model, technical facility, or a collaborative or institutional
22 affiliation that will expedite the quality and performance of the
23 work.

24 SEC. 231. Section 25620.8 of the Public Resources Code is
25 amended to read:

26 25620.8. The ~~commission~~ *department* shall prepare and submit
27 to the Legislature an annual report, not later than March 31 of each
28 year, on awards made pursuant to this chapter and progress toward
29 achieving the goals set forth in Section 25620.1. The report shall
30 include information on the names of award recipients, the amount
31 of awards, and the types of projects funded, an evaluation of the
32 success of funded projects, and recommendations for improvements
33 in the program. The report shall set forth the actual costs of
34 programs or projects funded by the ~~commission~~, *department*, the
35 results achieved, and how the actual costs and results compare to
36 the expected costs and benefits. The ~~commission~~ *department* shall
37 establish procedures for protecting confidential or proprietary
38 information and shall consult with all interested parties in the
39 preparation of the annual report.

1 SEC. 232. Section 25620.11 of the Public Resources Code is
2 amended to read:

3 25620.11. (a) The ~~commission~~ *department* shall regularly
4 convene an advisory board that shall make recommendations to
5 guide the ~~commission's~~ *department's* selection of programs and
6 projects to be funded under this chapter. The advisory board shall
7 include as appropriate, but not be limited to, representatives from
8 the Public Utilities Commission, consumer organizations,
9 environmental organizations, and electrical corporations subject
10 to the funding requirements of Section 381 of the Public Utilities
11 Code.

12 (b) Three members of the Senate, appointed by the Senate
13 President Pro Tempore, and three members of the Assembly,
14 appointed by the Speaker of the Assembly, may meet with the
15 advisory board and participate in its activities to the extent that
16 ~~such~~ *this* participation is not incompatible with their respective
17 positions as Members of the Legislature.

18 SEC. 233. Section 25630 of the Public Resources Code is
19 amended to read:

20 25630. (a) The ~~commission~~ *department* shall establish a small
21 business energy assistance low-interest revolving loan program to
22 fund the purchase of equipment for alternative technology energy
23 projects for California's small businesses.

24 (b) Loan repayments, interest, and royalties shall be deposited
25 in the Energy Technologies Research, Development, and
26 Demonstration Account. The interest rate shall be based on surveys
27 of existing financial markets and at rates not lower than the Pooled
28 Money Investment Account.

29 SEC. 234. Section 25678 of the Public Resources Code is
30 amended to read:

31 25678. The ~~commission~~ *department* shall establish a grant
32 program ~~which~~ *that* provides a forty cent (\$0.40) per gallon
33 production incentive for liquid fuels fermented in this state from
34 biomass and biomass-derived resources produced in this state.
35 Eligible liquid fuels include, but are not limited to, ethanol,
36 methanol, and vegetable oils. Eligible biomass resources include,
37 but are not limited to, agricultural products and byproducts, forestry
38 products and byproducts, and industrial wastes. The ~~commission~~
39 *department* shall adopt rules and regulations necessary to
40 implement the program. Prior to determining an applicant eligible

1 for participation in the production incentive program, the
2 ~~commission~~ *department* shall find, among other things, that the
3 production techniques employed will lead to a net increase in the
4 amount of energy available for consumption.

5 SEC. 235. Section 25679 of the Public Resources Code is
6 amended to read:

7 25679. Applicants for a grant under this chapter shall submit
8 an application on a form prescribed by the ~~commission~~ *department*,
9 which is responsible for administration of the program.

10 SEC. 236. Section 25696 of the Public Resources Code is
11 amended to read:

12 25696. The ~~commission~~ *department* may assist California-based
13 energy technology and energy conservation firms to export their
14 technologies, products, and services to international markets.

15 The ~~commission~~ *department* may do all of the following:

16 (a) Conduct a technical assistance program to help California
17 energy companies improve export opportunities and enhance
18 foreign buyers' awareness of and access to energy technologies
19 and services offered by California-based companies. Technical
20 assistance activities may include, but are not limited to, an energy
21 technology export information clearinghouse, a referral service, a
22 trade lead service consulting services for financing, market
23 evaluation, and legal counseling, and information seminars.

24 (b) Perform research studies and solicit technical advice to
25 identify international market opportunities.

26 (c) Assist California energy companies to evaluate project or
27 site-specific energy needs of international markets.

28 (d) Assist California energy companies to identify and address
29 international trade barriers restricting energy technology exports,
30 including unfair trade practices and discriminatory trade laws.

31 (e) Develop promotional materials in conjunction with California
32 energy companies to expand energy technology exports.

33 (f) Establish technical exchange programs to increase foreign
34 buyers' awareness of suitable energy technology uses.

35 (g) Prepare equipment performance information to enhance
36 potential export opportunities.

37 (h) Coordinate activities with state, federal, and international
38 donor agencies to take advantage of trade promotion and financial
39 assistance efforts offered.

1 SEC. 237. Section 25696.5 of the Public Resources Code is
2 amended to read:

3 25696.5. (a) Every California-based energy technology and
4 energy conservation firm awarded direct financial assistance
5 pursuant to Section 25696 shall reimburse the ~~commission~~
6 *department* for that assistance, when both of the following
7 conditions have been met:

8 (1) The assistance was substantial and essential for the
9 completion of a specific identifiable project.

10 (2) The resulting project is producing revenues.

11 (b) All moneys appropriated for purposes of this chapter and
12 all moneys received by the ~~commission~~ *department* as
13 reimbursement under this section shall be deposited in the Energy
14 Resources Programs Account and shall be available, when
15 appropriated by the Legislature, for the purposes of this chapter.

16 SEC. 238. Section 25697 of the Public Resources Code is
17 amended to read:

18 25697. The ~~commission~~ *department* shall consult with the
19 California State World Trade Commission with respect to
20 conducting overseas trade missions, trade shows, and trade exhibits.
21 Consultation may include interagency agreements, cosponsorship,
22 and memoranda of understanding for joint overseas trade activities.

23 SEC. 239. Section 25700 of the Public Resources Code is
24 amended to read:

25 25700. The ~~commission~~ *department* shall, in accordance with
26 ~~the provisions of~~ this chapter, develop contingency plans to deal
27 with possible shortages of electrical energy or fuel supplies to
28 protect public health, safety, and welfare.

29 SEC. 240. Section 25701 of the Public Resources Code is
30 amended to read:

31 25701. (a) Within six months after the effective date of this
32 division, each electric utility, gas utility, and fuel wholesaler or
33 manufacturer in the state shall prepare and submit to the
34 ~~commission~~ *department* a proposed emergency load curtailment
35 plan or emergency energy supply distribution plan setting forth
36 proposals for identifying priority loads or users in the event of a
37 sudden and serious shortage of fuels or interruption in the
38 generation of electricity.

39 (b) The ~~commission~~ *department* shall encourage electric utilities
40 to cooperate in joint preparation of an emergency load curtailment

1 plan or emergency energy distribution plan. ~~If such a~~ *this*
2 cooperative plan is developed between two or more electric
3 utilities, ~~such the~~ utilities may submit ~~such the~~ joint plans to the
4 ~~commission~~ *department* in place of individual plans required by
5 subdivision (a) of this section.

6 (c) ~~The commission~~ *department* shall collect from all relevant
7 governmental agencies, including, but not limited to, the Public
8 Utilities Commission and the Office of Emergency Services, any
9 existing contingency plans for dealing with sudden energy
10 shortages or information related thereto.

11 SEC. 241. Section 25702 of the Public Resources Code is
12 amended to read:

13 25702. ~~The commission~~ *department* shall, after one or more
14 public hearings, review the emergency load curtailment program
15 plans or emergency energy supply distribution plans submitted
16 pursuant to Section 25701, and, ~~within one year after the effective~~
17 ~~date of this division on or before January 6, 1975,~~ the ~~commission~~
18 *department* shall approve and recommend to the Governor and the
19 Legislature plans for emergency load curtailment and energy supply
20 distribution in the event of a sudden energy shortage. ~~Such Those~~
21 plans shall be based upon the plans presented by the electric
22 utilities, gas utilities, and fuel wholesalers or manufacturers,
23 information provided by other governmental agencies, independent
24 analysis and study by the ~~commission~~ *department* and information
25 provided at the hearing or hearings. ~~Such Those~~ plans shall provide
26 for the provision of essential services, the protection of public
27 health, safety, and welfare, and the maintenance of a sound basic
28 state economy. Provision shall be made in ~~such those~~ plans to
29 eliminate wasteful, uneconomic, and unnecessary uses of energy
30 in times of shortages and to differentiate curtailment of energy
31 consumption by users on the basis of ability to accommodate such
32 curtailments. ~~Such The~~ plans shall also specify the authority of
33 and recommend the appropriate actions of state and local
34 governmental agencies in dealing with energy shortages.

35 SEC. 242. Section 25703 of the Public Resources Code is
36 amended to read:

37 25703. Within four months after the date of certification of
38 ~~any a~~ new facility, the ~~commission~~ *department* shall review and
39 revise the recommended plans based on additional new capacity
40 attributed to ~~any such~~ *that* facility. The ~~commission~~ *department*

1 shall, after one or more public hearings, review the plans at least
2 every five years from the approval of the initial plan as specified
3 in Section 25702.

4 SEC. 243. Section 25704 of the Public Resources Code is
5 amended to read:

6 25704. The ~~commission~~ *department* shall carry out studies to
7 determine if potential serious shortages of electrical, natural gas,
8 or other sources of energy are likely to occur and shall make
9 recommendations to the Governor and the Legislature concerning
10 administrative and legislative actions required to avert possible
11 energy supply emergencies or serious fuel shortages, including,
12 but not limited to, energy conservation and energy development
13 measures, to grant authority to specific governmental agencies or
14 officers to take actions in the event of a sudden energy shortage,
15 and to clarify and coordinate existing responsibilities for energy
16 emergency actions.

17 SEC. 244. Section 25705 of the Public Resources Code is
18 amended to read:

19 25705. (a) If the ~~commission~~ *department* determines that all
20 reasonable conservation, allocation, and service restriction
21 measures may not alleviate an energy supply emergency, and upon
22 a declaration by the Governor or by an act of the Legislature that
23 a threat to public health, safety, and welfare exists and requires
24 immediate action, the ~~commission~~ *department* shall authorize the
25 construction and use of generating facilities under ~~such~~ terms and
26 conditions as specified by the ~~commission~~ *department* to protect
27 the public interest.

28 ~~Within~~

29 (b) ~~Within~~ 60 days after the authorization of construction and
30 use of ~~such~~ *the* generating facilities, the ~~commission~~ *department*
31 shall issue a report detailing the full nature, extent, and estimated
32 duration of the emergency situation and making recommendations
33 to the Governor and the Legislature for further energy conservation
34 and energy supply measures to alleviate the emergency situation
35 as alternatives to use of ~~such~~ *the* generating facilities.

36 SEC. 245. Section 25720 of the Public Resources Code is
37 amended to read:

38 25720. (a) By January 31, 2002, the ~~commission~~ *department*
39 shall examine the feasibility, including possible costs and benefits
40 to consumers and impacts on fuel prices for the general public, of

1 operating a strategic fuel reserve to insulate California consumers
2 and businesses from substantial short-term price increases arising
3 from refinery outages and other similar supply interruptions. In
4 evaluating the potential operation of a strategic fuel reserve, the
5 ~~commission~~ *department* shall consult with other state agencies,
6 including, but not limited to, the State Air Resources Board.

7 (b) The ~~commission~~ *department* shall examine and recommend
8 an appropriate level of reserves of fuel, but in no event may the
9 reserve be less than the amount of refined fuel that the ~~commission~~
10 *department* estimates could be produced by the largest California
11 refiner over a two week period. In making this examination and
12 recommendation, the ~~commission~~ *department* shall take into
13 account all of the following:

14 (1) Inventories of California-quality fuels or fuel components
15 reasonably available to the California market.

16 (2) Current and historic levels of inventory of fuels.

17 (3) The availability and cost of storage of fuels.

18 (4) The potential for future supply interruptions, price spikes,
19 and the costs thereof to California consumers and businesses.

20 (c) The ~~commission~~ *department* shall evaluate a mechanism to
21 release fuel from the reserve that permits any customer to contract
22 at any time for the delivery of fuel from the reserve in exchange
23 for an equal amount of fuel that meets California specifications
24 and is produced from a source outside of California that the
25 customer agrees to deliver back to the reserve within a time period
26 to be established by the ~~commission~~, *department*, but not longer
27 than six weeks.

28 (d) The ~~commission~~ *department* shall evaluate reserve storage
29 space from existing facilities.

30 (e) The ~~commission~~ *department* shall evaluate a reserve operated
31 by an independent operator that specializes in purchasing and
32 storing fuel, and is selected through competitive bidding.

33 (f) (1) Not later than January 31, 2002, the ~~commission~~
34 *department* and the State Air Resources Board, in consultation
35 with the other state and local agencies the ~~commission~~ *department*
36 deems necessary, shall develop and adopt recommendations for
37 the Governor and Legislature on a California Strategy to Reduce
38 Petroleum Dependence.

39 (2) The strategy shall include a base case forecast by the
40 ~~commission~~ *department* of gasoline, diesel, and petroleum

1 consumption in years 2010 and 2020 based on current best
2 estimates of economic and population growth, petroleum base fuel
3 supply and availability, vehicle efficiency, and utilization of
4 alternative fuels and advanced transportation technologies.

5 (3) The strategy shall include recommended statewide goals for
6 reductions in the rate of growth of gasoline and diesel fuel
7 consumption and increased transportation energy efficiency and
8 utilization of nonpetroleum based fuels and advanced transportation
9 technologies, including alternative fueled vehicles, hybrid vehicles,
10 and high fuel efficiency vehicles.

11 (g) The studies required by this section shall be conducted in
12 conjunction with any other studies required by acts enacted during
13 the 2000 portion of the 1999–2000 Regular Session dealing with
14 gasoline prices.

15 SEC. 246. Section 25721 of the Public Resources Code is
16 amended to read:

17 25721. The ~~commission~~ *department* shall report its findings
18 and recommendations *for purposes of Section 25720* to the
19 Governor, the Legislature, and the Attorney General by January
20 31, 2002. If the ~~commission~~ *department* finds that it would be
21 feasible to operate a strategic gas reserve to insulate California
22 consumers and businesses from substantial, short-term price
23 increases arising from refinery outages or other similar supply
24 interruptions, the ~~commission~~ *department* shall request specific
25 statutory authority and funding for establishment of a reserve.

26 SEC. 247. Section 25722 of the Public Resources Code is
27 amended to read:

28 25722. (a) On or before January 31, 2003, the ~~commission,~~
29 *department*, the Department of General Services, and the State Air
30 Resources Board, in consultation with any other state agency that
31 ~~the commission,~~ the department, *the Department of General*
32 *Services*, and the state board deem necessary, shall develop and
33 adopt fuel-efficiency specifications governing the purchase by the
34 state of motor vehicles and replacement tires that, on an annual
35 basis, will reduce petroleum consumption of the state vehicle fleet
36 to the maximum extent practicable and ~~cost-effective~~ *cost effective*.

37 (b) In developing the specifications, ~~the commission and the~~
38 *department and the Department of General Services* shall jointly
39 conduct a study to examine state vehicle purchasing patterns,
40 including the purchase of after market tires, and to analyze the

1 costs and benefits of reducing the energy consumption of the state
2 vehicle fleet by no less than 10 percent on or before January 1,
3 2005.

4 (c) The study shall include an analysis of all of the following
5 topics:

6 (1) Use of alternative fuels.

7 (2) Use of fuel-efficient vehicles.

8 (3) Costs and benefits of decreasing the size of the state vehicle
9 fleet.

10 (4) Reduction in vehicle trips and increase in use of alternative
11 means of transportation.

12 (5) Improved vehicle maintenance.

13 (6) Costs and benefits of using fuel-efficient tires relative to
14 using retreaded tires, as described in the Retreaded Tire Program
15 (~~Chapter~~, *Chapter 7* (commencing with Section 42400) of Part 3
16 of Division 30 of the ~~Public Resources Code~~).

17 (7) The costs and benefits of purchasing high fuel efficiency
18 gasoline vehicles, including hybrid electric vehicles, instead of
19 flexible fuel vehicles.

20 (d) On or before January 31, 2003, and annually thereafter, the
21 commission, the Department of General Services, and the State
22 Air Resources Board, in consultation with any other state agency
23 ~~that the commission~~, the department, *the Department of General*
24 *Services*, and the state board deem necessary, shall develop and
25 adopt air pollution emission specifications governing the purchase
26 by the state of passenger cars and light-duty trucks that meet or
27 exceed California's Ultra-Low Emission Vehicle (ULEV) standards
28 for exhaust emissions (13 Cal. Code Regs. 1960.1).

29 (e) If the study described in subdivision (b) determines that
30 lower cost measures exist that deliver petroleum reductions
31 equivalent to applicable federal requirements governing the state
32 purchase of passenger cars and light-duty trucks, the state shall
33 pursue a waiver from those federal requirements.

34 SEC. 248. Section 25722.5 of the Public Resources Code is
35 amended to read:

36 25722.5. (a) In order to achieve the policy objectives set forth
37 in Sections 25000.5 and 25722, the Department of General
38 Services, in consultation with the ~~commission~~ *department* and the
39 State Air Resources Board, shall develop and adopt specifications
40 and standards for all passenger cars and light-duty trucks that are

1 purchased or leased on behalf of, or by, state offices, agencies,
2 and departments. An authorized emergency vehicle, as defined in
3 Section 165 of the Vehicle Code, that is equipped with emergency
4 lamps or lights described in Section 25252 of the Vehicle Code is
5 exempt from the requirements of this section. The specifications
6 and standards shall include the following:

7 (1) Minimum air pollution emission specifications that meet or
8 exceed California's Ultra-Low Emission Vehicle II (ULEV II)
9 standards for exhaust emissions (13 Cal. Code Regs. 1961). These
10 specifications shall apply on January 1, 2006, for passenger cars
11 and on January 1, 2010, for light-duty trucks.

12 (2) Notwithstanding any other provision of law, the utilization
13 of procurement policies that enable the Department of General
14 Services to do all of the following:

15 (A) Evaluate and score emissions, fuel costs, and fuel economy
16 in addition to capital cost to enable the Department of General
17 Services to choose the vehicle with the lowest life-cycle cost when
18 awarding a state vehicle procurement contract.

19 (B) Maximize the purchase or lease of hybrid or "Best in Class"
20 vehicles that are substantially more fuel efficient than the class
21 average.

22 (C) Maximize the purchase or lease of available vehicles that
23 meet or exceed California's Super Ultra-Low Emission Vehicle
24 (SULEV) passenger car standards for exhaust emissions.

25 (D) Maximize the purchase or lease of alternative fuel vehicles.

26 (3) In order to discourage the unnecessary purchase or leasing
27 of a sport utility vehicle and a four-wheel drive truck, a requirement
28 that each state office, agency, or department seeking to purchase
29 or lease that vehicle, demonstrate to the satisfaction of the Director
30 of General Services or to the entity that purchases or leases vehicles
31 for that office, agency, or department, that the vehicle is required
32 to perform an essential function of the office, agency, or
33 department. If it is so demonstrated, priority consideration shall
34 be given to the purchase or lease of an alternative fuel or hybrid
35 sports utility vehicle or four-wheel drive vehicle.

36 (b) The specifications and standards developed and adopted
37 pursuant to subdivision (a) do not apply upon the development
38 and implementation of the method, criteria, and procedure
39 described in Section 25722.6.

1 (c) Each state office, agency, and department shall review its
2 vehicle fleet and, upon finding that it is fiscally prudent, cost
3 effective, or otherwise in the public interest to do so, shall dispose
4 of nonessential sport utility vehicles and four-wheel drive trucks
5 in its fleet and replace these vehicles with more fuel-efficient
6 passenger cars and trucks.

7 (d) To the maximum extent practicable, each state office,
8 agency, and department that has bifuel natural gas, bifuel propane,
9 and flex fuel vehicles in its vehicle fleet shall use the respective
10 alternative fuel in those vehicles.

11 (e) The Director of General Services shall compile annually and
12 maintain information on the nature of vehicles that are owned or
13 leased by the state, including, but not limited to, all of the
14 following:

15 (1) The number of passenger-type motor vehicles purchased or
16 leased during the year, and the number owned or leased as of
17 December 31 of each year.

18 (2) The number of sport utility vehicles and four-wheel drive
19 trucks purchased or leased by the state during the year, and the
20 number owned or leased as of December 31 of each year.

21 (3) The number of alternatively fueled vehicles and hybrid
22 vehicles purchased or leased by the state during the year, and the
23 total number owned or leased as of December 31 of each year and
24 their location.

25 (4) The locations of the alternative fuel pumps available for
26 those vehicles.

27 (5) The justification provided for all sport utility vehicles and
28 four-wheel drive trucks purchased or leased by the state and the
29 specific office, department, or agency responsible for the purchase
30 or lease.

31 (6) The number of sport utility vehicles and four-wheel drive
32 trucks purchased or leased by the state during the year, and the
33 number owned or leased as of December 31 of each year that are
34 alternative fuel or hybrid vehicles.

35 (7) The number of light-duty trucks disposed of under
36 subdivision (c).

37 (8) The total dollars spent by the state on passenger-type vehicle
38 purchases and leases, categorized by sport utility vehicle and
39 nonsport utility vehicle, and within each of those categories, by
40 alternative fuel, hybrid and other.

- 1 (9) The total annual consumption of gasoline and diesel fuel
 2 used by the state fleet.
- 3 (10) The total annual consumption of alternative fuels.
- 4 (11) On December 31, 2009, and annually thereafter, the
 5 Director of General Services shall also compile the total annual
 6 vehicle miles traveled by vehicles in the state fleet.
- 7 (f) Each state office, agency, and department shall cooperate
 8 with the Department of General Services' data requests in order
 9 that the department may compile and maintain the information
 10 required in subdivision (e).
- 11 (g) As soon as practicable, but no later than 12 months after
 12 receiving the data, the information compiled and maintained under
 13 subdivision (e) and a list of those state offices, agencies, and
 14 departments that are not in compliance with subdivision (f) shall
 15 be made available to the public on the Department of General
 16 Services' Internet Web site.
- 17 (h) Beginning July 1, 2009, and every three years thereafter,
 18 the Director of General Services shall report to the Legislature and
 19 the Governor the information compiled and maintained pursuant
 20 to subdivision (e).
- 21 (i) Pursuant to Article IX of the California Constitution, this
 22 section shall not apply to the University of California except to
 23 the extent that the Regents of the University of California, by
 24 appropriate resolution, make this section applicable.
- 25 SEC. 249. Section 25723 of the Public Resources Code is
 26 amended to read:
- 27 25723. On or before January 31, 2003, the ~~commission,~~
 28 *department*, in consultation with any other state agency that the
 29 ~~commission~~ *department* deems necessary, shall develop and adopt
 30 recommendations for consideration by the Governor and the
 31 Legislature of a California State Fuel-Efficient Tire Program. The
 32 ~~commission~~ *department* shall make recommendations on all of the
 33 following items:
- 34 (a) Establishing a test procedure for measuring tire fuel
 35 efficiency.
- 36 (b) Development of a ~~data base~~ *database* of fuel efficiency of
 37 existing tires in order to establish an accurate baseline of tire
 38 efficiency.
- 39 (c) A rating system for tires that provides consumers with
 40 information on the fuel efficiency of individual tire models.

1 (d) A consumer-friendly system to disseminate tire
2 fuel-efficiency information as broadly as possible. The ~~commission~~
3 *department* shall consider labeling, Web site listing, printed fuel
4 economy guide booklets, and mandatory requirements for tire
5 retailers to provide fuel-efficiency information.

6 (e) A study to determine the safety implications, if any, of
7 different policies to promote fuel efficient replacement tires in the
8 consumer market.

9 (f) A mandatory fuel-efficiency standard for all after market
10 tires sold in California.

11 (g) Consumer incentive programs that would offer a rebate to
12 purchasers of replacement tires that are more fuel efficient than
13 the average replacement tire.

14 SEC. 250. Section 25741 of the Public Resources Code is
15 amended to read:

16 25741. As used in this chapter, the following terms have the
17 following meaning:

18 (a) “Delivered” and “delivery” mean the electricity output of
19 an in-state renewable electricity generation facility that is used to
20 serve end-use retail customers located within the state. Subject to
21 verification by the accounting system established by the
22 ~~commission~~ *department* pursuant to subdivision (b) of Section
23 399.13 of the Public Utilities Code, electricity shall be deemed
24 delivered if it is either generated at a location within the state, or
25 is scheduled for consumption by California end-use retail
26 customers. Subject to criteria adopted by the ~~commission~~
27 *department*, electricity generated by an eligible renewable energy
28 resource may be considered “delivered” regardless of whether the
29 electricity is generated at a different time from consumption by a
30 California end-use customer.

31 (b) “In-state renewable electricity generation facility” means a
32 facility that meets all of the following criteria:

33 (1) The facility uses biomass, solar thermal, photovoltaic, wind,
34 geothermal, fuel cells using renewable fuels, small hydroelectric
35 generation of 30 megawatts or less, digester gas, municipal solid
36 waste conversion, landfill gas, ocean wave, ocean thermal, or tidal
37 current, and any additions or enhancements to the facility using
38 that technology.

39 (2) The facility satisfies one of the following requirements:

1 (A) The facility is located in the state or near the border of the
2 state with the first point of connection to the transmission network
3 within this state and electricity produced by the facility is delivered
4 to an in-state location.

5 (B) The facility has its first point of interconnection to the
6 transmission network outside the state and satisfies all of the
7 following requirements:

8 (i) It is connected to the transmission network within the
9 Western Electricity Coordinating Council (WECC) service
10 territory.

11 (ii) It commences initial commercial operation after January 1,
12 2005.

13 (iii) Electricity produced by the facility is delivered to an in-state
14 location.

15 (iv) It will not cause or contribute to any violation of a California
16 environmental quality standard or requirement.

17 (v) If the facility is outside of the United States, it is developed
18 and operated in a manner that is as protective of the environment
19 as a similar facility located in the state.

20 (vi) It participates in the accounting system to verify compliance
21 with the renewables portfolio standard by retail sellers, once
22 established by the ~~Energy Commission~~ *department* pursuant to
23 subdivision (b) of Section 399.13 of the Public Utilities Code.

24 (C) The facility meets the requirements of clauses (i), (iii), (iv),
25 (v), and (vi) in subparagraph (B), but does not meet the
26 requirements of clause (ii) because it commences initial operation
27 prior to January 1, 2005, if the facility satisfies either of the
28 following requirements:

29 (i) The electricity is from incremental generation resulting from
30 expansion or repowering of the facility.

31 (ii) The facility has been part of the existing baseline of eligible
32 renewable energy resources of a retail seller established pursuant
33 to paragraph (2) of subdivision (b) of Section 399.15 of the Public
34 Utilities Code or has been part of the existing baseline of eligible
35 renewable energy resources of a local publicly owned electric
36 utility established pursuant to Section 387 of the Public Utilities
37 Code.

38 (3) For the purposes of this subdivision, “solid waste
39 conversion” means a technology that uses a noncombustion thermal
40 process to convert solid waste to a clean-burning fuel for the

1 purpose of generating electricity, and that meets all of the following
2 criteria:

3 (A) The technology does not use air or oxygen in the conversion
4 process, except ambient air to maintain temperature control.

5 (B) The technology produces no discharges of air contaminants
6 or emissions, including greenhouse gases as defined in Section
7 38505 of the Health and Safety Code.

8 (C) The technology produces no discharges to surface or
9 groundwaters of the state.

10 (D) The technology produces no hazardous wastes.

11 (E) To the maximum extent feasible, the technology removes
12 all recyclable materials and marketable green waste compostable
13 materials from the solid waste stream prior to the conversion
14 process and the owner or operator of the facility certifies that those
15 materials will be recycled or composted.

16 (F) The facility at which the technology is used is in compliance
17 with all applicable laws, regulations, and ordinances.

18 (G) The technology meets any other conditions established by
19 the ~~commission~~ department.

20 (H) The facility certifies that any local agency sending solid
21 waste to the facility diverted at least 30 percent of all solid waste
22 it collects through solid waste reduction, recycling, and
23 composting. For purposes of this paragraph, “local agency” means
24 any city, county, or special district, or subdivision thereof, which
25 is authorized to provide solid waste handling services.

26 (c) “Procurement entity” means any person or corporation that
27 enters into an agreement with a retail seller to procure eligible
28 renewable energy resources pursuant to subdivision (f) of Section
29 399.14 of the Public Utilities Code.

30 (d) “Renewable energy public goods charge” means that portion
31 of the nonbypassable system benefits charge authorized to be
32 collected and to be transferred to the Renewable Resource Trust
33 Fund pursuant to the Reliable Electric Service Investments Act
34 (Article 15 (commencing with Section 399) of Chapter 2.3 of Part
35 1 of Division 1 of the Public Utilities Code).

36 (e) “Report” means the report entitled “Investing in Renewable
37 Electricity Generation in California” (June 2001, Publication
38 Number P500-00-022) submitted to the Governor and the
39 Legislature by the ~~commission~~ former State Energy Resources
40 Conservation and Development Commission.

1 (f) “Retail seller” means a “retail seller” as defined in Section
2 399.12 of the Public Utilities Code.

3 SEC. 251. Section 25742 of the Public Resources Code is
4 amended to read:

5 25742. (a) Twenty percent of the funds collected pursuant to
6 the renewable energy public goods charge shall be used for
7 programs that are designed to achieve fully competitive and
8 self-sustaining existing in-state renewable electricity generation
9 facilities, and to secure for the state the environmental, economic,
10 and reliability benefits that continued operation of those facilities
11 will provide during the 2007–2011 investment cycle. Eligibility
12 for production incentives under this section shall be limited to
13 those technologies found eligible for funds by the ~~commission~~
14 *department* pursuant to paragraphs (3), (4), and (6) of subdivision
15 (e) of Section 25740.5.

16 (b) ~~Any funds~~ *Funds* used to support in-state renewable
17 electricity generation facilities pursuant to this section shall be
18 expended in accordance with ~~the provisions of~~ this chapter.

19 (c) Facilities that are eligible to receive funding pursuant to this
20 section shall be registered in accordance with criteria developed
21 by the ~~commission~~ *department* and those facilities shall not receive
22 payments for any electricity produced that has any of the following
23 characteristics:

24 (1) Is sold at monthly average rates equal to, or greater than,
25 the applicable target price, as determined by the ~~commission~~
26 *department*.

27 (2) Is used onsite.

28 (d) (1) Existing facilities generating electricity from biomass
29 energy shall be eligible for funding and otherwise considered an
30 in-state renewable electricity generation facility only if they report
31 to the ~~commission~~ *department* the types and quantities of biomass
32 fuels used.

33 (2) The ~~commission~~ *department* shall report the types and
34 quantities of biomass fuels used by each facility to the Legislature
35 in the reports prepared pursuant to Section 25748.

36 (e) ~~Each~~ *An* existing facility seeking an award pursuant to this
37 section shall be evaluated by the ~~commission~~ *department* to
38 determine the amount of the funds being sought, the cumulative
39 amount of funds the facility has received previously from the
40 ~~commission~~ *department* and other state sources, the value of any

1 past and current federal or state tax credits, the facility's contract
2 price for energy and capacity, the prices received by similar
3 facilities, the market value of the facility, and the likelihood that
4 the award will make the facility competitive and self-sustaining
5 within the 2007–2011 investment cycle. The ~~commission~~
6 *department* shall use this evaluation to determine the value of an
7 award to the public relative to other renewable energy investment
8 alternatives. The ~~commission~~ *department* shall compile its findings
9 and report them to the Legislature in the reports prepared pursuant
10 to Section 25748.

11 SEC. 252. Section 25743 of the Public Resources Code is
12 amended to read:

13 25743. (a) The ~~commission~~ *department* shall terminate all
14 production incentives awarded from the New Renewable Resources
15 Account prior to January 1, 2002, unless the project began
16 generating electricity by January 1, 2007.

17 (b) (1) The ~~commission~~ *department* shall, by March 1, 2008,
18 transfer to electrical corporations serving customers subject to the
19 renewable energy public goods charge the remaining unencumbered
20 funds in the New Renewable Resources Account.

21 (2) The Public Utilities Commission shall ensure that each
22 electrical corporation allocates funds received from the ~~commission~~
23 *department* pursuant to paragraph (1) in a manner that maximizes
24 the economic benefit to all customer classes that funded the New
25 Renewable Resources Account.

26 SEC. 253. Section 25744 of the Public Resources Code is
27 amended to read:

28 25744. (a) Seventy-nine percent of the money collected
29 pursuant to the renewable energy public goods charge shall be
30 used for a multiyear, consumer-based program to foster the
31 development of emerging renewable technologies in distributed
32 generation applications.

33 (b) ~~Any funds~~ *Funds* used for emerging technologies pursuant
34 to this section shall be expended in accordance with this chapter,
35 subject to all of the following requirements:

36 (1) Funding for emerging technologies shall be provided through
37 a competitive, market-based process that is in place for a period
38 of not less than five years, and is structured to allow eligible
39 emerging technology manufacturers and suppliers to anticipate

1 and plan for increased sale and installation volumes over the life
2 of the program.

3 (2) The program shall provide monetary rebates, buydowns, or
4 equivalent incentives, subject to paragraph (3), to purchasers,
5 lessees, lessors, or sellers of eligible electricity generating systems.
6 Incentives shall benefit the end-use consumer of renewable
7 generation by directly and exclusively reducing the purchase or
8 lease cost of the eligible system, or the cost of electricity produced
9 by the eligible system. Incentives shall be issued on the basis of
10 the rated electrical generating capacity of the system measured in
11 watts, or the amount of electricity production of the system,
12 measured in kilowatthours. Incentives shall be limited to a
13 maximum percentage of the system price, as determined by the
14 ~~commission~~ *department*. The ~~commission~~ *department* may
15 establish different incentive levels for systems based on technology
16 type and system size, and may provide different incentive levels
17 for systems used in conjunction with energy-efficiency measures.

18 (3) Eligible distributed emerging technologies are fuel cell
19 technologies that utilize renewable fuels, including fuel cell
20 technologies with an emission profile equivalent or better than the
21 State Air Resources Board 2007 standard, and that serve as backup
22 generation for emergency, safety, or telecommunications systems.
23 Eligible renewable fuels may include wind turbines of not more
24 than 50 kilowatts rated electrical generating capacity per customer
25 site and other distributed renewable emerging technologies that
26 meet the emerging technology eligibility criteria established by
27 the ~~commission~~ *department* and are not eligible for rebates,
28 buydowns, or similar incentives from any other commission or
29 Public Utilities Commission program. Eligible electricity
30 generating systems are intended primarily to offset part or all of
31 the consumer's own electricity demand, including systems that
32 are used as backup power for emergency, safety, or
33 telecommunications, and shall not be owned by local publicly
34 owned electric utilities, nor be located at a customer site that is
35 not receiving distribution service from an electrical corporation
36 that is subject to the renewable energy public goods charge and
37 contributing funds to support programs under this chapter. All
38 eligible electricity generating system components shall be new
39 and unused, shall not have been previously placed in service in
40 any other location or for any other application, and shall have a

1 warranty of not less than five years to protect against defects and
2 undue degradation of electrical generation output. Systems and
3 their fuel resources shall be located on the same premises of the
4 end-use consumer where the consumer's own electricity demand
5 is located, and all eligible electricity generating systems shall be
6 connected to the utility grid, unless the system purpose is for
7 backup generation used in emergency, safety, or
8 telecommunications in California. ~~The commission~~ *department*
9 may require eligible electricity generating systems to have meters
10 in place to monitor and measure a system's performance and
11 generation. Only systems that will be operated in compliance with
12 applicable law and the rules of the Public Utilities Commission
13 shall be eligible for funding.

14 (4) ~~The commission~~ *department* shall limit the amount of funds
15 available for a system or project of multiple systems and reduce
16 the level of funding for a system or project of multiple systems
17 that has received, or may be eligible to receive, any government
18 or utility funds, incentives, or credit.

19 (5) In awarding funding, ~~the commission~~ *department* may
20 provide preference to systems that provide tangible demonstrable
21 benefits to communities with a plurality of minority or low-income
22 populations.

23 (6) In awarding funding, ~~the commission~~ *department* shall
24 develop and implement eligibility criteria and a system that
25 provides preference to systems based upon system performance,
26 taking into account factors, including shading, insulation levels,
27 and installation orientation.

28 (7) At least once annually, ~~the commission~~ *department* shall
29 publish and make available to the public the balance of funds
30 available for emerging renewable energy resources for rebates,
31 buydowns, and other incentives for the purchase of these resources.

32 (c) Notwithstanding Section 27540.5, ~~the commission~~
33 *department* may expend, until December 31, 2008, up to sixty
34 million dollars (\$60,000,000) of the funding allocated to the
35 Renewable Resources Trust Fund for the program established in
36 this section, subject to the repayment requirements of subdivision
37 (f) of Section 25751.

38 (d) ~~Any funds~~ *Funds* for photovoltaic or solar thermal electric
39 technologies shall be awarded in compliance with Chapter 8.8
40 (commencing with Section 25780), and not with this section.

1 SEC. 254. Section 25747 of the Public Resources Code is
2 amended to read:

3 25747. (a) ~~The commission~~ *department* shall adopt guidelines
4 governing the funding programs authorized under this chapter, at
5 a publicly noticed meeting offering all interested parties an
6 opportunity to comment. Substantive changes to the guidelines
7 may not be adopted without at least 10 days' written notice to the
8 public. The public notice of meetings required by this subdivision
9 may not be less than 30 days. Notwithstanding any other provision
10 of law, any guidelines adopted pursuant to this chapter or Section
11 399.13 of the Public Utilities Code, shall be exempt from the
12 requirements of Chapter 3.5 (commencing with Section 11340) of
13 Part 1 of Division 3 of Title 2 of the Government Code. The
14 Legislature declares that the changes made to this subdivision by
15 the act amending this section during the 2002 portion of the
16 2001–02 Regular Session are declaratory of, and not a change in
17 existing law.

18 (b) Funds to further the purposes of this chapter may be
19 committed for multiple years.

20 (c) Awards made pursuant to this chapter are grants, subject to
21 appeal to the ~~commission~~ *department* upon a showing that factors
22 other than those described in the guidelines adopted by the
23 ~~commission~~ *department* were applied in making the awards and
24 payments. Any actions taken by an applicant to apply for, or
25 become or remain eligible and registered to receive, payments or
26 awards, including satisfying conditions specified by the
27 ~~commission~~, *department*, shall not constitute the rendering of
28 goods, services, or a direct benefit to the ~~commission~~ *department*.

29 (d) An award made pursuant to this chapter, the amount of the
30 award, and the terms and conditions of the grant are public
31 information.

32 SEC. 255. Section 25748 of the Public Resources Code is
33 amended to read:

34 25748. (a) ~~The commission~~ *department* shall report to the
35 Legislature on or before November 1, 2007, and annually
36 thereafter, regarding the results of the mechanisms funded pursuant
37 to this chapter. The report shall contain all of the following:

38 (1) A description of the allocation of funds among existing,
39 new, and emerging technologies, the allocation of funds among

1 programs, including consumer-side incentives, and the need for
2 the reallocation of money among those technologies.

3 (2) The status of account transfers and repayments.

4 (3) A description of the cumulative commitment of claims by
5 account, the relative demand for funds by account, and a forecast
6 of future awards.

7 (4) A list identifying the types and quantities of biomass fuels
8 used by facilities receiving funds pursuant to Section 25742 and
9 their impacts on improving air quality.

10 (5) A discussion of the progress being made toward achieving
11 the targets established under Section 25740 by each funding
12 category authorized pursuant to this chapter.

13 (6) A description of the allocation of funds from interest on the
14 accounts described in this chapter, and money in the accounts
15 described in subdivision (b) of Section 25751.

16 (7) An itemized list, including project descriptions, award
17 amounts, and outcomes for projects awarded funding in the prior
18 year.

19 (8) Other matters the ~~commission~~ *department* determines may
20 be of importance to the Legislature.

21 (b) Money may be reallocated without further legislative action
22 among existing, new, and emerging technologies and
23 consumer-side programs in a manner consistent with the report
24 and with the latest report provided to the Legislature pursuant to
25 this section, except that reallocations shall not increase the
26 allocation established in Section 25742.

27 SEC. 256. Section 25751 of the Public Resources Code is
28 amended to read:

29 25751. (a) The Renewable Resource Trust Fund is hereby
30 created in the State Treasury.

31 (b) The following accounts are hereby established within the
32 Renewable Resource Trust Fund:

33 (1) Existing Renewable Resources Account.

34 (2) Emerging Renewable Resources Account.

35 (3) Renewable Resources Consumer Education Account.

36 (c) The money in the fund may be expended, only upon
37 appropriation by the Legislature in the annual Budget Act, for the
38 following purposes:

39 (1) The administration of this article by the state.

1 (2) The state's expenditures associated with the accounting
2 system established by the commission pursuant to subdivision (b)
3 of Section 399.13 of the Public Utilities Code.

4 (d) That portion of revenues collected by electrical corporations
5 for the benefit of in-state operation and development of existing
6 and new and emerging renewable resource technologies, pursuant
7 to Section 399.8 of the Public Utilities Code, shall be transmitted
8 to the ~~commission~~ *department* at least quarterly for deposit in the
9 Renewable Resource Trust Fund pursuant to Section 25740.5.
10 After setting aside in the fund money that may be needed for
11 expenditures authorized by the annual Budget Act in accordance
12 with subdivision (c), the Treasurer shall immediately deposit
13 money received pursuant to this section into the accounts created
14 pursuant to subdivision (b) in proportions designated by the
15 ~~commission~~ *department* for the current calendar year.
16 Notwithstanding Section 13340 of the Government Code, the
17 money in the fund and the accounts within the fund are hereby
18 continuously appropriated to the ~~commission~~ *department* without
19 regard to fiscal year for the purposes enumerated in this chapter.

20 (e) Upon notification by the ~~commission~~, *department*, the
21 Controller shall pay all awards of the money in the accounts created
22 pursuant to subdivision (b) for purposes enumerated in this chapter.
23 The eligibility of each award shall be determined solely by the
24 ~~commission~~ *department* based on the procedures it adopts under
25 this chapter. Based on the eligibility of each award, the ~~commission~~
26 *department* shall also establish the need for a multiyear
27 commitment to any particular award and so advise the Department
28 of Finance. Eligible awards submitted by the ~~commission~~
29 *department* to the Controller shall be accompanied by information
30 specifying the account from which payment should be made and
31 the amount of each payment; a summary description of how
32 payment of the award furthers the purposes enumerated in this
33 chapter; and an accounting of future costs associated with any
34 award or group of awards known to the ~~commission~~ *department*
35 to represent a portion of a multiyear funding commitment.

36 (f) The ~~commission~~ *department* may transfer funds between
37 accounts for cashflow purposes, ~~provided that if~~ the balance due
38 each account is restored and the transfer does not adversely affect
39 any of the accounts.

1 (g) The Department of Finance shall conduct an independent
2 audit of the Renewable Resource Trust Fund and its related
3 accounts annually, and provide an audit report to the Legislature
4 not later than March 1 of each year for which this article is
5 operative. The Department of Finance's report shall include
6 information regarding revenues, payment of awards, reserves held
7 for future commitments, unencumbered cash balances, and other
8 matters that the Director of Finance determines may be of
9 importance to the Legislature.

10 SEC. 257. Section 25771 of the Public Resources Code is
11 amended to read:

12 25771. On or before July 1, 2006, the ~~commission~~ *department*
13 shall develop and adopt all of the following:

14 (a) A database of the energy efficiency of a representative
15 sample of replacement tires sold in the state, based on test
16 procedures adopted by the commission.

17 (b) Based on the data collected pursuant to subdivision (a), a
18 rating system for the energy efficiency of replacement tires sold
19 in the state, that will enable consumers to make more informed
20 decisions when purchasing tires for their vehicles.

21 (c) Based on the test procedures adopted pursuant to subdivision
22 (a) and the rating system established pursuant to subdivision (b),
23 requirements for tire manufacturers to report to the commission
24 the energy efficiency of replacement tires sold in the state.

25 SEC. 258. Section 25772 of the Public Resources Code is
26 amended to read:

27 25772. On or before July 1, 2007, the ~~commission,~~ *department,*
28 in consultation with the board, shall, after appropriate notice and
29 workshops, adopt and, on or before July 1, 2008, implement, a tire
30 energy efficiency program of statewide applicability for
31 replacement tires, designed to ensure that replacement tires sold
32 in the state are at least as energy efficient, on average, as tires sold
33 in the state as original equipment on new passenger cars and
34 light-duty trucks.

35 SEC. 259. Section 25773 of the Public Resources Code is
36 amended to read:

37 25773. (a) The program described in Section 25772 shall
38 include all of the following:

39 (1) The development and adoption of minimum energy
40 efficiency standards for replacement tires, except to the extent that

1 the ~~commission~~ *department* determines that it is unable to do so
2 in a manner that complies with subparagraphs (A) to ~~(E)~~ (D),
3 inclusive. Energy efficiency standards adopted pursuant to this
4 paragraph shall meet all of the following conditions:

- 5 (A) Be technically feasible and cost effective.
- 6 (B) Not adversely affect tire safety.
- 7 (C) Not adversely affect the average tire life of replacement
8 tires.
- 9 (D) Not adversely affect state efforts to manage scrap tires
10 pursuant to Chapter 17 (commencing with Section 42860) of Part
11 3 of Division 30.

12 (2) The development and adoption of consumer information
13 requirements for replacement tires for which standards have been
14 adopted pursuant to paragraph (1).

15 (b) The energy efficiency standards established pursuant to
16 paragraph (1) of subdivision (a) shall be based on the results of
17 laboratory testing and, to the extent it is available and deemed
18 appropriate by the ~~commission~~, *department*, an onroad fleet testing
19 program developed by tire manufacturers in consultation with the
20 ~~commission~~ *department* and the board, conducted by tire
21 manufacturers, and submitted to the ~~commission~~ *department* on
22 or before January 1, 2006.

23 (c) If the ~~commission~~ *department* finds that tires used to equip
24 an authorized emergency vehicle, as defined in Section 165 of the
25 Vehicle Code, are unable to meet the standards established pursuant
26 to paragraph (1) of subdivision (a), the ~~commission~~ *department*
27 shall authorize an operator of an authorized emergency vehicle
28 fleet to purchase for those vehicles tires that do not meet those
29 standards.

30 (d) The ~~commission~~, *department*, in consultation with the board,
31 shall review and revise the program, including any standards
32 adopted pursuant to the program, as necessary, but not less than
33 once every three years. The ~~commission~~ *department* may not revise
34 the program or standards in a way that reduces the average
35 efficiency of replacement tires.

36 SEC. 260. Section 25802 of the Public Resources Code is
37 amended to read:

38 25802. ~~Each~~ (a) A person who submits to the ~~commission~~
39 *department* a notice of intent for ~~any~~ a proposed generating facility
40 shall accompany the notice with a fee of one cent (\$0.01) per

1 kilowatt of net electric capacity of the proposed generation facility.
2 ~~Such~~ The fee shall only be paid on one of the alternate proposed
3 facility sites ~~which~~ that has the highest electrical designed capacity.
4 In no event shall ~~such~~ the fee be less than one thousand dollars
5 (\$1,000) nor more than twenty-five thousand dollars (\$25,000).

6 For

7 (b) For any other facility, the notice shall be accompanied by
8 a fee of five thousand dollars (\$5,000). ~~Such~~ The fee shall only be
9 paid on one of the alternate proposed facility sites.

10 SEC. 261. Section 25803 of the Public Resources Code is
11 amended to read:

12 25803. ~~All funds~~ Funds received by the ~~commission~~ department
13 pursuant to Section 25802, shall be remitted to the State Treasurer
14 for deposit in the account. All funds in the account shall be
15 expended for purposes of carrying out the provisions of this
16 division, when appropriated by the Legislature in the Budget Act.

17 SEC. 262. Section 25900 of the Public Resources Code is
18 amended to read:

19 25900. Except as provided in Section 25531, whenever the
20 ~~commission~~ department finds that any provision of this division
21 is violated or a violation is threatening to take place ~~which~~ that
22 constitutes an emergency requiring immediate action to protect
23 the public health, welfare, or safety, the Attorney General, upon
24 request of the ~~commission~~, department, shall petition a court to
25 enjoin ~~such~~ the violation. The court shall have jurisdiction to grant
26 ~~such~~ prohibitory or mandatory injunctive relief as may be
27 warranted by way of temporary restraining order, preliminary
28 injunction, and permanent injunction.

29 SEC. 263. Section 25901 of the Public Resources Code is
30 amended to read:

31 25901. (a) Within 30 days after the *department, including the*
32 *commission*, issues its determination on any matter specified in
33 this division, except as provided in Section 25531, ~~any~~ an
34 aggrieved person may file with the superior court a petition for a
35 writ of mandate for review ~~thereof~~ of the determination. Failure
36 to file ~~such an action~~ this petition does not preclude a person from
37 challenging the reasonableness and validity of a decision in any
38 judicial proceedings brought to enforce the decision or to obtain
39 other civil remedies.

1 (b) The decision of the *department or the* commission shall be
2 sustained by the court unless the court finds (1) that the commission
3 proceeded without, or in excess of its jurisdiction, (2) that, based
4 exclusively upon a review of the record before the *department or*
5 *the* commission, the decision is not supported by substantial
6 evidence in light of the whole record, or (3) that the *department*
7 *or the* commission failed to proceed in the manner required by
8 law.

9 (c) Except as otherwise provided in this section, subdivisions
10 (f) and (g) of Section 1094.5 of the Code of Civil Procedure govern
11 proceedings pursuant to this section.

12 (d) The amendment of this section made at the 1989–90 Regular
13 Session of the Legislature does not constitute a change in, but is
14 declaratory of, existing law.

15 SEC. 264. Section 25902 of the Public Resources Code is
16 amended to read:

17 25902. Any evaluations in the reports required by Section
18 ~~25309~~ 25302 and any findings and determinations on the notice
19 of intent pursuant to Chapter 6 (commencing with Section 25500)
20 shall not be construed as a final evaluation, finding, or
21 determination by the *department or the* commission and a court
22 action may not be brought to review ~~any such~~ *the* evaluation,
23 finding, or determination.

24 SEC. 265. Section 25911 of the Public Resources Code is
25 amended to read:

26 ~~25911. The State Energy Resources Conservation and~~
27 ~~Development Commission~~ *commission* may adopt regulations
28 pertaining to urea formaldehyde foam insulation materials as are
29 reasonably necessary to protect the public health and safety. These
30 regulations may include, but are not limited to, prohibition of the
31 manufacture, sale, or installation of urea formaldehyde foam
32 insulation, requirements for safety notices to consumers,
33 certification of installers, and specification of installation practices.
34 Regulations adopted pursuant to this section shall be promulgated
35 after public hearings in accordance with Chapter 3.5 (commencing
36 with Section 11340) of Part 1 of Division 3 of Title 2 of the
37 Government Code. Any regulation adopted by the commission to
38 prohibit the sale and installation of urea formaldehyde foam
39 insulation shall be based upon a record of scientific evidence ~~which~~

1 *that* demonstrates the need for the prohibition in order to protect
2 the public health and safety.

3 SEC. 266. Section 25912 of the Public Resources Code is
4 amended to read:

5 25912. Prior to adopting any regulation ~~which~~ *that* causes a
6 prohibition on the sale and installation of urea formaldehyde foam
7 insulation, the ~~commission~~ *department* shall consult with, and
8 solicit written comments from, all of the following:

9 (a) Federal and state agencies with appropriate scientific staffs,
10 including, but not limited to, the State Department of Health
11 Services, the National Academy of Sciences, the United States
12 Department of Housing and Urban Development, the United States
13 Department of Energy, and the United States Consumer Product
14 Safety Commission.

15 (b) Universities and public and private scientific organizations.

16 SEC. 267. Section 25942 of the Public Resources Code is
17 amended to read:

18 25942. (a) On or before July 1, 1995, the ~~commission~~
19 *department* shall establish criteria for adopting a statewide home
20 energy rating program for residential dwellings. The program
21 criteria shall include, but are not limited to, all of the following
22 elements:

23 (1) Consistent, accurate, and uniform ratings based on a single
24 statewide rating scale.

25 (2) Reasonable estimates of potential utility bill savings, and
26 reliable recommendations on cost-effective measures to improve
27 energy efficiency.

28 (3) Training and certification procedures for home raters and
29 quality assurance procedures to promote accurate ratings and to
30 protect consumers.

31 (4) In coordination with home energy rating service organization
32 data bases, procedures to establish a centralized, publicly
33 accessible, data base that includes a uniform reporting system for
34 information on residential dwellings, excluding proprietary
35 information, needed to facilitate the program. There shall be no
36 public access to information in the data base concerning specific
37 dwellings without the owner's or occupant's permission.

38 (5) Labeling procedures that will meet the needs of home buyers,
39 homeowners, renters, the real estate industry, and mortgage lenders
40 with an interest in home energy ratings.

1 (b) ~~The commission~~ *department* shall adopt the program
 2 pursuant to subdivision (a) in consultation with representatives of
 3 the Department of Real Estate, the Department of Housing and
 4 Community Development, the Public Utilities Commission,
 5 investor-owned and municipal utilities, cities and counties, real
 6 estate licensees, home builders, mortgage lenders, home appraisers
 7 and inspectors, home energy rating organizations, contractors who
 8 provide home energy services, consumer groups, and
 9 environmental groups.

10 (c) On and after January 1, 1996, no home energy rating services
 11 may be performed in this state unless the services have been
 12 certified, if ~~such~~ a certification program is available, by the
 13 ~~commission~~ *department* to be in compliance with the program
 14 criteria specified in subdivision (a) and, in addition, are in
 15 conformity with any other applicable element of the program.

16 (d) On or before July 1, 1996, the ~~commission~~ *department* shall
 17 consult with the agencies and organizations described in
 18 subdivision (b), to facilitate a public information program to inform
 19 homeowners, rental property owners, renters, sellers, and others
 20 of the existence of the statewide home energy rating program
 21 adopted by the ~~commission~~ *department*.

22 (e) ~~Beginning with the 1998 biennial energy conservation report~~
 23 ~~required by Section 25401.1, the commission~~ *The department*
 24 shall, as part of that biennial report *prepared pursuant to Section*
 25 *25302*, report on the progress made to implement a statewide home
 26 energy rating program. The report shall include an evaluation of
 27 the energy savings attributable to the program, and a
 28 recommendation concerning which means and methods will be
 29 most efficient and cost-effective to induce home energy ratings
 30 for residential dwellings.

31 SEC. 268. Section 25967 of the Public Resources Code is
 32 amended to read:

33 25967. (a) ~~Any~~ *A* person who violates ~~any provision of this~~
 34 chapter shall be liable for a civil penalty not to exceed two thousand
 35 five hundred dollars (\$2,500) for each violation, which shall be
 36 assessed and recovered in a civil action brought in the name of the
 37 people of the State of California by the Attorney General or by
 38 any district attorney, county counsel, or city attorney in any court
 39 of competent jurisdiction.

1 (b) If the action is brought by the Attorney General, one-half
2 of the penalty collected shall be paid to the treasurer of the county
3 in which the judgment was entered, and one-half to the State
4 Treasurer. If brought by a district attorney or county counsel, the
5 entire amount of penalty collected shall be paid to the treasurer of
6 the county in which the judgment was entered. If brought by a city
7 attorney or city prosecutor, one-half of the penalty shall be paid
8 to the treasurer of the county and one-half to the city.

9 (c) If the action is brought at the request of the *department or*
10 *the commission*, the court shall determine the reasonable expenses
11 incurred by the *department or the commission* in the investigation
12 and prosecution of the action.

13 **Before**

14 (d) *Before* any penalty collected is paid out pursuant to
15 subdivision (b), the amount of ~~such~~ reasonable expenses incurred
16 by the *department or the commission* shall be paid to the State
17 Treasurer.

18 SEC. 269. Section 25968 of the Public Resources Code is
19 amended to read:

20 25968. ~~Any~~ *An* inspector appointed or authorized by the
21 ~~commission~~ *department* shall have access to the premises,
22 equipment, materials, partly finished and finished articles, and
23 records of any person subject to ~~the provisions of this chapter.~~

24 SEC. 270. Section 26004 of the Public Resources Code is
25 amended to read:

26 26004. (a) There is in the state government the California
27 Alternative Energy and Advanced Transportation Financing
28 Authority. The authority constitutes a public instrumentality and
29 the exercise by the authority of powers conferred by this division
30 is the performance of an essential public function.

31 (b) The authority shall consist of five members, as follows:

32 (1) The Director of Finance.

33 (2) ~~The Chairperson of the State Energy Resources Conservation~~
34 ~~and Development Commission~~ *Secretary of Energy.*

35 (3) The President of the Public Utilities Commission.

36 (4) The Controller.

37 (5) The Treasurer, who shall serve as the chairperson of the
38 authority.

39 (c) The members listed in paragraphs (1) to (5), inclusive, of
40 subdivision (b) may each designate a deputy or clerk in his or her

1 agency to act for and represent the member at all meetings of the
2 authority.

3 (d) The first meeting of the authority shall be convened by the
4 Treasurer.

5 SEC. 271. Section 26011.5 of the Public Resources Code is
6 amended to read:

7 26011.5. The authority, in consultation with the ~~State Energy~~
8 ~~Resources—Conservation—and—Development—Commission,~~
9 *Department of Energy*, shall establish criteria for the selection of
10 projects to receive financing assistance from the authority. In the
11 selection of projects, the authority shall, in accordance with the
12 legislative intent, provide financial assistance under this division
13 in a manner consistent with sound financial practice. In developing
14 project selection criteria, the authority shall consider, but not be
15 limited to, all of the following:

16 (a) The technological feasibility of the projects.

17 (b) The economic soundness of the projects and a realistic
18 expectation that all financial obligations can and will be met by
19 the participating parties.

20 (c) The contribution that the projects can make to a reduction
21 or more efficient use of fossil fuels.

22 (d) The contribution that the project can make toward
23 diversifying California's energy resources by fostering renewable
24 energy systems that can substitute, or preferably eliminate, the
25 demand for conventional energy fuels.

26 (e) Any other such factors that the authority finds significant in
27 achieving the purposes and objectives of this division.

28 SEC. 272. Section 26011.6 of the Public Resources Code is
29 amended to read:

30 26011.6. (a) The authority shall establish a renewable energy
31 program to provide financial assistance to public power entities,
32 independent generators, utilities, or businesses manufacturing
33 components or systems, or both, to generate new and renewable
34 energy sources, develop clean and efficient distributed generation,
35 and demonstrate the economic feasibility of new technologies,
36 such as solar, photovoltaic, wind, and ultralow-emission equipment.
37 The authority shall give preference to utility-scale projects that
38 can be rapidly deployed to provide a significant contribution as a
39 renewable energy supply. The program established pursuant to

1 this subdivision shall include financial assistance provided pursuant
2 to subdivision (g) of Section 26011.

3 (b) The authority shall make every effort to expedite the
4 operation of renewable energy systems, and shall adopt regulations
5 for purposes of this section and Section 26011.5 as emergency
6 regulations in accordance with Chapter 3.5 (commencing with
7 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
8 Code. For purposes of that Chapter 3.5, including Section 11349.6
9 of the Government Code, the adoption of the regulations shall be
10 considered by the Office of Administrative Law to be necessary
11 for the immediate preservation of the public peace, health and
12 safety, and general welfare. Notwithstanding the 120-day limitation
13 specified in subdivision (e) of Section 11346.1 of the Government
14 Code, the regulations shall be repealed 180 days after their effective
15 date, unless the authority complies with Sections 11346.2 to
16 11347.3, inclusive, as provided in subdivision (e) of Section
17 11346.1 of the Government Code.

18 (c) The authority shall consult with the ~~State Energy Resources~~
19 ~~Conservation and Development Commission~~ *Department of Energy*
20 regarding the financing of projects to avoid duplication of other
21 renewable energy projects.

22 (d) The authority shall ensure that any financed project shall
23 offer its power within California on a long-term contract basis.

24 (e) The authority shall ensure that a financed project is limited
25 to resources that the authority determines support the state's goals
26 for the reduction of emissions of greenhouse gases pursuant to the
27 California Global Warming Solutions Act of 2006 (Division 25.5
28 (commencing with Section 38500) of the Health and Safety Code).

29 SEC. 273. Section 30404 of the Public Resources Code is
30 amended to read:

31 30404. (a) The commission shall periodically, in the case of
32 the ~~State Energy Resources Conservation and Development~~
33 ~~Commission~~, *Department of Energy*, the State Board of Forestry
34 and Fire Protection, the State Water Resources Control Board and
35 the California regional water quality control boards, the State Air
36 Resources Board and air pollution control districts and air quality
37 management districts, the Department of Fish and Game, the
38 Department of Parks and Recreation, the Department of Boating
39 and Waterways, the California Geological Survey and the Division
40 of Oil, Gas, and Geothermal Resources in the Department of

1 Conservation, and the State Lands Commission, and may, with
2 respect to any other state agency, submit recommendations
3 designed to encourage the state agency to carry out its functions
4 in a manner consistent with this division. The recommendations
5 may include proposed changes in administrative regulations, rules,
6 and statutes.

7 (b) Each of those state agencies shall review and consider the
8 commission recommendations and shall, within six months from
9 the date of their receipt, to the extent that the recommendations
10 have not been implemented, report to the Governor and the
11 Legislature its action and reasons therefor. The report shall also
12 include the state agency's comments on any legislation that may
13 have been proposed by the commission.

14 SEC. 274. Section 322 is added to the Public Utilities Code,
15 to read:

16 322. (a) Whenever in this chapter a reference is made to the
17 "California Energy Resources Conservation and Development
18 Commission," the "State Energy Resources Conservation and
19 Development Commission," or the "Energy Commission," it means
20 the Department of Energy as successor to that entity.

21 (b) Whenever in this chapter a reference is made to the
22 Department of Water Resources acting pursuant to Division 27
23 (commencing with Section 80000) of the Water Code, it includes
24 the Department of Energy as the successor to the Department of
25 Water Resources for this purpose.

26 SEC. 275. Section 332.1 of the Public Utilities Code is
27 amended to read:

28 332.1. (a) (1) It is the intent of the Legislature to enact Item
29 1 (revised) on the commission's August 21, 2000 agenda, entitled
30 "Opinion Modifying Decision (D.) D.00-06-034 and D.00-08-021
31 to Regarding Interim Rate Caps for San Diego Gas and Electric
32 Company," as modified below.

33 (2) It is also the intent of the Legislature that to the extent that
34 the Federal Energy Regulatory Commission orders refunds to
35 electrical corporations pursuant to their findings, the commission
36 shall ensure that any refunds are returned to customers.

37 (b) The commission shall establish a ceiling of six and
38 five-tenths cents (\$0.065) per kilowatthour on the energy
39 component of electric bills for electricity supplied to residential,
40 small commercial, and street lighting customers by the San Diego

1 Gas and Electric Company, through December 31, 2002, retroactive
2 to June 1, 2000. If the commission finds it in the public interest,
3 this ceiling may be extended through December 2003 and may be
4 adjusted as provided in subdivision (d).

5 (c) The commission shall establish an accounting procedure to
6 track and recover reasonable and prudent costs of providing electric
7 energy to retail customers unrecovered through retail bills due to
8 the application of the ceiling provided for in subdivision (b). The
9 accounting procedure shall utilize revenues associated with sales
10 of energy from utility-owned or managed generation assets to
11 offset an undercollection, if undercollection occurs. The accounting
12 procedure shall be reviewed periodically by the commission, but
13 not less frequently than semiannually. The commission may utilize
14 an existing proceeding to perform the review. The accounting
15 procedure and review shall provide a reasonable opportunity for
16 San Diego Gas and Electric Company to recover its reasonable
17 and prudent costs of service over a reasonable period of time.

18 (d) If the commission determines that it is in the public interest
19 to do so, the commission, after the date of the completion of the
20 proceeding described in subdivision (g), may adjust the ceiling
21 from the level specified in subdivision (b), and may adjust the
22 frozen rate from the levels specified in subdivision (f), consistent
23 with the Legislature's intent to provide substantial protections for
24 customers of the San Diego Gas and Electric Company and their
25 interest in just and reasonable rates and adequate service.

26 (e) For purposes of this section, "small commercial customer"
27 includes, but is not limited to, all San Diego Gas and Electric
28 Company accounts on Rate Schedule A of the San Diego Gas and
29 Electric Company, all accounts of customers who are "general
30 acute care hospitals," as defined in Section 1250 of the Health and
31 Safety Code, all San Diego Gas and Electric Company accounts
32 of customers who are public or private schools for pupils in
33 kindergarten or any of grades 1 to 12, inclusive, and all accounts
34 on Rate Schedule AL-TOU under 100 kilowatts.

35 (f) The commission shall establish an initial frozen rate of six
36 and five-tenths cents (\$0.065) per kilowatthour on the energy
37 component of electric bills for electricity supplied to all customers
38 by the San Diego Gas and Electric Company not subject to
39 subdivision (b), for the time period ending with the end of the rate
40 freeze for the Pacific Gas and Electric Company and the Southern

1 California Edison Company pursuant to Section 368, retroactive
2 to February 7, 2001. The commission shall consider the comparable
3 energy components of rates for comparable customer classes served
4 by the Pacific Gas and Electric Company and the Southern
5 California Edison Company and, if it determines it to be in the
6 public interest, the commission may adjust this frozen rate, and
7 may do so, retroactive to the date that rate increases took effect
8 for customers of Pacific Gas and Electric Company and Southern
9 California Edison Company pursuant to the commission's March
10 27, 2001, decision. The commission shall determine the Fixed
11 Department of Water Resources Set-Aside pursuant to Section
12 360.5 for customers subject to this section, reflecting a retail rate
13 consistent with the rate for the energy component of electric bills
14 as determined in this subdivision, in place of the retail rate in effect
15 on January 5, 2001. This section shall be construed to modify the
16 payment provisions, but may not be construed to modify the
17 electric procurement obligations of the Department of Water
18 Resources, pursuant to any contract or agreement in accordance
19 with Division 27 (commencing with Section 80000) of the Water
20 Code, and in effect as of February 7, 2001, between the Department
21 of Water Resources and San Diego Gas and Electric Company.

22 (g) The commission shall institute a proceeding to examine the
23 prudence and reasonableness of the San Diego Gas and Electric
24 Company in the procurement of wholesale energy on behalf of its
25 customers, for a period beginning, at the latest, on June 1, 2000.
26 If the commission finds that San Diego Gas and Electric Company
27 acted imprudently or unreasonably, the commission shall issue
28 orders that it determines to be appropriate affecting the retail rates
29 of San Diego Gas and Electric Company customers including, but
30 not limited to, refunds.

31 (h) ~~Nothing in this~~ *This section may be construed to does not*
32 *limit the authority of the Department of Water Resources, or its*
33 *successor, pursuant to Division 27 (commencing with Section*
34 *80000) of the Water Code.*

35 SEC. 276. Article 2 (commencing with Section 334) of Chapter
36 2.3 of Part 1 of Division 1 of the Public Utilities Code is repealed.

37 SEC. 277. Section 345.1 is added to the Public Utilities Code,
38 to read:

39 345.1. (a) The Independent System Operator governing board
40 shall be composed of a five-member independent governing board

1 of directors appointed by the Governor and subject to confirmation
2 by the Senate. Any reference in this chapter or in any other
3 provision of law to the Independent System Operator governing
4 board means the independent governing board appointed under
5 this subdivision.

6 (b) A member of the independent governing board appointed
7 under subdivision (a) may not be affiliated with any actual or
8 potential participant in any market administered by the Independent
9 System Operator.

10 (c) (1) All appointments shall be for three-year terms.

11 (2) There is no limit on the number of terms that may be served
12 by any member.

13 (d) The Office of Energy Market Oversight shall require the
14 articles of incorporation and bylaws of the Independent System
15 Operator to be revised in accordance with this section, and shall
16 make filings with the Federal Energy Regulatory Commission as
17 the office determines to be necessary.

18 (e) For the purposes of the initial appointments to the
19 Independent System Operator governing board, as provided in
20 subdivision (a), the Governor shall appoint one member to a
21 one-year term, two members to a two-year term, and two members
22 to a three-year term.

23 SEC. 278. Section 345.2 is added to the Public Utilities Code,
24 to read:

25 345.2. (a) The Independent System Operator and Power
26 Exchange bylaws shall contain provisions that identify those
27 matters specified in subdivision (b) of Section 25227.6 of the
28 Public Resources Code as matters within state jurisdiction. The
29 bylaws shall also contain provisions that state that California's
30 bylaws approval function with respect to the matters specified in
31 subdivision (b) of Section 25227.6 of the Public Resources Code
32 shall not preclude the Federal Energy Regulatory Commission
33 from taking any action necessary to address undue discrimination
34 or other violations of the Federal Power Act (16 U.S.C. Sec. 791a
35 et seq.) or to exercise any other commission responsibility under
36 the Federal Power Act. In taking this action, the Federal Energy
37 Regulatory Commission shall give due respect to California's
38 jurisdictional interests in the functions of the Independent System
39 Operator and Power Exchange and to attempt to accommodate
40 state interests to the extent those interests are not inconsistent with

1 the Federal Energy Regulatory Commission's statutory
2 responsibilities. The bylaws shall state that any future agreement
3 regarding the apportionment of the Independent System Operator
4 and Power Exchange board appointment function among
5 participating states associated with the expansion of the
6 Independent System Operator and Power Exchange into multistate
7 entities shall be filed with the Federal Energy Regulatory
8 Commission pursuant to Section 205 of the Federal Power Act (16
9 U.S.C. Sec. 824d).

10 (b) Any necessary bylaw changes to implement the provisions
11 of Section 345.1 or subdivision (a) of this section, or Section
12 25227.1, 25227.5, or 25227.6 of the Public Resources Code, or
13 changes required pursuant to an agreement as contemplated by
14 subdivision (a) of this section with a participating state for a
15 regional organization, shall be effective upon approval of the
16 respective governing boards and the Office of Energy Market
17 Oversight and acceptance for filing by the Federal Energy
18 Regulatory Commission.

19 SEC. 279. Section 346 of the Public Utilities Code is repealed.

20 ~~346. The Independent System Operator shall immediately~~
21 ~~participate in all relevant Federal Energy Regulatory Commission~~
22 ~~proceedings. The Independent System Operator shall ensure that~~
23 ~~additional filings at the Federal Energy Regulatory Commission~~
24 ~~request confirmation of the relevant provisions of this chapter and~~
25 ~~seek the authority needed to give the Independent System Operator~~
26 ~~the ability to secure generating and transmission resources~~
27 ~~necessary to guarantee achievement of planning and operating~~
28 ~~reserve criteria no less stringent than those established by the~~
29 ~~Western Electricity Coordinating Council and the North American~~
30 ~~Electric Reliability Council.~~

31 SEC. 280. Section 348 of the Public Utilities Code is amended
32 to read:

33 348. The Independent System Operator shall adopt inspection,
34 maintenance, repair, and replacement standards for the transmission
35 facilities under its control no later than September 30, 1997. The
36 standards, which shall be performance or prescriptive standards,
37 or both, as appropriate, for each substantial type of transmission
38 equipment or facility, shall provide for high quality, safe, and
39 reliable service. In adopting its standards, the Independent System
40 Operator shall consider: cost, local geography and weather,

1 applicable codes, national electric industry practices, sound
2 engineering judgment, and experience. The Independent System
3 Operator shall also adopt standards for reliability, and safety during
4 periods of emergency and disaster. The Independent System
5 Operator shall report to the ~~Oversight Board~~, *Office of Energy*
6 *Market Oversight*, at ~~such the times as that the Oversight Board~~
7 *office* may specify, on the development and implementation of the
8 standards in relation to facilities under the operational control of
9 the Independent System Operator. The Independent System
10 Operator shall require each transmission facility owner or operator
11 to report annually on its compliance with the standards. That report
12 shall be made available to the public.

13 SEC. 281. Section 350 of the Public Utilities Code is amended
14 to read:

15 350. The Independent System Operator, in consultation with
16 the ~~California Energy Resources Conservation and Development~~
17 ~~Commission~~, *Department of Energy*, the Public Utilities
18 Commission, the Western Electricity Coordinating Council, and
19 concerned regulatory agencies in other western states, shall within
20 six months after the Federal Energy Regulatory Commission
21 approval of the Independent System Operator, provide a report to
22 the Legislature and to the ~~Oversight Board~~ *Office of Energy Market*
23 *Oversight* that does the following:

24 (a) Conducts an independent review and assessment of Western
25 Electricity Coordinating Council operating reliability criteria.

26 (b) Quantifies the economic cost of major transmission outages
27 relating to the Pacific Intertie, Southwest Power Link, DC link,
28 and other important high voltage lines that carry power both into
29 and from California.

30 (c) Identifies the range of cost-effective options that would
31 prevent or mitigate the consequences of major transmission
32 outages.

33 (d) Identifies communication protocols that may be needed to
34 be established to provide advance warning of incipient problems.

35 (e) Identifies the need for additional generation reserves and
36 other voltage support equipment, if any, or other resources that
37 may be necessary to carry out its functions.

38 (f) Identifies transmission capacity additions that may be
39 necessary at certain times of the year or under certain conditions.

1 (g) Assesses the adequacy of current and prospective
2 institutional provisions for the maintenance of reliability.

3 (h) Identifies mechanisms to enforce transmission right-of-way
4 maintenance.

5 (i) Contains recommendations regarding cost-beneficial
6 improvements to electric system reliability for the citizens of
7 California.

8 SEC. 282. Section 352 of the Public Utilities Code is amended
9 to read:

10 352. The Independent System Operator may not enter into a
11 multistate entity or a regional organization as authorized in Section
12 359 unless that entry is approved by the ~~Oversight Board~~ *Office*
13 *of Energy Market Oversight*.

14 SEC. 283. Section 353.7 of the Public Utilities Code is
15 amended to read:

16 353.7. Notwithstanding Section 353.3, ~~nothing in this article~~
17 ~~may does not~~ result in any exemption from reasonable
18 interconnection charges, lead to any reduction in contributions by
19 each customer class to public purpose programs funded under
20 Section 399.8, or relieve any customer of any obligation determined
21 by the commission to result from participation in the purchase of
22 power through the Department of Water Resources, *or its*
23 *successor, the Department of Energy*, pursuant to Division 27
24 (commencing with Section 80000) of the Water Code.

25 SEC. 284. Section 360 of the Public Utilities Code is amended
26 to read:

27 360. The ~~commission~~ *Department of Energy* shall ensure that
28 existing, and if necessary, additional filings at the Federal Energy
29 Regulatory Commission request confirmation of the relevant
30 provisions of this chapter and seek the authority needed to give
31 the Independent System Operator the ability to secure generating
32 and transmission resources necessary to guarantee achievement
33 of planning and operating reserve criteria no less stringent than
34 those established by the Western Electricity Coordinating Council
35 and the North American Electric Reliability Council.

36 SEC. 285. Section 365 of the Public Utilities Code is amended
37 to read:

38 365. The actions of the commission pursuant to this chapter
39 shall be consistent with the findings and declarations contained in

1 Section 330. In addition, the commission shall do all of the
2 following:

3 (a) Facilitate the efforts of the state's electrical corporations to
4 develop and obtain authorization from the Federal Energy
5 Regulatory Commission for the creation and operation of an
6 Independent System Operator and an independent Power Exchange,
7 for the determination of which transmission and distribution
8 facilities are subject to the exclusive jurisdiction of the commission,
9 and for approval, to the extent necessary, of the cost recovery
10 mechanism established as provided in Sections 367 to 376,
11 inclusive. ~~The commission~~ *Office of Energy Market Oversight*
12 ~~shall also~~ participate fully in all proceedings before the Federal
13 Energy Regulatory Commission in connection with the Independent
14 System Operator and the independent Power Exchange, and shall
15 encourage the Federal Energy Regulatory Commission to adopt
16 protocols and procedures that strengthen the reliability of the
17 interconnected transmission grid, encourage all publicly owned
18 utilities in California to become full participants, and maximize
19 enforceability of such protocols and procedures by all market
20 participants.

21 (b) (1) Authorize direct transactions between electricity
22 suppliers and end use customers, subject to implementation of the
23 nonbypassable charge referred to in Sections 367 to 376, inclusive.
24 Direct transactions shall commence simultaneously with the start
25 of an Independent System Operator and Power Exchange referred
26 to in subdivision (a). The simultaneous commencement shall occur
27 as soon as practicable, but no later than January 1, 1998. The
28 commission shall develop a phase-in schedule at the conclusion
29 of which all customers shall have the right to engage in direct
30 transactions. Any phase-in of customer eligibility for direct
31 transactions ordered by the commission shall be equitable to all
32 customer classes and accomplished as soon as practicable,
33 consistent with operational and other technological considerations,
34 and shall be completed for all customers by January 1, 2002.

35 (2) Customers shall be eligible for direct access irrespective of
36 any direct access phase-in implemented pursuant to this section if
37 at least one-half of that customer's electrical load is supplied by
38 energy from a renewable resource provider certified pursuant to
39 Section 383, provided however that nothing in this section shall
40 provide for direct access for electric consumers served by municipal

1 utilities unless so authorized by the governing board of that
2 municipal utility.

3 SEC. 286. Section 366.1 of the Public Utilities Code is
4 amended to read:

5 366.1. (a) As used in this section, the following terms have
6 the following meanings:

7 (1) “Department” means the Department of Water Resources,
8 *or its successor, the Department of Energy*, with respect to its power
9 program described in Chapter 2 (commencing with Section 80100)
10 of Division 27 of the Water Code.

11 (2) “Existing project participant” means a city with rights and
12 obligations to the Magnolia Power Project under the Magnolia
13 Power Project Planning Agreement, dated May 1, 2001.

14 (3) “Magnolia Power Project” means a proposed natural
15 gas-fired electric generating facility to be located at an existing
16 site in Burbank and for which an application for certification has
17 been filed with the State Energy Resources Conservation and
18 Development Act (Docket No. 00-SIT-1) and deemed data adequate
19 pursuant to the expedited six-month licensing process established
20 under Section 25550 of the Public Resources Code.

21 (b) Notwithstanding Section 80110 of the Water Code or
22 Commission Decision 01-09-060, if the Magnolia Power Project
23 has been constructed and is otherwise capable of beginning
24 deliveries of electricity to the existing project participants, an
25 existing project participant may serve as a community aggregator
26 on behalf of all retail end-use customers within its jurisdiction.

27 (c) Subdivision (b) shall not become operative until both of the
28 following occur:

29 (1) The commission implements a cost-recovery mechanism,
30 consistent with subdivision (d), that is applicable to customers that
31 elected to purchase electricity from an alternate provider between
32 February 1, 2001, and the effective date of the act adding this
33 section.

34 (2) The commission submits a report certifying its satisfaction
35 of paragraph (1) to the Senate Energy, Utilities and
36 Communications Committee, or its successor, and the Assembly
37 Committee on Utilities and Commerce, or its successor.

38 (d) (1) It is the intent of the Legislature that each retail end-use
39 customer that has purchased power from an electrical corporation
40 on or after February 1, 2001, should bear a fair share of the

1 department's power purchase costs, as well as power purchase
2 contract obligations incurred as of January 1, 2003, that are
3 recoverable from electrical corporation customers in
4 commission-approved rates. It is the further intent of the
5 Legislature to prevent any shifting of recoverable costs between
6 customers.

7 (2) The Legislature finds and declares that the provisions in this
8 subdivision are consistent with the requirements of Section 360.5
9 and Division 27 (commencing with Section 80000) of the Water
10 Code, and are therefore declaratory of existing law.

11 (e) A retail end-use customer purchasing power from a
12 community aggregator pursuant to subdivision (b) shall reimburse
13 the department for all of the following:

14 (1) A charge equivalent to the charge ~~which~~ *that* would
15 otherwise be imposed on the customer by the commission to
16 recover bond related costs pursuant to an agreement between the
17 commission and the ~~Department of Water Resources~~ *department*
18 pursuant to Section 80110 of the Water Code, that charge shall be
19 payable until all obligations of the ~~Department of Water Resources~~
20 *department* pursuant to Division 27 of the Water Code are fully
21 paid or otherwise discharged.

22 (2) The costs of the department, equal to the share of the
23 department's estimated net unavoidable power purchase contract
24 costs attributable to the customer, as determined by the
25 commission, for the period commencing with the customer's
26 purchases of electricity from a community aggregator, through the
27 expiration of all then existing power purchase contracts entered
28 into by the department.

29 (f) A retail end-use customer purchasing power from a
30 community aggregator pursuant to subdivision (b) shall reimburse
31 the electrical corporation that previously served the customer for
32 all of the following:

33 (1) The electrical corporation's unrecovered past
34 undercollections, including all financing costs attributable to that
35 customer, that the commission lawfully determines may be
36 recovered in rates.

37 (2) The costs of the electrical corporation recoverable in
38 commission-approved rates, equal to the share of the electrical
39 corporation's estimated net unavoidable power purchase contract
40 costs attributable to the customer, as determined by the

1 commission, for the period commencing with the customer's
2 purchases of electricity from the community aggregator, through
3 the expiration of all then existing power purchase contracts entered
4 into by the electrical corporation.

5 (g) (1) A charge or cost imposed pursuant to subdivision (e),
6 and all revenues received to pay the charge or cost, shall be the
7 property of the ~~Department of Water Resources~~ *department*. A
8 charge or cost imposed pursuant to subdivision (f), and all revenues
9 received to pay the charge or cost, shall be the property of the
10 particular electrical corporation. The commission shall establish
11 mechanisms, including agreements with, or orders with respect
12 to, electrical corporations necessary to assure that the revenues
13 received to pay a charge or cost payable pursuant to this section
14 are promptly remitted to the party entitled to those revenues.

15 (2) A charge or cost imposed pursuant to this section shall be
16 nonbypassable.

17 SEC. 287. Section 366.2 of the Public Utilities Code is
18 amended to read:

19 366.2. (a) (1) Customers shall be entitled to aggregate their
20 electric loads as members of their local community with
21 community choice aggregators.

22 (2) Customers may aggregate their loads through a public
23 process with community choice aggregators, if each customer is
24 given an opportunity to opt out of their community's aggregation
25 program.

26 (3) If a customer opts out of a community choice aggregator's
27 program, or has no community choice program available, that
28 customer shall have the right to continue to be served by the
29 existing electrical corporation or its successor in interest.

30 (b) If a public agency seeks to serve as a community choice
31 aggregator, it shall offer the opportunity to purchase electricity to
32 all residential customers within its jurisdiction.

33 (c) (1) Notwithstanding Section 366, a community choice
34 aggregator is hereby authorized to aggregate the electrical load of
35 interested electricity consumers within its boundaries to reduce
36 transaction costs to consumers, provide consumer protections, and
37 leverage the negotiation of contracts. However, the community
38 choice aggregator may not aggregate electrical load if that load is
39 served by a local publicly owned electric utility. A community
40 choice aggregator may group retail electricity customers to solicit

1 bids, broker, and contract for electricity and energy services for
2 those customers. The community choice aggregator may enter into
3 agreements for services to facilitate the sale and purchase of
4 electricity and other related services. Those service agreements
5 may be entered into by a single city or county, a city and county,
6 or by a group of cities, cities and counties, or counties.

7 (2) Under community choice aggregation, customer participation
8 may not require a positive written declaration, but all customers
9 shall be informed of their right to opt out of the community choice
10 aggregation program. If no negative declaration is made by a
11 customer, that customer shall be served through the community
12 choice aggregation program.

13 (3) A community choice aggregator establishing electrical load
14 aggregation pursuant to this section shall develop an
15 implementation plan detailing the process and consequences of
16 aggregation. The implementation plan, and any subsequent changes
17 to it, shall be considered and adopted at a duly noticed public
18 hearing. The implementation plan shall contain all of the following:

19 (A) An organizational structure of the program, its operations,
20 and its funding.

21 (B) Ratesetting and other costs to participants.

22 (C) Provisions for disclosure and due process in setting rates
23 and allocating costs among participants.

24 (D) The methods for entering and terminating agreements with
25 other entities.

26 (E) The rights and responsibilities of program participants,
27 including, but not limited to, consumer protection procedures,
28 credit issues, and shutoff procedures.

29 (F) Termination of the program.

30 (G) A description of the third parties that will be supplying
31 electricity under the program, including, but not limited to,
32 information about financial, technical, and operational capabilities.

33 (4) A community choice aggregator establishing electrical load
34 aggregation shall prepare a statement of intent with the
35 implementation plan. Any community choice load aggregation
36 established pursuant to this section shall provide for the following:

37 (A) Universal access.

38 (B) Reliability.

39 (C) Equitable treatment of all classes of customers.

1 (D) Any requirements established by state law or by the
2 commission concerning aggregated service.

3 (5) In order to determine the cost-recovery mechanism to be
4 imposed on the community choice aggregator pursuant to
5 subdivisions (d), (e), and (f) that shall be paid by the customers of
6 the community choice aggregator to prevent shifting of costs, the
7 community choice aggregator shall file the implementation plan
8 with the commission, and any other information requested by the
9 commission that the commission determines is necessary to develop
10 the cost-recovery mechanism in subdivisions (d), (e), and (f).

11 (6) The commission shall notify any electrical corporation
12 serving the customers proposed for aggregation that an
13 implementation plan initiating community choice aggregation has
14 been filed, within 10 days of the filing.

15 (7) Within 90 days after the community choice aggregator
16 establishing load aggregation files its implementation plan, the
17 commission shall certify that it has received the implementation
18 plan, including any additional information necessary to determine
19 a cost-recovery mechanism. After certification of receipt of the
20 implementation plan and any additional information requested,
21 the commission shall then provide the community choice
22 aggregator with its findings regarding any cost recovery that must
23 be paid by customers of the community choice aggregator to
24 prevent a shifting of costs as provided for in subdivisions (d), (e),
25 and (f).

26 (8) No entity proposing community choice aggregation shall
27 act to furnish electricity to electricity consumers within its
28 boundaries until the commission determines the cost-recovery that
29 must be paid by the customers of that proposed community choice
30 aggregation program, as provided for in subdivisions (d), (e), and
31 (f). The commission shall designate the earliest possible effective
32 date for implementation of a community choice aggregation
33 program, taking into consideration the impact on any annual
34 procurement plan of the electrical corporation that has been
35 approved by the commission.

36 (9) All electrical corporations shall cooperate fully with any
37 community choice aggregators that investigate, pursue, or
38 implement community choice aggregation programs. Cooperation
39 shall include providing the entities with appropriate billing and
40 electrical load data, including, but not limited to, data detailing

1 electricity needs and patterns of usage, as determined by the
2 commission, and in accordance with procedures established by
3 the commission. Electrical corporations shall continue to provide
4 all metering, billing, collection, and customer service to retail
5 customers that participate in community choice aggregation
6 programs. Bills sent by the electrical corporation to retail customers
7 shall identify the community choice aggregator as providing the
8 electrical energy component of the bill. The commission shall
9 determine the terms and conditions under which the electrical
10 corporation provides services to community choice aggregators
11 and retail customers.

12 (10) (A) A city, county, or city and county that elects to
13 implement a community choice aggregation program within its
14 jurisdiction pursuant to this chapter shall do so by ordinance.

15 (B) Two or more cities, counties, or cities and counties may
16 participate as a group in a community choice aggregation pursuant
17 to this chapter, through a joint powers agency established pursuant
18 to Chapter 5 (commencing with Section 6500) of Division 7 of
19 Title 1 of the Government Code, if each entity adopts an ordinance
20 pursuant to subparagraph (A).

21 (11) Following adoption of aggregation through the ordinance
22 described in paragraph (10), the program shall allow any retail
23 customer to opt out and to continue to be served as a bundled
24 service customer by the existing electrical corporation, or its
25 successor in interest. Delivery services shall be provided at the
26 same rates, terms, and conditions, as approved by the commission,
27 for community choice aggregation customers and customers that
28 have entered into a direct transaction where applicable, as
29 determined by the commission. Once enrolled in the aggregated
30 entity, any ratepayer that chooses to opt out within 60 days or two
31 billing cycles of the date of enrollment may do so without penalty
32 and shall be entitled to receive default service pursuant to paragraph
33 (3) of subdivision (a). Customers that return to the electrical
34 corporation for procurement services shall be subject to the same
35 terms and conditions as are applicable to other returning direct
36 access customers from the same class, as determined by the
37 commission, as authorized by the commission pursuant to this
38 code or any other provision of law. Any reentry fees to be imposed
39 after the opt-out period specified in this paragraph, shall be
40 approved by the commission and shall reflect the cost of reentry.

1 The commission shall exclude any amounts previously determined
2 and paid pursuant to subdivisions (d), (e), and (f) from the cost of
3 reentry.

4 (12) Nothing in this section shall be construed as authorizing
5 any city or any community choice retail load aggregator to restrict
6 the ability of retail electricity customers to obtain or receive service
7 from any authorized electric service provider in a manner consistent
8 with law.

9 (13) (A) The community choice aggregator shall fully inform
10 participating customers at least twice within two calendar months,
11 or 60 days, in advance of the date of commencing automatic
12 enrollment. Notifications may occur concurrently with billing
13 cycles. Following enrollment, the aggregated entity shall fully
14 inform participating customers for not less than two consecutive
15 billing cycles. Notification may include, but is not limited to, direct
16 mailings to customers, or inserts in water, sewer, or other utility
17 bills. Any notification shall inform customers of both of the
18 following:

19 (i) That they are to be automatically enrolled and that the
20 customer has the right to opt out of the community choice
21 aggregator without penalty.

22 (ii) The terms and conditions of the services offered.

23 (B) The community choice aggregator may request the
24 commission to approve and order the electrical corporation to
25 provide the notification required in subparagraph (A). If the
26 commission orders the electrical corporation to send one or more
27 of the notifications required pursuant to subparagraph (A) in the
28 electrical corporation's normally scheduled monthly billing
29 process, the electrical corporation shall be entitled to recover from
30 the community choice aggregator all reasonable incremental costs
31 it incurs related to the notification or notifications. The electrical
32 corporation shall fully cooperate with the community choice
33 aggregator in determining the feasibility and costs associated with
34 using the electrical corporation's normally scheduled monthly
35 billing process to provide one or more of the notifications required
36 pursuant to subparagraph (A).

37 (C) Each notification shall also include a mechanism by which
38 a ratepayer may opt out of community choice aggregated service.
39 The opt out may take the form of a self-addressed return postcard
40 indicating the customer's election to remain with, or return to,

1 electrical energy service provided by the electrical corporation, or
2 another straightforward means by which the customer may elect
3 to derive electrical energy service through the electrical corporation
4 providing service in the area.

5 (14) The community choice aggregator shall register with the
6 commission, which may require additional information to ensure
7 compliance with basic consumer protection rules and other
8 procedural matters.

9 (15) Once the community choice aggregator's contract is signed,
10 the community choice aggregator shall notify the applicable
11 electrical corporation that community choice service will
12 commence within 30 days.

13 (16) Once notified of a community choice aggregator program,
14 the electrical corporation shall transfer all applicable accounts to
15 the new supplier within a 30-day period from the date of the close
16 of their normally scheduled monthly metering and billing process.

17 (17) An electrical corporation shall recover from the community
18 choice aggregator any costs reasonably attributable to the
19 community choice aggregator, as determined by the commission,
20 of implementing this section, including, but not limited to, all
21 business and information system changes, except for
22 transaction-based costs as described in this paragraph. Any costs
23 not reasonably attributable to a community choice aggregator shall
24 be recovered from ratepayers, as determined by the commission.
25 All reasonable transaction-based costs of notices, billing, metering,
26 collections, and customer communications or other services
27 provided to an aggregator or its customers shall be recovered from
28 the aggregator or its customers on terms and at rates to be approved
29 by the commission.

30 (18) At the request and expense of any community choice
31 aggregator, electrical corporations shall install, maintain and
32 calibrate metering devices at mutually agreeable locations within
33 or adjacent to the community aggregator's political boundaries.
34 The electrical corporation shall read the metering devices and
35 provide the data collected to the community aggregator at the
36 aggregator's expense. To the extent that the community aggregator
37 requests a metering location that would require alteration or
38 modification of a circuit, the electrical corporation shall only be
39 required to alter or modify a circuit if such alteration or
40 modification does not compromise the safety, reliability or

1 operational flexibility of the electrical corporation's facilities. All
2 costs incurred to modify circuits pursuant to this paragraph, shall
3 be borne by the community aggregator.

4 (d) (1) It is the intent of the Legislature that each retail end-use
5 customer that has purchased power from an electrical corporation
6 on or after February 1, 2001, should bear a fair share of the
7 ~~Department of Water Resources~~² electricity purchase costs *of the*
8 *Department of Water Resources, or its successor, the Department*
9 *of Energy*, as well as electricity purchase contract obligations
10 incurred as of the effective date of the act adding this section, that
11 are recoverable from electrical corporation customers in
12 commission-approved rates. It is further the intent of the
13 Legislature to prevent any shifting of recoverable costs between
14 customers.

15 (2) The Legislature finds and declares that this subdivision is
16 consistent with the requirements of Division 27 (commencing with
17 Section 80000) of the Water Code and Section 360.5, and is
18 therefore declaratory of existing law.

19 (e) A retail end-use customer that purchases electricity from a
20 community choice aggregator pursuant to this section shall pay
21 both of the following:

22 (1) A charge equivalent to the charges that would otherwise be
23 imposed on the customer by the commission to recover bond
24 related costs pursuant to any agreement between the commission
25 and the Department of Water Resources, *or its successor, the*
26 *Department of Energy*, pursuant to Section 80110 of the Water
27 Code, which charge shall be payable until any obligations of the
28 Department of Water Resources pursuant to Division 27
29 (commencing with Section 80000) of the Water Code are fully
30 paid or otherwise discharged.

31 (2) Any additional costs of the Department of Water Resources,
32 *or its successor, the Department of Energy*, equal to the customer's
33 proportionate share of the Department of Water Resources'
34 estimated net unavoidable electricity purchase contract costs as
35 determined by the commission, for the period commencing with
36 the customer's purchases of electricity from the community choice
37 aggregator, through the expiration of all then existing electricity
38 purchase contracts entered into by the Department of Water
39 Resources, *or its successor*.

1 (f) A retail end-use customer purchasing electricity from a
2 community choice aggregator pursuant to this section shall
3 reimburse the electrical corporation that previously served the
4 customer for all of the following:

5 (1) The electrical corporation's unrecovered past
6 undercollections for electricity purchases, including any financing
7 costs, attributable to that customer, that the commission lawfully
8 determines may be recovered in rates.

9 (2) Any additional costs of the electrical corporation recoverable
10 in commission-approved rates, equal to the share of the electrical
11 corporation's estimated net unavoidable electricity purchase
12 contract costs attributable to the customer, as determined by the
13 commission, for the period commencing with the customer's
14 purchases of electricity from the community choice aggregator,
15 through the expiration of all then existing electricity purchase
16 contracts entered into by the electrical corporation.

17 (g) (1) Any charges imposed pursuant to subdivision (e) shall
18 be the property of the Department of Water Resources. Any charges
19 imposed pursuant to subdivision (f) shall be the property of the
20 electrical corporation. The commission shall establish mechanisms,
21 including agreements with, or orders with respect to, electrical
22 corporations necessary to ensure that charges payable pursuant to
23 this section shall be promptly remitted to the party entitled to
24 payment.

25 (2) Charges imposed pursuant to subdivisions (d), (e), and (f)
26 shall be nonbypassable.

27 (h) Notwithstanding Section 80110 of the Water Code, the
28 commission shall authorize community choice aggregation only
29 if the commission imposes a cost-recovery mechanism pursuant
30 to subdivisions (d), (e), (f), and (g). Except as provided by this
31 subdivision, this section shall not alter the suspension by the
32 commission of direct purchases of electricity from alternate
33 providers other than by community choice aggregators, pursuant
34 to Section 80110 of the Water Code.

35 (i) (1) The commission shall not authorize community choice
36 aggregation until it implements a cost-recovery mechanism,
37 consistent with subdivisions (d), (e), and (f), that is applicable to
38 customers that elected to purchase electricity from an alternate
39 provider between February 1, 2001, and January 1, 2003.

1 (2) The commission shall not authorize community choice
2 aggregation until it submits a report certifying compliance with
3 paragraph (1) to the Senate Energy, Utilities and Communications
4 Committee, or its successor, and the Assembly Committee on
5 Utilities and Commerce, or its successor.

6 (3) The commission shall not authorize community choice
7 aggregation until it has adopted rules for implementing community
8 choice aggregation.

9 (j) The commission shall prepare and submit to the Legislature,
10 on or before January 1, 2006, a report regarding the number of
11 community choices aggregations, the number of customers served
12 by community choice aggregations, third party suppliers to
13 community choice aggregations, compliance with this section, and
14 the overall effectiveness of community choice aggregation
15 programs.

16 SEC. 288. Section 384 of the Public Utilities Code is amended
17 to read:

18 384. (a) Funds transferred to the ~~State Energy Resources~~
19 ~~Conservation and Development Commission~~ *Department of Energy*
20 pursuant to this article for purposes of public interest research,
21 development, and demonstration shall be transferred to the Public
22 Interest Research, Development, and Demonstration Fund, which
23 is hereby created in the State Treasury. The fund is a trust fund
24 and shall contain money from all interest, repayments,
25 disencumbrances, royalties, and any other proceeds appropriated,
26 transferred, or otherwise received for purposes pertaining to public
27 interest research, development, and demonstration. Any
28 appropriations that are made from the fund shall have an
29 encumbrance period of not longer than two years, and a liquidation
30 period of not longer than four years.

31 (b) Funds deposited in the Public Interest Research,
32 Development, and Demonstration Fund may be expended for
33 projects that serve the energy needs of both stationary and
34 transportation purposes if the research provides an electricity
35 ratepayer benefit.

36 (c) The ~~State Energy Resources Conservation and Development~~
37 ~~Commission~~ *Department of Energy* shall report annually to the
38 appropriate budget committees of the Legislature on any
39 encumbrances or liquidations that are outstanding at the time the
40 commission's budget is submitted to the Legislature for review.

1 SEC. 289. Section 398.2 of the Public Utilities Code is
2 amended to read:

3 398.2. The definitions set forth in this section shall govern the
4 construction of this article.

5 (a) “System operator” means the Independent System Operator
6 with responsibility for the efficient use and reliable operation of
7 the transmission grid, as provided by Section 345, or a local
8 publicly owned electric utility that does not utilize the Independent
9 System Operator.

10 (b) “Specific purchases” means electricity transactions ~~which~~
11 *that* are traceable to specific generation sources by any auditable
12 contract trail or equivalent, such as a tradable commodity system,
13 that provides commercial verification that the electricity source
14 claimed has been sold once and only once to a retail consumer.
15 Retail suppliers may rely on annual data to meet this requirement,
16 rather than hour-by-hour matching of loads and resources.

17 (c) “Net system power” means the mix of electricity fuel source
18 types established by the ~~California Energy Resources Conservation~~
19 ~~and Development Commission~~ *Department of Energy* representing
20 the sources of electricity consumed in California that are not
21 disclosed as specific purchases pursuant to Section 398.4.

22 SEC. 290. Section 398.3 of the Public Utilities Code is
23 amended to read:

24 398.3. (a) Beginning January 1, 1998, or as soon as practicable
25 thereafter, each generator that provides meter data to a system
26 operator shall report to the system operator electricity generated
27 in kilowatthours by hour by generator, the fuel type or fuel types
28 and fuel consumption by fuel type by month on an historical
29 recorded quarterly basis. Facilities using only one fuel type may
30 satisfy this requirement by reporting fuel type only. With regard
31 to any facility using more than one fuel type, reports shall reflect
32 the fuel consumed as a percentage of electricity generation.

33 (b) ~~The California Energy Resources Conservation and~~
34 ~~Development Commission~~ *Department of Energy* shall have
35 authorization to access the electricity generation data in
36 kilowatthours by hour for each facility that provides meter data to
37 the system operator, and the fuel type or fuel types.

38 (c) With regard to out-of-state generation, the ~~California Energy~~
39 ~~Resources Conservation and Development Commission~~
40 *Department of Energy* shall have authorization to access the

1 electricity generation data in kilowatthours by hour at the point at
2 which out-of-state generation is metered, to the extent the
3 information has been submitted to a system operator.

4 (d) Trade secrets as defined in subdivision (d) of Section 3426.1
5 of the Civil Code contained in the information provided to the
6 system operators pursuant to this section shall be treated as
7 confidential. These data may be disclosed only by the system
8 operators and only by authorization of the generator except that
9 ~~the California Energy Resources Conservation and Development~~
10 ~~Commission~~ *Department of Energy* shall have authorization to
11 access these data, shall consider all these data to be trade secrets,
12 and shall only release these data in an aggregated form such that
13 trade secrets cannot be discerned.

14 SEC. 291. Section 398.5 of the Public Utilities Code is
15 amended to read:

16 398.5. (a) Retail suppliers that disclose specific purchases
17 pursuant to Section 398.4 shall report on March 1, 1999, and
18 annually thereafter, to the ~~California Energy Resources~~
19 ~~Conservation and Development Commission~~, *Department of*
20 *Energy*, for each electricity offering, for the previous calendar year
21 each of the following:

22 (1) The kilowatthours purchased, by generator and fuel type
23 during the previous calendar year, consistent with the meter data,
24 including losses, reported to the system operator.

25 (2) For each electricity offering the kilowatthours sold at retail.

26 (3) For each electricity offering the disclosures made to
27 consumers pursuant to Section 398.4.

28 (b) Information submitted to the ~~California Energy Resources~~
29 ~~Conservation and Development Commission~~ *Department of Energy*
30 pursuant to this section that is a trade secret as defined in
31 subdivision (d) of Section 3426.1 of the Civil Code shall not be
32 released except in an aggregated form such that trade secrets cannot
33 be discerned.

34 (c) On or before January 1, 1998, the ~~California Energy~~
35 ~~Resources Conservation and Development Commission~~
36 *Department of Energy* shall specify guidelines and standard
37 formats, based on the requirements of this article and subject to
38 public hearing, for the submittal of information pursuant to this
39 article.

1 (d) In developing the rules and procedures specified in this
2 section, the ~~California Energy Resources Conservation and~~
3 ~~Development Commission~~ *Department of Energy* shall seek to
4 minimize the reporting burden and cost of reporting that it imposes
5 on retail suppliers.

6 (e) On or before October 15, 1999, and annually thereafter, the
7 ~~California Energy Resources Conservation and Development~~
8 ~~Commission~~ *Department of Energy* shall issue a report comparing
9 information available pursuant to Section 398.3 with information
10 submitted by retail suppliers pursuant to this section, and with
11 information disclosed to consumers pursuant to Section 398.4.
12 This report shall be forwarded to the California Public Utilities
13 Commission.

14 (f) Beginning April 15, 1999, and annually thereafter, the
15 ~~California Energy Resources Conservation and Development~~
16 ~~Commission~~ *Department of Energy* shall issue a report calculating
17 net system power. The ~~California Energy Resources Conservation~~
18 ~~and Development Commission~~ *department* will establish the
19 generation mix for net generation imports delivered at interface
20 points and metered by the system operators. The ~~California Energy~~
21 ~~Resources Conservation and Development Commission~~ *department*
22 shall issue an initial report calculating preliminary net system
23 power for calendar year 1997 on or before January 1, 1998. This
24 report shall be updated on or before October 15, 1998.

25 (g) ~~The provisions of this~~ *This section shall* does not apply to
26 generators providing electric service onsite, under an over-the-fence
27 transaction as described in Section 218, or to an affiliate or
28 affiliates, as defined in subdivision (a) of Section 372.

29 (h) The ~~California Energy Resources Conservation and~~
30 ~~Development Commission~~ *Department of Energy* may verify the
31 veracity of environmental claims made by retail suppliers.

32 SEC. 292. Section 399.25 of the Public Utilities Code is
33 amended to read:

34 399.25. (a) Notwithstanding any other provision in Sections
35 1001 to 1013, inclusive, an application of an electrical corporation
36 for a certificate authorizing the construction of new transmission
37 facilities shall be deemed to be necessary to the provision of
38 electric service for purposes of any determination made under
39 Section 1003 if the ~~commission~~ *Department of Energy* finds that
40 the new facility is necessary to facilitate achievement of the

1 renewable power goals established in Article 16 (commencing
2 with Section 399.11).

3 (b) With respect to a transmission facility described in
4 subdivision (a), the ~~commission~~ *Department of Energy* shall take
5 all feasible actions to ensure that the transmission rates established
6 by the Federal Energy Regulatory Commission are fully reflected
7 in any retail rates established by the commission. These actions
8 shall include, but are not limited to:

9 (1) Making findings, where supported by an evidentiary record,
10 that those transmission facilities provide benefit to the transmission
11 network and are necessary to facilitate the achievement of the
12 renewables portfolio standard established in Article 16
13 (commencing with Section 399.11).

14 (2) Directing the utility to which the generator will be
15 interconnected, where the direction is not preempted by federal
16 law, to seek the recovery through general transmission rates of the
17 costs associated with the transmission facilities.

18 (3) Asserting the positions described in paragraphs (1) and (2)
19 to the Federal Energy Regulatory Commission in appropriate
20 proceedings.

21 ~~(4) Allowing~~

22 (c) *The commission shall allow* recovery in retail rates of any
23 increase in transmission costs incurred by an electrical corporation
24 resulting from the construction of the transmission facilities that
25 are not approved for recovery in transmission rates by the Federal
26 Energy Regulatory Commission after the commission determines
27 that the costs were prudently incurred in accordance with
28 subdivision (a) of Section 454.

29 SEC. 293. Section 399.8 of the Public Utilities Code is
30 amended to read:

31 399.8. (a) In order to ensure that the citizens of this state
32 continue to receive safe, reliable, affordable, and environmentally
33 sustainable electric service, it is the policy of this state and the
34 intent of the Legislature that prudent investments in energy
35 efficiency, renewable energy, and research, development and
36 demonstration shall continue to be made.

37 (b) (1) Every customer of an electrical corporation shall pay a
38 nonbypassable system benefits charge authorized pursuant to this
39 article. The system benefits charge shall fund energy efficiency,
40 renewable energy, and research, development and demonstration.

1 (2) Local publicly owned electric utilities shall continue to
2 collect and administer system benefits charges pursuant to Section
3 385.

4 (c) (1) The commission shall require each electrical corporation
5 to identify a separate rate component to collect revenues to fund
6 energy efficiency, renewable energy, and research, development
7 and demonstration programs authorized pursuant to this section
8 beginning January 1, 2002, and ending January 1, 2012. The rate
9 component shall be a nonbypassable element of the local
10 distribution service and collected on the basis of usage.

11 (2) This rate component may not exceed, for any tariff schedule,
12 the level of the rate component that was used to recover funds
13 authorized pursuant to Section 381 on January 1, 2000. If the
14 amounts specified in paragraph (1) of subdivision (d) are not
15 recovered fully in any year, the commission shall reset the rate
16 component to restore the unrecovered balance, provided that the
17 rate component may not exceed, for any tariff schedule, the level
18 of the rate component that was used to recover funds authorized
19 pursuant to Section 381 on January 1, 2000. Pending restoration,
20 any annual shortfalls shall be allocated pro rata among the three
21 funding categories in the proportions established in paragraph (1)
22 of subdivision (d).

23 (d) The commission shall order San Diego Gas and Electric
24 Company, Southern California Edison Company, and Pacific Gas
25 and Electric Company to collect these funds commencing on
26 January 1, 2002, as follows:

27 (1) Two hundred twenty-eight million dollars (\$228,000,000)
28 per year in total for energy efficiency and conservation activities,
29 sixty-five million five hundred thousand dollars (\$65,500,000) in
30 total per year for renewable energy, and sixty-two million five
31 hundred thousand dollars (\$62,500,000) in total per year for
32 research, development and demonstration. The funds for energy
33 efficiency and conservation activities shall continue to be allocated
34 in proportions established for the year 2000 as set forth in
35 paragraph (1) of subdivision (c) of Section 381.

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

39 (e) The commission shall ensure that each electrical corporation
40 allocates funds transferred by the ~~Energy Commission~~ *department*

1 pursuant to subdivision (b) of Section 25743 in a manner that
 2 maximizes the economic benefit to all customer classes that funded
 3 the New Renewable Resources Account.

4 (f) The commission and the ~~Energy Commission~~ *department*
 5 shall retain and continue their oversight responsibilities as set forth
 6 in Sections 381 and 383 *of this code*, and Chapter 7.1 (commencing
 7 with Section 25620) and Chapter 8.6 (commencing with Section
 8 25740) of Division 15 of the Public Resources Code.

9 (g) An applicant for the Large Nonresidential Standard
 10 Performance Contract Program funded pursuant to paragraph (1)
 11 of subdivision (b) and an electrical corporation shall promptly
 12 attempt to resolve disputes that arise related to the program’s
 13 guidelines and parameters prior to entering into a program
 14 agreement. The applicant shall provide the electrical corporation
 15 with written notice of any dispute. Within 10 business days after
 16 receipt of the notice, the parties shall meet to resolve the dispute.
 17 If the dispute is not resolved within 10 business days after the date
 18 of the meeting, the electrical corporation shall notify the applicant
 19 of his or her right to file a complaint with the commission, which
 20 complaint shall describe the grounds for the complaint, injury, and
 21 relief sought. The commission shall issue its findings in response
 22 to a filed complaint within 30 business days of the date of receipt
 23 of the complaint. Prior to issuance of its findings, the commission
 24 shall provide a copy of the complaint to the electrical corporation,
 25 which shall provide a response to the complaint to the commission
 26 within five business days of the date of receipt. During the dispute
 27 period, the amount of estimated financial incentives shall be held
 28 in reserve until the dispute is resolved.

29 SEC. 294. Section 399.11 of the Public Utilities Code is
 30 amended to read:

31 399.11. The Legislature finds and declares all of the following:

32 (a) In order to attain a target of generating 20 percent of total
 33 retail sales of electricity in California from eligible renewable
 34 energy resources by December 31, 2010, and for the purposes of
 35 increasing the diversity, reliability, public health and environmental
 36 benefits of the energy mix, it is the intent of the Legislature that
 37 the commission and the ~~State Energy Resources Conservation and~~
 38 ~~Development Commission~~ *Department of Energy* implement the
 39 California Renewables Portfolio Standard Program described in
 40 this article.

1 (b) Increasing California’s reliance on eligible renewable energy
2 resources may promote stable electricity prices, protect public
3 health, improve environmental quality, stimulate sustainable
4 economic development, create new employment opportunities,
5 and reduce reliance on imported fuels.

6 (c) The development of eligible renewable energy resources
7 and the delivery of the electricity generated by those resources to
8 customers in California may ameliorate air quality problems
9 throughout the state and improve public health by reducing the
10 burning of fossil fuels and the associated environmental impacts
11 and by reducing in-state fossil fuel consumption.

12 (d) The California Renewables Portfolio Standard Program is
13 intended to complement the Renewable Energy Resources Program
14 administered by the ~~State Energy Resources Conservation and~~
15 ~~Development Commission~~ *Department of Energy* and established
16 pursuant to Chapter 8.6 (commencing with Section 25740) of
17 Division 15 of the Public Resources Code.

18 (e) New and modified electric transmission facilities may be
19 necessary to facilitate the state achieving its renewables portfolio
20 standard targets.

21 SEC. 295. Section 399.12 of the Public Utilities Code is
22 amended to read:

23 399.12. For purposes of this article, the following terms have
24 the following meanings:

25 (a) “Conduit hydroelectric facility” means a facility for the
26 generation of electricity that uses only the hydroelectric potential
27 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other
28 manmade conduit that is operated to distribute water for a
29 beneficial use.

30 (b) “Delivered” and “delivery” have the same meaning as
31 provided in subdivision (a) of Section 25741 of the Public
32 Resources Code.

33 (c) “Eligible renewable energy resource” means an electric
34 generating facility that meets the definition of “in-state renewable
35 electricity generation facility” in Section 25741 of the Public
36 Resources Code, subject to the following limitations:

37 (1) (A) An existing small hydroelectric generation facility of
38 30 megawatts or less shall be eligible only if a retail seller or local
39 publicly owned electric utility owned or procured the electricity
40 from the facility as of December 31, 2005. A new hydroelectric

1 facility is not an eligible renewable energy resource if it will cause
2 an adverse impact on instream beneficial uses or cause a change
3 in the volume or timing of streamflow.

4 (B) Notwithstanding subparagraph (A), a conduit hydroelectric
5 facility of 30 megawatts or less that commenced operation before
6 January 1, 2006, is an eligible renewable energy resource. A
7 conduit hydroelectric facility of 30 megawatts or less that
8 commences operation after December 31, 2005, is an eligible
9 renewable energy resource so long as it does not cause an adverse
10 impact on instream beneficial uses or cause a change in the volume
11 or timing of streamflow.

12 (2) A facility engaged in the combustion of municipal solid
13 waste shall not be considered an eligible renewable resource unless
14 it is located in Stanislaus County and was operational prior to
15 September 26, 1996.

16 (d) “Procure” means that a retail seller or local publicly owned
17 electric utility receives delivered electricity generated by an eligible
18 renewable energy resource that it owns or for which it has entered
19 into an electricity purchase agreement. Nothing in this article is
20 intended to imply that the purchase of electricity from third parties
21 in a wholesale transaction is the preferred method of fulfilling a
22 retail seller’s obligation to comply with this article or the obligation
23 of a local publicly owned electric utility to meet its renewables
24 portfolio standard implemented pursuant to Section 387.

25 (e) “Renewables portfolio standard” means the specified
26 percentage of electricity generated by eligible renewable energy
27 resources that a retail seller is required to procure pursuant to this
28 article or the obligation of a local publicly owned electric utility
29 to meet its renewables portfolio standard implemented pursuant
30 to Section 387.

31 (f) (1) “Renewable energy credit” means a certificate of proof,
32 issued through the accounting system established by the ~~Energy~~
33 ~~Commission~~ *Department of Energy* pursuant to Section 399.13,
34 that one unit of electricity was generated and delivered by an
35 eligible renewable energy resource.

36 (2) “Renewable energy credit” includes all renewable and
37 environmental attributes associated with the production of
38 electricity from the eligible renewable energy resource, except for
39 an emissions reduction credit issued pursuant to Section 40709 of
40 the Health and Safety Code and any credits or payments associated

1 with the reduction of solid waste and treatment benefits created
2 by the utilization of biomass or biogas fuels.

3 (3) No electricity generated by an eligible renewable energy
4 resource attributable to the use of nonrenewable fuels, beyond a
5 de minimis quantity, as determined by the Energy Commission,
6 shall result in the creation of a renewable energy credit.

7 (g) “Retail seller” means an entity engaged in the retail sale of
8 electricity to end-use customers located within the state, including
9 any of the following:

10 (1) An electrical corporation, as defined in Section 218.

11 (2) A community choice aggregator. The commission shall
12 institute a rulemaking to determine the manner in which a
13 community choice aggregator will participate in the renewables
14 portfolio standard program subject to the same terms and conditions
15 applicable to an electrical corporation.

16 (3) An electric service provider, as defined in Section 218.3,
17 for all sales of electricity to customers beginning January 1, 2006.
18 The commission shall institute a rulemaking to determine the
19 manner in which electric service providers will participate in the
20 renewables portfolio standard program. The electric service
21 provider shall be subject to the same terms and conditions
22 applicable to an electrical corporation pursuant to this ~~article~~.
23 ~~Nothing in this article. This paragraph shall~~ does not impair a
24 contract entered into between an electric service provider and a
25 retail customer prior to the suspension of direct access by the
26 commission pursuant to Section 80110 of the Water Code.

27 (4) “Retail seller” does not include any of the following:

28 (A) A corporation or person employing cogeneration technology
29 or producing electricity consistent with subdivision (b) of Section
30 218.

31 (B) The Department of Water Resources, *or its successor; the*
32 *Department of Energy*, acting in its capacity pursuant to Division
33 27 (commencing with Section 80000) of the Water Code.

34 (C) A local publicly owned electric utility.

35 SEC. 296. Section 399.13 of the Public Utilities Code is
36 amended to read:

37 399.13. ~~The Energy Commission~~ *department* shall do all of
38 the following:

39 (a) Certify eligible renewable energy resources that it determines
40 meet the criteria described in subdivision ~~(b)~~ (c) of Section 399.12.

1 (b) Design and implement an accounting system to verify
2 compliance with the renewables portfolio standard by retail sellers,
3 to ensure that electricity generated by an eligible renewable energy
4 resource is counted only once for the purpose of meeting the
5 renewables portfolio standard of this state or any other state, to
6 certify renewable energy credits produced by eligible renewable
7 energy resources, and to verify retail product claims in this state
8 or any other state. In establishing the guidelines governing this
9 accounting system, the ~~Energy Commission~~ *department* shall
10 collect data from electricity market participants that it deems
11 necessary to verify compliance of retail sellers, in accordance with
12 the requirements of this article and the California Public Records
13 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
14 of Title 1 of the Government Code). In seeking data from electrical
15 corporations, the ~~Energy Commission~~ *department* shall request
16 data from the commission. The commission shall collect data from
17 electrical corporations and remit the data to the ~~Energy~~
18 ~~Commission~~ *department* within 90 days of the request.

19 (c) Establish a system for tracking and verifying renewable
20 energy credits that, through the use of independently audited data,
21 verifies the generation and delivery of electricity associated with
22 each renewable energy credit and protects against multiple counting
23 of the same renewable energy credit. The ~~Energy Commission~~
24 *department* shall consult with other western states and with the
25 Western Electricity Coordinating Council in the development of
26 this system.

27 (d) Certify, for purposes of compliance with the renewable
28 portfolio standard requirements by a retail seller, the eligibility of
29 renewable energy credits associated with deliveries of electricity
30 by an eligible renewable energy resource to a local publicly owned
31 electric utility, if the ~~Energy Commission~~ *department* determines
32 that the following conditions have been satisfied:

33 (1) The local publicly owned electric utility that is procuring
34 the electricity is in compliance with the requirements of Section
35 387.

36 (2) The local publicly owned electric utility has established an
37 annual renewables portfolio standard target comparable to those
38 applicable to an electrical corporation, is procuring sufficient
39 eligible renewable energy resources to satisfy the targets, and will

1 not fail to satisfy the targets in the event that the renewable energy
2 credit is sold to another retail seller.

3 SEC. 297. Section 399.15 of the Public Utilities Code is
4 amended to read:

5 399.15. (a) In order to fulfill unmet long-term resource needs,
6 the commission shall establish a renewables portfolio standard
7 requiring all electrical corporations to procure a minimum quantity
8 of electricity generated by eligible renewable energy resources as
9 a specified percentage of total kilowatthours sold to their retail
10 end-use customers each calendar year, subject to limits on the total
11 amount of costs expended above the market prices determined in
12 subdivision (c), to achieve the targets established under this article.

13 (b) The commission shall implement annual procurement targets
14 for each retail seller as follows:

15 (1) Each retail seller shall, pursuant to subdivision (a), increase
16 its total procurement of eligible renewable energy resources by at
17 least an additional 1 percent of retail sales per year so that 20
18 percent of its retail sales are procured from eligible renewable
19 energy resources no later than December 31, 2010. A retail seller
20 with 20 percent of retail sales procured from eligible renewable
21 energy resources in any year shall not be required to increase its
22 procurement of renewable energy resources in the following year.

23 (2) For purposes of setting annual procurement targets, the
24 commission shall establish an initial baseline for each retail seller
25 based on the actual percentage of retail sales procured from eligible
26 renewable energy resources in 2001, and to the extent applicable,
27 adjusted going forward pursuant to Section 399.12.

28 (3) Only for purposes of establishing these targets, the
29 commission shall include all electricity sold to retail customers by
30 the Department of Water Resources, *or its successor*, pursuant to
31 Section 80100 of the Water Code in the calculation of retail sales
32 by an electrical corporation.

33 (4) In the event that a retail seller fails to procure sufficient
34 eligible renewable energy resources in a given year to meet any
35 annual target established pursuant to this subdivision, the retail
36 seller shall procure additional eligible renewable energy resources
37 in subsequent years to compensate for the shortfall, subject to the
38 limitation on costs for electrical corporations established pursuant
39 to subdivision (d).

1 (c) The commission shall establish a methodology to determine
2 the market price of electricity for terms corresponding to the length
3 of contracts with eligible renewable energy resources, in
4 consideration of the following:

5 (1) The long-term market price of electricity for fixed price
6 contracts, determined pursuant to an electrical corporation’s general
7 procurement activities as authorized by the commission.

8 (2) The long-term ownership, operating, and fixed-price fuel
9 costs associated with fixed-price electricity from new generating
10 facilities.

11 (3) The value of different products including baseload, peaking,
12 and as-available electricity.

13 (d) The commission shall establish, for each electrical
14 corporation, a limitation on the total costs expended above the
15 market prices determined in subdivision (c) for the procurement
16 of eligible renewable energy resources to achieve the annual
17 procurement targets established under this article.

18 (1) The cost limitation shall be equal to the amount of funds
19 transferred to each electrical corporation by the ~~Energy~~
20 ~~Commission~~ *department* pursuant to subdivision (b) of Section
21 25743 of the Public Resources Code and the 51.5 percent of the
22 funds which would have been collected through January 1, 2012,
23 from the customers of the electrical corporation based on the
24 renewable energy public goods charge in effect as of January 1,
25 2007.

26 (2) The above-market costs of a contract selected by an electrical
27 corporation may be counted toward the cost limitation if all of the
28 following conditions are satisfied:

29 (A) The contract has been approved by the commission and was
30 selected through a competitive solicitation pursuant to the
31 requirements of subdivision (d) of Section 399.14.

32 (B) The contract covers a duration of no less than 10 years.

33 (C) The contracted project is a new or repowered facility
34 commencing commercial operations on or after January 1, 2005.

35 (D) No purchases of renewable energy credits may be eligible
36 for consideration as an above-market cost.

37 (E) The above-market costs of a contract do not include any
38 indirect expenses including imbalance energy charges, sale of
39 excess energy, decreased generation from existing resources, or
40 transmission upgrades.

1 (3) If the cost limitation for an electrical corporation is
2 insufficient to support the total costs expended above the market
3 prices determined in subdivision (c) for the procurement of eligible
4 renewable energy resources satisfying the conditions of paragraph
5 (2), the commission shall allow the electrical corporation to limit
6 its procurement to the quantity of eligible renewable energy
7 resources that can be procured at or below the market prices
8 established in subdivision (c).

9 (4) ~~Nothing in this~~ *This section prevents does not prevent* an
10 electrical corporation from voluntarily proposing to procure eligible
11 renewable energy resources at above-market prices that are not
12 counted toward the cost limitation. Any voluntary procurement
13 involving above-market costs shall be subject to commission
14 approval prior to the expense being recovered in rates.

15 (e) The establishment of a renewables portfolio standard shall
16 not constitute implementation by the commission of the federal
17 Public Utility Regulatory Policies Act of 1978 (Public Law
18 95-617).

19 (f) The commission shall consult with the ~~Energy Commission~~
20 *department* in calculating market prices under subdivision (c) and
21 establishing other renewables portfolio standard policies.

22 SEC. 298. Section 399.16 of the Public Utilities Code is
23 amended to read:

24 399.16. (a) The commission, by rule, may authorize the use
25 of renewable energy credits to satisfy the requirements of the
26 renewables portfolio standard established pursuant to this article,
27 subject to the following conditions:

28 (1) Prior to authorizing any renewable energy credit to be used
29 toward satisfying annual procurement targets, the commission and
30 the ~~Energy Commission~~ *department* shall conclude that the tracking
31 system established pursuant to subdivision (c) of Section 399.13,
32 is operational, is capable of independently verifying the electricity
33 generated by an eligible renewable energy resource and delivered
34 to the retail seller, and can ensure that renewable energy credits
35 shall not be double counted by any seller of electricity within the
36 service territory of the Western Electricity Coordinating Council
37 (WECC).

38 (2) A renewable energy credit shall be counted only once for
39 compliance with the renewables portfolio standard of this state or

1 any other state, or for verifying retail product claims in this state
2 or any other state.

3 (3) The electricity is delivered to a retail seller, the Independent
4 System Operator, or a local publicly owned electric utility.

5 (4) All revenues received by an electrical corporation for the
6 sale of a renewable energy credit shall be credited to the benefit
7 of ratepayers.

8 (5) No renewable energy credits shall be created for electricity
9 generated pursuant to any electricity purchase contract with a retail
10 seller or a local publicly owned electric utility executed before
11 January 1, 2005, unless the contract contains explicit terms and
12 conditions specifying the ownership or disposition of those credits.
13 Deliveries under those contracts shall be tracked through the
14 accounting system described in subdivision (b) of Section 399.13
15 and included in the baseline quantity of eligible renewable energy
16 resources of the purchasing retail seller pursuant to Section 399.15.

17 (6) ~~No~~ A renewable energy credits shall *not* be created for
18 electricity generated under any electricity purchase contract
19 executed after January 1, 2005, pursuant to the federal Public
20 Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec. 2601 et
21 seq.). Deliveries under the electricity purchase contracts shall be
22 tracked through the accounting system described in subdivision
23 (b) of Section 399.12 and count toward the renewables portfolio
24 standard obligations of the purchasing retail seller.

25 (7) The commission may limit the quantity of renewable energy
26 credits that may be procured unbundled from electricity generation
27 by any retail seller, to meet the requirements of this article.

28 (8) ~~No~~ An electrical corporation shall *not* be obligated to procure
29 renewable energy credits to satisfy the requirements of this article
30 in the event that the total costs expended above the applicable
31 market prices for the procurement of eligible renewable energy
32 resources exceeds the cost limitation established pursuant to
33 subdivision (d) of Section 399.15.

34 (9) Any additional condition that the commission determines
35 is reasonable.

36 (b) The commission shall allow an electrical corporation to
37 recover the reasonable costs of purchasing renewable energy credits
38 in rates.

39 SEC. 299. Section 411 is added to the Public Utilities Code,
40 to read:

1 411. All fees collected by the commission from electrical
2 corporations and gas corporations to support those functions of
3 the commission in reviewing and issuing certificates of public
4 convenience and necessity that are transferred to the California
5 Energy Commission within the Department of Energy pursuant to
6 subdivision (b) of Section 1001, shall be identified and transferred
7 to the Secretary of Energy, at least quarterly, upon the assumption
8 by the department of those functions.

9 SEC. 300. Section 454.5 of the Public Utilities Code is
10 amended to read:

11 454.5. (a) The commission shall specify the allocation of
12 electricity, including quantity, characteristics, and duration of
13 electricity delivery, that the Department of Water Resources, *or*
14 *its successor*, shall provide under its power purchase agreements
15 to the customers of each electrical corporation, which shall be
16 reflected in the electrical corporation's proposed procurement plan.
17 Each electrical corporation shall file a proposed procurement plan
18 with the commission not later than 60 days after the commission
19 specifies the allocation of electricity. The proposed procurement
20 plan shall specify the date that the electrical corporation intends
21 to resume procurement of electricity for its retail customers,
22 consistent with its obligation to serve. After the commission's
23 adoption of a procurement plan, the commission shall allow not
24 less than 60 days before the electrical corporation resumes
25 procurement pursuant to this section.

26 (b) An electrical corporation's proposed procurement plan shall
27 include, but not be limited to, all of the following:

28 (1) An assessment of the price risk associated with the electrical
29 corporation's portfolio, including any utility-retained generation,
30 existing power purchase and exchange contracts, and proposed
31 contracts or purchases under which an electrical corporation will
32 procure electricity, electricity demand reductions, and
33 electricity-related products and the remaining open position to be
34 served by spot market transactions.

35 (2) A definition of each electricity product, electricity-related
36 product, and procurement related financial product, including
37 support and justification for the product type and amount to be
38 procured under the plan.

39 (3) The duration of the plan.

1 (4) The duration, timing, and range of quantities of each product
2 to be procured.

3 (5) A competitive procurement process under which the
4 electrical corporation may request bids for procurement-related
5 services, including the format and criteria of that procurement
6 process.

7 (6) An incentive mechanism, if any incentive mechanism is
8 proposed, including the type of transactions to be covered by that
9 mechanism, their respective procurement benchmarks, and other
10 parameters needed to determine the sharing of risks and benefits.

11 (7) The upfront standards and criteria by which the acceptability
12 and eligibility for rate recovery of a proposed procurement
13 transaction will be known by the electrical corporation prior to
14 execution of the transaction. This shall include an expedited
15 approval process for the commission's review of proposed contracts
16 and subsequent approval or rejection thereof. The electrical
17 corporation shall propose alternative procurement choices in the
18 event a contract is rejected.

19 (8) Procedures for updating the procurement plan.

20 (9) A showing that the procurement plan will achieve the
21 following:

22 (A) The electrical corporation will, in order to fulfill its unmet
23 resource needs and in furtherance of Section 701.3, until a 20
24 percent renewable resources portfolio is achieved, procure
25 renewable energy resources with the goal of ensuring that at least
26 an additional 1 percent per year of the electricity sold by the
27 electrical corporation is generated from renewable energy
28 resources, provided sufficient funds are made available pursuant
29 to Sections 399.6 and 399.15, to cover the above-market costs for
30 new renewable energy resources.

31 (B) The electrical corporation will create or maintain a
32 diversified procurement portfolio consisting of both short-term
33 and long-term electricity and electricity-related and demand
34 reduction products.

35 (C) The electrical corporation will first meet its unmet resource
36 needs through all available energy efficiency and demand reduction
37 resources that are cost effective, reliable, and feasible.

38 (10) The electrical corporation's risk management policy,
39 strategy, and practices, including specific measures of price
40 stability.

1 (11) A plan to achieve appropriate increases in diversity of
2 ownership and diversity of fuel supply of nonutility electrical
3 generation.

4 (12) A mechanism for recovery of reasonable administrative
5 costs related to procurement in the generation component of rates.

6 (c) The commission shall review and accept, modify, or reject
7 each electrical corporation's procurement plan. The commission's
8 review shall consider each electrical corporation's individual
9 procurement situation, and shall give strong consideration to that
10 situation in determining which one or more of the features set forth
11 in this subdivision shall apply to that electrical corporation. A
12 procurement plan approved by the commission shall contain one
13 or more of the following features, provided that the commission
14 may not approve a feature or mechanism for an electrical
15 corporation if it finds that the feature or mechanism would impair
16 the restoration of an electrical corporation's creditworthiness or
17 would lead to a deterioration of an electrical corporation's
18 creditworthiness:

19 (1) A competitive procurement process under which the
20 electrical corporation may request bids for procurement-related
21 services. The commission shall specify the format of that
22 procurement process, as well as criteria to ensure that the auction
23 process is open and adequately subscribed. Any purchases made
24 in compliance with the commission-authorized process shall be
25 recovered in the generation component of rates.

26 (2) An incentive mechanism that establishes a procurement
27 benchmark or benchmarks and authorizes the electrical corporation
28 to procure from the market, subject to comparing the electrical
29 corporation's performance to the commission-authorized
30 benchmark or benchmarks. The incentive mechanism shall be
31 clear, achievable, and contain quantifiable objectives and standards.
32 The incentive mechanism shall contain balanced risk and reward
33 incentives that limit the risk and reward of an electrical corporation.

34 (3) Upfront achievable standards and criteria by which the
35 acceptability and eligibility for rate recovery of a proposed
36 procurement transaction will be known by the electrical corporation
37 prior to the execution of the bilateral contract for the transaction.
38 The commission shall provide for expedited review and either
39 approve or reject the individual contracts submitted by the electrical
40 corporation to ensure compliance with its procurement plan. To

1 the extent the commission rejects a proposed contract pursuant to
2 this criteria, the commission shall designate alternative procurement
3 choices obtained in the procurement plan that will be recoverable
4 for ratemaking purposes.

5 (d) A procurement plan approved by the commission shall
6 accomplish each of the following objectives:

7 (1) Enable the electrical corporation to fulfill its obligation to
8 serve its customers at just and reasonable rates.

9 (2) Eliminate the need for after-the-fact reasonableness reviews
10 of an electrical corporation's actions in compliance with an
11 approved procurement plan, including resulting electricity
12 procurement contracts, practices, and related expenses. However,
13 the commission may establish a regulatory process to verify and
14 assure that each contract was administered in accordance with the
15 terms of the contract, and contract disputes which may arise are
16 reasonably resolved.

17 (3) Ensure timely recovery of prospective procurement costs
18 incurred pursuant to an approved procurement plan. The
19 commission shall establish rates based on forecasts of procurement
20 costs adopted by the commission, actual procurement costs
21 incurred, or combination thereof, as determined by the commission.
22 The commission shall establish power procurement balancing
23 accounts to track the differences between recorded revenues and
24 costs incurred pursuant to an approved procurement plan. The
25 commission shall review the power procurement balancing
26 accounts, not less than semiannually, and shall adjust rates or order
27 refunds, as necessary, to promptly amortize a balancing account,
28 according to a schedule determined by the commission. Until
29 January 1, 2006, the commission shall ensure that any
30 overcollection or undercollection in the power procurement
31 balancing account does not exceed 5 percent of the electrical
32 corporation's actual recorded generation revenues for the prior
33 calendar year excluding revenues collected for the Department of
34 Water Resources, *or its successor*. The commission shall determine
35 the schedule for amortizing the overcollection or undercollection
36 in the balancing account to ensure that the 5 percent threshold is
37 not exceeded. After January 1, 2006, this adjustment shall occur
38 when deemed appropriate by the commission consistent with the
39 objectives of this section.

1 (4) Moderate the price risk associated with serving its retail
2 customers, including the price risk embedded in its long-term
3 supply contracts, by authorizing an electrical corporation to enter
4 into financial and other electricity-related product contracts.

5 (5) Provide for just and reasonable rates, with an appropriate
6 balancing of price stability and price level in the electrical
7 corporation’s procurement plan.

8 (e) The commission shall provide for the periodic review and
9 prospective modification of an electrical corporation’s procurement
10 plan.

11 (f) The commission may engage an independent consultant or
12 advisory service to evaluate risk management and strategy. The
13 reasonable costs of any consultant or advisory service is a
14 reimbursable expense and eligible for funding pursuant to Section
15 631.

16 (g) The commission shall adopt appropriate procedures to ensure
17 the confidentiality of any market sensitive information submitted
18 in an electrical corporation’s proposed procurement plan or
19 resulting from or related to its approved procurement plan,
20 including, but not limited to, proposed or executed power purchase
21 agreements, data request responses, or consultant reports, or any
22 combination, provided that the Office of Ratepayer Advocates and
23 other consumer groups that are nonmarket participants shall be
24 provided access to this information under confidentiality
25 procedures authorized by the commission.

26 (h) ~~Nothing in this~~ *This section alters does not alter, modifies*
27 *modify, or amends amend* the commission’s oversight of affiliate
28 transactions under its rules and decisions or the commission’s
29 existing authority to investigate and penalize an electrical
30 corporation’s alleged fraudulent activities, or to disallow costs
31 incurred as a result of gross incompetence, fraud, abuse, or similar
32 grounds. ~~Nothing in this~~ *This section expands does not expand,*
33 *modifies modify, or limits limit* the ~~State Energy Resources~~
34 ~~Conservation and Development Commission’s~~ *Department of*
35 *Energy’s* existing authority and responsibilities as set forth in
36 Sections 25216, 25216.5, and 25323 of the Public Resources Code.

37 (i) An electrical corporation that serves less than 500,000 electric
38 retail customers within the state may file with the commission a
39 request for exemption from this section, which the commission
40 shall grant upon a showing of good cause.

1 (j) (1) Prior to its approval pursuant to Section 851 of any
 2 divestiture of generation assets owned by an electrical corporation
 3 on or after ~~the date of enactment of the act adding this section~~
 4 *September 24, 2002*, the commission shall determine the impact
 5 of the proposed divestiture on the electrical corporation's
 6 procurement rates and shall approve a divestiture only to the extent
 7 it finds, taking into account the effect of the divestiture on
 8 procurement rates, that the divestiture is in the public interest and
 9 will result in net ratepayer benefits.

10 (2) Any electrical corporation's procurement necessitated as a
 11 result of the divestiture of generation assets on or after ~~the effective~~
 12 ~~date of the act adding this subdivision~~ *September 24, 2002*, shall
 13 be subject to the mechanisms and procedures set forth in this
 14 section only if its actual cost is less than the recent historical cost
 15 of the divested generation assets.

16 (3) Notwithstanding paragraph (2), the commission may deem
 17 proposed procurement eligible to use the procedures in this section
 18 upon its approval of asset divestiture pursuant to Section 851.

19 SEC. 301. Section 464 of the Public Utilities Code is amended
 20 to read:

21 464. (a) Reasonable expenditures by transmission owners that
 22 are electrical corporations to plan, design, and engineer
 23 reconfiguration, replacement, or expansion of transmission facilities
 24 are in the public interest and are deemed prudent if made for the
 25 purpose of facilitating competition in electric generation markets,
 26 ensuring open access and comparable service, or maintaining or
 27 enhancing reliability, whether or not these expenditures are for
 28 transmission facilities that become operational.

29 (b) The commission and the ~~Electricity Oversight Board~~ *Office*
 30 *of Energy Market Oversight in the Department of Energy* shall
 31 jointly facilitate the efforts of the state's transmission owning
 32 electrical corporations to obtain authorization from the Federal
 33 Energy Regulatory Commission to recover reasonable expenditures
 34 made for the purposes stated in subdivision (a).

35 (c) ~~Nothing in this~~ *This section alters does not alter* or ~~affects~~
 36 ~~affect~~ the recovery of the reasonable costs of other electric facilities
 37 in rates pursuant to the commission's existing ratemaking authority
 38 under this code or pursuant to the Federal Power Act (41-~~Stat.~~
 39 *Stats.* 1063; 16 U.S.C. Secs. 791a, et seq.). The commission may
 40 periodically review and adjust depreciation schedules and rates

1 authorized for an electric plant that is under the jurisdiction of the
2 commission and owned by an electrical corporation and
3 periodically review and adjust depreciation schedules and rates
4 authorized for a gas plant that is under the jurisdiction of the
5 commission and owned by a gas corporation, consistent with this
6 code.

7 SEC. 302. Section 848.1 of the Public Utilities Code is
8 amended to read:

9 848.1. (a) No later than 120 days after the effective date of
10 this article, and from time to time thereafter, the recovery
11 corporation shall apply to the commission for a determination that
12 some or all of the recovery corporation's recovery costs may be
13 recovered through fixed recovery amounts, which would be
14 recovery property under this article, and that any portion of the
15 recovery corporation's federal and State of California income and
16 franchise taxes associated with those fixed recovery amounts and
17 not financed from proceeds of recovery bonds be recovered through
18 fixed recovery tax amounts. The recovery corporation may request
19 this determination by the commission in a separate proceeding or
20 in an existing proceeding, or both. The recovery corporation shall
21 in its application specify that consumers within its service territory
22 would benefit from reduced rates on a present value basis through
23 the issuance of recovery bonds. The commission shall designate
24 fixed recovery amounts and any associated fixed recovery tax
25 amounts as recoverable in one or more financing orders if the
26 commission determines, as part of its findings in connection with
27 the financing order, that the designation of the fixed recovery
28 amounts and any associated fixed recovery tax amounts, and the
29 issuance of recovery bonds in connection with fixed recovery
30 amounts, would reduce the rates on a present value basis that
31 consumers within the recovery corporation's service territory would
32 pay if the financing order were not adopted. Fixed recovery
33 amounts and any associated fixed recovery tax amounts shall only
34 be imposed on existing and future consumers in the service
35 territory. Consumers within the service territory shall continue to
36 pay fixed recovery amounts and any associated fixed tax recovery
37 amounts until the recovery bonds are paid in full by the financing
38 entity. Once the recovery bonds have been paid in full, the payment
39 by consumers of fixed recovery amounts and fixed recovery tax
40 amounts shall terminate.

- 1 (b) The commission shall establish an effective mechanism that
 2 ensures recovery of recovery costs through fixed recovery amounts
 3 and any associated fixed recovery tax amounts from existing and
 4 future consumers in the service territory, ~~provided that~~ *except* the
 5 costs shall not be recoverable from any of the following:
- 6 (1) New load or incremental load of an existing consumer of
 7 the recovery corporation where the load is being met through a
 8 direct transaction and the transaction does not require the use of
 9 transmission or distribution facilities owned by the recovery
 10 corporation.
- 11 (2) Customer Generation departing load that is exempt from
 12 Department of Water Resources power charges pursuant to the
 13 commission’s Decision No. 03-04-030, as modified by Decision
 14 No. 03-04-041, and as clarified and affirmed by Decision No.
 15 03-05-039, except that the load shall pay the costs as a component
 16 of and in proportion to any purchase of electricity delivered by the
 17 recovery corporation under standby or other service made following
 18 its departure.
- 19 (3) The Department of Water Resources, *or its successor for*
 20 *this purpose, the Department of Energy*, with respect to the
 21 pumping, generation, and transmission facilities and operations of
 22 the State Water Resources Development System, except to the
 23 extent that system facilities receive electric service from the
 24 recovery corporation on or after December 19, 2003, under a
 25 commission approved tariff.
- 26 (4) Retail electric load, continuously served by a local publicly
 27 owned electric utility from January 1, 2000, through the effective
 28 date of the act adding this section.
- 29 (5) Load that thereafter comes to take electric service from a
 30 city where all the following conditions are met:
- 31 (A) The new load is from locations that never received electric
 32 service from the recovery corporation.
- 33 (B) The city owns and operates the local publicly owned electric
 34 utility.
- 35 (C) The local publicly owned electric utility served more than
 36 95 percent of the customers receiving electric service residing
 37 within the city limits prior to December 19, 2003.
- 38 (D) The city annexed the territory in which the load is located
 39 on or after December 19, 2003.

1 (E) Following annexation, the city provides all municipal
2 services to the annexed territory that the city provides to other
3 territory within the city limits, including electric service.

4 (F) The total load exempt from paying fixed recovery amounts
5 and associated fixed recovery tax amounts pursuant to
6 subparagraphs (A) through (D), inclusive, does not exceed 50
7 megawatts, as determined by the commission, and any load above
8 the 50 megawatt exemption amount shall be responsible for paying
9 recovery amounts and associated fixed recovery tax amounts,
10 except as provided in subdivision (c).

11 (c) Except as provided in paragraphs (4) and (5) of subdivision
12 (b), the commission shall determine the extent to which fixed
13 recovery amounts and any associated fixed recovery tax amounts
14 are recoverable from new municipal load, consistent with the
15 commission's determination in the limited rehearing granted in
16 Decision 03-08-076. The determination of the commission shall
17 be made on the earlier of the date it adopts a financing order or
18 December 31, 2004.

19 (d) Except as provided in paragraphs (4) and (5) of subdivision
20 (b) and in subdivision (c), the obligation to pay fixed recovery
21 amounts and any associated fixed recovery tax amounts cannot be
22 avoided by the formation of a local publicly owned electric utility
23 on or after December 19, 2003, or by annexation of any portion
24 of the service territory of the recovery corporation by an existing
25 local publicly owned electric utility.

26 (e) Recovery bonds authorized by the commission's financing
27 orders may be issued in one or more series on or before December
28 31, 2006.

29 (f) The commission may issue financing orders in accordance
30 with this article to facilitate the recovery, financing, or refinancing
31 of recovery costs. A financing order may be adopted only upon
32 the application of the recovery corporation and shall become
33 effective in accordance with its terms only after the recovery
34 corporation files with the commission the recovery corporation's
35 written consent to all terms and conditions of the financing order.
36 A financing order may specify how amounts collected from a
37 consumer shall be allocated between fixed recovery amounts, any
38 associated fixed recovery tax amounts, and other charges.

39 (g) Notwithstanding Section 455.5 or 1708, or any other
40 provision of law, except as otherwise provided in Section 848.7

1 or in this subdivision with respect to recovery property that has
2 been made the basis for the issuance of recovery bonds and with
3 respect to any associated fixed recovery tax amounts, the financing
4 order, the fixed recovery amounts and any associated fixed
5 recovery tax amounts shall be irrevocable, and the commission
6 shall not have authority either by rescinding, altering, or amending
7 the financing order or otherwise, to revalue or revise for ratemaking
8 purposes, the recovery costs or the costs of recovering, financing,
9 or refinancing the recovery costs, determine that the fixed recovery
10 amounts, any associated fixed recovery tax amounts or rates are
11 unjust or unreasonable, or in any way reduce or impair the value
12 of recovery property or of the right to receive any associated fixed
13 recovery tax amounts either directly or indirectly by taking fixed
14 recovery amounts or any associated fixed recovery tax amounts
15 into account when setting other rates for the recovery corporation
16 or when setting charges for the Department of Water Resources,
17 *or its successor for this purpose, the Department of Energy*; nor
18 shall the amount of revenues arising with respect thereto be subject
19 to reduction, impairment, postponement, or termination. Except
20 as otherwise provided in this subdivision, the State of California
21 does hereby pledge and agree with the recovery corporation,
22 owners of recovery property, and holders of recovery bonds that
23 the state shall neither limit nor alter the fixed recovery amounts,
24 any associated fixed recovery tax amounts, recovery property,
25 financing orders, or any rights thereunder until the recovery bonds,
26 together with the interest thereon, are fully paid and discharged,
27 and any associated fixed recovery tax amounts have been satisfied
28 or, in the alternative, have been refinanced through an additional
29 issue of recovery bonds; ~~provided nothing contained in.~~ *However,*
30 ~~this section shall~~ *does not* preclude ~~the~~ *this* limitation or alteration
31 if and when adequate provision ~~shall be~~ *is* made by law for the
32 protection of the recovery corporation, owners, and holders. The
33 financing entity is authorized to include this pledge and undertaking
34 for the state in these recovery bonds. Notwithstanding any other
35 provision of this section, the commission shall approve adjustments
36 to the fixed recovery amounts and any associated fixed recovery
37 tax amounts as may be necessary to ensure timely recovery of all
38 recovery costs that are the subject of the pertinent financing order,
39 and the costs of capital associated with the recovery, financing, or
40 refinancing thereof, including servicing and retiring the recovery

1 bonds contemplated by the financing order. When setting other
2 rates for the recovery corporation, ~~nothing in this subdivision shall~~
3 *does not* prevent the commission from taking into account either
4 of the following:

5 (1) Any collection of fixed recovery amounts in excess of
6 amounts actually required to pay recovery costs financed or
7 refinanced by recovery bonds.

8 (2) Any collection of fixed recovery tax amounts in excess of
9 amounts actually required to pay federal and State of California
10 income and franchise taxes associated with fixed recovery amounts;
11 provided that this would not result in a recharacterization of the
12 tax, accounting, and other intended characteristics of the financing,
13 including, but not limited to, either of the following:

14 (A) Treating the recovery bonds as debt of the recovery
15 corporation or its affiliates for federal income tax purposes.

16 (B) Treating the transfer of the recovery property by the recovery
17 corporation as a true sale for bankruptcy purposes.

18 (h) (1) Financing orders issued under this article do not
19 constitute a debt or liability of the state or of any political
20 subdivision thereof, and do not constitute a pledge of the full faith
21 and credit of the state or any of its political subdivisions, but are
22 payable solely from the funds provided therefor under this article
23 and shall be consistent with Sections 1 and 18 of Article XVI of
24 the California Constitution. This subdivision shall in no way
25 preclude bond guarantees or enhancements pursuant to this article.
26 All recovery bonds shall contain on the face thereof a statement
27 to the following effect: “Neither the full faith and credit nor the
28 taxing power of the State of California is pledged to the payment
29 of the principal of, or interest on, this bond.”

30 (2) The issuance of recovery bonds under this article shall not
31 directly, indirectly, or contingently obligate the state or any
32 political subdivision thereof to levy or to pledge any form of
33 taxation therefor or to make any appropriation for their payment.

34 (i) The commission shall establish procedures for the expeditious
35 processing of applications for financing orders, including the
36 approval or disapproval thereof within 120 days of the recovery
37 corporation making application therefor. The commission shall
38 provide in any financing order for a procedure for the expeditious
39 approval by the commission of periodic adjustments to the fixed
40 recovery amounts and any associated fixed recovery tax amounts

1 that are the subject of the pertinent financing order, as required by
 2 subdivision (g). The procedure shall require the commission to
 3 determine whether the adjustments are required on each anniversary
 4 of the issuance of the financing order, and at the additional intervals
 5 as may be provided for in the financing order, and for the
 6 adjustments, if required, to be approved within 90 days of each
 7 anniversary of the issuance of the financing order, or of each
 8 additional interval provided for in the financing order.

9 (j) Fixed recovery amounts are recovery property when, and to
 10 the extent that, a financing order authorizing the fixed recovery
 11 amounts has become effective in accordance with this article, and
 12 the recovery property shall thereafter continuously exist as property
 13 for all purposes with all of the rights and privileges of this article
 14 for the period and to the extent provided in the financing order,
 15 but in any event until the recovery bonds are paid in full, including
 16 all principal, interest, premium, costs, and arrearages thereon.

17 (k) This article and any financing order made pursuant to this
 18 article do not amend, reduce, modify, or otherwise affect the right
 19 of the Department of Water Resources, *or its successor for this*
 20 *purpose, the Department of Energy*, to recover its revenue
 21 requirements and to receive the charges that it is to recover and
 22 receive pursuant to Division 27 (commencing with Section 80000)
 23 of the Water Code, or pursuant to any agreement entered into by
 24 the commission and the ~~Department of Water Resources~~
 25 *department* pursuant to that division.

26 SEC. 303. Section 1001 of the Public Utilities Code is amended
 27 to read:

28 1001. ~~No~~-(a) (1) A railroad corporation whose railroad is
 29 operated primarily by electric energy; *or a* street railroad
 30 corporation, gas corporation, electrical corporation, telegraph
 31 corporation, telephone corporation, water corporation, or sewer
 32 system corporation shall *not* begin the construction of a street
 33 railroad, or of a line, plant, or system, or of any extension thereof,
 34 without having first obtained from the commission a certificate
 35 that the present or future public convenience and necessity require
 36 or will require ~~such~~ *that* construction.

37 ~~This~~

38 (2) *This* article shall not be construed to require any ~~such~~
 39 corporation *described in paragraph (1)* to secure ~~such a~~ certificate
 40 for an extension within any city or city and county within which

1 it has theretofore lawfully commenced operations, or for an
2 extension into territory either within or without a city or city and
3 county contiguous to its street railroad, or line, plant, or system,
4 and not theretofore served by a public utility of like character, or
5 for an extension within or to territory already served by it,
6 necessary in the ordinary course of its business. If any public
7 utility, in constructing or extending its line, plant, or system,
8 interferes or is about to interfere with the operation of the line,
9 plant, or system of any other public utility or of the water system
10 of a public agency, already constructed, the commission, on
11 complaint of the public utility or public agency claiming to be
12 injuriously affected, may, after hearing, make ~~such~~ *an* order and
13 prescribe ~~such~~ terms and conditions for the location of the lines,
14 plants, or systems affected as to it may seem just and reasonable.

15 *(b) Notwithstanding subdivision (a) or any other provision of*
16 *law, all responsibilities of the commission with respect to the*
17 *certification of an electric transmission line, plant, or system, or*
18 *any extension thereof, carrying electricity to the interconnected*
19 *grid, or that is part of the interconnected grid, but not including*
20 *electric distribution facilities, are hereby transferred to the*
21 *exclusive jurisdiction of the Secretary of Energy, in consultation*
22 *with the California Energy Commission. All applications for*
23 *certification regarding a line, facility, plant, or system described*
24 *in this subdivision shall be heard and decided by the California*
25 *Energy Commission within the department. A decision of the*
26 *department or the California Energy Commission with respect to*
27 *matters transferred pursuant to this subdivision shall be conclusive*
28 *as to all matters determined.*

29 *(c) For the purposes of this section, an electric line, plant, or*
30 *system, or extension thereof, shall be considered “electric*
31 *transmission” for either of the following:*

32 *(1) It has a maximum rated voltage of 200 kilovolts or greater.*

33 *(2) It has a maximum rated voltage of 100 kilovolts or greater*
34 *and certification is sought following inclusion of that facility as*
35 *an element of a final transmission expansion plan for the*
36 *Independent System Operator.*

37 *(d) In hearing and deciding an application pursuant to this*
38 *section, the California Energy Commission shall consider and*
39 *make any necessary findings on all factors required by Sections*
40 *1001 to 1005.5, inclusive, and any other provision of law, including*

1 *the anticipated effects of any proposed project on consumer rates,*
2 *on the environment, and on the public benefits expected to result*
3 *from any project.*

4 *(e) The Department of Energy, in consultation with the Public*
5 *Utilities Commission, shall promptly establish a mechanism for*
6 *the Public Utilities Commission to timely advise the department*
7 *regarding the retail rate impacts of the decision made by the*
8 *California Energy Commission and the department.*

9 SEC. 304. Section 1731 of the Public Utilities Code is amended
10 to read:

11 1731. (a) The commission shall set an effective date when
12 issuing an order or decision. The commission may set the effective
13 date of an order or decision prior to the date of issuance of the
14 order or decision.

15 (b) (1) After any order or decision has been made by the
16 commission, any party to the action or proceeding, or any
17 stockholder or bondholder or other party pecuniarily interested in
18 the public utility affected, may apply for a rehearing in respect to
19 any matters determined in the action or proceeding and specified
20 in the application for rehearing. The commission may grant and
21 hold a rehearing on those matters, if in its judgment sufficient
22 reason is made to appear. No cause of action arising out of any
23 order or decision of the commission shall accrue in any court to
24 any corporation or person unless the corporation or person has
25 filed an application to the commission for a rehearing within 30
26 days after the date of issuance or within 10 days after the date of
27 issuance in the case of an order issued pursuant to either Article
28 5 (commencing with Section 816) or Article 6 (commencing with
29 Section 851) of Chapter 4 relating to security transactions and the
30 transfer or encumbrance of utility property.

31 (2) The commission shall notify the parties of the issuance of
32 an order or decision by either mail or electronic transmission.
33 Notification of the parties may be accomplished by one of the
34 following methods:

35 (A) Mailing the order or decision to the parties to the action or
36 proceeding.

37 (B) If a party to an action or proceeding consents in advance to
38 receive notice of any order or decision related to the action or
39 proceeding by electronic mail address, notification of the party
40 may be accomplished by transmitting an electronic copy of the

1 official version of the order or decision to the party if the party
2 has provided an electronic mail address to the commission.

3 (C) If a party to an action or proceeding consents in advance to
4 receive notice of any order or decision related to the action or
5 proceeding by electronic mail address, notification of the party
6 may be accomplished by transmitting a link to an Internet Web
7 site where the official version of the order or decision is readily
8 available to the party if the party has provided an electronic mail
9 address to the commission.

10 (3) For the purposes of this article, “date of issuance” means
11 the mailing or electronic transmission date that is stamped on the
12 official version of the order or decision

13 (c) No cause of action arising out of any order or decision of
14 the commission construing, applying, or implementing the
15 provisions of Chapter 4 of the Statutes of the 2001–02 First
16 Extraordinary Session that (1) relates to the determination or
17 implementation of the department’s revenue requirements, or the
18 establishment or implementation of bond or power charges
19 necessary to recover those revenue requirements, or (2) in the sole
20 determination of the Department of Water Resources, *or its*
21 *successor for this purpose, the Department of Energy*, the expedited
22 review of order or decision of the commission is necessary or
23 desirable, for the maintenance of any credit ratings on any bonds
24 or notes of the department issued pursuant to Division 27
25 (commencing with Section 80000) of the Water Code or for the
26 department to meet its obligations with respect to any bonds or
27 notes pursuant to that division, shall accrue in any court to any
28 corporation or person unless the corporation or person has filed
29 an application with the commission for a rehearing within 10 days
30 after the date of issuance of the order or decision. The Department
31 of Water Resources, *or its successor for this purpose*, shall notify
32 the commission of any determination pursuant to paragraph (2) of
33 this subdivision prior to the issuance by the commission of any
34 order or decision construing, applying, or implementing the
35 provisions of Chapter 4 of the Statutes of the 2001–02 First
36 Extraordinary Session. The commission shall issue its decision
37 and order on rehearing within 20 days after the filing of the
38 application.

39 SEC. 305. Section 1768 of the Public Utilities Code is amended
40 to read:

1 1768. The following procedures shall apply to judicial review
2 of an order or decision of the commission interpreting,
3 implementing, or applying the provisions of Chapter 4 of the
4 Statutes of the 2001–02 First Extraordinary Session that (1) relates
5 to the determination or implementation of the revenue requirements
6 of the Department of Water Resources, *or its successor for this*
7 *purpose, the Department of Energy*, or the establishment or
8 implementation of bond or power charges necessary to recover
9 those revenue requirements, or (2) in the sole determination of the
10 department, the expedited review of an order or decision of the
11 commission is necessary or desirable, for the maintenance of any
12 credit ratings on any bonds or notes of the department issued
13 pursuant to Division 27 (commencing with Section 80000) of the
14 Water Code or for the department to meet its obligations with
15 respect to any bonds or notes pursuant to that division:

16 (a) Within 30 days after the commission issues its order or
17 decision denying the application for a rehearing, or, if the
18 application is granted, then within 30 days after the commission
19 issues its decision on rehearing, any aggrieved party may petition
20 for a writ of review in the California Supreme Court for the purpose
21 of determining the lawfulness of the original order or decision or
22 of the order or decision on rehearing. If the writ issues, it shall be
23 made returnable at a time and place specified by court order and
24 shall direct the commission to certify its record in the case to the
25 court within the time specified. No order of the commission
26 interpreting, implementing, or applying the provisions of Chapter
27 4 of the Statutes of the 2001–02 First Extraordinary Session shall
28 be subject to review in the courts of appeal.

29 (b) The petition for review shall be served upon the executive
30 director and the general counsel of the commission either
31 personally or by service at the office of the commission.

32 (c) For purposes of this section, the issuance of a decision or
33 the granting of an application shall be construed to have occurred
34 on the date of issuance, as defined in paragraph (4) of subdivision
35 (b) of Section 1731.

36 (d) All actions and proceedings under this section and all actions
37 or proceedings to which the commission or the people of the State
38 of California are parties in which any question arises under this
39 section, or under or concerning any order or decision of the
40 commission under this section, shall be preferred over, and shall

1 be heard and determined in preference to, all other civil business
2 except election causes, irrespective of position on the calendar.

3 (e) The provisions of this article apply to actions under this
4 section to the extent that those provisions are not in conflict with
5 this section.

6 SEC. 306. Section 1822 of the Public Utilities Code is amended
7 to read:

8 1822. (a) Any computer model that is the basis for any
9 testimony or exhibit in a hearing or proceeding before the
10 commission shall be available to, and subject to verification by,
11 the commission and parties to the hearing or proceedings to the
12 extent necessary for cross-examination or rebuttal, subject to
13 applicable rules of evidence, except that verification is not required
14 for any electricity demand model or forecast prepared by the ~~State~~
15 ~~Energy Resources Conservation and Development Commission~~
16 *Department of Energy* pursuant to Section 25309 or 25402.1 of
17 the Public Resources Code and approved and adopted after a
18 hearing during which testimony was offered subject to
19 cross-examination. The commission shall afford each of these
20 electricity demand models or forecasts the evidentiary weight it
21 determines appropriate. ~~Nothing in this~~ *This* subdivision ~~requires~~
22 ~~does not require~~ the ~~State Energy Resources Conservation and~~
23 ~~Development Commission~~ *department* to approve or adopt any
24 electricity demand model or forecast.

25 (b) ~~Any testimony~~ *Testimony* presented in a hearing or
26 proceeding before the commission that is based in whole, or in
27 part, on a computer model shall include a listing of all the equations
28 and assumptions built into the model.

29 (c) ~~Any data base~~ *A database* that is used for any testimony or
30 exhibit in a hearing or proceeding before the commission shall be
31 reasonably accessible to the commission staff and parties to the
32 hearing or proceeding to the extent necessary for cross-examination
33 or rebuttal, subject to applicable rules of evidence, as applied in
34 commission proceedings.

35 (d) The commission shall adopt rules and procedures to meet
36 the requirements specified in subdivisions (a), (b), and (c). These
37 rules shall include procedural safeguards that protect ~~data bases~~
38 *databases* and models not owned by the public utility.

1 (e) The commission shall establish appropriate procedures for
2 determining the appropriate level of compensation for a party's
3 access.

4 (f) Each party shall have access to the computer programs and
5 models of each other party to the extent provided by Section 1822.
6 The commission shall not require a utility to provide a remote
7 terminal or other direct physical link to the computer systems of
8 a utility to a third party.

9 (g) The commission shall verify, validate, and review the
10 computer models of any electric corporation that are used for the
11 purpose of planning, operating, constructing, or maintaining the
12 corporation's electricity transmission system, and that are the basis
13 for testimony and exhibits in hearings and proceedings before the
14 commission.

15 (h) The transmission computer models shall be available to, and
16 subject to verification by, each party to a commission proceeding
17 in accordance with subdivision (a) of Section 1822, and regulations
18 adopted pursuant to subdivision (d) of Section 1822.

19 SEC. 307. Section 2774.6 of the Public Utilities Code is
20 amended to read:

21 2774.6. The commission, in consultation with the ~~State Energy~~
22 ~~Resources Conservation and Development Commission,~~
23 *Department of Energy*, shall develop a program for residential and
24 commercial customer air-conditioning load control, as an element
25 of each electrical corporation's tariffed service offerings paid for
26 with electric rates. The goal of the program shall be to contribute
27 to the adequacy of electricity supply and to help customers reduce
28 their electric bills in a cost-effective manner. The program may
29 include peak load reduction programs for residential and
30 commercial air-conditioning systems, if the commission determines
31 that the inclusion would be ~~cost-effective~~ *cost effective*.

32 SEC. 308. Section 2826.5 of the Public Utilities Code is
33 amended to read:

34 2826.5. (a) As used in this section, the following terms have
35 the following meanings:

36 (1) "Benefiting account" means an electricity account, or more
37 than one account, mutually agreed upon by Pacific Gas and Electric
38 Company and the City of Davis.

39 (2) "Bill credit" means credits calculated based upon the
40 electricity generation component of the rate schedule applicable

1 to a benefiting account, as applied to the net metered quantities of
2 electricity.

3 (3) “PVUSA” means the photovoltaic electricity generation
4 facility selected by the City of Davis, located at 24662 County
5 Road, Davis, California, with a rated peak electricity generation
6 capacity of 600 kilowatts, and as it may be expanded, not to exceed
7 one megawatt of peak generation capacity.

8 (4) “Net metered” means the electricity output from the PVUSA.

9 (5) “Environmental attributes” associated with the PVUSA
10 include, but are not limited to, the credits, benefits, emissions
11 reductions, environmental air quality credits, and emissions
12 reduction credits, offsets, and allowances, however entitled
13 resulting from the avoidance of the emission of any gas, chemical,
14 or other substance attributable to the PVUSA.

15 (b) The City of Davis may elect to designate a benefiting
16 account, or more than one account, to receive bill credit for the
17 electricity generated by the PVUSA, if all of the following
18 conditions are met:

19 (1) A benefiting account receives service under a time-of-use
20 rate schedule.

21 (2) The electricity output of the PVUSA is metered for time of
22 use to allow allocation of each bill credit to correspond to the
23 time-of-use period of a benefiting account.

24 (3) All costs associated with the metering requirements of
25 paragraphs (1) and (2) are the responsibility of the City of Davis.

26 (4) All electricity delivered to the electrical grid by the PVUSA
27 is the property of Pacific Gas and Electric Company.

28 (5) PVUSA does not sell electricity delivered to the electrical
29 grid to a third party.

30 (6) The right, title, and interest in the environmental attributes
31 associated with the electricity delivered to the electrical grid by
32 the PVUSA are the property of Nuon Renewable Ventures USA,
33 LLC.

34 (c) A benefiting account shall be billed on a monthly basis, as
35 follows:

36 (1) For all electricity usage, the rate schedule applicable to the
37 benefiting account, including any surcharge, exit fee, or other cost
38 recovery mechanism, as determined by the commission, to
39 reimburse the Department of Water Resources, *or its successor*
40 *for this purpose, the Department of Energy*, for purchases of

1 electricity, pursuant to Division 27 (commencing with Section
2 80000) of the Water Code.

3 (2) The rate schedule for the benefiting account shall also
4 provide credit for the generation component of the time-of-use
5 rates for the electricity generated by the PVUSA that is delivered
6 to the electrical grid. The generation component credited to the
7 benefiting account may not include the surcharge, exit fee, or other
8 cost recovery mechanism, as determined by the commission, to
9 reimburse the Department of Water Resources, *or its successor*
10 *for this purpose, the Department of Energy*, for purchases of
11 electricity, pursuant to Division 27 (commencing with Section
12 80000) of the Water Code.

13 (3) If in any billing cycle, the charge pursuant to paragraph (1)
14 for electricity usage exceeds the billing credit pursuant to paragraph
15 (2), the City of Davis shall be charged for the difference.

16 (4) If in any billing cycle, the billing credit pursuant to paragraph
17 (2), exceeds the charge for electricity usage pursuant to paragraph
18 (1), the difference shall be carried forward as a credit to the next
19 billing cycle.

20 (5) After the electricity usage charge pursuant to paragraph (1)
21 and the credit pursuant to paragraph (2) are determined for the last
22 billing cycle of a calendar year, any remaining credit resulting
23 from the application of this section shall be reset to zero.

24 (d) Not more frequently than once per year, and upon providing
25 Pacific Gas and Electric Company with a minimum of 60 days
26 notice, the City of Davis may elect to change a benefiting account.
27 Any credit resulting from the application of this section earned
28 prior to the change in a benefiting account that has not been used
29 as of the date of the change in the benefit account, shall be applied,
30 and may only be applied, to a benefiting account as changed.

31 (e) Pacific Gas and Electric Company shall file an advice letter
32 with the Public Utilities Commission, that complies with this
33 section, not later than 10 days after the effective date of this section,
34 proposing a rate tariff for a benefiting account. The commission,
35 within 30 days of the date of filing, shall approve the proposed
36 tariff, or specify conforming changes to be made by Pacific Gas
37 and Electric Company to be filed in a new advice letter.

38 (f) The City of Davis may terminate its election pursuant to
39 subdivision (b), upon providing Pacific Gas and Electric Company
40 with a minimum of 60 days notice. Should the City of Davis sell

1 its interest in the PVUSA, or sell the electricity generated by the
2 PVUSA, in a manner other than required by this section, upon the
3 date of either event, and the earliest date if both events occur, no
4 further bill credit pursuant to paragraph (2) of subdivision (b) may
5 be earned. Only credit earned prior to that date shall be made to a
6 benefiting account.

7 (g) The Legislature finds and declares that credit for a benefiting
8 account for the electricity output from the PVUSA are in the public
9 interest in order to value the production of this unique, wholly
10 renewable resource electricity generation facility located in, and
11 owned in part by, the City of Davis. Because of the unique
12 circumstances applicable only to the PVUSA a statute of general
13 applicability cannot be enacted within the meaning of subdivision
14 (b) of Section 16 of Article IV of the California Constitution.
15 Therefore, this special statute is necessary.

16 SEC. 309. Section 2827 of the Public Utilities Code is amended
17 to read:

18 2827. (a) The Legislature finds and declares that a program
19 to provide net energy metering, co-energy metering, and wind
20 energy co-metering for eligible customer-generators is one way
21 to encourage substantial private investment in renewable energy
22 resources, stimulate in-state economic growth, reduce demand for
23 electricity during peak consumption periods, help stabilize
24 California's energy supply infrastructure, enhance the continued
25 diversification of California's energy resource mix, and reduce
26 interconnection and administrative costs for electricity suppliers.

27 (b) As used in this section, the following terms have the
28 following meanings:

29 (1) "Co-energy metering" means a program that is the same in
30 all other respects as a net energy metering program, except that
31 the local publicly owned electric utility has elected to apply a
32 generation-to-generation energy and time-of-use credit formula
33 as provided in subdivision (i).

34 (2) "Electrical cooperative" means an electrical cooperative as
35 defined in Section 2776.

36 (3) "Electric distribution utility or cooperative" means an
37 electrical corporation, a local publicly owned electric utility, or an
38 electrical cooperative, or any other entity, except an electric service
39 provider, that offers electrical service. This section ~~shall~~ *does* not
40 apply to a local publicly owned electric utility that serves more

1 than 750,000 customers and that also conveys water to its
2 customers.

3 (4) “Eligible customer-generator” means a residential, small
4 commercial customer as defined in subdivision (h) of Section 331,
5 commercial, industrial, or agricultural customer of an electricity
6 distribution utility or cooperative, who uses a solar or a wind
7 turbine electrical generating facility, or a hybrid system of both,
8 with a capacity of not more than one megawatt that is located on
9 the customer’s owned, leased, or rented premises, is interconnected
10 and operates in parallel with the electric grid, and is intended
11 primarily to offset part or all of the customer’s own electrical
12 requirements.

13 (5) “Net energy metering” means measuring the difference
14 between the electricity supplied through the electric grid and the
15 electricity generated by an eligible customer-generator and fed
16 back to the electric grid over a 12-month period as described in
17 subdivision (h). An eligible customer-generator who already owns
18 an existing solar or wind turbine electrical generating facility, or
19 a hybrid system of both, is eligible to receive net energy metering
20 service in accordance with this section.

21 (6) “Ratemaking authority” means, for an electrical corporation,
22 electrical cooperative, or electric service provider, the commission,
23 and for a local publicly owned electric utility, the local elected
24 body responsible for setting the rates of the local publicly owned
25 utility.

26 (7) “Wind energy co-metering” means any wind energy project
27 greater than 50 kilowatts, but not exceeding one megawatt, where
28 the difference between the electricity supplied through the electric
29 grid and the electricity generated by an eligible customer-generator
30 and fed back to the electric grid over a 12-month period is as
31 described in subdivision (h). Wind energy co-metering shall be
32 accomplished pursuant to Section 2827.8.

33 (c) (1) Every electricity distribution utility or cooperative shall
34 develop a standard contract or tariff providing for net energy
35 metering, and shall make this standard contract or tariff available
36 to eligible customer-generators, upon request, on a
37 first-come-first-served basis until the time that the total rated
38 generating capacity used by eligible customer-generators exceeds
39 2.5 percent of the electricity distribution utility or cooperative’s
40 aggregate customer peak demand. Net energy metering shall be

1 accomplished using a single meter capable of registering the flow
2 of electricity in two directions. An additional meter or meters to
3 monitor the flow of electricity in each direction may be installed
4 with the consent of the customer-generator, at the expense of the
5 electricity distribution utility or cooperative, and the additional
6 metering shall be used only to provide the information necessary
7 to accurately bill or credit the customer-generator pursuant to
8 subdivision (h), or to collect solar or wind electric generating
9 system performance information for research purposes. If the
10 existing electrical meter of an eligible customer-generator is not
11 capable of measuring the flow of electricity in two directions, the
12 customer-generator shall be responsible for all expenses involved
13 in purchasing and installing a meter that is able to measure
14 electricity flow in two directions. If an additional meter or meters
15 are installed, the net energy metering calculation shall yield a result
16 identical to that of a single meter.

17 (2) (A) On an annual basis, beginning in 2003, every electricity
18 distribution utility or cooperative shall make available to the
19 ratemaking authority information on the total rated generating
20 capacity used by eligible customer-generators that are customers
21 of that provider in the provider's service area.

22 (B) An electric service provider operating pursuant to Section
23 394 shall make available to the ratemaking authority the
24 information required by this paragraph for each eligible
25 customer-generator that is their customer for each service area of
26 an electric corporation, local publicly owned electric utility, or
27 electrical cooperative, in which the customer has net energy
28 metering.

29 (C) The ratemaking authority shall develop a process for making
30 the information required by this paragraph available to electricity
31 distribution utilities and cooperatives, and for using that
32 information to determine when, pursuant to paragraphs (1) and
33 (3), an electricity distribution utility or cooperative is not obligated
34 to provide net energy metering to additional customer-generators
35 in its service area.

36 (3) An electricity distribution utility or cooperative is not
37 obligated to provide net energy metering to additional
38 customer-generators in its service area when the combined total
39 peak demand of all customer-generators served by all the electricity
40 distribution utilities or cooperatives in that service area furnishing

1 net energy metering to eligible customer-generators exceeds 2.5
2 percent of the aggregate customer peak demand of those electricity
3 distribution utilities or cooperatives.

4 (4) By January 1, 2010, the commission, in consultation with
5 the Energy Commission, shall submit a report to the Governor and
6 the Legislature on the costs and benefits of net energy metering,
7 wind energy co-metering, and co-energy metering to participating
8 customers and nonparticipating customers and with options to
9 replace the economic costs and benefits of net energy metering,
10 wind energy co-metering, and co-energy metering with a
11 mechanism that more equitably balances the interests of
12 participating and nonparticipating customers, and that incorporates
13 the findings of the report on economic and environmental costs
14 and benefits of net metering required by subdivision (n).

15 (d) Every electricity distribution utility or cooperative shall
16 make all necessary forms and contracts for net energy metering
17 service available for download from the Internet.

18 (e) (1) Every electricity distribution utility or cooperative shall
19 ensure that requests for establishment of net energy metering are
20 processed in a time period not exceeding that for similarly situated
21 customers requesting new electric service, but not to exceed 30
22 working days from the date it receives a completed application
23 form for net energy metering service, including a signed
24 interconnection agreement from an eligible customer-generator
25 and the electric inspection clearance from the governmental
26 authority having jurisdiction.

27 (2) Every electricity distribution utility or cooperative shall
28 ensure that requests for an interconnection agreement from an
29 eligible customer-generator are processed in a time period not to
30 exceed 30 working days from the date it receives a completed
31 application form from the eligible customer-generator for an
32 interconnection agreement.

33 (3) If an electricity distribution utility or cooperative is unable
34 to process a request within the allowable timeframe pursuant to
35 paragraph (1) or (2), it shall notify the eligible customer-generator
36 and the ratemaking authority of the reason for its inability to
37 process the request and the expected completion date.

38 (f) (1) If a customer participates in direct transactions pursuant
39 to paragraph (1) of subdivision (b) of Section 365 with an electric
40 service provider that does not provide distribution service for the

1 direct transactions, the electricity distribution utility or cooperative
2 that provides distribution service for an eligible customer-generator
3 is not obligated to provide net energy metering to the customer.

4 (2) If a customer participates in direct transactions pursuant to
5 paragraph (1) of subdivision (b) of Section 365 with an electric
6 service provider, and the customer is an eligible
7 customer-generator, the electricity distribution utility or cooperative
8 that provides distribution service for the direct transactions may
9 recover from the customer's electric service provider the
10 incremental costs of metering and billing service related to net
11 energy metering in an amount set by the ratemaking authority.

12 (g) Except for the time-variant kilowatthour pricing portion of
13 any tariff adopted by the commission pursuant to paragraph (4) of
14 subdivision (a) of Section 2851, each net energy metering contract
15 or tariff shall be identical, with respect to rate structure, all retail
16 rate components, and any monthly charges, to the contract or tariff
17 to which the same customer would be assigned if the customer did
18 not use an eligible solar or wind electrical generating facility,
19 except that eligible customer-generators shall not be assessed
20 standby charges on the electrical generating capacity or the
21 kilowatthour production of an eligible solar or wind electrical
22 generating facility. The charges for all retail rate components for
23 eligible customer-generators shall be based exclusively on the
24 customer-generator's net kilowatthour consumption over a
25 12-month period, without regard to the customer-generator's choice
26 as to whom it purchases electricity that is not self-generated. Any
27 new or additional demand charge, standby charge, customer charge,
28 minimum monthly charge, interconnection charge, or any other
29 charge that would increase an eligible customer-generator's costs
30 beyond those of other customers who are not eligible
31 customer-generators in the rate class to which the eligible
32 customer-generator would otherwise be assigned if the customer
33 did not own, lease, rent, or otherwise operate an eligible solar or
34 wind electrical generating facility are contrary to the intent of this
35 section, and shall not form a part of net energy metering contracts
36 or tariffs.

37 (h) For eligible residential and small commercial
38 customer-generators, the net energy metering calculation shall be
39 made by measuring the difference between the electricity supplied
40 to the eligible customer-generator and the electricity generated by

1 the eligible customer-generator and fed back to the electric grid
2 over a 12-month period. The following rules shall apply to the
3 annualized net metering calculation:

4 (1) The eligible residential or small commercial
5 customer-generator shall, at the end of each 12-month period
6 following the date of final interconnection of the eligible
7 customer-generator's system with an electricity distribution utility
8 or cooperative, and at each anniversary date thereafter, be billed
9 for electricity used during that 12-month period. The electricity
10 distribution utility or cooperative shall determine if the eligible
11 residential or small commercial customer-generator was a net
12 consumer or a net producer of electricity during that period.

13 (2) At the end of each 12-month period, where the electricity
14 supplied during the period by the electricity distribution utility or
15 cooperative exceeds the electricity generated by the eligible
16 residential or small commercial customer-generator during that
17 same period, the eligible residential or small commercial
18 customer-generator is a net electricity consumer and the electricity
19 distribution utility or cooperative shall be owed compensation for
20 the eligible customer-generator's net kilowatt-hour consumption
21 over that 12-month period. The compensation owed for the eligible
22 residential or small commercial customer-generator's consumption
23 shall be calculated as follows:

24 (A) For all eligible customer-generators taking service under
25 contracts or tariffs employing "baseline" and "over baseline" rates
26 or charges, any net monthly consumption of electricity shall be
27 calculated according to the terms of the contract or tariff to which
28 the same customer would be assigned to, or be eligible for, if the
29 customer was not an eligible customer-generator. If those same
30 customer-generators are net generators over a billing period, the
31 net kilowatt-hours generated shall be valued at the same price per
32 kilowatt-hour as the electricity distribution utility or cooperative
33 would charge for the baseline quantity of electricity during that
34 billing period, and if the number of kilowatt-hours generated
35 exceeds the baseline quantity, the excess shall be valued at the
36 same price per kilowatt-hour as the electricity distribution utility
37 or cooperative would charge for electricity over the baseline
38 quantity during that billing period.

39 (B) For all eligible customer-generators taking service under
40 contracts or tariffs employing "time-of-use" rates or charges, any

1 net monthly consumption of electricity shall be calculated
2 according to the terms of the contract or tariff to which the same
3 customer would be assigned to, or be eligible for, if the customer
4 was not an eligible customer-generator. When those same
5 customer-generators are net generators during any discrete
6 time-of-use period, the net kilowatthours produced shall be valued
7 at the same price per kilowatthour as the electricity distribution
8 utility or cooperative would charge for retail kilowatthour sales
9 during that same “time-of-use” period. If the eligible
10 customer-generator’s “time-of-use” electrical meter is unable to
11 measure the flow of electricity in two directions, subparagraph
12 (A) of paragraph (1) of subdivision (c) shall apply.

13 (C) For all eligible residential and small commercial
14 customer-generators and for each billing period, the net balance
15 of moneys owed to the electricity distribution utility or cooperative
16 for net consumption of electricity or credits owed to the eligible
17 customer-generator for net generation of electricity shall be carried
18 forward as a monetary value until the end of each 12-month period.
19 For all eligible commercial, industrial, and agricultural
20 customer-generators, the net balance of moneys owed shall be paid
21 in accordance with the electricity distribution utility or
22 cooperative’s normal billing cycle, except that if the eligible
23 commercial, industrial, or agricultural customer-generator is a net
24 electricity producer over a normal billing cycle, any excess
25 kilowatthours generated during the billing cycle shall be carried
26 over to the following billing period as a monetary value, calculated
27 according to the procedures set forth in this section, and appear as
28 a credit on the eligible customer-generator’s account, until the end
29 of the annual period when paragraph (3) shall apply.

30 (3) At the end of each 12-month period, where the electricity
31 generated by the eligible customer-generator during the 12-month
32 period exceeds the electricity supplied by the electricity distribution
33 utility or cooperative during that same period, the eligible
34 customer-generator is a net electricity producer and the electricity
35 distribution utility or cooperative shall retain any excess
36 kilowatthours generated during the prior 12-month period. The
37 eligible customer-generator shall not be owed any compensation
38 for those excess kilowatthours unless the electricity distribution
39 utility or cooperative enters into a purchase agreement with the
40 eligible customer-generator for those excess kilowatthours.

1 (4) The electricity distribution utility or cooperative shall provide
2 every eligible residential or small commercial customer-generator
3 with net electricity consumption information with each regular
4 bill. That information shall include the current monetary balance
5 owed the electricity distribution utility or cooperative for net
6 electricity consumed, or the current amount of excess electricity
7 produced, since the last 12-month period ended. Notwithstanding
8 this subdivision, an electricity distribution utility or cooperative
9 shall permit that customer to pay monthly for net energy consumed.

10 (5) If an eligible residential or small commercial
11 customer-generator terminates the customer relationship with the
12 electricity distribution utility or cooperative, the electricity
13 distribution utility or cooperative shall reconcile the eligible
14 customer-generator's consumption and production of electricity
15 during any part of a 12-month period following the last
16 reconciliation, according to the requirements set forth in this
17 subdivision, except that those requirements shall apply only to the
18 months since the most recent 12-month bill.

19 (6) If an electric service provider or electricity distribution utility
20 or cooperative providing net energy metering to a residential or
21 small commercial customer-generator ceases providing that electric
22 service to that customer during any 12-month period, and the
23 customer-generator enters into a new net energy metering contract
24 or tariff with a new electric service provider or electricity
25 distribution utility or cooperative, the 12-month period, with respect
26 to that new electric service provider or electricity distribution utility
27 or cooperative, shall commence on the date on which the new
28 electric service provider or electricity distribution utility or
29 cooperative first supplies electric service to the customer-generator.

30 (i) Notwithstanding any other provisions of this section, the
31 following provisions shall apply to an eligible customer-generator
32 with a capacity of more than 10 kilowatts, but not exceeding one
33 megawatt, that receives electric service from a local publicly owned
34 electric utility that has elected to utilize a co-energy metering
35 program unless the local publicly owned electric utility chooses
36 to provide service for eligible customer-generators with a capacity
37 of more than 10 kilowatts in accordance with subdivisions (g) and
38 (h):

39 (1) The eligible customer-generator shall be required to utilize
40 a meter, or multiple meters, capable of separately measuring

1 electricity flow in both directions. All meters shall provide
2 “time-of-use” measurements of electricity flow, and the customer
3 shall take service on a time-of-use rate schedule. If the existing
4 meter of the eligible customer-generator is not a time-of-use meter
5 or is not capable of measuring total flow of energy in both
6 directions, the eligible customer-generator shall be responsible for
7 all expenses involved in purchasing and installing a meter that is
8 both time-of-use and able to measure total electricity flow in both
9 directions. This subdivision shall not restrict the ability of an
10 eligible customer-generator to utilize any economic incentives
11 provided by a government agency or an electricity distribution
12 utility or cooperative to reduce its costs for purchasing and
13 installing a time-of-use meter.

14 (2) The consumption of electricity from the local publicly owned
15 electric utility shall result in a cost to the eligible
16 customer-generator to be priced in accordance with the standard
17 rate charged to the eligible customer-generator in accordance with
18 the rate structure to which the customer would be assigned if the
19 customer did not use an eligible solar or wind electrical generating
20 facility. The generation of electricity provided to the local publicly
21 owned electric utility shall result in a credit to the eligible
22 customer-generator and shall be priced in accordance with the
23 generation component, established under the applicable structure
24 to which the customer would be assigned if the customer did not
25 use an eligible solar or wind electrical generating facility.

26 (3) All costs and credits shall be shown on the eligible
27 customer-generator’s bill for each billing period. In any months
28 in which the eligible customer-generator has been a net consumer
29 of electricity calculated on the basis of value determined pursuant
30 to paragraph (2), the customer-generator shall owe to the local
31 publicly owned electric utility the balance of electricity costs and
32 credits during that billing period. In any billing period in which
33 the eligible customer-generator has been a net producer of
34 electricity calculated on the basis of value determined pursuant to
35 paragraph (2), the local publicly owned electric utility shall owe
36 to the eligible customer-generator the balance of electricity costs
37 and credits during that billing period. Any net credit to the eligible
38 customer-generator of electricity costs may be carried forward to
39 subsequent billing periods, provided that a local publicly owned
40 electric utility may choose to carry the credit over as a kilowattour

1 credit consistent with the provisions of any applicable contract or
2 tariff, including any differences attributable to the time of
3 generation of the electricity. At the end of each 12-month period,
4 the local publicly owned electric utility may reduce any net credit
5 due to the eligible customer-generator to zero.

6 (j) A solar or wind turbine electrical generating system, or a
7 hybrid system of both, used by an eligible customer-generator shall
8 meet all applicable safety and performance standards established
9 by the National Electrical Code, the Institute of Electrical and
10 Electronics Engineers, and accredited testing laboratories, including
11 Underwriters Laboratories and, where applicable, rules of the
12 commission regarding safety and reliability. A customer-generator
13 whose solar or wind turbine electrical generating system, or a
14 hybrid system of both, meets those standards and rules shall not
15 be required to install additional controls, perform or pay for
16 additional tests, or purchase additional liability insurance.

17 (k) If the commission determines that there are cost or revenue
18 obligations for an electric corporation, as defined in Section 218,
19 that may not be recovered from customer-generators acting
20 pursuant to this section, those obligations shall remain within the
21 customer class from which any shortfall occurred and may not be
22 shifted to any other customer class. Net energy metering and
23 co-energy metering customers shall not be exempt from the public
24 goods charges imposed pursuant to Article 7 (commencing with
25 Section 381), Article 8 (commencing with Section 385), or Article
26 15 (commencing with Section 399) of Chapter 2.3 of Part 1. In its
27 report to the Legislature, the commission shall examine different
28 methods to ensure that the public goods charges remain
29 nonbypassable.

30 (l) A net energy metering, co-energy metering, or wind energy
31 co-metering customer shall reimburse the Department of Water
32 Resources, *or its successor for this purpose, the Department of*
33 *Energy*, for all charges that would otherwise be imposed on the
34 customer by the commission to recover bond-related costs pursuant
35 to an agreement between the commission and the ~~Department of~~
36 ~~Water Resources~~ *department* pursuant to Section 80110 of the
37 Water Code, as well as the costs of the department equal to the
38 share of the department's estimated net unavoidable power
39 purchase contract costs attributable to the customer. The
40 commission shall incorporate the determination into an existing

1 proceeding before the commission, and shall ensure that the charges
2 are nonbypassable. Until the commission has made a determination
3 regarding the nonbypassable charges, net energy metering,
4 co-energy metering, and wind energy co-metering shall continue
5 under the same rules, procedures, terms, and conditions as were
6 applicable on December 31, 2002.

7 (m) In implementing the requirements of subdivisions (k) and
8 (l), a customer-generator shall not be required to replace its existing
9 meter except as set forth in subparagraph (A) of paragraph (1) of
10 subdivision (c), nor shall the electricity distribution utility or
11 cooperative require additional measurement of usage beyond that
12 which is necessary for customers in the same rate class as the
13 eligible customer-generator.

14 (n) It is the intent of the Legislature that the Treasurer
15 incorporate net energy metering, co-energy metering, and wind
16 energy co-metering projects undertaken pursuant to this section
17 as sustainable building methods or distributive energy technologies
18 for purposes of evaluating low-income housing projects.

19 SEC. 310. Section 3302 of the Public Utilities Code is amended
20 to read:

21 3302. As used in this division, unless the context otherwise
22 requires, the following terms have the following meanings:

23 (a) "Act" means the California Consumer Power and
24 Conservation Financing Authority Act.

25 (b) "Authority" means the California Consumer Power and
26 Conservation Financing Authority established pursuant to Section
27 3320 and any board, commission, department, or officer succeeding
28 to the functions thereof, or to whom the powers conferred upon
29 the authority by this division shall be given by law. *As of January*
30 *1, 2010, the Department of Energy shall succeed to the function*
31 *of the authority, and thereafter, "authority" means the Department*
32 *of Energy.*

33 (c) ~~"Board" means the Board of Directors of the California~~
34 ~~Consumer Power and Conservation Financing Authority~~
35 ~~(Reserved).~~

36 (d) "Bond purchase agreement" means a contractual agreement
37 executed between the authority and an underwriter or underwriters
38 and, where appropriate, a participating party, whereby the authority
39 agrees to sell bonds issued pursuant to this division.

1 (e) “Bonds” means bonds, including structured, senior, and
2 subordinated bonds or other securities; loans; notes, including
3 bond revenue or grant anticipation notes; certificates of
4 indebtedness; commercial paper; floating rate and variable maturity
5 securities; and any other evidences of indebtedness or ownership,
6 including certificates of participation or beneficial interest, asset
7 backed certificates, or lease-purchase or installment purchase
8 agreements, whether taxable or excludable from gross income for
9 state and federal income taxation purposes.

10 (f) “Cost,” as applied to a program, project, or portion thereof
11 financed under this division, means all or any part of the cost of
12 construction, improvement, repair, reconstruction, renovation, and
13 acquisition of all lands, structures, improved or unimproved real
14 or personal property, rights, rights-of-way, franchises, licenses,
15 easements, and interests acquired or used for a project; the cost of
16 demolishing or removing or relocating any buildings or structures
17 on land so acquired, including the cost of acquiring any lands to
18 which the buildings or structures may be moved; the cost of all
19 machinery and equipment; financing charges; the costs of any
20 environmental mitigation; the costs of issuance of bonds or other
21 indebtedness; interest prior to, during, and for a period after,
22 completion of the project, as determined by the authority;
23 provisions for working capital; reserves for principal and interest;
24 reserves for reduction of costs for loans or other financial
25 assistance; reserves for maintenance, extension, enlargements,
26 additions, replacements, renovations, and improvements; and the
27 cost of architectural, engineering, financial, appraisal, and legal
28 services, plans, specifications, estimates, administrative expenses,
29 and other expenses necessary or incidental to determining the
30 feasibility of any project, enterprise, or program or incidental to
31 the completion or financing of any project or program.

32 (g) “*Department*” means the *Department of Energy*.

33 ~~(g)~~

34 (h) “Enterprise” means a revenue-producing improvement,
35 building, system, plant, works, facilities, or undertaking used for
36 or useful for the generation or production of electric energy for
37 lighting, heating, and power for public or private uses. Enterprise
38 includes, but is not limited to, all parts of the enterprise, all
39 appurtenances to it, lands, easements, rights in land, water rights,

1 contract rights, franchises, buildings, structures, improvements,
2 equipment, and facilities appurtenant or relating to the enterprise.

3 ~~(h)~~

4 (i) “Financial assistance” in connection with a project, enterprise
5 or program, includes, but is not limited to, any combination of
6 grants, loans, the proceeds of bonds issued by the authority,
7 insurance, guarantees or other credit enhancements or liquidity
8 facilities, and contributions of money, property, labor, or other
9 things of value, as may be approved by resolution of the board;
10 the purchase or retention of authority bonds, the bonds of a
11 participating party for their retention or for sale by the authority,
12 or the issuance of authority bonds or the bonds of a special purpose
13 trust used to fund the cost of a project or program for which a
14 participating party is directly or indirectly liable, including, but
15 not limited to, bonds, the security for which is provided in whole
16 or in part pursuant to the powers granted by this division; bonds
17 for which the authority has provided a guarantee or enhancement;
18 or any other type of assistance determined to be appropriate by
19 the authority.

20 ~~(i)~~

21 (j) “Fund” means the California Consumer Power and
22 Conservation Financing Authority Fund.

23 ~~(j)~~

24 (k) “Loan agreement” means a contractual agreement executed
25 between the authority and a participating party that provides that
26 the authority will loan funds to the participating party and that the
27 participating party will repay the principal and pay the interest and
28 redemption premium, if any, on the loan.

29 ~~(k)~~

30 (l) “Participating party” means either of the following:

31 (1) Any person, company, corporation, partnership, firm,
32 federally recognized California Indian tribe, or other entity or
33 group of entities, whether organized for profit or not for profit,
34 engaged in business or operations within the state and that applies
35 for financial assistance from the authority for the purpose of
36 implementing a project or program in a manner prescribed by the
37 authority.

38 (2) Any subdivision of the state or local government, including,
39 but not limited to, departments, agencies, commissions, cities,
40 counties, nonprofit corporations, special districts, assessment

1 districts, and joint powers authorities within the state or any
 2 combination of these subdivisions, that has, or proposes to acquire,
 3 an interest in a project, or that operates or proposes to operate a
 4 program under Section 3365, and that makes application to the
 5 authority for financial assistance in a manner prescribed by the
 6 authority.

7 (†)

8 (m) “Program” means a program that provides financial
 9 assistance, as provided in Article 6 (commencing with Section
 10 3365).

11 (m)

12 (n) “Project” means plants, facilities, equipment, appliances,
 13 structures, expansions, and improvements within the state that
 14 serve the purposes of this division as approved by the authority,
 15 and all activities and expenses necessary to initiate and complete
 16 those projects described in Article 5 (commencing with Section
 17 3350) and Article 7 (commencing with Section 3368), of Chapter
 18 3.

19 (n)

20 (o) “Revenues” means all receipts, purchase payments, loan
 21 repayments, lease payments, rents, fees and charges, and all other
 22 income or receipts derived by the authority from an enterprise, or
 23 by the authority or a participating party from any other financing
 24 arrangement undertaken by the authority or a participating party,
 25 including, but not limited to, all receipts from a bond purchase
 26 agreement, and any income or revenue derived from the investment
 27 of any money in any fund or account of the authority or a
 28 participating party.

29 (o)

30 (p) “State” means the State of California.

31 SEC. 311. Section 3310 of the Public Utilities Code is amended
 32 to read:

33 3310. The ~~authority~~ *department* may only exercise its powers
 34 pursuant to Article 4 (commencing with Section 3340) of Chapter
 35 3 for the following purposes:

36 (a) Establish, finance, purchase, lease, own, operate, acquire,
 37 or construct generating facilities and other projects and enterprises,
 38 on its own or through agreements with public and private third
 39 parties or joint ventures with public or private entities, or provide
 40 financial assistance for projects or programs by participating

1 parties, to supplement private and public sector power supplies,
2 taking into account generation facilities in operation or under
3 development as of the effective date of this section, and to ensure
4 a sufficient and reliable supply of electricity for California’s
5 consumers at just and reasonable rates.

6 (b) Finance programs, administered by the ~~Energy Commission,~~
7 *department*, the commission, and other approved participating
8 parties for consumers and businesses to invest in cost-effective
9 energy efficient appliances, renewable energy projects, and other
10 programs that will reduce the demand for energy in California.

11 (c) Finance natural gas transportation and storage projects under
12 Article 7 (commencing with Section 3368) of Chapter 3.

13 (d) Achieve an adequate energy reserve capacity in California
14 within five years of the effective date of this division.

15 (e) Provide financing for owners of aged, inefficient, electric
16 powerplants to perform necessary retrofits to improve the efficiency
17 and environmental performances of those powerplants.

18 SEC. 312. Section 3320 of the Public Utilities Code is amended
19 to read:

20 3320. (a) ~~There is hereby created in the state government the~~
21 ~~California Consumer Power and Conservation Financing Authority,~~
22 ~~which~~ *The department, also referred to in this division as the*
23 *authority*, shall be responsible for administering this division.

24 (b) ~~The authority~~ *department* shall implement the purposes of
25 Chapter 2 (commencing with Section 3310), and to that end finance
26 projects and programs in accordance with this division, all to the
27 mutual benefit of the people of the state and to protect their health,
28 welfare, and safety.

29 SEC. 313. Section 3325 of the Public Utilities Code is repealed.

30 ~~3325. (a) The authority shall be governed by a five-member~~
31 ~~board of directors that shall consist of the following persons:~~

32 (1) ~~Four individuals appointed by the Governor, subject to~~
33 ~~confirmation by the Senate. These four members shall have~~
34 ~~considerable experience in power generation, natural gas~~
35 ~~transportation or storage, energy conservation, financing, or~~
36 ~~ratepayer advocacy.~~

37 (2) ~~The State Treasurer.~~

38 (b) (1) ~~For the initial term, the appointed members shall serve~~
39 ~~staggered terms as follows:~~

40 (A) ~~The member appointed first shall serve a term of four years.~~

1 ~~(B) The member appointed second shall serve a term of three~~
 2 ~~years.~~
 3 ~~(C) The member appointed third shall serve a term of two years.~~
 4 ~~(D) The member appointed fourth shall serve a term of one year.~~
 5 ~~(2) The second and any subsequent terms shall be for four years.~~
 6 ~~(e) A quorum is necessary for any action to be taken by the~~
 7 ~~board. Three of the members shall constitute a quorum, and the~~
 8 ~~affirmative vote of three board members shall be necessary for~~
 9 ~~any action to be taken by the board.~~
 10 ~~(d) (1) The chairperson of the board shall be appointed by the~~
 11 ~~Governor. This position shall be a full-time, paid position.~~
 12 ~~(2) Except as provided in this subdivision, the members of the~~
 13 ~~board shall serve without compensation, but shall be reimbursed~~
 14 ~~for actual and necessary expenses incurred in the performance of~~
 15 ~~their duties to the extent that reimbursement for these expenses is~~
 16 ~~not otherwise provided or payable by another public agency, and~~
 17 ~~shall receive one hundred dollars (\$100) for each full day of~~
 18 ~~attending meetings of the authority.~~
 19 SEC. 314. Section 3326 of the Public Utilities Code is repealed.
 20 3326. ~~(a) The members of the board shall be subject to the~~
 21 ~~Political Reform Act of 1974 (Title 9 (commencing with Section~~
 22 ~~81000)) of the Government Code, and all other applicable~~
 23 ~~provisions of law.~~
 24 ~~(b) The board may purchase insurance for its fiduciaries or for~~
 25 ~~itself to cover liability or losses occurring by reason of the act or~~
 26 ~~omission of a fiduciary, if the insurance permits recourse by the~~
 27 ~~insurer against the fiduciary in the case of a breach of a fiduciary~~
 28 ~~obligation by the fiduciary.~~
 29 SEC. 315. Section 3327 of the Public Utilities Code is repealed.
 30 3327. ~~Meetings of the board shall be open to the public and~~
 31 ~~shall be conducted in accordance with the Bagley-Keene Open~~
 32 ~~Meeting Act (Article 9 (commencing with Section 11120) of~~
 33 ~~Chapter 1 of Part 1 of Division 3 of Title 2 of the Government~~
 34 ~~Code).~~
 35 SEC. 316. Section 3330 of the Public Utilities Code is amended
 36 to read:
 37 3330. ~~The chief executive officer shall manage and conduct~~
 38 ~~the business and affairs of the authority and the fund subject to the~~
 39 ~~direction of the board. Except as otherwise provided in this section,~~
 40 ~~the board *department* may assign to the executive director, by~~

1 ~~resolution, a designee,~~ those duties generally necessary or
2 convenient to carry out its powers and purposes under this division.
3 Any action involving final approval of any bonds, notes, loans, or
4 other financial assistance shall require the approval of a majority
5 ~~of the members of the board~~ *the department*.

6 SEC. 317. Section 3340 of the Public Utilities Code is repealed.

7 ~~3340. The authority is authorized and empowered to do any~~
8 ~~of the following:~~

9 ~~(a) Adopt an official seal.~~

10 ~~(b) Sue and be sued in its own name.~~

11 ~~(c) Employ or contract with officers and employees to administer~~
12 ~~the authority. The authority may contract for the services of a chief~~
13 ~~executive officer, who shall serve at the pleasure of the board. If~~
14 ~~the chief executive officer contracts for the services of any other~~
15 ~~officer or employee, the contract shall be subject to the approval~~
16 ~~of the board.~~

17 ~~(d) Exercise the power of eminent domain.~~

18 ~~(e) Adopt rules and regulations for the regulation of its affairs~~
19 ~~and the conduct of its business.~~

20 ~~(f) Do all things generally necessary or convenient to carry out~~
21 ~~its powers under, and the purposes of, this division.~~

22 SEC. 318. Section 3340 is added to the Public Utilities Code,
23 to read:

24 3340. (a) The department is authorized and empowered to do
25 all things generally necessary or convenient to carry out its powers
26 under, and the purposes of, this division.

27 (b) Except as provided in subdivision (c), bonding authority
28 under this division shall not be utilized by the department unless
29 the Secretary of Energy has delivered to the Joint Legislative
30 Budget Committee written notice of intent to exercise that authority
31 at least 30 days in advance. The notice shall reasonably describe
32 the purpose for which the bonding authority will be used and the
33 circumstances that support its use.

34 (c) If the proposed exercise of authority is in response to a
35 declared emergency by the Governor, notice by the Secretary of
36 Energy is not required to be delivered 30 days in advance but shall
37 be delivered to the Joint Legislative Budget Committee as close
38 to 30 days in advance as is feasible under the circumstances.

39 SEC. 319. Section 3341 of the Public Utilities Code is amended
40 to read:

1 3341. In connection with the purposes of this division, the
2 ~~authority~~ *department* may do any ~~or all~~ of the following:

3 (a) Issue bonds, from time to time, as further provided in Chapter
4 5 (commencing with Section 3380.1), to pay all or part of the cost
5 of any enterprise, project, or program, or to otherwise carry out
6 the purposes of this division.

7 (b) Enter into joint powers agreements with eligible public
8 agencies pursuant to Chapter 5 (commencing with Section 6500)
9 of Division 7 of Title 1 of the Government Code.

10 (c) Subject to any statutory or constitutional limitation on their
11 use, do any of the following as may, in the determination of the
12 ~~authority~~, *department*, be necessary or convenient for the successful
13 development, conduct, or financing of a project, program, or
14 enterprise, or for carrying out the purposes of this division:

15 (1) Engage the services, including, without limitation, the
16 services of private consultants; attorneys; financial professionals
17 and advisors; engineers; architects; construction, land use and
18 environmental experts; and accountants, to render professional
19 and technical assistance and advice.

20 (2) Contract for engineering, architectural, accounting, or other
21 services of appropriate state agencies.

22 (3) Pay the reasonable costs, including, without limitation, costs
23 of consulting engineers, architects, accountants, and construction,
24 land use, and environmental experts employed by the ~~authority~~
25 *department* or any participating party. Except as otherwise provided
26 in Section 3341.5, those costs shall be recovered from participating
27 parties.

28 (d) Acquire, lease, take title to, and sell by installment sale or
29 otherwise, lands, structures, real or personal property, rights,
30 rights-of-way, franchises, easements, and other interests in lands
31 that are located within the state, as the ~~authority~~ *department*
32 determines to be necessary or convenient for an enterprise or the
33 financing of a project, upon terms and conditions the ~~authority~~
34 *department* considers to be reasonable.

35 (e) Make, receive, or serve as a conduit for the making of, or
36 otherwise provide for, grants, contributions, guarantees, insurance,
37 credit enhancements or liquidity facilities, or other financial
38 enhancements to a participating party as financial assistance for a
39 project or program. The sources may include bond proceeds,
40 dedicated taxes, state appropriations, federal appropriations, federal

1 grants and loan funds, public and private sector retirement system
2 funds, and proceeds of loans from the Pooled Money Investment
3 Account, or any other source of money, property, labor, or other
4 things of value.

5 (f) Make loans to any participating party, either directly or by
6 making a loan to a lending institution or other financial
7 intermediary, in connection with the financing of a project or
8 program in accordance with an agreement between the ~~authority~~
9 *department* and a participating party, either as a sole lender or in
10 participation with other lenders.

11 (g) Make loans to any participating party, either directly or by
12 making a loan to a lending institution, in accordance with an
13 agreement between the ~~authority~~ *department* and the participating
14 party to refinance indebtedness incurred by the participating party
15 in connection with projects undertaken and completed prior to any
16 agreement with the ~~authority~~ *department* or expectation that the
17 ~~authority~~ *department* would provide financing, either as a sole
18 lender or in participation with other lenders. The power generated
19 by those projects shall be subject to the terms and conditions
20 specified by the ~~authority~~ *department* in the agreement and
21 pursuant to Section 3351.

22 (h) Mortgage all or any portion of the ~~authority's~~ *department's*
23 interest in a project or enterprise and the property on which any
24 project or enterprise is located, whether owned or thereafter
25 acquired, including the granting of a security interest in any
26 property, tangible or intangible.

27 (i) Assign or pledge all or any portion of the ~~authority's~~
28 *department's* interest in assets, things of value, mortgages, deeds
29 of trust, bonds, bond purchase agreements, loan agreements,
30 indentures of mortgage or trust, or similar instruments, notes, and
31 security interests in property, tangible or intangible and the
32 revenues therefrom, of a participating party to which the ~~authority~~
33 *department* has made loans, and the revenues therefrom, including
34 payment or income from any interest owned or held by the
35 ~~authority~~, *department*, for the benefit of the holders of bonds.

36 (j) Lease the project being financed to a participating party,
37 upon terms and conditions that the ~~authority~~ *department* deems
38 proper; charge and collect rents therefor; terminate any lease upon
39 the failure of the lessee to comply with any of the obligations
40 thereof; include in any lease, if desired, provisions that the lessee

1 shall have options to renew the lease for a period or periods, and
2 at rents determined by the ~~authority~~; *department*; purchase any or
3 all of the project; or, upon payment of all the indebtedness incurred
4 by the ~~authority~~ *department* for the financing of the project, the
5 authority may convey, any or all of the project to the lessee or
6 lessees. The power generated by those projects shall be subject to
7 the terms and conditions specified by the ~~authority~~ *department* in
8 the agreement and pursuant to Section 3351.

9 (k) (1) Issue, obtain, or aid in obtaining, from any department
10 or agency of the United States, from other agencies of the state,
11 or from any private company, any insurance or guarantee to or for,
12 or any letter or line of credit regarding, the payment or repayment
13 of interest or principal, or both, or any part thereof, on any bond,
14 loan, lease, or obligation or any instrument evidencing or securing
15 the same, made or entered into pursuant to this division.

16 (2) Notwithstanding any other provision of this division, enter
17 into any agreement, contract or other instrument regarding any
18 insurance, guarantee, letter or line of credit specified in paragraph
19 (1), and accept payment in the manner and form provided therein
20 in the event of default by a participating party.

21 (3) Assign any insurance, guarantee, letter or line of credit
22 specified in paragraph (1) as security for bonds issued by the
23 ~~authority~~ *department*.

24 (l) Enter into any agreement or contract, execute any instrument,
25 and perform any act or thing necessary or convenient to, directly
26 or indirectly, secure the ~~authority's~~ *department's* bonds or a
27 participating party's obligations to the ~~authority~~; *department*,
28 including, but not limited to, bonds of a participating party
29 purchased by the ~~authority~~ *department* for retention or sale, with
30 funds or moneys that are legally available and that are due or
31 payable to the participating party by reason of any grant, allocation,
32 apportionment, or appropriation of the state or agencies thereof,
33 to the extent that the Controller shall be the custodian at any time
34 of these funds or moneys, or with funds or moneys that are or will
35 be legally available to the participating party, the ~~authority~~,
36 *department*, or the state or any agencies thereof by reason of any
37 grant, allocation, apportionment, or appropriation of the federal
38 government or agencies thereof; and in the event of written notice
39 that the participating party has not paid or is in default on its
40 obligations to the ~~authority~~; *department*, direct the Controller to

1 withhold payment of those funds or moneys from the participating
2 party over which it is or will be custodian and to pay the same to
3 the ~~authority~~ *department* or its assignee, or direct the state or any
4 agencies thereof to which any grant, allocation, apportionment, or
5 appropriation of the federal government or agencies thereof is or
6 will be legally available to pay the same upon receipt to the
7 ~~authority~~ *department* or its assignee, until the default has been
8 cured and the amounts then due and unpaid have been paid to the
9 ~~authority~~ *department* or its assignee, or until arrangements
10 satisfactory to the ~~authority~~ *department* have been made to cure
11 the default.

12 (m) Purchase, with the proceeds of the ~~authority's~~ *department's*
13 bonds, bonds issued by, or for the benefit of, any participating
14 party in connection with a project, pursuant to a bond purchase
15 agreement or otherwise. Bonds purchased pursuant to this division
16 may be held by the ~~authority~~, *department*, pledged or assigned by
17 the ~~authority~~, *department*, or sold to public or private purchasers
18 at public or negotiated sale, in whole or in part, separately or
19 together with other bonds issued by the ~~authority~~, *department*, and
20 notwithstanding any other provision of law, may be bought by the
21 ~~authority~~ *department* at private sale.

22 (n) Enter into purchase and sale agreements with all entities,
23 public and private, including state and local government pension
24 funds, with respect to the sale or purchase of bonds.

25 SEC. 320. Section 3341.1 of the Public Utilities Code is
26 amended to read:

27 3341.1. In connection with an enterprise, the ~~authority~~
28 *department* may do any or all of the following:

29 (a) Acquire any enterprise by gift, purchase, or eminent domain
30 as necessary to achieve the purposes of the ~~authority~~ *department*
31 pursuant to Sections 3310 and 3352.

32 (b) Construct or improve any enterprise. By gift, lease, purchase,
33 eminent domain, or otherwise, it may acquire any real or personal
34 property, for an enterprise, except that no property of a state public
35 body may be acquired without its consent. The ~~authority~~
36 *department* may sell, lease, exchange, transfer, assign, or otherwise
37 dispose of any real or personal property or any interest in such
38 property. It may lay out, open, extend, widen, straighten, establish,
39 or change the grade of any real property or public rights-of-way
40 necessary or convenient for any enterprise.

1 (c) Operate, maintain, repair, or manage all or any part of any
2 enterprise, including the leasing for commercial purposes of surplus
3 space or other space that is not economic to use for such enterprise.

4 (d) Adopt reasonable rules or regulations for the conduct of the
5 enterprise.

6 (e) Prescribe, revise, and collect charges for the services,
7 facilities, or energy furnished by the enterprise. The charges shall
8 be established and adjusted so as to provide funds sufficient with
9 other revenues and moneys available therefor, if any, to (1) pay
10 the principal of and interest on outstanding bonds of the ~~authority~~
11 *department* financing such enterprise as the same shall become
12 due and payable, (2) create and maintain reserves, including,
13 without limitation, operating and maintenance reserves and reserves
14 required or provided for in any resolution authorizing, or trust
15 agreement securing such bonds, and (3) pay operating and
16 administrative costs of the ~~authority~~ *department*.

17 (f) Execute all instruments, perform all acts, and do all things
18 necessary or convenient in the exercise of the powers granted by
19 this article.

20 SEC. 321. Section 3341.2 of the Public Utilities Code is
21 amended to read:

22 3341.2. In connection with a project, the ~~authority~~ *department*
23 may do any or all of the following:

24 (a) Determine the location and character of any project to be
25 financed under this division.

26 (b) Acquire, construct, enlarge, remodel, renovate, alter,
27 improve, furnish, equip, own, maintain, manage, repair, operate,
28 lease as lessee or lessor, or regulate any project to be financed
29 under this division.

30 (c) Contract with any participating party for the construction of
31 a project by such participating party.

32 (d) Enter into leases and agreements, as lessor or lessee, with
33 any participating party relating to the acquisition, construction,
34 and installation of any project, including real property, buildings,
35 equipment, and facilities of any kind or character.

36 (e) Establish, revise, charge and collect rates, rents, fees and
37 charges for a project. The rates, rents, fees, and charges shall be
38 established and adjusted in respect of the aggregate rates, rents,
39 fees, and charges from all projects so as to provide funds sufficient
40 with other revenues and moneys available therefor, if any, to (1)

1 pay the principal of and interest on outstanding bonds of the
2 ~~authority department~~ financing such project as the same shall
3 become due and payable, (2) create and maintain reserves,
4 including, without limitation, operating and maintenance reserves
5 and reserves required or provided for in any resolution authorizing,
6 or trust agreement securing such bonds, and (3) pay operating and
7 administrative costs of the ~~authority department~~.

8 (f) Enter into contracts of sale with any participating party
9 covering any project financed by the ~~authority department~~.

10 (g) As an alternative to leasing or selling a project to a
11 participating party, finance the acquisition, construction, or
12 installation of a project by means of a loan to the participating
13 party.

14 (h) Execute all instruments, perform all acts, and do all things
15 necessary or convenient in the exercise of the powers granted by
16 this article.

17 SEC. 322. Section 3345 of the Public Utilities Code is amended
18 to read:

19 3345. The ~~authority's department's~~ operating budget under
20 *this division* shall be subject to review and appropriation in the
21 annual Budget Act. For purposes of this section, the ~~authority's~~
22 ~~department's~~ operating budget under *this division* shall include
23 the costs of personnel, administration, and overhead *attributable*
24 *to carrying out this division*.

25 SEC. 323. Section 3370 of the Public Utilities Code is amended
26 to read:

27 3370. (a) There is hereby created in the State Treasury the
28 California Consumer Power and Conservation Financing ~~Authority~~
29 Fund for expenditure by the ~~authority department~~ for the purpose
30 of implementing the objectives and provisions of this division. For
31 the purposes of subdivision (e), or as necessary or convenient to
32 the accomplishment of any other purpose of the ~~authority,~~
33 ~~department,~~ the ~~authority department~~ may establish within the
34 fund additional and separate accounts and subaccounts.

35 (b) The assets of the fund shall be available for the payment of
36 the salaries and other expenses charged against it in accordance
37 with this division.

38 (c) Except as provided under Section 3345, all moneys in the
39 fund that are not General Fund moneys are continuously
40 appropriated to the ~~authority department~~ and may be used for any

1 reasonable costs—~~which~~ *that* may be incurred by the ~~authority~~
 2 ~~department~~ in the exercise of its powers under this division.

3 (d) The fund, on behalf of the ~~authority, department,~~ may borrow
 4 or receive moneys from the ~~authority, department,~~ or from any
 5 federal, state, or local agency or private entity, to create reserves
 6 in the fund as provided in this division and as authorized by the
 7 board.

8 (e) The ~~authority department~~ may pledge any or all of the
 9 moneys in the fund (including in any account or subaccount) as
 10 security for payment of the principal of, and interest on, any
 11 particular issuance of bonds issued pursuant to this division.

12 (f) The ~~authority, department,~~ may, from time to time, direct
 13 the Treasurer to invest moneys in the fund that are not required
 14 for the ~~authority's department's~~ current needs, including proceeds
 15 from the sale of any bonds, in any securities permitted by law as
 16 the ~~authority department~~ shall designate. The ~~authority department~~
 17 also may direct the Treasurer to deposit moneys in interest-bearing
 18 accounts in state or national banks or other financial institutions
 19 having principal offices in this state. The ~~authority department~~
 20 may alternatively require the transfer of moneys in the fund to the
 21 Surplus Money Investment Fund for investment pursuant to Article
 22 4 (commencing with Section 16470) of Chapter 3 of Part 2 of
 23 Division 4 of the Government Code. All interest or other increment
 24 resulting from an investment or deposit shall be deposited in the
 25 fund, notwithstanding Section 16305.7 of the Government Code.
 26 Moneys in the fund shall not be subject to transfer to any other
 27 fund pursuant to any provision of Part 2 (commencing with Section
 28 16300) of Division 4 of the Government Code, excepting the
 29 Surplus Money Investment Fund.

30 SEC. 324. Section 9502 of the Public Utilities Code is amended
 31 to read:

32 9502. On or before December 1, 1994, and on a biennial basis
 33 thereafter, each publicly owned electric and gas utility shall submit
 34 a report to the ~~State Energy Resources Conservation and~~
 35 ~~Development Commission~~ *Department of Energy* describing the
 36 status of their low-income weatherization programs required by
 37 Sections 9500 and 9501. Thereafter, as part of the biennial
 38 conservation report prepared pursuant to Section 25401.1 of the
 39 Public Resources Code, the ~~commission department~~ shall report

1 to the Legislature summarizing publicly owned utility efforts to
2 comply with Sections 9500 and 9501.

3 SEC. 325. Section 80000 of the Water Code is amended to
4 read:

5 80000. The Legislature hereby finds and declares all of the
6 following:

7 (a) The furnishing of reliable reasonably priced electric service
8 is essential for the safety, health, and well-being of the people of
9 California. A number of factors have resulted in a rapid, unforeseen
10 shortage of electric power and energy available in the state and
11 rapid and substantial increases in wholesale energy costs and retail
12 energy rates, with statewide impact, to such a degree that it
13 constitutes an immediate peril to the health, safety, life and property
14 of the inhabitants of the state, and the public interest, welfare,
15 convenience and necessity require the state to participate in markets
16 for the purchase and sale of power and energy.

17 (b) In order for the ~~department~~ *state* to adequately and
18 expeditiously undertake and administer the critical responsibilities
19 established in this division, it must be able to obtain, in a timely
20 manner, additional and sufficient personnel with the requisite
21 expertise and experience in energy marketing, energy scheduling,
22 and accounting.

23 SEC. 326. Section 80001 is added to the Water Code, to read:

24 80001. The Department of Energy hereby succeeds to and is
25 vested with all powers, duties, rights, assets, responsibilities,
26 obligations, liabilities, and jurisdiction previously vested with the
27 Department of Water Resources under this division. Whenever
28 the term “department” is used in this division, it shall henceforth
29 mean the Department of Energy. Any authority conferred upon
30 the Department of Water Resources by any other provision of law
31 for the purpose of carrying out any function described in this
32 division is hereby vested in, and may be exercised by, the
33 Department of Energy. The transfer of functions described in this
34 division to the Department of Energy does not in any way
35 invalidate or alter prior actions undertaken by the Department of
36 Water Resources under this division and every instrument,
37 obligation, rate entitlement, or other rights resulting from the prior
38 actions remain fully in effect.

39 SEC. 327. Section 80001.5 is added to the Water Code, to read:

1 80001.5. (a) All officers and employees of the Department of
2 Water Resources who, on January 1, 2010, are serving in the state
3 civil service, other than as temporary employees, and are exercising
4 any duty, power, purpose, responsibility, or jurisdiction to which
5 the Department of Energy succeeds pursuant to Section 80001,
6 are transferred to the Department of Energy. The status, positions,
7 and rights of those persons existing prior to the transfer shall not
8 be affected by the transfer and shall be retained by those persons
9 as officers and employees of the Department of Energy, pursuant
10 to the State Civil Service Act (Part 2 (commencing with Section
11 18500) of Division 5 of Title 2 of the Government), except as to
12 positions exempted from civil service.

13 (b) The Department of Energy shall have possession and control
14 of all records, papers, offices, equipment, supplies, moneys, funds,
15 appropriations, licenses, permits, agreements, contracts, claims,
16 judgments, and land or other property, real or personal, connected
17 with the administration of, or held for the benefit or use of the
18 Department of Water Resources for the performance of the
19 functions transferred to the Department of Energy by Section
20 80001.

21 (c) All rules, orders, and decisions of the Department of Water
22 Resources in effect immediately preceding the effective date of
23 this section shall remain in effect and shall be fully enforceable
24 unless and until readopted, amended, or repealed, or until they
25 expire by their own terms.

26 (d) No contract, lease, license, bond, or any other agreement to
27 which the Department of Water Resources is a party shall be void
28 or voidable by reason of the transfer of functions to the Department
29 of Energy by Section 80001, but shall continue in full force and
30 effect, with the Department of Energy assuming all of the rights,
31 obligations, liabilities, and duties of the Department of Water
32 Resources. The assumption by the Department of Energy shall not
33 in any way affect the rights of the parties to the contract, lease,
34 license, bond, or other agreement.

35 SEC. 328. This act addresses the fiscal emergency declared by
36 the Governor by proclamation on December 19, 2008, pursuant
37 to subdivision (f) of Section 10 of Article IV of the California
38 Constitution.

39 SEC. 329. The provisions of this act are severable. If any
40 provision of this act or its application is held invalid, that invalidity

- 1 shall not affect other provisions or applications that can be given
- 2 effect without the invalid provision or application.

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